

From: OFAC (b)(6)
To: Albowicz, Nikole; OFAC (b)(6)
Cc: OFAC (b)(6); OFAC (b)(6)
Subject: FW: Global Magnitsky June 2018 Tranche FPG
Date: Tuesday, June 19, 2018 8:55:37 AM
Attachments: Global Magnitsky Foreign Policy Guidance 06.08.2018 .pdf

Here you go

From: STATE (b)(6)
Sent: Friday, June 8, 2018 2:13 PM
To: OFAC (b)(6)
Cc: OFAC (b)(6); STATE (b)(6)
STATE (b)(6)@state.gov; STATE (b)(6)@state.gov
Subject: Global Magnitsky June 2018 Tranche FPG

OFAC (b)(6)

Please find attached a Foreign Policy Guidance Memorandum providing the Secretary of State's concurrence with Treasury's proposed actions on June 12 and June 15 of 2018.

Regards,

STATE (b)(6)

Official - SBU
UNCLASSIFIED



United States Department of State

Washington, D.C. 20520

June 08, 2018

~~SENSITIVE BUT UNCLASSIFIED~~
MEMORANDUM

TO: John E. Smith
Director
Office of Foreign Assets Control
Department of the Treasury

FROM: **STATE (b)(6)**
Acting Director
Office of Sanctions Policy and Implementation

SUBJECT: June 2018 Global Magnitsky Sanctions Designations

~~(SBU)~~ The Department of State received the Department of the Treasury's request for concurrence on the designation of the two individuals and 19 entities described below pursuant to Executive Order (E.O.) 13818 "Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption." Treasury proposes to announce these sanctions designations no later than June 12 and June 15, 2018.

(U) Individuals

- **HING BUN HIENG:** Hieng is the commander of Cambodia's Prime Minister Bodyguard Unit (PMBU), a unit in the Royal Cambodian Armed Forces that has engaged in acts of serious human rights abuse against the people of Cambodia.
- **FELIX RAMON BAUTISTA ROSARIO:** Bautista is a Senator from the Dominican Republic who has engaged in significant acts of corruption in both the Dominican Republic and Haiti, and who has been publicly accused of money laundering and embezzlement.

(U) Entities

- Entities associated with **FELIX RAMON BAUTISTA ROSARIO:**
 - **Constructora Hadom SA;**
 - **Soluciones Electricas Y Mecanicas Hadom S.R.L.;**
 - **Seymeh Ingenieria SRL;**
 - **Inmobiliaria Rofi SA; and**
 - **Constructora Rofi SA.**
- Entities associated with **Dan Gertler:**

- **Moku Mines D'or SA;**
- **Moku Goldmines AG;**
- **Fleurette Energy I B.V.;**
- **Fleurette Africa Resources I B.V.;**
- **African Trans International Holdings B.V.;**
- **Fleurette African Transport B.V.;**
- **Oriental Iron Company SPRL;**
- **Iron Mountain Enterprises Limited;**
- **Sanzetta Investments Limited;**
- **Almerina Properties Limited;**
- **Interlog DRC;**
- **Kitoko Food Farm;**
- **Karibu Africa Services; and**
- **Ventora Development Sasu.**

(U) Recommendation

~~(SPL)~~ The Department of State provides concurrence, including clearance from the Office of the Legal Adviser, on the designation of the two individuals and 19 entities listed above pursuant to E.O. 13818, to be announced no later than June 12 and 15, 2018.

From: Thomas, Nikole
To: Palluconi, Lisa
Subject: FW: Update - Please send FPG for Gertler license
Date: Wednesday, November 4, 2020 9:42:54 AM
Attachments: FPG- Dan Gertler (GLOMAG-2020-368297-1).pdf
 STM Gertler Request Update 4Nov2020.docx

PRE-DECISIONAL and DELIBERATIVE

Hi Lisa – just in case Andrea wanted to use the memo format, I updated it to reflect that we had received the FPG [REDACTED] (see attached). Do you want me to forward these documents to her or would you like to?

Thanks!
 Nikole

From: [REDACTED] @state.gov>
Sent: Wednesday, November 4, 2020 9:38 AM
To: Palluconi, Lisa [REDACTED] OFAC (b)(6) [REDACTED] STATE (b)(6) @state.gov>
Cc: Thomas, Nikole [REDACTED] OFAC (b)(6)
Subject: RE: Update - Please send FPG for Gertler license

**** Caution:** External email. Pay attention to suspicious links and attachments. Send suspicious email to suspect@treasury.gov **

Lisa –

Attached please find the State Department's FPG on the Gertler license application. [REDACTED] STATE (b)(5)
 [REDACTED] STATE (b)(5)

[REDACTED] STATE (b)(5)

Kind regards,

[REDACTED] STATE (b)(6)

[REDACTED] STATE (b)(6)

Director

Office of Sanctions Policy and Implementation

U.S. Department of State

(O) [REDACTED] STATE (b)(6)

(M) [REDACTED] STATE (b)(6)

Secret/VoIP: 648-9947

SIPR [REDACTED] STATE (b)(6) @state.sgov.gov

JWIX [REDACTED] STATE (b)(6) @state.ic.gov

~~SENSITIVE BUT UNCLASSIFIED~~

From: Lisa.Palluconi [REDACTED] OFAC (b)(6) <Lisa.Palluconi [REDACTED] OFAC (b)(6)>
Sent: Wednesday, November 4, 2020 7:43 AM
To: [REDACTED] STATE (b)(6) @state.gov> [REDACTED] STATE (b)(6) @state.gov>
Cc: Nikole.Thomas [REDACTED] OFAC (b)(6)
Subject: Update - Please send FPG for Gertler license
 [REDACTED] STATE (b)(6) – We just heard from our TFI FO, after consultation with Treasury leadership. Our

Secretary has asked to see State's foreign policy guidance on this licensing matter. He will review and take it up with State leadership as needed. Apologies for the back and forth, but if you could send State's foreign policy guidance soonest, we would appreciate it. Our Secretary has asked to see it this morning, if possible.

Thanks much,

Lisa

Lisa M. Palluconi

Associate Director, Sanctions Policy & Implementation

Office of Foreign Assets Control | U.S. Department of the Treasury

OFAC (b)(6) | T OFAC (b)(6) | M OFAC (b)(6)



United States Department of State
Washington, D.C. 20520

November 4, 2020

SENSITIVE BUT UNCLASSIFIED
MEMORANDUM

TO: Andrea Gacki
Director
Office of Foreign Assets Control
Department of the Treasury

FROM: **STATE (b)(6)**
Director
Office of Economic Sanctions Policy and Implementation
Bureau of Economic and Business Affairs

SUBJECT: Dan Gertler (GLOMAG-2020-368297-1)

(U) Background:

(SBU) On October 29, the Office of Foreign Assets Control (OFAC) requested foreign policy guidance regarding a license request from Dan Gertler. The applicant, designated in 2017 under E.O 13818 of the Global Magnitsky sanctions program, seeks authorization to use non-U.S. dollar denominated-funds to support “urgent humanitarian aid efforts” in the Democratic Republic of the Congo (DRC), including for aid related to the COVID-19 pandemic.

(SBU) Mr. Gertler requests

OFAC (b)(4)

OFAC (b)(4)

OFAC (b)(4)

OFAC (b)(4), (b)(6)

OFAC (b)(4), (b)(6)

(U) Recommendation:

(SBU)

STATE (b)(5)

STATE (b)(5)

STATE (b)(5)

STATE (b)(5)

(SBU) In July, in response to a request for foreign policy guidance,

STATE (b)(5)

STATE (b)(5)

PRE-DECISIONAL and DELIBERATIVE

November 4, 2020

MEMORANDUM FOR THE SECRETARY AND DEPUTY SECRETARY

FROM: OFAC Director Andrea Gacki
SUBJECT: Update on Global Magnitsky Licensing Request: Dan Gertler

CONTEXT

After your November 3 conversation with Secretary Pompeo regarding the license request from Israeli billionaire Dan Gertler (Gertler),

STATE (b)(5)

STATE (b)(5)

BACKGROUND

Gertler is seeking authorization for

OFAC (b)(4)

OFAC (b)(4), (b)(6)

We notified State late last week that we intended to issue a license to Gertler. STATE (b)(5)

STATE (b)(5)

STATE (b)(5)

RECOMMENDATION

OFAC is prepared to license Gertler's request this week. We seek your concurrence that OFAC should proceed to license this activity

STATE (b)(5)

PRE-DECISIONAL and DELIBERATIVE

DECISION

YES _____ **NO** _____ **LET'S DISCUSS** _____

ATTACHMENT

1. State Foreign Policy Guidance

From: Thomas, Nikole
To: STATE (b)(6)
Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1
Date: Tuesday, November 3, 2020 4:24:26 PM

Hi STATE (b)(6),
I just tried to call you. Let me know if you have a few minutes to connect tonight. It would be helpful to speak before you transmit any FPG.
Thanks!
Nikole

From: STATE (b)(6) @state.gov>
Sent: Tuesday, November 3, 2020 4:10 PM
To: Thomas, Nikole OFAC (b)(6)
Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1

**** Caution:** External email. Pay attention to suspicious links and attachments. Send suspicious email to suspect@treasury.gov **

Nikole – Can I get your mobile number for ease of communication? My comprehensive coordinates are below.

STATE (b)(6)
Director
Office of Sanctions Policy and Implementation
U.S. Department of State
(O) STATE (b)(6)
(M) STATE (b)(6)
Secret/VoIP: STATE (b)(6)
SIPR: STATE (b)(6)@state.sgov.gov
JWIX: STATE (b)(6)@state.ic.gov

~~SBU~~ -PRIVACY OR PII

From: Nikole.Thomas OFAC (b)(6)
Sent: Tuesday, November 3, 2020 4:04 PM
To: STATE (b)(6) @state.gov>; STATE (b)(6) @state.gov>
Cc: Alan.Christian OFAC (b)(6) STATE (b)(6) @state.gov>; STATE (b)(6) STATE (b)(6)@state.gov>; OFAC (b)(6)
Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1
Thanks, STATE (b)(6) We will need to circle back with our Front Office OFAC (b)(5)
OFAC (b)(5)

From: STATE (b)(6) @state.gov>
Sent: Tuesday, November 3, 2020 4:02 PM
To: Thomas, Nikole OFAC (b)(6) STATE (b)(6) @state.gov>
Cc: Christian, Alan OFAC (b)(6) ; STATE (b)(6) @state.gov>; STATE (b)(6) STATE (b)(6) @state.gov>; OFAC (b)(6) >; OFAC (b)(6)

OFAC (b)(6)

Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1

**** Caution:** External email. Pay attention to suspicious links and attachments. Send suspicious email to suspect@treasury.gov **

Nikole –

Secretary Pompeo’s staff has informed me [REDACTED] STATE (b)(5)
[REDACTED] STATE (b)(5)
[REDACTED] STATE (b)(5)

We will send formal Foreign Policy Guidance back to Treasury tomorrow to reflect State’s position.

[REDACTED] STATE (b)(6)
STATE (b)(6)

Director
Office of Sanctions Policy and Implementation
U.S. Department of State

STATE (b)(6)

From: Nikole.Thomas [REDACTED] OFAC (b)(6)

Sent: Tuesday, November 3, 2020 12:05 PM

To: [REDACTED] STATE (b)(6) @state.gov>; [REDACTED] STATE (b)(6) @state.gov>

Cc: Alan.Christian [REDACTED] OFAC (b)(6) [REDACTED] STATE (b)(6) @state.gov>; [REDACTED] STATE (b)(6)

[REDACTED] STATE (b)(6) @state.gov> [REDACTED] OFAC (b)(6)

Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1

PRE-DECISIONAL and DELIBERATIVE

Hi All,

We wanted to share an important update we received from Andrea Gacki a short while ago. We understand that Secretary Mnuchin and Secretary Pompeo spoke this morning regarding this request [REDACTED] STATE (b)(5)

[REDACTED] STATE (b)(5)

[REDACTED] STATE (b)(5)

Thanks!

Nikole

From: Thomas, Nikole

Sent: Monday, November 2, 2020 4:46 PM

To: [REDACTED] STATE (b)(6) @state.gov>; [REDACTED] STATE (b)(6) @state.gov>

Cc: Christian, Alan [REDACTED] OFAC (b)(6) [REDACTED] STATE (b)(6) @state.gov>; [REDACTED] STATE (b)(6)

[REDACTED] STATE (b)(6) @state.gov>

Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1

PRE-DECISIONAL and DELIBERATIVE

Thank you for the update, [REDACTED] STATE (b)(6) Please do let us know if you hear any feedback.

From: [REDACTED] STATE (b)(6) @state.gov>

Sent: Monday, November 2, 2020 4:27 PM

To: Thomas, Nikole [REDACTED] OFAC (b)(6) [REDACTED] STATE (b)(6) @state.gov>

Cc: Christian, Alan [REDACTED] OFAC (b)(6) [REDACTED] STATE (b)(6) @state.gov> [REDACTED] STATE (b)(6)

[REDACTED] STATE (b)(6) @state.gov>

Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1

**** Caution:** External email. Pay attention to suspicious links and attachments. Send suspicious email to suspect@treasury.gov **

Hi Nikole –

We provided the Secretary's staff the background and our recommendation this morning. I can't predict when we will learn of his decision, but we did note Sec Mnuchin's interest and request for a quick review.

STATE (b)(6)

SENSITIVE BUT UNCLASSIFIED

From: Nikole.Thomas [REDACTED] **OFAC (b)(6)**
Sent: Monday, November 2, 2020 3:47 PM
To: [REDACTED] STATE (b)(6) @state.gov>; [REDACTED] STATE (b)(6) @state.gov>
Cc: Alan.Christian [REDACTED] OFAC (b)(6) [REDACTED] STATE (b)(6) @state.gov>; [REDACTED] STATE (b)(6) @state.gov>
Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1

PRE-DECISIONAL and DELIBERATIVE

Hi [REDACTED] STATE (b)(6)

Happy Monday! Just wondering if you had heard anything yet from the Secretary's office on this request. We also wanted to let you know Secretary Mnuchin did inquire with Andrea Gacki on the status of this request today and she informed him that you were working to update Secretary Pompeo. Secretary Mnuchin was happy to hear that and expressed his willingness to speak with Secretary Pompeo.

Thanks!

Nikole

From: [REDACTED] STATE (b)(6) @state.gov>
Sent: Friday, October 30, 2020 3:06 PM
To: Thomas, Nikole [REDACTED] OFAC (b)(6) [REDACTED] STATE (b)(6) @state.gov>
Cc: Christian, Alan [REDACTED] OFAC (b)(6) [REDACTED] STATE (b)(6) @state.gov> [REDACTED] STATE (b)(6) @state.gov>
Subject: Re: State Notice: Dan Gertler - GLOMAG-2020-368297-1

**** Caution:** External email. Pay attention to suspicious links and attachments. Send suspicious email to suspect@treasury.gov **

Nikole -

Thank you again for bringing this matter to my attention. We have communicated about this case on the phone and on several different email threads, but I wanted to reply formally on this thread with what I believe is our understanding.

Secretary Pompeo is returning from overseas travel and will be in the office on Monday.

[REDACTED] STATE (b)(5)
STATE (b)(5)
 [REDACTED] STATE (b)(5). Accordingly, I cannot provide State's concurrence by your noon Monday deadline and need to consult

Secretary Pompeo.

We will seek Secretary Pompeo's decision on this matter and will get back to you as soon as we are able.

Best regards,

STATE (b)(6)

STATE (b)(6)

Director

Office of Sanctions Policy and Implementation

U.S. Department of State

STATE (b)(6)

From: Nikole.Thomas [REDACTED] OFAC (b)(6)
Sent: Thursday, October 29, 2020 13:34
To: [REDACTED] STATE (b)(6) @state.gov; [REDACTED] STATE (b)(6) @state.gov
Cc: Alan.Christian [REDACTED] OFAC (b)(6)
Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1
 PRE-DECISIONAL and DELIBERATIVE

My apologies! I just noticed a few typos in the first sentence so want to correct those so it makes sense. Again, happy to talk more via phone if you'd like.

From: Thomas, Nikole
Sent: Thursday, October 29, 2020 1:32 PM
To: [REDACTED] STATE (b)(6) @state.gov; [REDACTED] STATE (b)(6) @state.gov
Cc: Christian, Alan [REDACTED] OFAC (b)(6)
Subject: FW: State Notice: Dan Gertler - GLOMAG-2020-368297-1
 PRE-DECISIONAL and DELIEBRATIVE

Hi [REDACTED] and [REDACTED],

Happy New Fiscal Year! It's been awhile since we talked and hope all is well with you and your families at this time.

I wanted to bring this very short turn notification to your attention that we just sent over relating to a license application from designated Israeli billionaire Dan Gertler [REDACTED] OFAC (b)(4)

[REDACTED] OFAC (b)(4) U.S. Ambassador to Israel David Friedman reached out to Treasury and requested that we look into Mr. Gertler's application. We have, and we intend to issue authorization [REDACTED] OFAC (b)(4)

[REDACTED] OFAC (b)(4) [REDACTED] OFAC (b)(4). In light of the impact of the COVID-19 pandemic, we intend to issue this authorization within the next week so we are asking that you notify us of any objections by **noon on Monday, November 2nd**.

This has been coordinated within our building at senior levels. We'd also note that this matter would be separate from any potential delisting matter involved Mr. Gertler. This license request would have no bearing on the outcome of any such potential delisting petition.

Please let me know if it would be helpful to provide more background on the phone.

Thanks!

Nikole

From: [REDACTED] OFAC (b)(6)

Sent: Thursday, October 29, 2020 1:21 PM

To: non-TSRA@state.gov; STATE (b)(6)@state.gov; STATE (b)(6)

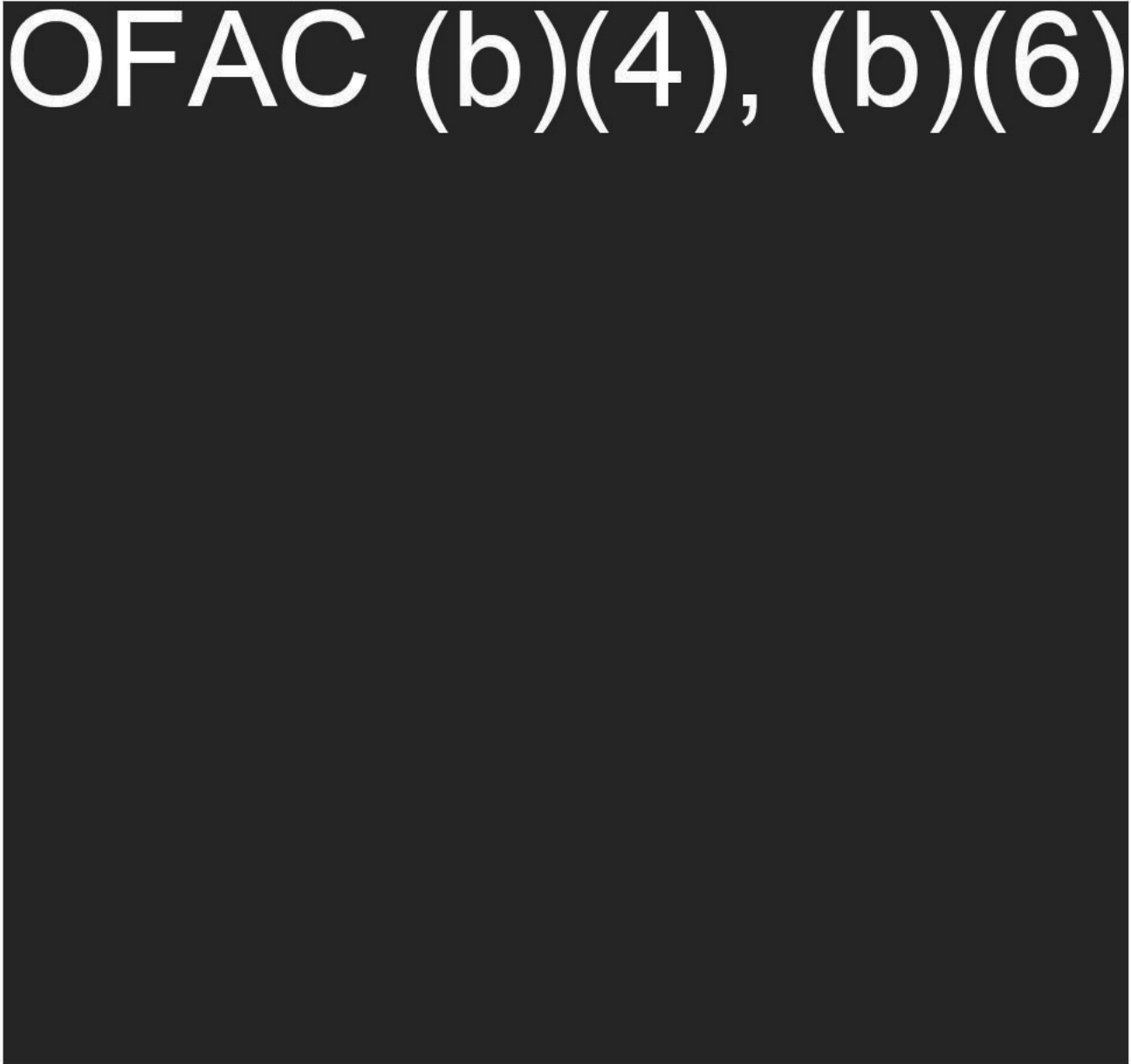
STATE (b)(6)@state.gov; STATE (b)(6)@state.gov

Cc: OFAC (b)(6) OFAC (b)(6)
OFAC (b)(6) OFAC (b)(6)
OFAC (b)(6) OFAC (b)(6)
OFAC (b)(6) OFAC (b)(6) Thomas,
Nikole OFAC (b)(6) Christian, Alan OFAC (b)(6)

Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1

State Notice: Dan Gertler: GLOMAG-2020-368297-1

OFAC has received a request (the "Application") (attached), submitted on behalf of Dan Gertler, designated under Executive Order (E.O.) 13818 of the Global Magnitsky Sanctions Regulations (the "Regulations"), for authorization to use funds, in non-U.S. currency, to support urgent humanitarian aid efforts in the Democratic Republic of the Congo (DRC); in particular, but not exclusively, aid related to the COVID-19 pandemic.



OFAC (b)(4), (b)(6)

OFAC (b)(6)

Sanctions Licensing Officer

Licensing Division

Office of Foreign Assets Control

U.S. Department of the Treasury

From: OFAC (b)(6)
To: STATE (b)(6) ; non-TSRA@state.gov
Cc: OFAC (b)(6) ; Christian, Alan; OFAC (b)(6) Thomas, Nikole; OFAC (b)(6)
Subject: RE: Request for State FPG related to Specific License GLOMAG-2021-371648-1
Date: Friday, February 5, 2021 3:22:26 PM
Attachments: [Gertler Cover Letter signed.pdf](#)
[Gertler License signed.pdf](#)
Importance: High

+ OFAC (b)(6) and OFAC (b)(6)

From: OFAC (b)(6)
Sent: Friday, February 5, 2021 3:10 PM
To: STATE (b)(6) @state.gov>; STATE (b)(6) @state.gov>; non-TSRA@state.gov
Cc: OFAC (b)(6) Christian, Alan
 OFAC (b)(6) OFAC (b)(6) Thomas, Nikole
 OFAC (b)(6)

Subject: RE: Request for State FPG related to Specific License GLOMAG-2021-371648-1

Dear State colleagues,

On January 15, 2021, following consultation with the State Department, OFAC issued a specific license and accompanying transmittal letter to Dan Gertler (attached) in response to Mr. Gertler's December 2020 request for reconsideration of his inclusion on the List of Specially Designated Nationals and Blocked Persons. Mr. Gertler was included as an Annex name in Executive Order 13818 of December 20, 2017, "Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption" ("E.O. 13818"). Pursuant to E.O. 13818, OFAC concurrently designated several individuals and entities associated with Mr. Gertler, including his associate Pieter Albert Deboutte. On June 15, 2018, OFAC also designated fourteen additional derivative entities associated with Mr. Gertler under E.O. 13818.

As explained in the OFAC press release accompanying E.O. 13818, Mr. 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). Mr. 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 Mr. 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 Mr. 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, Mr. Gertler sold to the DRC government for \$150 million the rights to an oil block that Mr. Gertler purchased from the government for just \$500,000, a loss of \$149.5 million in potential revenue. Mr. Gertler has acted for or on behalf of President Kabila, helping President Kabila organize offshore leasing companies.

The specific license that OFAC issued on January 15, 2021 authorizes U.S. persons to conduct all transactions and activities with Mr. Gertler, [REDACTED] and any companies owned by Mr. Gertler or [REDACTED] that would otherwise be prohibited by E.O. 13818, as implemented by the Global Magnitsky Sanctions Regulations (31 C.F.R. Part 583).

Additionally, the license, which is valid for one year, [REDACTED] OFAC (b)(4) [REDACTED] of Mr. Gertler, [REDACTED], and their companies, as well as the establishment of U.S. bank accounts for use in connection with any authorized transactions and activities. The transmittal letter accompanying the license also stated, “In order for [Mr. Gertler] to be eligible for potential delisting in the future, OFAC expects [Mr. Gertler] to show a good faith, positive change in behavior, including adopting and implementing enhanced sanctions compliance measures meeting the standards set by the United States.” OFAC issued this license following consultation and concurrence between then-Secretary of the Treasury Steven Mnuchin and then-Secretary of State Mike Pompeo, as memorialized in a January 14, 2021 memorandum, which OFAC will resubmit to State separately.

OFAC (b)(5)

OFAC would appreciate State’s response by Friday, February 19th. If you are unable to provide a response by February 19th, please notify [REDACTED], Licensing Officer, and [REDACTED], Program Manager. Additionally, please contact [REDACTED] and [REDACTED] with any questions.



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

LICENSE No. GLOMAG-2021-371648-1

GLOBAL MAGNITSKY SANCTIONS REGULATIONS

LICENSE

(Issued under the authority of one or more of 50 U.S.C. §§ 1601-51, 1701-06, Pub. L. 114-328, Executive Order 13818, and 31 C.F.R. Parts 501 and 583.)

To: Arnold & Porter Kaye Scholer LLP
601 Massachusetts Avenue, N.W.
Washington, D.C. 20001
Attn: Baruch Weiss, Esq.

1. Based upon, *inter alia*, the information dated December 3, 2020, submitted on behalf of Mr. Dan Gertler, to the Office of Foreign Assets Control, the transactions described herein are hereby authorized.
2. This License is subject to the condition, among others, that the Licensee(s) comply with its terms and with all regulations, rulings, orders, and instructions issued under any of the authorities cited above.
3. This License **expires on January 31, 2022** and is not transferable. The transactions described in this License are subject to the authorities cited above and any regulations and rulings issued pursuant thereto. This License may be revoked or modified at any time. If this License was issued as a result of willful misrepresentation it may be declared void from the date of its issuance or from any other date.
4. This License does not authorize transactions prohibited by any law or regulation administered by the Office of Foreign Assets Control other than those listed above.
5. This License does not excuse the Licensee(s) from the need to comply with any law or regulation (including reporting requirements) administered by any other agency or the need to obtain any required authorization(s) from any other agency.

OFFICE OF FOREIGN ASSETS CONTROL

Andrea M.

By Gacki

Andrea Gacki
Director

Digitally signed by Andrea M.
Gacki
Date: 2021.01.15 18:44:22
-05'00'

January 15, 2021

Date

Attention is directed to, *inter alia*, 18 U.S.C. § 1001, 50 U.S.C § 1705, and Pub. L. 114-328 § 1263(f) for provisions relating to penalties.

2021-1246 (CKK): 0000001108

SECTION 1 - AUTHORIZATION: Subject to the limitations and conditions herein, all transactions and activities otherwise prohibited by the Global Magnitsky Sanctions Regulations, 31 C.F.R. part 583, that are necessary to the following are authorized:

(a) All transactions and activities involving Mr. Dan Gertler, ^{OFAC (b)(4),(b)(6)}
OFAC (b)(4),(b)(6)

(collectively “the Licensees”);

(b) All transactions and activities by ^{OFAC (b)(4)} on behalf of ^{OFAC (b)(4)}
OFAC (b)(4)

Licensees blocked as of the date of the License; and

(c) Establishing accounts with U.S. financial institutions for the Licensees for use in connection with transactions and activities authorized in **SECTION 1(a)**.

SECTION 2 - CONDITION: Prior to engaging in activity authorized in **SECTION 1(c)**, Licensees are required to provide a copy of this License to the applicable U.S. financial institution.

SECTION 3 - WARNINGS: (a) Except as authorized in **SECTION 1**, this License does not authorize the transfer of any blocked property, the debiting of any blocked account, the entry of any judgment or order that effects a transfer of blocked property, or the execution of any judgment against property blocked pursuant to any Executive order or statute, or 31 C.F.R. Chapter V.

(b) Any transfer of funds through the U.S. financial system pursuant to the authority set forth in **SECTION 1** hereof should reference the number of this License to avoid the blocking or rejection of the transfer.

SECTION 4 - RECORDKEEPING AND REPORTING REQUIREMENTS: (a) The Licensees are subject to the recordkeeping and reporting requirements of, *inter alia*, 31 C.F.R. §§ 501.601 and 501.602, including the requirement to maintain full and accurate records concerning the activities undertaken pursuant to this License for a period of five years from the date of each transaction.

(b) Any U.S. financial institution that has established any account pursuant to SECTION 1(c) must provide the name and address of the financial institution, the name of the account holder, and the account number to OFAC within 10 business days of the establishment of the account.

(c) The Licensees are required to submit detailed reports to OFAC every 90 days from the issuance of the License providing information on any activities undertaken pursuant to the License. In the event that no activities occur during the reporting period, a statement is to be filed to that effect. The reports are to be mailed to: Licensing Division, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, N.W., The Freedman’s Bank Building, Washington, D.C. 20220, and are to refer to this License No. GLOMAG-2021-371648-1.

SECTION 5 - PRECEDENTIAL EFFECT: The authorization contained in this License is limited to the facts and circumstances specified in the Application.



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

Case No. GLOMAG-2021-371648-1

Baruch Weiss, Esq.
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Avenue, N.W.
Washington, D.C. 20001

Dear Mr. Weiss:

This is in response to your letter of December 3, 2020, to the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC), on behalf of Mr. Dan Gertler, seeking reconsideration of his December 21, 2017 designation, as well as the reconsideration of the designations of (b)(4),(b)(6) (b)(4),(b)(6) and certain entities that were designated along with Mr. Gertler on December 21, 2017 (the "December 2017 Companies") and June 15, 2018 (the "June 2018 Companies"), as Specially Designated Nationals, pursuant to Executive Order 13818 and the Global Magnitsky Sanctions Regulations, 31 C.F.R. Part 587, and placed on OFAC's list of Specially Designated Nationals.


In response to your request for delisting, please find enclosed **License No. GLOMAG-2021-371648-1** (the "License"), which, subject to certain terms and conditions, authorizes all transactions and activities starting from the date of the License involving Mr. Gertler, (b)(4),(b)(6) (b)(4),(b)(6) the December 2017 Companies and the June 2018 Companies, as well as any entity in which Mr. Gertler, (b)(4),(b)(6) the December 2017 Companies or the June 2018 Companies own, directly or indirectly, a 50 percent or greater interest (collectively, the "Licensees"). The License also authorizes the unblocking of all property and interests in property of the Licensees blocked as of the date of the License. Finally, the License authorizes the establishment of accounts at U.S. financial institutions for the Licensees for use in connection with transactions and activities authorized in the License. In addition, Licensees are required to submit certain reports to OFAC every 90 days. The License expires on January 31, 2022, and per the terms of the License, may be revoked or modified at any time.

In order for the Licensees to be eligible for potential delisting in the future, OFAC expects the Licensees to show a good faith, positive change in behavior, including adopting and implementing enhanced sanctions compliance measures meeting the standards set by the United States. This would include demonstrating to OFAC that the Licensees are committed to adopting and implementing anti-bribery and anti-corruption policies and programs. We note, for example, that the December 3, 2020 letter states that U.K. and U.S. counsel will work to prepare targeted compliance manuals on sanctions regulations and anti-corruption compliance. In light of the forgoing, OFAC will administratively close GLOMAG-19833, and the Licensees may reapply for reconsideration of their designation without prejudice.

If you have any additional questions, you may refer to the OFAC website at www.treasury.gov/ofac or call our office at (202) 622-2480.

Sincerely,

Andrea M.
Gacki

 Digitally signed by Andrea M. Gacki
Date: 2021.01.15 18:16:52 -05'00'

January 15, 2021

Andrea Gacki
Director
Office of Foreign Assets Control

Date

Enclosure

From: Thomas, Nikole
To: Gacki, Andrea; Palluconi, Lisa; OFAC (b)(6); OFAC (b)(6)
Cc: Smith, Bradley; Christian, Alan
Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1
Date: Wednesday, November 4, 2020 1:21:19 PM

Hi All – State/EB just informed us that Secretary Pompeo concurs with issuing a license. We will continue working to issue the license this week per STM’s request.

Thanks!
Nikole

From: Gacki, Andrea <OFAC (b)(6)>
Sent: Wednesday, November 4, 2020 10:19 AM
To: Palluconi, Lisa <OFAC (b)(6)>; <OFAC (b)(6)>
Thomas, Nikole <OFAC (b)(6)> <OFAC (b)(6)>
Cc: Smith, Bradley <OFAC (b)(6)>; Christian, Alan <OFAC (b)(6)>
Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1

Hi all – I am attaching the email I just sent to STM with the foreign policy guidance.

From: Palluconi, Lisa <OFAC (b)(6)>
Sent: Wednesday, November 4, 2020 8:39 AM
To: Gacki, Andrea <OFAC (b)(6)>; <OFAC (b)(6)>;
Thomas, Nikole <OFAC (b)(6)> <OFAC (b)(6)>
Cc: Smith, Bradley <OFAC (b)(6)>; Christian, Alan <OFAC (b)(6)>
Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1
Per State, they hope to send in an hour or so.

From: Gacki, Andrea <OFAC (b)(6)>
Date: November 4, 2020 at 8:16:37 AM EST
To: <OFAC (b)(6)> >, Palluconi, Lisa <OFAC (b)(6)>
Thomas, Nikole <OFAC (b)(6)> <OFAC (b)(6)>
Cc: Smith, Bradley <OFAC (b)(6)>, Christian, Alan <OFAC (b)(6)>
Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1
Thank you all — and I will forward the FPG to the Secretary when we receive the guidance.

From: <OFAC (b)(6)> >
Date: November 4, 2020 at 7:40:51 AM EST
To: Palluconi, Lisa <OFAC (b)(6)>, Thomas, Nikole <OFAC (b)(6)>
<OFAC (b)(6)> >
Cc: Gacki, Andrea <OFAC (b)(6)>, Smith, Bradley <OFAC (b)(6)>, Christian, Alan <OFAC (b)(6)>
Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1
Thanks Lisa!

OFAC (b)(6)

Mobile: [REDACTED]

Email: [REDACTED]

From: Palluconi, Lisa [REDACTED]

Date: November 4, 2020 at 7:40:18 AM EST

To: [REDACTED] Thomas, Nikole [REDACTED]
[REDACTED] >

Cc: Gacki, Andrea [REDACTED], Smith, Bradley <[REDACTED]>
Christian, Alan <[REDACTED]>

Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1

Thanks [REDACTED]. We can reach out to EB this morning, asking them to proceed with issuing their foreign policy guidance. They are currently holding, as we asked them to wait until we had further guidance. We will keep you posted.

Best,
Lisa

From: [REDACTED]

Sent: Wednesday, November 4, 2020 7:32 AM

To: Thomas, Nikole [REDACTED] [REDACTED]

Cc: Gacki, Andrea [REDACTED]; Smith, Bradley [REDACTED] >;
Palluconi, Lisa [REDACTED]; Christian, Alan [REDACTED] >

Subject: Re: State Notice: Dan Gertler - GLOMAG-2020-368297-1

Hi All - The Secretary has asked for Andrea to send over the foreign policy guidance when OFAC gets it and then he will raise with S if needed.

Andrea - let us know if we can be helpful in getting the fpg to the Secretary this morning.

Please let us know if you have any questions or concerns. Happy to jump on a call if needed.

Thanks!

[REDACTED]

[REDACTED]

Mobile: [REDACTED]

Email: [REDACTED]

From: Thomas, Nikole [REDACTED]

Date: November 3, 2020 at 6:10:34 PM EST

To: [REDACTED] >, [REDACTED] >

Cc: Gacki, Andrea [REDACTED] >, Smith, Bradley [REDACTED],
Palluconi, Lisa [REDACTED], Christian, Alan <[REDACTED]>

Subject: Fwd: State Notice: Dan Gertler - GLOMAG-2020-368297-1

PRE-DECISIONAL and DELIBERATIVE

Hi [REDACTED] and [REDACTED],

Thank you for reaching out. Below is the email from State EB regarding their understanding of Secretary Pompeo's view of this specific license request. EB verbally told us tonight that they

STATE (b)(5)

STATE (b)(5)

We have asked them to

hold their Foreign Policy Guidance while we look into this response.

We will also update the briefing memo for Secretary Mnuchin in case needed and send back to you later tonight per your request. Please let us know if you need anything else.

Thanks!

Nikole

From: STATE (b)(6) @state.gov>

Date: November 3, 2020 at 4:02:33 PM EST

To: Thomas, Nikole OFAC (b)(6), STATE (b)(6) @state.gov>

Cc: Christian, Alan OFAC (b)(6), STATE (b)(6) @state.gov>, STATE (b)(6)

STATE (b)(6) @state.gov>, OFAC (b)(6), OFAC (b)(6)

OFAC (b)(6)

Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1

**** Caution:** External email. Pay attention to suspicious links and attachments. Send suspicious email to suspect@treasury.gov **

Nikole –

Secretary Pompeo's staff has informed me STATE (b)(5)

STATE (b)(5)

STATE (b)(5).

We will send formal Foreign Policy Guidance back to Treasury tomorrow to reflect State's position.

STATE (b)(6)

STATE (b)(6)

Director

Office of Sanctions Policy and Implementation

U.S. Department of State

STATE (b)(6)

From: Nikole.Thomas OFAC (b)(6)

Sent: Tuesday, November 3, 2020 12:05 PM

To: STATE (b)(6) @state.gov>; STATE (b)(6) @state.gov>

Cc: OFAC (b)(6), STATE (b)(6) @state.gov>; STATE (b)(6)

STATE (b)(6) @state.gov>; OFAC (b)(6); OFAC (b)(6)

Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1

PRE-DECISIONAL and DELIBERATIVE

Hi All,

We wanted to share an important update we received from Andrea Gacki a short while ago. We understand that Secretary Mnuchin and Secretary Pompeo spoke this morning regarding this request STATE (b)(5). We have been asked to issue the license this week. We plan to proceed accordingly but would appreciate if you confirm State's view.

Thanks!

Nikole

From: Thomas, Nikole

Sent: Monday, November 2, 2020 4:46 PM

To: STATE (b)(6) @state.gov; STATE (b)(6) @state.gov

Cc: Christian, Alan OFAC (b)(6); STATE (b)(6) @state.gov; STATE (b)(6) @state.gov

Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1

PRE-DECISIONAL and DELIBERATIVE

Thank you for the update, STATE (b)(6) Please do let us know if you hear any feedback.

From: STATE (b)(6) @state.gov

Sent: Monday, November 2, 2020 4:27 PM

To: Thomas, Nikole OFAC (b)(6) STATE (b)(6) @state.gov

Cc: Christian, Alan OFAC (b)(6) STATE (b)(6) @state.gov; STATE (b)(6) @state.gov

Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1

**** Caution:** External email. Pay attention to suspicious links and attachments. Send suspicious email to suspect@treasury.gov **

Hi Nikole –

We provided the Secretary's staff the background and our recommendation this morning. I can't predict when we will learn of his decision, but we did note Sec Mnuchin's interest and request for a quick review.

STATE (b)(6)

SENSITIVE BUT UNCLASSIFIED

From: Nikole.Thomas OFAC (b)(6)

Sent: Monday, November 2, 2020 3:47 PM

To: STATE (b)(6) @state.gov; STATE (b)(6) @state.gov

Cc: OFAC (b)(6); STATE (b)(6) @state.gov; STATE (b)(6) @state.gov

Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1

PRE-DECISIONAL and DELIBERATIVE

Hi STATE (b)(6)

Happy Monday! Just wondering if you had heard anything yet from the Secretary's office on this request. We also wanted to let you know Secretary Mnuchin did inquire with Andrea Gacki on the status of this request today and she informed him that you were working to update Secretary Pompeo. Secretary Mnuchin was happy to hear that and expressed his willingness to speak with Secretary Pompeo.

Thanks!

Nikole

From: STATE (b)(6) >

Sent: Friday, October 30, 2020 3:06 PM

To: Thomas, Nikole OFAC (b)(6) STATE (b)(6) @state.gov

Cc: Christian, Alan OFAC (b)(6) >; STATE (b)(6) @state.gov; STATE (b)(6) @state.gov

Subject: Re: State Notice: Dan Gertler - GLOMAG-2020-368297-1

**** Caution:** External email. Pay attention to suspicious links and attachments. Send suspicious email to suspect@treasury.gov **

Nikole -

Thank you again for bringing this matter to my attention. We have communicated about this case on the phone and on several different email threads, but I wanted to reply formally on this thread with what I believe is our understanding.

Secretary Pompeo is returning from overseas travel and will be in the office on Monday. Given there is information that suggests Gertler's corrupt activities in the DRC are ongoing, this does not appear to be a straight-forward matter. STATE (b)(5)

STATE (b)(5)
STATE (b)(5) Accordingly, I cannot provide State's concurrence by your noon Monday deadline and need to consult Secretary Pompeo.

We will seek Secretary Pompeo's decision on this matter and will get back to you as soon as we are able.

Best regards,

STATE (b)(6)

STATE (b)(6)

Director

Office of Sanctions Policy and Implementation

U.S. Department of State

STATE (b)(6)

From: Nikole.Thomas STATE (b)(6) OFAC (b)(6)

Sent: Thursday, October 29, 2020 13:34

To: STATE (b)(6) @state.gov>; STATE (b)(6) @state.gov>

Cc: OFAC (b)(6)

Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1

PRE-DECISIONAL and DELIBERATIVE

My apologies! I just noticed a few typos in the first sentence so want to correct those so it makes sense. Again, happy to talk more via phone if you'd like.

From: Thomas, Nikole

Sent: Thursday, October 29, 2020 1:32 PM

To: STATE (b)(6) @state.gov>; STATE (b)(6) @state.gov>

Cc: Christian, Alan OFAC (b)(6)

Subject: FW: State Notice: Dan Gertler - GLOMAG-2020-368297-1

PRE-DECISIONAL and DELIBERATIVE

Hi STATE (b)(6) and STATE (b)(6)

Happy New Fiscal Year! It's been awhile since we talked and hope all is well with you and your families at this time.

I wanted to bring this very short turn notification to your attention that we just sent over relating to a license application from designated Israeli billionaire Dan Gertler STATE (b)(5)

STATE (b)(5) U.S.
Ambassador to Israel David Friedman reached out to Treasury and requested that we look into Mr. Gertler’s application. We have, and we intend to issue authorization OFAC (b)(4)

OFAC (b)(4)
OFAC (b)(4). In light of the impact of the COVID-19 pandemic, we intend to issue this authorization within the next week so we are asking that you notify us of any objections by **noon on Monday, November 2nd**.

This has been coordinated within our building at senior levels. We’d also note that this matter would be separate from any potential delisting matter involved Mr. Gertler. This license request would have no bearing on the outcome of any such potential delisting petition.

Please let me know if it would be helpful to provide more background on the phone.

Thanks!

Nikole

From: OFAC (b)(6)
Sent: Thursday, October 29, 2020 1:21 PM
To: non-TSRA@state.gov; STATE (b)(6)@state.gov; STATE (b)(6)
STATE (b)(6)@state.gov; STATE (b)(6)@state.gov
Cc: OFAC (b)(6); OFAC (b)(6)
OFAC (b)(6); OFAC (b)(6)
OFAC (b)(6)
OFAC (b)(6); OFAC (b)(6) Thomas,
Nikole OFAC (b)(6) Christian, Alan OFAC (b)(6)

Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1

State Notice: Dan Gertler: GLOMAG-2020-368297-1

OFAC has received a request (the “Application”) (attached), submitted on behalf of Dan Gertler, designated under Executive Order (E.O.) 13818 of the Global Magnitsky Sanctions Regulations (the “Regulations”), for authorization to use funds, in non-U.S. currency, to support urgent humanitarian aid efforts in the Democratic Republic of the Congo (DRC); in particular, but not exclusively, aid related to the COVID-19 pandemic.

OFAC (b)(4), (b)(6)

Bates No. 02021-12461 (CKK): 0000001156

Duplicative page

Withheld in Full

From: Thomas, Nikole
To: "STATE (b)(6)@state.gov"; STATE (b)(6)
Cc: OFAC (b)(6)
Subject: FW: State Notice: Dan Gertler - GLOMAG-2020-368297-1
Date: Thursday, October 29, 2020 1:32:13 PM
Attachments: Dan Gertler Amended Application.pdf
 Gertler Exhibit A.pdf
 Gertler Exhibit B.pdf
 Supplemental on Charities.pdf
 Supplemental.pdf

PRE-DECISIONAL and DELIEBRATIVE

Hi STATE (b)(6) and STATE (b)(6)

Happy New Fiscal Year! It's been awhile since we talked and hope all is well with you and your families at this time.

I wanted to bring this very short turn notification that we just sent over relating to a license application from designated Israeli billionaire Dan Gertler who is requesting OFAC (b)(4)

OFAC (b)(4)

OFAC (b)(4) In light of the impact of the COVID-19 pandemic, we intend to issue this authorization within the next week so we are asking that you notify us of any objections by **noon on Monday, November 2nd**.

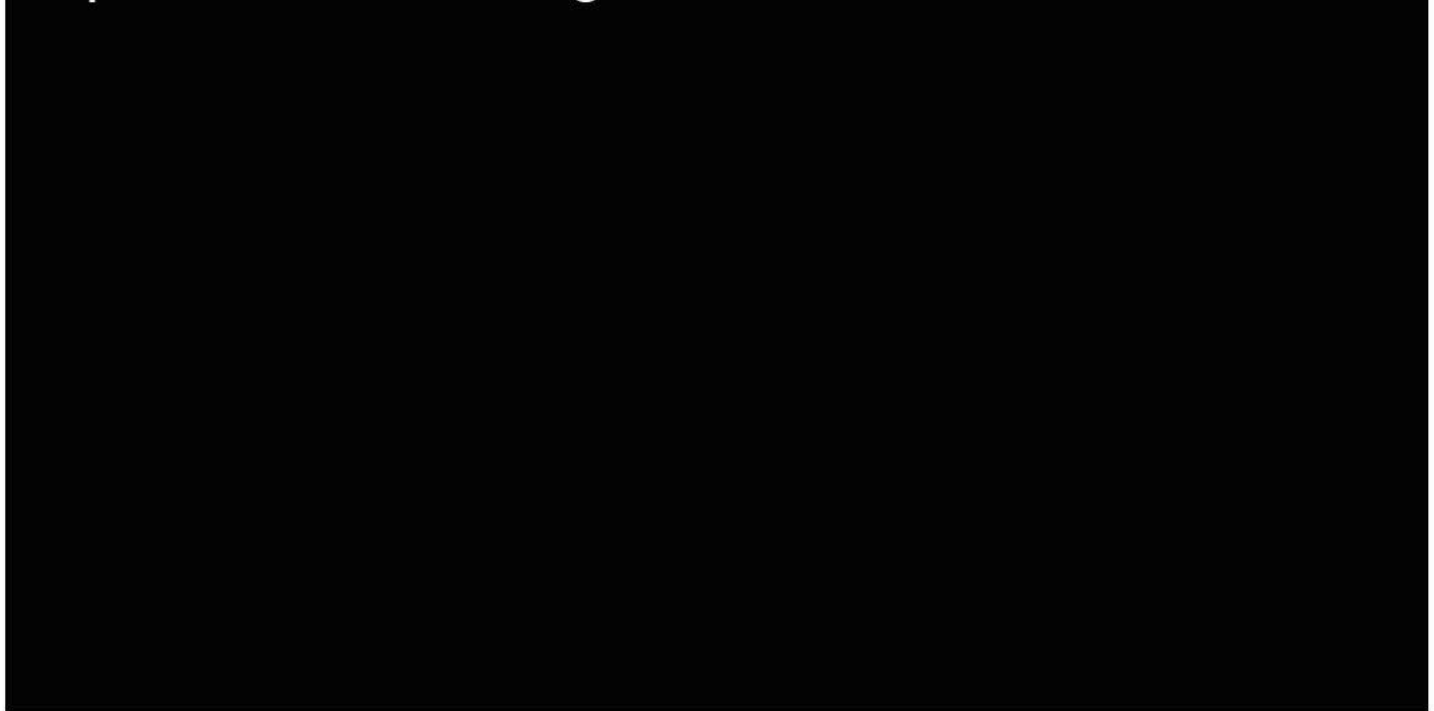
This has been coordinated within our building at senior levels. We'd also note that this matter would be separate from any potential delisting matter involved Mr. Gertler. This license request would have no bearing on the outcome of any such potential delisting petition.

Please let me know if it would be helpful to provide more background on the phone.

Thanks!

Nikole

Duplicate of Bate Pages 0000000967 - 0000000968



Bates Nos. 02021-12461 (CKK): 0000001158 - 0000001159

Duplicative pages

Withheld in Full

Bates Nos. 02021-12461 (CKK) : 0000001160-0000001161

Withheld in Full under
FOIA Exemptions (b)(4), (b)(6)

Arnold & Porter

Baruch Weiss
601 Massachusetts Ave., NW
Washington, DC 20001-3743

+1 202.942.6819 Direct
Baruch.Weiss@arnoldporter.com

September 4, 2020

VIA E-MAIL

OFAC (b)(6)
Sanctions Licensing Officer
U.S. Department of the Treasury
Office of Foreign Assets Control
1500 Pennsylvania Avenue, NW
Freedman’s Bank Building
Washington, DC 20220

Re: GLOMAG-2020-368297-1—Supplemental Information In Furtherance of Mr. Dan Gertler’s Request for a Specific License Involving Humanitarian Aid

Dear **OFAC (b)(6)**:

This letter responds to the second of three follow-up questions set forth in your e-mail dated August 19, 2020, in connection with the rush application submitted on behalf of Mr. Dan Gertler and his companies to the Office of Foreign Assets Control (“OFAC”) on August 11, 2020 (the “August 11 Application”). See Case No. GLOMAG-2020-368297-1. As you know, the August 11 Application seeks a **OFAC (b)(4)**

OFAC (b)(4)

OFAC (b)(4)

¹ We submitted a response to the Licensing Division’s first question, via e-mail, on August 26, 2020, along with a request for clarification in connection with the third question. We will provide a response to the third question promptly upon receipt of the clarification requested.

us of such objection and allow Mr. Gertler to respond, including by supplementing the list of Candidate Charities, before any final decision is reached.

OFAC (b)(4)

OFAC (b)(4)

OFAC (b)(4)



OFAC (b)(4)

If you have questions regarding this submission, please do not hesitate to contact me at Baruch.Weiss@arnoldporter.com or 202-942-6819, or my colleague, Tal Machnes, at Tal.Machnes@arnoldporter.com or 212-836-7442. OFAC (b)(6) may be reached at OFAC (b)(6) or OFAC (b)(6). Finally, OFAC (b)(6) counsel to the OFAC (b)(6), who has worked with OFAC (b)(6) as a consultant on this matter, may be reached at OFAC (b)(6).

OFAC (b)(6) OFAC (b)(6)
OFAC (b)(6)

OFAC (b)(6)
Counsel for Mr. Dan Gertler
OFAC (b)(6)

Baruch Weiss, Esq.
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
baruch.weiss@arnoldporter.com
T: +1 202-942-6819

From: Christian, Alan
To: OFAC (b)(6); OFAC (b)(6); Thomas, Nikole; OFAC (b)(6)
Cc: OFAC (b)(6)
Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1
Date: Thursday, November 5, 2020 4:17:00 PM

Thank you, OFAC (b)(6)

From: OFAC (b)(6)
Sent: Thursday, November 5, 2020 4:17 PM
To: OFAC (b)(6); Thomas, Nikole; OFAC (b)(6)
OFAC (b)(6)
Cc: Christian, Alan; OFAC (b)(6); OFAC (b)(6)
Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1

The edits look good to me. I have cleared with edits. Since you and I have both had OASIS issues today, please let me know if you have any further problems.

OFAC (b)(6)
Attorney-Advisor
Office of the Chief Counsel (Foreign Assets Control)
United States Department of the Treasury

From: OFAC (b)(6)
Sent: Thursday, November 5, 2020 4:07 PM
To: OFAC (b)(6); Thomas, Nikole; OFAC (b)(6)
OFAC (b)(6)
Cc: Christian, Alan; OFAC (b)(6); OFAC (b)(6)
Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1

Thanks, OFAC (b)(6)! I'll look for it and review with the below in mind.

OFAC (b)(6)
Attorney-Advisor
Office of the Chief Counsel (Foreign Assets Control)
United States Department of the Treasury

From: OFAC (b)(6)
Sent: Thursday, November 5, 2020 4:03 PM
To: OFAC (b)(6); Thomas, Nikole
OFAC (b)(6); OFAC (b)(6)
Cc: Christian, Alan; OFAC (b)(6); OFAC (b)(6)
Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1

PRE-DECISIONAL and DELIBERATIVE

Hi, OFAC (b)(6)

Greetings. I am fine with most of your edits, but I also made some of my own. OFAC (b)(4), (b)(5)

OFAC (b)(4), (b)(5)

OFAC (b)(4),(b)(5),(b)(6) I've also returned the case file to you in OASIS. Please let me know if you have any questions.

Thank you,

OFAC (b)(6)

From: [REDACTED] OFAC (b)(6)
Sent: Thursday, November 5, 2020 1:40 PM
To: [REDACTED] OFAC (b)(6); Thomas, Nikole [REDACTED] OFAC (b)(6)
[REDACTED] OFAC (b)(6)
Cc: Christian, Alan [REDACTED] OFAC (b)(6); [REDACTED] OFAC (b)(6) >
Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1

[REDACTED] OFAC (b)(6) thanks for taking the time for the call just now. I have returned with edits because I made what looks like a lot of changes [REDACTED] OFAC (b)(5)

[REDACTED] OFAC (b)(5)

[REDACTED] OFAC (b)(4), (b)(5) If Licensing is good with my changes, I stand ready to clear as soon as it comes back to me.

Thanks!

[REDACTED] OFAC (b)(6)
Attorney-Advisor
Office of the Chief Counsel (Foreign Assets Control)
United States Department of the Treasury

From: [REDACTED] OFAC (b)(6)
Sent: Thursday, November 5, 2020 12:43 PM
To: [REDACTED] OFAC (b)(6); Thomas, Nikole
[REDACTED] OFAC (b)(6); [REDACTED] OFAC (b)(6)
Cc: Christian, Alan [REDACTED] OFAC (b)(6); [REDACTED] OFAC (b)(6) >
Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1

I have my team meeting at 1:30, but am available until then.

[REDACTED] OFAC (b)(6)

From: [REDACTED] OFAC (b)(6)
Sent: Thursday, November 5, 2020 12:28 PM
To: [REDACTED] OFAC (b)(6); Thomas, Nikole [REDACTED] OFAC (b)(6)
[REDACTED] OFAC (b)(6)
Cc: Christian, Alan [REDACTED] OFAC (b)(6); [REDACTED] OFAC (b)(6) >
Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1

Hi, I have questions. Would anyone have time for a call? Thanks!

[REDACTED] OFAC (b)(6)
Attorney-Advisor
Office of the Chief Counsel (Foreign Assets Control)
United States Department of the Treasury

From: [REDACTED] OFAC (b)(6) >
Sent: Wednesday, November 4, 2020 1:46 PM
To: Thomas, Nikole [REDACTED] OFAC (b)(6); [REDACTED] OFAC (b)(6)
[REDACTED] OFAC (b)(6); [REDACTED] OFAC (b)(6)
Cc: Christian, Alan [REDACTED] OFAC (b)(6); [REDACTED] OFAC (b)(6) >
Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1

PRE-DECISIONAL and DELIBERATIVE

Hi [REDACTED] OFAC (b)(6)

It's with OCC now. Please let me and [REDACTED] know if you have any questions.

Thanks,
[REDACTED]

From: Thomas, Nikole [REDACTED]
Sent: Wednesday, November 4, 2020 1:30 PM
To: [REDACTED]
[REDACTED]; [REDACTED]
Cc: Christian, Alan [REDACTED]; [REDACTED] >
Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1
PRE-DECISIONAL and DELIBERATIVE

Thanks, [REDACTED] We just received the input we were looking for (you'll see it in the case file) so this should be coming your way very soon. [REDACTED]

[REDACTED]

From: [REDACTED]
Sent: Wednesday, November 4, 2020 1:27 PM
To: Thomas, Nikole [REDACTED]; [REDACTED]
[REDACTED]
Cc: Christian, Alan [REDACTED]; [REDACTED] >
Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1

Thanks, Nikole [REDACTED] and I are both juggling right now, so I think it may be a gametime decision as to which of us gets it. If you don't think you'll get it to us by COB today, perhaps before we all sign off for the day, we could do that call.

[REDACTED]

Attorney-Advisor
Office of the Chief Counsel (Foreign Assets Control)
United States Department of the Treasury

From: Thomas, Nikole [REDACTED]
Sent: Wednesday, November 4, 2020 11:32 AM
To: [REDACTED]
[REDACTED]; [REDACTED]
Cc: Christian, Alan [REDACTED]; [REDACTED] >
Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1
PRE-DECISIONAL and DELIBERATIVE

Hi OCC,

A draft response is essentially ready for your review but we are holding it to resolve a question with STM. We hope to have an answer today but can't guarantee that will happen of course. I'm not sure who gets to review this one so happy to provide more details on the phone, especially since we are still operating for now on a quick timeline.

Thanks!
Nikole

From: [REDACTED]
Sent: Tuesday, November 3, 2020 11:41 AM
To: [REDACTED]; [REDACTED]
Cc: Thomas, Nikole [REDACTED]; Christian, Alan [REDACTED];

OFAC (b)(6)

Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1

Thanks!

OFAC (b)(6)

Attorney-Advisor

Office of the Chief Counsel (Foreign Assets Control)

United States Department of the Treasury

From: OFAC (b)(6)

Sent: Tuesday, November 3, 2020 11:40 AM

To: OFAC (b)(6) OFAC (b)(6)

OFAC (b)(6)

Cc: Thomas, Nikole OFAC (b)(6); Christian, Alan <OFAC (b)(6)>;

OFAC (b)(6)

Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1

FYI

From: OFAC (b)(6)

Sent: Thursday, October 29, 2020 1:21 PM

To: non-TSRA@state.gov; STATE (b)(6)@state.gov; STATE (b)(6)

<ErnstT@state.gov>; STATE (b)(6)@state.gov

Cc: OFAC (b)(6) OFAC (b)(6)

OFAC (b)(6); OFAC (b)(6)

OFAC (b)(6) OFAC (b)(6)

OFAC (b)(6) OFAC (b)(6) Thomas,

Nikole OFAC (b)(6); Christian, Alan OFAC (b)(6)

Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1

State Notice: Dan Gertler: GLOMAG-2020-368297-1

OFAC has received a request (the "Application") (attached), submitted on behalf of Dan Gertler, designated under Executive Order (E.O.) 13818 of the Global Magnitsky Sanctions Regulations (the "Regulations"), for authorization to use funds, in non-U.S. currency, to support urgent humanitarian aid efforts in the Democratic Republic of the Congo (DRC); in particular, but not exclusively, aid related to the COVID-19 pandemic.

OFAC (b)(4), (b)(6)

OFAC (b)(4), (b)(6)

OFAC (b)(6)

Sanctions Licensing Officer

Licensing Division

Office of Foreign Assets Control

U.S. Department of the Treasury

From: Thomas, Nikole
To: Christian, Alan; OFAC (b)(6)
Subject: FW: Gertler FPG - Legal review
Date: Tuesday, February 16, 2021 9:28:52 PM
Attachments: SBU and Open Source Annex.pdf
FPG- Dan Gertler (GLOMAG-2021-371648-1) FOR LEGAL REVIEW.docx

PRIVILEGED//PRE-DECISIONAL//DELIBERATIVE
ATTORNEY-CLIENT COMMUNICATION

From: Prince, Jason OFAC (b)(6)
Sent: Tuesday, February 16, 2021 7:38 PM
To: Palluconi, Lisa OFAC (b)(6); Thomas, Nikole OFAC (b)(6)
OFAC (b)(6); OFAC (b)(6)
OFAC (b)(6)
Cc: Smith, Bradley OFAC (b)(6)
Subject: FW: Gertler FPG - Legal review

PRIVILEGED//PRE-DECISIONAL//DELIBERATIVE
ATTORNEY-CLIENT COMMUNICATION

Good evening, Team:

Please find attached State's draft FPG with respect to OFAC's January 2021 specific license to Dan Gertler. I've forwarded to OFAC (b)(6) and OFAC (b)(6) via TSDN and TFIN some related materials that I received from State earlier today, and I'm happy to send those materials to Lisa and Nikole (and Brad) when I get back inside a SCIF tomorrow.

As indicated below, OFAC (b)(6) and OFAC (b)(6) will be reviewing all these materials for Fed Pro and providing feedback from a litigation-risk perspective. If you have any feedback to offer in the interim, please let me know and I'll relay it to Fed Pro and State.

Thanks,
Jason

From: STATE (b)(6) @state.gov>
Sent: Tuesday, February 16, 2021 4:42 PM
To: Prince, Jason OFAC (b)(6); OFAC (b)(6)
OFAC (b)(6); OFAC (b)(6) Menna, Frank
OFAC (b)(6)
Cc: STATE (b)(6) @state.gov>
Subject: Gertler FPG - Legal review

**** Caution:** External email. Pay attention to suspicious links and attachments. Send suspicious email to suspect@treasury.gov **

PRIVILEGED//DELIBERATIVE//PRE-DECISIONAL

Hi all,

Attached is a draft of the State FPG [REDACTED] STATE (b)(5) along with an annex of SBU cables and open source documents that support elements of the FPG. (The open source documents are a sample of some of the news reporting and NGO statements about the license.) I've sent you the classified annex on JWICS. Please let me know if you want to discuss once you've had a chance to review. Also, this is, of course, a priority for policy offices, so if you can review as soon as possible this week, that would be greatly appreciated.

Thanks!

[REDACTED]

[REDACTED] STATE (b)(6)

Attorney-Adviser

Office of the Legal Adviser

Economic and Business Affairs (L/EB)

[REDACTED] STATE (b)(6) (office)

[REDACTED] STATE (b)(6)(cell)

SBU - LEGAL



United States Department of State
Washington, D.C. 20520

February xx, 2021

SENSITIVE BUT UNCLASSIFIED
MEMORANDUM

TO: Brad Smith
Acting Director
Office of Foreign Assets Control
Department of the Treasury

FROM: **STATE (b)(6)**
Director
Office of Economic Sanctions Policy and Implementation
Bureau of Economic and Business Affairs

SUBJECT: Dan Gertler (GLOMAG-2021-371648-1)

(U) Recommendation:

(SBU) **STATE (b)(5)**
STATE (b)(5) This license provides Dan Gertler, who was designated under E.O. 13818 for his involvement in significant public corruption in the Democratic Republic of the Congo (DRC), extensive authorization to engage in activities otherwise prohibited by E.O. 13818 and its implementing regulations. State advises that this license is inconsistent with the United States' foreign policy of curbing malign influence in the DRC. Furthermore, it undermines the integrity and effectiveness of the Global Magnitsky sanctions program more broadly. **STATE (b)(5)**

STATE (b)(5)

(SBU) Mr. Gertler has engaged in extensive corruption in the DRC, which has wreaked untold damage on DRC public institutions and efforts to combat corruption in the country. Mr. Gertler amassed his fortune through hundreds of millions of dollars' worth of opaque and corrupt mining and oil deals in the DRC. He used his close friendship with former President 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.

(SBU) Information available to the Department indicates that since his designation, Gertler and his associates and affiliated companies remain engaged in suspect business activities in the DRC. Since 2017, one of Gertler's designated companies, Fluerette Mumi Holdings, has been involved in a dispute in the DRC over a \$200 million euro loan to Gecamines, the DRC's notoriously corrupt and mismanaged parastatal. In December 2020, the current President of the DRC, Felix Tshiskedi, personally intervened to stop a \$250 million dollar payment to Gecamines, which

Gecamines was reportedly going to use to repay Fleurette. Gertler's associates and companies also have dealings in the DRC oil sector. Reports also indicate that Gertler and his network have engaged in efforts to evade sanctions, including pressuring Glencore, a mining company active in the DRC, to resume certain royalty payments to Gertler, using shell companies, and pressuring banks to unfreeze accounts. The Department is deeply concerned that Gertler will use this license to further his activities in the DRC and that he has demonstrated a willingness to work around any conditions placed on the license.

(SBU) Issuance of the license has significantly undermined the U.S. government's efforts to support reform in the DRC. President Tshisekedi has pursued a change agenda and made significant efforts to combat the DRC's endemic corruption and to ensure that DRC citizens begin to benefit from the country's significant natural resource wealth. During this fragile window of opportunity for reform in the DRC under President Tshisekedi's administration, sanctions against high-profile corrupt individuals and entities, including Gertler, have proven to be invaluable to impose costs for corruption, influence behavior, promote accountability, and curb the ability of bad actors to continue their disruptive behavior. Since Gertler's designation, numerous DRC and other government officials, as well as business leaders and civil society groups, have told the Department that the designation has been key to beginning to root out corrupt actors in the DRC and galvanizing support for Tshisekedi's anti-corruption efforts. Indeed, the United States is largely credited with leading the international charge to disrupt former President Kabila's malign influence.

(SBU) DRC and U.S. policy initiatives have created pathways for the Congolese people to dismantle a notoriously kleptocratic system in the DRC that has long relied on U.S. dollar transactions. Issuing this license to Gertler, who profited from Kabila's corruption and was an extremely high-profile sanctions target, threatens President Tshisekedi's anti-corruption efforts and the credibility and effectiveness of U.S. policy in the DRC. DRC officials have told Department officials they are concerned the license will negatively impact anti-corruption efforts and further Gertler's malign influence in the DRC. The license has also undermined longstanding efforts to disrupt and deter Gertler's activities in the DRC, signaled to other private sector actors operating in DRC that sanctions designations can be readily ignored, and threatens the critical work of civil society organizations and whistleblowers trying to promote accountability for public corruption.

(SBU) Moreover, the license has damaged the integrity of the Global Magnitsky sanctions program. Since its inception in 2017, the Global Magnitsky program has become one of the U.S. government's key tools for disrupting and deterring corruption around the world. The Department works closely with human rights and other civil society groups to identify potential targets and encourages other governments to sanction corrupt actors under their own authorities. Granting such a broad license to Gertler threatens to undermine this work. There has been significant press coverage of the license and the Department has received letters and communications from members of Congress, human rights groups, and others criticizing the decision to provide such sweeping relief to Gertler and his associates. OFAC (b)(5)

OFAC (b)(5)

OFAC (b)(5)

(U) Background:

~~(SBU)~~ On February 5, 2021, the Office of Foreign Assets Control (OFAC) requested foreign policy guidance regarding a license granted to Dan Gertler on January 15. The license authorizes Mr. Gertler and certain of his associates and affiliated companies to engage in all transactions otherwise prohibited by U.S. sanctions for one year.

Attachments:

Tab 1 – ~~SBU~~ and Open Source Annex

Tab 2 – Classified Annex

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Drafted: STATE (b)(6) EB/TFS/SPI, home/cell: STATE (b)(6)

Approved: STATE (b)(6), EB/TFS/SPI

Cleared: EB/TFS/SPI: STATE (b)(6) 0
AF/C: STATE (b)(6) (ok)
EB/TFS/TFC: STATE (b)(6) 0
NEA: STATE (b)(6) 0
DRL: STATE (b)(6) 0
INL: STATE (b)(6) 0
D: STATE (b)(6) 0
P: STATE (b)(6) 0
E: STATE (b)(6) 0
S/P: STATE (b)(6) 0
L/EB: STATE (b)(6) 0

UNCLASSIFIED

SBU



MRN: 20 USEU BRUSSELS 754
Date/DTG: Sep 17, 2020 / 171547Z SEP 20
From: USEU BRUSSELS
Action: WASHDC, SECSTATE *ROUTINE*
E.O.: 13526
TAGS: PGOV, PREL, PHUM, KAWC, KJUS, KSAN, ASEC, UN, EP, EUN, 1C, CD
Captions: **SENSITIVE**
Reference: A) 20 KINSHASA 898
 B) 17 KINSHASA 1310
 C) 20 USEU BRUSSELS 514
Subject: DRC's Denis Mukwege Seeks Transitional Justice, International Court

1. (~~SBU~~) **Summary:** Speaking to the European Parliament (EP) about ongoing violence in the Democratic Republic of Congo (DRC), Nobel Peace Prize and Sakharov Prize winner Denis Mukwege called for a process of transitional justice through a range of mechanisms, including an international court and a truth and reconciliation commission. Members of Parliament (MEP) expressed strong support for bringing perpetrators to justice and focused on the role of transnational corporations in driving the conflict. MEPs also acknowledged the EU needed to do more to prevent the EU financial system from protecting these corporations and pointed to U.S. sanctions as a model for action, and agreed that human rights defenders and whistleblowers needed more protections. **End Summary.**

A Call for Justice

2. (~~SBU~~) During a session of the EP's Subcommittee on Human Rights (DROI) on August 31, and following a string of death threats against him in the DRC (Ref A), Mukwege discussed his personal safety as well as transitional justice for acts of violence in the DRC, particularly in the context of the 2010 Mapping Report from the UN Office of the High Commissioner for Human Rights (OHCHR). (Note: The Mapping Report presented detailed evidence of violence in the country from 1993-2003, as well as recommendations for further action. End note.) Guests and MEPs agreed that the report laid out clear, corroborated evidence of crimes against humanity, with clear recommendations, some of which were reflected in Mukwege's testimony. They also noted a lack of action despite the widespread evidence presented and the passage of ten years.

3. (~~SBU~~) Mukwege called for a multi-tiered approach to transitional justice, including an international court, specialized Congolese courts, and a truth and reconciliation commission. He called for an ad hoc international court under UN chapter 7 authority to bring perpetrators to justice, both Congolese and foreign citizens, pointing to Uganda, Rwanda, and Burundi as key

regional participants in the violence that were outside of the Congolese legal system. MEP Seán Kelly (European People's Party – EPP, Ireland) expressed support for including a call for an international court in a forthcoming EP resolution, and MEP Charles Goerens (Renew Europe – RE, Luxemburg) suggested that DRC violence should be an agenda item at the October 28-30 EU-AU Summit in Brussels (Note: The October Summit was subsequently postponed until 2021. End Note.) Director of the United Nations Joint Human Rights Office (UNJHRO) Abdoul Aziz Thioye stated that the DRC government issued decrees on truth and reconciliation, but they were not followed up with action. He also recommended more open communication with DRC stakeholders on the subject of an international court, saying there was resistance within the DRC to foreigners sitting on such a court.

4. ~~(SBU)~~ MEPs and Mukwege also repeatedly stressed that impunity drives continued crimes against humanity in DRC. Mukwege said many of the perpetrators were hiding in positions of power in other countries and, without an international court, they could not be brought to justice. He also described a recent visit to a village where the commander responsible for acts of violence was walking free, with village members living in fear of him. At the same time, he expressed some hope for action under President Tshisekedi, noting that Tshisekedi called for transitional justice to put be on the DRC's government agenda, and stressing several times that Tshisekedi was not historically linked to the violence. MEP Maria Arena (Socialists and Democrats – S&D, Belgium), Chair of the DROI Subcommittee, said that the International Court of Justice (ICJ) found Uganda culpable for violence in the DRC in 2005, but no reparations were paid. She stressed that judgements, when issued but not followed up on, damaged the credibility of international institutions. She also highlighted that Rwanda rejected the court's jurisdiction.

EP Members Stress Role of Transnational Corporations in “Economic Violence”...

5. ~~(SBU)~~ Several MEPs stressed the role of transnational corporations as malign actors, specifically pointing to U.S.-sanctioned Israeli businessman Dan Gertler (Ref B) as an example. MEPs Hannah Neumann (Greens/EFA, Germany), Vice-Chair of the DROI Subcommittee, Isabel Santos (S&D, Portugal), and Miguel Urbán Crespo (European United Left/Nordic Green Left, Spain) all raised the issue of conflict minerals and associated transnational corporations, often describing their actions in the DRC as “economic violence.” MEP Arena criticized the free flow of Gertler's “dirty money,” saying there were “border guards in the EU to ensure there are no migrant smugglers across the Mediterranean, but there's no border control to stop people laundering money from Congo through Europe to Israel.”

...and Point to U.S. Sanctions as a Possible Model

6. ~~(SBU)~~ MEP Arena stated “we need to do what the U.S. has done” when it comes to sanctions against economic actors in the DRC. She said that Gertler is subject to U.S. sanctions, which prevents him from using U.S. banks and provides financial transparency to his actions, but that the EU did not have the same type of sanctions. She also said some Dutch banks and Belgian intermediaries were in fact working with him, saying “you can't launder money in the U.S. but you can do so in the EU.” MEP María Soraya Rodríguez Ramos (RE, Spain) also noted that the EU needed to approve a global human rights sanctions regime (Ref C). In a response, European

External Action Service (EEAS) Central Africa Division Head Gerardus Gielen pointed to existing human rights sanctions against individuals, but acknowledged that the current EU sanctions regime in the DRC did not apply to economic crimes.

Broad Agreement that Human Rights Defenders Need More Protection

7. ~~(SBU)~~ MEPs and guests were united in their support for more protection for human rights defenders. Many MEPs expressed concerns for Dr. Mukwege's personal safety in light of recent death threats against him and questioned the status of his UN-provided protection. Mr. Thioye noted that the UN often relies on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) to provide protection for people like Mukwege, but that this requires resources, which are being reduced.

8. ~~(SBU)~~ **Comment:** Since the EP awarded its annual Sakharov Prize for Freedom of Thought to Mukwege in 2014 it has given him consistent political support, including issuing a resolution on his situation in [September 2020](#). Although EP resolutions are non-binding, the EP is putting pressure on the DRC and the international community to better protect Mukwege. Further, MEPs' comments and recurrent hearings that call for stronger EU sanctions keep the issue in the public discourse while Member States continue to work towards approval of a global human rights regime, expected later this year. **End Comment.**

~~SENSITIVE BUT UNCLASSIFIED~~

Signature: GIDWITZ

Drafted By: BRUSSELS STATE (b)(6) (USEU)
Cleared By: POL STATE (b)(6) (USEU)
POL STATE (b)(6) (USEU)
ECON STATE (b)(6) (USEU)
Approved By: POL STATE (b)(6) (USEU)
Released By: BRUSSELS STATE (b)(6) (USEU)
Info: KINSHASA, AMEMBASSY ROUTINE; EU MEMBER STATES
COLLECTIVE ROUTINE

Dissemination Rule: Archive Copy

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~~SBU~~

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SBU



MRN: 20 KINSHASA 616
Date/DTG: Jun 18, 2020 / 182117Z JUN 20
From: AMEMBASSY KINSHASA
Action: WASHDC, SECSTATE *ROUTINE*
E.O.: 13526
TAGS: ECON, EMIN, PGOV, KCOR, ELAB, CD
Captions: **SENSITIVE**
Reference: A) 19 KINSHASA 592
 B) 20 KINSHASA 3
 C) 17 KINSHASA 1202
Subject: DRC: Challenges Await Reformers Set to Take the Reins at Largest State-owned Mining Company

1. (~~SBU~~) **Summary and Comment.** Just over one year since President Felix Tshisekedi proposed new leadership for the largest mining state-owned enterprise (SOE) Gécamines (la Générale des Carrières et des Mines), signs are emerging that his nominees may finally assume their positions. Kabila's Common Front for the Congo (FCC) coalition blocked the Tshisekedi appointments claiming the process violated the constitution, insisting instead that his nominees be considered as part of broader negotiations over all SOE leadership posts. Meanwhile, Tshisekedi has kept the focus on questionable transactions by Gécamines' leadership, particularly Chairman of the Board Albert Yuma, whose name has recently surfaced as providing under the table payments to secure the possible nomination of a corrupt official to head DRC's Independent Election Commission (CENI). Once confirmed, the new leadership team will inherit a company with deep structural issues such as the endemic use of mining rents as party patronage, stagnant low productivity, and declining solvency. The new Director General has signaled his commitment to completing management reforms recommended by consulting firm Ernst & Young (EY). However, it remains to be seen whether Yuma, who would remain as Chairman but be surrounded by Tshisekedi appointees, will continue to resist calls from foreign non-governmental organizations (NGOs) and donors like the International Monetary Fund (IMF) for greater transparency of mining contracts. Still, Gécamines' relationship with the Extractive Industries Transparency Initiative (EITI) continues to improve as its technical staff seek to move on from the company's scandals and poor reputation of the past. **End Summary.**

2. (~~SBU~~) **Comment.** Gécamines is the most important mining SOE in the DRC, and has been described as the Kabila regime's "cash machine" with Yuma as Kabila's "money man." It owns many of the most valuable mining permits in Congo's lucrative copperbelt region. Replacing the Director General and other members of the board to marginalize Chairman and Kabila-ally Albert Yuma would be a significant Tshisekedi achievement. However, a new leadership team

is no silver bullet for Gécamines' history of corruption or weak performance. The new team, considered inexperienced by some, would have its work cut out to transform Gécamines from the copperbelt's landlord back into a productive mining company, which could generate domestic revenue for post-pandemic recovery, but only if the cycle of corruption ends. Support for Tshisekedi's request for an audit of Gécamines' recent asset transactions is key, as well as encouraging the new Director General's management reforms while monitoring for adverse impacts from restructuring on mining communities in the region. President Tshisekedi also needs to finalize the appointment of the new competent and experienced EITI national coordinator, Jean-Jacques Kayembe, who will support those within Gécamines working toward greater transparency and EITI integration. **End Summary and Comment.**

Signs Emerge that Tshisekedi's Nominees Will Finally Assume Posts

3. (SBU) On June 12, Gécamines' Secretary General Ngele Masudi instructed the company's managing directors to prepare briefing documents for the new Director General and Board of Directors in the first sign in just over a year that Tshisekedi's Gécamines' nominees may finally assume their leadership posts. Back in June 2019, President Tshisekedi reappointed former President Joseph Kabila's ally Albert Yuma Mulimbi as board chairman, but replaced the remaining eight members of the board with reformers and nominated Sama Lukonde to replace Yuma's right hand man Jacques Kamenga as Director General (Ref. A). Lukonde, a 42-year-old chemical engineer by training who once managed a copper mine, has served as member of Parliament (2006-11), and was briefly Kabila's Minister of Sports (2014-15) before resigning to join the opposition. He is not tarnished by corruption allegations and has a reputation as a serious and honest individual. Since September 2019, the Minister of Portfolio Clément Nymy Bemuna has refused to appoint the nominees while the FCC, which is in a power-sharing agreement with Tshisekedi's Cap pour le Changement (CACH) alliance, held that Tshisekedi had violated the constitution by announcing the appointments before the new government took charge. (Note: While the 2008 Law on State Portfolio supports the FCC's claim, Kabila had similarly bypassed the Council of Ministers in 2010 when he handpicked Yuma to be Gécamines' board chairman. End Note.)

CACH May Have Given FCC Maritime Posts in Return

4. (SBU) Since January 2020, FCC has maintained that Gécamines' nominees must be part of wider negotiations over all SOE leadership positions, including for DRC's nine mining and hydrocarbon SOEs. The press reported on June 10 that Tshisekedi had nominated former Kabila-era ministers to key maritime posts, including former Minister of Communications Lambert Mende (sanctioned by the European Union) as Chairman of the Board for the Congolese state shipping company (Lignes Maritimes Congolaises) and former Minister of Transportation Jose Makila Sumanda as Chairman of the Board for the Port Authority (Société Commerciale de Transport et des Ports). (Note: The DRC is planning to construct a \$1.2-billion deep water port at Banana in Kongo Central province. End Note.) In a meeting with the Ambassador on June 15, Tshisekedi confided that he had to allow Mende and Makila's appointments to proceed: "I can't take on every battle, and these really are appointments to powerless positions," he explained. Some civil society groups such as Lutte Pour le Changement ("Struggle for Change," LUCHA) sardonically characterized these developments

as “business as usual.”

Tshisekedi Kept Current Gécamines Leadership in Anti-Corruption Crosshairs

5. (SBU) While the FCC-CACH coalition wrangled over SOE leadership posts, Tshisekedi kept questionable transactions at Gécamines at the center of his anti-corruption agenda. In January, Yuma came under fire for accepting a 200 million-euro loan to Gécamines from Dan Gertler’s U.S.-sanctioned Fleurette Mumi Holdings, later renamed to Ventora Development Sasu. (Ref. B). After Tshisekedi phoned its senior management in Geneva, Swiss multinational mining company Glencore halted a \$250-million payment to Gécamines, its joint venture partner in major copper and cobalt concessions, on the grounds Gécamines would use it to repay Ventora. (Note: The investigation is ongoing, and on June 1 the Ministry of Portfolio threatened to suspend Glencore subsidiary Kamoto Copper Company’s mining permits if Glencore did not pay Gécamines. End Note.) At the Council of Ministers’ Meeting on May 22, Tshisekedi ordered the Ministry of Portfolio to produce a detailed report by May 29 to “shed complete light” on Gécamines’ current asset transactions, which the Ministry has yet to produce. The civil society coalition “The Congo is Not for Sale” spurred the President’s move when it questioned Gécamines’ sale of a slag heap site in Lubumbashi to Yuma-managed Gécamines’ subsidiary Société Congolaise pour le Traitement de Terril de Lubumbashi (STL), which several local NGOs suspect is part of a pattern of Gécamines selling undervalued assets to Kabila allies. (Note: A forthcoming report by NGO Global Witness is likely to provide more details on the STL case. End Note). Moreover, Yuma continues to be involved in nefarious activities—just this week a confidential source in Kinshasa told several of Ambassador Hammer’s Chiefs of Mission colleagues (strictly protect) that Yuma had provided \$50,000 in payments to various religious groups so that they would support Kabila’s corrupt candidate for the Independent Election Commission (CENI).

Corruption is Endemic at Congo’s Extractive SOEs...

6. (SBU) Two researchers with Southern African Resources Watch told Econoff that recent questionable transactions at Gécamines were simply the latest example of what is an endemic feature of state-party relations in the DRC. Such transactions have been used for patronage and to fund national elections (Ref. C). As far back as the post-independence Congo Crisis in 1962, Gécamines, known then as l’Union Minière du Haut Katanga, illegally used funds owed to the central government to buy the political support of the Katangan separatist leader Moïse Tshombe. Société Minière de Bakwanga (MIBA), the country’s flagship diamond SOE, played a similar role propping up former President Mobutu Sese Seko’s allies, and later providing former President Laurent Kabila \$8.5 million in 2020 dollar terms over two years in the late 1990s. On May 29, however, President Tshisekedi took a strong stance against mismanagement and malfeasance when the Council of Ministers suspended MIBA’s directors following an audit that identified “major dysfunctions in compliance, governance, and financial administration.”

...But New Gécamines Team May Help Turn the Tide

7. (SBU) A former Carter Center director said that the new team’s “lack of expertise” in rent-

seeking tactics could help curb fraud since it would face “a major corruption learning curve” even in the unlikely event it wanted to exploit the company for personal gain. (Note: At Gécamines and other SOEs, rent-seekers are employing increasingly complex transactions to stay ahead of lawyers and financial analysts. End Note.) A Natural Resources Governance Institute (NRGI) analyst told Econoff that for Director General Lukonde to succeed, he must resist the pull to use Gécamines management positions as patronage posts for Tshisekedi’s Union for Democracy and Social Progress party’s allies. For his part, Lukonde told Econoff that “things cannot go on as they used to” and that he will lean heavily on Tshisekedi to intervene and “dispel pressure to disburse money.” Equally optimistic, the former Carter Center director told Econoff that since Tshisekedi’s election, “There are a lot of firsts right now that Congo should feel good about.”

New Director General and Board Would Inherit Unproductive Company...

8. (SBU) Nevertheless, the new team will have its work cut out for it. According to internal documents, Gécamines’ production and profitability have been low since the mid-1990s. In 2018, Gécamines produced 10,200 metric tons of copper or a mere 0.9 percent of the DRC’s 1.14 million metric tons of copper output that year. By comparison, in 1986 Gécamines produced a record 476,000 metric tons of copper (civre in French, see Figure 1) and 30 percent of the world’s cobalt. According to NRGI and the Carter Center, the company no longer raises sufficient revenue from sales of its primary commodities (copper, cobalt, and zinc), but earns the majority of its estimated \$280 million in annual revenue from rents and royalties as a gatekeeper to about 100 of the most valuable mining permits in Congo’s copperbelt (see Figure 2) and as a minority partner in joint ventures with international mining companies. Financial statements show the company is saddled with over \$1 billion in debt and its solvency ratio, a key indicator of financial sustainability, decreased by 20 percent from 2013 to 2018 under Yuma’s management. A number of private sector mining contacts said Gécamines has difficulty raising market capital.

Production cuivre de 1906 à 2019



Figure 1: Gécamines' Copper Production over Time (in thousands of metric tons)



Figure 2: Map of Gécamines' Copper and Cobalt Concessions

...Trying to Turn the Page with Management Reforms

9. (SBU) In 2018 Yuma hired consulting firm Ernst & Young (EY) to attempt to modernize the company's governance and operations and boost productivity so it could allegedly become more competitive with multinational mining companies. The changes Gécamines has implemented

since 2018 include reducing three levels of management hierarchy, replacing senior directors that the EY project director said “got nothing done” with young, internal talent “who challenge the Director General every day,” negotiating the reassignment or voluntary retirement of 75 percent of the workforce (6,000 people), and decentralizing procurement. Gécamines is also beginning to separate its mining portfolio from its non-core businesses such as farms, hospitals, and schools and increase its equity in new joint venture partnerships (e.g. the Deziwa mine project). The EY director told Econoff that 60 percent of the reforms have been achieved, but that the board nomination process had “put the modernization journey on hold.” The independent monitor of the reform program said Lukonde’s commitment will be the key to success going forward. Lukonde, who has met the managerial reform team, told Econoff he is ready to “work professionally” with Yuma and that conflict “will only further delay necessary reforms.”

10. (SBU) Yuma’s push for management reform does not necessarily signal a commitment to end rent-seeking or accountability for illicit transactions. In late February at the general meeting of the country’s principal private-sector advocacy group (Federation of Congo Companies), Yuma said he was “concerned about the International Monetary Fund proposals,” which include publishing all mining contracts past, present, and future, almost certainly since they could reveal his and other board members secret dealings. He also used the occasion to criticize the U.S. Embassy by stating that it is unacceptable for foreign embassies to interfere in internal public policy matters.

Reforms have Failed to Revive Productivity in the Recent Past

11. (SBU) Gécamines has undergone several different reform attempts in the past that failed to boost productivity. The first major attempt, initiated in 2003 and driven by a World Bank-funded Congolese parastatal, COPIREP, introduced a new management team in 2006 led by Canadian CEO Paul Fortin. Fortin resigned in 2009 citing “disillusionment” with corruption. The reforms nevertheless left lasting legal changes in 2008 by commercializing DRC’s SOEs and changing the state’s role from owner-operator to shareholder. This meant Gécamines would have to comply with corporate law and be profitable or go bankrupt just like its private-sector peers. COPIREP also recommended steps to prepare for privatization, but the former Kabila administration balked at the proposal.

Technocrats Hope Transparency Shows Company’s True Financial Colors

12. (SBU) An official at EITI headquarters stated that its relationship with Gécamines had greatly improved since early 2019. The official described a technical staff that is “tired of being everyone’s scapegoat” for the country’s corruption and “just wants to run a mining company.” An NRG analyst said that Gécamines now discloses financial transactions that even the Central Bank does not. A Gécamines’ representative for the local EITI multi-stakeholder group told Econoff that transparency would help demonstrate that Gécamines “is a company struggling to stay afloat because Kinshasa keeps asking for advances.” While the DRC lost \$225 million from an IMF program in 2012 when Kabila pushed Gécamines to withhold details on a contract involving Goma Mining SARL, which independent analysts believe is tied to Kabila’s sister, two activists told Econoff that some of their most important sources for bringing clandestine

transactions to light have been whistleblowers within the company.

~~SENSITIVE BUT UNCLASSIFIED~~

Signature: Hammer

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E.O.: 13526
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Captions: SENSITIVE
Sf ulæct: DRC: Companies Vent to Diplomats over Mining Code while GDRC Plays Hardball

1. (SBU) Summary: On April 19, CDA along with UK, Swiss, Canadian and Chinese Chiefs of Mission met with officials from four major mining companies (Randgold Resources, Ivanhoe Mines, predominately Chinese-owned MMG Limited, and U.S.-invested Alphamine) to discuss the mining industry's deadlocked negotiations with the GDRC over the country's draconian new mining code. Mining officials, led by Randgold Resources' aggressive General Manager, focused on the omission from the new code of a fiscal stability clause that would protect miners from new taxes for ten years. Mining officials said they threatened the GDRC with international arbitration and mine closures if the law is not amended to reinstate this protection. Miners also noted that the GDRC had yet to respond to their March 29 counterproposal of a sliding scale of royalty payments that, according to the mining industry, would boost government revenues in the long term above those in the new mining code in exchange for the return of the stability clause. The UK Ambassador urged relevant Missions to demarche the GDRC en masse, while the Chinese CDA worried that expressing opposition to a Congolese law was diplomatically inappropriate and would expose China to further public criticism. South Africa also has a significant stake in the mining sector and on April 23 South Africa's Ambassador told CDA that a joint mining code demarche would be counterproductive considering the tense state of relations between the GDRC and the international community. On April 25 CDA urged GDRC power broker and head of state-owned mining company Gecamines Albert Yuma to delay implementation of the new mining law until a compromise could be reached. End Summary.

Mining Companies Accuse GDRC of Bad Faith

2. (SBU) On April 19, CDA invited UK, Swiss, Canadian and Chinese Chiefs of Mission to meet with representatives from Randgold Resources, Ivanhoe Mines, MMG Limited, and U.S.-invested Alphamine to discuss the mining industry's deadlocked negotiations with the GDRC over the country's draconian new mining code. Discussions between mining company representatives, the Ministry of Mines and civil society to formulate implementing regulations for the new mining code began shortly after President Kabila signed the bill into law on March 9. After six weeks of fruitless negotiations, the miners vented their frustrations to diplomats and

requested diplomatic intervention. Led by Randgold General Manager Willem Jacobs, mining officials described the mining law's murky genesis, portrayed the GDRC as a disingenuous negotiator, and predicted the law would ruin the industry and destroy the GDRC's credibility as a commercial partner.

3. (SBU) Mining representatives noted that their primary issue of concern – a stability clause that protects investors from any new fees or taxes for 10 years – was unilaterally removed from the Senate and National Assembly versions of the bill immediately before it went to the President's desk for signature on March 9. Jacobs stressed that it was on the basis of the now removed fiscal guarantee that Randgold invested \$2.5 billion in its DRC gold mines. To highlight the importance of the ten year time frame, he noted that although Randgold received the mining permit for its DRC mine in 2009 and began production in 2013, it only began repaying shareholders this year. The miners also accused the government of negotiating in bad faith, claiming the government “had not accepted a single industry proposal” during the previous five years of on and off discussions on the new code. Specifically, Jacobs said the Ministry of Mines had yet to respond to industry's March 29 counter proposal of a sliding scale of royalty payments that would boost government revenues in out years above the immediate term gains in the new mining code in exchange for the return of the stability clause.

Doomsday Scenarios for Mining Sector

4. (SBU) The miners envisioned a grim future for DRC's mining industry as well as for the economy as a whole if the law is implemented as written. They vowed to close mines, pay the increased taxes only under duress, and initiate international arbitration proceedings if the current law took effect. Mining representatives were emphatic in their belief that international arbiters would rule in their favor, emphasizing that even Jean Mbuyu, an attorney who in February was named as President Kabila's new National Security Adviser, described the stability clause's legal status as “unassailable”. They were also cognizant, however, that enforcing a financial judgement against the DRC would be problematic. In that case they speculated that lack of payment could lead to extreme measures such as the seizure of GDRC property overseas, and ultimately, “third-party hedge funds” buying out existing mining concessions as major industrial miners exit the DRC. Jacob's overall tone was aggressive and at times combative. At one point he described Minister of Mines Martin Kabwelulu as a “tough politician” who would “need to be punched” to accept changes to the mining code.

5. (SBU) Chiefs of Mission present discussed various approaches to unlock the stalemate. The UK Ambassador was adamant that a joint demarche by all relevant Embassies, including in particular the South African and Chinese missions, was necessary. Mining representatives supported this approach. The Chinese CDA, however, was reluctant to confront the GDRC, stating that it was inappropriate for foreign nations to challenge an internal DRC law. He also noted that China was already subject to criticism in the press and by civil society over Chinese mining activities and said it was more appropriate for Congolese to voice their opposition to the law. While the Chinese CDA feared a joint demarche could be perceived as threatening, UK Ambassador countered that a joint representation would magnify impact and lower Chinese visibility. Similarly, the Australian General Manager of MMG Limited, whose major shareholder is the Chinese government owned China MinMetals Corporation and one of DRC's top five copper producers, noted that he was “speaking as a Chinese-owned entity” and that shareholders of all Chinese-owned companies would be negatively impacted by the new law. The Chinese CDA said he would confer with Chinese mining company representatives and his government.

6. (SBU) In addition to differing over how to approach the GDRRC, meeting participants differed on whether the GDRRC was fully informed of the possible economic fallout from the new code but agreed that only a handful of Presidential advisors could potentially influence the outcome of the negotiations. Various participants identified Jean Mbuyu and Presidential Cabinet Director Néhémie Mwilanya as well-informed “change agents” who are able, in principle, to influence President Kabila. They speculated, however, that Mbuyu and Nehemie are hesitant to broach changing the law out of fear of contradicting the President. Minister of Mines Kabwelulu, on the other hand, was pegged as ineffective and out of the loop. As an example of his lack of insight, Jacobs claimed that at the Minister’s recent 70th birthday celebration, he announced that “nobody will start legal action, nobody will close any mines.” Industry representatives believe their best chance to retrieve the stability clause would be to have Mbuyu or Nehemie present industry’s sliding scale of royalties proposal to the President and convince him to declare victory by claiming the proposal as his own. Industry representatives admitted they have done a poor job of communicating their side of the story – and specifically the benefits the industry provides to the Congolese people and the State - but claimed to have made significant progress recently in working more closely with civil society. Jacobs said the mining industry is now working closely with 14 civil society organizations, and claimed that civil society and industry are now in agreement over the need to maintain the stability clause. CDA noted that cooperation with civil society was particularly important, as civil societies purported previous support of the new mining code was a major GDRRC talking point. (On April 23, mining companies issued a joint press release that recognized civil society’s “all-important leadership” in the negotiations to draft the law’s implementing regulations, and on April 24 the mining industry and civil society representatives agreed to jointly ask the GDRRC to reinstate the stability clause.)

7. (SBU) On April 23, South African Ambassador to the DRC Abel Shilubane told CDA that in his view, Kinshasa is far from the mining region of Katanga and the GDRRC does not understand the economics of the industry. Shilubane said both the GDRRC and the Congolese population have bought into the narrative that DRC is not benefiting sufficiently from its mineral wealth and that the mining code discussion has gone beyond the legal and become politicized. He suggested mining companies should do more to highlight their community development and general contributions to the economy to offset these negative perceptions and win the government’s trust. He highlighted the tense state of relations between the GDRRC and the international community, citing the GDRRC’s refusal to participate in the recent Geneva donors’ conference and said demarching the GDRRC en masse regarding the mining code would be counterproductive and “another Geneva.” Noting the recent leadership changes in Angola and Zimbabwe and the growing momentum toward elections, the Ambassador said President Kabila is likely on edge regarding his future and not likely to respond constructively to international pressure. The Ambassador’s take on the dynamics of the mining code discussion track what Congolese mining executives have told us. While Congolese mining executives also believe that the new law is seriously misguided and that the removal of the stability clause is illegal, they do not share their foreign counterparts’ enthusiasm for the industry’s lobbying tactics. For example Tenke Fungurume Mine executive Bin Kassongo believes that if mining companies had approached the government with their current counter offer a year ago, the stability clause would still be alive and well. He also believes the industry’s confrontational approach is a contributing factor to the GDRRC’s recalcitrant attitude.

8. (SBU) On April 25, Albert Yuma, President Kabila confidante and head of both the

Congolese Chamber of Commerce and state-owned mining company Gecamines, told CDA that the GDRC's understanding of the stability clause differs from that of the mining companies. Yuma said that mining companies believe the stability clause granted them 10 years of fiscal protection from the time any new law takes effect, while the GDRC's interpretation is that the stability clock begins ticking once a company obtains its mining permit. Yuma also claimed, strangely, that he is not an expert on the mining sector. CDA noted that rampant corruption is ruining DRC's business climate, encouraged the GDRC to continue to work with mining companies to reach a mutually acceptable solution, and expressed concern that the mining code as currently written could damage DRC's mining sector and business climate even further.

9. (SBU) Almost at the same time as Yuma was claiming he does not really understand the mining sector, the mining parastatal he chairs, Gécamines - which according to the Carter Center and Global Witness cannot account for at least \$750 million of revenue in recent years - attacked Anglo-Swiss mining giant Glencore in the courts. On April 23, Gecamines filed legal action to dissolve its joint venture with the Katanga Mining company, a Glencore subsidiary that operates the Kamoto Copper company, Glencore's largest DRC mine. Gecamines claims the mine's \$9 billion dollars in inter-company debt is a financial ploy to avoid paying the GDRC dividends. The worst-case outcome involves Glencore losing the entirety of its multi-billion dollar investment at Kamoto, according to analysts. Separately, but not unrelated, on April 27 Israeli businessman, President Kabila confidante, and frequent Gecamines partner Dan Gertler served Glencore with a DRC judicial order that froze \$2.8 billion worth of the company's bank accounts, assets and titles related to the Kamoto Copper and Mutanda Mining companies. Glencore bought out Gertler's shares in the two DRC mines in February 2017, but stopped paying him royalties after OFAC designated Gertler under the Global Magnitsky Act for corruption in the DRC mining sector. Contacts surmise that the Gecamines and Gertler actions are a coordinated GDRC effort to convince Glencore to resume payments to Gertler, whose was likely distributing funds to other members of the governmental elite.

Comment

10. (SBU) It is increasingly clear that the DRC government, which in theory should be on its way out if elections occur as planned in December, is interested not in future revenue streams but maximizing what it can get out of mining companies today. The credibility gap between the mining industry and the GDRC has become a chasm. Although the mining industry would likely prevail in international arbitration, the process would take years, during which industry would forego profits and the government revenues. Adopting a conciliatory stance toward a corrupt regime that blatantly reneged on its fiscal guarantee would be a hard pill for the mining industry to swallow. But doubling down on old aggressive strategies may do more to stoke the GDRC's resentment than to change its behavior with respect to the mining code. A delay in the law's full implementation until cooler heads prevail - and perhaps a new DRC government is in place - is likely the best outcome mining companies can hope for.

Sij natf re: HASKELL

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Date/DTG: Dec 28, 2017 / 281301Z DEC 17
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Captions: SENSITIVE
Reference: A) [17 KINSHASA 1310](#)
 B) [17 KINSHASA 1202](#)
 C) BARMA-ST. JOHN/MANFULL EMAILS OF DECEMBER 26
Subject: DRC: Bankers, Business and Civil Society Laud Gertler Listing; Urge Compliance

1. **(SBU) Summary:** Since the U.S. Treasury Department sanctioned Israeli billionaire Dan Gertler and associates for corruption in the Congolese mining sector on December 21 (ref A), there has been relatively little coverage in the local media and no official reaction from the Democratic Republic of the Congo (DRC) Government. DRC bankers, an American business executive, and U.S. civil society organization The Carter Center applauded the designations. The Carter Center – which in November released a report linking Gertler to missing state mining receipts (ref B) – called the designation a “big blow to the regime” and promised to keep Post apprised of any retaliation against The Carter Center. The head of one of the largest American investments in the DRC – MIDEMA (flour maker) – also approved of Gertler’s listing, but noted that additional sanctions make business dealings harder as companies do not always know who their end customer is. Several bankers also demonstrated support for the announcement, with the Congolese Banking Association chief instructing banks to comply. By December 27, one DRC bank had already blocked three accounts and Post assisted in response to their inquiry about how to report the blocked accounts to Treasury. The will to comply in this case would seem to contrast with concerns shared by one banker about some banks’ lack of reporting to Treasury after previous designations. **End Summary.**

2. **(SBU)** On December 22, DRC-based American civil society organization The Carter Center lauded the Gertler designation in communications with EconOff. The Carter Center, which in November reported that \$750 million of state miner Gécamines’ earnings from partners between 2011 and 2014 was not accounted for, cheered the announcement (ref B). On December 22, Kinshasa-based Country Director Gary Baldrige and Lubumbashi-based Program Director Erik Kennes told DepEconCouns in respective conversations that it was “a celebration on our end” and that the move was a “big blow to the regime.” Despite The Carter Center’s recent report, which specifically links Dan Gertler with alleged wrongdoing in state mining deals, neither Baldrige nor Kennes were immediately concerned about retaliation against The Carter Center but agreed to keep Post informed of any GDRC reactions.

3. (SBU) On December 26, MIDEMA Managing Director Bruno Oudart told DepEconCouns that even though the sanction is a good thing, these announcements make it harder for businesses to know who they can transact with, echoing views expressed by other Econ contacts. MIDEMA is the DRC subsidiary of U.S. conglomerate Seaboard, a global food, energy, and transportation company that is one of the largest American investments in the DRC. Oudart said that it is not always easy to find out who buys MIDEMA's flour, and that they worry about costs associated with sanctions compliance and possible inadvertent violations. Last year, Seaboard came under Justice Department scrutiny for flour sales to Congo Futur, a Hezbollah-linked DRC business that Treasury sanctioned in 2010.

4. (SBU) Bankers in the DRC have been mostly supportive of the announcement, with some asking questions about its enforcement. Citigroup Congo's Acting Managing Director told DepEconCouns on December 21 that it was a "good move that will raise awareness" of what will not be tolerated by the United States. Sofibanque's Managing Director Henry Wazne told DepEconCouns on December 22 that the announcement was "long overdue," and "sends a strong message without hurting the wider economy." On December 26, Congolese Banking Association (ACB) President Yves Cuypers wrote to the heads of all the banks advising members of Treasury's sanctions, urging compliance, and offering related support. Trust Merchant Bank's Secretary-General Alexandre Mandeiro wrote to DepEconCouns on December 26 asking for guidance on how to declare blocked accounts to OFAC. Post provided the relevant information after consulting with Treasury colleagues (ref C).

5. (SBU) Wazne – who also serves as ACB's Vice President – expressed hope that the United States would enforce the sanctions and intimated that some banks had turned a blind eye to previous designations. "It is common knowledge where the money is," said Wazne, adding, "Now it depends on what you guys are going to do about it." With Gertler's designation, Wazne said that large sums are involved and that parties in the DRC and the United States need to take enforcement seriously. Wazne lamented that following the previous designations, not a single DRC bank reported to OFAC, adding that it would be unreasonable to think those sanctioned individuals operate outside the banking system. He expressed frustration that previously sanctioned individuals closed their old businesses and opened new ones that were readily accepted as clients of some DRC banks. "A guy is sanctioned today, tomorrow a new company is formed and opens a bank account, and the next day that company is earning millions in revenues. It doesn't take a banking genius to know something is wrong there."

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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

2021-1246 (CKK): 0000001348

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

2021-1246 (CKK): 0000001349

Agir pour des élections transparentes et apaisées

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

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Justice pour tous

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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

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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.

2021-1246 (CKK): 0000001352

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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[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 [2021/1246 \(UKK\) 000001362](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/) Despite this, Gertler may

have found a way to continue to handle US dollars, consolidate his fortune and even acquire new assets in DRC.

"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 country's 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, Sicominex 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 \(https://home.treasury.gov/news/press-releases/sm0417\)](https://home.treasury.gov/news/press-releases/sm0417). One of these companies was removed from the sanctions list in [March 2020 \(https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20200317.aspx\)](https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20200317.aspx).

2. [The Africa Progress Panel \(https://static1.squarespace.com/static/5728c7b18259b5e0087689a6/t/57ab29519de4bb90f53f9fff/1470835029000/2013_African+Progress+Panel+APR_Equity_in_Extractives_25062013_ENG_HR.pdf\)](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 \(https://www.globalwitness.org/en/campaigns/democratic-republic-congo/out-of-africa/\)](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 \(https://www.bloomberg.com/news/articles/2017-02-13/glencore-said-to-agree-on-gertler-buyout-in-960-million-deal\)](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 \(https://www.globalwitness.org/en/press-releases/congo-signs-over-potential-880m-royalties-glencore-project-offshore-company-belonging-friend-congolese-president/\)](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 \(https://www.globalwitness.org/en-gb/campaigns/oil-gas-and-mining/congo-secret-sales/\)](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 \(https://www.globalwitness.org/en/press-releases/fine-hedge-fund-bribery-major-step-forward-corruption-fight/\)](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 \(https://www.bloomberg.com/news/articles/2020-01-30/billionaire-s-daughter-found-guilty-in-fight-with-prosecutors\)](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 \(https://www.glencore.com/media-and-insights/news/Subpoena-from-United-States-Department-of-Justice\)](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 \(https://www.globalwitness.org/en/press-releases/global-witness-welcomes-swiss-criminal-investigation-glencore/\)](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 \(https://www.france24.com/en/20180129-france-trial-carbon-credits-fraud-paris-crime-emissions-scam-melgrani-marseille\)](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.

6. Gécamines has repeatedly been accused of selling underpriced mining assets to Gertler, 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

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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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
[<https://www.theafricareport.com/54978/drc-embattled-dan-gertler-tries-communication-blitz/>]

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
[<https://www.theafricareport.com/44662/dan-gertler-and-afriland-first-bank-legal-fight-in-paris/>]

“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.

February 3, 2021 12:00PM EST | Dispatches

Available In [English](#) [Français](#)

US Backtracks on Fight Against Graft in Congo

Special License for Billionaire Dan Gertler Undercuts Magnitsky Sanctions



Thomas Fessy

Senior Researcher, Democratic Republic of Congo

[@thfessy](#)



Sarah Saadoun

Senior Researcher, Business and Human Rights

[sarah_saadoun](#)



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.

OFAC (b)(6)

From: Thomas, Nikole
Sent: Friday, February 5, 2021 3:18 PM
To: OFAC (b)(6); Christian, Alan
Subject: RE: RE: Request for State FPG related to Specific License GLOMAG-2021-371648-1

PRE-DECISIONAL and DELIBERATIVE

I would just + them in right now.

From: OFAC (b)(6)
Sent: Friday, February 5, 2021 3:15 PM
To: Christian, Alan; OFAC (b)(6)
Cc: Thomas, Nikole; OFAC (b)(6)
Subject: RE: RE: Request for State FPG related to Specific License GLOMAG-2021-371648-1

PRE-DECISIONAL//DELIBERATIVE

Hi

I think I sent to the wrong attorney. Should I forward to OFAC (b)(6) and OFAC (b)(6)

OFAC (b)(6)

From: Christian, Alan; OFAC (b)(6)
Sent: Friday, February 5, 2021 3:12 PM
To: OFAC (b)(6)
Cc: Thomas, Nikole; OFAC (b)(6)
Subject: RE: RE: Request for State FPG related to Specific License GLOMAG-2021-371648-1

Thank so much, OFAC (b)(6)

From: OFAC (b)(6) >
Sent: Friday, February 5, 2021 3:10 PM
To: STATE (b)(6) @state.gov>; STATE (b)(6) @state.gov>; non-TSRA@state.gov
Cc: OFAC (b)(6); Christian, Alan; OFAC (b)(6); OFAC (b)(6)
OFAC (b)(6); Thomas, Nikole; OFAC (b)(6)
Subject: RE: Request for State FPG related to Specific License GLOMAG-2021-371648-1

Dear State colleagues,

On January 15, 2021, following consultation with the State Department, OFAC issued a specific license and accompanying transmittal letter to Dan Gertler (attached) in response to Mr. Gertler’s December 2020 request for reconsideration of his inclusion on the List of Specially Designated Nationals and Blocked Persons. Mr. Gertler was included as an Annex name in Executive Order 13818 of December 20, 2017, “Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption” (“E.O. 13818”). Pursuant to E.O. 13818, OFAC concurrently designated several individuals and entities associated with Mr. Gertler, including his associate Pieter Albert Deboutte. On June 15, 2018, OFAC also designated fourteen additional derivative entities associated with Mr. Gertler under E.O. 13818.

As explained in the OFAC press release accompanying E.O. 13818, Mr. 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). Mr. 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 Mr. 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 Mr. 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, Mr. Gertler sold to the DRC government for \$150 million the rights to an oil block that Mr. Gertler purchased from the government for just \$500,000, a loss of \$149.5 million in potential revenue. Mr. Gertler has acted for or on behalf of President Kabila, helping President Kabila organize offshore leasing companies.

The specific license that OFAC issued on January 15, 2021 authorizes U.S. persons to conduct all transactions and activities with Mr. Gertler, [REDACTED], and any companies owned by Mr. Gertler or [REDACTED] that would otherwise be prohibited by E.O. 13818, as implemented by the Global Magnitsky Sanctions Regulations (31 C.F.R. Part 583). Additionally, the license, which is valid for one year, authorizes the unblocking of all property and interests in property of Mr. Gertler, [REDACTED], and their companies, as well as the establishment of U.S. bank accounts for use in connection with any authorized transactions and activities. The transmittal letter accompanying the license also stated, “In order for [Mr. Gertler] to be eligible for potential delisting in the future, OFAC expects [Mr. Gertler] to show a good faith, positive change in behavior, including adopting and implementing enhanced sanctions compliance measures meeting the standards set by the United States.” OFAC issued this license following consultation and concurrence between then-Secretary of the Treasury Steven Mnuchin and then-Secretary of State Mike Pompeo, as memorialized in a January 14, 2021 memorandum, which OFAC will resubmit to State separately.

OFAC (b)(5)

OFAC would appreciate State’s response by Friday, February 19th. If you are unable to provide a response by February 19th, please notify [REDACTED], Licensing Officer, and [REDACTED], Program Manager. Additionally, please contact [REDACTED] and [REDACTED] with any questions.

From: STATE (b)(6)
To: OFAC (b)(6); STATE (b)(6); STATE (b)(6); STATE (b)(6); STATE (b)(6); STATE (b)(6)
Cc: OFAC (b)(6); OFAC (b)(6); Quinby, Ripley; OFAC (b)(6); OFAC (b)(6); OFAC (b)(6); Prince, Jason; OFAC (b)(6); OFAC (b)(6); Gatianis, Gregory; Palluconi, Lisa; Thomas, Nikole
Subject: D&P Outreach
Date: Thursday, April 15, 2021 5:39:38 PM
Attachments: image001.gif

**** Caution:** External email. Pay attention to suspicious links and attachments. Send suspicious email to suspect@treasury.gov **

OFAC (b)(6)

We're holding tight. Let us know, when you are able, on how to proceed.
(I'm also changing the subject line of this email because it's totally unrelated.)

Best,

STATE (b)(6)

--

STATE (b)(6)

U.S. Department of State

Economic Sanctions Policy and Implementation

STATE (b)(6) or **STATE (b)(6)**

From: OFAC (b)(6) >
Sent: Thursday, April 15, 2021 5:30 PM
To: STATE (b)(6) @state.gov>; STATE (b)(6) @state.gov>; STATE (b)(6) STATE (b)(6)@state.gov>
Cc: OFAC (b)(6) Ripley.Quinby; OFAC (b)(6) OFAC (b)(6) OFAC (b)(6) OFAC (b)(6) OFAC (b)(6); Gregory.Gatianis; OFAC (b)(6) Palluconi, Lisa OFAC (b)(6) Nikole.Thomas; OFAC (b)(6)
Subject: RE: PEESA/PEESCA

H STATE (b)(6)

To follow up, we're still deliberating on the appropriate approach and would appreciate State waiting for further guidance prior to responding.

Thanks,

OFAC (b)(6)

OFAC (b)(6)

Work: **OFAC (b)(6)**

Cell: **OFAC (b)(6)**

OFAC (b)(6)

From: **OFAC (b)(6)**

Sent: Thursday, April 15, 2021 11:22 AM

To: **STATE (b)(6)** @state.gov>

Cc: STATE (b)(6) @state.gov; STATE (b)(6) @state.gov; OFAC (b)(6) OFAC (b)(6) Quinby, Ripley < OFAC (b)(6) ; OFAC (b)(6) OFAC (b)(6) OFAC (b)(6) OFAC (b)(6) >; Prince, Jason OFAC (b)(6) >
Subject: RE: PEESA/PEESCA

STATE (b)(6)
Thank you for flagging this and adding in others from OGT and OCC. Given the nature of the case and the pendency of several workstreams related to this matter, it would be great if you were able to hold off on responding for the time being while we deliberate internally on next steps.

Thank you,
OFAC (b)(6)
OFAC (b)(6)
Work: OFAC (b)(6)
Cell: OFAC (b)(6)
OFAC (b)(6)

From: STATE (b)(6) @state.gov
Sent: Thursday, April 15, 2021 11:12 AM
To: OFAC (b)(6) >
Cc: STATE (b)(6) @state.gov; STATE (b)(6) @state.gov
Subject: FW: PEESA/PEESCA

**** Caution:** External email. Pay attention to suspicious links and attachments. Send suspicious email to suspect@treasury.gov **

OFAC (b)(6)
Please see below for background on outreach related to Dan Gertler. OFAC (b)(6), (b)(7)(D) OFAC (b)(6), (b)(7)(D) is interested in providing information ASAP (he would like to schedule a call as early as today) related to his client and their dealings in the DRC.
Please advise on whether OFAC advises we take this call and whether Treasury would like to join, in which case I can coordinate a conference line to enable that.

Best,
STATE (b)(6)
--
STATE (b)(6)
U.S. Department of State
Economic Sanctions Policy and Implementation
STATE (b)(6) or STATE (b)(6)

From: STATE (b)(6) >
Sent: Thursday, April 15, 2021 9:44 AM
To: STATE (b)(6)
Subject: RE: PEESA/PEESCA

STATE (b)(6) OFAC (b)(6), (b)(7)(D)
Please do make the connection or share my contact information with

Best,

STATE (b)

--

STATE (b)(6)

U.S. Department of State

Economic Sanctions Policy and Implementation

STATE (b)(6) or STATE (b)(6)

From: STATE (b)(6)

Sent: Thursday, April 15, 2021 9:43 AM

To: STATE (b)(6)

Subject: Fw: PEESA/PEESCA

Hi STATE (b)(6)

OFAC (b)(6), (b)(7)(D)

reached out to me in the below email (OFAC (b)(7)(D)

OFAC (b)(7)(D) re: NS2 sanctions earlier this year). Could I share your contact

information with OFAC (b)(6), (b)(7)(D) to discuss the below Global Magnitsky sanctions issue? Let me know if there's a preferred distro they should reach out to.

Thanks!

STATE (b)(6)

STATE (b)(6)

From: OFAC (b)(6), (b)(7)(D) >

Sent: Wednesday, April 14, 2021 4:07 PM

To: STATE (b)(6) @state.gov >

Cc: OFAC (b)(6), (b)(7)(D)

Subject: RE: PEESA/PEESCA

Dear STATE (b)(6)

I hope this finds you well. As noted in the correspondence below, we spoke earlier this year in regard to the Nord Stream 2 pipeline and relevant U.S. sanctions.

With apologies for the intrusion, OFAC (b)(6), (b)(7)(D) and I reach out now on a separate matter involving a different client of ours. We hope that you may be able to assist with referring us to relevant colleagues for further discussion (we have contacted or been introduced to several others at the State Department without success yet).

The issue arises in the Democratic Republic of the Congo, where our client, a non-US company, is confronting unwanted dealings with another non-U.S. company that appears to be controlled by Dan Gertler, who is subject to U.S. sanctions under the Global Magnitsky Sanctions Program (as background on Mr. Gertler, the latest update from the State Department is here -

<https://www.state.gov/revocation-of-license-granted-for-dan-gertler/>). The issue is pressing and involves operations for the production of an important global resource.

We appreciate that this request is unexpected and likely outside your usual area, but we would be very happy for a referral to appropriate colleagues that may have an interest in discussing the issue with us in greater detail.

Best regards,

OFAC (b)(6), (b)(7)(D)



OFAC (b)(6), (b)(7)(D)

This e-mail message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure. If you are not the intended recipient, please do not disseminate, distribute or copy this communication, by e-mail or otherwise. Instead, please notify us immediately by return e-mail (including the original message in your reply) and by telephone (you may call us collect in **OFAC (b)(7)(D)** and then delete and discard all copies of the e-mail. Thank you.

From: Unger, Seth
To: STATE (b)(6)@state.gov; STATE (b)(6)@state.gov; STATE (b)(6)@state.gov; STATE (b)(6)@state.gov; STATE (b)(6)@state.gov; EB-A-PD-Clearances@state.gov; STATE (b)(6)@state.gov; STATE (b)(6)@state.gov; STATE (b)(6)@state.gov; STATE (b)(6)@state.gov;
Cc: OFAC (b)(6); Albowicz, Nikole; OFAC (b)(6)
Subject: CLEAR by 1:00 PM Friday - GloMag Action
Date: Thursday, June 7, 2018 2:22:55 PM
Attachments: OFAC (b)(5)
2018-06-11 Treasury Sanctions Six Migrant Smugglers in Libya FINAL.docx

State/NSC Colleagues,
Please see attached Global Magnitsky release for **CLEAR by 1:00 PM tomorrow, Friday, June 8.**
FYSA – there will be another GloMag release coming that we will also need a quick clear on.
Also, I am attaching a previously cleared release on migrant smugglers in Libya as a heads up. This is expected to go out on Monday as Russia just lifted their UNSC hold on the action.

Thanks,
Seth

SETH UNGER
Deputy Assistant Secretary *for* Public Affairs
U.S. Department *of the* Treasury

OFAC (b)(6)
OFAC (b)(6) work
OFAC (b)(6) cell



U.S. Department of the Treasury Office of Public Affairs

EMBARGOED FOR 10:30 AM EDT: JUNE 11, 2018

Press Release: June 11, 2018
Contact: Treasury Public Affairs, (202) 622-2960

Treasury Sanctions Six Migrant Smugglers for Threatening Libya's Peace, Security, or Stability

Action Taken Concurrently with the United Nations Security Council

WASHINGTON – Today, the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC), concurrently with the United Nations, sanctioned six individuals for threatening the peace, security, or stability of Libya through their involvement in the smuggling of migrants. Migrant smuggling has become a lucrative business in Libya and fuels instability by providing funding for rogue militias and criminal networks. As a result of today's action, all of the designated persons' assets in the United States or in the possession or control of U.S. persons must be blocked and reported to OFAC. Additionally, U.S. persons are generally prohibited from engaging in transactions with blocked persons, including entities owned by designated persons.

"Treasury is taking action to combat migrant smuggling and abuse by rogue militias and criminal networks in Libya who are exploiting vulnerable populations for their own personal financial gain," said Sigal Mandelker, Under Secretary for Terrorism and Financial Intelligence. "These brutal smuggling groups have tortured, robbed, and enslaved migrants seeking a better life. The United States is isolating these callous individuals from the U.S. financial system."

OFAC designated the six individuals – Ermias Ghermay, Musab Abu Grein, Abd al-Rahman Milad, Mohamed Koshlaf, Abd al-Razzak Fitwi, and Ahmed Dabbashi – pursuant to Executive Order (E.O.) 13726, which targets actions threatening the peace, security, or stability of Libya.

This action, taken today concurrently with new UN sanctions, underscores the United States' resolve to work with our international partners to target individuals threatening

the peace, security, or stability of Libya through their involvement in the smuggling of migrants.

ERMIAS GHERMAY

Ermias Ghermay (Ghermay) has been the head of an international migrant smuggling ring that stretches from East Africa to Europe via Libya for at least ten years. Ghermay reportedly organized the voyage of the wooden boat carrying migrants that sank off Lampedusa, Italy, on October 3, 2013, resulting in the drowning deaths of 366 people, and in the aftermath Ghermay admitted that he did not give the migrants lifejackets. In addition, Ghermay reportedly locked migrants in warehouses where they were repeatedly tortured and extorted for more money. Ghermay has been living in Libya, and is a wanted person for his involvement in migrant smuggling and other illicit activities both in Libya and abroad.

MUSAB ABU GREIN

Musab Abu Grein (Abu Grein) is the leader of a powerful migrant smuggling organization in Sabratha, Libya, and has been called the “Libyan king of migrant smuggling.” Also known as “The Doctor,” Abu Grein reportedly smuggled 45,000 people to Europe in 2015 alone. Abu Grein has been accused of using boats unsuitable for crossing the sea and that cannot stay afloat more than a few miles off the coast.

MOHAMED KOSHLAF and ABD AL-RAHMAN MILAD

Mohamed Koshlaf (Koshlaf) is the commander of the al-Nasr Brigade and collaborates with Abd al-Rahman Milad (Milad). The al-Nasr Brigade controlled a detention center in Zawiya, Libya used to house migrants, where conditions were reportedly inhumane, with severe overcrowding, shortages of food and other basic necessities, and no access to medical care. On April 1, 2016, at least four African migrants were killed and 20 injured at the detention center after guards opened fire during a mass escape attempt.

Milad is the leader of a local coast guard unit headquartered in Zawiya, Libya. Milad and other coast guard members have been directly involved in the sinking of migrant boats using firearms, some reportedly in an attempt to undermine the smuggling business of Koshlaf’s competitors. Milad’s unit has reportedly confiscated the boat engines of some smugglers who did not pay Milad, leaving them stranded at sea. The unit has also reportedly transferred migrants recovered at sea to the al-Nasr Brigade’s detention center in Zawiya. In addition, a member of Milad’s local coast guard unit has been video recorded striking migrants on a small rubber dinghy with a bullwhip.

ABD AL-RAZZAK FITWI

Abd al-Razzak Fitwi (Fitwi) is the leader of one of the largest migrant smuggling operations in Libya and has cultivated, over a multi-year period, extensive political connections to various security forces that control the management of detention centers once administered by the Libyan state. Fitwi has operated a migrant smuggling route connecting Sudan, Libya, and Europe. He has an extensive network of associates who provide logistical and financial services, including money laundering. In addition to

collecting money for the transfer of migrants across Libya and the Mediterranean, Fitwi has been accused of extracting payments for the release of migrants from detention centers.

AHMED DABBASHI

Ahmed Dabbashi (Dabbashi) has been the leader of one of two powerful migrant smuggling organizations in Sabratha, Libya. Dabbashi used his organization to rob and enslave migrants before allowing them to leave for Italy. In October 2017, when forces opposed to Dabbashi ousted him from Sabratha after 19 days of fighting, they found malnourished migrants locked inside his operations center, which had been turned into a makeshift jail. The fighting that ousted Dabbashi killed migrants in crossfires, caused thousands more to flee the city, and resulted in the destruction of schools, hospitals, and municipal buildings. Dabbashi has threatened to return to Sabratha by force.

For identifying information on the individuals designated today, [click here](#).

####

Bates Nos. 02021-12461 (CKK) : 0000002304-0000002305

Withheld in Full under

FOIA Exemption (b)(5)

From: OFAC (b)(6)
To: OFAC (b)(6) Albowicz, Nikole; OFAC (b)(6)
Subject: FW: information request
Date: Friday, June 8, 2018 8:36:17 AM
Attachments: [image001.jpg](#)
[information request.pdf](#)

Let's talk today. I can answer the questions in the letter easily enough but the answer is mostly that we don't have further information

From: STATE (b)(6) @state.gov>
Date: June 8, 2018 at 4:44:04 AM EDT
To: OFAC (b)(6) OFAC (b)(6)
OFAC (b)(6)
Cc: STATE (b)(6) @state.gov>, OFAC (b)(6) (TI) (FBI)
OFAC (b)(6) @fbi.gov>, OFAC (b)(6) @fbi.gov>, OFAC (b)(6) @fbi.gov>, STATE (b)(6)
STATE (b)(6) @state.gov>
Subject: FW: information request

Good morning OFAC (b)(6) and OFAC (b)(6)

I wanted to make you aware of information we just received from the Prosecutor's Office of Georgia regarding your OFAC subject Dan Gertler. Please read below. It looks like if you do not provide the Georgians with additional information soon they may release his funds. Please let us know if there is anything we can do to help.

STATE (b)(6)

Official

UNCLASSIFIED

From: STATE (b)(6)
Sent: Friday, June 08, 2018 12:01 PM
To: STATE (b)(6) @state.gov>; STATE (b)(6) @state.gov>
Subject: FW: information request

Hello STATE (b)(6) and STATE (b)(6)

On April 30th we sent Irakli a request asking for additional information regarding Gertler case.

(original request is attached)

He sent me their answer yesterday.

The text is translated.

Please see below.

Thank you

STATE (b)(6)

"Hello STATE (b)(6)

Following is the information regarding Gertler case:

Based on the information we have, accumulation of financial assets on the bank account registered to Dan Gertler in JSC "TBC bank" had been happening step by step. Money transfers were mainly initiated from the bank account of UniCredit Bank Austria AG. The account is registered to the company Mumi holdings Limited. Tens of millions of Euros were transferred through his accounts until January 4, 2018.

In regards with freezing of financial assets: the sums were not seized due to the criminal investigation proceedings. The sums were taken out from the bank storage safe. The term of holding this funds will depend on MLAR from US authorities, because Investigation was launched after Mr. Dan Gertler was added to OFAC list. If we do not receive any additional information on why his name was added to the list, we will be forced to reevaluate legal grounds of Gertler's asset freeze. Based on current information, Dan Gertler does not have any other accounts in other Georgian banks besides JSC "TBC bank". Gertler does not own any real estate and does not have shares in commercial entities in Georgia.

STATE (b)(6)

Official

UNCLASSIFIED

From: **STATE (b)(6)**

Sent: Thursday, June 7, 2018 7:55 PM

To: **STATE (b)(6)** <[STATE \(b\)\(6\)@state.gov](mailto:STATE (b)(6)@state.gov)>

Cc: **STATE (b)(6)**

Subject: RE: information request

გამარჯობა **STATE (b)(6)**

გერტლერის საქმესთან დაკავშირებით გაწვდი შემდეგი სახის ინფორმაციას.

- ჩვენს ხელთ არსებული ინფორმაციით, საბანკო ანგარიშების მიხედვით, დან გერტლერის სს „თი ბი სი ბანკში“ არსებულ საბანკო ანგარიშზე ფულადი თანხების მობილიზება ხდებოდა ეტაპობრივად და ფულადი თანხა ძირითადად ირიცხებოდა კომპანია Mumi Holdings Limited-ის UniCredit Bank Austria AG-ში არსებული საბანკო ანგარიშიდან. მისი ანგარიშების ბრუნვა 2018 წლის 4 იანვრამდე შეადგენდა რამდენიმე ათეული მილიონ ევროს.
- რაც შეეხება თანხის გაყინვას, თანხა სისხლის სამართლის საქმის ფარგლებში არ დაყადაღებულია, არამედ მოხდა შემნახველი სეიფიდან ამოღება. აღნიშნული თანხა ამ ეტაპისათვისაც ამოღებულია. რაც შეეხება თანხის ამოღების ვადას, აღნიშნული დამოკიდებულია აშშ-ს სამართლებრივი დახმარების აღმოჩენის შესახებ შუამდგომლობის პასუხზე, ვინაიდან გამოძიების დაწყების ძირითად საფუძველს წარმოადგენდა აშშ-ს მიერ დან გერტლერის OFAC-ის სიაში შეყვანა. თუ არ გვექნება დამატებითი ინფორმაცია სიაში შეყვანის საფუძველების შესახებ, იძულებულები ვიქნებით თავიდან შევაფასოთ ამოღების სამართლებრივი საფუძველები.
- ამ ეტაპზე არსებული ინფორმაციით დან გერტლერს საქართველოში სს „თი ბი სი ბანკის“ გარდა სხვა საბანკო დაწესებულებებში ანგარიშები არ აქვს. ამავდროულად მას არ აქვს საქართველოში უძრავი ქონებები ან წილები სამეწარმეო სუბიექტებში.

საუკეთესო სურვილებით,

ირაკლი

From: **STATE (b)(6)** <[STATE \(b\)\(6\)@state.gov](mailto:STATE (b)(6)@state.gov)>

Sent: Monday, April 30, 2018 10:43 AM

To: **STATE (b)(6)**

Cc: **STATE (b)(6)**

Subject: information request

გამარჯობა ირაკლი,

გერტლერის საქმესთან დაკავშირებით ჩვენს კოლეგებს აინტერესებთ დამატებითი ინფორმაცია.

გიგზავნი შესაბამის მოთხოვნას მიმაგრებული დოკუმენტის სახით.

აუცილებლობის შემთხვევაში შემიძლია შეგხვდეთ და წერილის ორიგინალიც

გადმოგცეთ

მადლობა,

პატივისცემით,

STATE (b)(6)

FSN Investigator

Legal Attache Office

US Embassy, Tbilisi, Georgia

Cell Phone: **STATE (b)(6)**

Land line: **STATE (b)(6)**

Ext: **STATE (b)(6)**

dddd



Official

UNCLASSIFIED



UNCLASSIFIED//FOUO/REL TO USA, GEO

**U.S. Department of Justice
Federal Bureau of Investigation**

File No. 20180421-04

Office of the Legal Attaché
United States Embassy
Tbilisi, Georgia

April 27, 2018

Irakli Shotadze
Chief Prosecutor
Prosecutor's Office of Georgia
Tbilisi, Georgia

Attn: Irakli Chilingarashvili, Head of International Cooperation

RE: DAN GERTLER

Dear Irakli,

(U//FOUO) Concerning the assets frozen by the Chief Prosecutor's Office of Georgia in the name of DAN GERTLER, the Federal Bureau of Investigation requests the following information:

- (U//FOUO) What further information can you provide pertaining to Gertler moving money into Georgia or TBC Bank prior to 4 January 2018?
- (U//FOUO) Are his assets still frozen, and if so for how long?
- (U//FOUO) Does Gertler have any other assets in Georgia or in Georgian banks?

(U//FOUO) The FBI sincerely appreciates the efforts of the Prosecutor's Office and looks forward to future opportunities for collaboration.

Sincerely,

STATE (b)(6)

Legal Attaché, Tbilisi

Email: **STATE (b)(6)**@state.gov

UNCLASSIFIED//FOUO/REL TO USA, GEO

2021-1246 (CKK): 0000002447

From: Thomas, Nikole
To: OFAC (b)(6) OFAC (b)(6)
Cc: Gacki, Andrea; Smith, Bradley; Palluconi, Lisa; Christian, Alan
Subject: Fwd: State Notice: Dan Gertler - GLOMAG-2020-368297-1
Date: Tuesday, November 3, 2020 6:10:35 PM

PRE-DECISIONAL and DELIBERATIVE

Hi OFAC (b)(6) and OFAC (b)(6)

Thank you for reaching out. STATE (b)(5)

STATE (b)(5)

STATE (b)(5) Please let us know if you need anything else.

Thanks!
Nikole

From: STATE (b)(6) @state.gov>
Date: November 3, 2020 at 4:02:33 PM EST
To: Thomas, Nikole OFAC (b)(6) STATE (b)(6)
STATE (b)(6) @state.gov>
Cc: Christian, Alan OFAC (b)(6) STATE (b)(6) @state.gov>, STATE (b)(6) OFAC (b)(6) @state.gov>, OFAC (b)(6)
Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1

**** Caution:** External email. Pay attention to suspicious links and attachments. Send suspicious email to suspect@treasury.gov **

Nikole –
Secretary Pompeo’s staff has informed me that STATE (b)(5)
STATE (b)(5)
STATE (b)(5)

We will send formal Foreign Policy Guidance back to Treasury tomorrow to reflect State’s position.

STATE (b)(6)
STATE (b)(6)

Director
Office of Sanctions Policy and Implementation

U.S. Department of State

STATE (b)(6)

From: Nikole.Thomas [REDACTED] OFAC (b)(6)
Sent: Tuesday, November 3, 2020 12:05 PM
To: [REDACTED] STATE (b)(6) @state.gov>; [REDACTED] STATE (b)(6) @state.gov>
Cc: [REDACTED] OFAC (b)(6) [REDACTED] STATE (b)(6) @state.gov>; [REDACTED] STATE (b)(6) @state.gov>; [REDACTED] OFAC (b)(6) [REDACTED] OFAC (b)(6)
Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1
PRE-DECISIONAL and DELIBERATIVE

Hi All,

We wanted to share an important update we received from Andrea Gacki a short while ago. We understand that Secretary Mnuchin and Secretary Pompeo spoke this morning regarding this request and Secretary Pompeo indicated [REDACTED] STATE (b)(5). We have been asked to issue the license this week. We plan to proceed accordingly but would appreciate if you confirm State's view.

Thanks!

Nikole

From: Thomas, Nikole
Sent: Monday, November 2, 2020 4:46 PM
To: [REDACTED] STATE (b)(6) @state.gov>; [REDACTED] STATE (b)(6) @state.gov>
Cc: Christian, Alan [REDACTED] OFAC (b)(6); [REDACTED] STATE (b)(6) @state.gov>; [REDACTED] STATE (b)(6) @state.gov>
Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1
PRE-DECISIONAL and DELIBERATIVE
Thank you for the update, [REDACTED] STATE (b)(6). Please do let us know if you hear any feedback.

From: [REDACTED] STATE (b)(6) @state.gov>
Sent: Monday, November 2, 2020 4:27 PM
To: Thomas, Nikole [REDACTED] OFAC (b)(6) [REDACTED] STATE (b)(6) @state.gov>
Cc: Christian, Alan [REDACTED] OFAC (b)(6) [REDACTED] STATE (b)(6) @state.gov>; [REDACTED] STATE (b)(6) @state.gov>
Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1

**** Caution:** External email. Pay attention to suspicious links and attachments. Send suspicious email to suspect@treasury.gov **

Hi Nikole –

We provided the Secretary's staff the background and our recommendation this morning. I can't predict when we will learn of his decision, but we did note Sec Mnuchin's interest and request for a quick review.

[REDACTED] STATE (b)(6)

SENSITIVE BUT UNCLASSIFIED

From: Nikole.Thomas [REDACTED] OFAC (b)(6)
Sent: Monday, November 2, 2020 3:47 PM
To: [REDACTED] STATE (b)(6) @state.gov>; [REDACTED] STATE (b)(6) @state.gov>
Cc: [REDACTED] OFAC (b)(6) [REDACTED] STATE (b)(6) @state.gov>; [REDACTED] STATE (b)(6)

2021-1246 (CKK): 0000002819

STATE (b)(6)@state.gov>

Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1

PRE-DECISIONAL and DELIBERATIVE

Hi STATE (b)(6)

Happy Monday! Just wondering if you had heard anything yet from the Secretary's office on this request. We also wanted to let you know Secretary Mnuchin did inquire with Andrea Gacki on the status of this request today and she informed him that you were working to update Secretary Pompeo. Secretary Mnuchin was happy to hear that and expressed his willingness to speak with Secretary Pompeo.

Thanks!

Nikole

From: STATE (b)(6)@state.gov>

Sent: Friday, October 30, 2020 3:06 PM

To: Thomas, Nikole OFAC (b)(6) STATE (b)(6)@state.gov>

Cc: Christian, Alan OFAC (b)(6) STATE (b)(6)@state.gov>; STATE (b)(6)

STATE (b)(6)@state.gov>

Subject: Re: State Notice: Dan Gertler - GLOMAG-2020-368297-1

**** Caution:** External email. Pay attention to suspicious links and attachments. Send suspicious email to suspect@treasury.gov **

Nikole -

Thank you again for bringing this matter to my attention. We have communicated about this case on the phone and on several different email threads, but I wanted to reply formally on this thread with what I believe is our understanding.

Secretary Pompeo is returning from overseas travel and will be in the office on Monday. Given there is information that suggests Gertler's corrupt activities in the DRC are ongoing, this does not appear to be a straight-forward matter. STATE (b)(5)

STATE (b)(5)
STATE (b)(5). Accordingly, I cannot provide State's concurrence by your noon Monday deadline and need to consult Secretary Pompeo.

We will seek Secretary Pompeo's decision on this matter and will get back to you as soon as we are able.

Best regards,

STATE (b)(6)

STATE (b)(6)

Director

Office of Sanctions Policy and Implementation

U.S. Department of State

STATE (b)(6)

From: Nikole.Thomas OFAC (b)(6)

Sent: Thursday, October 29, 2020 13:34

To: STATE (b)(6) >; STATE (b)(6)@state.gov>

Cc: OFAC (b)(6)

Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1
PRE-DECISIONAL and DELIBERATIVE

My apologies! I just noticed a few typos in the first sentence so want to correct those so it makes sense. Again, happy to talk more via phone if you'd like.

From: Thomas, Nikole

Sent: Thursday, October 29, 2020 1:32 PM

To: STATE (b)(6)@state.gov; STATE (b)(6)@state.gov; STATE (b)(6)

Cc: Christian, Alan; OFAC (b)(6)

Subject: FW: State Notice: Dan Gertler - GLOMAG-2020-368297-1
PRE-DECISIONAL and DELIEBRATIVE

Hi STATE (b)(6) and STATE (b)(6)

Happy New Fiscal Year! It's been awhile since we talked and hope all is well with you and your families at this time.

I wanted to bring this very short turn notification to your attention that we just sent over relating to a license application from designated Israeli billionaire Dan Gertler OFAC (b)(4)

OFAC (b)(4) U.S.

Ambassador to Israel David Friedman reached out to Treasury and requested that we look into Mr. Gertler's application. We have, and we intend to issue authorization OFAC (b)(4)

OFAC (b)(4)

OFAC (b)(4). In light of the impact of the COVID-19 pandemic, we intend to issue this authorization within the next week so we are asking that you notify us of any objections by **noon on Monday, November 2nd**.

This has been coordinated within our building at senior levels. We'd also note that this matter would be separate from any potential delisting matter involved Mr. Gertler. This license request would have no bearing on the outcome of any such potential delisting petition.

Please let me know if it would be helpful to provide more background on the phone.

Thanks!

Nikole

From: OFAC (b)(6)

Sent: Thursday, October 29, 2020 1:21 PM

To: non-TSRA@state.gov; STATE (b)(6)@state.gov; STATE (b)(6)

STATE (b)(6)@state.gov; STATE (b)(6)@state.gov

Cc: OFAC (b)(6)

<OFAC (b)(6)>

OFAC (b)(6)

OFAC (b)(6)

Nikole OFAC (b)(6) Christian, Alan OFAC (b)(6)

Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1

State Notice: Dan Gertler: GLOMAG-2020-368297-1

OFAC has received a request (the "Application") (attached), submitted on behalf of Dan Gertler, designated under Executive Order (E.O.) 13818 of the Global Magnitsky Sanctions Regulations (the "Regulations"), for authorization to use funds, in non-U.S. currency, to support urgent humanitarian aid efforts in the Democratic Republic of the Congo (DRC); in particular, but not exclusively, aid related to the COVID-19 pandemic.

2021-1246 (CKK): 0000002821

Bates No. 02021-12461 (CKK) : 0000002822

Withheld in Full under
FOIA Exemptions (b)(4), (b)(6)

OFAC (b)(4), (b)(6)

OFAC (b)(6)

Sanctions Licensing Officer

Licensing Division

Office of Foreign Assets Control

U.S. Department of the Treasury

From: Thomas, Nikole
To: STATE (b)(6)
Cc: Palluconi, Lisa
Subject: RE: Gertler License Request
Date: Friday, October 30, 2020 1:10:52 PM

Appreciate this information, STATE (b)(6). Since the timing is out of your hands in this situation, please do let us know if you run into any delays submitting the briefing material.

Thanks!
Nikole

From: STATE (b)(6) @state.gov>
Sent: Friday, October 30, 2020 12:50 PM
To: Thomas, Nikole OFAC (b)(6)
Cc: Palluconi, Lisa OFAC (b)(6)
Subject: Re: Gertler License Request

**** Caution:** External email. Pay attention to suspicious links and attachments. Send suspicious email to suspect@treasury.gov **

Thanks for checking, Nikole. We are preparing briefing material for Secretary Pompeo for his review which we plan to submit for his decision tonight. His staff provides five days for a decision, so I expect we would have an answer for you by the end of the week. We have more layers of bureaucracy than you all do, so if he wants a meeting to discuss the issue, we would be informed of that after he has read the paper.

From: Nikole.Thomas OFAC (b)(6)
Sent: Friday, October 30, 2020 12:33
To: STATE (b)(6) @state.gov>
Cc: Palluconi, Lisa OFAC (b)(6)
Subject: RE: Gertler License Request
PRE-DECISIONAL and DELIBERATIVE

Thanks, STATE (b)(6). Can you please let us know when you have a scheduled time? I was able to catch Andrea quickly to provide a brief update based on our conversation this morning and she expects that Secretary Mnuchin will ask for a status update on the request early next week so having that information will help us manage expectations in our building.

From: STATE (b)(6) @state.gov>
Sent: Friday, October 30, 2020 10:29 AM
To: Thomas, Nikole OFAC (b)(6)
Cc: Palluconi, Lisa OFAC (b)(6)
Subject: Re: Gertler License Request

**** Caution:** External email. Pay attention to suspicious links and attachments. Send suspicious email to suspect@treasury.gov **

Nikole - Secretary Pompeo will be back in the office on Monday, so we will be able to brief him next week.

From: STATE (b)(6)

Sent: Friday, October 30, 2020 09:33

To: Nikole Thomas OFAC (b)(6)

Cc: Palluconi, Lisa OFAC (b)(6)

Subject: Gertler License Request

Nikole - we need to speak about this one. On what number can I reach you? I am

STATE (b)(6)

Thanks,

STATE (b)(6)

From: OFAC (b)(6)
To: STATE (b)(6)
Cc: STATE (b)(6); OFAC (b)(6)
Subject: RE: glomag evidentiary packages - draft request
Date: Wednesday, May 30, 2018 12:32:57 PM

Hi [REDACTED]
Requested exhibit lists and a response to this question have been sent to you at the address provided. Please let me know if we can help in any other way. Apologies again for the delay.
Thanks,

[REDACTED]
From: STATE (b)(6) @state.gov]
Sent: Wednesday, May 30, 2018 11:14 AM
To: OFAC (b)(6)
Cc: STATE (b)(6) @state.gov>; STATE (b)(6) @state.gov>; STATE (b)(6) @state.gov>; OFAC (b)(6)
OFAC (b)(6)
OFAC (b)(6) Albowicz, Nikole OFAC (b)(6)

Subject: RE: glomag evidentiary packages - draft request
[REDACTED] – I’ve got a new email address for that system: it’s [REDACTED]@state.ic.gov. Can you route the materials there?

I also had a quick question on Chayka and the public description of why he was sanctioned. I don’t quite understand the highlighted phrase. Is there a typo or a missing word? Is my bracketed insertion the right interpretation?

Chayka is the son of the Prosecutor General of the Russian Federation and has leveraged his father’s position and ability to award [contracts to] 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.

[REDACTED]
ext [REDACTED]
Official - SBU
UNCLASSIFIED

From: STATE (b)(6)
Sent: Monday, May 14, 2018 1:30 PM
To: OFAC (b)(6)
Cc: STATE (b)(6) @state.gov>; STATE (b)(6) @state.gov>; STATE (b)(6) @state.gov>; OFAC (b)(6)
OFAC (b)(6)

Nikole.Thomas@OFAC (b)(6)

Subject: RE: glomag evidentiary packages - draft request

OFAC (b)(6)

Could you send over the corruption-related exhibition lists to my JWICS account? My email is STATE (b)(6)@state.ic.gov. If it's labor intensive, my priorities are Rivas, Bol Mel, and Gertler.

STATE (b)(6)

ext. STATE (b)(6)

Official - SBU

UNCLASSIFIED

From: OFAC (b)(6)

Sent: Wednesday, April 11, 2018 4:12 PM

To: STATE (b)(6)@state.gov>

Cc: STATE (b)(6)@state.gov>; STATE (b)(6)@state.gov>; STATE (b)(6)

STATE (b)(6)@state.gov>; OFAC (b)(6)

OFAC (b)(6)

Nikole.Thomas@OFAC (b)(6)

Subject: RE: glomag evidentiary packages - draft request

Hi STATE (b)(6)

Thanks, understood. Let us know how we can provide support.

Please let us know which packages you intend to request to see, and we will do what we can to get approval and facilitate.

Exhibit lists currently exist on JWICS, but INR may be able to support bringing it down if the contents are appropriate for ClassNet. Let us know which you might have interest in.

Thank you,

OFAC (b)(6)

From: STATE (b)(6)@state.gov]

Sent: Wednesday, April 11, 2018 8:29 AM

To: OFAC (b)(6)

Cc: STATE (b)(6)@state.gov>; STATE (b)(6)@state.gov>; STATE (b)(6)

STATE (b)(6)@state.gov>; OFAC (b)(6)

OFAC (b)(6) Albowicz, Nikole OFAC (b)(6)

OFAC (b)(6)

Subject: RE: glomag evidentiary packages - draft request

OFAC (b)(6)

Thanks for your consideration. For the moment, we're going to stand down on sending the letter in light of some of the issues you outlined below. STATE (b)(6) is going to follow up with you about setting up a time to come over and look at the packages in hard copy. I expect some of our lawyers will want to join.

Can you send the exhibition list on ClassNet, or only via JWICS?

Regards,

STATE (b)(6)

Anti-Corruption Team

INL's Office of Anti-Crime Programs (INL/C)

STATE (b)(6)

Official - SBU

UNCLASSIFIED

From: OFAC (b)(6)

Sent: Monday, March 26, 2018 3:02 PM

To: STATE (b)(6) @state.gov>
Cc: STATE (b)(6) @state.gov>; STATE (b)(6) @state.gov>; STATE (b)(6)
STATE (b)(6) @state.gov>; OFAC (b)(6)
OFAC (b)(6); Nikole.Thomas OFAC (b)(6)

Subject: RE: glomag evidentiary packages - draft request

Hello STATE (b)(6)

We have reviewed your draft request letter. The intended use of the packages by the Department of State falls within the scope of our procedures permitting outside government officials to review OFAC administrative records.

The review is subject to control limitations. Our procedures instruct that we are able to provide a copy of the final exhibit list. This list contains the information to locate all sources we used to establish our conclusions. If that is not sufficient to aid in reaching your determination, we can potentially arrange for a requesting official to review a physical copy of the record at OFAC. The review of this record is subject to (a) requesting official having appropriate clearances; (b) restrictions on the disclosure of personal information such as those in the Privacy Act, the FOIA, the E-Government Act, and Treasury's implementing policies; (c) other governmental access, handling, or dissemination restrictions such as ORCON, read-in only access, or restrictions on sealed court documents; and (d) the requirements of the Trade Secrets Act. Packages reviewed may not be copied or removed from OFAC facilities, but exhibit lists may be provided upon request, subject to any limitations set forth in this document.

These are the same limitations applied to other government officials, including DOJ officials seeking to review the record for law enforcement purposes.

Please let me know if there is any way we can work to support your efforts within these limitations. If you still intend to send the letter requesting complete packages, which we note would be a deviation from our set procedures, please let me know and I will elevate the letter for consideration by the appropriate individuals here at OFAC.

Thank you,

OFAC (b)(6)

From: STATE (b)(6) @state.gov]

Sent: Friday, March 23, 2018 7:54 PM

To: OFAC (b)(6)

Cc: STATE (b)(6) @state.gov>; STATE (b)(6) @state.gov>; STATE (b)(6)
STATE (b)(6) @state.gov>

Subject: RE: glomag evidentiary packages - draft request

OFAC (b)(6) – just wanted to follow up on this email and the attached letter. Have you had a chance to review? I'm out of the office all of next week, but my colleague STATE (b)(6), cc'ed, can help answer any questions you might have. We're hoping to send over a signed copy as soon as possible.
STATE (b)(6)

From: STATE (b)(6)

Sent: Tuesday, March 20, 2018 8:25 AM

To: OFAC (b)(6)

Cc: STATE (b)(6) @state.gov>

Subject: glomag evidentiary packages - draft request

OFAC (b)(6)

I had a good conversation with OFAC (b)(6) and STATE (b)(6) a couple of weeks ago regarding our request for

final copies of the GloMag evidentiary packages. I'm quite late in following up, so apologies. Where we left it, I think, was that you all wanted to ensure our written request is appropriately justified given that OFAC doesn't typically provide these packages to outside parties. I've put together a draft letter in consultation with EB and our Legal folks. Can you take a look, share within OFAC as needed, and let me know what questions or edits you might have so we can get this sent over ASAP?

STATE (b)(6)

STATE (b)(6)

Anti-Corruption Team

INL's Office of Anti-Crime Programs (INL/C)

STATE (b)(6) (o)

STATE (b)(6) (m)

Official - SBU

UNCLASSIFIED

From: Prince, Jason
To: STATE (b)(6)
Cc: Menna, Frank; OFAC (b)(6); Thomas, Nikole; STATE (b)(6); OFAC (b)(6)
Subject: RE: Intel file
Date: Thursday, February 11, 2021 1:10:39 PM
Attachments: letter to Secretary Yellen.pdf
2021-02-09 Letter to Sec y J. Yellen LICENSE No. GLOMAG-2021-371648.pdf
WeissArnoldandPorteronDanGertler.pdf

PRIVILEGED//PRE-DECISIONAL//DELIBERATIVE

Hi STATE (b)(6)

As discussed during our call this morning, please find attached the letters that Treasury has recently received from Dan Gertler (one directly from him and the other two from his counsel).

Thanks,
Jason

From: STATE (b)(6) @state.gov>
Sent: Tuesday, February 9, 2021 12:17 PM
To: Prince, Jason; OFAC (b)(6)
Cc: Menna, Frank; OFAC (b)(6); OFAC (b)(6); Thomas, Nikole; OFAC (b)(6); STATE (b)(6); STATE (b)(6) @state.gov>; STATE (b)(6) @state.gov>
Subject: Re: Intel file

**** Caution:** External email. Pay attention to suspicious links and attachments. Send suspicious email to suspect@treasury.gov **

PRIVILEGED//PRE-DECISIONAL//DELIBERATIVE

Hi Jason,

Adding EB here. We are still discussing whether/how to use the classified file, including the possibility of focusing on State Department information that will be easier for us to summarize and clear, but a call sometime this week would be helpful. We were also discussing possibly using publicly available material, such as this [Global Witness investigation](#), if you have thoughts on that (or any concerns with the credibility/accuracy of that report). Could we aim for Thursday or Friday? If you can let us know times then that would work for you all, we can figure something out. Depending on the day/time, we can hopefully have someone from INR and EB join.

Best,

STATE (b)(6)

From: Jason.Prince; OFAC (b)(6)
Sent: Monday, February 8, 2021 7:28 PM
To: STATE (b)(6) @state.gov>
Cc: Frank.Menna; OFAC (b)(6)

OFAC (b)(6)

Nikole.Thomas

OFAC (b)(6)

Subject: RE: Intel file

PRIVILEGED//PRE-DECISIONAL//DELIBERATIVE

Hi ^{STATE (b)(6)}

Our questions will be focused primarily on the classified materials, rather than on the substance of the FPG itself. At a high-level, we have some questions and suggestions with respect to State's potential use the classified reporting, which specific documents State intends to use, the markings on those documents, what an unclassified summary (as discussed with Fed Pro) might look like in this context, etc. That said, we've invited Nikole to attend for situational awareness purposes, and it would likely be helpful to have someone from EB attend for similar reasons.

Thanks,

Jason

From: STATE (b)(6) @state.gov>

Sent: Monday, February 8, 2021 7:17 PM

To: Prince, Jason OFAC (b)(6)

Cc: Menna, Frank OFAC (b)(6)

OFAC (b)(6)

; Thomas, Nikole

OFAC (b)(6)

Subject: RE: Intel file

**** Caution:** External email. Pay attention to suspicious links and attachments. Send suspicious email to suspect@treasury.gov **

Hi Jason - I can try to arrange something in the next few days, but can you preview your questions so I make sure we have the right people on the call? State/INR has helped pass the info back and forth, but they haven't been involved in discussions of the FPG, at least yet. Depending on your questions, it may help to have someone from EB on the line.

Sent from [Workspace ONE Boxer](#)

On February 8, 2021 at 6:59:13 PM EST, Jason.Prince OFAC (b)(6) wrote:

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Good evening, ^{STATE (b)(6)}

Would it be possible to schedule a meeting with you and someone in State/INR at some point over the next few days to discuss State's potential reliance on the classified file referenced below in relation to OFAC's recent FPG request? Frank and I have some legal questions. ^{OFAC (b)(6)} (GloMag OGT) has some substantive questions, and Nikole (Licensing) will join for situational awareness.

If you could please let us know some timeframes that would work on your end, we'll organize a call on the high-side.

Thanks,

Jason

From: STATE (b)(6) @state.gov>

Sent: Friday, February 5, 2021 1:10 PM

To: Prince, Jason OFAC (b)(6)

Subject: Intel file

**** Caution:** External email. Pay attention to suspicious links and attachments. Send suspicious email to suspect@treasury.gov ******

Jason – Just FYI that State/INR sent the file we’ve been discussing to the GloMag OGT team on JWICS, so they should now have it.

STATE (b)(6)

Attorney-Adviser

Office of the Legal Adviser

Economic and Business Affairs (L/EB)

STATE (b)(6) (office)

STATE (b)(6)(cell)

~~SENSITIVE BUT UNCLASSIFIED~~

Bates Nos. 02021-12461 (CKK) : 0000004497-0000004499

Withheld in Full under

FOIA Exemption (b)(4)

February 9, 2021

VIA E-MAIL

The Honorable Janet Yellen
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220
Janet.Yellen@OFAC (b)(6)

**Re: Response to Inquiries Regarding License No. GLOMAG-2021-371648-1
Involving Dan Gertler**

Dear Secretary Yellen:

Thank you for the opportunity to respond substantively on behalf of our client, Mr. Dan Gertler, an Israeli national, to two letters recently transmitted to you by certain Senators and Representatives alleging that the recent decision by the Office of Foreign Assets Control (“OFAC”) to grant a specific license (GLOMAG-2021-371648-1) (the “License”) allowing U.S. persons to engage in transactions with Mr. Gertler was “arbitrary and capricious” and undertaken “without even a scintilla of policy or legal justification.”¹

Because we wanted to respond to those two letters as quickly as possible, we submit this short letter now directly to you for your consideration; we will shortly submit a second, considerably more expansive letter to OFAC, with a copy to you, in further support for our position that the License should be in left in place.

As you know, it was President Trump who in fact placed Mr. Gertler on the list of Specially Designated Nationals (“SDNs”)—the same president whose administration these lawmakers now describe as having “lifted” the sanctions and, in so doing, “upend[ed] U.S. policy toward the” Democratic Republic of the Congo (“DRC”).² As described below, the facts of Mr. Gertler’s petition for delisting (the “Delisting Request”), OFAC’s consideration of it, and OFAC’s granting instead of the License, which is limited in time to one year and requires frequent reporting and strict recordkeeping, simply belie this characterization. In fact, the issuance of the License comports exactly with both the language and intent of the Global Magnitsky Human Rights Accountability Act (“Global Magnitsky Act”), pursuant to which Mr. Gertler was designated.

¹ Letter from Rep. Gregory Meeks *et al.* to Janet Yellen, Sec’y of the Treasury (Feb. 3, 2021); *see also* Letter from Sen. Richard Durbin *et al.* to Sec’y Yellen (Feb. 1, 2021) (together, the “Congressional Letters”).

² Exec. Order No. 13818 (designating Mr. Gertler as a SDN); Congressional Letters, *supra*, note 1.

CONFIDENTIAL TREATMENT REQUESTED

2021-1246 (CKK) 0000004500

The Global Magnitsky Act, by its terms, allows for the termination of sanctions if certain conditions are met. Of relevance here is Section 3(g)(3), which provides, in part, that sanctions can be terminated if “the person has credibly demonstrated a significant change in behavior, has paid an appropriate consequence for the activity for which sanctions were imposed, and has credibly committed to not engage in an activity” that originally led to the imposition of the sanctions. This provision, while contained in the Global Magnitsky Act, specifically, also embodies the forward-looking approach toward sanctions generally: that changed behavior is a basis for delisting. In 2016, Treasury Secretary Jacob Lew described the purpose of the sanctions as follows:

While every situation will require a tailored approach, the underlying goal of all sanctions is an effort to change behavior. Sanctions are not meant to dole out punishment for past actions. They are forward-looking, intended to keep illicit or dangerous conduct out of our system and create pressure to change future behavior. This foundational principle is very different from civil penalties and forfeiture, which are punitive and meant to address past behavior.

* * *

Another lesson we have learned is that *since the goal of sanctions is to pressure bad actors to change their policy, we must be prepared to provide relief from sanctions when we succeed.* If we fail to follow through, we undermine our own credibility and damage our ability to use sanctions to drive policy change.

OFAC Press Center, *Remarks of Secretary Lew on the Evolution of Sanctions & Lessons for the Future at the Carnegie Endowment for International Peace* (Mar. 30, 2016) (emphasis added), <https://www.treasury.gov/press-center/press-releases/pages/jl0398.aspx>.³

The forward-looking nature of the Global Magnitsky sanctions regulations, and OFAC’s sanctions more broadly, suggests that the most relevant inquiry is what a SDN plans to do in the future, not what has occurred in the past.

OFAC (b)(4)
OFAC (b)(4)

³ See also Adam Szubin, Director, OFAC, Treasury Notes, *Sanctions 101, Part II of II: Enforcement and Effects* (June 2, 2014), <https://www.treasury.gov/connect/blog/Pages/Sanctions-101-Pt-2-.aspx> (“Sanctions are a means to an end; the ultimate goal of sanctions is behavioral change. OFAC therefore seeks to respond to those who demonstrate a change in the behavior that resulted in sanctions, to reward their conduct and incentivize others to act similarly”); S. Mandelker, Resps. to Written Questions of Sen. Sasse (May 16, 2017), *S. Hrg. 115-26*, <https://www.congress.gov/115/chrq/shrg25925/CHRG-115shrg25925.htm> (“Sanctions are not ends in themselves, but rather tools within our foreign policy and national security apparatus that are intended to create clear incentives to change behavior. When there is evidence that sanctions have achieved their intended objectives, the Administration may consider easing or lifting them.”).

OFAC (b)(4)

CONFIDENTIAL TREATMENT REQUESTED

2021-1246 (CKK) 0000004501

OFAC (b)(4)

Although the Global Magnitsky Act expressly allows for delisting on a forward-looking basis, as you know, OFAC did not delist Mr. Gertler. Instead, OFAC issued the License, giving Mr. Gertler one year to devise and implement a compliance program and thereby to demonstrate his “good faith.” Contrary to the Congressional Letters’ position that there are no “indications that Mr. Gertler has demonstrated contrition for his corrupt dealings and undertaken reform,” OFAC made clear when it issued the License that “[i]n order to be eligible for potential delisting in the future, OFAC expect[ed] [Mr. Gertler and the other SDNs] to show a good faith, positive change in behavior, including adopting and implementing enhanced sanctions compliance measures meeting the standards set by the United States” during the one-year term of the License. *See* Letter from A. Gacki to B. Weiss (dated Jan. 15, 2021), Case No. GLOMAG-2021-371648-1 (the “January 15 Cover Letter”). OFAC added that it expects to see concrete steps that demonstrate a “commit[ment] to adopting and implementing anti-bribery and anti-corruption policies and programs,” for instance, by preparing “targeted compliance manuals on sanctions regulations and anti-corruption compliance” during the term of the License, before it will grant any delisting request. *See id.* The one-year License imposes strict recordkeeping requirements and reporting requirements in the meantime. These expectations are a far cry from the Letters’ characterization of Mr. Gertler as devoid of any intent to ensure his business practices comport with the expectations of the U.S. government.

Baseless allegations that the License was improperly granted or that Mr. Gertler has no intention to demonstrate changed circumstances are illegitimate reasons to revoke the License. There is, in fact, presently no reasonable basis to revoke the License because—despite all the allegations—there has been not a single allegation that Mr. Gertler has misused the License since it was issued on January 15. In fact, to the extent Mr. Gertler has made any preparatory activities in contemplation of using the License at all, they have been toward manifesting the charitable and divestiture purposes outlined in the Delisting Request. The revocation of the License would be far more “arbitrary and capricious” than the reasoned basis upon which it was granted. As a general policy, revocation of duly granted licenses, just weeks after their issuance, in response to agitation in the political arena would seriously undermine the credibility and integrity of the Global Magnitsky sanctions program.

* * *

Thank you in advance for your careful consideration of the administrative record supporting the issuance of the License. We are confident that a thorough review of the merits of the License, which was issued consistent with the goals of the Global Magnitsky Act, will demonstrate that there is no basis for its revocation at this time. To the contrary, we believe that Treasury will find the compliance program of **OFAC (b)(4)** and **OFAC (b)(6)** the details of which we will share with OFAC when it is finalized, to be extremely rigorous. Even then, Mr. Gertler will remain willing to accept any additional compliance measures that

OFAC (b)(4)

CONFIDENTIAL TREATMENT REQUESTED

2021-1246 (CKK) 0000004502

Hon. Janet Yellen
February 9, 2021
Page 4

OFAC deems necessary or useful to assure full compliance with both the letter and spirit of the Global Magnitsky sanctions program.

If you have questions or need any additional information regarding this matter, please do not hesitate to contact me at Baruch.Weiss@arnoldporter.com or 202-942-6819.

OFAC (b)(6)

Baruch Weiss, Esq.
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
baruch.weiss@arnoldporter.com
T: +1 202-942-6819

cc: Ms. Andrea Gacki, Director, OFAC (*via email*)
OFAC (b)(6) Chief, OFAC Licensing (*via email*)

CONFIDENTIAL TREATMENT REQUESTED

2021-1246 (CKK) 0000004503

February 5, 2021

VIA E-MAIL

The Honorable Janet Yellen
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220
Janet.Yellen@treasury.gov

Re: Response to Inquiries Regarding License No. GLOMAG-2021-371648-1 Involving Dan Gertler

Dear Secretary Yellen:

Our firm represents Mr. Dan Gertler, an Israeli national, in matters related to his designation as a Specially Designated National (“SDN”) by President Trump on December 21, 2017, and the economic sanctions levied upon Mr. Gertler by the Department of the Treasury (“Treasury”), Office of Foreign Assets Control (“OFAC”) pursuant to Executive Order 13818. As you know, Mr. Gertler and other SDNs were designated under the Global Magnitsky Sanctions Regulations, 31 C.F.R. Part 583, for alleged corruption in various mining businesses in the Democratic Republic of the Congo (“DRC”). A number of months ago, Mr. Gertler and the other SDNs asked OFAC to be removed from the SDN list entirely. Last month, OFAC declined to grant the request, and instead took a more measured step: OFAC issued License No. GLOMAG-2021-371648-1 (the “License”), which leaves Mr. Gertler and the other SDNs on the SDN list, but authorizes otherwise prohibited transactions for a limited test period of one year, subject to stringent reporting requirements, thereby providing Mr. Gertler and the other SDNs with an opportunity to demonstrate that they can and will act in a manner fully compliant with OFAC regulations and the goals of the Global Magnitsky Human Rights Accountability Act (the “Global Magnitsky Act”).

Today, Bloomberg reported that Treasury, having received letters this week from Democratic members of the House and Senate, may be nearing a decision to revoke the License, which was granted just last month.¹ We have reviewed these letters, and they appear to rest upon an incomplete understanding of the facts and circumstances that led to

¹ Nick Wadhams, Saleha Mohsin & Michael Kavanagh, *U.S. Likely to Reverse Israeli Billionaire’s Sanctions Reprieve*, Bloomberg (Feb. 3, 2021, updated Feb. 5, 2021), <https://www.bloomberg.com/news/articles/2021-02-03/house-democrats-urge-yellen-to-reinstate-gertler-sanctions>.

Arnold & Porter

License No. GLOMAG-2021-371648-1

February 5, 2021

Page 2

OFAC's issuance of the License, as well as an inaccurate portrayal of Mr. Gertler's conduct since the imposition of the sanctions. We would like to have the opportunity to present those facts and circumstances to you. We are confident that we will be able to demonstrate that OFAC's decision to issue the License and give Mr. Gertler and the other SDNs a closely-supervised opportunity to show their commitment to U.S. sanctions compliance, through a robust compliance program of the highest caliber, was correct. Mr. Gertler will also demonstrate that his future philanthropic and business affairs will comport with OFAC's expectations, the goals of the Global Magnitsky Act, and the standards set by the United States.

In light of the recent news discussed above, and consistent with the norms of basic fairness and due process, we therefore formally request the opportunity to respond to the allegations contained in this week's letters *before* Treasury and/or OFAC make any determination to revoke the License. Our response will demonstrate—on the merits—that OFAC's issuance of the License was entirely legitimate, and based on long-standing principles at the core of U.S. sanctions law, as opposed to any political considerations. We will deliver these materials to you by the close of business on Friday, February 12, 2021 and will make ourselves available to you at any time thereafter to answer any questions or be heard on the matter. We believe that dialogue on this matter will ensure consistency with the legislative purpose of the Global Magnitsky Act—to promote positive behavior going forward—and prevent the sanctions it authorizes from slipping needlessly into the political arena.

OFAC (b)(6)

Baruch Weiss

cc: Ms. Andrea Gacki, Director, OFAC (via email)

From: OFAC (b)(6)
To: Quinby, Ripley; OFAC (b)(6); Palluconi, Lisa; OFAC (b)(6); OFAC (b)(6); OFAC (b)(6)
Prince, Jason
Cc: OFAC (b)(6); Gatjanis, Gregory; Thomas, Nikole; OFAC (b)(6)
Subject: RE: PEESA/PEESCA
Date: Friday, April 16, 2021 11:54:19 AM
Attachments: image001.gif

Roger – thanks OFAC (b)(6) and Rip.

OFAC (b)(6)

Work: OFAC (b)(6)

Cell: OFAC (b)(6)

OFAC (b)(6)

From: Quinby, Ripley OFAC (b)(6)

Sent: Friday, April 16, 2021 11:45 AM

To: OFAC (b)(6) >; Palluconi, Lisa

OFAC (b)(6),

OFAC (b)(6)

OFAC (b)(6) OFAC (b)(6) Prince, Jason

OFAC (b)(6)

Cc: OFAC (b)(6) >; OFAC (b)(6)

Gatjanis, Gregory OFAC (b)(6) Thomas, Nikole

OFAC (b)(6); OFAC (b)(6) >

Subject: RE: PEESA/PEESCA

To close this out, OFAC (b)(6) please ask that this be funneled through OFAC channels, through State is welcome to any/all convos we have.

From: OFAC (b)(6)

Sent: Friday, April 16, 2021 10:50 AM

To: Palluconi, Lisa OFAC (b)(6); OFAC (b)(6)

OFAC (b)(6) >; Quinby, Ripley OFAC (b)(6); OFAC (b)(6)

OFAC (b)(6) OFAC (b)(6)

OFAC (b)(6); OFAC (b)(6) >; Prince, Jason

OFAC (b)(6)

Cc: OFAC (b)(6); OFAC (b)(6)

Gatjanis, Gregory OFAC (b)(6); Thomas, Nikole

OFAC (b)(6) OFAC (b)(6) >

Subject: RE: PEESA/PEESCA

PRIVILEGED & CONFIDENTIAL

ATTORNEY-CLIENT COMMUNICATION//PRE-DECISIONAL AND DELIBERATIVE

Hi all –

I had an opportunity to connect with Jason on this, and we think that if this is a meeting that OGT would usually take in the normal course, we do not see an issue with doing that here. I'm not sure how these meetings are usually handled, but our sense is that this should be an OFAC-led meeting (with State attending if they desire) given that this pertains to a Treasury action and authority.

From: Palluconi, Lisa OFAC (b)(6)

Sent: Thursday, April 15, 2021 9:00 PM

To: [REDACTED] OFAC (b)(6)
[REDACTED] OFAC (b)(6) ; Quinby, Ripley [REDACTED] OFAC (b)(6) ; [REDACTED] OFAC (b)(6)
[REDACTED] OFAC (b)(6) ; [REDACTED] OFAC (b)(6) >;
[REDACTED] OFAC (b)(6) Prince, Jason [REDACTED] OFAC (b)(6) >
Cc: [REDACTED] OFAC (b)(6) [REDACTED] OFAC (b)(6)
Gatjanis, Gregory [REDACTED] OFAC (b)(6) ; Thomas, Nikole
[REDACTED] OFAC (b)(6) [REDACTED] OFAC (b)(6)
Subject: RE: PEESA/PEESCA

Pre-decisional and deliberative

Thanks, [REDACTED] OFAC (b)(6) I finally read through the end of the chain carefully. It seems like they want to provide derog. Defer to OGT and OCC how you want to handle this, but the ability for OFAC to attend in "listening mode" to a State-hosted call may be a good option.

From: [REDACTED] OFAC (b)(6)
Sent: Thursday, April 15, 2021 5:27 PM
To: Palluconi, Lisa <[REDACTED] OFAC (b)(6)>
[REDACTED] OFAC (b)(6) Quinby, Ripley [REDACTED] OFAC (b)(6) ; [REDACTED] OFAC (b)(6)
[REDACTED] OFAC (b)(6) > [REDACTED] OFAC (b)(6)
[REDACTED] OFAC (b)(6) Prince, Jason [REDACTED] OFAC (b)(6)
Cc: [REDACTED] OFAC (b)(6)
Gatjanis, Gregory [REDACTED] OFAC (b)(6) >; Thomas, Nikole
[REDACTED] OFAC (b)(6)

Subject: RE: PEESA/PEESCA

Lisa and [REDACTED] OFAC (b)(6)

To confirm, this is not a meeting with Gertler; I understand this to instead be a meeting with a non-U.S. company about the activities of a Gertler-controlled company. I'm happy to respond back to State and loop others in flagging that we're still deliberating on the correct approach and would appreciate that waiting for further guidance.

If we receive any push back, I think at that time it may be worth a DAS Woodhouse discussion, but I'm hoping not!

Thank you all!

[REDACTED] OFAC (b)(6)

Work: [REDACTED] OFAC (b)(6)

Cell: [REDACTED] OFAC (b)(6)

[REDACTED] OFAC (b)(6)

From: Palluconi, Lisa [REDACTED] OFAC (b)(6)
Sent: Thursday, April 15, 2021 4:50 PM
To: [REDACTED] OFAC (b)(6) Quinby, Ripley
[REDACTED] OFAC (b)(6) ; [REDACTED] OFAC (b)(6),
[REDACTED] OFAC (b)(6) [REDACTED] OFAC (b)(6)
[REDACTED] OFAC (b)(6) ; [REDACTED] OFAC (b)(6) >; Prince, Jason
[REDACTED] OFAC (b)(6)
Cc: [REDACTED] OFAC (b)(6)
Gatjanis, Gregory [REDACTED] OFAC (b)(6) Thomas, Nikole
[REDACTED] OFAC (b)(6)

Subject: RE: PEESA/PEESCA

All – Please let me know if I need to raise this to Erik Woodhouse. Also, I'd also like clarity on whether this is for a meeting with Gertler (or instead a meeting with a non-US company about Gertler-related activity).

Thanks!

From: [REDACTED] OFAC (b)(6)
Sent: Thursday, April 15, 2021 4:31 PM
To: Quinby, Ripley [REDACTED] OFAC (b)(6); [REDACTED] OFAC (b)(6)
[REDACTED] OFAC (b)(6)
[REDACTED] OFAC (b)(6); [REDACTED] OFAC (b)(6)
[REDACTED] OFAC (b)(6) Prince, Jason [REDACTED] OFAC (b)(6)
Cc: [REDACTED] OFAC (b)(6)
Gatjanis, Gregory [REDACTED] OFAC (b)(6); Thomas, Nikole
[REDACTED] OFAC (b)(6); Palluconi, Lisa [REDACTED] OFAC (b)(6)
[REDACTED] OFAC (b)(6)
Subject: RE: PEESA/PEESCA

Just to clarify, I think this is a proposed meeting with a non-U.S. company about the activities of a Gertler-controlled company. Not a meeting with Gertler himself, right?

Either way, why does State need to respond to this today? I think we should ask them to please hold off on responding for a day while we further consider this.

From: Quinby, Ripley [REDACTED] OFAC (b)(6)
Sent: Thursday, April 15, 2021 4:26 PM
To: [REDACTED] OFAC (b)(6)
[REDACTED] OFAC (b)(6) > [REDACTED] OFAC (b)(6)
[REDACTED] OFAC (b)(6) [REDACTED] OFAC (b)(6)
Prince, Jason [REDACTED] OFAC (b)(6)
Cc: [REDACTED] OFAC (b)(6)
Gatjanis, Gregory [REDACTED] OFAC (b)(6) Thomas, Nikole
[REDACTED] OFAC (b)(6) >; Palluconi, Lisa [REDACTED] OFAC (b)(6)
[REDACTED] OFAC (b)(6)
Subject: RE: PEESA/PEESCA

[REDACTED] OFAC (b)(6) Greg, Nikole, Lisa, [REDACTED] OFAC (b)(6)
As this is a Treasury designation, it seems most appropriate that we would take the call and be in touch directly. Especially given the matter at hand, I think we would want to be in close control of all interactions with the SDN rather than relying on a 3rd party.

Please firmly ask/require that EB route them to us, through OFAC Reconsideration. That said, I have no objection, and indeed would welcome, State's participation in debriefs, etc.

From: [REDACTED] OFAC (b)(6) >
Sent: Thursday, April 15, 2021 4:13 PM
To: [REDACTED] OFAC (b)(6) Quinby, Ripley
[REDACTED] OFAC (b)(6) [REDACTED] OFAC (b)(6)
[REDACTED] OFAC (b)(6) >; [REDACTED] OFAC (b)(6)
Prince, Jason [REDACTED] OFAC (b)(6) >

Cc: [REDACTED] OFAC (b)(6)

Subject: RE: PEESA/PEESCA

Importance: High

- State

Hi all –

Sorry to pester, but wanted to flag just in case we needed to head off State to **not** have this interaction, as they mentioned it could happen as soon as today. Of note, State doesn't know who the client ultimately is, but this sounds like interesting information, especially from the targeting perspective. Any concerns. I would suggest that – at a minimum – OFAC join the conversation, but also figured that 1) maybe State shouldn't take this at all, or 2) maybe OFAC should be taking this meeting alone (in which case we'd need to ask State to direct to us.

Thoughts?

Thanks,

[REDACTED] OFAC (b)(6)

OFAC (b)(6)

Work: OFAC (b)(6)

Cell: OFAC (b)(6)

[REDACTED] OFAC (b)(6)

From: OFAC (b)(6)

Sent: Thursday, April 15, 2021 11:22 AM

To: STATE (b)(6) @state.gov>

Cc: STATE (b)(6) @state.gov>; STATE (b)(6) @state.gov>; OFAC (b)(6)

[REDACTED] OFAC (b)(6) Quinby,

Ripley < [REDACTED] OFAC (b)(6) [REDACTED] OFAC (b)(6)

[REDACTED] OFAC (b)(6) > [REDACTED] OFAC (b)(6)

Prince, Jason [REDACTED] OFAC (b)(6)

Subject: RE: PEESA/PEESCA

[REDACTED] STATE (b)(6)

Thank you for flagging this and adding in others from OGT and OCC. Given the nature of the case and the pendency of several workstreams related to this matter, it would be great if you were able to hold off on responding for the time being while we deliberate internally on next steps.

Thank you,

[REDACTED] OFAC (b)(6)

OFAC (b)(6)

Work: OFAC (b)(6)

Cell: OFAC (b)(6)

[REDACTED] OFAC (b)(6)

From: STATE (b)(6) @state.gov>

Sent: Thursday, April 15, 2021 11:12 AM

To: [REDACTED] OFAC (b)(6)

Cc: STATE (b)(6) @state.gov>; STATE (b)(6) @state.gov>

Subject: FW: PEESA/PEESCA

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Bates Nos. 02021-12461 (CKK): 0000004583 - 0000004584

Duplicated pages

Withheld in Full

From: OFAC (b)(6)
To: OFAC (b)(6)
Cc: OFAC (b)(6)
Subject: FW: CDTA contact at OFAC?
Date: Tuesday, May 3, 2022 11:23:05 AM
Attachments: [Tab 1 - 004806 Congressional Report on The Kimberly Process Authority Draft \(1\).docx](#)
[Tab 2 - 19 USC 3904.pdf](#)
[Tab 3- 004806 Tasker \(KPA\).docx](#)
[Tab 4 - 004806 Transmit Letter for Kimberly Process Authority.docx](#)
[CRM - 004806 KPA.docx](#)

Hi ^{OFAC (b)(6)} just checking in since I think you covered Kimberly/diamonds previously? Any context we should know/aspects to look after as we review the congressional report on the Kimberly Process authority? Thanks!

From: STATE (b)(6) @state.gov>
Sent: Monday, May 2, 2022 4:03 PM
To: OFAC (b)(6)
OFAC (b)(6)
OFAC (b)(6)
Cc: STATE (b)(6) @state.gov>
Subject: RE: CDTA contact at OFAC?

**** Caution:** External email. Pay attention to suspicious links and attachments. Send suspicious email to suspect@treasury.gov **

OFAC (b)(6), and ^{OFAC (b)(6)}

Please find attached for your review Tab 1-Congresional Report on the KP Authority in draft form. Please use track changes for edits.

Would it be possible to receive edits this week before I start sending the document around to other colleagues in the State Department? If you need more time than that, just let me know.

Best,

^{STATE (b)(6)}

From: STATE (b)(6) @state.gov>
Sent: Thursday, April 28, 2022 9:27 AM
To: OFAC (b)(6)
OFAC (b)(6)
Cc: STATE (b)(6) @state.gov> STATE (b)(6) @state.gov>
Subject: Re: CDTA contact at OFAC?

Nice to meet you all! I am glad we found the right people. I will send something over soon.

Best,

STATE (b)(6)

From: OFAC (b)(6)
Sent: Thursday, April 28, 2022 9:24 AM
To: OFAC (b)(6)
OFAC (b)(6); STATE (b)(6) @state.gov; OFAC (b)(6)
OFAC (b)(6)
Cc: STATE (b)(6) @state.gov; STATE (b)(6) @state.gov
Subject: RE: CDTA contact at OFAC?

Thanks OFAC (b)(6) all. Looking forward to taking a look at the report!

OFAC (b)(6)

OFAC (b)(6)
Sanctions Policy Advisor | Office of Foreign Assets Control | U.S. Department of the Treasury
Telephone: OFAC (b)(6) | Mobile: OFAC (b)(6)
(U) OFAC (b)(6)

From: OFAC (b)(6)
Sent: Thursday, April 28, 2022 9:23 AM
To: OFAC (b)(6); STATE (b)(6) @state.gov; OFAC (b)(6),
OFAC (b)(6)
Cc: STATE (b)(6) @state.gov; STATE (b)(6) @state.gov
Subject: RE: CDTA contact at OFAC?

Thanks so much, OFAC (b)(6) and nice to meet you, STATE (b)(6) Yes, please feel free to send over the report and we would be happy to take a look!

Respectfully,

OFAC (b)(6) | Sanctions Policy Advisor
Office of Foreign Assets Control (OFAC)
U.S. Department of the Treasury
L: OFAC (b)(6) v
M: OFAC (b)(6)
H: OFAC (b)(6)

O: OFAC (b)(6)
M: OFAC (b)(6)

From: OFAC (b)(6)
Sent: Thursday, April 28, 2022 9:20 AM
To: STATE (b)(6) @state.gov>; OFAC (b)(6),
OFAC (b)(6)
Cc: STATE (b)(6) @state.gov>; STATE (b)(6) @state.gov>
Subject: Re: CDTA contact at OFAC?

Adding OFAC (b)(6) OFAC email this time.

From: OFAC (b)(6)
Date: April 28, 2022 at 9:16:48 AM EDT
To: STATE (b)(6) @state.gov>; OFAC (b)(6)
OFAC (b)(6)
Cc: STATE (b)(6) @state.gov>; STATE (b)(6) @state.gov>
Subject: Re: CDTA contact at OFAC?

Hi STATE (b)(6),

I'm looping in colleagues in OFAC's Policy Division, OFAC (b)(6) and OFAC (b)(6) who are the listed POCs for rough diamonds issues.

V/r,

OFAC (b)(6)

From: STATE (b)(6) @state.gov>
Date: April 27, 2022 at 3:28:26 PM EDT
To: OFAC (b)(6)
Cc: STATE (b)(6) @state.gov>; STATE (b)(6) @state.gov>
Subject: Fw: CDTA contact at OFAC?

**** Caution:** External email. Pay attention to suspicious links and attachments. Send suspicious email to suspect@treasury.gov **

OFAC (b)(6) and OFAC (b)(6)

Apologies for the email from out of nowhere, but you came up as maybe being able to give us a steer for the issue below.

Our office in the State Department is about to begin clearance on a couple of Congressionally-mandated reports under the Clean Diamond Trading Act (CDTA). As part of the clearance process, we wanted to share with OFAC to see if there were any redlines/concerns since it is our understanding that OFAC is co-chair for domestic implementation in the CDTA and implementing EO.

However, we do not know whose portfolio at OFAC this may fall into. Would you have any ideas/suggestions on how to find the right person/people?

Best,

STATE (b)

STATE (b)(6)

Economic/Commercial Officer
Bureau of Economic and Business Affairs (EB/TFS/TFC)
U.S. Department of State

Bates Nos. 02021-12461 (CKK) : 0000005054-0000005057

Withheld in Full under

FOIA Exemption (b)(5)



United States Department of State

Washington, D.C. 20520

CONGRESSIONAL REPORT TRANSMITTAL LETTER

Please find enclosed the following report from the Department of State.

Department Report Number: 004806

Report Title: Kimberly Process Authority

Legislation: 19 USC 3904(c): Regulatory and other authority

Recipients:

House Foreign Affairs Committee

Senate Foreign Relations Committee

House Committee on Ways and Means

Senate Committee on Finance

Sincerely,

STATE (b)(6)

Senior Bureau Official
Bureau of Legislative Affairs

Enclosure:

As Stated.

Congressional Report Tasker
Bureau of Legislative Affairs

Report Details

Report Number: 004806

Report Title: Kimberly Process Authority

Legislation: 19 USC 3904(c): Regulatory and other authority

Bureau: EB

Delegation: P *(please confirm delegation with L)*

Frequency: Annual

Page Limit: Approximately 5 pages in 12 Times New Roman font or 7 pages in 14 Times New Roman font

Recipients: *(Chairmen and Ranking Members only)*

House Foreign Affairs Committee

Senate Foreign Relations Committee

House Committee on Ways and Means

Senate Committee on Finance

Tasked to Bureau: March 14, 2022

Due to Cascades: June 28, 2022

Due to Congress: August 2, 2022

Please follow the attached Congressional Report Instructions for drafting, clearing, and submitting Congressional report packages.

19 USC 3904: Regulatory and other authority
Text contains those laws in effect on March 13, 2022

From Title 19-CUSTOMS DUTIES
CHAPTER 25-CLEAN DIAMOND TRADE

Jump To:
[Source Credit](#)
[Miscellaneous](#)
[Effective Date](#)

§3904. Regulatory and other authority

(a) In general

The President is authorized to and shall as necessary issue such proclamations, regulations, licenses, and orders, and conduct such investigations, as may be necessary to carry out this chapter.

(b) Recordkeeping

Any United States person seeking to export from or import into the United States any rough diamonds shall keep a full record of, in the form of reports or otherwise, complete information relating to any act or transaction to which any prohibition imposed under section 3903(a) of this title applies. The President may require such person to furnish such information under oath, including the production of books of account, records, contracts, letters, memoranda, or other papers, in the custody or control of such person.

(c) Oversight

The President shall require the appropriate Government agency to conduct annual reviews of the standards, practices, and procedures of any entity in the United States that issues Kimberley Process Certificates for the exportation from the United States of rough diamonds to determine whether such standards, practices, and procedures are in accordance with the Kimberley Process Certification Scheme. The President shall transmit to the appropriate congressional committees a report on each annual review under this subsection.

(Pub. L. 108–19, §5, Apr. 25, 2003, 117 Stat. 634 .)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

For effective date of this section, see section 15 of Pub. L. 108–19, set out as a note under section 3901 of this title.

EXECUTIVE DOCUMENTS

DELEGATION OF FUNCTIONS

For assignment of functions of President under this section, see section 2 of Ex. Ord. No. 13312, July 29, 2003, 68 F.R. 45151, set out as a note under section 3901 of this title.



**Report to Congress on
The United States Kimberly Process Authority
19 USC 3904(c): Regulatory and other authority**

STATE (b)(5)

Bates Nos. 02021-12461 (CKK) : 0000005062-0000005064

Withheld in Full under

FOIA Exemption (b)(5)

From: OFAC (b)(6)
To: DL TFI Africa
Cc: OFAC (b)(6)
Subject: FW: Treasury U/S Brian Nelson Addresses Corruption, Money Laundering, and U.S. Sanctions
Date: Friday, April 8, 2022 10:48:10 AM
Attachments: StateSeal.gif
image001.png

DRC Watchers,

Flagging the official BEN trip cable.

From: STATE (b)(6) @state.gov>
Sent: Friday, April 8, 2022 4:25 AM
To: OFAC (b)(6)
Subject: FW: Treasury U/S Brian Nelson Addresses Corruption, Money Laundering, and U.S. Sanctions

**** Caution:** External email. Pay attention to suspicious links and attachments. Send suspicious email to suspect@treasury.gov **

Enjoy OFAC (b)(6)

Have a good weekend STATE (b)(6)

STATE (b)(6)
Economic Counselor/Cheffe, Section Economique
U.S. Embassy
Kinshasa, Democratic Republic of Congo



~~SENSITIVE BUT UNCLASSIFIED~~

From: SMART Core <svcSmartBtsEwsSPrec@state.gov>
Sent: Friday, April 8, 2022 9:18 AM
To: STATE (b)(6) @state.gov>
Subject: DRC: Treasury U/S Brian Nelson Addresses Corruption, Money Laundering, and U.S. Sanctions

UNCLASSIFIED

2021-1246 (CKK): 0000005107



Action Office: ECON, MGT, POL, AID, DAO

MRN: [22 KINSHASA 316](#)
Date/DTG: Apr 08, 2022 / 080817Z APR 22
From: AMEMBASSY KINSHASA
Action: WASHDC, SECSTATE *ROUTINE*
E.O.: 13526
TAGS: EAID, PGOV, PREL, EFIN, EMIN, KSAN, KCOR, KORB, CD, ECON
Captions: SENSITIVE
Reference: A) 22 Kinshasa 21
 B) 22 State 10257
Pass Line: PASS TO TREASURY **OFAC (b)(6)** AND **OFAC (b)(6)**
Subject: DRC: Treasury U/S Brian Nelson Addresses Corruption, Money Laundering, and U.S. Sanctions

1.(SBU) Summary: Treasury Under Secretary for Terrorism and Financial Intelligence Brian Nelson visited Kinshasa March 16-18 to discuss U.S. support for the DRC's efforts to combat corruption, money laundering, and terrorist financing in order to develop the business enabling environment necessary to foster economic growth and political stability and security in the DRC. In meetings with GDRC officials, including the President, Prime Minister, Finance Minister, Central Bank Governor, Justice Minister, financial intelligence unit (CENAREF), Inspector General of Finances and Agency for the Fight Against Corruption (APLC) U/S Nelson made clear Treasury is committed to strengthening our relationship with the DRC to combat corruption in the DRC, the region, and globally. He emphasized the importance of systemic AML/CFT reforms, particularly adopting a revised AML/CFT law intended to address a range of strategic deficiencies in the DRC's legal framework, in order to combat corruption and financial crimes more broadly. On March 17, Treasury designated Belgian national Alain Goetz, Africa Gold Refinery (AGR), and a network of his companies under Executive Order (E.O.) 13413 for engaging in activities that threaten the peace, security, or stability of the DRC. Goetz's network has smuggled millions of dollars in gold from the DRC for refining at AGR in Uganda with proceeds often benefiting armed groups operating in the DRC. This news was widely well received as being supportive of DRC's efforts to curb illegal mining, which costs the DRC millions in lost royalty revenue annually and contributes to instability in eastern DRC. U/S Nelson also discussed, with select authorities, a potential settlement that the GDRC has negotiated with U.S.-sanctioned Israeli businessman Dan Gertler. Since the U.S. has not been involved in the GDRC's negotiations, U/S Nelson requested a copy of a proposed memorandum of understanding (MOU) between the GDRC and Gertler so Treasury can determine what, if any, impact it might have on the U.S. sanctions against Gertler (ref A). End summary.

(U) CENAREF is Closest Partner in Fight Against Corruption and Illicit Finance

2. ~~(SBU)~~ U/S Nelson's message of prioritizing the fight against corruption and illicit finance resonated well among his interlocutors. Financial Intelligence Unit (CENAREF) Executive Secretary Adler Kisula Betika Yeye emphasized that, the USG and Treasury are CENAREF's closest partner in tracking and addressing illicit finance. He stated that CENAREF (DRC's financial intelligence unit – FIU) is the point agency for all AML/CFT reforms and further emphasized that priority reforms move much quicker when the U.S. engages senior DRC officials on their importance, such as CENAREF acquiring its own building U/S Nelson noted it is a priority for the U.S. to see CENAREF reach its highest potential as a reliable partner, and Treasury will consider looking at options to provide technical assistance after the DRC's AML/CFT legal framework has been strengthened. Kisula underlined that the new anti-money laundering and countering the financing of terrorism (AML/CFT) law under consideration in parliament will be key to building the legal framework for CENAREF. Kisula commented that the Financial Action Task Force's (FATF) regional body for Central Africa (GABAC) Mutual Evaluation Report (MER) rated the DRC's effectiveness to combat money laundering and terrorist financing as "low" across all metrics, but by October, CENAREF hopes to show GABAC significant progress (Note: October is the DRC's deadline to report on progress made during its Observation Period prior to consideration for addition to the FATF's grey list. End note). A key priority for CENAREF is conducting the DRC's National Risk Assessment (NRA) for money laundering and terrorist financing threats, which Kisula claimed would be complete in about 6-12 months. Kisula claimed there is excellent cooperation with banks; 80 percent of CENAREF anti-money laundering activities were possible due to banks filing suspicious transaction reports (STRs). Kisula noted that the work is not without its challenges; he had received numerous threats, particularly when working on sensitive corruption cases. Kisula also expressed gratitude for U.S. support to help meet the standards for joining the Egmont Group, which will facilitate cooperation and intelligence sharing among national FIUs; U/S Nelson stated one of his priorities is increasing information sharing with the DRC and emphasized that Egmont membership will open the door to even closer cooperation between the United States and the DRC. U/S Nelson encouraged CENAREF to work with its co-sponsors for Egmont membership.

~~(SBU)~~ Challenges to Enforcement

3. ~~(SBU)~~ Kisula stated a major loophole for the DRC is the Central Bank's (Banque Centrale du Congo -BCC) financing of government institutions in cash, rather than through an official bank account. The use of cash rather than official bank accounts also created significant opportunities for diversion of official funds due to the inherent lack of transparency. In particular, Kisula alleged that the BCC is complicit because they do not alert CENAREF to suspicious transactions, despite a legal requirement to do so, and that the BCC routinely sends large sums of money in cash (eg. millions of dollars) to certain public institutions, such as the National Assembly and the Senate, to pay elected officials' salaries. This cash is then deposited in financial institutions in contravention of CENAREF's regulations limiting cash deposits and withdrawals. He stressed that the BCC should be independent from the political power centers. On sanctions, Kisula pointed out that the DRC's current legal framework does not provide a mechanism to keep U.S. sanctioned individuals or companies from doing business in the DRC, but that the proposed AML/CFT law would address that. For its part, Kisula noted that CENAREF often sanctions corrupt entities, adding that four Congolese banks have been recently sanctioned

for inadvertently participating in corruption schemes.

(SBU) Mining Sector Continues to Present Challenges

4. (SBU) Regarding the mining sector, Kisula commented that CENAREF coordinates closely with the General Inspectorate of Finance (IGF), particularly in the fight against corruption. Kisula gave an example of corrupt practices in the mining sector: Congolese law requires mining companies operating in the DRC to transfer back to Congolese banks at least 60 percent of their export revenues, but many companies ignore the law. If CENAREF becomes aware of a mining company having to transfer back a large sum to the DRC, CENAREF monitors the company's bank accounts, and if the transfer does not appear, CENAREF sanctions the company. CENAREF also keeps a close eye on the investments and financing of mining companies and routinely requires Congolese mining companies to justify the investments they have received from foreign investors. Kisula claimed that more and more Russian companies were investing in the DRC mining sector.

(SBU) Central Bank Reiterates Challenges to Fighting Corruption

5. (SBU) In his meeting with Central Bank Governor Malangu Kabedi Mbuyi, U/S Nelson reiterated U.S. interest for the new AML/CFT legislation to become law, saying that Treasury is ready to consider potential technical assistance once a strengthened AML/CFT legal framework is in place. Mbuyi said the BCC is closely examining the GABAC MER and working closely with CENAREF to identify and advance priority AML/CFT reforms, notably drafting a revised AML/CFT law, conducting the NRA, and developing a risk-based approach to supervision. Mbuyi and Nelson also discussed corruption in the mining sector, and related terrorism financing, ISIS/DRC, and the role of the local bank BGFI in prominent corruption cases reported by an international consortium of investigative journalists in the Congo Hold-Up reporting. Despite BGFI's central role in a number of public corruption cases, the BCC has not taken any adverse actions and instead claimed that BGFI has come to the BCC with proposed self-remediation steps. The BCC has closed its account with BGFI. In discussing the challenges to addressing corruption, Governor Mbuyi noted that risk assessment and surveillance in the fight against money laundering was a Central Bank priority. The Central Bank is working with the IMF and the World Bank to make sure regulations and processes are in place and up to international standards and welcomes capacity building support from Treasury. However, the BCC won't consider revising AML/CFT-related regulations until after the draft AML/CFT law has been adopted. Regarding corruption in the mining sector, Mbuyi noted that her organization cooperated with the Inspection General des Finances (IGF) to provide information on all sectors in the context of auditing concessions. The BCC also stated it has strengthened AML/CFT supervision of an automated transfer system (ATS) to facilitate interbank payment settlements within the DRC. The ATS had previously been paused after Treasury expressed concerns with the lack of AML/CFT controls. The ATS is now operational for local currencies, and the BCC requested guidance from Treasury if the strengthened supervisory controls address Treasury's concerns to allow the ATS to also process USD internally with clearing transactions through the DRC's lone correspondent, Citibank. (Note: Treasury is requesting additional information from the BCC, World Bank, and Association of Congolese Banks to determine the strength of the AML/CFT controls. End Note.)

(SBU) Central Bank and Ministry of Finance Discuss Food Security, Inflation

Concerns

6. (SBU) Central Bank Governor Mbuyi noted that she was concerned about the role the Russian invasion of Ukraine was playing in import price increases both from rising inflation and disruption of supply chains, especially food and fuel, which she said was important for the country as a net importer, especially in the context of upcoming presidential elections. Mbuyi said the BCC understands the need to stay within the limits of the DRC's IMF program, but this constrains the tools the BCC has to respond to a potential economic crisis. Finance Minister Nicolas Kazadi reiterated this point in his March 18 DVC meeting with U/S Nelson, saying the war had put inflationary pressures on imported products like wheat and oil (ref B). Kazadi added that the DRC is working with the World Bank and IMF to mitigate these price pressures and to reduce the financial strain on the Congolese people. Kazadi stated he would like to have U.S. advocacy at the World Bank and IMF to provide budgetary support to the DRC. Vice Minister of Finance O'Neige Nsele remarked that the DRC has committed to subsidizing gasoline and is now footing half the bill for gasoline imports, but the GDRC needs to find a way forward with the subsidies. The subsidies are taxing the national budget as companies like French oil giant Total continue to raise their prices. [Note: GDRC and media coverage tend to focus on the price increases companies are inflicting, without noting the global increase in oil prices. End note.]

7. (SBU) Kazadi noted that corruption is also a factor manipulating the cost of food in the DRC. His ministry is looking to take action against frozen seafood and poultry importers that underreport to Customs the value of their merchandise to evade duties. Kazadi acknowledged that the sanctions on bread and flour producer Saleh Assi were difficult, as the DRC needed to find a way to replace key staples his companies produce. Nelson commented that targeted sanctions and bilateral cooperation helped sanctions succeed, but Treasury is concerned that Assi has been able to continue operating in the DRC despite U.S. sanctions. Kazadi remarked that more action against corrupt actors would be possible with reform of the DRC judiciary system. CENAREF is making progress, but they need more coordination with the Ministry of Justice. Kazadi commented that it may be worth reviving the interagency committee to combat money laundering (COLUB), which he said is inactive, to coordinate AML/CFT reforms (Note: The Minister of Finance chairs the COLUB, but Kazadi has not used his position to drive interagency cooperation through COLUB despite previous Treasury encouragement for Kazadi to operationalize it. End Note.).

(SBU) Sanctions Provide Useful Tool to Combat Illicit Finance but Obstacles Remain

8. (SBU) Speaking by video from Paris, Finance Minister Nicolas Kazadi spoke about the need to adopt and implement the DRC's draft AML/CFT law, and to establish an anti-corruption culture. He stated this is a big challenge, but is possible with partnership from the U.S. Kazadi welcomed the Goetz designation, announced the day before the meeting, and recognized the value of U.S. sanctions in combatting corruption and illicit finance. However, Kazadi asked what the end goal was for these sanctions. U/S Nelson stated the goal is to deter bad actor and disrupt their ability to raise and move illicit funds, support local efforts, and to ultimately work with the DRC to develop its own domestic targeted financial sanctions capacity. Kazadi noted that DRC entities conduct 90 percent of their financial transactions in U.S. dollars, making sanctions a particularly effective tool in the DRC. He emphasized the importance of the Central Bank and CENAREF to ensure

financial institutions complied with the sanctions, which was a problem in the past. These problems also led to the DRC's poor reputation abroad, with western entities unwilling to do business with DRC banks. Kazadi said curbing corruption is essential to improve DRC acceptance in international finance. Cooperation with Citibank, the only correspondent bank for dollar transactions, is important. He added that the new AML/CFT legislation would give greater strength to prosecution efforts.

9. ~~(SBU)~~ Nelson told Kazadi his meetings had shown him the DRC's political will to confront corruption and the key role sanctions play in the mining sector, adding that Treasury would be open to consider technical assistance after the DRC has strengthened its AML/CFT legal framework, and that greater efforts toward digitalization could reduce the potential for corruption. On mining, Kazadi remarked that he had visited Washington in November 2021 to urge more cooperation on sanctions and recovering stolen assets. In particular, Kazadi urged the U.S. to bring the DRC into the DOJ's ongoing case against the Anglo-Swiss mining company Glencore. According to Kazadi, the GDRC is prepared to take action against mining companies involved in corrupt activities, though he did not say who the government was targeting. [Note: In February a court in Haut-Katanga province suspended for a six-month period the leadership of the Tenke Fungurume mine operated by the China Molybdenum Company, placing a seconded official from Gecamines in temporary custody of the mining joint venture. Minister of Justice Rose Mutombo subsequently suspended implementation of the court decision. End note.] Vice Minister of Finance O'neige Nsele added that the biggest obstacle to action on corruption was the Ministry of Justice, which had done nothing with the cases submitted by the IGF. She noted the IGF operates under the Finance Ministry, which did not have the authority to prosecute these cases. In a March 17 meeting, Minister of Justice Rose Mutombo explained that corruption prosecutions depend on the referrals from the IGF to the Prosecutor General.

~~(SBU)~~ Ministry of Justice Seeks U.S. Funding, Highlights Coordination and Equipment Limitations, Refuses to Share Gertler MOU

10. ~~(SBU)~~ In their March 17 meeting, U/S Nelson and Minister of Justice Rose Mutombo agreed that money laundering hinders the DRC's development but remarked that some NGOs may work with laundered money, which needs to be investigated. [Note: This comment aligns with recent negative statements by President Tshisekedi's Deputy Chief of Staff Andre Wameso, one of the Gertler MOU negotiators, alleging that some civil society groups may be financed by foreign actors opposed to the GDRC. End note.] Mutombo was interested in hearing about how the U.S. could support the Ministry of Justice, especially as financing problems have hindered any progress on the Ministry's action plan. Other needs include training and staff education, capacity building, and tools and equipment, such as computers. The Minister of Justice could not explain how her Ministry coordinates with other government agencies other than saying that she occasionally talks to groups like CENAREF. Mutombo repeated the popular mantra that the DRC has a strong legal code but that the country must be able to enforce its laws. When Ambassador Hammer requested a copy of the GDRC MOU with Dan Gertler, Mutombo insisted that the MOU was still being finalized. Ambassador Hammer pressed for a copy in the meantime, and Mutombo said she would ask the President and Prime Minister if it could be shared with the U.S.. She mentioned that she did not see Gertler deriving any material benefits from the MOU but also admitted that the DRC loses too much time in arbitration. Mutombo further commented that the DRC has never seen any of the info the United States

used to apply sanctions to Gertler.

(SBU) President Tshisekedi Calls for Support and Training from United States, Expresses Interest in U.S. Investment in Mining Sector

11. (SBU) During his meeting with President Felix Tshisekedi, Nelson said his office was committed to supporting the DRC and making sure Congolese resources stay in country, commenting that the sanctions against Belgian gold smuggler Alain Goetz were designed to do that. (Note: The DRC supported the Goetz sanctions in the UN. End note). U/S Nelson emphasized the importance for the DRC to strengthen its AML/CFT legal framework, notably by adopting a revised draft AML/CFT law, and Treasury interest in exploring potential technical assistance once the law has been adopted and implemented. Tshisekedi agreed and welcomed the offer for potential technical assistance contingent on a strengthened AML/CFT legal framework. Tshisekedi further welcomed the Nelson visit as another indication of the strong cooperation against corruption and welcomed the sanctions against Goetz as a way to bring back gold assets to the DRC, disrupt financing of armed groups in eastern DRC, and demonstration that the U.S. views the DRC as a priority. Tshisekedi said some Congolese did not understand why the United States issued these sanctions, but he noted that sanctions were for the Congolese people to get back their benefits. Tshisekedi commented on the importance of cooperating against corruption, saying the DRC needed support and training from the United States. Tshisekedi expressed his desire for U.S. investment in the mining sector. He added that he was working on getting better deals with the Chinese, adding that Congolese children and women worked in the mines with no benefits. Commenting on terrorist financing, Tshisekedi noted that his government is fighting terrorists in eastern Congo. He remarked that terrorists can use financing from Congolese gold to support their operations and the GDRC cannot disrupt this form of financing, so U.S. sanctions cutting off international businesses profiting from smuggled gold are important and useful. Tshisekedi also advocated working more on mineral traceability to penalize the countries which accepted illicit Congolese gold.

(SBU) Congolese Association of Banks (ACB) Cites Illicit Cross-Border Cash Flows, Tax System, and Lack of Enforcement as Primary Concerns

12. (SBU) The Congolese Banking Association (ACB) members said they had been working on internal reforms for three years by amending ACB's statutes and ensuring they are up to date with international standards for fighting corruption, money laundering, and terrorist financing. ACB ensures compliance with U.S. sanctions, and said they have good relations with the Office of Foreign Assets Control (OFAC). However, the ACB complained that the GDRC is not doing anything to support these actions or limit the ability of sanctioned actors to continue operating. The ACB has established a policy requiring all new customers to sign an affidavit acknowledging that their accounts will be frozen if they are designated by the U.S. Despite these affidavits, Congolese banks are still sued when the freeze accounts and they have lost every case in court. The ACB wants to combat the common practice where the sanctioned entities continue to work and collaborate with local businesses. The ACB complained that since the DRC is under such scrutiny, missteps by banks receive outside attention which is not fair because they are no worse than banks in other countries. The ACB claimed they conduct enhanced due diligence on every small to medium enterprise that seeks to open a new account, but acknowledged some banks do still welcome business with designated individuals. They also raised the issue of lack of control over cross-border transactions, citing millions of dollars in cash flows to and from Rwanda, Uganda, and Zambia. As part of the fight against money laundering and terrorist financing, the Central Bank banned cash

transactions of \$10,000 or more but this has created a parallel market in exchange houses that are not subject to regulatory scrutiny. However, there are many exemptions, including for state-owned enterprises, government institutions, provinces, and decentralized territorial entities. Regarding the current work with the Tshisekedi administration, the ACB salutes the efforts of the Ministry of Finance, the IGF, and CENAREF but says they lack many legal tools to fight corruption, and entrenched corruption threatens the ability to take meaningful action. In addition, they raised the issues of the opaque taxation system and the need to digitize tax collection to stamp out corruption as well as timely information on local sanctions.

(SBU) Civil Society Pushes for Improved Public Financial Management

13. (SBU) U/S Nelson met with representatives of the Carter Center, Open Society Initiative for Southern Africa (OSISA), the Public Expenditure Observer (ODEP), the Bureau for Training and Research for Integral Development (BUFORDI), and the Economic Governance and Democracy Network (REGED), to discuss public financial management reform and oversight of the government budget and expenditures. They explained that while GDRC leadership has talked about political will, they still want to see concrete actions, but acknowledged widespread capacity issues. They also said that changes in Central Bank leadership have allowed for more collaboration, but they still need these institutions to be more transparent by publishing information which allows civil society to monitor the government's financial flows. The group also discussed the need for large scale reforms to strengthen procurement processes, auditing functions through an independent Cour des Comptes ("Cour," - the Supreme Audit Institution), the judiciary, and the need for passage of the draft Access to Public Information law. The group noted the importance of a strong independent Cour which also has broad authority to audit and track embezzled funds, including oversight of the executive branch's Inspectorate General of Finance (IGF). The President has promised to appoint 57 magistrates to the Cour. [Note: This would contribute to fulfilling one of his Summit for Democracy commitments, but he has not yet taken action. End note.] Discussing procurement reform, the group noted that 70 percent of public spending is through public procurement, of which only 30 percent is through competitive bidding. [Comment: The 70 percent figure likely excludes the salaries of government employees. End comment.] Furthermore, many politicians are also business owners and there are no conflict-of-interest regulations. One representative said that this damages the entrepreneurial climate in DRC because politicians have insider information and use emergency procurement procedures to promote no-bid contracts. While the CSOs face threats for their work, they are dedicated but need to continue to learn how to follow and trace the money inside and outside DRC and work with international organizations that have this expertise.

(SBU) Civil Society Urges Reinforcing Banking and Judiciary and Increasing Transparency in Extractives Sector

14. (SBU) Nelson met with representatives of The Sentry, Congo is Not for Sale (CNPAV), Southern Africa Resource Watch (SARW), the Carter Center, and the Extractive Industries Transparency Initiative (EITI). The group saluted U.S. sanctions against Alain Goetz but urged that GDRC needs "double pressure" from both the international community and civil society in order to see change. The Sentry representative cautioned that the problem is not a lack of proposed reforms, but strengthening current institutions, including a stronger judiciary and independent CENAREF, IGF, and Central Bank. The group expressed frustration that the Tshisekedi administration openly calls for transparency, but follow-through seems limited, particularly regarding legal consequences for entities involved in the Congo Hold Up scandal where the government cannot trace the disappearance of millions of dollars of public money (Ref A). The EITI representative confirmed that the

GDRC is unable to trace not only the investments into the mining companies, but also its mineral production and therefore outgoing revenue owed to the state. He said this has resulted in a massive loss for the DRC's national budget as minerals are smuggled out of the country and fuel conflict inside and outside of its borders. Expanding the conversation to the forestry sector, EITI noted there are serious problems in transparency and financial declarations, citing that in 2013, the forestry sector only had \$12,000 of declared revenue and \$8,000 in 2014, and claiming that 70 percent of logging is illegal. Across the extractives sector, the group identified possible areas for U.S. support, including assisting with identifying economic operators and illicit financial flows, formalizing the artisanal minerals sector, and improving governance of the sector.

~~SENSITIVE BUT UNCLASSIFIED~~

Signature: EKPUK

Drafted By: KINSHASA STATE (b)(6) (Kinshasa)

Cleared By: Economic Growth STATE (b)(6)
CONS/AG STATE (b)(6) (Tunis)
POL-ECON STATE (b)(6) (Juba)
CONS: STATE (b)(6)
ECON STATE (b)(6) (Kinshasa)
STATE (b)(6)

Approved By: EXEC/LEG:Ekpuk, Marion J (Kinshasa)

Released By: KINSHASA STATE (b)(6) (Kinshasa)

Info: DEPT OF TREASURY WASHINGTON DC *ROUTINE*; DEPT OF JUSTICE WASHINGTON DC *ROUTINE*

Action Post: NONE

Dissemination Rule: ECON, MGT_ACTION, POL, AID, DAO_ACTION

UNCLASSIFIED

SBU

From: OFAC (b)(6)
To: OFAC (b)(6); STATE (b)(6)
Cc: STATE (b)(6); OFAC (b)(6); Lee, Young; OFAC (b)(6)
OFAC (b)(6)
Subject: RE: DRC/Angola
Date:
Attachments: OFAC (b)(5)

+ several others

STATE (b)(6)

Please see the prenotes with edits from OFAC in the attached to align with the press-releases. To include the update to Iran that was just flagged and fixed.

Have a great weekend!

OFAC (b)(6)

OFAC (b)(6)
Work: OFAC (b)(6)
Cell: OFAC (b)(6)
OFAC (b)(6)

From: OFAC (b)(6)
Sent: Friday, December 3, 2021 4:24 PM
To: STATE (b)(6) @state.gov>; STATE (b)(6) @state.gov>
Cc: STATE (b)(6) @state.gov>; STATE (b)(6) @state.gov>; OFAC (b)(6)
OFAC (b)(6)
Subject: RE: DRC/Angola

Hi OFAC (b)(6),

Unfortunately, I am not in receipt of the demarche cables. I had asked OFAC (b)(6) about this, as I recall you STATE (b)(6) noting you had sent them over yesterday afternoon. So, defer to him on that front, but I know we're all running around trying to put finishing touches on things, so I'm sure it's in train.

In the future, easiest way to ensure fast clearance with TFFC is to just put us on the chain when you send them to OFAC so we're all tracking.

Thanks, and have a great weekend,

OFAC (b)(6)

From: STATE (b)(6) @state.gov>
Sent: Friday, December 3, 2021 4:21 PM

To: STATE (b)(6) @state.gov; OFAC (b)(6)
Cc: STATE (b)(6) @state.gov; STATE (b)(6) @state.gov; OFAC (b)(6)
OFAC (b)(6)
Subject: RE: DRC/Angola

**** Caution:** External email. Pay attention to suspicious links and attachments. Send suspicious email to suspect@treasury.gov **

Thanks the update, OFAC (b)(6)

Any chance you can revert edits ASAP to our demarche cables regarding the December 6 and 7 actions?

Best,

STATE (b)(6)

--

STATE (b)(6)
U.S. Department of State
Office of Sanctions Policy and Implementation
(O): STATE (b)(6)
(M): STATE (b)(6)

From: STATE (b)(6) @state.gov
Sent: Friday, December 3, 2021 3:22 PM
To: OFAC (b)(6)
Cc: STATE (b)(6) @state.gov; STATE (b)(6) @state.gov; STATE (b)(6)
<STATE (b)(6)@state.gov>
Subject: RE: DRC/Angola

OFAC (b)(6)

Thank you for the confirmation. We'll pass to our AF colleagues to ensure they are aware and let you know if there are any concerns.

Appreciate the help on this!

Best,

STATE (b)(6)

From: OFAC (b)(6)
Sent: Friday, December 3, 2021 11:41 AM

To: STATE (b)(6)@state.gov>

Subject: DRC/Angola

STATE (b)(6)

Just a quick note that I checked in with my Africa colleagues to confirm that our DepSec is indeed prenoting both the DRC and Angola about those actions next week. DRC prenote will be with President Tshisekedi and will occur 2 hours prior to the action on Monday, while the Angola action is still in the scheduling process (requested Lourenço for day before action). TFFC's AA/S is planning to do follow-up, after action calls with counterparts, as well. AF and Posts should be tracking.

Hope that helps,

OFAC (b)(6)

OFAC (b)(6)

Director for Europe/Eurasia

Office of Terrorist Financing & Financial Crimes

U.S. Department of the Treasury

O: OFAC (b)(6)

M: OFAC (b)(6)

OFAC (b)(6)

Bates Nos. 02021-12461 (CKK) : 0000005205-0000005208

Withheld in Full under

FOIA Exemption (b)(5)

Bates Nos. 02021-12461 (CKK) : 0000005209-0000005210

Withheld in Full under
FOIA Exemptions (b)(5), (b)(6)

Bates Nos. 02021-12461 (CKK) : 0000005211-0000005214

Withheld in Full under

FOIA Exemption (b)(5)

Bates Nos. 02021-12461 (CKK) : 0000005215-0000005216

Withheld in Full under
FOIA Exemptions (b)(5), (b)(6)

From: OFAC (b)(6)
To: Gacki, Andrea; Smith, Bradley
Cc: Gatjanis, Gregory; Quinby, Ripley; OFAC (b)(6); Palluconi, Lisa; OFAC (b)(6);
Subject: State Department Gertler Legal Team Readout
Date: Wednesday, November 13, 2019 6:29:17 PM

Deliberative//Pre-Decisional

Andrea et al. -

Wanted to send this on to a small group, FYSA. Please let me know there is anything additional you need from us regarding this matter and we can follow-up offline.

Thanks and have a great evening!

V/r,

OFAC (b)(6)

Section Chief, Human Rights and Corruption

Office of Foreign Assets Control

U.S. Department of the Treasury

Work: OFAC (b)(6)

Work Cell: OFAC (b)(6)

SBU - DELIBERATIVE PROCESS

From: STATE (b)(6) @state.gov>

Sent: Wednesday, November 13, 2019 5:23 PM

To: STATE (b)(6) @state.gov>

Subject: Gertler Legal Team Readout

Representation: Dan Gertler's legal team, represented by Louis Freeh (Freeh Group), Alan Dershowitz (representation funding by Aleph Institute), Gary Apfel (Pepper Hamilton LLP), and Gregory Paw (Freeh Group) briefed DAS David Peyman on their client and expressed their call for support and guidance from the State Department in the Treasury Department process for Gertler's delisting.

DOJ: Freeh provided an overview of Gertler's current legal challenges which include three open DOJ cases in the Southern District of New York, Eastern District of New York, and in a Washington, DC hearing concerning the Foreign Corrupt Practices Act. The team already met with the DOJ who suggested they file a petition with Treasury.

Gertler's Past "Good Things": In their initial debrief with their client, Gertler outlined his past work with the USG in advancing U.S. foreign policy, particularly his relationship with former Secretary of State Rice's office, specifically the former ambassador to the DRC, when as a shuttle diplomat between the U.S., the DRC, and Rwanda. In his role as official representative of the government of the DRC, Gertler was instrumental in assisting the U.S. in its foreign policy goals and is willing to do so moving forward to influence the decisions of the DRC government, which his legal team later admitted he has a more limited role in with the new administration.

Future "Good Things" for America: Gertler's legal team considered offering that their client would leave DRC altogether but they dismissed this as would have no value to U.S. interests in that case and sanctions will prevent him from being influential. Therefore, removing the sanctions will be a win for the U.S. The former ambassador to the DRC initially contacted Pepper Hamilton to advocate for Gertler.

Proposal: OFAC (b)(4)

OFAC (b)(4), (b)(6)

OFAC (b)(4)

OFAC (b)(4)In exchange, Gertler will be a U.S. advocate in the region, helping to seek out business in the DRC and limit Chinese and Russian influence. They expressed his inability to perform to the best of his ability these roles with sanctions in place, but relayed that he will continue his good works in the DRC with or without sanctions.

DAS Peyman Response:

OFAC (b)(5)

OFAC (b)(5)

STATE (b)(6)

U.S. Department of State

Office of Sanctions Policy and Implementation

STATE (b)(6)

From: OFAC (b)(6)
To: STATE (b)(6) | OFAC (b)(6)
Cc: OFAC (b)(6) | STATE (b)(6) (Kinshasa); STATE (b)(6) (Kinshasa); STATE (b)(6) | OFAC (b)(6)
Subject: Re: Report on Gertler has been published
Date: Thursday, July 2, 2020 9:03:53 PM

Hi STATE (b)(6)

No updates on the below, but we did just receive this report and will certainly be digging into it after the holiday.

Thanks and we will be in touch!

V/r,

OFAC (b)(6)

Section Chief

Human Rights and Corruption

Office of Foreign Assets Control

U.S. Department of the Treasury

Work: OFAC (b)(6)

Work Cell: OFAC (b)(6)

From: STATE (b)(6) @state.gov>
Date: July 2, 2020 at 8:50:11 PM EDT
To: OFAC (b)(6)
OFAC (b)(6)
Cc: OFAC (b)(6)
OFAC (b)(6) | STATE (b)(6) @state.gov>, STATE (b)(6)
STATE (b)(6) @state.gov>, STATE (b)(6)
STATE (b)(6) @state.gov>, STATE (b)(6) @state.gov>
Subject: FW: Report on Gertler has been published

**** Caution:** External email. Pay attention to suspicious links and attachments. Send suspicious email to suspect@treasury.gov **

Hi colleagues- assuming you have this too. Any update on the Gertler designation AKAs (Fleurette Mimi/Ventura)?

SENSITIVE BUT UNCLASSIFIED

From: Margot Mollat Du Jourdin | STATE (b)(6)
Sent: Thursday, July 2, 2020 4:13 AM
To: STATE (b)(6) @state.gov>

2021-1246 (CKK): 0000005920

Subject: FW: Report on Gertler has been published

Dear ^{STATE (b)(6)} [REDACTED]

Just wanted to let you know that our report on Gertler has finally been published.

I have attached here, and you can also find it here: <https://www.globalwitness.org/fr/undermining-sanctions-fr/>

Bloomberg also did a great coverage of the story:

<https://www.bloomberg.com/news/features/2020-07-02/sanctioned-billionaire-dan-gertler-s-haven-a-tiny-congolese-bank>

Best wishes,
Margot

Margot Mollat du Jourdin
DR Congo Campaign

Global Witness

[REDACTED] | Twitter: @margotmollat | www.globalwitness.org

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FIND THE FACTS | EXPOSE THE STORY | CHANGE THE SYSTEM

From: STATE (b)(6)
To: STATE (b)(6) (Sensitive); STATE (b)(6) (London); OFAC (b)(6)
Cc: STATE (b)(6) (Sensitive)
Subject: RE: US designations for corruption under GloMag
Date: Thursday, November 12, 2020 9:08:09 AM
Attachments: [10976_PublishedFR_12-31-2019.pdf](#)
[10258_PublishedFR_02-02-2018.pdf](#)
[2018-28311.pdf](#)

**** Caution:** External email. Pay attention to suspicious links and attachments. Send suspicious email to suspect@treasury.gov **

STATE (b)(6)

Happy Thursday to you!

Though not exclusively corruption, the Global Magnitsky annual reports published in our Federal Register lay out the individuals, their countries, and the rationale of each designation. I've attached them here.

These would not include those designations imposed in 2020, which include corruption-related designations targeting actors in Uganda (<https://home.treasury.gov/news/press-releases/sm1095>), The Gambia and South Sudan (<https://home.treasury.gov/news/press-releases/sm1122>), Cambodia (<https://home.treasury.gov/news/press-releases/sm1121>), and Lebanon (<https://home.treasury.gov/news/press-releases/sm1177>). The 2020 annual report, to be submitted to Congress and published to the Federal Register in December, will include these actions.

Let me know if this is what you were looking for or if there's additional information I can provide.

Best,

STATE (b)(6)

--

STATE (b)(6)
U.S. Department of State
Economic Sanctions Policy and Implementation
STATE (b)(6) or **STATE (b)(6)**

From: STATE (b)(6) (Sensitive) STATE (b)(6)
Sent: Wednesday, November 11, 2020 1:15 PM
To: STATE (b)(6)) STATE (b)(6)@state.gov>; OFAC (b)(6) STATE (b)(6)
STATE (b)(6)@state.gov>; OFAC (b)(6)
Cc: STATE (b)(6) (Sensitive) STATE (b)(6)

Subject: US designations for corruption under GloMag

Hi all,

I hope your weeks are going well. This is just a quick one.

I wonder if there is a document that you can share which summarises all of the designations you have made under GloMag for corruption (and neatly sets out the name of individual, country, and briefly summarises the rationale behind designation)? I know you publish the names of individuals/entities, however it's difficult to get a broad overview without going through each case individually.

Not to worry if no such document exists, just thought I would ask in case it does!

Many thanks,

STATE (b)(6) | Policy Officer – Global Human Rights and Thematic Sanctions | Sanctions Unit
| Multilateral Policy Directorate
| Foreign, Commonwealth & Development Office |
STATE (b)(6)) | ECHO: **STATE (b)(6)** **STATE (b)(6)**
[GOV.UK/FCO](https://www.gov.uk/fco) | [FCO YouTube](#) | [FCO Flickr](#) | [FCO on Twitter](#) | [FCO on Facebook](#)

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her identity to the satisfaction of a person authorized to accept passport applications.

Methodology

The Affidavit of Identifying Witness is submitted in conjunction with an application for a U.S. passport. Due to legislative mandates, Form DS-0071 is only available at acceptance facilities, passport agencies, and U.S. embassies and consulates. This form must be completed and signed in the presence of an authorized Passport Agent, Acceptance Agent, or Consular Officer.

Rachel M. Arndt,

Deputy Assistant Secretary for Passport Services, Bureau of Consular Affairs, Department of State.

[FR Doc. 2018-28201 Filed 12-27-18; 8:45 am]

BILLING CODE 4710-06-P

DEPARTMENT OF STATE

[Public Notice: 10644]

Notice of Determinations; Culturally Significant Object Imported for Exhibition—Determinations: “Visiting Masterpiece: Juan de Mesa’s Saint Louis of France” Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that a certain object to be included in the exhibition “Visiting Masterpiece: Juan de Mesa’s Saint Louis of France,” imported from abroad for temporary exhibition within the United States, is of cultural significance. The object is imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit object at The Art Institute of Chicago, Chicago, Illinois, from on or about January 17, 2019, until on or about December 17, 2020, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202-632-6471; email: section2459@state.gov). The mailing address is U.S. Department of State, L/PD, SA-5, Suite 5H03, Washington, DC 20522-0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998

(112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236-3 of August 28, 2000, and Delegation of Authority No. 236-21 of December 14, 2018.

Jennifer Z. Galt,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 2018-28228 Filed 12-27-18; 8:45 am]

BILLING CODE 4710-05-P

DEPARTMENT OF STATE

[Public Notice: 10636]

Global Magnitsky Human Rights Accountability Act Annual Report

ACTION: Notice.

SUMMARY: This notice contains the text of the report required by the Global Magnitsky Human Rights Accountability Act, as submitted by the Secretary of State pursuant to Executive Order 13818.

FOR FURTHER INFORMATION CONTACT:

Benjamin A. Kraut, Email: Krautb@state.gov, Phone: (202) 647-9452.

SUPPLEMENTARY INFORMATION: On

December 10, 2018, the Secretary of State approved the following report pursuant to Executive Order 13818 (E.O. 13818). E.O. 13818, which builds on and implements the Global Magnitsky Human Rights Accountability Act (Pub. L. 114-328, Title XII, Subtitle F), was issued by the President on December 20, 2017, with an effective date of December 21, 2017. The text of the report follows:

As required by Section 1264 of the Global Magnitsky Human Rights Accountability Act of 2016 (Pub. L. 114-328, Title XII, Subtitle F) (the “Act”), and in accordance with E.O. 13818, issued to implement the Act, the Secretary of State, in consultation with the Secretary of the Treasury, submits this report to detail the Administration’s implementation of the Act in 2018.

In 2018, the United States took significant action under the Global Magnitsky sanctions program (Global Magnitsky). As of December 10, 2018, the United States has designated 101 foreign persons (individuals and entities) under E.O. 13818. This sanctions program, which targets human rights abusers, corrupt actors, and their enablers, represents the best of the United States’ values by taking impactful steps to protect and promote human rights and combat corruption around the world. Through the Act and E.O. 13818, the United States has sought to disrupt and deter serious human

rights abuse and corruption abroad; promote accountability for those who act with impunity; and protect, promote, and enforce longstanding international norms alongside our partners and allies.

As the President outlined in his National Security Strategy (NSS), liberty, free enterprise, equal justice under the law, and the dignity of every human life are values that represent who we are as a people. Further, the NSS states that we support with our words and actions those who live under oppressive regimes and seek freedom, individual dignity, and the rule of law. Through Global Magnitsky, the Administration is taking action to execute the President’s vision as described in the NSS.

Actions taken in 2018 demonstrated the reach, flexibility, and broad scope of Global Magnitsky. The United States responded to an evolving crisis in Nicaragua, promoted accountability for serious human rights abuse constituting ethnic cleansing in Burma, addressed serious human rights abuse and corruption in the Democratic Republic of Congo, the Dominican Republic, Turkey, Cambodia, and Saudi Arabia, and clearly demonstrated the resolve of the Administration to leverage this important tool, when appropriate, to target individuals and entities engaging in specified conduct.

When considering financial sanctions under Global Magnitsky, the United States prioritizes actions that are expected to produce a tangible and significant impact on the sanctioned persons and their affiliates, so as to prompt changes in behavior or disrupt the activities of malign actors. Persons sanctioned pursuant to this authority appear on the Office of Foreign Assets Control’s (OFAC) List of Specially Designated Nationals and Blocked Persons (SDN List). As a result of these actions, any property or interests in property of the sanctioned persons within or transiting U.S. jurisdiction is blocked. Additionally, U.S. persons are generally prohibited from engaging in transactions with blocked persons, including entities 50 percent or more owned by designated persons. The Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, imposed financial sanctions on the following persons pursuant to Global Magnitsky:

Financial Sanctions Imposed

1. *Felix Ramon Bautista Rosario: Bautista was designated on June 12, 2018, for engaging in corrupt acts, including in relation to reconstruction efforts in Haiti. Bautista is a Senator*

from the Dominican Republic who has engaged in significant acts of corruption in both the Dominican Republic and Haiti, and who has been publicly accused of money laundering and embezzlement. Bautista has reportedly engaged in bribery in relation to his position as a Senator, and is alleged to have engaged in corruption in Haiti, where he used his connections to win public works contracts to help rebuild Haiti following several natural disasters, including one case where his company was paid over \$10 million for work it had not completed. In a related action, OFAC designated five entities in the Dominican Republic that are owned or controlled by Bautista: Constructora Hadom SA, Soluciones Electricas Y Mecanicas Hadom S.R.L., Seymeh Ingenieria SRL, Inmobiliaria Rofi SA, and Constructora Rofi SA.

2. **Hing Bun Hieng:** Bun Hieng was designated on June 12, 2018, for being the leader of an entity involved in serious human rights abuse. Bun Hieng is the commander of Cambodia's Prime Minister Bodyguard Unit (PMBU), a unit in the Royal Cambodian Armed Forces that has engaged in serious acts of human rights abuse against the people of Cambodia. The PMBU has been implicated in multiple attacks on unarmed Cambodians over the span of many years, including in 2013 at Wat Phnom and in 2015 in front of the National Assembly. In the 2015 incident, only three members of the PMBU were sent to jail after they confessed to participating in an attack on opposition lawmakers, and were promoted upon their release. Bun Hieng and the PMBU have been connected to incidents where military force was used to harass gatherings of protesters and the political opposition going back at least to 1997, including an incident where a U.S. citizen received shrapnel wounds.

3. **Dan Gertler Affiliated Entities:** Dan Gertler was named in the Annex to E.O. 13818 in December 2017, for his role as an international businessman and billionaire who 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). The entities designated on June 15, 2018, for being affiliated with Dan Gertler are as follows: Moku Mines D'or SA, Moku Goldmines AG, Fleurette Energy I B.V., Fleurette Africa Resources I B.V., African Trans International Holdings B.V., Fleurette African Transport B.V., Oriental Iron Company SPRL, Iron Mountain Enterprises Limited, Sanzetta Investments Limited, Almerina Properties Limited, Interlog DRC, Kitoko

Food Farm, Karibu Africa Services SA, and Ventura Development Sasu.

4. **Francisco Javier Diaz Madriz:** Diaz was designated on July 5, 2018, for being responsible for, or the leader of entities involved in, serious human rights abuse in Nicaragua. Diaz is a Commissioner of Nicaragua's National Police (NNP) and has been referred to as the de facto head of, and has directed the day-to-day business of, the NNP. Under Diaz's command, the NNP has engaged in serious human rights abuse against the people of Nicaragua, including extrajudicial killings. In June, masked gunmen accompanied by individuals identified by witnesses as Nicaraguan police reportedly set fire to a family home in Managua, killing six, including two young children. When neighbors attempted to help, the police allegedly shot at them, preventing the would-be rescuers from reaching the family. The Nicaraguan police have approached gang leaders in Nicaragua for support in attacking anti-government protesters and have been accused of indiscriminately firing on and killing peaceful protesters.

5. **Fidel Antonio Moreno Briones:** Moreno was designated on July 5, 2018, for being responsible for, or the leader of entities involved in, serious human rights abuse in Nicaragua. Moreno serves as the main link between municipal governments and the Sandinista National Liberation Front (FSLN), and has also acted as a leader of the Sandinista Youth, the FSLN's youth organization. The Sandinista Youth has been implicated in numerous serious human rights abuses related to the ongoing protests against the Nicaraguan government, including in the beating of protesters in April 2018 and allegedly participating in the June attack that killed a family of six in Managua. Moreno was personally implicated in ordering attacks on protesters as far back as 2013, when elderly and young people who were peacefully protesting reduced retirement pensions, were violently dislodged from their encampment by members of the Sandinista Youth. In 2013, Moreno also orchestrated the use of motorcyclists to violently attack individuals protesting the flawed rollout of a Nicaraguan government program, and in early 2017 recruited others to join a group of motorcyclists to take part in measures to counter anti-government marches. Moreno has been accused of stealing large sums of money from Managua municipal projects, as well as using municipal funds to pay for FSLN party activities.

6. **Jose Francisco Lopez Centeno:** Lopez was designated on July 5, 2018,

for engaging in corrupt activities. Lopez is the Vice President of ALBANISA, the Nicaraguan company that imports and sells Venezuelan petroleum products, and is President of the Nicaraguan state-owned oil company Petronic. Lopez has had access significant funds collected by the government in the form of taxes and fines that he could exploit, including for the personal use of Nicaraguan leaders. When involved in infrastructure projects, Lopez would syphon funds by negotiating personal fees, has positioned numerous individuals throughout the government who have helped him steal millions of dollars on an annual basis, and has used his position to his and his family's benefit by using companies they own to win government contracts. ALBANISA is 49% owned by Petronic, and 51% owned by Venezuela's national oil company, Petroleos de Venezuela (PDVSA). Senior officials within the Nicaraguan government and the FSLN have used ALBANISA funds to purchase television and radio stations, hotels, cattle ranches, electricity generation plants, and pharmaceutical laboratories.

7. **Abdulhamit Gul:** Gul, the Turkish Minister of Justice, was designated on August 1, 2018, for being the leader of an entity that has engaged in, or whose members have engaged in, serious human rights abuse.

8. **Suleyman Soylu:** Soylu, the Turkish Minister of Interior, was designated on August 1, 2018, for being the leader of an entity that has engaged in, or whose members have engaged in, serious human rights abuse.

9. **Aung Kyaw Saw:** Aug Kyaw Saw was designated on August 17, 2018, for having been the leader of the Bureau of Special Operations (BSO) 3, an entity whose members have engaged in serious human rights abuse during his tenure. As commander of BSO 3, Aung Kyaw Zaw controlled military and border guard police operations in Western, Southern, and Southwestern Commands from 2015 to early 2018. Operations in regions controlled by Western Command, were led by his subordinate Maung Maung Soe. The President sanctioned Soe for widespread human rights abuse on December 20, 2017, including military operations in Rakhine State in and after August 2017. Subordinates under his command played leading roles in a crisis in Rakhine State, which included widespread human rights abuses that killed thousands and drove hundreds of thousands of Rohingya to Bangladesh, a situation the Secretary of State concluded constitutes ethnic cleansing.

10. *Khin Maung Soe*: Khin Maung Soe was designated on August 17, 2018, for having been a leader of Military Operations Command (MOC) 15, an entity whose members engaged in serious human rights abuse during his tenure. Members of MOC 15 participated in the Maung Nu massacre on August 27, 2017, and other abuses in Rakhine State. In Maung Nu, soldiers reportedly beat, sexually assaulted, and summarily executed or otherwise killed dozens of Rohingya villagers.

11. *Thura San Lwin*: Thura San Lwin was designated on August 17, 2018, for having been the leader of the Border Guard Police (BGP), an entity whose members have engaged in serious human rights abuse during his tenure. Thura San Lwin commanded the BGP from October 2016 to October 2017, during which time his subordinates engaged in widespread extrajudicial killings, sexual violence, assault, and other abuses of human rights.

12. *Khin Hlaing*: Khin Hlaing was designated on August 17, 2018, for leading the 99th Light Infantry Division (LID), a military entity whose members engaged in serious human rights abuse during his tenure. The 99th LID participated in abuses, including in November 2016, when 99th LID soldiers in Mong Ko, Shan State, detained ethnic Kachin and Chinese minority villagers. For 13 days, the villagers were forced to serve as human shields by lying down between rows of fences encircling the 99th LID element's outpost. The villagers were forced to stay lying down, exposed to the elements, gunfire, and grenade attacks while 99th LID soldiers sheltered behind them while fighting with militia forces. The 99th LID also engaged in beatings, killings, forced disappearances, and other serious abuses in Shan State.

13. *The Burmese 99th LID*: The 99th LID was designated on August 17, 2018, for engaging in serious human rights abuses. The 99th LID participated in abuses in Mong Ko and elsewhere in Shan State detailed above. In 2017, the 99th LID was deployed to Rakhine State and participated in serious human rights abuses alongside the 33rd LID and other security forces. In one operation in Min Gyi Village, hundreds of men, women, and children were reportedly forced to the nearby river bank where the 99th LID opened fire, executing many of the men, and forced women and girls to nearby houses where they were sexually assaulted. A number of these women and children were later stabbed and beaten, with the houses set on fire while they were inside.

14. *The Burmese 33rd LID*: The 33rd LID was designated on August 17, 2018,

for engaging in serious human rights abuse. The 33rd LID participated in abuses in Rakhine State, including the August 27, 2017, operation in Chut Pyin village. This operation included extrajudicial executions, forced disappearances, and sexual violence, as well as firing on fleeing villagers. Hundreds were reportedly killed in this one operation alone. Members of the 33rd LID, along with other security forces, also participated in operations in Inn Din in August and September of 2017. Nearly all of the thousands of Rohingya residing in Inn Din were driven out of the village. Ten Rohingya men and boys were captured, bound, and executed by security forces and militia. Two journalists remain detained for investigating the incident.

15. *Saud Al-Qahtani*: Saud Al-Qahtani was designated on November 15, 2018, for being responsible for, or complicit in, or having directly or indirectly engaged in serious human rights abuse. He is a senior official of the Government of Saudi Arabia who was part of the planning and execution of the operation that led to the killing of Jamal Khashoggi in the Saudi Consulate in Istanbul, Turkey on October 2, 2018.

16. *Maher Mutreb*: Maher Mutreb was designated on November 15, 2018, for being responsible for, or complicit in, or having directly or indirectly engaged in serious human rights abuse. He coordinated and executed the operations resulting in the killing of Jamal Khashoggi in the Saudi Consulate General in Istanbul, Turkey on October 2, 2018.

17. *Salah Tubaigy*: Salah Tubaigy was designated on November 15, 2018, for being responsible for, or complicit in, or having directly or indirectly engaged in serious human rights abuse. He played a role in the killing of Jamal Khashoggi on October 2, 2018.

18. *Meshal Albostani*: Meshal Albostani was designated on November 15, 2018, for being responsible for, or complicit in, or having directly or indirectly engaged in serious human rights abuse. He played a role in the killing of Jamal Khashoggi on October 2, 2018.

19. *Naif Alarifi*: Naif Alarifi was designated on November 15, 2018, for being responsible for, or complicit in, or having directly or indirectly engaged in serious human rights abuse. He played a role in the killing of Jamal Khashoggi on October 2, 2018.

20. *Mohammed Alzahrani*: Mohammed Alzahrani was designated on November 15, 2018, for being responsible for, or complicit in, or having directly or indirectly engaged in

serious human rights abuse. He played a role in the killing of Jamal Khashoggi on October 2, 2018.

21. *Mansour Abahussain*: Mansour Abahussain was designated on November 15, 2018, for being responsible for, or complicit in, or having directly or indirectly engaged in serious human rights abuse. He played a role in the killing of Jamal Khashoggi on October 2, 2018.

22. *Khalid Alotaibi*: Khalid Alotaibi was designated on November 15, 2018, for being responsible for, or complicit in, or having directly or indirectly engaged in serious human rights abuse. He played a role in the killing of Jamal Khashoggi on October 2, 2018.

23. *Abdulaziz Alhawsawi*: Abdulaziz Alhawsawi was designated on November 15, 2018, for being responsible for, or complicit in, or having directly or indirectly engaged in serious human rights abuse. He played a role in the killing of Jamal Khashoggi on October 2, 2018.

24. *Waleed Alsehri*: Waleed Alsehri was designated on November 15, 2018, for being responsible for, or complicit in, or having directly or indirectly engaged in serious human rights abuse. He played a role in the killing of Jamal Khashoggi on October 2, 2018.

25. *Thaar Alharbi*: Thaar Alharbi was designated on November 15, 2018, for being responsible for, or complicit in, or having directly or indirectly engaged in serious human rights abuse. He played a role in the killing of Jamal Khashoggi on October 2, 2018.

26. *Fahad Albalawi*: Fahad Albalawi was designated on November 15, 2018, for being responsible for, or complicit in, or having directly or indirectly engaged in serious human rights abuse. He played a role in the killing of Jamal Khashoggi on October 2, 2018.

27. *Badr Alotaibi*: Badr Alotaibi was designated on November 15, 2018, for being responsible for, or complicit in, or having directly or indirectly engaged in serious human rights abuse. He played a role in the killing of Jamal Khashoggi on October 2, 2018.

28. *Mustafa Almadani*: Mustafa Almadani was designated on November 15, 2018, for being responsible for, or complicit in, or having directly or indirectly engaged in serious human rights abuse. He played a role in the killing of Jamal Khashoggi on October 2, 2018.

29. *Saif Alqahtani*: Saif Alqahtani was designated on November 15, 2018, for being responsible for, or complicit in, or having directly or indirectly engaged in serious human rights abuse. He played a role in the killing of Jamal Khashoggi on October 2, 2018.

30. *Turki Alsehri*: Turki Alsehri was designated on November 15, 2018, for being responsible for, or complicit in, or having directly or indirectly engaged in serious human rights abuse. He played a role in the killing of Jamal Khashoggi on October 2, 2018.

31. *Mohammed Alotaibi*: Mohammed Alotaibi was designated on November 15, 2018, for being responsible for, or complicit in, or having directly or indirectly engaged in serious human rights abuse. Alotaibi played a role in the killing of Jamal Khashoggi and, in his capacity as Consul General, oversaw the Consulate General of Saudi Arabia in Istanbul where the killing occurred.

Visa Restrictions Imposed

Although no visa restrictions were imposed under the Act during 2018, persons designated pursuant to E.O. 13818 shall be subject to the visa restrictions articulated in section 2, unless an exception applies. Section 2 provides that the entry of persons designated under section 1 of the order is suspended pursuant to Presidential Proclamation 8693. In addition, the Department of State continues to take action, as appropriate, to impose visa restrictions on those responsible for certain human rights violations and corruption pursuant to other authorities, including Presidential Proclamations 7750 and 8697, and Section 7031(c) of the FY2018 Consolidated Appropriations Act. In addition, section 212(a)(3)(E) of the Immigration and Nationality Act renders aliens ineligible for visas if a consular officer has reason to believe that they participated in acts of genocide, torture or extrajudicial killings. The Department of State also continues to share information on an ongoing basis about the operation of Presidential Proclamation 7750 and section 7031(c) with interested governments.

Termination of Sanctions

The Secretary of the Treasury, in consultation with the Secretary of State, terminated financial sanctions on the following persons previously designated for serious human rights abuse:

1. *Abdulhamit Gul*: On November 2, 2018, the Department of the Treasury terminated sanctions with respect to Abdulhamit Gul.
2. *Suleyman Soyly*: On November 2, 2018, the Department of the Treasury terminated sanctions with respect to Suleyman Soyly.

Efforts To Encourage Governments of Other Countries To Impose Sanctions Similar to Those Authorized by the Act

In 2018, the Administration undertook an expansive outreach campaign in Europe, Canada, and the United Kingdom to lay the groundwork for a multilateral, trans-Atlantic human rights sanctions regime. After consulting closely with Canada, the United Kingdom, France, Germany, Spain, The Netherlands, Belgium, Estonia, Lithuania, and the European Union, the Administration has identified champions, partners, and potential spoilers of the objectives established by Congress within the Act. Subsequent to our outreach, the Foreign Ministers of Canada and the Netherlands, and the Prime Minister of the United Kingdom each publicly endorsed the establishment of a human rights sanctions program at the European Union. The United States joins our Canadian, Dutch, and British partners in calling for such a program, and continues to provide both public and private support for this initiative. The Departments of State and Treasury have, over the last year, shared information, coordinated messaging, and provided technical assistance to this end.

Dated: December 19, 2018.

David Hale,

*Under Secretary for Political Affairs,
Department of State.*

[FR Doc. 2018-28311 Filed 12-27-18; 8:45 am]

BILLING CODE 4710-AE-P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Product Exclusions: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of product exclusions.

SUMMARY: Effective July 6, 2018, the U.S. Trade Representative (Trade Representative) imposed additional duties on goods of China with an annual trade value of approximately \$34 billion (the \$34 billion action) as part of the action in the Section 301 investigation of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation. The Trade Representative's determination included a decision to establish a product exclusion process. The Trade Representative initiated the exclusion process in July 2018, and stakeholders have proceeded to submit

requests for the exclusion of specific products. This notice announces the Trade Representative's determination to grant certain exclusion requests, as specified in the Annex to this notice. The Trade Representative will continue to issue decisions on pending requests on a periodic basis.

DATES: The product exclusions announced in this notice will apply as of the July 6, 2018 effective date of the \$34 billion action, and will extend for one year after the publication of this notice. U.S. Customs and Border Protection will issue instructions on entry guidance and implementation.

FOR FURTHER INFORMATION CONTACT: For general questions about this notice, contact Assistant General Counsels Arthur Tsao or Megan Grimboll, or Director of Industrial Goods Justin Hoffmann at (202) 395-5725. For specific questions on customs classification or implementation of the product exclusions identified in the Annex to this notice, contact traderemedy@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

A. Background

For background on the proceedings in this investigation, please see the prior notices issued in the investigation, including 82 FR 40213 (August 23, 2017), 83 FR 14906 (April 6, 2018), 83 FR 28710 (June 20, 2018), 83 FR 33608 (July 17, 2018), 83 FR 38760 (August 7, 2018), and 83 FR 40823 (August 16, 2018), 83 FR 47974 (September 21, 2018), and 83 FR 65198 (December 19, 2018).

Effective July 6, 2018, the Trade Representative imposed additional 25 percent duties on goods of China classified in 818 8-digit subheadings of the Harmonized Tariff Schedule of the United States (HTSUS), with an approximate annual trade value of \$34 billion. See 83 FR 28710. The Trade Representative's determination included a decision to establish a process by which U.S. stakeholders may request exclusion of particular products classified within an 8-digit HTSUS subheading covered by the \$34 billion action from the additional duties. The Trade Representative issued a notice setting out the process for the product exclusions, and opening a public docket. See 83 FR 32181 (the July 11 notice).

Under the July 11 notice, requests for exclusion had to identify the product subject to the request in terms of the physical characteristics that distinguish the product from other products within the relevant 8-digit subheading covered by the \$34 billion action. Requestors

Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the Exchange can reorganize its Rulebook as already approved by the Commission. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change as operative upon filing.¹³

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-Phlx-2018-11 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to File Number SR-Phlx-2018-11. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements

¹³ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Phlx-2018-11 and should be submitted on or before February 23, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018-02129 Filed 2-1-18; 8:45 am]

BILLING CODE 8011-01-P

DEPARTMENT OF STATE

[Public Notice: 10258]

Global Magnitsky Human Rights Accountability Act Annual Report

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: This notice contains the text of the report, submitted by the President required by the Global Magnitsky Human Rights Accountability Act, as submitted by the Secretary of State.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Kraut, Email: Krautb@state.gov, Phone: (202) 647-9452.

SUPPLEMENTARY INFORMATION: On December 21, 2017, The Secretary of State approved the following report pursuant to a delegation of authority from the President under Executive Order 13818. Executive Order 13818, which implements the Global Magnitsky Human Rights Accountability Act (Pub. L. 114-328, Subtitle F), was issued by the President on December 20, 2017

with an effective date of December 21, 2017. The text of the report follows:

As required by Section 1264 of the Global Magnitsky Human Rights Accountability Act of 2016 (Pub. L. 114-328, Subtitle F) (the "Act"), and in accordance with the executive order (E.O.) issued to implement the Act, the Secretary of State, in consultation with the Secretary of the Treasury, submits this report to detail the Administration's implementation of the Act in 2017.

Enacted on December 23, 2016, the Act authorizes the President to impose financial sanctions and visa restrictions on foreign persons responsible for acts of corruption or certain human rights violations. On December 20, 2017, the President issued an executive order to implement the Act. This executive order authorizes the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, to impose financial sanctions on persons determined to be directly or indirectly responsible for serious human rights abuse or acts of significant corruption. The executive order also authorizes the Secretary of State to impose visa restrictions on persons designated pursuant to the executive order.

The United States is committed to protecting and promoting human rights and combatting corruption around the world. These efforts advance a world order that reflects U.S. values and increases the security of the United States, its allies, and its partners. The United States has led, and is uniquely positioned to continue leading, the international community in efforts to combat human rights abuse and corruption on the international stage. Sanctions issued pursuant to the Act, as implemented by the executive order, are consistent with these longstanding efforts.

The United States will, under the executive order, pursue tangible and significant consequences for those who commit serious human rights abuse and engage in corruption. This tool will be used without hesitation to advance U.S. interests in cases involving human rights abusers or corrupt actors who are beyond the reach of other U.S. sanctions authorities, but whose designation could have an impact on these and other malign actors.

Financial Sanctions

Over the last year, various departments and agencies of the United States Government have actively collected information from multiple sources—including the Intelligence Community, U.S. missions around the world, non-governmental organizations,

¹⁴ 17 CFR 200.30-3(a)(12).

and Congress—to support sanctions designations under the executive order.

In the executive order, the President issued sanctions and visa restrictions on several persons around the world for human rights abuse or corruption. Simultaneously, the Department of the Treasury issued a number of designations targeting individuals and entities engaged in human rights abuse or corruption or supporting those sanctioned by the President. The Annex and designations issued this year pursuant to the executive order are detailed 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.

Related to Jammeh's designation, the Department of the Treasury also 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 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.

Related to Gertler's designation, the Department of the Treasury 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 Testic: Slobodan Testic (Testic) 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, Testic would directly or indirectly provide bribes and financial assistance to officials. Testic 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. Testic owns or controls two Serbian companies, Partizan Tech and Technoglobal Systems DOO Beograd, and two Cyprus-based companies Grawit Limited and Charso Limited. Testic negotiates the sale of weapons via Charso Limited and used Grawit Limited as a mechanism to fund politicians.

Related to Testic's designation, the Department of the Treasury 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.

Related to Bol Mel's designation, the Department of the Treasury designated *ABMC Thai-South Sudan Construction Company Limited and Home and Away LTD.*

Mukhtar Hamid Shah: 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.

Visa Restrictions

Although no visa restrictions were imposed under the Act during the first year of its enactment, persons designated pursuant to the executive order may be subject to the visa restrictions articulated in Sec. 2. Sec. 2 contains restrictions pursuant to Presidential Proclamation 8693, which establishes a mechanism for imposing visa restrictions on Specially Designated Nationals and Blocked Persons (SDNs) designated under the executive order and certain other executive orders, as well as individuals designated otherwise for travel bans in UN Security Council resolutions. In addition, the Department of State continues to take action, as appropriate, to implement authorities pursuant to which it can impose visa restrictions on those responsible for human rights violations and corruption, including Presidential Proclamations 7750 and 8697, and Section 7031(c) of the FY2017 Consolidated Appropriations Act. The Department of State continues to make visa ineligibility determinations pursuant to the Immigration and Nationality Act (INA), including Section 212(a)(3)(E) which makes individuals who have participated in acts of genocide or committed acts of torture, extrajudicial killings, and other human rights violations ineligible for visas.

Termination of Sanctions

No sanctions imposed under the Act were terminated.

Efforts To Encourage Governments of Other Countries To Impose Sanctions Similar to Those Authorized by the Act

The United States is committed to encouraging other countries to impose sanctions on a similar basis to those provided for by the Act. The Departments of State and Treasury have consulted closely with United Kingdom and Canadian government counterparts over the last year to encourage development and implementation of statutes similar to the Act by those governments. Both countries have enacted similar laws. The Departments of State and Treasury shared information with various foreign partners regarding sanctions and other actions that might be taken against persons pursuant to the Act, as implemented by the E.O., in parallel with other governments' relevant authorities.

Manisha Singh,

Assistant Secretary of State, Bureau of Economic and Business Affairs, Department of State.

[FR Doc. 2018-02070 Filed 2-1-18; 8:45 am]

BILLING CODE 4710-AE-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Modification to Previously Published Notice of Intent To Prepare an Environmental Assessment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA is publishing this notice to advise the public of a modification to the Notice of Intent to Prepare an Environmental Assessment (EA) and notice of opportunity for public comment published in the **Federal Register** on April 21, 2014, at 79 FR 22177. Specifically, FAA is withdrawing Wildlife Fence Project from the scope of the EA, and the project will be subject instead to a discrete environmental review.

FOR FURTHER INFORMATION CONTACT: Parks Preston, Assistant Manager, Atlanta Airports District Office, 1701 Columbia Avenue, Room 220, College Park, Georgia 30337-2747, (404) 305-6799.

SUPPLEMENTARY INFORMATION: Paulding Northwest Atlanta Airport (PUJ) is located outside Atlanta, Georgia, in the

town of Dallas, Georgia. Paulding County and the Paulding County Airport Authority (PCAA) own the airport. PUJ opened in 2008 and is designated as a general aviation airport. An EA for the construction of PUJ was completed in 2005.

In September 2013, the PCAA submitted an application to the FAA requesting an Airport Operating Certificate under title 14 Code of Regulations, Part 139. A Part 139 Airport Operating Certificate allows the airport to accommodate scheduled passenger-carrying operations, commonly referred to as "commercial service." In November 2013, several Paulding County residents filed a Petition for Review in the United States Court of Appeals for the District of Columbia of two categorical exclusions (CATEXs) issued by the Georgia Department of Transportation (GDOT), as authorized by the FAA's State Block Grant Program, for airfield improvement projects. The petitioners argued that the two projects were connected to the proposed introduction of commercial service at PUJ. On December 23, 2013, the petitioners and the FAA entered into a settlement agreement under which the FAA agreed to prepare, at a minimum, an EA for the proposed Part 139 Airport Operating Certificate and all connected actions. The FAA is currently in the process of preparing that EA (current EA). While the settlement agreement contemplated that the current EA would include all actions connected with the proposed issuance of the Part 139 Airport Operating Certificate, the FAA opted to include in the current EA all reasonably foreseeable airport improvement projects, whether or not connected with the proposed introduction of commercial service.

On April 21, 2014, the FAA published a "Notice of Intent to Prepare an Environmental Assessment and Notice of Opportunity for Public Comment" in the **Federal Register**, 79 FR 22177. The Notice of Intent identified all of the projects intended to be reviewed in the EA, including "Install approximately 19,000 linear feet of wildlife fencing around the perimeter of the Airport". PUJ owners now desire to move forward with the Wildlife Fence Project more expeditiously than will be possible if the project remains within the scope of the current EA. The primary need for expediting this project is enhance aviation safety to General Aviation operations at PUJ.

The Wildlife Fence has independent utility, is not connected to the Part 139 Airport Operating Certificate, and is therefore not required by the National Environmental Policy Act or the terms

and Net Asset Value, suspension of trading or removal, trading halts, surveillance, minimum price variation for quoting and order entry, the information circular, and firewalls as set forth in the proposed Exchange rules applicable to Portfolio Fund Shares and the orders approving such rules. Moreover, U.S.-listed equity securities held by the Funds will trade on markets that are a member of ISG or affiliated with a member of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.³¹ All statements and representations made in this filing regarding the description of the portfolio or reference assets, limitations on portfolio holdings or reference assets, dissemination and availability of reference asset and intraday indicative values (as applicable), or the applicability of Exchange listing rules specified in this filing shall constitute continued listing requirements for the Shares. The issuer has represented to the Exchange that it will advise the Exchange of any failure by a Fund or Shares to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will surveil for compliance with the continued listing requirements. FINRA conducts certain cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement. If a Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures with respect to such Fund under Exchange Rule 14.12.

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. Rather, the Exchange notes that the proposed rule change will facilitate the listing of a new type of actively-managed exchange-traded products, thus enhancing competition among both market participants and listing venues, to the benefit of investors and the marketplace.

³¹ For a list of the current members of ISG, see www.isgportal.com. The Exchange notes that not all components of the Funds may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

- A. By order approve or disapprove such proposed rule change, or
- B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-CboeBZX-2019-107 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CboeBZX-2019-107. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the

provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CboeBZX-2019-107, and should be submitted on or before January 21, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³²

Eduardo A. Aleman,
Deputy Secretary.

[FR Doc. 2019-28217 Filed 12-30-19; 8:45 am]

BILLING CODE 8011-01-P

DEPARTMENT OF STATE

[Public Notice: 10976]

Global Magnitsky Human Rights Accountability Act Annual Report

SUMMARY: This notice contains the text of the report required by the Global Magnitsky Human Rights Accountability Act, as submitted by the Secretary of State pursuant to Executive Order 13818.

FOR FURTHER INFORMATION CONTACT: Bob Viglietta, Email: VigliettaR@state.gov, Phone: (202) 647-6526

SUPPLEMENTARY INFORMATION: On December 10, 2019, the Secretary of State approved the following report pursuant to Executive Order 13818 of December 20, 2017, "Executive Order Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption" (E.O. 13818), which builds on and implements the Global Magnitsky Human Rights Accountability Act (Pub. L. 114-328, Title XII, Subtitle F) ("the Act"). The text of the report follows:

Pursuant to Section 1264 of the Global Magnitsky Human Rights Accountability Act of 2016 (Pub. L. 114-328, Title XII, Subtitle F), and in accordance with E.O. 13818, "Executive Order Blocking the Property of Persons Involved in Serious Human Rights

³² 17 CFR 200.30-3(a)(12).

Abuse or Corruption” the Secretary of State, in consultation with the Secretary of the Treasury, submits this report to detail the Administration’s implementation of the Act in 2019.

In 2019, the United States took significant action under the Global Magnitsky sanctions program (“Global Magnitsky”). As of December 10, 2019, the United States has designated 198 foreign persons (individuals and entities) under E.O. 13818. This sanctions program, which targets human rights abusers, corrupt actors, and their enablers, represents the best of the United States’ values by taking impactful steps to protect and promote human rights and combat corruption around the world. Through the Act and E.O. 13818, the United States has sought to disrupt and deter serious human rights abuse and corruption abroad; promote accountability for those who act with impunity; and protect, promote, and enforce longstanding international norms alongside our partners and allies.

As the President outlined in his National Security Strategy (NSS), liberty, free enterprise, equal justice under the law and the dignity of every human life are values that represent who we are as a people. Further, the NSS states we support with our words and actions those who live under oppressive regimes and seek freedom, individual dignity, and the rule of law. Through Global Magnitsky, the Administration is taking action to execute the President’s vision as described in the NSS.

Actions taken in 2019 demonstrated the reach, flexibility, and broad scope of Global Magnitsky. The United States responded to corrupt actors in South Sudan involved in draining the country of critical resources; targeted members of a significant corruption network responsible for bribery and misappropriation of assets in South Africa; imposed consequences on a former Ugandan Police Inspector General for corruption and leading an organization engaged in human rights abuses; promoted accountability for serious human rights abuse and corruption among Iraqi militia and former governors; addressed actions of a former Mexican governor accepting bribes from narcotics trafficking organizations; and clearly demonstrated the resolve of the Administration to leverage this important tool, when appropriate, to target individuals and entities engaging in specified conduct.

When considering financial sanctions under Global Magnitsky, the United States prioritizes actions that are expected to produce a tangible and

significant impact on the sanctioned persons and their affiliates, to prompt changes in behavior or disrupt the activities of malign actors. Persons sanctioned pursuant to this authority appear on the Office of Foreign Assets Control’s (OFAC) List of Specially Designated Nationals and Blocked Persons (SDN List). As a result of these actions, any property or interests in property of the sanctioned persons within or transiting U.S. jurisdiction is blocked. Additionally, U.S. persons are generally prohibited from engaging in transactions with blocked persons, including entities 50 percent or more owned by designated persons. The Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, imposed financial sanctions on the following persons pursuant to Global Magnitsky:

1. *Roberto Sandoval Castaneda*: Sandoval Castaneda was designated on May 17, 2019, for engaging in an array of corruption activities, such as the misappropriation of state assets and the receipt of bribes from Mexican drug trafficking organizations, including the *Cartel de Jalisco Nueva Generacion (CJNG)*. Sandoval Castaneda has held numerous public offices in his home state of Nayarit, Mexico. During this time, Sandoval Castaneda misappropriated state assets and received bribes from narcotics trafficking organizations, including *CJNG*, in exchange for information and protection. In a related action, OFAC designated three of Sandoval Castaneda’s complicit family members who have acted or purported to act on his behalf by holding his ill-gotten assets in their names: *Ana Lilia Lopez Torres (wife)*, *Lidy Alejandra Sandoval Lopez (adult daughter)*, and *Pablo Roberto Sandoval Lopez (adult son)*.

Four Mexican entities were also designated for being owned or controlled by Sandoval or a designated family member: *Bodecarne, S.A. de C.V. (butcher business)*, *Iyari (clothing and accessories store)*, *L-Inmo, S.A. de C.V. (real estate holding company)*, and *Valor y Principio de Dar, A. C. (land-holding foundation)*.

2. *Rayan al-Kildani*: Al-Kildani was designated on July 18, 2019, for being responsible for or complicit in, or having directly or indirectly engaged in, serious human rights abuse as the leader of the 50th Brigade, a militia operating in Iraq’s Ninewa Plain. In May 2018, a video circulated among Iraqi human rights civil society organizations in which al-Kildani cut off the ear of a handcuffed detainee. The 50th Brigade is reportedly the primary impediment to the return of internally displaced

persons to the Ninewa Plain. The 50th Brigade has systematically looted homes in Batnaya, which is struggling to recover from ISIS’s brutal rule. The 50th Brigade has reportedly illegally seized and sold agricultural land, and the local population has accused the group of intimidation, extortion, and harassment of women.

3. *Waad Qado*: Qado, the leader of the 30th Brigade, a militia operating in Iraq’s Ninewa Plain, was designated on July 18, 2019, for being a leader or official of an entity that has engaged in, or whose members have engaged in, serious human rights abuse relating to his tenure. The 30th Brigade has extracted money from the population around Bartalla through extortion, illegal arrests, and kidnappings. The 30th Brigade has frequently detained people without warrants, or with fraudulent warrants, and has charged arbitrary customs fees at its checkpoints. Members of the local population allege that the 30th Brigade has been responsible for egregious offenses including physical intimidation, extortion, robbery, kidnapping, and rape.

4. *Nawfal Hammadi al-Sultan*: Al-Sultan, a former governor of Ninewa Province, Iraq, was designated on July 18, 2019, for being a current or former government official, or a person acting for or on behalf of such an official, who is responsible for or complicit in, or who has directly or indirectly engaged in, corruption. Following a ferry accident in Ninewa’s capital, Mosul, that killed nearly 100 people, Iraq’s parliament removed al-Sultan from office. Iraqi authorities have issued an arrest warrant for the former governor, who fled shortly after the accident. In a letter to Members of Parliament after the ferry accident, Prime Minister Adel Abdul Mahdi accused al-Sultan of negligence and dereliction of duty and said there was evidence the former governor was misusing funds and abusing his power.

5. *Ahmed al-Jubouri*: Al-Jubouri is a former governor of Salah al-Din, Iraq, and current Member of Parliament who was designated on July 18, 2019 for being a current or former government official, or a person acting for or on behalf of such an official, who is responsible for or complicit in, or who has directly or indirectly engaged in, corruption. Al-Jubouri was removed as governor and sentenced to prison in July 2017 upon conviction for misusing authority and federal funds and appropriating land for personal use. Al-Jubouri has since been released. Al-Jubouri has been known to protect his personal interests by accommodating

Iran-backed proxies that operate outside of state control.

6. Kale Kayihura: Kayihura, the former Inspector General of Police (IGP) of the Ugandan Police Force (UPF), was designated on September 13, 2019, for having been a leader or official of an entity that has engaged in, or whose members have engaged in, serious human rights abuse against Ugandan citizens, as well as for his involvement in corruption. As the IGP for the UPF, Kayihura led individuals from the UPF's Flying Squad Unit, which has engaged in the inhumane treatment of detainees. Detainees also reported that after being subjected to the abuse they were offered significant sums of money if they confessed to their involvement in a crime. In addition, Kayihura has engaged in numerous acts of corruption, including using bribery to strengthen his political position within the Government of Uganda, stealing funds intended for official Ugandan government business, and using another government employee to smuggle illicit goods, including drugs, gold, and wildlife, out of Uganda.

7. Ajay, Atul, and Rajesh Gupta; Salim Essa: The Guptas and Essa were designated on October 10, 2019, for their involvement in corruption in South Africa. The members of this network leveraged overpayments on government contracts, bribery, and other corrupt acts to fund political contributions and influence government actions. Ajay was designated for being the leader of an entity that has engaged in, or whose members have engaged in, corruption. Ajay is the family patriarch who formulated the family's corrupt business strategies and controlled its finances.

Atul has materially assisted, sponsored, or provided financial, material, technological support for, or goods or services to or in support of, an entity that has engaged in, or whose members have engaged in, corruption. Atul is widely known to have overseen the Gupta family's outreach to corrupt government officials.

Rajesh has materially assisted, sponsored, or provided financial, material, technological support for, or goods or services to or in support of, an entity that has engaged in, or whose members have engaged in, corruption. Rajesh cultivated important relationships with the sons of powerful South African politicians and led efforts to pursue business and relationships in a South African province where corruption was rampant. Rajesh attempted to use at least one of those relationships to seek undue influence with additional members of a South African political party.

Essa, a business associate of the Gupta family, has materially assisted, sponsored, or provided financial, material, technological support for, or goods or services to or in support of, an entity that has engaged in, or whose members have engaged in, corruption.

8. Ashraf Seed Ahmed Al-Cardinal: Al-Cardinal was designated on October 11, 2019, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, corruption, largely operating within South Sudan. Five companies owned or controlled by Al-Cardinal were also designated: Alcardinal General Trading Limited, Alcardinal General Trading LLC, Al Cardinal Investments Co. LTD, Alcardinal Petroleum Company limited, and NILETEL.

Sudanese businessman Al-Cardinal has been used by a senior South Sudanese government official as an intermediary to deposit and hold a large amount of funds in a country outside of South Sudan. Further, in early 2019, the South Sudanese government made millions of dollars in payments to a company owned by Al-Cardinal; while the official reason was for the payment for food, the money instead went to senior South Sudanese government officials. Other South Sudanese government officials have expressed dissatisfaction with the massive corruption in the South Sudanese government, noting that although large amounts of money were paid to Al-Cardinal for supplies and provisions, government forces never seemed to be adequately supplied. Separately, a company partially owned by Al-Cardinal has been publicly implicated in the importation of amphibious armored vehicles into South Sudan that gave the Government of South Sudan the ability to extend offensives that included violent attacks on innocent civilians.

9. Kur Ajing Ater: Ajing was designated on October 11, 2019, for having materially assisted, sponsored, or provided financial, material, technological support for, or goods or services to or in support of, an entity that has engaged in, or whose members have engaged in, corruption, largely operating within South Sudan. One company owned or controlled by Ajing was also designated: Lou Trading and Investment Company Limited. Ajing is a South Sudanese businessman who has bribed key officials in the Government of South Sudan in order to maintain influence and access to the South Sudanese oil market. Ajing used these bribes to both curry favor with a senior gatekeeper within the Government of

South Sudan and to ensure the silence and compliance of a key government officials. According to public media reports, Ajing received millions of dollars in contracts for the South Sudanese military, including one contract that alone exceeds the total amount budgeted for the military's goods and services for the year by a factor of ten.

10. Qais al-Khazali: Al-Khazali was designated on December 6, 2019, for being a foreign person who is a leader or official of an entity, including any government entity, that has engaged in, or whose members have engaged in, serious human rights abuse relating to his tenure. Al-Khazali is Secretary General of the Iran-backed Asa'ib Ahl al-Haq (AAH) militia in Iraq. During the late 2019 protests in many cities in Iraq, AAH has opened fire on and killed protestors. Additionally, Qais and Laith al-Khazali had leading roles in a January 2007 attack on an Iraqi government compound in Karbala. The attack killed five U.S. soldiers and wounded three.

11. Laith al-Khazali: Al-Khazali was designated on December 6, 2019, for being a foreign person who is responsible for, complicit in, or has directly or indirectly engaged in serious human rights abuse. Al-Khazali is a leader of AAH. In late 2015, al-Khazali controlled efforts to remove Sunnis from areas of Diyala Province, including killings to drive Sunnis from the area. Additionally, Qais and Laith al-Khazali had leading roles in a January 2007 attack on an Iraqi government compound in Karbala. The attack killed five U.S. soldiers and wounded three.

12. Husayn Falih 'Aziz al-Lami: Al-Lami was designated on December 6, 2019, for being a foreign person who is responsible for, complicit in, or has directly or indirectly engaged in serious human rights abuse. Al-Lami is an Iran-backed militia leader, tasked by other senior militia commanders with suppressing the late 2019 protests in Iraq. Al-Lami directed militia fighters who shot protesters in early October 2019, a time when dozens of protesters were killed.

13. Khamis Farhan Al-Khanjar Al-Issawi: Al-Khanjar was designated on December 6, 2019, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of corruption, including the misappropriation of state assets, the expropriation of private assets for personal gain, corruption related to government contracts or the extraction of natural resources, or bribery. Al-Khanjar is an Iraqi businessman and

millionaire who enjoys significant power on a regional and international level. According to a former senior Iraqi government official, al-Khanjar's influence has been mostly due to his willingness and ability to use his wealth to bribe others. Al-Khanjar has reportedly planned to spend millions of dollars in payments to Iraqi political figures in order to secure their support.

14. Aivars Lembergs: Lembergs was designated on December 9, 2019, for being a foreign person who is a current or foreign government official responsible for or complicit in, or directly or indirectly engaged in, corruption, including the misappropriation of state assets, the expropriation of private assets for personal gain, corruption related to government contracts or the extraction of natural resources, or bribery. Lembergs has served as the Mayor of Ventspils, Latvia since 1988. From that time, he has been repeatedly accused of money laundering, bribery, and abuse of office. Lembergs controls entities through political parties and corrupt politicians, and systematically exploits those entities and individuals for his own economic gain. Lembergs has used his influence over leadership of political parties to shape government personnel and place certain government officials in positions, as well as to obstruct other government officials from obtaining leadership positions. Additionally, Lembergs has leveraged and corrupted law enforcement officials to protect his interests and subvert politicians whom he otherwise was unable to control.

Additionally, four Latvia-based entities were designated on December 9, 2019, for being owned or controlled by Lembergs: Ventspils Freeport Authority, Ventspils Attistibas Agentura (also known as Ventspils Development Agency), Biznesa Attistibas Asociacija (also known as Business Development Association), and Latvijas Tranzita Biznesa Asociacija (also known as Latvian Transit Business Association).

15. Try Pheap: Pheap was designated on December 9, 2019, for being a foreign person who is a current or former government official who is responsible for or complicit in, or has directly or indirectly engaged in corruption, including the misappropriation of state assets, the expropriation of private assets for personal gain, corruption related to government contracts or the extraction of natural resources, or bribery. Pheap used his vast network inside Cambodia to build a largescale illegal logging consortium that relies on the collusion of Cambodian officials, to include purchasing protection from the government, including military

protection, for the movement of his illegal products. The support of these officials makes it difficult for local authorities to take legal action against Pheap.

Additionally, 11 Cambodia-registered entities were designated on December 9, 2019, for being owned or controlled by Pheap: Try Pheap Group CO., Ltd.; M.D.S. Import Export Co., Ltd.; Try Pheap Dry Port Co., Ltd.; Try Pheap Engineering & Construction Co., Ltd.; Try Pheap Grand Royal Co., Ltd.; Try Pheap Import Export Co., Ltd.; Papa Petroleum Co., Ltd.; Try Pheap Property Co. Ltd.; Try Pheap Travel & Tours Co., Ltd.; M D S Thmorda S E Z Co., Ltd.; and Try Pheap Oyadav S E Z Co., Ltd.

16. Kun Kim: Kim was designated on December 9, 2019, for being a foreign person who is a current or former government official who is responsible for or complicit in, or has directly or indirectly engaged in corruption, including the misappropriation of state assets, the expropriation of private assets for personal gain, corruption related to government contracts or the extraction of natural resources, or bribery. Kim was a senior General in the Royal Cambodian Air Force (RCAF) and was instrumental in a development in Koh Kong province and had reaped significant financial benefit from his relationships with a People's Republic of China (PRC) state-owned entity. Kim used RCAF soldiers to intimidate, demolish, and clear-out land sought by the PRC-owned entity. Cambodian elites, like Kim, use their familial networks to create shadow structures to shield ill-gotten assets. In addition to Kim, three members of Kim's family were designated for acting or purporting to act for or on behalf of, directly or indirectly, Kim.

17. King Chandy: Chandy was designated on December 9, 2019, for acting or purporting to act for or on behalf of, directly or indirectly, Kun Kim. Additionally, one entity, K D Rubber Plantation Co., Ltd., is registered in Cambodia and is designated for being owned or controlled by Chandy.

18. Kim Sophary: Sophary was designated on December 9, 2019, for acting or purporting to act for or on behalf of, directly or indirectly, Kun Kim.

Additionally, two entities, Cambo Elite Security Force Co., Ltd. and 7 Makara Phary Co., Ltd., are registered in Cambodia, and are designated for being owned or controlled by Sophary.

19. Kim Phara: Phara was designated on December 9, 2019, for acting or purporting to act for or on behalf of, directly or indirectly, Kun Kim.

Additionally, two entities, Romdoul Capital Pawn Co., Ltd. and Romdoul Development Co., Ltd., are registered in Cambodia and are designated for being owned or controlled by Phara.

20. Goran Andric: Andric was designated on December 9, 2019, for acting or purporting to act for or on behalf of, directly or indirectly, Slobodan Testic. Andric is one of Testic's closest associates and has represented Testic in various international sales, including conducting contract negotiations on Testic's behalf while Testic was on the United Nations travel ban list and unable to travel. In working for Testic, Andric was involved in facilitating arms deals, including an occasion when Andric signed a contract on behalf of the designated entity, Partizan Tech.

In a related action, one entity, Serbia-based Velcom Trade D.O.O. Beograd was designated on December 9, 2019, for being owned or controlled by Andric.

21. Esad Kapidzic: Kapidzic was designated on December 9, 2019, for acting or purporting to act for or on behalf of, directly or indirectly, Testic. Kapidzic is a director and secretary of Cyprus-based Finrost Limited, as well as a director and representative of Serbia-based Falcon Strategic Solutions D.O.O., two entities concurrently designated for being owned or controlled by, or for acting or purporting to act for or on behalf of, directly or indirectly, Testic. Finrost Limited received and moved money on behalf of Testic, and was used by Testic for a weapons contract with a foreign government in Africa.

Additionally, Falcon Strategic Solutions D.O.O. was established by Testic immediately following his December 21, 2017 designation to avoid sanctions.

22. Nebojsa Sarenac: Sarenac was designated on December 9, 2019, for acting or purporting to act for or on behalf of, directly or indirectly, Testic. Sarenac is a managing director of designated entities, Technoglobal and Partizan Tech. Additionally, Sarenac is Testic's nephew and one of his closest associates.

Additionally, one entity, Melvale Corporation D.O.O. Beograd, which is based in Serbia, was designated on December 9, 2019, for being owned or controlled by Sarenac who is the owner and representative.

23. Zoran Petrovic: Petrovic was designated on December 9, 2019, for acting or purporting to act for or on behalf of, directly or indirectly, Testic. Petrovic is a managing director and principal of Partizan Tech, an entity designated in December 2017. Petrovic

has negotiated with foreign entities on Tesic's behalf.

24. Nikola Brkic: Brkic was designated on December 9, 2019, for acting or purporting to act for or on behalf of, directly or indirectly, Tesic. Brkic is a principal and legal representative of Partizan Tech.

25. Milan Subotic: Subotic was designated on December 9, 2019, for acting or purporting to act for or on behalf of, directly or indirectly, Tesic. Subotic is the owner, managing director, and representative of Serbia-based Vectura Trans DOO, an entity concurrently designated for being owned or controlled by, or for acting or purporting to act for or on behalf of, directly or indirectly, Tesic. Tesic utilized Vectura Trans to receive an approved license for exports, to complete arms deals, and to finalize weapons contracts with a foreign government. Subotic was also listed as the point of contact for export permits related to designated entity Partizan Tech.

26. Zelimir Petrovic: Petrovic was designated on December 9, 2019, for acting or purporting to act for or on behalf of, directly or indirectly, Tesic. Petrovic is the owner, managing director, and representative of Serbia-based Araneks DOO, an entity concurrently designated for being owned or controlled by, or for acting or purporting to act for or on behalf of, directly or indirectly, Tesic. Araneks was used by Tesic to finalize weapons contracts with a foreign government in Africa, and in dealings with another foreign government.

27. Sreten Cvjetkovic: Cvjetkovic was designated on December 9, 2019, for acting or purporting to act for or on behalf of, directly or indirectly, Tesic. Cvjetkovic is a 50 percent owner and legal representative of Falcon Strategic Solutions D.O.O.

28. Ljubo Maricic: Maricic was designated on December 9, 2019, for acting or purporting to act for or on behalf of, directly or indirectly, Tesic. Maricic is the director of Technoglobal and a former representative of Partizan Arms, the predecessor to Tesic's Partizan Tech.

29. Moonstorm Enterprises LTD: Cyprus-based Moonstorm Enterprises LTD was designated on December 9, 2019, for being owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, Slobodan Tesic, a person designated pursuant E.O. 13818.

30. Tardigrade Limited: Tardigrade was designated on December 9, 2019, for being owned or controlled by, or acting or purporting to act for or on

behalf of, directly or indirectly, Slobodan Tesic, a person designated pursuant E.O. 13818. Tesic used Cyprus-based Tardigrade to conduct business in third party countries, particularly Arab and African countries. Tesic has also used his Serbian companies to sign contracts with Tardigrade before selling the goods to a final buyer.

31. Business Diversity Limited: Business Diversity Limited was designated on December 9, 2019, for being owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, Slobodan Tesic, a person designated pursuant E.O. 13818. Tesic established Hong Kong-based Business Diversity Limited in order to conduct business with a European country. Tesic has used Business Diversity Limited in Euro denominated contracts to evade U.S. sanctions.

32. Min Aung Hlaing: Min Aung Hlaing was designated on December 10, 2019, for his role as the Commander-in-Chief of the Burmese security forces, an entity that has engaged in or whose members have engaged in serious human rights abuse under his command. Min Aung Hlaing's military forces were responsible for the brutal security operation that began in August 2017 in Rakhine State and ultimately caused more than 500,000 people to flee to Bangladesh. During this time, members of ethnic minority groups were killed or injured by gunshot, often while fleeing, or by soldiers using large-bladed weapons; others were burned to death in their own houses. There are credible claims of mass-scale rape and other forms of sexual violence committed by soldiers under Min Aung Hlaing's command.

33. Soe Win: Soe Win was designated on December 10, 2019, for his role as the Deputy Commander-in-Chief of the Burmese military forces, an entity that has engaged in or whose members have engaged in serious human rights abuse during his tenure. Soe Win has been heavily involved in directing major operations that occurred in 2017, including the decision to deploy combat divisions to Rakhine State and other regions where serious human rights abuses occurred. Burmese military units responsible for some of the most serious violence, including many instances of sexual violence, reported directly to Soe Win.

34. Than Oo: Than Oo was designated on December 10, 2019, for being a leader of the 99th Light Infantry Division (LID), an entity that has engaged in or whose members have engaged in serious human rights abuse under his command. In 2017, the 99th

LID deployed to Rakhine State and, while there, participated in serious human rights abuses alongside the 33rd LID and other security forces. In one operation in Tula Toli, hundreds of men, women, and children were reportedly forced to the nearby riverbank where the 99th LID opened fire, executing many of the men, and forced women and girls to nearby houses where they were sexually assaulted. A number of these women and children were later stabbed and beaten, with the houses set fire while they were inside. The 99th LID was designated pursuant to E.O. 13818 on August 17, 2018, for engaging in serious human rights abuse.

35. Aung Aung: Aung Aung was designated on December 10, 2019, for being a leader of the 33rd LID, an entity that has engaged in or whose members have engaged in serious human rights abuse under his command. The 33rd LID participated in abuses in Rakhine State, including the August 27, 2017 operation in Chut Pyin village. This operation included extrajudicial killings, forced disappearances, and sexual violence, as well as firing on fleeing villagers. More than 100 people were reportedly killed in this one operation alone. The 33rd LID was designated pursuant to E.O. 13818 on August 17, 2018 for engaging in serious human rights abuse.

36. Rao Anwar Khan: Anwar was designated on December 10, 2019, for being a foreign person who is responsible for or complicit in, or having directly or indirectly engaged in serious human rights abuse. During his tenure as the Senior Superintendent of Police in District Malir, Pakistan, Rao Anwar was reportedly responsible for staging numerous fake police encounters in which individuals were killed by police, and was involved in over 190 police encounters that resulted in the deaths of over 400 people, including the brutal murder of Nageebullah Mehsood. Anwar helped lead a network of police and criminal thugs that were allegedly responsible for extortion, land grabbing, narcotics, and murder.

37. Mahmud al-Warfalli: Al-Warfalli was designated on December 10, 2019, for being a foreign person who is responsible for or complicit in, or having directly or indirectly engaged in, serious human rights abuse. Al-Warfalli served as commander of a militia known as the al-Saiqa Brigade. Since 2016, al-Warfalli has carried out or ordered the killings of 43 unarmed detainees in eight separate incidents. Many of these killings were filmed and published on social media. On January

24, 2018, al-Warfalli was filmed carrying out a mass execution of ten unarmed detainees in Benghazi. After al-Warfalli shot each detainee in the head one by one, al-Warfalli fired freely at the group of ten executed detainees. On July 17, 2017, al-Warfalli ordered the methodical killings of 20 kneeling and unarmed detainees. In several of the incidents, al-Warfalli continued to shoot at the detainees after they were executed.

38. Marian Kocner: Kocner was designated on December 10, 2019, for being a foreign person responsible for or complicit in, or having directly or indirectly engaged in, serious human rights abuse. Kocner threatened Jan Kuciak, a reporter who was investigating Kocner's corrupt dealings. Kuciak's investigative journalism focused on Kocner's ability, through a complicated series of financial transactions, to earn millions of Euros through fraudulent tax returns from Slovakia. Kuciak was also responsible for several exposés on Kocner's corrupt dealings, highlighting Kocner's connections to the police and prosecutors. Kocner also hired former Slovak Intelligence Service members to surveil Kuciak ahead of his eventual murder. Slovak authorities charged Kocner with hiring a hitman who murdered Kuciak and his fiancée, Martina Kusnirova.

Additionally, six entities were designated on December 10, 2019 for being owned or controlled by Kocner: Hotel Holding, S.R.O.; International Investment Development Holding A.S.; International Investment Hotels Holding A.S.; Sprava A Inkaso Pohladavok, S.R.O.; Sprava A Inkaso Zmeniek, S.R.O.; and Tranz-Tel, A.S.

39. Musa Baluku: Baluku was designated on December 10, 2019, for being a foreign person who is the leader of the Allied Defense Forces (ADF), an entity that has engaged in, or whose members have engaged in, serious human rights abuse.

40. Amigo Kibirige: Kibirige was designated on December 10, 2019, for materially assisting, sponsoring, or providing financial, material, or technological support for, or goods and services to or in support of, the ADF, an entity that has engaged in, or whose members have engaged in, serious human rights abuse.

41. Muhammed Lumisa: Lumisa was designated on December 10, 2019, for materially assisting, sponsoring, or providing financial, material, or technological support for, or goods and services to or in support of, the ADF, an entity that has engaged in, or whose members have engaged in, serious human rights abuse.

42. Elias Segujja: Segujja was designated on December 10, 2019, for materially assisting, sponsoring, or providing financial, material, or technological support for, or goods and services to or in support of, the ADF, an entity that has engaged in, or whose members have engaged in, serious human rights abuse.

43. Kayira Muhammad: Muhammad was designated on December 10, 2019, for materially assisting, sponsoring, or providing financial, material, or technological support for, or goods and services to or in support of, the ADF, an entity that has engaged in, or whose members have engaged in, serious human rights abuse.

44. Amisi Kasadha: Kasadha was designated on December 10, 2019, for materially assisting, sponsoring, or providing financial, material, or technological support for, or goods and services to or in support of, the ADF, an entity that has engaged in, or whose members have engaged in, serious human rights abuse.

45. Abud Stephen Thiongkol: Thiongkol was designated on December 10, 2019, for being a foreign person that is or has been the leader of an entity that has engaged in, serious human rights abuse. Thiongkol has been identified as the commander of the detention facilities where Aggrey Idri (Aggrey), a member of the Sudan People's Liberation Movement—In Opposition (SPLM—IO), and Dong Samuel Luak (Dong), a South Sudanese human rights lawyer, were held prior to their killings.

46. Malual Dhal Muorwel: Muorwel was designated on December 10, 2019, for being a foreign person that is responsible for or complicit in, or has directly or indirectly engaged in, serious human rights abuse. In addition to Muorwel's participation in the killings of Dong and Aggrey, he has been identified as being the commander of forces who detained and assaulted three international monitors in December of 2018.

47. Michael Kuajien: Kuajien was designated on December 10, 2019, for being a foreign person that is responsible for or complicit in, or has directly or indirectly engaged in, serious human rights abuse. Kuajien is one of two people publicly identified as being present in Kenya during, and in having a hand in, the kidnapping of Dong and Aggrey.

48. John Top Lam: Lam was designated on December 10, 2019, for being a foreign person that is responsible for or complicit in, or has directly or indirectly engaged in, serious human rights abuse. Lam is one of two

people publicly identified as being present in Kenya during, and in having a hand in, the kidnapping of Dong and Aggrey. Further, Lam is reported to have called a member of Dong's family in order to provide information on Dong's whereabouts in return for a substantial cash payment.

49. Angelo Kuot Garang: Garang was designated on December 10, 2019, for being a foreign person that is responsible for or complicit in, or has directly or indirectly engaged in, serious human rights abuse. Garang has been identified as being involved in the killing of Dong and Aggrey, as well as of other individuals.

Visa Restrictions Imposed

Although no visa restrictions were imposed under the Act during 2019, persons designated pursuant to E.O. 13818 shall be subject to the visa restrictions articulated in section 2, unless an exception applies. Section 2 provides that the entry of persons designated under section 1 of the order is suspended pursuant to Presidential Proclamation 8693. In 2019, the State Department also applied, when appropriate, visa restrictions on foreign persons involved in significant corruption or gross violation of human rights under other authorities, reported to Congress through other means. As appropriate, the Department of State will take additional action to impose visa restrictions on those responsible for certain human rights violations and corruption pursuant to other authorities, including Presidential Proclamations 7750 and 8697, and Section 7031(c) of the FY2019 Department of State, Foreign Operations, and Related Programs, as carried forward by the FY2020 Continuing Appropriations Act, 2020. In addition, section 212(a)(3)(E) of the Immigration and Nationality Act renders aliens ineligible for visas if a consular officer has reason to believe that they participated in acts of genocide, torture or extrajudicial killings.

Efforts To Encourage Governments of Other Countries To Impose Sanctions Similar to Those Authorized by the Act

In 2019, the Administration continued to build on the successful outreach campaign to international partners regarding the expansion of domestic and multilateral anticorruption and human rights sanctions regimes. Following successful outreach in 2018, the United Kingdom and the European Union are progressing in the development of their own human rights sanction's authorities. Canada enacted its authority in October 2017

and since that time, the Administration has worked closely with the Canadian government in pursuing coordinated actions against human rights abusers and corrupt actors. The Administration sought out new partners with which to create truly global authorities to promote accountability for those that abuse human rights and engage in corruption. Throughout this outreach, the Administration has identified champions, partners, and potential spoilers of the objectives established by Congress within the Act. The Departments of State and Treasury have, over the last year, shared information, coordinated messaging, and provided technical assistance to this end.

David Hale,

Under Secretary for Political Affairs, United States Department of State.

[FR Doc. 2019-28231 Filed 12-30-19; 8:45 am]

BILLING CODE 4710-AE-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA-2019-0836]

Agency Information Collection Activities: Requests for Comments; Clearance of New Approval of Information Collection: Airman Knowledge Test Registration Collection

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval for a new information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on October 22, 2019. The information collected is necessary to ensure compliance and proper registration of an individual for the certification or rating pursued by the individual.

DATES: Written comments should be submitted by January 30, 2020.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer,

Department of Transportation/FAA, and sent via electronic mail to oira_submission@omb.eop.gov, or faxed to (202) 395-6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT:

Ryan C. Smith by email at: Ryan.C.Smith@faa.gov; Phone: 405-954-6742.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.
OMB Control Number: 2120-XXXX.

Title: Airman Knowledge Test Registration Collection.

Form Numbers: There are no forms associated with this collection.

Type of Review: New information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on October 22, 2019 (84 FR 56520). Individuals pursuing an FAA certificate or rating to operate in the National Airspace System (NAS) must meet the standards established in the FAA regulations specific to the certificate sought by the individual. FAA certification requires that an individual must successfully pass an Airman Knowledge Test as part of the requirements to obtain an FAA certificate or rating. The FAA develops and administers 90 different knowledge tests in many different areas that are required as part of the overall airman certification process.

Airman Knowledge Tests are administered at approved Knowledge Testing Centers by an approved test proctor who is required to administer the appropriate Airman Knowledge Test to the individual pursuing FAA certification. Individuals taking an FAA Airman Knowledge Test must provide the following information to be collected in order to complete the registration process before the administration of the Airman Knowledge Test: Name, FAA Tracking

Number (FTN), physical address, Date of Birth, email address, photo identification, phone number, test authorization (credentials of the individual such as an instructor endorsement), and previous number of test attempts.

The information provided by the individual is collected and stored electronically in the application used for test registration and delivery. This information is used to determine the identify and eligibility of the individual for compliance of FAA certification requirements.

Respondents: 150,000 annually.

Frequency: n/a.

Estimated Average Burden per Response: 2 minutes.

Estimated Total Annual Burden: 5,000 hours annually; 150,000 respondents × 2 minutes each = 300,000 minutes; 300,000 minutes/60 minutes in an hour = 5,000 hours annually.

Issued in Oklahoma City, OK, on October 17, 2019.

Ryan C. Smith,

Airman Knowledge Testing Program Manager, Airman Testing Standards Branch (AFS-630).

[FR Doc. 2019-28241 Filed 12-30-19; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway Project in Rhode Island

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of limitation on claims for judicial review of actions by FHWA.

SUMMARY: This notice announces actions taken by the FHWA that are final pursuant to the statute. The actions relate to a proposed highway project, I-95 Northbound Providence Viaduct Replacement in the City of Providence in the State of Rhode Island, FHWA Project Number IM-0953-105, Rhode Island Department of Transportation (RIDOT) Contract Number 2008-EB-001B.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(1)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before May 29, 2020. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such

From: Thomas, Nikole
To: OFAC (b)(6)
Cc: Gacki, Andrea; Smith, Bradley; Palluconi, Lisa; Christian, Alan
Subject: Fwd: State Notice: Dan Gertler - GLOMAG-2020-368297-1
Date: Tuesday, November 3, 2020 6:10:35 PM

PRE-DECISIONAL and DELIBERATIVE

Hi [REDACTED] and [REDACTED],

Thank you for reaching out. [REDACTED] OFAC (b)(5)

OFAC (b)(5)

OFAC (b)(5) Please let us know if you need anything else.

Thanks!
Nikole

From: STATE (b)(6) @state.gov>
Date: November 3, 2020 at 4:02:33 PM EST
To: Thomas, Nikole [REDACTED] OFAC (b)(6) [REDACTED] STATE (b)(6) @state.gov>
Cc: [REDACTED] OFAC (b)(6) [REDACTED] STATE (b)(6) @state.gov>, [REDACTED] STATE (b)(6) @state.gov>, [REDACTED] OFAC (b)(6)
Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1

**** Caution:** External email. Pay attention to suspicious links and attachments. Send suspicious email to suspect@treasury.gov **

Nikole –

Secretary Pompeo's staff has informed me [REDACTED] STATE (b)(5)
[REDACTED] STATE (b)(5)
[REDACTED] STATE (b)(5).

We will send formal Foreign Policy Guidance back to Treasury tomorrow to reflect State's position.

[REDACTED] STATE (b)(6)

STATE (b)(6)

Director

Office of Sanctions Policy and Implementation

U.S. Department of State

STATE (b)(6)

From: Nikole.Thomas [REDACTED] OFAC (b)(6)
Sent: Tuesday, November 3, 2020 12:05 PM
To: [REDACTED] STATE (b)(6) @state.gov>; [REDACTED] STATE (b)(6) @state.gov>
Cc: [REDACTED] OFAC (b)(6); [REDACTED] STATE (b)(6) @state.gov>; [REDACTED] STATE (b)(6) @state.gov>; [REDACTED] OFAC (b)(6)
Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1

PRE-DECISIONAL and DELIBERATIVE

Hi All,

We wanted to share an important update we received from Andrea Gacki a short while ago. We understand that Secretary Mnuchin and Secretary Pompeo spoke this morning regarding this request and Secretary Pompeo indicated [REDACTED] STATE (b)(5) [REDACTED]. We have been asked to issue the license this week. We plan to proceed accordingly but would appreciate if you confirm State's view.

Thanks!
Nikole

From: Thomas, Nikole
Sent: Monday, November 2, 2020 4:46 PM
To: [REDACTED] STATE (b)(6) @state.gov>; [REDACTED] STATE (b)(6) @state.gov>
Cc: [REDACTED] OFAC (b)(6); [REDACTED] STATE (b)(6) @state.gov>; [REDACTED] STATE (b)(6) @state.gov>
Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1

PRE-DECISIONAL and DELIBERATIVE

Thank you for the update [REDACTED] STATE (b)(6) [REDACTED]! Please do let us know if you hear any feedback.

From: [REDACTED] STATE (b)(6) @state.gov>
Sent: Monday, November 2, 2020 4:27 PM
To: Thomas, Nikole [REDACTED] OFAC (b)(6); [REDACTED] STATE (b)(6) @state.gov>
Cc: [REDACTED] OFAC (b)(6); [REDACTED] STATE (b)(6) @state.gov>; [REDACTED] STATE (b)(6) @state.gov>
Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1

**** Caution:** External email. Pay attention to suspicious links and attachments. Send

suspicious email to suspect@treasury.gov **

Hi Nikole –

We provided the Secretary's staff the background and our recommendation this morning. I can't predict when we will learn of his decision, but we did note Sec Mnuchin's interest and request for a quick review.

STATE (b)(6)

~~SENSITIVE BUT UNCLASSIFIED~~

From: Nikole.Thomas [REDACTED] OFAC (b)(6)
Sent: Monday, November 2, 2020 3:47 PM
To: [REDACTED] STATE (b)(6) @state.gov>; [REDACTED] STATE (b)(6) @state.gov>
Cc: [REDACTED] OFAC (b)(6) [REDACTED] STATE (b)(6) @state.gov>; [REDACTED] STATE (b)(6) @state.gov>
Subject: RE: State Notice: Dan Gertler - GLOMAG-2020-368297-1

PRE-DECISIONAL and DELIBERATIVE

Hi [REDACTED] STATE (b)(6),

Happy Monday! Just wondering if you had heard anything yet from the Secretary's office on this request. We also wanted to let you know Secretary Mnuchin did inquire with Andrea Gacki on the status of this request today and she informed him that you were working to update Secretary Pompeo. Secretary Mnuchin was happy to hear that and expressed his willingness to speak with Secretary Pompeo.

Thanks!
Nikole

From: [REDACTED] STATE (b)(6) @state.gov>
Sent: Friday, October 30, 2020 3:06 PM
To: Thomas, Nikole [REDACTED] OFAC (b)(6) [REDACTED] STATE (b)(6) @state.gov>
Cc: [REDACTED] OFAC (b)(6) @treasury.gov>; [REDACTED] STATE (b)(6) @state.gov> [REDACTED] STATE (b)(6) @state.gov>
Subject: Re: State Notice: Dan Gertler - GLOMAG-2020-368297-1

**** Caution:** External email. Pay attention to suspicious links and attachments. Send suspicious email to suspect@treasury.gov **

Bates Nos. 02021-12461 (CKK): 0000006450 - 0000006453

Duplicated pages

Withheld in Full

From: STATE (b)(6)
To: Thomas, Nikole; Palluconi, Lisa; STATE (b)(6)
Subject: RE: Update - Please send FPG for Gertler license
Date: Wednesday, November 4, 2020 1:21:37 PM

**** Caution:** External email. Pay attention to suspicious links and attachments. Send suspicious email to suspect@treasury.gov **

Acknowledged - this email is our formal conveyance of FPG on this matter.

~~SENSITIVE BUT UNCLASSIFIED~~

From: Nikole.Thomas [REDACTED] OFAC (b)(6)
Sent: Wednesday, November 4, 2020 1:18 PM
To: [REDACTED] STATE (b)(6) @state.gov>; Palluconi, Lisa [REDACTED] OFAC (b)(6)
[REDACTED] STATE (b)(6) @state.gov>
Subject: RE: Update - Please send FPG for Gertler license

PRE-DECISIONAL and DELIBERATIVE

Thanks for this update, [REDACTED] STATE (b)(6). We will view this email with [REDACTED] STATE (b)(5) [REDACTED] STATE (b)(5) from this morning.

From: [REDACTED] STATE (b)(6) @state.gov>
Sent: Wednesday, November 4, 2020 1:11 PM
To: Palluconi, Lisa <[REDACTED] OFAC (b)(6) [REDACTED] STATE (b)(6) @state.gov>
Cc: Thomas, Nikole [REDACTED] OFAC (b)(6)
Subject: RE: Update - Please send FPG for Gertler license

**** Caution:** External email. Pay attention to suspicious links and attachments. Send suspicious email to suspect@treasury.gov **

Lisa –

We have been in touch with Secretary Pompeo's staff, and I was just informed [REDACTED] STATE (b)(5) [REDACTED] STATE (b)(5)

Best regards,

STATE (b)(6)

STATE (b)(6)

Director

Office of Sanctions Policy and Implementation

U.S. Department of State

(O) **STATE (b)(6)**

(M) **STATE (b)(6)**

Secret/VoIP: **STATE (b)(6)**

SIPR: **STATE (b)(6)**@state.sgov.gov

JWIX: **STATE (b)(6)**@state.ic.gov

~~SENSITIVE BUT UNCLASSIFIED~~

From: **STATE (b)(6)**

Sent: Wednesday, November 4, 2020 9:38 AM

To: Lisa.Palluconi **OFAC (b)(6)** **STATE (b)(6)**@state.gov>

Cc: Nikole.Thomas **OFAC (b)(6)**

Subject: RE: Update - Please send FPG for Gertler license

Lisa –

Attached please find the State Department's FPG on the Gertler license application. **STATE (b)(5)**

STATE (b)(5)

STATE (b)(5)

Kind regards,

STATE (b)(6)

STATE (b)(6)

Director

Office of Sanctions Policy and Implementation

U.S. Department of State

(O) **STATE (b)(6)**

(M) **STATE (b)(6)**

Secret/VoIP: **STATE (b)(6)**

SIPR: **STATE (b)(6)**.gov

JWIX: **STATE (b)(6)**@state.ic.gov

~~SENSITIVE BUT UNCLASSIFIED~~

From: Lisa.Palluconi [REDACTED] OFAC (b)(6)
Sent: Wednesday, November 4, 2020 7:43 AM
To: [REDACTED] STATE (b)(6) [REDACTED]@state.gov>; [REDACTED] STATE (b)(6) [REDACTED]@state.gov>
Cc: Nikole.Thomas [REDACTED] OFAC (b)(6)
Subject: Update - Please send FPG for Gertler license

[REDACTED] STATE (b)(6) – We just heard from our TFI FO, after consultation with Treasury leadership. Our Secretary has asked to see State’s foreign policy guidance on this licensing matter. He will review and take it up with State leadership as needed. Apologies for the back and forth, but if you could send State’s foreign policy guidance soonest, we would appreciate it. Our Secretary has asked to see it this morning, if possible.

Thanks much,
Lisa

Lisa M. Palluconi
Associate Director, Sanctions Policy & Implementation
Office of Foreign Assets Control | U.S. Department of the Treasury
[REDACTED] OFAC (b)(6) | T [REDACTED] OFAC (b)(6) | M [REDACTED] OFAC (b)(6)