Testimony of Brad Brooks-Rubin
Policy Director, Enough Project

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"U.S. Sanctions Policy in Sub-Saharan Africa"

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

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

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

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

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

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

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

This is absolutely the wrong response. Sanctions can and do have beneficial impact when they are carefully designed and strongly enforced. The failure has not been with our choice to use sanctions. The failure thus far, which can be readily addressed for the future, is in the limited way in which we have viewed the problems and use sanctions as a tool with sub-Saharan Africa. We have not yet approached these countries with the serious economic lens they deserve, especially before situations become crises. As a result, we have thus far deployed only a limited selection of sanctions measures or approaches in sub-Saharan Africa. We have not yet brought to sub-Saharan Africa the same sense of urgency to counter threats related to terrorism or drug trafficking. We have not yet brought to sub-Saharan Africa the same seriousness of purpose to advance peace, democracy, and human rights that we have brought to Iran, North Korea, and Burma.

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

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

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

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

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

REFOCUSING ON THE COST OF VIOLENT KLEPTOCRACY

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

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

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

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

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

SIX QUESTIONS TO FRAME AFRICAN SANCTIONS ACTIONS

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

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

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

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

2 – What intelligence—and financial intelligence—do we have? In a recent address on the key lessons in making sanctions more effective, Secretary of the Treasury Jack Lew noted, **"Powerful sanctions require investigators and analysts to track how key actors move and store their money and to build detailed cases drawing on intelligence analysis."** This assessment from Secretary Lew is borne out by a recent study from the Center for New American Security, showing that sanctions rarely deliver immediate economic losses but do result in instability and elevated risk. That means that sanctions often do not directly cause change; instead, they create the opportunity for change if it is properly leveraged.

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

In the same speech, Secretary Lew said, "We must guard against the impulse to reach for sanctions too lightly or in situations where they will have negligible impact." **Without proper**

intelligence gathering to identify targets we can impact and a comprehensive description of the process we want to achieve, we will only equip ourselves with sanctions that are able to have a negligible impact at best.

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

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

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

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

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

Yet at key moments in other negotiations and processes, the U.S. has been successful when it was willing to take a strong sanctions step to show resolve and seriousness. Days before or after at least three key junctures in the Iran nuclear negotiation process, including in February 2014 when the first real talks began, the United States showed its resolve by taking strong new sanctions actions. Press releases from Treasury said clearly we believed that more accountability was necessary to reach the desired negotiated end. That same resolve and commitment to accountability is necessary in Africa as well.

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

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

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

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

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

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

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

When sanctions measures are expected from the outset to last for many years and are not properly understood, they can feel like more comprehensive types of measures. Regimes from Sudan to Zimbabwe have blamed sanctions for all manner of economic problems, many of which have nothing to do with sanctions at all but instead result from the authoritarian leaders within these regimes and the catastrophic economic decisions that they have made. **But when we fail to explain how the sanctions work and show that they can evolve and be nimble over time, rather than become permanent forms of punishment, we give the likes of Bashir and Mugabe easy wins.**

ANSWERING THESE QUESTIONS WITH A MODERNIZED SANCTIONS APPROACH

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

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

- Use more effective targeted designation language and identify higher-level targets that result in sanctions designations with financial impact.

- Consider the applicability of language used in the recent Libya Executive Order—"actions that may lead to or result in the misappropriation of state assets of Libya" or "threatening or coercing Libyan state financial institutions or the Libyan National Oil Company"—for countries like Congo and South Sudan, where leaders and their networks routinely engage in contract or procurement fraud and the outright theft of funds. Our Sentry investigations in both of these countries show these patterns and the types of activities and accounts involved, and we intend to continue to provide this information to relevant authorities. It is time for action to be taken that would finally impose a cost on this behavior that have enabled officials to divert billions of dollars across the region with essentially no consequences. Even without language like that in the Libya Executive Order, the United States must focus on higher-level targets who have tangible financial assets and decision-making authority. **This should include the key leaders in South Sudan and the elites surrounding Congolese President Joseph Kabila. This is why we strongly support S. Res 479, introduced by**

Senators Markey, Durbin, and Murphy, which calls for targeted sanctions on President Kabila's inner circle in concert with efforts to see elections held as constitutionally mandated.

- Empower Treasury and State officials to turn up the pressure on banks, insurance companies, and other financial institutions to know their customers and stop turning a blind eye to doing business with kleptocratic regimes on the continent.

- Seriously consider the potential ways to apply secondary sanctions. In the Iran context, the use of secondary sanctions, which in essence allows enforcement of certain U.S. sanctions against non-U.S. persons, proved quite impactful. Secretary Lew used strong words of caution about future deployment of secondary sanctions, but Treasury and State may be able to achieve the same goals simply by raising these concerns with banks in Kenya, Uganda, and South Africa. **Identifying the problematic transactions or accounts will likely be sufficient, but we need to actually do it. For a country like Sudan, which has developed a sophisticated banking network to counter long-term U.S. sanctions, we believe limited use of secondary sanctions would be appropriate.**

- Identify countries where the sectoral sanctions approach that was developed for Russia/Ukraine and expanded for North Korea could work. For example, as South Sudan turns to develop the mining sector as a new source of revenue, sectoral measures could be considered in the future if necessary to ensure that new investments are free from corruption and licensing fraud. The officials responsible for the development of this sector raise concerns about the potential for misuse, based on information in previous U.N., African Union, and other reports... Use of sectoral sanctions could provide a powerful mechanism to ensure that new investments are undertaken in a limited manner and cannot be misused.

- Push FinCEN to devote resources to evaluating how its authorities could impact sub-Saharan Africa beyond drugs and terror. In both South Sudan and Congo, there are strong opportunities for FinCEN to use its power to issue advisories and conduct investigations through Section 314 of the USA Patriot Act to learn more and identify the key money laundering nodes. Once identified, FinCEN should follow up and use Section 311, and can look to one of the five special measures that provision includes short of primary laundering concern designation. The other four special measures would require greater due diligence and information-sharing among financial institutions and law enforcement. Greater information-sharing would enable FinCEN and other financial intelligence units around the world to develop more specific typologies and analyses that can better target the way these officials launder the proceeds of corruption, or use natural resource sectors such as gold and oil to launder funds. **These special measures may enable the development of information critical to law enforcement for use in overseas corruption investigations and prosecutions**. FinCEN's work over many years related to the way narco-traffickers, oligarchs, and others who launder money through real estate led to an important step last January through a Geographic Targeting Order focused on properties purchased in New York and Miami. **This kind of investigation and analysis can lead to similar strong steps related to money laundering out of sub-Saharan Africa, particularly from South Sudan and Congo**.

- Promote financial and private sector transparency. The Burma Responsible Investment Reporting Requirements have served as one of the most innovative measures with sanctions in recent years. In exchange for generally licensing new investment in Burma, Treasury required those investing above certain levels in Burma to report publicly on their activities, including their steps to address human rights and environmental concerns, as well as their engagement with potentially corrupt officials.

This type of reporting model has proved quite effective, with both advocates and the private sector recognizing the benefit of publicly available reporting on a government website as a way of sharing experience and avoiding suspicion. The model could be greatly expanded within the sub-Saharan context. These measures could not only be implemented in conjunction with general licensing that allows for new activity, but also be adapted to serve as a replacement for potentially sensitive sectoral sanctions. **For example, this type of reporting requirement could likely be used within existing sanctions authorities on Congo, specifically in connection with new investment in the natural resources sector, as a way of ensuring that there are no concerns with illicit trade.**

- Swiftly pass the Global Magnitsky Human Rights Accountability Act. This legislation, which has bipartisan support in both the House and the Senate will bolster the U.S. government's infrastructure to take action against those who commit human rights abuses or are complicit in acts corruption. **There is no reason that this bi-partisan and bi-cameral legislation cannot pass Congress before the summer recess.**

- Allocate substantial new resources from Congress to the agencies most responsible for investigating and enforcing U.S. sanctions regimes in sub-Saharan Africa. In order to advance these and other tools, Treasury needs the new Congress to provide financial allocations across the board, with clear restrictions to ensure new full-time employees focus on sub-Saharan Africa. Congress should use the appropriations process to ensure that these offices have increased resources, and can use report language to send a message to Treasury that this region of the world is a critical part of its efforts. For OFAC, this would include new resources for global targeting, enforcement, licensing, and for personnel to develop stronger collaboration with FinCEN and other elements of Treasury. FinCEN, too, should receive new resources for its office of special measures, as well as its global liaison and intelligence units. Finally, additional staff focused on Africa should be added within the coordinating Office of Terrorist Financing and Financial Crimes to ensure sufficient senior level attention. **Skeptics on the use of sanctions in Africa point to the bandwidth problem, which can and should be addressed with more resources.**

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

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

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

- Build on the commitments made to the recent U.K. Anti-Corruption Summit. Last month in London, a number of countries committed to measures that would expand beneficial ownership due diligence requirements, enhance public access to business registries, and counter corruption. Enabling broader access to information on companies can enhance intelligence-gathering for the U.S. government and non-governmental watchdogs, as well as enable banks to more publicly demonstrate the steps they are taking to conduct due diligence. The United States should also incorporate into diplomatic messaging the need for progress on the commitments made by countries like Kenya and South Africa.

- Enhance the responsible business agenda. **The Obama administration's National Action Plan on Responsible Business Conduct could mark an important addition to the broader policy landscape.** With a National Action Plan that emphasizes the need for stronger human rights due diligence by business, including banks, through engagement and risk mitigation, the private sector may be able to take steps that complement the goal of sanctions well.

- Focus on stronger implementation from the Extractive Industries Transparency Initiative and other transparency, development, and quasi-regulatory bodies. Transparency and accountability, including through the Open Government Partnership, Open Contracting Partnership, EITI, and even steps like Sustainable Development Goal 16 (Peace, justice and strong institutions) can deliver important progress on good governance that integrates well with the aims of effective sanctions.

- Encourage civil society and media protection, including stronger promotion of the World Bank's Global Partnership for Social Accountability, which provides for capacity building for these critical components of society working against grand corruption.

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

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

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

Even if all sanctions were removed on sub-Saharan Africa overnight, this would still be the case, so until the market is a safer and less corrupt place to do business, there is only so much that the United States can, or arguably should, do.

- Clarify sanctions targeting. One of the most difficult areas for the private sector to manage is understanding the extent of a target's network. Because the Treasury Department considers any entity that is 50 percent owned or controlled by a sanctioned entity to also be sanctioned, even if not specifically named as such, compliance can be daunting if information provided is not complete and updated. This challenge is particularly acute for Sudan, where the comprehensive blocking of the government of Sudan means any entity owned or controlled by the Omar al-Bashir regime is considered sanctioned. Yet the last public additions to the list happened more than nine years ago, with only a few removals since that time. **Clear information about which parties are and are not subject to sanctions designations can help mitigate many unintended and unnecessary consequences for sanctions.**

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