

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

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

February 2, 2021

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

Dear Mr. Secretary,  
Dear Madam Secretary,

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

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

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

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

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

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

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

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

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

In November 2020, a US judge [sentenced](#) a subsidiary of New York hedge fund Och-Ziff for corruption in DRC. Although Mr. Gertler was not charged in this case, the court documents include information about the alleged role played by Gertler in the corruption, including the arrangement of bribes to DRC officials and judges, which further strengthens the need to keep sanctions in place.

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

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

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

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

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

Thank you in advance for your attention.

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

Sincerely yours,

### **Congolese Organizations**

**Afrewatch**

**Agir pour des élections transparentes et apaisées**

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

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

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

**Congo Nouveau**

**Filimbi**

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

**Justice pour tous**

**Lucha**

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

**Observatoire de la dépense publique (ODEP)**

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

**UNIS – Plateforme panafricaine de lutte contre la corruption**

### **International Organizations**

**EG Justice**

**FACT Coalition**

**Freedom House**

**Global Witness**

**Human Rights First**

**Human Rights Watch**

**Never Again Coalition**

**The ONE Campaign**

**Open Society Foundations**

**Oxfam America**

**Platform to Protect Whistleblowers in Africa (PPLAAF)**

**Publish What You Pay – U.S.**

**Resource Matters**

**Rights and accountability in development (RAID)**

**The Sentry**

**Transparency International**