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# IS THERE AN AFRICAN RESOURCE CURSE?

## HEARING

BEFORE THE

SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH, GLOBAL HUMAN RIGHTS, AND INTERNATIONAL ORGANIZATIONS

OF THE

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# IS THERE AN AFRICAN RESOURCE CURSE?

**THURSDAY, JULY 18, 2013**

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH,
GLOBAL HUMAN RIGHTS, AND INTERNATIONAL ORGANIZATIONS,
COMMITTEE ON FOREIGN AFFAIRS,
*Washington, DC.*

The subcommittee met, pursuant to notice, at 2 o'clock p.m., in room 2167 Rayburn House Office Building, Hon. Christopher H. Smith (chairman of the subcommittee) presiding.

Mr. SMITH. Good afternoon, everybody. Today's hearing probes the question of whether or not there is an African resource curse. The resource curse refers to the paradox in which countries and regions with an abundance of natural resources, specifically non-renewable resources like minerals and fuels, tend to have less economic growth and worse development outcomes than countries with fewer natural resources. This is believed to happen for many reasons, including a decline in the competitiveness of other economic sectors, the volatility of revenues from the natural resource sector due to global commodity market swings; government mismanagement of resources; or weak, ineffectual, unstable or corrupt institutions.

Africa has abundant natural resources, from critical and desirable agricultural products, such as gum arabic, to strategic minerals, such as cobalt, titanium, and coltan, to energy resources, such as petroleum and natural gas. However, under the so-called African resource curse, African citizens don't benefit from these resources to the extent that would be expected. Education, health care, and other services too often are not provided to citizens by their governments who profit from African resources but, rather, are too often paid for by donors.

Throughout history, African resources have often led to negative outcomes for African people such as slavery, colonization, predatory governments, and vicious rebel group activity. The ivory trade opened Africa to trans-Saharan trade to the Middle East and beyond, but it also opened Africa up to the earliest days of international slavery. African gold and other natural wealth made the continent and personalities in it famous and admired, but also led to the even more expansive trans-Atlantic slave trade.

Ivory hunters wiped out the elephant population in various locations in Africa and in recent years included the Lord's Resistance Army and its murderous reign of terror in the Great Lakes region. Minerals that power modern society also fund the chaos brought by

militias, such as M23 and the numerous other militias now terrorizing the eastern portion of the Democratic Republic of the Congo. So-called blood diamonds earlier funded predatory rebels in Liberia and Sierra Leone.

What should be a blessing, abundant natural resources, has all-too-often been a curse. It has been argued, for example, that one can correlate the rise and fall in the price of petroleum with the rise and fall of the implementation of human rights in major oil-producing countries. Protection of human rights throughout resource-cursed countries is dismal or completely lacking. Most resource-cursed countries are ruled by either authoritarian or other types of highly repressive regimes. These regimes are kept in power by an elite group, such as those comprised of high-ranking politicians and military leaders. As long as the existing government keeps these few people happy, they can rule without fear of consequences. This system is set up so that those most in need of protection are left to fend for themselves.

Equatorial Guinea is an example of how the resource curse works. It is a small country with a population of slightly more than ½ million people but a Gross Domestic Product that has increased more than 125 times, not 125 percent, 125 times, since oil production began in the mid-1990s. On paper, the wealth per capita in Equatorial Guinea is as high as almost any wealthy country in Africa, if not higher. Yet, if you visit the country and move beyond the gleaming new hotels and resorts, you will find numerous people who are forced to survive on $1 a day or less.

Corruption in Equatorial Guinea is rampant. President Obiang owns two luxury homes in the Washington, DC, area, and his sons own two homes and numerous luxury cars in California. In fact, it is estimated that the President's son spent more on houses and cars alone between 2004 and 2006 than the entire government spent on education in the year of 2005.

Facts involving Equatorial Guinea's Government's siphoning of natural resource profits were revealed in a 2004 U.S. Senate investigation of Riggs Bank, which could no longer continue operations due to financial improprieties, partly involving questionable funds from Equatorial Guinea. The Obiang family dominates private business in the country so commerce there benefits them first and foremost, rather than provide a means of economic opportunity more broadly.

In order to counteract corrupt practices from profits from natural resources and to ensure they are not diverted or otherwise abused, various international agreements, as we all know, have been created. The Extractive Industries Transparency Initiative, or EITI, was created and announced at the 2002 World Summit for Sustainable Development in Johannesburg to provide a multi-stakeholder system that would require disclosure of profits from natural resource extraction. Thus far, 34 countries have produced EITI reports, covering $1.02 billion in total government revenue. Four African countries have been officially suspended from the process for noncompliance: The Central African Republic, the Democratic Republic of the Congo, Madagascar, and Sierra Leone.

Similarly, the Kimberly Process Certification Scheme, established in 2009 by the U.N. General Assembly Resolution 55/56, is

designed to prevent conflict diamonds from entering the mainstream rough diamond markets. Global Witness, which present testimony today, pulled out of the scheme 2 years ago, but there are those within the organization that reportedly still believe it provides at least a basis for addressing the problem of blood diamonds.

Neither African governments nor the international community are helpless to effectively address the misuse of African natural resources. Working together, we can ensure that corruption is minimized, if not eliminated altogether. Protection of wildlife and other natural resources must be achieved. The days of corrupt governments shirking their responsibilities so that a select few can benefit from their country's blessings must be ended.

Earlier today in Congress, we honored the life, legacy, and values of former South African President Nelson Mandela on his 95th birthday. During one of his visits to Congress, he told Members that to deny a person's human rights is to deny their humanity. We must do all we can, not only to ensure that African natural resources benefit the people of African countries economically, but also to guarantee that the human rights of African people are more fully respected by those who wield power through government authority or by the barrel of a gun.

Thank you very much, to my colleagues, for being here. And I would like to yield to Karen Bass, the ranking member, for any opening comments she might have.

Ms. BASS. As always, thank you, Mr. Chair, for convening this meeting on African resources and what will be done to ensure that a continent with immense resource wealth is able to leverage those resources to promote broad and sustained development.

I also want to thank today's witnesses for making yourselves available to brief this committee and the work all of you do to expose the challenges on this and other relevant topics. I also want to give a special greeting and thanks to Mr. Boldin for lending your star power to this issue. Mr. Boldin, I know that you will mention in your statement that in consultation with Oxfam, I have also written a letter that is cosigned by Members of Congress that calls on ECOWAS to develop a regional mining code that will apply to all 15 member nations and that will protect the basic rights of local communities.

I have often shared my strong interest in this committee focusing on Africa and the growth opportunities that exist throughout the continent. Mr. Obama recently returned from Senegal, South Africa, and Tanzania. And his message was clear. Our language, our perception of Africa must change. Business, trade, and investment are the conversations we need to have with African nations. I have to tell you that I was a little disappointed in the coverage of his trip because oftentimes the news covered Africa and the fact that he was on the continent almost as a backdrop and focused on other issues of the day that were important to our country but really didn't spend a lot of time covering the nations that he was visiting.

I am pleased that today's panel is prepared to discuss a set of issues that present extraordinary opportunity and at the same time illustrates the deep challenges that face African nations. The question before us is, how can African nations benefit from their nat-

ural resource wealth and take that wealth to expand and accelerate development that will ultimately lift millions out of poverty?

As I often mention, Africa is not the next economic frontier, but the emerging market of today. We have seen strong double-digit and near double-digit growth in places like Angola, Nigeria, Mozambique, and Rwanda.

I visited several African nations over the last year that share with us their strong desire not to engage our Government in more of the same forms of aid but to shift our discussion to topics of trade dealing in arrangements that provide and promote private sector engagement, economic growth, and job creation.

What is remarkable about this is that our nation has the comparative advantage to play a key role in the continent's economic emergence, but we have yet to fully act. These trade and business gains cannot be fully realized, however, until we address some of the well-known barriers, including and specifically around natural resources, extractive industries, and the laws and regulatory environments needed to ensure billions of the world poor benefit from their country's natural resources. Countries like Ghana, Sierra Leone, and Liberia are poised to reap benefits from new discoveries of oil, but many wonder if they will.

In my travels, I have grown deeply concerned with contracts from multinational companies, particularly those from more developed nations where resource extraction doesn't necessarily do much for the majority of the people. I would like to learn more about those contracts. I had an experience of being in the DRC and just leaving from the airport and going to the Embassy and seeing such unbelievable poverty and knowing that the resources in the DRC are some of the greatest on the planet and what companies are doing business that is extracting those resources. And I am particularly interested if any of them are our companies or companies from the United States. I know that some of the issues are that some of the African countries might negotiate poor terms with the extractive companies. They don't necessarily collect resource revenues effectively. And then when they do, where those resources go, of course, is a question.

So I am pleased that there are a number of programs and initiatives, including Dodd-Frank, that have been created to address and bring greater accountability and transparency across the African continent and the world. These include the extractive industries, transparency initiative, a voluntary multi-stakeholder program that promotes revenue transparency, and accountability associated with the extractive industries, the open government partnership, a multilateral initiative to promote more effective responses to governance by improving public services, increasing public integrity, managing public resources, creating safer communities, and increasing corporate accountability.

Now, I have also heard that some of the provisions that were put into Dodd-Frank actually have some unintended consequences when it comes to the extractive industries. And I am not sure if we will learn about those today, but hopefully some of our witnesses might be able to reference that.

Now, I believe these programs are making a real difference. And I will be interested to also hear from our witnesses if the programs

are effective. I am also interested to know how the 2013 resource governance index ensures resource wealth benefits to those countries and people who greatly depend on proper management of those resources.

I want to thank you. And I look forward to the testimony from our witnesses today.

Mr. SMITH. Yes. Thank you so very much.

Mr. Meadows?

Mr. MEADOWS. Thank you, Mr. Chairman. And thank you for being here. And on a personal note, as an avid Florida State fan, I have cheered for you for many years with each reception. And it is those wonderful hands that today I cheer for you even louder because of what you are doing here today and this important work. And I just want to say thank you on behalf of many here in Congress for highlighting this particular issue.

You know, we have known for a long time that Africa has just a great potential with natural resources, you know, a number of natural resources that not only could serve as an engine for economic development but possibly move the entire continent to a new era of prosperity. Unfortunately, that hasn't happened. We have seen, as the chairman and the ranking member have testified already and shared, that those challenges from around the world just really create areas of great concern. Some of those challenges are gone. Many of them still remain. And some of those challenges now are new. They are evolving each day as we start to look at it.

You know, today too much of Africa is really ruled by repressive and oppressive regimes that take those natural resources as an asset to leverage power and to stay in power and truly not to improve the lives of the people within their own country. That is deplorable. Human rights violations, as we have heard testimony a number of times before this committee, the human rights violations continue to happen over and over again. And this leverage, this tool that continues to get used really needs to be one that we hold those that are using them as a weapon, hold them accountable.

The chairman and the ranking member have really on a bipartisan really worked very well together to make sure not only that it is highlighted, that we in Congress make sure that we do what is possible from a legislative standpoint to address. And so I look forward to hearing that.

I hope that we look to an Africa that is truly transformed one day because some of the testimony that we hear today affects the lives of the people in many countries throughout that wonderful continent.

I am going to apologize beforehand. Because of votes and everything, I have got two hearings. And so I will be bouncing back and forth. But I just want to say thank you for coming. Thank you for your interest. And I thank the chairman and ranking member. And I yield back.

Mr. SMITH. Mr. Meadows, thank you very much for your leadership and for your participation in a very meaningful way in every hearing and markup we have had.

I would like to now welcome our very distinguished panel of witnesses, beginning with Corinna Gilfillan, who is the head of the U.S. office for Global Witness and has worked for more than 10

years to strengthen governance over natural resources. She led Global Witness' campaign to combat conflict diamonds and since 2004 has directed Global Witness' U.S. office right here in DC. She currently serves on the international board of the Extractive Industries Transparency Initiative and has been an adjunct instructor at Princeton University's Woodrow Wilson School of Public and International Affairs. She also previously worked for the U.N. Environmental Program in Paris and was Director of Friends of the Earth U.S.'s Ozone Protection Program.

We will then hear from Mohammed Amin Adam, who is the executive director of the Africa Centre for Energy Policy. Before joining ACEP, he was coordinator of Ibis' Extraction Industries Program in Africa. He has also worked as an oil coordinator to Publish What You Pay for Ghana. Mr. Adam also served in various positions in the public sector in Ghana, including in the Energy Ministry and as mayor of Ghana's third largest city. He is also a member of the consortium that worked on Ghana's first EITI report on oil and gas. He also participated in designing meetings for two global governance initiatives: The Open Governance Partnership and Open Contracting.

Then we will hear from Anquan Boldin. I would just point out that I had and Greg had the privilege of meeting with Anquan on June 24th and had a very good meeting. He gave us an update of his work in this area. And while Greg and I have been talking about doing a hearing like this sometime in the future, it crystallized at that meeting that sooner would be better than later. And, as a matter of fact, we asked what his availability was with training coming up, so that is why it is being done and was put together rather quickly.

Anquan Boldin is a professional football player, as we all know, with the San Francisco 49ers but is here today in his capacity as an Ambassador of Oxfam. He has worked tirelessly to give back, both in the United States and in Africa. And in connection with this work, he founded the Anquan Boldin Q81 Foundation to bring hope to underprivileged children. In March 2012, in response to a severe drought in Ethiopia, he traveled with a friend and former teammate, Larry Fitzgerald, to Ethiopia to visit Oxfam programs and to bring attention to the need in that region. Together he and Mr. Fitzgerald visited people in communities working hard to rebuild and carry the story for the people they met back home, appearing on many prominent news outlets and again before the U.S. Congress to speak to each and every one of us.

We will then hear from Mr. Tutu Alicante, who is from Equatorial Guinea and is a founder and executive director of EG Justice. His organization is dedicated to promoting human rights to rule of law, transparency, and civic participation in his homeland. Before founding EG Justice, he worked as a legal consultant with international NGOs promoting legal accountability and transparency in the extractive industry. In 2007, he received a fellowship from Echoing Green to establish EG Justice. Prior to that, he worked as an employment attorney with the Southern Migrant Legal Services, where he represented migrant farm workers.

So, Corinna, if we could begin with you? And, again, I want to thank our distinguished witnesses for sharing their expertise and their time with our subcommittee today.

Ms. GILFILLAN. Thank you.

**STATEMENT OF MS. CORINNA GILFILLAN, DIRECTOR, GLOBAL WITNESS, USA**

Ms. GILFILLAN. Good afternoon, Chairman Smith, Ranking Member Bass, and members of the subcommittee. Thank you very much for holding this hearing today to focus on the resource curse in Africa.

I work for Global Witness, which is an international advocacy organization working to break the links between natural resources, conflict, and corruption.

The African continent is rich in oil, gas, and other minerals. In 2010, the value of exports of oil and minerals from Africa was worth $333 billion, about 6 times the value of exported agricultural products and nearly 7 times the value of international aid. Such resource wealth has the potential to lift many of Africa's poorest out of poverty. Yet, often we see the opposite. African resource-rich countries mired in poverty because of public revenues earned from selling these resources are being squandered through corruption and lack of government accountability.

An example of this is in the Democratic Republic of the Congo, one of the richest countries in natural resources, that is at the bottom of the human development index. Congo lost at least $1.36 billion from the underpriced sales of copper and cobalt mining assets between 2010 and 2012. In secret deals involving companies registered in British overseas territories that could keep their ownership secret, this is almost twice the country's annual spending on health and education combined.

In Guinea, there are corruption concerns related to the company BSGR's acquisition of flocks 1 and 2 of the massive Simandou iron ore concession. A series of secret contracts seen by Global Witness spells out how BSGR promised Mamadie Toure, one of the four wives of then Guinean dictator Lansana Conte, millions of dollars in shares in Simandou in return for help in acquiring the licenses. BSGR paid nothing for its rights in Simandou and sold 51 percent of its stakes to Vale in 2010 for $2.5 billion. To put this deal into context, the Guinean Government's entire annual budget in 2010 amounted to just $1.2 billion.

Natural resources are also funding conflict in Africa. For the last 15 years, armed groups and members of the National Army have used profits from the trade in certain minerals to finance themselves and their operations in eastern DRC, fueling of war that has cost over 5.4 million lives. The metals mined in eastern Congo enter global markets and make their way into products we use every day, such as mobile phones, cars, airplanes, and jewelry.

In Zimbabwe, the ruling ZANU–PF elite is using Zimbabwe's diamond wealth as a source of off-budget financing for partisan security forces with a track record of committing human rights violations against Zimbabwe's civilian population.

Increasing transparency in the extractive sector is crucial to combat the resource curse. It deters corruption, creating an enabling

environment for better resource governance and giving citizens information to hold their governments to account.

The encouraging news is that there is a rising tide of transparency. The U.S. Government has exhibited strong leadership by passing sections 1502 and 1504 of Dodd-Frank. Section 1502, the conflict minerals provision, aims to cut off financing to abusive armed groups involved in the minerals trade in eastern Congo. Section 1504 requires extractive companies to publicly disclose payments to governments on a country and project level. U.S. leadership has catalyzed global action. The European Union and other countries are now following suit.

Increased transparency through initiatives like the Extraction Industry Transparency Initiative will also empower citizens in African resource-rich countries to demand government accountability for responsible resource use. The Africa Progress Panel, led by Kofi Annan, recently issued a ground-breaking report entitled, "Equity in Extractives," which calls on governments to promote greater transparency of the extractive sector and tackle hidden company ownership.

We very much appreciate the work of the subcommittee in addressing corruption and human rights issues in Africa and today would like to make the following policy proposals for consideration: First, effectively implement and enforce sections 1502 and 1504 of Dodd-Frank; second, make the transparent and responsible management of natural resources an integral part of U.S. foreign policy objectives and mainstream resource governance as a core part of U.S. assistance to resource-rich countries. A key part of this should involve protecting human rights and actively supporting civil society in its efforts to hold governments to account over management of resource revenues. Third, tackle hidden company ownership in the U.S. to prevent American companies from being misused to move corrupt and other dirty money into the U.S. financial system.

In conclusion, the U.S. Government has an important role to play in helping address the resource curse in Africa. Better governance of natural resources will contribute to stability and economic development in African countries, help protect U.S. national energy security interests, and promote a more stable operating environment for American companies and investors.

Thank you.

[The prepared statement of Ms. Gilfillan follows:]

global witness

**Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations**

**Committee on Foreign Affairs, U.S. House of Representatives**

**Hearing entitled "Is There an African Resource Curse?"**

**July 18, 2013**

**Testimony of Corinna Gilfillan, Director of U.S. Office, Global Witness**

Good afternoon Chairman Smith, Ranking Member Bass and members of the Subcommittee. Thank you very much for holding this hearing today to focus on the important issue of tackling the resource curse in Africa. My name is Corinna Gilfillan, Director of Global Witness's Washington, DC office which is an international advocacy organization headquartered in London that investigates and campaigns to break the links between natural resources, corruption and conflict.

Global Witness has carried out pioneering work for nearly 20 years to expose natural resource-related conflict and corruption and associated environmental and human rights abuses and much of this work has focused on Africa. One of our early campaigns exposed how diamonds financed brutal conflicts in Liberia, Sierra Leone and Angola, which brought the problem of blood diamonds to international attention. Our investigations in Africa and globally have revealed how timber, diamonds, minerals, oil and other natural resources incentivize corruption, destabilize governments and fuel conflicts, rather than benefiting a country's citizens. Through our investigations, research and high-level advocacy we advocate for solutions to the resource curse so that citizens of resource-rich countries can get a fair share of their country's wealth.

Many countries in Africa and globally that are rich in oil, gas and other minerals are mired in poverty because the public revenues earned from selling these resources are being squandered through corruption and lack of government accountability. In 2010, the value of exports of oil and minerals from Africa was worth $333 billion, about six times the value of exported agricultural products ($55 billion) and nearly seven times the value of international aid ($48 billion).[1] Such resource wealth has the potential to lift many of the world's poorest out of poverty and bring about significant development opportunities. Yet due to weak governance and corruption, natural resource revenues don't always reach government accounts and are looted by the very politicians entrusted with developing their country's economy. In fact, we have seen

[1] WTO, 2011, 'International Trade Statistics, Merchandise Trade by product', OECD 2011, 'Development at a Glance. ODA to Africa', p 2.

that resource exploitation entrenches and exacerbates poor governance, lack of accountability and corruption and contributes to stagnating economies while undermining development.

Statistics provide strong evidence that there is a resource curse in Africa. Many of the 20 countries in sub-Saharan Africa identified by the IMF as resource-rich countries[2] languish toward the bottom of the Human Development Index and have some of the world's highest child mortality rates. For example, 12 African resource rich countries have more than 100 child deaths for every 1,000 live births.[3] The 2013 Resource Governance Index by the Revenue Watch Institute evaluates the resource governance of the oil, gas and mining sector of 58 countries globally, and finds that 16 out of 21 African countries surveyed received a "weak" or "failing" score.[4]

Angola and Nigeria are two countries that exhibit the resource curse – they are two of the largest producers of oil in Africa and yet their citizens remain among the poorest in the world, with approximately 70% of Angolans and 80% of Nigerians living on less than two US dollars day.[5] Equatorial Guinea, a highly corrupt country governed by the autocratic President Obiang, generates billions of dollars in oil revenues and has one of the highest per capita incomes in the world. Yet, President Obiang and his family draw on the vast oil revenues to fund their lavish lifestyles while 77% of Equatorial Guineans live below the poverty line and about 20% of children die before the age of five.[6]

The encouraging news is that we are entering a new era of transparency that has the real potential to bring greater accountability in the management of natural resource revenues. The passage of mandatory reporting requirements for extractive industry transparency in the U.S. and Europe and the development of other transparency initiatives are helping to lift the veil of secrecy around the extractives sector. The U.S. government, African governments, civil society and extractive companies have an important role to play in reversing the trend so that natural resource revenues are harnessed for development and poverty alleviation.

**Natural resources and corruption**

Opacity around the payments oil, gas and mining companies make to governments enables corrupt government officials to siphon off or misappropriate natural resources rather than spend the revenues on development and poverty alleviation. In most cases a country's citizens are the owners of the resources and yet these large and vital revenues flows are often hidden from public

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[2] IMF, "Sub-Saharan Africa – Sustaining Growth amid Global Uncertainty", Regional Economic Outlook, IMF, Washington, DC, accessed July 15, 2013, p. 60. http://www.africanleadershipnetwork.com/wp-content/uploads/2012/08/Regional-Economic-Outlook.pdf

[3] Africa Progress Panel Report 2013 "Equity in Extractives," p. 19. http://www.africaprogresspanel.org

[4] Algeria, Equatorial Guinea, Cameroon, DRC, Libya, Mozambique, South Sudan and Zimbabwe received a failing grade, Angola, Botswana, Egypt, Gabon, Guinea, Nigeria, Sierra Leone and Tanzania received a weak grade and Ghana, Liberia, Morocco, South Africa and Zambia received a partial score. Countries were evaluated on 4 main categories: Institutional and Legal Setting, Reporting Practices, Enabling Environment and Safeguards and Quality Control. Revenue Watch Institute, 2013 Resource Governance Index, http://www.revenuewatch.org/rgi

[5] World Bank: Poverty headcount ratio to US$2 a day (PPP), available at: http://data.worldbank.org/indicator/SI.POV.2DAY

[6] See: http://data.worldbank.org/country/equatorial-guinea, Forbes, "The Five Worst Leaders in Africa," February 9, 2012, http://www.forbes.com/sites/mfonobongnsehe/2012/02/09/the-five-worst-leaders-in-africa/

view, making them vulnerable to mismanagement or loss through corruption. Revenue transparency is a crucial stepping stone to preventing natural resource revenues from being misappropriated or siphoned off by corrupt regimes and creating an enabling environment for improved resource governance.

The risk of corruption in the extractives sector lies not only in the flow of revenues from contracts and licenses, but also right at the start, when extractive companies are granted access to these license and contracts. Corrupt and badly negotiated oil, gas and mining deals that are done behind closed doors prop up autocratic regimes and enable them to rob citizens of billions of dollars, money that should be used for development rather than enriching elites and the international companies that are willing to do business with them.

The African case studies outlined below illustrate how secrecy across the extractives value chain can fuel corruption or mismanagement of natural resource revenues, undermining efforts for these revenues to contribute in a significant way to development and poverty alleviation.

**Secrecy around company payments: Nigeria**

Global Witness investigations in Nigeria show the importance of greater transparency around extractive project level payments. In May 2012, Global Witness reported on New York court documents that revealed that Nigerian subsidiaries of Shell and ENI agreed to pay the Nigerian government US$1,092,040,000 to acquire oil block OPL 245 (a project level payment). Controversially, the court documents also revealed that the Nigerian government agreed, in the same month, to pay precisely the same amount to *Malabu Oil and Gas*, a company widely reported as controlled by Abacha-era Minister, Dan Etete, who was convicted in France in 2007 of money-laundering. [7] This is a compelling example of why we need more transparency on payments - Nigerian citizens should have the right to know what money is being paid to their government as the starting point to demand accountability for where the money ends up.

**Deals involving hidden companies: DRC**

Secret sales of mining assets in the Democratic Republic of Congo (DRC) shows what can go wrong when natural resource deals are negotiated in a secretive and unaccountable manner. The Africa Progress Panel report estimates that Congo may have lost at least $1.36 billion from the under-priced sales of cobalt and copper mining assets between 2010 and 2012, in deals involving companies registered in British overseas territories. This is almost twice the country's annual spending on health and education combined.[8] These deals were carried out in secret with

[7] See Global Witness press release: "Shell's obscure payments kill its case for weak US and EU transparency laws." May 21st, 2012, http://www.globalwitness.org/library/shell%E2%80%99s-obscure-payments-kill-its-case-weak-us-and-eu-transparency-laws

[8] The Panel's report states that Congo "lost at least $1.36 billion in revenues from the under-pricing of mining assets that were sold to offshore companies" in five major mining deals. The figure of $1.36 billion is based on the price at which assets were sold to offshore companies compared to the price at which the offshore companies sold on (or "flipped") those assets to multinationals, or where this data is unavailable against the average of commercial valuations for the assets. The sources of all information are fully referenced in the Panel's report. As set out in footnote 105 of the Panel's report (p. 112), Congo spent $185 million on health in 2012 and $513 million on education. Africa Progress Report 2013,"Equity in Extractives," Africa Progress Panel, www.africaprogresspanel.org,

companies that were based in offshore tax havens and which could therefore keep their ownership secret. DRC is one of the richest countries in natural resources but ranks at the bottom of the UN's Human Development Index and one in five children die before the age of 5.[9]

**Opacity in bidding processes: Angola and Nigeria**

Global Witness has documented similar problems of opacity around license bidding processes for access to oil rights in African countries. In some cases in Angola and Nigeria, governments appear to have allowed companies special or preferential access to oil licenses raising doubts about the integrity of the process. In certain cases, there are grounds for suspicion that some of the companies may be owned or controlled by government officials or their private-sector proxies. If citizens do not know why particular companies have been awarded natural resource licenses, it leads to suspicions of wrongdoing, especially in countries like Angola, Nigeria and DRC with track records of natural resource-related corruption.[10] Too often private shell companies are awarded lucrative concessions with little information available as to who the beneficial owners of the company are, how much the company has paid for the license and what the country gained in return.

**Deals that benefit government elites: Guinea**

Guinea provides a particularly stark example of how companies operating in the natural resource sector can sign questionable deals with African elites in order to get access to resources. There are serious corruption allegations relating to the confiscation of half of one of the world's biggest iron ore concessions in Guinea and its granting to a company linked to a billionaire mining entrepreneur. A series of secret contracts seen by Global Witness spell out how a company named the Beny Steinmetz Group Resources (BSGR) promised Mamadie Touré (sometimes known as Mamadie Conté, one of the four wives of then Guinean Dicator Lansana Conté) millions of dollars and shares in the massive Simandou iron ore concession in return for help in acquiring the licences. [11]

Global Witness has raised concerns about BSGR's acquisition of blocks 1 and 2 of Simandou, noting the huge profits that the company made by flipping half their interest on to Vale, the world's largest miner of iron. BSGR paid nothing for its rights to Simandou and sold 51% of its stake to Vale in 2010 for $2.5 billion. Of this sum, $500 million was paid out immediately, with the remainder to be paid in stages. Even allowing for the $160 million that BSGR says it invested in Simandou and a neighboring concession, the profit was immense. The Guinean government's entire annual budget in 2010 amounted to just $1.2 billion. Given the extreme levels of poverty in Guinea and the international importance of the mining area in question, Global Witness believes full light should be shone on the matter and is urging BSGR to fully address the

[9] Global Witness: Rigged? The Scramble for Africa's Oil, Gas and Minerals," January 2012, available at: http://www.globalwitness.org/rigged/index.html

[10] Global Witness "Rigged? The Scramble for Africa's Oil, Gas and Minerals", January 2012, p. 3.

[11] "Guinea reignites $2.5bn mining tussle", 2 November 2012, by Tom Burgis, Helen Thomas and Misha Glenny; www.ft.com/s/0/06d895f4-24f7-11e2-8924-00144feabdc0.html

allegations.[12] The evidence suggests that BSGR may have obtained its rights to one of the world's most important mining assets through bribery.

These case studies show that transparency is crucial not just for the flow of revenues but along the "value chain" of natural resource extraction, from the award of licenses to the allocation of government revenues through national budgets. If citizens are to understand the commitments that their governments have entered into with extractive companies, and to reassure themselves that companies are meeting their contractual obligations, there must be an open-contracting process which involve an open and fair process for the allocation of contracts themselves and disclosure of the contract and the ultimate ownership of companies taking part in bidding. Public disclosure of contracts is a crucial element of transparency to enable citizens to monitor and assess the returns a country is receiving from resource extraction and to help the government build trust and develop deals that are in the long-term interests of the country.

**A global standard of extractive industry transparency**

Since 2002, Global Witness and the Publish What You Pay coalition, a global coalition of over 650 member organizations including human rights, development, environmental and faith-based groups have advocated for greater transparency of extractive industries to improve the lives of people in resource-rich countries. PWYP has campaigned for governments to adopt mandatory reporting requirements for extractive companies to publish what they pay to governments for natural resource extraction so that civil society can hold governments to account for management of natural resource revenues.[13]

There is now a strong global momentum for lifting the veil of secrecy around payments worth hundreds of billions of dollars that companies make to governments for access to natural resources. The United States government has played a significant leadership role on extractive industry transparency by being the first country to pass a mandatory reporting requirement. Section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 is an extractive industry disclosure provision that was championed by a bi-partisan group of Congressional Members.

Section 1504 requires oil, gas and mining companies registered with the U.S. Securities and Exchange Commission (SEC) to disclose in their annual filings what they pay to the U.S. Federal Government and to foreign governments. This provision is supported by a broad group of investors with over $1 trillion in assets[14] and requires disclosure of payments at the country and project level, including taxes, royalties and license fees. Section 1504 is a groundbreaking provision that will shine a light on billions of dollars in payments to governments from oil, gas and mining companies and decrease opacity in the extractive industries.

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[12] Global Witness press release, "Damning video and contracts show BSGR was lying in Guinea mining scandal", April 19, 2013, http://www.globalwitness.org/library/damning-video-and-contracts-show-bsgr-was-lying-guinea-mining-scandal

[14] See press release by Calvert Investments welcoming release of the SEC's final rules for Section 1504: http://www.calvert.com/newsArticle.html?article=19806

Increased transparency in natural resource payments will give citizens in African resource-rich countries information to combat oil, gas and mineral sector corruption and to demand government accountability for responsible resource use. Transparency promotes a more stable operating environment in resource-rich countries, which reduces risks to investors and companies and helps protects U.S. energy and national security interests. Companies are recognizing the importance of being transparent and are already disclosing payments voluntarily, including: Newmont Mining Company (US), Statoil (Norway) and Talisman Energy (Canada).[15]

Global Witness strongly disagrees with the DC District Court's decision on July 4, 2013 to vacate the implementing rules for Section 1504 of the Dodd-Frank Act. Section 1504 remains the law of the land and the SEC will now have to review the most effective way of implementing the law. This decision came after the American Petroleum Institute (API) brought a legal challenge against the SEC's rule for implementation of Section 1504.[16]

The court decision runs starkly at odds to the global trend towards extractive industry transparency. Since the API lawsuit was filed in September 2012 the European Union has ratified the 'Accounting and Transparency Directives', which requires disclosure complementary to Section 1504 across the 28 member states of the EU. The EU policymakers provided no exemptions in the EU law, categorically rejecting industry claims as not credible. Canada has announced it is introducing a similar law, the Swiss government is considering one, and G8 leaders made a strong commitment in June to requiring mandatory disclosure of oil, gas and mining revenue payments.

**The Africa Progress Report calls for extractive industry transparency**

The Africa Progress Panel, led by Kofi Annan, recently issued a report entitled 'Equity in Extractives' that joins the calls for greater transparency and better governance of the sector stating that "effectively harnessed and well managed, Africa's resource wealth could lift millions out of poverty over the next decade."[17] The report points to a "new culture of openness" in Africa given the growing number of initiatives and laws that are aimed at bringing greater transparency and accountability to the sector. The report recognizes the importance of mandatory disclosure requirements in helping African countries and calls for other countries to adopt mandatory disclosure standards similar to Section 1504 of the Dodd-Frank Act.

The report also recognizes how hidden company ownership is a major barrier to fighting poverty in Africa and calls on the G8 and G20 to adopt common rules requiring full public disclosure of the beneficial ownership of companies and for disclosure of the names of people who own or control companies bidding for natural resource concessions. The G8 recently agreed to a set of principles to tackle the problem of hidden company ownership and the U.S. published a national action plan that commits to create registries of the ultimate owners of companies. Now the U.S. must implement this commitment.

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[15] See PWYP USA Q&A on Section 1504: http://www.pwypusa.org/sites/default/files/QAs%20on%20Cardin-Lugar%20provision%20in%20Dodd-Frank_Section1504_Jan2012_0.pdf

[16] Global Witness press release, "History will show DC District Court has drawn wrong conclusions on Dodd-Frank 1504," July 4, 2013, http://www.globalwitness.org/library/history-will-show-dc-district-court-has-drawn-wrong-conclusions-dodd-frank-1504

[17] Africa Progress Panel Report 2013 "Equity in Extractives," www.africaprogresspanel.org

**A new standard for the Extractive Industries Transparency Initiative**

Another important initiative is the Extractive Industries Transparency Initiative (EITI), a global multi-stakeholder initiative comprised of governments, civil society and extractive companies, aimed at strengthening governance by improving transparency in the extractive industries sector. Currently, there are 39 countries that are part of the EITI with 21 African countries members, 13 of which are compliant.[18] The aim of the EITI is to provide public reporting on revenue flows so that citizens can hold their governments to account for the management of these revenues. The EITI is a voluntary initiative where countries decide whether they would like to join the EITI and then must meet its minimum requirements. Section 1504 of Dodd-Frank Act complements and reinforces the EITI and will provide extractive payment data from countries that have been unwilling to join the EITI and where it is very challenging for civil society to operate freely, including Angola and Equatorial Guinea.

As a member of the EITI International Board, I was involved in the development of the new EITI standard that substantially expands the scope of data which countries are required to disclose. New disclosure requirements include license holders, license allocations and the activities of state-owned enterprises. The new standard also requires project level reporting consistent with Dodd-Frank and the EU directive. Moreover, the new standard recommends that countries disclose natural resource contracts and the beneficial owners of extractive companies, with a plan to requiring beneficial ownership disclosure by 2016.[19]

It is very encouraging that a growing number of countries in Africa and globally are already disclosing natural resource contracts, including Liberia, Niger, Sierra Leone, Sao Tome & Principe, Guinea, DRC and the Republic of Congo, while Nigeria is considering disclosure as part of its pending petroleum industry legislation.[20] The new EITI standard should be used to promote contract and beneficial ownership disclosure so that it becomes a widely accepted standard in Africa and globally.

Another important development is the U.S. commitment to implement the U.S. EITI as part of the U.S. National Action Plan of the Open Government Partnership. The U.S. government has established a multi-stakeholder group to oversee EITI implementation[21] and plans on submitting an application for membership to the EITI later this year. This is a significant and welcome development for improving governance in the U.S. natural resource sector and showing leadership on the EITI.

The new data from EITI and the Dodd-Frank provision will empower civil society organizations and other stakeholders to pressure governments to improve governance of the natural resource sector. We are seeing that greater transparency is leading to positive outcomes in countries. For

[18] See: http://eiti.org/countries, accessed on July 15, 2013.
[19] See http://eiti.org/files/English_EITI%20STANDARD_11July.pdf
[20] See Global Witness report, *Copper Bottomed? Bolstering the Aynak contract & Afghanistan's first major mining deal*, November 2012, p. 20 http://www.globalwitness.org/sites/default/files/library/Copper%20Bottomed.pdf. See also "Contract Disclosure in the Extractive Industry Transparency Initiative," Position paper by full and alternate civil society members of the EITI International Board, 7 December 2010.
[21] See Department of Interior website on US EITI: http://www.doi.gov/EITI/index.cfm

example, Ghana's early EITI reports revealed that mining companies were not contributing adequately to the government for resource extraction. Through civil society pressure and a multi-stakeholder group dialogue, Ghana established a new royalty rate of 5% for gold and increased the corporate income tax from 25 to 35%. Civil society also pushed the government to invest more of its oil revenues in social programs which has resulted in the new revenue management law allowing the government to invest 70% of oil revenues annually in social programs and infrastructure. In Tanzania, a parliamentary review and an active campaign by civil society played a major role in the development of a law that reduces loopholes in the taxation and royalties paid to the government. [22]

**Resource governance in emerging producing countries**

The global standard of transparency that has emerged presents an enormous opportunity to ensure that new producers in Africa avoid the resource curse so citizens can benefit from natural resource wealth. It is critical that countries with emerging oil, gas and mining sectors in Africa develop robust legal frameworks and transparency in the extractives sector before revenues come on line and corruption risks are high. So far progress is mixed. In Liberia, where there is an emerging oil sector, the government has taken steps to show its commitment to improve transparency through the publication of a full independent audit of examining how it awarded its mining, oil and gas, logging and large-scale agricultural concessions. The audit found major violations in its process for awarding contracts that the Liberian government must urgently address, but the government should be commended for taking an important step to improve resource governance.[23]

In Uganda, where oil is likely to come on line in 2017, donors are providing support and capacity building in the development of Uganda's legal framework and in the negotiation of oil contracts. The Parliament and civil society are also playing an active role in promoting good governance of the sector. The government appears to have succeeded in negotiating more favorable terms in its most recent contracts. However, Uganda's new legislation for the petroleum sector has significant weaknesses and corruption risks, and overall government capacity to deal with social and environmental aspects is poor. In particular the government's commitment to transparency remains low and public sector high level corruption scandals in other sectors are extremely prevalent. It remains to be seen if Uganda can harness its oil for the common good or whether it will be the latest in a long line of states to fall foul of the resource curse.

Uganda is only the first of many countries in the East and Southern Africa region, including Tanzania, Kenya, Mozambique, Malawi, Ethiopia and Somalia, who are either exploring for, or who have discovered significant domestic oil and gas reserves. These new found resources are likely to fundamentally change the economies and governance in this region and the United States' relationship with these states. It remains to be seen whether these countries can capitalize

[22] See Revenue Watch Institute, "RWI in Partnership Countries," June 2013. http://www.revenuewatch.org/sites/default/files/RWIinPartnershipCountries.pdf

[23] See Global Witness press release," Liberian government publishes landmark resource audit, but urgently needs to address findings, May 22, 2013, http://www.globalwitness.org/library/liberian-government-publishes-landmark-resource-audit-urgently-needs-address-findings

on the new transparency norms which are coming to the fore and put in place adequate regulatory practices to effectively manage their resources and move away from aid dependence.

There are some positive developments in some of these countries as governments, civil society and other actors are attempting to learn the lessons from other countries and avoid the mistakes of the past but the risks in this region in terms of governance, stability, conflict and environmental management are extremely significant. There is now a significant body of evidence and a raft of policy initiatives to support these states as they transition, but absence of political will can create a significant barrier to greater transparency and international donors need to main-stream resource governance as a core part of their assistance.

The challenge for the U.S., and other international donors, is whether they can help replicate the relative successes in countries like Timor Leste and Ghana which have put in place mechanisms to guarantee transparency, civil society engagement and best practice. They will need to ensure that companies operating from their own jurisdictions abide by the highest standards. They will also need to work closely with the governments, parliaments and civil society in resource producing countries to ensure that they manage their resources carefully and transparently from the start. This should include but not be limited to open contracting, adequate consultation and compensation processes, careful environmental management, and sound and transparent revenue management. The U.S. government's Energy Governance and Capacity Initiative led by the State Department is working to improve governance in emerging oil and gas producing countries and should focus on these issues. Another important focus for the U.S. and other donors is to provide adequate support for CSOs and media to help them use new data as it becomes available as a result of mandatory reporting requirements in the U.S. and Europe.

**Natural resources and conflict**

Natural resources have not only fuelled corruption but also have funded brutal conflicts in Africa. Diamonds and timber played a significant role in funding Liberia's bloody conflict that ended in 2003 and killed over a quarter of a million people and displaced a further 1.3 million. Now Liberia faces the challenge of managing its resources in a way that will contribute to development and prosperity instead of conflict. Natural resources continue to fuel conflicts and human rights abuses in Africa as outlined in the following case studies.

**Diamonds funding human rights abuses: Zimbabwe**

In Zimbabwe the discovery of large diamond fields in the mid-2000s has done little to help the Zimbabwean people, 72% of whom live below the poverty line.[24] Instead the ruling ZANU-PF elite is using Zimbabwe's diamond wealth as a source of off-budget financing for partisan security forces with a track record of committing human rights violations against Zimbabwe's civilian population. This is of particular concern in the current political context, as levels of intimidation by police, military and secret police have been building in Zimbabwe as we move closer to elections at the end of this month.

[24] See data from the World Bank: http://data.worldbank.org/country/zimbabwe

According to Kimberley Process statistics, Zimbabwe is now the world's fourth largest producer of diamonds by volume,[25] which gives the country the potential to be earning billions of dollars from their sales. However, finance minister Tendai Biti has repeatedly complained that diamond money is not making its way into government coffers[26] and earlier this year declared that Zimbabwe was broke.[27] Global Witness research has shown that some of the joint venture companies operating in Zimabwe's main diamond producing area, Marange have complex ownership structures which may be being used to conceal the true beneficial owners of the companies. In the case of one joint venture company, Anjin, Global Witness found evidence that the state owned mining company ZMDC had used a front company, Matt Bronze, to incorporate the joint venture with Chinese construction firm, Annui Foreign Investments. GW's investigation revealed a senior military official to be one of the owners of Matt Bronze.[28] Military ownership of Anjin has since been verified by Zimbabwe's deputy minister of mines Gift Chimanikire.[29]

It is of great concern that Anjin, a company with huge potential for revenue generation, is funding a partisan and abusive military force instead of remitting to Zimbabwe's treasury. Diamond revenues in Zimbabwe have the potential to inject desperately needed funding for development and aid the country's transition to a more stable and democratic future, but instead are being used to undermine that very same prospect.

**The Kimberley Process's failure to achieve its goals**

Global Witness first exposed the problem of blood diamonds in 1998 and played a key role in establishing the KP. The KP is a government-led rough diamond certification scheme launched in 2003, which requires member states to pass national legislation and set up an import/export control system for diamonds. Eighty of the world's diamond producing, trading and manufacturing countries participate in the scheme. Global Witness was an official Observer in the Kimberley Process from 2003 until we withdrew from the scheme in 2011.[30]

Although the establishment of the KP led to some welcome shifts - for example certain diamond producing countries like Sierra Leone saw an increase in official revenue from diamond exports - the KP's refusal to evolve and address the clear links between diamonds, violence and tyranny rendered it increasingly outdated. Intensive efforts over many years by a coalition of NGOs were unsuccessful in closing the scheme's loopholes and many of the governments involved show no interest in reform.

Despite claims to the contrary, the KP and member governments have been largely unwilling to take meaningful action to stop diamond-fuelled violence and corruption in Zimbabwe's controversial Marange area. Weak industry self-regulation all along the diamond pipeline means

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[25] https://kimberleyprocessstatistics.org/static/pdfs/public_statistics/2012/2012Charts.pdf

[26] "Biti: Zimbabwe too broke to hold referendum elections" Voice of America, 21 Dec 2012 and "Zim finance minister demands "Zanu-PF diamond money for elections" Zimbabweelection.com 10 July 2013

[27] "Zimbabwean government bank balance 'down to $217' The Guardian 30 January 2013

[28] "Financing a Parallel Government" Global Witness, July 2012, http://www.globalwitness.org/library/financing-parallel-government-Zimbabwe

[29] "Chimanikire defends army's presence at Chiadzwa" The Herald 18 June 2012

[30] "Why we are leaving the Kimberley Process," by Global Witness Founding Director Charmian Gooch, December 5, 2011, http://www.globalwitness.org/library/why-we-are-leaving-kimberley-process-message-global-witness-founding-director-charmian-gooch

that diamonds from Marange find their way onto global markets, and most consumers don't know whether the diamonds they buy have benefited armed violence or abusive regimes.

Companies buying or trading rough and polished diamonds should take steps – known as due diligence – to find out whether their purchases have funded conflict or human rights abuses at any point in the supply chain. Global Witness is part of an informal multi-stakeholder working group, including companies, governments and civil society organizations that have come together to address concerns about responsible sourcing in the diamond and precious stones sectors.

**Minerals fuelling conflict: eastern DRC**

For the last fifteen years, armed groups and members of the national army have used profits from the trade in tin, tantalum, tungsten and gold to finance themselves and their operations in eastern Democratic Republic of Congo (DRC), fuelling a war that has cost over 5.4 million lives. The country's natural resource wealth is not the root cause of the violence, but competition over the lucrative minerals trade in its eastern Kivu provinces has become an incentive for all warring partie to continue fighting. The metals mined in eastern DRC enter global markets and make their way into products such as mobile phones, cars, airplanes and jewelry. Meanwhile the population in Congo's east bear the brunt of a conflict characterized by murder, pillage, mass rape and displacement.

The U.S. has played a leadership role in tackling this issue through the passage of Section 1502 of the Dodd-Frank Act, the conflict minerals provision. The conflict minerals provision, which was championed by a bi-partisan group of Congressional Members, aims to break the links between DRC's minerals trade and abusive armed groups and requires companies registered with the SEC to carry out due diligence on their supply chains to determine whether their purchases have funded conflict and/or human rights abuses.[31]

Section 1502 has brought unprecedented attention to the Great Lakes Region and has catalyzed reform of DRC's mining sector to combat conflict minerals and spurred the development of a regional mineral certification scheme. It has spawned the development of industry initiatives to clean up supply chains while gradually creating opportunities for transparent and conflict-free sourcing.

U.S. leadership has also spurred Europe to begin taking action to combat conflict minerals. The European Commission has recently carried out a formal consultation to obtain feedback from stakeholders on developing a European policy to break the links between minerals and conflict in eastern Congo and globally. The OECD's international standard for carrying out supply chain due diligence in conflict zones is an important global standard which companies will use to comply with Section 1502. The standard was developed to be used anywhere in the world where minerals are fuelling conflict or human rights abuses, an approach that the U.S. government should widely promote.

[31] See Global Witness website for more information on Section 1502 of Dodd-Frank: http://www.globalwitness.org/library/dodd-frank-acts-section-1502-conflict-minerals

**U.S. leadership to tackle the resource curse**

The U.S. government has a major role to play in combating the resource curse in Africa. Better governance of natural resources will contribute to stability and economic development in African countries, help protect U.S. national and energy security interests and promote a more stable operating environment for American companies. Therefore, the U.S. government should prioritize the following issues to improve natural resource governance in Africa:

***1). Effectively implement Section 1502 of the Dodd-Frank Act to combat conflict minerals and Section 1504 of the Dodd-Frank Act to increase transparency in the extractive industries.*** U.S. government leadership on this issue has catalyzed global action that will lead to better governance of natural resources in Africa. The U.S. must stay committed to implementation and allow no exemptions while actively supporting civil society in using the data from Section 1504 to hold governments to account for management of natural resources. Building on G8 Commitments and action in Europe, the U.S. should continue to push other countries to adopt similar provisions.

***2). Make the transparent and responsible management of natural resources an integral part of U.S. foreign policy objectives.*** Specifically, the State Department should proactively work to improve natural resource governance in African countries by promoting open-contracting and transparency across the value chain, including with revenues, license allocations, contracts, and beneficial ownership. Efforts should focus on increasing the capacity of African governments to negotiate better natural resource deals and improving governance of state-owned companies and natural resource funds. The U.S. should mainstream resource governance as a core part of its assistance to resource-rich countries and require that the US assistance through such programs as the Energy Governance and Capacity Initiative be explicitly linked to transparency commitments and progress made in achieving them. The U.S. should integrate natural resource governance requirements into its lending through U.S. export credit agencies and through reauthorization of the Africa Growth and Opportunity Act (AGOA). The U.S. must also effectively implement the U.S. EITI to lead by example and improve U.S. natural resource governance.

***3). Tackle hidden company ownership in the U.S. to prevent American companies from being misused to move corrupt and other dirty money into the U.S. financial system.*** Building on the G8 commitments to tackle hidden company ownership, and the U.S. Open Government Partnership commitment to advocate for legislation that would require meaningful disclosure of beneficial ownership information, Congress must pass legislation to require all U.S. companies to disclose their beneficial owners (which is the natural person(s) who maintain(s) an economic interest in or control over the company at the time it is created) to end the secrecy around anonymous shell companies that can facilitate corruption and state looting.

***4). Protect human rights and support civil society in holding governments to account for governance of the natural resources sector.*** In some countries, particularly countries with autocratic regimes and weak rule of law, civil society experiences serious challenges in its ability to operate freely and speak out against corruption and mismanagement of natural resources. The State Department must develop a proactive strategy for supporting and building civil society's capacity on these issues and help address the grave risks that civil society faces in some countries in Africa and globally.

***5). Rigorously enforce the Foreign Corrupt Practices Act to prosecute individuals and companies that make corrupt payments to foreign officials and to combat financial fraud.*** The FCPA makes it illegal for U.S. companies to pay bribes to foreign government officials and is an important law to hold companies to account for corrupt behavior in the extractives sector.

Mr. SMITH. Thank you so very much.
Mr. Adam?

**STATEMENT OF MR. MOHAMMED AMIN ADAM, EXECUTIVE DIRECTOR, AFRICA CENTRE FOR ENERGY POLICY**

Mr. ADAM. Mr. Chairman, ranking member of the committee, thank you most sincerely for inviting me to a hearing of the subcommittee addressing the question, "Is There an African Resource Curse?"; and, in particular, to give a testimony to this subject. As you know, the subject of resource curse in Africa is very broad, and I would like with your permission to focus my testimony on Ghana's management of her natural resources.

As a petroleum economist and an activist, I read by the day—allow me to read—that Africa's natural resources are being plundered, but Ghana is trying recently to take a departure from this path.

At the height of the global financial and economic crisis in 2007, Ghana discovered oil and gas in commercial quantities estimated at 1.8 billion barrels of reserves. Oil has now become the second largest export commodity of Ghana following gold but overtaking cocoa. By the end of 2012, more than 50 million barrels of crude oil were produced from what we call the Jubilee Fields, which commenced production in late 2010.

The positive impact of oil is already being felt in the budget. The Government of Ghana received $541 million last year. Significant efforts have been made, as I said, to avoid the case of oil burden on our ever-improving democratic regime, which many people consider a new paradigm of countries in Africa determined to break away from the resource case.

Once called the Gold Coast, Ghana has been a major producer of gold, which is now in the largest export commodity of the country. This year, 2012, marked Ghana's highest earning from mining in its history with export revenues of $5.7 billion. But in spite of these developments, the cost of mining to the country has been too high. Destruction to the environment, human rights abuses, displacement of communities, and low compensation paid to affected communities while mineral revenues have not translated to tangible development outcomes.

In its attempt to avoid the mistakes of the mining industry and those of oil-producing countries which got entangled in the case of resource world, the Government of Ghana embarked on far-reaching policy and legislative development, both on public consultations and greater openness. This includes the Petroleum Revenue Management Act and the Petroleum Commission Act.

Some of the most important provisions in these laws are a requirement that oil receipts, production lifting, and sales prices, and expenditure from oil must be published quarterly and annually and the establishment of the Public Interest and Accountability Committee to provide independent assessment of how oil revenues are being used. Ghana is an EITI-compliant country and has already issued a reconciliation report on oil 2 years into production.

While these good efforts are commendable, good laws only provide a framework for managing the resources. Indeed, the resource case is a manifestation of poor implementation of regulations. And

Ghana is one of the countries that is unable to implement its good laws.

Abuse of regulations through regulatory capture and weak accountability institutions capable of checking rent-seeking behavior and vested interest, these problems are compounded by impunity and political patronage, which have often undermined the government's ability to act.

Ghana is, therefore, unlikely to escape the resource curse with oil unless a number of issues are addressed. One, Ghana's accountability institutions and regulators are still weak and are not resourced to work independently. The Public Interest and Accountability Committee and the new Petroleum Commission, two institutions responsible for oil revenue monitoring and oil regulations, have not been provided with a budget since they were established.

Two, for both oil and minerals, there is no open tendering or bidding process for acquiring prospecting or exploration rights. There is also no mandatory contract disclosure, and contracts are published at the discretion of the Minister of Energy or Natural Resources. Oil and mining deals are kept confidential, and the system provides opportunities for hidden benefits to companies as well as avenues for tax evasion. Further, beneficial owners are not disclosed, which promotes rent-seeking behavior.

Three, Ghana is losing revenues through tax avoidance and transfer pricing and has been 1970 and 2008 lost $4.9 billion through illicit financial flows, including lost revenues from resource taxes.

Four, also, the country is not deriving value from money from the infrastructure projects funded with oil and gas revenues as most of the projects have been delayed, operating under costly extensions, and leading to cost overruns.

Mr. Chairman, Ghana has shown the way, in spite of these challenges, and is fully determined to change course and escape the resource case, but important challenges still remain which need to be looked at. The United States can support Ghana and other African countries to address these challenges.

The need to implement the extractive industry payment disclosure provisions in the Dodd-Frank Wall Street Reform and Consumer Protection Act is long overdue. The U.S. support for the implementation of an Economic Community of West African States Directive on Mining that includes transparency safeguards but also protection of free, prior, and informed consent for communities impacted negatively by these projects is also important.

Finally, the U.S. should also support the building of strong institutions, including negotiation capacity and technical support, to help establish the geological data that enhances the value of these natural resources. If the U.S. is forthcoming with this support, I believe that Ghana and many other African countries would change a course and, therefore, would be ready to manage these resources efficiently and in the interest of their people.

I thank you very much for the opportunity.

[The prepared statement of Mr. Adam follows:]

**Testimony of Mohammed Amin Adam**
**Executive Director**
**Africa Centre for Energy Policy, Ghana**

**"Is There an African Resource Curse?"**

**House Sub-Committee on Africa, Global Health, Global Human Rights, and International Organizations**

**18th July 2013**

## Introduction

Chairman, Ranking Member, Members of the Committee, thank you most sincerely for inviting me to a hearing of the Sub-Committee addressing the question "Is There an African Resource Curse" and in particular to give a testimony on the subject. As you know the subject of resource curse in Africa is very broad, and I would like with your permission to focus my testimony on Ghana's management of her natural resources.

## Background

At the height of the global financial and economic crises in 2007, Ghana discovered oil and gas in commercial quantities estimated at 1.8 billion barrels reserves. But Ghana was yet to see many blessings in addition to being a new oil producer. Soon after this development the tap was opened and many wondered how God could bestow so much on a country at the same time - a new oil producer, a new middle income country, a nation that emerged unscathed from a very competitive elections in 2008, the second highest growing economy in the world in 2011 (growing at 14% of GDP) and in the same year becoming the third largest recipient of Foreign Direct Investments in Africa, US$3.2 billion, following Nigeria and South Africa.[1]

Oil has now become the second largest export of Ghana – US$2.7 billion in 2011 to US$3 billion in 2012; following gold and overtaking cocoa.[2] Ghana is also gradually becoming a net exporter of crude oil with oil imports of US$3.3 billion in 2012 versus oil exports of US$3 billion. This is

[1] The UN Conference on Trade and Development (UNCTAD), World Investment Report, 2012.
[2] Standard Chartered Bank, May 2013

just a matter of time as oil production increases and new oil discoveries have been made. To date, 23 oil discoveries have been made in Ghana giving the country an exploratory success rate of about 78%, one of the highest in the world.

The positive impact of oil is already being felt in the budget. With oil revenues flowing into the country since 2011, the annual budget has seen an important fiscal relief, and oil taking off part of the fiscal burden on tax revenues. In 2011, the country received US$444 million and US$541 million in 2012. These revenues will increase in the years ahead but this is offset by growing debts and large fiscal deficits especially around election time[3].

Thus far, so much is happening in Ghana, which many people consider a new paradigm of countries in Africa determined to break away from the resource curse. Ghana is indeed being tested and whether she will pass the test or become another victim of the curse is still an open question.

**What is resource curse?**

Resource rich countries such as oil and mineral producing countries have often been challenged by how to transform their riches to broad-based democratic development. Especially in developing countries, they are faced with problems of the quality of institutions managing these resources, the quality of investment of revenues from resource exploitation and the level of accountability of officials involved in managing large inflows of revenues. These countries often see their people live in abject poverty, plagued by conflicts, ignorance, illiteracy and disease in spite of their resource wealth. This phenomenon has become known as the ''resource curse''. The ''curse'' has also been described as the 'paradox of plenty'[4] and oil referred to as the 'devil's excrement' by Juan Pablo Perez Alfonzo, the co-founder of OPEC .

**Ghana has a poor record in managing its Century old Mining Sector**

The announcement of oil discovery in Ghana brought mixed reactions. For some, the expectations were very high. They believed – in part to promises by politicians – that their poor

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[3] The last 2 election years recorded very high fiscal deficits. 14% of GDP in 2008 and 12% of GDP in 2012.
[4] Karl, Terry Lynn, (1997). *The Paradox of Plenty: Oil Booms and Petro-States*. Berkeley, CA: University of California Press.

conditions and deprivation were to come to an end. There were however the more cautious Ghanaians who frightened by the "devils excrement", and in view of the experiences in many other oil-rich countries in Africa where oil wealth did not improve lives and brought instead vested interests, corruption, weak institutions and conflicts. But many others were also not optimistic of oil because of the country's poor record in managing her minerals.[5]

Once called the Gold Coast, Ghana has been a major producer of gold which is now the largest export commodity of the country. This year, 2012, marks the highest earning from mining in Ghana's mining history. With gold production of 4,313,190 ounces, and export revenues of $5.6 billion, the mining industry contributed 27 per cent of government revenue collected by the Domestic Tax Division of Ghana Revenue Authority[6].

In spite of these developments, the cost of mining to the country has been too high – destruction of the environment, human rights abuses, displacement of communities and low compensations to affected communities. Some of the problems in mining communities are however arising from the rise of resource nationalism which is driving people in to the struggle to earn a living from mining. They cannot wait in hunger whilst minerals are shipped out daily before their naked eyes. But these people need a license to partake in this struggle but are often constrained by many factors. The resort to illegal mining has brought untold stories about the further devastation of communities, land and water bodies. Most people have lost their lives as a result. A few of such cases are reported as follows[7]:

i. Wassa Dadieso where 9 people were alleged to have died in 2006;
ii. Noryem-Nyafoman where about 40 people died following mine subsidence;
iii. Abooso, near Wassa Akropong where 15 people died last year when due to under cutting, the mine collapsed and covered them.

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[5] See Oxfam America, *Ghana's Big Test: Oil's Challenge to Democratic Development*, 2009.
[6] http://www.ghanabusinessnews.com/2013/07/10/mining-sector-contributes-27-to-ghanas-revenue-in-2012-minister/#sthash.DvWiFRso.dpuf
[7] Statement by the Hon. Minister of Lands and Natural Resources relating to Government position on Small Scale Mining September 2010

iv. The recent one at Akyempim, near Dunkwa where an embankment collapsed flooding the pit resulting in the death of unspecified number of people. 17 bodies were found after some rescue efforts.

Small scale mining has been reserved for Ghanaians but the entry of foreigners into this mining has been very rapid especially Chinese mine workers. The Government of Ghana has set up a Taskforce of security agencies to arrest Ghanaians and foreigners engaged in illegal small scale mining. To date, 1,568 foreigners and 51 Ghanaians have been arrested, while 40 vehicles, 85 earth moving equipment and 49 weapons have been seized[8].

Apart from the social and economic challenges with mining in Ghana, the rising resource nationalism has also caught up with the Government, which, pressured to increase its share of mineral revenues, has resorted to fiscal reforms including a revision of corporate tax for mining companies from 25% to 35%, a new windfall tax of 10%; and ring-fencing of cost (a practice where the costs of unsuccessful projects cannot be offset by revenues from successful ones). It is also reviewing mining contracts and stability agreements with two big companies – Newmont and Anglogold Ashanti who together hold 35% of the total 2,109.04 square km of the area under mining agreements signed between the Government of Ghana and 21 mining companies between 1994 and 2007. The Government's own statement captures this nationalistic instinct as follows.

"The issue with mining is about fair and transparent sharing of the benefits and windfall gains from the exploitation of the country's precious and irreplaceable natural resources. As explained earlier, during the recent global financial crisis, prices of gold, cocoa and oil reached their peak levels ever. Yet, the country did not benefit at all from the price hikes, particularly from gold. The Government has, therefore, taken a bold step to critically review the fiscal regimes and mining agreements, with the view to ensuring that the country benefits adequately and fairly from the gains in the mining sector. To this end, Government has set up a National Re-Negotiation Team to advance this objective."[9]

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[8] Statement by the Minister of Lands and Natural Resources, Alhaji Inusah Fuseini on 10th July 2013. Cited at: http://www.ghanabusinessnews.com/2013/07/10/mining-sector-contributes-27-to-ghanas-revenue-in-2012-minister/#sthash.DvWiFRso.dpuf

[9] Government of Ghana Budget and Policy Statement, 2012

As expected some of the companies have threatened withdrawing investments, like Gold Fields Ghana, which announced it is stopping a US$1 billion investment in Ghana.

**Will Oil Experiment be Different?**

In its attempt to avoid the "mistakes" of the mining industry and those of oil producing countries which got entangled in the curse of resource wealth, the Government of Ghana embarked on far reaching policy and legislative development built on public consultations and greater openness never seen in the policy discourse around any sector in the country. These efforts led to the passing of important legislation such as the Petroleum Revenue Management Act of 2011 (Act 815), and the Petroleum Commission Act 2011 (Act 821). A new Petroleum (Exploration and Production) Act is going through consultations whilst regulations on local content and local participation have been laid in Parliament.

The most important revelations from the process described above is the extensive transparency and accountability provisions in the law, requiring that oil receipts, production liftings and sales prices, and expenditure from oil must be published quarterly and annually. So far the Minister of Finance has complied with the provisions of the law by publishing all the information prescribed by law.

Perhaps, the most unique feature of Ghana's petroleum revenue management regime is found in the creation of the Public Interest and Accountability Committee (PIAC) composed of 13 members of non-governmental actors including the Ghana Bar Association, The Civil Society Platform on Oil and Gas, the Christian Council, the Muslim Council, to mention a few.

The country signed on to the Extractive Industries Transparency Initiative (EITI) and is a compliant nation. It has also already issued a reconciliation report on oil two years into production. The country's commitment to transparency in the extractive industries was recently rewarded in the Revenue Watch Resource Governance Index which placed Ghana top among 15 countries examined in Sub-Saharan Africa.

**Good laws are not Adequate**

Whilst these great efforts are commendable, good laws only provide the framework for managing the resources. The resource curse is a manifestation of poor implementation of

regulations, abuse of regulations through regulatory capture, and weak accountability institutions capable of checking rent seeking behavior and vested interest. These factors are within the control of Government but impunity and political patronage have often undermined Government's ability to act.

A close example of such inaction by Government is its failure to provide budget to the same institutions established by law to regulate oil and gas operations. The Public Interest and Accountability Committee (PIAC) which assists Parliament in its oversight on petroleum revenues; and the Petroleum Commission mandated to be an independent regulator of oil operations, have both not been given financial resources to operate since they were established. There is a belief that the PIAC is being punished for releasing a very critical report in 2011 against the Government.

Notwithstanding this, Ghana remains an important example of a country with functional institutions, but oil has the potential to weaken its institutions if extra efforts are not made to strengthen them and provide them with resources to check impunity.

History has shown that Ghana's Government can undermine its own institutions. For example, whilst the 1992 Constitution of Ghana requires all Petroleum and Mineral Agreements to be ratified by Parliament, it became apparent that 21 mining agreements signed by the Government and international companies between 1994 and 2007 were not ratified by Parliament even though the agreements were operational. These agreements were ratified in 2008 after the Parliamentary Select Committee on Mines and Energy expressed its disgust at the development[10]. But whether Parliament has the capacity to scrutinize these agreements remains a serious challenge considering that such agreements are very technical and are negotiated by seasoned officials of oil and mining companies.

It is important to note also that the resource curse could come from factors outside the control of Government. Crude oil price volatility and failed production targets have already caused fiscal instability in the Country. The Minister of Finance is on record that non-realized corporate taxes

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[10] Republic of Ghana, 2008, Parliamentary Debates, Official Report, Fourth Series 61, no. 8 (October 20): cols. 194–276.

from oil companies was one of the major causes of the large fiscal deficit of 12% of GDP recorded in 2012 and which destabilized the macroeconomic environment[11].

Thus Ghana's expectations of oil revenues have not been met so far as actual petroleum receipts have consistently fallen short of projections, whilst projected taxes have not been collected as a result of capital allowance and carry forward losses[12]. This has been blamed on lower than expected oil production. By the end of 2012, more than 50 million barrels of crude oil was produced form the Jubilee Fields since it commenced production in November 2010. Production in 2011 stood at 24,195,895 barrels (average of 66,290 barrels per day) against a target of 30,929,005 barrels (average of 84,737 barrels per day) and of which Ghana's share was 3,930,189 barrels (about 16.24%). In 2012, there was an improvement in production by 8.9% with a total volume of 26,351,278 barrels out of which Ghana's lifting of oil was 4,931,034 barrels.

Ghana's share of crude oil has been described as inadequate by most people in Ghana, and some have called for renegotiation of oil contracts. The Government has not expressed its willingness to renegotiate the contracts, but instead has developed a new Petroleum Bill to be passed into law which has proposed an increase in the fiscal terms for new oil contracts[13].

The most important risk Ghana faces with oil and minerals is the non-extension of transparency to the whole extractive industries value chain. For both oil and minerals, there is no open tendering or bidding process for acquiring prospecting or exploration rights. Companies and individuals are awarded licenses through an administrative process. There is also no mandatory contract disclosure and contracts are published at the discretion of the Minister of Energy. Oil and mining deals are kept confidential, and the system provides opportunities for hidden benefits to companies as well as avenues for tax evasion. Further, beneficial owners are not disclosed,

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[11] Government of Ghana Budget and Policy Statement, 2013.
[12] Government of Ghana Budget and Policy Statement, 2012.
[13] The new Petroleum Bill proposes an increase in carried interest from 10% to 15% and introduced bonuses, and capital gains tax.

which promotes rent seeking behaviour. The absence of competition and transparency in the licensing regime strengthens a perception of "too lucrative legal benefits for firms"[14].

In addition to the above, there is the potential for the country to lose resource taxes from these deals. Global Financial Integrity estimates that between 1970 and 2008, Ghana lost US$4.9 billion through illicit financial flows including lost revenues from resource taxes. Ghana's Government also estimates that the country loses about US$36 million through transfer pricing annually from the mining sector[15]. This has raised the relevance of corporate transparency and corporate tax responsibility, two important issues that have engaged global attention including the United States. The efforts of global players are still born however, and extra commitment is required to bring these corporate enemies to the account of poor citizens from resource rich countries.

I must also state that in spite of the good petroleum revenue management law regulating the utilization of petroleum revenues in Ghana, the way the oil money is being spent leaves much to be desired. The country is not deriving value for money from the infrastructure projects funded with oil and gas revenues as most of the projects have been delayed, operating under costly extensions and leading to cost over-runs. The particular case of collateralizing future oil revenues against a US$3 billion loan from China Development Bank puts undue burden on future oil revenues considering that disbursement of the facility has been unduly delayed not withstanding that Ghana has already complied with most of the conditions – an Oil Off-taker Agreement which compels Ghana to sell its share of crude oil to the Chinese; and paying a commitment fee of 1% per annum on the "undrawn and un-cancelled portion of the total facility commitment during the period", which has already caused Ghana about US$60 million.

**6.0. What the US can do**

As the strongest country in the world and one of the biggest democracies, the United States cherishes values such as human rights, the rule of law, transparency and global justice. I believe in the axiom that "injustice anywhere is a threat to justice everywhere". The US must therefore

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[14] Joseph Ayee, Tina Søreide, G. P. Shukla and Tuan Minh Le "Political Economy of the Mining Sector in Ghana", The World Bank Africa Region, Public Sector Reform and Capacity Building Unit, July 2011.
[15] Government of Ghana Budget and Policy Statement, 2012.

use its strength to protect these values everywhere in the world including resource rich countries whose citizens are suffering from the effects of naked exploitation by foreign companies with the connivance of their collaborating Governments.

Ghana has shown the way and fully determined to change course and escape the resource curse but important challenges remain. The United States can support Ghana and other African countries to address these challenges:

i. The need to implement the extractive industry payment disclosure provisions in the Dodd Frank Wall Street Reform Act is long over-due as citizens of Africa await the disclosure of relevant corporate information that enables them to hold their Governments accountable. (We note that the European Union has followed the US lead and passed a law last month requiring payment disclosure by oil, gas and mining companies. This will cover, for example, Tullow in Ghana.)

ii. The US should back efforts at the regional and sub-regional levels to fight the resource curse. In particular, the US support for the implementation of an ECOWAS Directive on Mining that includes transparency safeguards and protection of free, prior and informed consent for communities impacted by these projects is important. US support for the African Mining Vision will also be very appropriate and must be timely.

iii. The US should also support the building of strong institutions including negotiation capacity and technical support to help establish the geological data that enhances the value of these natural resources. Despite the progress in putting in place a system for transparent management of oil revenues, the US should emphasize in its bilateral dialogues with Ghana that accountability institutions must be supported and enabled to perform their functions.

iv. Ghana in particular still needs investments in its oil and gas industry and US investments will be welcome, but in doing so; I insist that this should be done through a transparent licensing regime.

In conclusion, I have already mentioned the issue of bad deals in the oil and mining industries. Some of these bad deals have already been producing resources and the United States like other

importing countries is consuming oil from some of these bad contracts. This places an important responsibility on the United States to lead by example in ensuring that oil and minerals from countries that promote questionable contracts tainted with corruption are not patronized.

Thank you Mr. Chairman

Mr. SMITH. Mr. Adam, thank you very much for your testimony. I would like now, Mr. Boldin, if you would proceed.

**STATEMENT OF MR. ANQUAN BOLDIN, AMBASSADOR, OXFAM AMERICA**

Mr. BOLDIN. Mr. Chairman, it is an honor to be here today. Thank you for your personal invite for me to testify. On behalf of myself and Oxfam America, I want to say thank you and the ranking member for holding this important hearing on natural resources in Africa. The issues you are discussing today are critically important to Africa's future. There are experts here today who will talk about how natural resource wealth in Africa can be seen as both a blessing and a curse. I would like to share what I learned about how this resource wealth plays out in communities where these resources are extracted.

During my visits to Africa, I promised the people I met that I would do everything I can to bring their stories back to the U.S., to the leaders who cam make improvements. This is why I am here today. I believe you have the power to really help people in Africa, and specifically Senegal.

Earlier this year, I traveled to the Village of Sabodala in eastern Senegal. I met many warm and wonderful people there. They opened their community to me and shared their experiences with me; my wife, Dionne; and my friends Roddy White and Larry Fitzgerald.

Sadly, the community of Sabodala and many others like it throughout West Africa has been directly and severely impacted by large scale gold-mining operations. Just a few years ago, the people of Sabodala farmed their land sustainably and rarely worried about whether they would have enough food to feed their families. In their spare time, many community members mined for small quantities of gold, just as they have for countless generations. They use it to supplement their farming income. And neither they nor the generations before them were ever dependent on the gold they would find in the ground for their livelihood.

All that changed a few years ago. When the land they farmed was sold right out from up under them to a large mining company, the community, which had been farming the same land for generations, suddenly had nothing. They were given a choice: Accept new land high up on a hillside miles away from their homes or take a small one-time cash buyout that could not sustain their families the way the farm had for so many years.

Every day, communities in Africa are losing their land and seeing little or no benefit from the enormous mining operations that are pushing them aside and moving into their backyards. No percentage of the revenue from the mine in Sabodala, which is bigger than several football stadiums and brings in untold revenues, ever makes its way back to the community.

They pull rocks from the road, sometimes miles away from where they live. They break them in bowls with metal poles. They grind the rock into fine dirt. They sift the dirt to find gold dust. Then they use mercury to extract the gold by hand. It is a grueling, dangerous process, and it is absolutely no way to make a living.

I told the people of Sabodala that I would bring their stories back to the U.S. I believe the U.S. Congress should call on Senegal's President, Macky Sall, to take action to improve the conditions of mining-affected communities in eastern Senegal. President Sall should ensure that mining companies respect human rights, that mining revenue is managed in a transparent way, and that communities receive an adequate compensation and have a meaningful voice in decision-making about where mining takes place.

The good news is that the countries of West Africa, including Senegal, are considering adopting a regional mining code that would apply to 15 countries in the region. I believe that adoption of this code would help strengthen protections for the human rights of people in mining-affected communities like Kedougou. I call on the Congress to support this and other measures to strengthen human rights protections for communities impacted by the oil and mining industries in Africa.

One thing, one important thing, I respectfully request you all do right now is to sign onto Congresswoman Bass' letter in support of the regional mining code. This letter can have a big impact in West African countries as they consider adoption of the code.

As a professional athlete, I believe strongly in fair play. I believe that Congress can play an important role in helping ensure fair play for Africans and that the money produced by the gold, oil, and other resources that come out of Africa's ground are used to help all Africans prosper. I hope that you will join me in taking action to ensure that this happens.

Thank you, Mr. Chairman and the members of the committee, for your attention to this issue.

[The prepared statement of Mr. Boldin follows:]

Testimony of Anquan Boldin, Ambassador, Oxfam America, to House Committee on Foreign Affairs, Subcommittee on Africa, Global Health and Human Rights

"Is There an African Resource Curse?"

July 18, 2013
2200 Rayburn House Office Building

Mr. Chairman, thank you for inviting me here today. On behalf of myself and Oxfam America I want to thank you and the ranking member for holding this important hearing on natural resources in Africa. I believe the issues that will be discussed here are critically important to the future of Africa. The idea of a resource curse in Africa is extremely compelling. There are experts here today who can testify in much better detail about how the wealth of natural resources in Africa can be seen as both the proverbial blessing and a curse. I'd like to share what I learned about how this plays out in communities where these resources are extracted.

During my visits to Africa I promised the people I've met that I would do everything I can to bring their stories back the US and to the people that can help change things for them. That is why I am here today speaking with you. I believe you have the power to help my friends in Africa, and specifically Senegal.

Earlier this year I traveled to the small village of Sabodala in Eastern Senegal. I met many warm and wonderful people there. They opened their community to me and were kind enough to share their experiences with myself, my wife Dionne, and my friends Larry Fitzgerald and Roddy White.

Sadly, the community of Sabodala, and many others like it throughout West Africa, has been directly and severely impacted by large scale gold-mining operations in their backyards. Just a few years ago the people of Sabodala farmed their land and rarely worried about whether they would have enough food to feed their families. In their spare time many people in the community would mine for gold, just as their families before them, and their families before them, did for countless generations. They would use the gold they got from this extra mining to supplement their farming income, but they were never dependent on the gold they would find in the ground for their livelihood.

All that changed a few years ago. When the land they farmed was sold out from under them to a large mining company the community, which had been farming the same land for generations, suddenly had nothing. They had a choice between accepting new land to farm that was high up

on a hillside miles and miles away from their homes, or accepting a one-time cash buyout that could not sustain them and their families the way the land did.

Meanwhile, the community that lost its land sees little benefit from the enormous mine in what was once their backyard. No percentage of the revenue from the mine, which is bigger than several football stadiums and brings in untold revenues, ever makes its way back to the community.

The mining company did leave the community with one gift though. Because the mining company also took ownership of the community's water source, they built a brand new well in the middle of the community. They now have access to water whenever the company decides to turn on the water (which is rare), and assuming they've paid their monthly bill to the mining company. This is the definition of a raw deal.

During my visit I was blessed with the opportunity to learn the community's mining techniques. I will be honest with you, it was not easy. I have done many challenging workouts in my years as a football player and this work is just as hard. And they do it every day. They pull rocks from the roadsometimes miles away from where they live. They break them in bowls with metal poles. They grind up the rock into fine dirt. They sift the dirt to find gold dust. Then they use mercury to extract the gold by hand. It's a grueling, dangerous process, and it's absolutely no way to make a living.

I told the people of Sabodala that I would bring their stories back to the US. I believe the US Congress should call on Senegal's president Macky Sall to take action to improve the conditions of mining-affected communities in eastern Senegal. He should ensure that mining companies respect human rights, that mining revenue is managed in a transparent way, and that communities receive adequate compensation and have a meaningful voice in decision-making about where mining takes place.

The countries of West Africa, including Senegal, are considering adopting a regional mining code that would apply to 15 countries in the region. I believe that adoption of this code would help strengthen protections for the human rights of people in mining-affected communities like Kedougou. I call on the Congress to support this and other measures to strengthen human rights protections for communities impacted by the in the oil and mining industries in Africa

As a professional athlete, I believe strongly in fair play. I believe that the US Congress can play an important role in helping ensure fair play for Africans and that the money produced by the gold, oil and other resources that come out of Africa's ground are used to help all Africans prosper. I hope that you will join me in taking action to ensure that this happens.

Thank you Mr. Chairman and the members of the committee again for your attention to this issue.

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Mr. SMITH. Mr. Boldin, thank you very much for your testimony and you and your wife for the visit that we did have, which I think was very, very meaningful to me and I know to Greg and the rest of my staff. So thank you again for your very concrete recommendations and for doing what you said you would do, bring back to the Congress and to the American people what exactly is going on in Senegal and in other places in West Africa.

Mr. Alicante?

**STATEMENT OF MR. TUTU ALICANTE, EXECUTIVE DIRECTOR, EG JUSTICE**

Mr. ALICANTE. Chairman Smith, Ranking Member Bass, and distinguished members of this committee, thank you for this opportunity.

In 1993, the military arrived in my village in Equatorial Guinea to suppress an uprising. They arrested and tortured all the young men in sight, publicly executed two of them. They burned down my family's house. That evening I asked my father what we could do. His response to me was that it was nothing we can do. His words of defeat reflect the environment of gross human rights violations, absolute impunity in which I grew up. Five months later I came to the United States. I became a lawyer and have since worked for human rights and transparency in Equatorial Guinea.

Imagine a tiny country of 700,000 people suddenly flourished with oil money, where the wealth per person is on par with that of Italy. Now imagine a place where nearly two-thirds of the population lives in extreme poverty. Infant and child mortality are on par with ravaged Democratic Republic of the Congo. Impossible as this sounds, these two scenarios describe the same country: Equatorial Guinea. It is a textbook case for the resource curse.

Oil production in Equatorial Guinea began 20 years ago. Today Equatorial Guinea has the highest GDP per capita in Africa. However, despite this enormous wealth, the majority of citizens are mired in poverty without access to water or sanitation. The country is richer than Poland but has a child death rate 20 times higher. It boasts the largest gap between income and human development. It ranks among the lowest for primary school enrollment.

The Obiang regime, in power since 1979, has a long record of human rights violations, including arbitrary arrest and torture. Freedom House ranks it among the worst of the worst. Corruption is endemic.

Equatorial Guinea is among the least transparent countries in the world. Contracts for oil exploration and production were and continue to be negotiated in secret without an opportunity for national debate or informed consent. President Obiang has stated that oil revenues are secret, a state secret. He uses oil to monopolize economic, political, and military power. Oil revenues finance luxury purchases for the ruling family. According to the U.S. Department of Justice, between 2001 and 2010, President Obiang's son allegedly spent more than $300 million on mansions, sports cars, and luxury items, far exceeding the amount that the country spends per year on health and education combined. He allegedly uses numerous anonymous shell companies set up in the U.S. to secretly move a sizeable portion of that money into the U.S. The DOJ

has concluded that the money was acquired through corrupt means and has moved to seize some of those assets.

Four American oil companies, ExxonMobil, Hess, Marathon, and Noble Energy, dominate the oil industry in Equatorial Guinea. Therefore, the United States has an opportunity to help reverse the resource curse in Equatorial Guinea.

Section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, which requires oil, gas, and mining companies to publish the payments they make to governments for natural resources, aims to provide citizens of countries like Equatorial Guinea with much needed information to hold governments accountable for the use of natural resource revenues. Disappointingly, some American companies, like ExxonMobil, are supporting the lawsuit aimed to undermine 1504, suggesting that they prefer secrecy to transparency.

I respectfully ask this committee to take specific steps that would lead to improved governance in Equatorial Guinea, including first urging the SEC to issue strong rules in support of the Dodd-Frank 1504; second, supporting the Incorporation Transparency and Law Enforcement Assistance Act that Congresswoman Maloney plans to introduce, hopefully tomorrow, to put an end to the anonymous shell companies so often used by corrupt government officials to move and hide illicit money; press the Government of Equatorial Guinea to respect civil society organizations and political opposition parties; expand the Magnitsky Act to cover kleptocrats and human rights violators globally; implement Presidential Proclamation No. 7750 to deny U.S. visas to members of the Government of Equatorial Guinea.

I look forward to the day that all Equatorial Guineans can fully and equitably benefit from our natural resources of our country. I thank the U.S. Government for working hard to bring that closer. And I thank you for holding this important hearing. Thank you.

[The prepared statement of Mr. Alicante follows:]

**Testimony of Tutu Alicante Leon**
**Executive Director - EG Justice**

**"Is There an African Resource Curse?"**

**Sub-Committee on Africa, Global Health, Global Human Rights, and International Organizations**
**July 18, 2013**

Chairman Smith, Ranking Member Bass, and distinguished members of this committee: In 2006, I was invited to testify about the need for transparency in the oil, gas, and mining sectors in Africa. To protect my family in Equatorial Guinea, I submitted an anonymous written statement and had it read here by a colleague. Today, thanks to the unwavering leadership I have witnessed from the U.S. Congress to advance transparency and accountability in the global extractive industries, I feel emboldened to speak up, and want to thank you, in person, for giving me a second opportunity to testify on this crucial issue of the resource curse in Africa.

Before I address your central question about whether there is an African resource curse, please allow me to tell you about my personal journey from my home country of Equatorial Guinea to the United States.

I am from Annobon, a poor and isolated, yet beautiful island in Equatorial Guinea. In August 1993, an event occurred in my hometown that forever changed my life. I was studying to become a Catholic priest, until one day the military arrived with orders to suppress an uprising by a group of young men. They arrested and tortured all the young men in sight, and publicly executed two of them. The military also burned down my family home.

That evening, I asked my father what the families of the dead young men would do, and what we were going to do about our house. I vividly remember the sadness and defeat in my father's face. "There is nothing we can do." His resignation was shared by the entire community.

I refused to believe that nothing could be done, and five months later, I came to the United States to begin educating myself in preparation for taking action.

Oil had just been discovered in Equatorial Guinea, and a country that until that then had been closed, repressive, and poor, was rapidly transforming into a very rich nation. Realizing that oil and gas were going to be inextricably linked to Equatorial Guinea's economic, social, and political future, I became a lawyer, and have since worked to advocate for transparency and accountability in Equatorial Guinea. I believe that to be the surest way to help bend the arc of history toward justice in my home country.

I have worked with many scholars and civil society advocates from oil-rich nations. I have advised lawmakers from an oil-rich nation about the potential pitfalls of the extractive industries in the absence of independent, transparent, and accountable state institutions. I have authored and co-authored reports, articles, and opinion pieces about the resource curse as it applies to Equatorial Guinea. So, if you wonder whether there is an African resource curse, I urge you to consider Equatorial Guinea, a country that has been referred to as the "Kuwait of Africa" in the Gulf of Guinea.

**The Beginning of Oil in Equatorial Guinea**

In 1994, Walter International, a small, fly-by-night U.S. oil company, formally launched oil production in Equatorial Guinea. There were no advance public procurements or consultation. Immediately, Exxon Mobil, Triton, Chevron, Amerada Hess, Ocean Energy, and many other multinational companies moved in.

The negotiations that led to the rapid allocation of oil blocks and swift oil production in Equatorial Guinea were all carried out in secret. The contracts that crystalized those negotiations were signed covertly and remained, to this day, undisclosed to the people of Equatorial Guinea. This secrecy extendeds to all institutions of the state, Parliament, relevant government agencies, and state-controlled media. Essentially, the people of Equatorial Guinea, and those ostensibly elected to represent them, are systematically stripped of the chance to know about, opine, or even defend their economic, political, or environmental rights and/or interests. How could such an oppressive regime—now the oldest in Africa—stay in power? The answer is oil money

When subsea hydrocarbons were first discovered in Equatorial Guinea, there was no law or legal framework in place to regulate any aspect of the extractive industry. There was no opportunity for national debate or dialogue about this new industry that would transform the country. Civil servants were severely punished for even attempting to discuss matters related to the oil industry in public spheres.

From the very beginning, the ruling elite considered oil a private matter, or, as President Teodoro Obiang Nguema referred to it, a "state secret" to be used for their self-enrichment and as a tool for monopolization of both political and military power.

Today, with an estimated population of 700,000, resource-rich Equatorial Guinea is Sub-Saharan Africa's third largest oil-producing nation, with estimated oil reserves of more than 1 billion barrels. It also has the highest level of per capita income in sub-Saharan Africa, with a 2011 average income of $27,478.

However, despite the enormous rise in the country's per capita income, the majority of citizens remain mired in poverty. The quality of life is poor; most Equatoguineans lacking reliable access to clean water and sanitation. The African Progress Panel, chaired by Kofi Annan, noted in its 2013 Africa Progress Report that Equatorial Guinea is richer than Poland, but has a child death rate nearly 20 times higher. The report also highlighted Equatorial Guinea as the country with the largest gap between income and human development in the world, and it ranks among the lowest countries in the world for primary school enrollment.

**The Perils of Oil in Equatorial Guinea**

Indeed there is a "resource curse" in Equatorial Guinea. But rather than *causing* a resource curse, oil has served to exacerbate and entrench the poor governance, nondemocratic politics, and corruption that existed before oil's discovery. And recent actions by some American oil companies to undermine a US transparency law only play into the hands of corrupt and secretive regimes like the one that has governed my home country for the past 34 years.

Equatorial Guinea is what Thomas Friedman termed a "petrolist state"— one that is "corrupt, antidemocratic, uses oil income to buy off its citizens with subsidies and government jobs, uses oil and gas exports to intimidate or buy off its enemies, and uses oil profits to build up its internal security forces and army to keep itself ensconced in power, without any transparency or checks and balances."

Oil in the hands of an authoritarian, opaque, and impulsive government is a veritable curse. In 2004, the U.S. Senate investigation into Riggs Bank exposed the truth about how Equatorial Guinea's oil revenues flowed directly into the foreign bank accounts of President Obiang, his relatives, and a few government officials. This misappropriation of oil revenues allowed one of the world's most corrupt and nepotistic governments to monopolize the country's businesses and service industry. As a result, the government or those closely aligned with it control the services that the oil and gas industries demand, including property rentals and sales, local employment, and the marketing of oil and gas inside the country.

Proceeds from oil and gas in Equatorial Guinea have been sorely mismanaged or outright stolen by government officials. President Obiang appointed his oldest son, Teodorin, as Minister of Forestry and Agriculture, giving him responsibility for managing Equatorial Guinea's forestry industry. Teodorin is alleged to have used his position to divert funds, with the help of several anonymous shell companies in the US, to purchase numerous luxury cars and a private jet, as well as a $30 million, 12-acre mansion in Malibu, where he incurred $100,000 in monthly maintenance and upkeep costs. Teodorin also owned a 101-room, six-story mansion in Paris, estimated to be worth $180 million, complete with a Turkish bath, a hair salon, two gym clubs, a nightclub, and a movie theater. Teodorin's spending habits caught the attention of the U.S. Department of Justice (DOJ) and the French authorities, which believe that these items were obtained from the proceeds of corrupt activities in Equatorial Guinea. There are currently two DOJ forfeiture actions pending against property that Teodorin owns in the U.S., including over $2 million of various Michael Jackson memorabilia, the most famous of which is the white, crystal-covered glove worn during the "Bad Tour." The French authorities have seized much of

Teodorin's assets in France, including the Parisian mansion, and this month the government auctioned off nine high-end sports cars – seized from Teodorin – for more than $3 million.

There is no independent judiciary in Equatorial Guinea. Judges are handpicked and appointed by President Obiang, the First Magistrate of the Nation, with no meaningful oversight by Parliament. The government rules by decrees that are not published in an official gazette or bulletin for public display or knowledge. Even justices on the Supreme Court have a hard time accessing legal archives and current legislation. Similarly, the Parliament lacks independence: currently, more than 98% of the members of Parliament belong to President Obiang's political party, the Democratic Party of Equatorial Guinea, and serve at the behest of the President.

The discovery of oil in Equatorial Guinea is exacerbating the country's inequitable distribution of power and resources. The intermarriage of political and economic power in Equatorial Guinea, concentrated in the hands of President Obiang and his family, is severe. Consider these facts:

- President Obiang owns and controls the two national electricity companies, the national telecommunication company and one of the country's largest construction companies. He holds a monopoly on the construction industry, the hospitality industry and the retail grocery industry. Additionally, he and his wife, Constancia Mangue, and other family members and government officials have misappropriated vast tracts of private land and property that they rent or sell to multinational companies operating in the country. In other words, U.S. companies make direct payments to the President and his family as landlord.

- The main private security company contracted by oil companies inside the country is owned and controlled by Army General Armengol Ondo Nguema, President Obiang's brother and National Security Advisor.

- Teodorin uses his power, prestige, and two alleged front companies to maintain a monopoly in the timber industry, and he owns the country's only private radio and TV stations.

- A consortium formed by President Obiang and two Cabinet Ministers owns the country's main telecommunications company.

- The country's oil and gas marketing company is 75% owned by President Obiang and 25% owned by the state.

- The state oil and gas management companies are partially owned by private, high-ranking members of the government, including President Obiang and his relatives.

- Similarly, the country's employment agencies that are authorized to employ local workers for the oil industry are managed by government officials, most from President Obiang's family. They include: President Obiang's brother, Army General Armengol Ondo Nguema; Gabriel M. Obiang Lima, son of President Obiang and Minister of Mines and Energy; Army General Antonio Mba Nguema, President Obiang's brother and Minister of Defense; Army General Manuel Nguema Mba, and other relatives of President Obiang.

The employment agencies owned by these individuals work directly with the oil companies and provide the manpower necessary for their operation. They only hire workers loyal to the ruling party.

**The Role of Western Companies**

Today, four American oil corporations dominate exploration and production in Equatorial Guinea: ExxonMobil, Hess, Marathon, and Noble Energy.

These and many other oil and gas companies invested in Equatorial Guinea due, in part, to the extremely favorable financial arrangements the government allows for oil exploration and production. For example, when oil was initially discovered in Equatorial Guinea, government contracts provided for the country to receive a smaller amount of the oil revenue compared to other Sub-Saharan African countries at the time – only 15% to 30%, instead of the region's more typical 45% to 80%. Although these amounts have increased, contracts for oil production in Equatorial Guinea generally continue to favor the oil producers.

Because the oil industry comprises a disproportionate percentage of state wealth, anthropologist Hannah Appel suggests that U.S. companies and the Equatoguinean state are deeply and problematically entangled.. According to Dr. Appel:

> Production sharing contracts between companies and the Equatoguinean state serve as the legal gateway to nearly $2 billion in oil – derived GDP annually, effectively keeping President Obiang – Africa's longest serving leader – in power. Hydrocarbons are essentially synonymous with Equatorial Guinea's national economy, accounting for over 99 percent of the nation's exports, and 98 percent of government revenues in 2008. Corporate social responsibility programs permeate nationwide education and healthcare projects. Amidst these deep and protracted entanglements, infrastructure – here in the form of gated corporate and residential enclaves – becomes central to the industry's framing work, abdicating liability for 'local' outcomes on the other side of the walls.

To fully understand the complex relationship of interdependency that Dr. Appel is describing, one must remember that when Western oil corporations started exporting oil from Equatorial Guinea, there was no legal framework regulating their work or relationship with one of the world's most corrupt and repressive regimes in the world. One must also keep in mind that oil revenues between 1994 and 2005 did not appear in the national budgets, and that state oil and gas companies, as well several other parastatal companies, operate outside parliamentary oversight.

To paraphrase Dr. Appel, complicated rearrangements of property, law, and the application of economic theories were necessary to forge a space where oil companies could relinquish responsibility while an authoritarian and corrupt government consolidated and legitimized its power.

Equatorial Guinea is consistently ranked among the world's most corrupt, closed, and undemocratic societies in the world. It occupies the 168th position in Transparency International Corruption Perception Index, while Freedom House ranks it among the worst of the worst in terms of basic freedoms.

Despite sporadic assurances from President Obiang of increased transparency, his government has repeatedly resisted transparency efforts. For example, although Equatorial Guinea stated its intention to join the Extractive Industries Transparency Initiative, it was expelled from the program in 2010 after failing to meet basic requirements. In 2011, the Equatoguinean government blocked the IMF from publishing its Article IV report.

Fortunately, the further squandering of Equatorial Guinea's resources can be prevented. The U.S. is not only a customer of Equatorial Guinea's resources, but also a major source of investment. In fact, it is the largest single foreign investor in Equatorial Guinea, investing billions of US dollars per year, mostly in the extractive industries sector. This puts the U.S. in prime position to support transparency efforts that would impact Equatorial Guinea. Section 1504 of the Dodd-Frank Wall Street Reform Act is one tool that can be used to bring transparency to the oil and gas industry and their activities in Equatorial Guinea. At the moment, the citizens of Equatorial Guinea are unable to access reliable information about how much their government receives from companies extracting natural resources in the country. Section 1504 will make vital information available to the public, allowing citizens to fight the systematic corruption and poverty that has continuously plagued their country.

It is highly disappointing, therefore, that the oil and gas industry, led by its trade association, the American Petroleum Institute, has led a legal challenge aimed at undermining Dodd-Frank 1504. In effect, these companies are suggesting that they value secrecy more than they value

transparency, regardless of their rhetoric to the contrary. Actions speak louder than words, and the citizens of Equatorial Guinea are the real losers of the message that the oil and gas industries associated with the lawsuit are sending.

**Recommendations for U.S. Policy on Equatorial Guinea**

Given its vast U.S. oil investments, the U.S. government has a responsibility to play a much more constructive and assertive role in reversing the resource curse in "petrolist states" like Equatorial Guinea. The U.S. Government should strongly and publicly urge the Government of Equatorial Guinea to:

- take verifiable and irreversible steps to improve conditions for the creation and participation of local civil society organizations working for human rights, transparency and accountability.

- take demonstrable steps to ensure the legalization and full participation of opposition political parties and professional associations.

- create and implement a transparent revenue management system drawing on IMF recommendations;

The U.S. Government should furthermore:

- Create a road map that sets out specific benchmarks for human rights, good governance and transparency that could pave the way to a democratic transition in Equatorial Guinea and validate increased diplomatic engagement.

- expand the Magnitsky Act, to ban travel to the United States and freeze the U.S. assets of kleptocrats and human rights violators everywhere, including those from Equatorial Guinea.

- step up the implementation of Presidential Proclamation 7750 and deny visas to members of the government of Equatorial Guinea to prevent them from traveling to the United

States.

- actively support civil society and human rights initiatives in Equatorial Guinea.
- the US State Department should discontinue granting waivers to Equatorial Guinea to bypass the country's ineligibility to receive direct US foreign assistance as outlined by the Financial Management and Budget Transparency provision in the US Foreign Operations Appropriations bill until the country has made meaningful progress toward budget transparency.
- actively support the reinstatement of a UN Special Rapporteur to monitor human rights conditions in Equatorial Guinea.
- bring its overall foreign policy objectives in line with its stated concerns for human rights and democratization in oil-producing nations in Africa.

Like most people from Equatorial Guinea, I had hoped that the vast natural resources extracted by American oil companies and others over the last two decades would be a blessing for all Equatoguineans. Instead these resources have been a blessing only for the political elite, and a veritable curse to the vast majority of the country's people. The US government has an obligation to effectively regulate US corporations overseas. As long as the proceeds from US oil companies support corrupt dictatorships, my father's sentiment – that there is nothing we can do - will always be true. I look forward to the day that all Equatoguineans can benefit fully and equitably from our natural resources. I thank the Government of the United States for working hard to do all that it can do to bring that day closer, and thank you for holding this important hearing.

Mr. SMITH. Thank you so very much for your testimony. Thank you for your perseverance, obviously under very, very difficult and dire circumstances, and for being here to encourage us, give us a blueprint, as you all have done.

Let me just ask. Three of you have mentioned section 1504 of the Dodd-Frank bill. To effectively implement it was mentioned, the need to implement, apparently the failure to do so. And I am sure there are some reasons why they have not gotten around to doing it, including court challenges. But if you, any of you, would like to expand upon what you construe to be the holdup as to why that very important provision has not been implemented?

Ms. GILFILLAN. Thank you, Chairman Smith. I am happy to start answering that question. I know others on the panel can as well.

The SEC actually issued rules, final rules, for section 1504 in August 2012. And they were very strong rules. They met the full intent of what Congress intended. Unfortunately, there was a lawsuit that was then filed by the American Petroleum Institute challenging section 1504. And that was done in the fall. And so right now, there is a court battle on that issue. And the court recently took a decision. The DC District Court recently took a decision that would require the SEC to go back and re-look at the rules.

But one of the things that I would want to really put into context with this is that as this is happening in court, the European Union recently adopted transparency and an accounting directive that is very complementary to Dodd-Frank. And so with the combination of the U.S. and the EU now requiring mandatory disclosure, that covers 70 percent of extractive companies globally that are going to have to be more transparent. And that includes Chinese companies, Russian companies, American companies, and European companies.

So I think there is overall a rising tide of transparency. I think the court battle is hopefully a temporary one, that the law remains the law of the land, and the SEC we hope will move forward with finalizing the rule based on in the next step of the process.

Mr. SMITH. Do you have a sense when this might be concluded?

Ms. GILFILLAN. No, I do not, but I know that the SEC came out with a strong rule and I think very strongly defended why they made provisions in the rule. And so we are hoping that they will move forward quickly with issuing a rule.

I think that we are going to see the fact that Europe—Canada also wants to disclose. They have announced their commitment recently. Switzerland is thinking about it. Because there is all of this global momentum, I think that the pressure is really on the U.S. to keep on moving forward and not backwards.

Mr. SMITH. Mr. Adam?

Mr. ADAM. Yes. Mr. Chairman, thank you for this question.

I think that the leadership the United States of America showed the world in passing these provisions in the Dodd-Frank Reform Act is commendable. And I believe this was what influenced the European Union to recently pass a similar law.

The United Kingdom and France have indicated that they want to fast track the mainstreaming of the EU law into their national laws and to begin implementation of the law. And I am just wondering if the EU was just taking a cue from the leadership pro-

vided by the U.S., why the U.S. was lax as far as pushing the implementation of these provisions.

And so I want to encourage you and through you the SEC to also fast track the process. If they have to bring up new rules, they should do it as a matter of agency because African citizens, you know, citizens of African countries, cannot wait any longer while corporate corruption with the connivers of our governments are plundering the resources God has blessed us with.

Thank you.

Mr. SMITH. You know, unfortunately, our courts move so slowly. We just had, from my point of view, a setback, unrelated to today's discussion. Back in the beginnings of the PEPFAR program, I wrote a provision into the bill to preclude funding to those groups that were not overtly against sex trafficking and prostitution. And a very workable way of dealing with women who are in brothels was worked out by USAID. And, despite that, it took 10 years for that provision to make its way to the U.S. Supreme Court. I was there during the oral arguments at the U.S. Supreme Court earlier. Unfortunately, they ruled against the provision that I offered 10 years to the original President's Emergency Plan for Aids Relief, which was a true setback, because I lead in this Congress on combatting sex trafficking.

And even during the oral stage, Justice Roberts asked a question. And I am only saying this because fast tracking is something that once it gets into our courts, the chances are slim and none. Hopefully here it will at least be slim. And that is that Justice Roberts asked the question—and, again, this is unrelated but just to give it further insight as to why your frustration, which is shared by those of us on this side of the dais as well—and he asked a very good question. He said if an organization was doing wonderful work on clean water in South Africa during the years of apartheid and another group was totally against apartheid, one group, an NGO, was for it and we made a choice to go with the group that was anti-apartheid, would that be constitutionally suspect or could it be allowed? And the lawyer for the other side had no good answer. And, yet, they have ruled against our provision. But it took 10 years, the point I am trying to make.

Mr. Boldin, if I could ask you with regards to meeting with the farmers who were displaced, you mentioned that they were offered a cash buyout. Did they give you any indication how poor, how inferior, how inadequte that buyout was? How little money was it?

Mr. BOLDIN. I think if I can remember, I think it was about $10,000, which we all know isn't enough money to sustain——

Mr. SMITH. For a farm?

Mr. BOLDIN. Yes. And, like I said, they were living off of their land. So that obviously is not enough money to sustain them. And, I mean, just from my experience, I mean, I think it obviously is unfair, but it is inhumane for people to be treated that way, to be literally living on top of a gold mine and have your land taken from you. And then the people that have taken your land from you come in and make millions, billions of dollars off of your land. So, I mean, we all know $10,000 isn't fairly enough, you know, to be compensated for.

Mr. SMITH. And it is your land, and it has the gold.

Mr. BOLDIN. Exactly.

Mr. SMITH. It has to be a double insult.

Let me ask you, if I could, with regards to, what are those people doing now? You know, how displaced are they? Are they in abject poverty as a direct result of this? And did the government give any indication of trying to provide some kind of recompense tool?

Mr. BOLDIN. Unfortunately, we didn't have a chance to speak with government officials. You know, we talk to the local officials. And yes, they are in poverty, which is the reason why a lot of the locals are trying to take to mining to even put a meal on the table.

And, like I described in my letter, you know, I had an opportunity to go through the entire process of trying to find gold. And, trust me, it is not fun. But this is what they are reduced to on a daily basis just to try to survive.

Mr. SMITH. Mr. Alicante, you mentioned in your testimony and you list how the President's family and friends have so egregiously benefitted from, you know, the wealth. The son of the President of Equatorial Guinea has allegedly used several anonymous U.S. shell companies to launder more than $100 million of corrupt funds into the United States to finance a number of luxury purchases. DOJ we are told is investigating that. Do you have any insight as to how well the investigations, not just on his case but some of these other cases, are proceeding by the U.S. Department of Justice?

Mr. ALICANTE. Thank you, Chairman, for that question.

Yes. We are in touch with some of the investigators in the Department of Justice. Our sense is right now the case, the judges in both cases—in the U.S., there are two cases, one in California, one in Washington, DC, the judges in both cases have required the DOJ to file additional documents proving probable cause and showing a direct link to Mr. Teodoro Nguema Obiang Mangue.

In response to your earlier question, Mr. Chairman, about the holdup on 1504 and connected to this question, I think part of what we are hoping that you would do here is help create an environment in which transparency becomes an essential part, the quintessential part, of U.S. policy with countries like Equatorial Guinea.

I mentioned in my remarks I alluded to the Incorporation Transparency and Law Enforcement Assistance Act, which Congresswoman Maloney will introduce. I think that the section 1504, the Foreign Corrupt Practices Act, and several different tools are what need to become part of how U.S. engages with countries or governments, like the ones in Senegal, Equatorial Guinea, Ghana, and others.

Mr. SMITH. Thank you for that. You mentioned in your testimony that the 2013 Africa Progress Report by Kofi Annan showed that Equatorial Guinea is richer than Poland but has a child death rate nearly 20 times higher. And I know some years back, the government and USAID had entered into an agreement and some $20 million was spent on social programs. And I am wondering if you could shed some insight onto that; and it has failed. It didn't proceed and go forward, you know, with all of that wealth, the fact that children are dying or having high morbidity rates is just appalling. Maybe you could just elaborate on that a little bit.

Mr. ALICANTE. Indeed, that is the situation, Mr. Chairman, in which there is a vast amount of money coming from oil in Equatorial Guinea. And those of us from that country cannot understand why our nieces and nephews continue to suffer, despite this amount of money. My sense of the different programs is that those the government has claimed to have instituted have not gone anywhere. The government now has an economic plan, Horizon 2020, which is not even funded. The project that they have with USAID has not gone anywhere. So we don't know what the government is doing in terms of social development inside the country.

Mr. SMITH. Let me just ask you—and others might want to say something on this as well. We haven't mentioned China. And China certainly has been ripping off Africa. I mean, it is no excuse for the foreign multinationals, including those of the United States, that take advantage and fleece governments and the people by extension. But we know China.

And I remember Greg and I were actually in the DR Congo on one trip en route to Goma. And we heard story after story of roads being built in such a way to ensure that the Chinese Government was able to again extract minerals and things that they wanted. And the cost of that was the road. And whatever they found on the right and on the left somehow went into their pocket. And it is a huge problem. We know that Africa is looking for investment. And roads and infrastructure are at the top of the list, but the Chinese come in. And in exchange for that work, they end up in a very bad bargain in my opinion because we heard about—a number of them in DR Congo get these very, very precious minerals and metals at below bargain basement prices. If you wanted to speak to that?

And, secondly, I would like to ask if you could—Corinna, you had numbers, actual numbers, for the DR Congo, $1.36 billion from the underpriced sales of cobalt and copper mining between 2010 and 2012. One-point-thirty-six billion dollars was paid. Is there any estimate as to what the real market price would have been? You know, how far below the real cost is that? So if you could speak to the China issue, anyone who would like to, and then to that?

Ms. GILFILLAN. Thank you, Chairman Smith.

On the issue of China, just a few things on that. Global Witness has definitely looked at Chinese investment in the extractive sector in China because it has grown so much. We looked, for example, in the Democratic Republic of the Congo at a resource for instructor agreement there and looked into how there was nearly $24 million of a Chinese Government's senior bonus payment that were not answered as far as regarding that payment. And so what we are finding is that though China is investing in the region, China is also vulnerable to these issues of corruption and conflict. And so any kind of corruption or conflict in these resource-rich countries can adversely affect China and their investment. And so one of the things that we are looking at, for example, is to try to engage with the Chinese Government to raise their awareness about transparency and how transparency can actually help in their own operations.

I was actually just in Shanghai in May to basically talk with some of the policymakers in Shanghai about the work that we are doing on transparency.

The other thing is that I think we are going to bring in some Chinese companies to be more transparent through implementation of the Dodd-Frank Act. You will have big Chinese companies like Sinopec and PetroChina that will have to disclose. So we will be bringing in Chinese companies that way.

The Extractive Industries Transparency Initiative actually does have Chinese companies already disclosing in EITI. And you have that in countries like Mongolia and Nigeria. So at least you are bringing in Chinese companies and to an extent the Chinese Government and raising awareness about the importance of transparency and how that could adversely affect them.

On the issue of the DRC and the selling of the secret mining assets, those assets, as I understand it, were sold at 1/16th of the value. So that was a huge—I mean, just tragically what a loss to Congo to have their valuable mining assets sold at 1/16th of the commercial market value. So that is just an example of what happens when you have these secret mining deals. You have these deals done in secret. And you are basically allowing these companies, sometimes companies you don't even know who owns the companies, enter into deals with government elites, essentially robbing the country of billions of dollars. And so that is why we are calling for transparency, not just of revenues but transparency across the value chain. So you have transparency of bidding processes, transparency of contracts. We are hearing about how in Ghana, contracts aren't made public. We are talking about transparency around who owns companies. Those are the kinds of transparency that we need that will hopefully prevent some of these really bad and harmful deals from happening. And we are hoping very much that the U.S. can help support more transparency in its foreign policy and through actively supporting the EITI and moving forward with Dodd-Frank.

Mr. SMITH. Yes, Mr. Adam?

Mr. ADAM. Yes. I want to touch on the China question. China's relationship with Ghana's natural resources is at three levels. First of all, the Government of Ghana signed an agreement with the China Development Bank for a loan facility of $3 billion. And that is the highest loan facility Ghana has ever constructed.

But the difficulty with this loan is that it is collateralized against future oil revenues. And, therefore, when the loans are not used efficiently to develop the country, future oil revenues, and future development for that matter, are compromised. But the difficulty around this loan also is that a Chinese company, Bolsa, China Bolsa, has acquired a mining concession, what we call Awaso mines, to exploit bauxite. And two projects that are to be funded from the loan contracted from China are to benefit China, rather than Ghana because one of these projects is a real line which is to be constructed to the bauxite mine, which is now owned by a Chinese company, to enable them to exploit and transport bauxite.

The second project is the expansion of the port where the bauxite will be shipped out. And both projects are funded from a loan contracted from the China Development Bank, which Ghana will have to pay with future oil revenues and which others said earlier will compromise future development.

The second level of China's relationship with our natural resources has to do with small-scale mining. Our country's law does not allow foreigners to partake in small-scale mining, but a small-scale mining sector in Ghana lately has been dominated by Chinese workers. And we have recorded a series of human rights abuses, destruction of the environment, which led to the Government of Ghana setting up a task force of security agencies to arrest——

Mr. SMITH. What kind of human rights abuses, if you could just elaborate on that? What kind of human rights abuses?

Mr. ADAM. Human rights abuses in the sense that the communities who are living near the exploitation of these resources, you know, their water has been polluted. Their farmlands are being mined. And they are not able to prevent the Chinese workers from mining on their farmlands, you know. And in some cases when they have complained, Chinese mine workers have used weapons against them. And we have actually recorded some deaths in those areas.

So this angered the Government of Ghana. That led to the setting up of a task force of security agencies. And 501 Chinese workers have been arrested by the Government of Ghana, most of whom have been deported. But this has also brought about a diplomatic row between the Chinese Government and Ghana for which reason requirements for visas from China has been made more stringent. Some Ghanian traders go to China to bring in goods. And, therefore, because of the difficulties Ghana has faced, as a result of which Chinese mine workers are being deported, they have made stringent the requirements for acquiring visas to Ghana.

There are some discussions between the two governments, but the indication I get is that the Chinese are able to find their way out. And this is why transparency is so important. But beyond transparency, the need to support civil society, the citizens who will bring pressure to bear on the government so that their government is able to contract loans, that would serve the interests of the country other than the lenders. And when I say this, it is not just the Awaso mine. Ghana is compelled to sell this oil to China alone. And, therefore, as part of the loan agreement, it is an optical agreement for oil. We cannot sell our oil to any other country of our choice except China. And so this is how they tie your hands, through loans like this. And if the citizenry are not given the support in the capacity to voice our consents, to put pressure to bear on the government to contract, you know, good loans, the country will suffer eventually.

Mr. SMITH. Just one small question. How long, in effect, will be this requirement of selling all of the oil to China?

Mr. ADAM. Yes, until we are able to repay the loan. And that is supposed to take a period of 10 to 15 years.

Mr. SMITH. Wow. Okay. Would anybody else like—yes?

Mr. ALICANTE. Mr. Chairman, if I may, I would like to reiterate the points that Mr. Adam has made about the importance of civil society because Equatorial Guinea is one of those cases in which transparency alone is not enough. Equatorial Guinea does not have an independent press. Equatorial Guinea has a congress, a Parliament, that is 99 percent the ruling party—Equatorial Guinea does not have an independent judiciary. Equatorial Guinea does

not have a vibrant civil society. So the point that my colleague makes about supporting civil society, about building the infrastructure for good governance is critical before it is 1504 and EITI and other transparency mechanisms can be fully realized in a place like Equatorial Guinea.

China is not invested in the oil industry in Equatorial Guinea. China is invested in the construction industry in Equatorial Guinea. But one point I make to people in the United States is that there is a certain reputational value that comes with operating with the United States. President Obiang and his government know that, but there is a reason why President Obiang spends millions of dollars in lobbying here in Washington, DC. They know that it is important to keep their businesses with the United States. And that for me is a leverage point. That to me is why Congress can actually help address the resource curse in a place like Equatorial Guinea, despite the threat of China.

Mr. SMITH. Ms. Bass?

Ms. BASS. Well, I have to tell you that some of the testimony today is a little discouraging, I guess, especially from a country like Ghana, which I want to ask you some question about. But, you know, I just refuse to view this as Africa's curse because to me, if you say that, then you are almost saying that there is nothing that can be done about it. Any other time we would look at the unbelievable natural resources as a blessing. And I think that it is important to have that frame of mind because policy can change. These situations can change. So, anyway, that is my little editorial statement, but did you want to say something?

Mr. ALICANTE. Sure. Congresswoman Bass, certainly. Resources in Equatorial Guinea, the oil itself, the gas itself, we consider those a blessing. Our problem, again, is the governance——

Ms. BASS. Right.

Mr. ALICANTE [continuing]. The lack of an accountable government, the a lack of a transparent—we have one of the most closed societies in Equatorial Guinea. And that is what turns oil itself into a curse.

Ms. BASS. Sure.

Mr. ALICANTE. So I agree with you.

Ms. BASS. Absolutely. And, you know, one issue I want to take up in general with all of the panelists because, you know, I am sitting here in Washington, DC. I want to know about U.S. corporate involvement and U.S. practices. And you do make some mentions, especially in your recommendations.

You said a few minutes ago, I think, that education, working with the Chinese—and I guess I am curious as to why you think that educating the Chinese about transparency—I mean, I think they would know, right, why the—go ahead.

Ms. GILFILLAN. Well, actually, for Global Witness, we do investigations into what governments are doing and companies are doing as far as the trade in natural resources. And so we are not just educating the Chinese Government. We are actually doing investigations, basically looking at Chinese investment in Africa and how that affects Africa. That is why we did look at the resource for infrastructure deals that China did, for example, in the Congo. And we found a lot of problems with that with the bill at the——

Ms. BASS. Would they be receptive to the investigations, even——

Ms. GILFILLAN. Well, we are kind of having a dialogue with them, but it is not necessarily translating into any huge policy change yet. I think what we are also advocating, though, is for regulations. And that is why Dodd-Frank is so effective, because it will bring in Chinese companies. Any Chinese company registered with the SEC will have no choice but to comply with Dodd-Frank, the same with the EITI. Any Chinese company operating in a country that is part of the EITI, that Chinese company will have to participate in EITI. It will have to disclose information.

So at Global Witness, we are approaching a lot of different tools. We are doing investigations to expose the problems, whether it is the Chinese companies or Chinese Government. We are doing policy measures that will bring in the Chinese. And we are also doing dialogue with the Chinese Government, like we do with all governments and with companies.

Ms. BASS. Thank you.

Ms. GILFILLAN. As far as company involvement, I think that that is a very crucial question. And I also want to respond to your question or your comment about how this isn't all, we have to look at these resources as a blessing. And I think one of the things that I wanted to get across in the testimony was that there are some good things going on. We are kind of——

Ms. BASS. Those definitely are a——

Ms. GILFILLAN. There is a lot of momentum on transparency. And we are beginning to see through the EITI and through other mechanisms where citizens are starting to use this data and go to governments and say, "Wait a minute. What is going on with our resources?" And, for example, with EITI, if you talk about Nigeria and even Liberia because of EITI, they are actually looking at what are the companies say they pay to the government? What is the government saying that they are receiving? And they are finding missing money. For example, in Nigeria, they found about $800 million that was going missing. And they were able to rectify that through the EITI. So and we are seeing——

Ms. BASS. They found the money and people were arrested or what?

Ms. GILFILLAN. I am sorry?

Ms. BASS. They found you said $800 million.

Ms. GILFILLAN. Well, in that case, sometimes it was an issue of collection, not even keeping track of what companies should be paying. So it is even things like that, you know, basic things like that, where you can find some problems in the system.

And then we are seeing that civil society groups are starting to engage with governments. For example, in Tanzania, I know that there were civil society groups and parliamentary review that found problems with the collection of taxes and royalties. And through those efforts, they found loopholes. And they have done a law. They have done some efforts to close a loophole, the loophole.

So I think as more of this data comes out, we are seeing citizens using that. Parliaments use that as well. So I think there is some reason to be optimistic in that we have got this data coming out. I think what is really important is that the transparency tie needs

to move forward. And we cannot just focus on revenues, but we need to focus across the value chain. We need to look at allocation of licenses, contracts, making that all public.

The United States Government has such an important role to play. And we would like to see the U.S. Government make natural resource requirements, transparency requirements, an integral part of its assistance, so to say to resource countries, "We will give you aid, but we would like to see some progress on transparency."

As far as companies, it is very important for companies to be more transparent about their operations. And we are seeing some companies do that. For example, Newmont, a huge mining company that operates in Africa, they actually realize——

Ms. BASS. That is a U.S. company?

Ms. GILFILLAN. Yes, a U.S. company. Sorry. Yes.

Ms. BASS. Where?

Ms. GILFILLAN. Sorry?

Ms. BASS. Where? From where?

Ms. GILFILLAN. I think it is based in Colorado. Yes. So they realized in the 1990s, for example—I think it was one country was Indonesia. They were realizing that. They were paying their taxes to the government. And they realized that communities weren't—they didn't know how much Newmont Mining was paying to the government. And so there was a lot of concern. And so Newmont thought, "Well, maybe we need to publish the taxes, et cetera, that we are paying to the government. Otherwise, this helps to build trust with the communities. Otherwise, if we don't publish that information, then communities, rightfully so, are going to be like 'Wait a minute. These are our resources. Where is the money going when you are here in our communities? Where is the money going?'" So that is why Newmont Mining is now publishing the payments that it is making.

I think another really important aspect of this, though, is not just on the transparency of whether it is the contracts or the revenues but also on the human rights side of things. What are the impacts on mining, for example, in mining to communities? And I know that Oxfam, you know, is working a lot on free prior informed consent. So that is really having meaningful dialogue with communities and giving them the opportunity to be able to decide, you know, whether they want extractive and how it should be done. So I think that that is another thing, but it is a positive movement. Some mining companies are starting to embrace that principle.

So I think we are seeing some positive movement by some companies. I think other companies, like the oil companies, the big, you know, oil companies, Shell, BP, Exxon, Chevron, are kind of putting their heads in the sand. And they are not wanting to be transparent, at least not with Dodd-Frank. But they are actually already signed up to transparency to an extent because they support the Extractive Industries Transparency Initiative. So there is kind of a disconnect with the position, but I think that the tie globally is for transparency. And all of these companies are going to have to be transparent under Dodd-Frank and through EITI.

Ms. BASS. Thank you. Thank you.

Mr. Adam, you had mentioned when you were talking about Ghana and you describe Ghana positively in the sense that, you

know, there are movements toward transparency and things are getting better. But one of the things you pointed out that I wanted to ask you if you would talk a little bit more about was it sounded like a capacity issue, as opposed to a political will issue. And I think you talked about Ghana was unable to implement accountability measures and wanted to know if you could speak a little more about that. What is holding it back? Is there a way the U.S. can be supportive?

Mr. ADAM. First of all, let me say two things about U.S. corporate involvement in Ghana. We have three companies, Newmont and Anadarko and Kosmos, but I want to talk about Kosmos in particular. Kosmos' involvement in Ghana has been positive and negative somehow.

Ms. BASS. What does Kosmos do?

Mr. ADAM. Kosmos Energy is an oil company from Texas area, yes. Okay.

Ms. BASS. Go ahead.

Mr. ADAM. So the first issue is Kosmos once spewed toxic mud in Ghana's waters. Our laws provides for polluter pay principle. That is, the polluter will have to be responsible for the pollution. But our Government didn't have the capacity to establish the extent of pollution. And so that led to difficulties between Kosmos and the Government of Ghana. Even though Kosmos eventually paid about 15 million U.S. dollars as compensation, it exposed the weaknesses of our country as far as environmental management is concerned.

But the other side, which I think is positive, is that our Government used to argue against contract disclosure on the excuse that it would compromise commercially sensitive information. And that will put the government in the light of our latent contracts, but because Kosmos had to list on one of the U.S. stock exchanges as a requirement, they have to disclose their contracts. And so we went back to our Government and said, "The reason for which you were holding the contract is no longer valid" because Kosmos by listing under a U.S. stock exchange has disclosed the contract. And that then compelled our Government to disclose the contract and six other contracts. And this is what I think is very positive, the fact that——

Ms. BASS. Because they were listed on the stock exchange?

Mr. ADAM. New York, yes, New York Stock Exchange.

Ms. BASS. Could you explain that again?

Mr. ADAM. Yes.

Ms. BASS. They listed the contract and then Ghana was able to expose what was in the contract?

Mr. ADAM. Yes. They listed under U.S. Stock——

Ms. BASS. Right.

Mr. ADAM [continuing]. New York Stock Exchange.

Ms. BASS. Right.

Mr. ADAM. And that required them to disclose all information——

Ms. BASS. Oh, I see.

Mr. ADAM [continuing]. Relating to their operation, including the petroleum contracts. So our Government didn't have the moral justification for holding the contracts confidential any longer.

Ms. BASS. Right.

Mr. ADAM. And this I think was very positive. The fact that Kosmos listed on the New York Stock Exchange that compelled our Government eventually to disclose the contract and six other contracts, which we think is very positive.

But, coming to your question, the issue in Ghana is both our political will but also a capacity issue. We are relatively doing better within our region in terms of capacity. And, therefore, our governance structure seems to be working, even though there are challenges, including budgetary challenges, sometimes political interference. I think that our democracy is quite strong. And the citizenry is also quite awake. Civil society is very active.

Apart from that, our citizens are mighty strong when it comes to voicing our concerns. And our Government has been open as far as providing the space for dialogue with citizens. So these are some of the measures that have pushed Ghana forward in terms of how we manage our resources and the governance around our resources.

But, as I said, there are risks involved. And some of the risks are associated with the fact that we haven't developed some of our petroleum-related legislation to the level that would support openness. So far we do not have provision on open and competent bidding process for oil concession in our law because the industry is also new in Ghana. We are into 2 years of production.

We also do not have mandatory disclosure. The disclosures we have had so far were at the discretion of the minister. And so if you have a different minister who has a different policy, it means that contracts will not be disclosed any longer.

And the issue we are worried about is the budget that the new institutions we are establishing to protect the integrity of our oil resources is not given. The Petroleum Commission is the regulator, supposed to be an independent regulator. The Public Interest and Accountability Committee is supposed to conduct independent assessment of how the oil revenues are used, but they are not given resources to work. And that is problematic. If you create any institutions by law and you are not providing resources for them to execute the mandate, then if you had those institutions, they are better for you. And that is the risk that we are going into.

Compared to Nigeria, where the vested interest is too entrenched and where the elite class has already been built, we have yet to see the building of certain elite class because the industry is still new, but if it has happened in Nigeria, it could happen in Ghana. The potential for oil to also——

Ms. BASS. Right.

Mr. ADAM [continuing]. Weaken our institutions is also high. And so we want to support citizenry, the civil society, so that we are empowered beyond where we are to hold our Government and other companies operating in Ghana accountable.

Ms. BASS. And, you know, the U.S. supporting civil society is clear. Are there ways that you think the U.S. could be supportive in terms of building the other ways, building the accountability structure?

Mr. ADAM. Yes. The U.S. can support it in many ways, first of all, providing technical support to the institutions in Ghana work-

ing in the natural resources sector. For instance, our revenue authorities need capacity to be able to conduct petroleum auditing.

Ms. BASS. Do we do that? We need to do it or we need to do more of it?

Mr. ADAM. At the moment, no.

Ms. BASS. What did you say?

Mr. ADAM. No.

Ms. BASS. We don't do it?

Mr. ADAM. Yes. You have to do that. You have to support us.

Ms. BASS. Did anyone else want to comment about the general questions?

Mr. ALICANTE. Definitely the question of U.S. oil companies' involvement in Equatorial Guinea, as I mentioned during my remarks, the major companies are American companies. American companies arrived to Equatorial Guinea in a time where there was no law. There was no legal regime regulating the activities of oil companies or anything that was going to affect the industry as a whole.

They had an opportunity to help set the environment for fair play that Mr. Boldin referred to. That did not happen. And right now what we are seeing is that many of these companies are the ones that are siding with the American Petroleum Institute to ensure the 1504 does not become the law of the land, sending a clear message that they prefer to operate in that type of secret environment.

In a situation like Equatorial Guinea, I think critically one thing that is missing is political will from the government, which is why I think, as Mr. Adam talked about, support for civil society is supposed to create independent institutions that can hold governments accountable. Support to create free press is critical for countries, resource-rich countries, in Africa in order to help reverse the resource curse.

Ms. BASS. So what kind of support do we provide for civil society in Equatorial Guinea? Do you know?

Mr. ALICANTE. Right now, very minimal. It is partly because of the challenges of the government that we are dealing with.

Ms. BASS. Right. I mean, to me—and it is interesting. The chair spoke that earlier today we acknowledged President Mandela's 95th birthday. And a lot of the presentations talked about the history of the anti-apartheid movement in the United States. You know, it is one thing for us to talk about how people in other countries should hold their governments accountable, but I think if we have U.S. businesses behaving in this way, then we need to look at their level of accountability. And there is a long history here in our country of holding our businesses accountable. And I think it is important that we look at what is happening in Equatorial Guinea and look at ways that we might be able to be supportive. Dodd-Frank is great, but there are other things as well.

Mr. ALICANTE. Indeed. I mean, I think I can point to at the very least two critical things that the U.S. can do. Certainly ensuring that government, of people in government, in Equatorial Guinea do not travel to the United States I think is critical, you know——

Ms. BASS. Don't travel to the United States what?

Mr. ALICANTE. Denying visas to members of the EG Government, the Equatorial Guinea Government, whether it is through Presidential Proclamation 7750 or whether it is by finding a way to expand the Magnitsky Act, which I referred to, I think that is critical. But, besides that, I mean, I think definitely supporting with funding organizations based in the country I think is critical. My understanding is that U.S. State Department has a number of programs where there is cultural visitation, cultural ambassadorships, and different programs. They allow for members of civil society in places like Equatorial Guinea where the government makes it impossible for civil society to operate to come to other countries or go to other countries in Africa and network with people working on some of these critical issues.

So there are a number of ways which are brought to the attention of people in the African Bureau and DRL, the Department of Democracy, Human Rights, and Labor, which we are hoping begin to find ways to support civil society underground.

Ms. BASS. You know, Botswana is often held up as a country that has been a great steward of their natural resources; in particular, the diamonds. I don't know if anybody on the panel is prepared to comment about that, but I did want to kind of shift to ask what do you as members of the panel think are good examples on the continent where people have been good stewards? Mr. Adam?

Mr. ADAM. Yes. I think that Botswana is a good example, indeed, but this is as a result of two factors: One, because of the provisions in their law that promotes transparency; and, secondly, because of their investment policy, they are able to invest the revenues that are coming from their natural resources in areas that promote the highest return. Education is one of the priorities in Botswana. And so through education, you are building even a more critical citizenry that will continue to demand accountability of you. And that compels you to be more transparent and more accountable. That has been the secret behind Botswana. And Ghana, as I said earlier, is following this path by making laws that promote transparency and accountability, but the difficulty in Ghana is whether we are able to implement some of the regulations and the rules that we are developing.

Ms. BASS. Oh, go ahead. I am sorry.

Ms. GILFILLAN. Yes. I was just going to agree with the example of Botswana, although I think that it could still be stronger transparency measures. One thing on the issue of holding companies to account, I think that is a really important issue. And I just wanted to follow up on that because I know for Global Witness, we do a lot of work, as I mentioned before, looking at companies that could be complicit in corruption.

And in the United States, the Foreign Corrupt Practices Act is very much an important law for holding companies to account for bribery. And that is one of the things that we are looking for as far as the U.S. Government really being proactive as far as investigating some of these major corruption cases, some of the ones that I have outlined today, actually, the one in Guinea, which I understand the U.S. Government is investigating.

There is a case in Nigeria as well about Shell giving payments to the Nigerian Government that then went to a company called

Malibu Oil and Gas that we found out was controlled by the Abacha-era oil minister, Dan Etete. And so there are some real corruption concerns related to that case. It is a very active case or controversial issue in Nigeria. And that is an example of where we think the U.S. should be investigating more and looking for issues of corruption.

I think Tutu Alicante had mentioned the case of Riggs—I forgot the bank's name now. It has been a while, been around for a while. It used to be a big institution in DC. But for Riggs Bank and how that was followed up on, there wasn't really—a full FCPA investigation of the Riggs Bank did go down related to some issues around that. But I just think that the FCPA is encouraging that the administration has been prosecuting a lot of companies where it is merited, but we do think that there could be more done, especially in these extractive cases where you have just huge amounts of money that are involved and potentially serious corruption issues. So I think that is a very important way to hold companies to account. I just wanted to follow up on that, on your point.

Ms. BASS. Does anybody want to comment on the role of the African Union? I mean, I can imagine what its potential is, but what about what it is doing now?

Mr. ADAM. Yes. The African Union is concerned about how natural resources have been managed so far. And they now see natural resources as one of the important growths that could transform African economies. And so they have developed and published what we called African Mind and Vision, which defines the framework for exploiting Africa's natural resources. And the vision has a very strong transparency component but also very strong investment policies on how revenues from natural resources can be invested to support the growth of Africa's economies.

The African Mind and Vision has been endorsed by African heads of state, but as an institution, we all recognize the weaknesses of that institution. And whether they can be able to push the mind and vision, as excellent as it is, into the laws of member countries is another issue. The fact is that some countries in Africa are doing well in governance, others are not. And the African Union doesn't have that leverage to be able to carry everybody along. And this is why in my testimony I was also calling for the strengthening of the regional level initiative, the African Union, the ECOWAS so that they are able to justify why their member states must adopt good practices and good governance practices in the management of the natural resources.

Mr. ALICANTE. Mr. Adam has addressed the points that we were going to raise. I think to say the African Union has faced its challenges, you know, is really to state the obvious. The fact that President Obiang was the chair of the African Union a couple of years ago sends a clear message of what one should expect of the African Union. Nevertheless, the fact that the U.S. has an Ambassador and has a presence in the African Union to me represents yet another opportunity, where Members of this Congress can actually pose the African Union to do certain things, to stand by the principles of transparency by the principles of democracy and human rights.

Mr. SMITH. Mr. Marino?

Mr. MARINO. Thank you, Chairman.

And I want to thank the witnesses for being here. Like my colleagues, I am very concerned about—and I will use the term loosely—investments being made in Africa around the various countries within Africa, particularly by China, which plans to spend over $23 billion in Nigeria to build oil refineries; Iran, at least 6 countries they are talking about building oil refineries; and Egypt as well. And it is disconcerting given the fact that we are talking about China, a Communist country, and Iran, a radical dictatorship, are having such a footprint on the continent of Africa. And I think there have to be some answers. This has to be done globally, I think. The free market and banking industry is saying, you know, "What is happening with this money?"

I have been to Ghana. I have been to Liberia. I know Ghana is in a little better shape than Liberia. But we are talking about billions and billions of dollars in investments by these countries, Communist countries, and terrorist-backed countries. And still the United States is still pumping about $5 billion to $6 billion a year into countries in and around Africa for humanitarian purposes. And I guess I am making a statement more so than asking a question as to what are the terms of these loans.

I understand first billionaire, on the continent, Dangote, is worth $20 billion now, just accumulated about $12 billion over the last couple of years, securing a $4½-billion loan from overseas banks to build an oil refinery. I hope that is a good thing for the continent and the countries because of jobs and money coming into them, but we need to keep a close watch on what is taking place there given the fact that we are dumping almost $6 billion a year for humanitarian needs. If anyone wants to respond to my thoughts on this, I would be glad to hear it. Please?

Ms. GILFILLAN. Thank you, Representative Marino.

We completely agree with you on the point of the fact that the United States is giving aid to these countries. We are not opposed to the aid, but I think one of the questions that is concerning is that if you are giving aid to a country that is rich in natural resources but those resources and their revenues are being squandered, then you are subsidizing corruption essentially.

And so, you know, I think that is why we are very, very much focused on, one, the issue of transparency, transparency around deals, the terms of the deals, who is benefitting from the deals, because, at least if you bring that out into the open, that is a very powerful way of deterring corruption and giving citizens, Parliaments, and others the ability to challenge that or to say, "What is going on here?" And so that is transparency all across the value chain. That is transparency when you are having bidding, biddings for these rights. Oftentimes the bids are secretive. There is not transparency around the bidding processes. And that just fuels corruption and allows the kind of deals that you are potentially talking about. So I think that is one really important thing that we can do to try and stop those kinds of harmful deals from happening.

The other thing is as far as U.S. assistance to resource-rich countries, I think that we do need to look at the assistance that we are giving and whether we want to tie certain conditions or requirements. If we are giving assistance to a resource-rich country, where there is a lot of corruption and mismanagement, do we to have

some benchmarks for that country to have to meet, requiring greater transparency, open that kind of thing——

Mr. MARINO. Let me stop you there because, you know, as a prosecutor for 18 years—now, I am not accusing anyone of corruption at this point because I don't have facts indicating that. I could make a supposition of some type, but I have always followed the money, whether that is in organized crime or drug dealing or selling arms illegally to countries that we shouldn't, that an individual shouldn't. But I am concerned because being on Foreign Affairs and on the NATO Parliamentary Assembly, I see a great deal that is taking place that the United States alone cannot have an impact on.

This is an international crisis, I think. And I have studied for the longest time China and the Soviet Union. And we used to think at one time foolishly that China wanted to take the world over militarily. Well, they don't have to do that anymore. They can do it financially and economically. China's investments around the world are staggering. Who is investing in Afghanistan? Other than the U.S. being there and some allies, China is dumping tons of money into Afghanistan, not for tomorrow, not for next year, but 5 or 10 years from now, because they know, China knows, the natural resources that are valuable natural resources that only Afghanistan has. And China is going to get its arms around that. I think it is doing the same thing in Africa.

And there is a parallel here that is I think a paradox because at this point, I have seen how poor the conditions are. Liberia, for example, has one of the highest infant mortality rates in the world. But when a country comes in and starts dumping money and eventually figures, "Well, we will build a hospital here. We will build a school there," I do not blame the people of those countries wanting that. But there is an ulterior motive.

And internationally this is going to have to be handled. Internationally the United Nations should be looking into these matters as well, but, you know, we know we are not going to get very much service from the United Nations in situations like this.

So I am in a quandary here. I mean, we could simply say it would be foolish for us to say the U.S. is going to stop all humanitarian aid to countries in the continent of Africa. I don't know if China or Iran or Egypt would step in and continue aid, humanitarian aid, with their resources. I kind of guess that that may not happen.

So simply just pulling money out and stopping aid is not the answer. And the United States is going to need input from other democratic countries as well on how we—it is none of our business to a certain extent on what is being done with the funds and the profits, but I think from a humanitarian standpoint, we have to at least, someone has to, show the rest of the world what is happening with these profits and who is walking away with it.

That said, I have no questions. If any of the other gentlemen would like to comment on my statement? Please?

Mr. ADAM. I will start. Mr. Chairman, one of the factors that increased China's entry into resource-rich countries is because for those resource-rich countries, they have come to realize that increased resource world increases their leverage, increases their

strength, they become more creditworthy. And, therefore, they can go and pledge their oil, minerals for loans from China, as opposed to the international development, financial organizations like the World Bank, IMF, and some other private banks, but through the equitable principals who will demand certain governance requirements as a condition for granting them the loan. This I believe is what has pushed some of them to go into China.

And so if the U.S. will withdraw their support on humanitarian grounds, citizens are going to suffer for the mistakes of their governments. And I think that one of the ways to go about it is to support increased democratization in these countries. When citizens are given greater democracy and greater participation, when reforms about governments are pursued in those countries, citizens can hold their governments to account and then influence who their governments go into a relationship or a contract with.

Mr. MARINO. I understand what you are saying there, but we certainly don't want a situation. We don't want a continued drawn-out civil war, like we have seen in Liberia. We certainly don't want any civil war. But, once again, I am perplexed on the way we go about this unless democratic countries around the world coalesce and come up with some type of plan to address these issues and to call countries like China and Iran out on what they are doing and let the rest of the world know, are these legitimate transactions? What is happening with the funds that are being generated there? Please go ahead.

Ms. GILFILLAN. Can I just respond? And I agree wholeheartedly with what Mr. Adam said. And I think for humanitarian aid, that is very crucial to Africa.

But one thing on where this money goes, I think another effective policy tool is really combatting the illicit flows that are going out of Africa. And you had mentioned your background. And I think that that is a very interesting tool for the United States to use, is that you have all of this corrupt money that is exiting Africa and going out into the U.S. financial system. In fact, there are estimates from the Global Financial Integrity that you have $1.4 trillion in illicit financial flows going out of Africa.

And what we are finding through our investigations and what we have heard about Equatorial Guinea and other places is when you have these corrupt deals, then these government elites basically take the money and siphon it off and put it offshore in the United States and other places.

So I think in answer to your question, one really important policy tool is for the United States to do everything it can to prevent corrupt and illicit money from entering into the U.S. and there are several ways we could do it. One is through our anti-money laundering laws. We can enforce those much more effectively.

Another thing we can do is require transparency around who ultimately owns companies here in the United States because I think corrupt money can come into the United States and other places through anonymous shell companies. So those kinds of reforms could really make a difference and address one of the issues you are talking about, which is where does all of this money go. If we make it difficult for it to go to the United States, then maybe it

has more of a chance of actually staying in Africa and contributing to development there.

Mr. MARINO. I agree with you to a certain extent, but don't forget when we look at trade, just simply trade, from here in the United States around the world, 95 percent of our trade, the people who are going to buy our products live outside the United States. So it is going to be difficult for the United States, which we should be following the money in the United States to see if it is laundered, but that is not going to solve the problem. They are just going to go to another country. They are going to make investments back in China. Who knows what is going to happen in Iran? They are financially in a bad position now. But I just don't think the United States is going to have that much of an impact on following money that is invested from these types of countries here in the United States.

So, with that, I yield back the time that I do not have left.

Mr. SMITH. Thank you very much, Mr. Marino. You know, this committee is blessed with very effective and very credentialed members. It is worth noting that when it comes to prosecutions, we do have a former U.S. Attorney in Mr. Marino. And he has been a very effective member of this committee. And I am grateful for his leadership.

I do have just a few final questions before we conclude. Mr. Boldin, you mentioned in your testimony the need for a regional mining code. And I wonder if you might want to expand upon that a bit or anyone else on this distinguished panel, which would apply to 15 countries in the region. It is suggested that it would be a value-added. It would give a much more useful tool to this whole effort to promote transparency and accountability. If you would like to expand upon that or any of the other members of the panel?

Mr. BOLDIN. Yes. I think just adopting the regional mining code not only promotes transparency, but it also puts everybody on a level playing field. You know, as for me, you know, Mr. Marino said, you know, that we are dumping foreign aid into these countries and it is not our business. But, to be honest with you, if we are dumping that kind of money into a country, I think it is our business to make everybody accountable on the money that is being spent in those countries. I think the U.S. does a great job outside of this country as far as helping others, but I also think that we have to spend responsibly as well in other countries and make other countries accountable for the money that we are dumping into their countries.

Mr. SMITH. Thank you.

Anyone else? Mr. Adam?

Mr. ADAM. Mr. Chairman, one of the important safeguards in the African ECOWAS mandate and directive is the protection of communities affected by the exploitation of these resources. When the companies and government want to exploit their resource, they do not seek the consent of the communities. There are some countries, like Ghana, that have laws which empower the government to compulsorily acquire the land and farmlands belonging to the people. What they do is to pay compensation, which in most cases is very low because they are determined by government agencies, as opposed to market rates. And so communities are disadvantaged.

They are paid one of compensation, but they will have to suffer for the rest of their lives. And, therefore, the ECOWAS mandate and directive seeks to protect the rights of communities by requiring government and companies to seek their consent before even a development of a filled or a minor area is done.

And this, I think communities are looking up to the implementation of the directive. What some countries have done is just discuss it, the directive, but they do not mainstream it into their laws. And when you discuss the directive, that doesn't necessarily make it a law. Even though the original intention of the drafting of that mining code is for African, West African, countries to mainstream the directive into their laws, they don't do that. And so if they are supported to enforce these directives in ensuring that the member states appreciate the value of the code, I think that communities would be protected. And, therefore, human rights abuses would be limited and communities eventually will also benefit.

And this brings to mind the issue of project by project reporting because these communities are suffering. And, yet, they don't even know how much revenue the state is collecting in respect of the exploitation of the area. And so when we have project by project reporting, that will further empower communities to demand of their government how much they are receiving from projects in their areas and also to constitute the basis for demanding what is due them as far as promoting their own circumstances is concerned.

Mr. SMITH. Ms. Gilfillan, you made a statement, part of your second recommendation was to make the transparent and responsible management of natural resources an integral part of U.S. foreign policy objectives. And then you give very specific examples on page 12 of your testimony. My question is, is the Obama administration doing that right now in July or is this a hope that you have that they will do it? And has any other previous administration been responsive in that regard?

Ms. GILFILLAN. In the past, we have very much focused on looking at the U.S. aid to resource-rich countries, more focused on, for example, the World Bank and how the World Bank is actually looking at natural resource governance and lending to resource-rich countries. But in relation to some of the U.S. assistance, right now I don't believe that they are doing that. In particular, I would like to point out some of the programs that the U.S. has. For example, the U.S. Energy Governance and Capacity Initiative, which is an initiative led by the State Department that is focusing on helping increase capacity of governments, particularly emerging countries with emerging oil/gas sectors. And these kinds of initiatives are very important, you know, to help promote governance in the sectors in Africa and elsewhere. But we would like to see more of this type assistance be explicitly linked to transparency commitments and progress made in achieving them.

If the U.S. is going to be providing assistance, then I think that assistance will be more effective if there are benchmarks for a country to demonstrate that it is making progress. So I think we would like to see more efforts. By that, I think the U.S. can also exert its influence through the World Bank, through the IMF, to try and make sure that those institutions are looking at natural re-

source governance and trying to integrate those in its lending programs in resource-rich countries.

Interestingly enough, the IMF has done that, for example, in the Congo, where they did withhold part of a loan because of concerns around corruption in the sector, in the extractive sector, in DRC. So there are examples of where that has been done, but we generally would like to see it done in a more consistent manner.

Mr. SMITH. Finally? And then if you have any closing statements you would like to make? As we all know, section 1502 mandates that the SEC issue regulations requiring publicly traded companies to disclose the origins of illicit conflict materials. And 1504 requires resource extraction issues to disclose payments made to foreign governments.

Now, the SEC obviously promulgated regulations. They are enjoined in court. We don't have any idea—at least I don't, and perhaps you do—as to when that court case may be ultimately resolved one way or the other. In your view, any of you, was Dodd-Frank drafted properly if it falls? Do we have a fallback that you would recommend? You know, it is not too soon to be thinking. You know, the idea is transparency and accountability. What do we do if the court were to find this to be unconstitutional?

Part of the lawsuit that has been brought by the National Association of Manufacturers, they point out that the SEC requirements are extremely burdensome when it comes to tracing minerals back to the smelter or refinery. It seems to me, you know, we have got to be realists about, you know, the perfect sometimes is the enemy of the good. Is there a way of making sure that we know where these materials are coming from, these minerals, that could gain constitutional muster?

Ms. GILFILLAN. As far as your first question about were sections 1502 and 1504 done properly, I think that there were many years of deliberations in Congress where the issues of extractive industry transparency and conflict minerals have come up, both in hearings, both on the House and the Senate sides. I know that for Global Witness, we have worked on this issue since the late 1990s. And I have certainly been in Washington since 2004 working with Members of Congress in both the House and the Senate on both of these issues: On conflict minerals, on extractive industry transparency. So there were hearings done in both issues.

There was legislation introduced. It was bipartisan and particularly Senator Lugar and Senator Brownback along with Senator Cardin. And Senator Feingold, actually, is no longer there, along with Lugar. But, anyway, they were some of the champions of these pieces of legislation in the Senate side. And so it was a bipartisan effort. There was a lot of deliberation. There was legislation out there before that was then put into Dodd-Frank. So we do believe that there was a lot of careful thought given to this.

We are seeing it really enforced now with all of the other countries like the European Union that basically has adopted a similar provision. And we saw the Africa Progress Panel report that just came out this spring that pretty much embraced the whole idea of mandatory reporting that is in Dodd-Frank.

As far as what is our backup, just on the section 1502 case, that there has been no decision on that. Oral arguments were heard

about a couple of weeks ago, but there is no decision on that. So we don't know where that is.

But I think the reality for section 1504 is that the rest of the world is moving toward transparency. So Europe has adopted it, as I said. Canada has announced they are adopting it. I think other countries are going to be moving forward as well. The G–8 just made a commitment to doing it as well. So I think that it really is here. And I think that we are hopeful that the SEC will be able to move forward with finalizing the rules and having implementation as soon as possible. We certainly believe that the SEC did the rule and did it in a way that was consistent with the congressional intent in the statute.

Just on section 1502 on the conflict minerals provision, there has been a lot of progress since that provision came into effect. We have never seen so much attention focused on the Congo and trying to stop conflict minerals. Since Dodd-Frank, we have seen so much action from companies, from the Congolese Government, from other actors in the Congo. For example, the DRC Government now has a law requiring all companies in the trading in the mining sector, to carry out due diligence to avoid sourcing conflict minerals. That is the biggest that we have seen. That is a huge development. And before Dodd-Frank, we really didn't see much meaningful progress by the Congolese Government. So I think that that is huge.

Another thing that is very important is that all of the private sector is really galvanized and working to comply. Now, obviously there are challenges with knowing your supply chain, but we have got major companies, like AMD, H.P., G.E., that are actively involved in developing these joint industry initiatives that are now going on to be able to trade supply chains.

So I think it is very, very positive what is going on on the ground. We certainly work with, for example, the Conference of Catholic Bishops in the Congo, who has testified here in Congress. And they continue to believe that Dodd-Frank is incredibly important to break the links between minerals in conflict. It will enable people in the Congo. Because of the conflict in the mining areas, lots of people have not been able to pursue other livelihoods, like agriculture, for example.

And so the Catholic bishops believe there that if you have Dodd-Frank if you kind of break this link between minerals in conflict, you will be able to have people going back into other livelihoods because the mining sector is not particularly a great livelihood for people. It is slave-like conditions. It is very, very horrible working conditions.

So I think we are in that transitional period where we are moving forward with the implementation. But we have seen demote militarization of mining areas. We have seen a lot of progress and a lot of important impact. So I would just want to, you know, make that clear that that is what we are finding. And we are very much hoping that the U.S. will move forward.

And Europe also is now considering a similar type of provision. So that is encouraging, too.

Mr. SMITH. Thank you.

Would anyone else like to make a final comment before we conclude?

Mr. ALICANTE. Sure. Not much to add to what Corinna had to say about Dodd-Frank 1504, only to say that, as I mentioned earlier, the rate of importance of creating a whole environment in which transparency is valued and is protected in the United States, which in my mind means also ensuring that anti-money laundering laws are taken seriously, ensuring that incorporation transparency to avoid illicit money coming into the United States to shell companies is taken seriously, ensuring that the EITI, for instance, Equatorial Guinea is in the process of reapplying, so ensuring that Equatorial Guinea is only considered after certain key benchmarks have met in the country and also balancing all of these efforts in transparency with efforts to promote human rights, to promote good governance in these resource-rich countries.

And, again, Mr. Chairman, I want to thank you very much for these wonderful opportunities to speak on this issue.

Mr. SMITH. Thank you, Mr. Alicante.

Mr. ADAM. Yes.

Mr. SMITH. Mr. Adam?

Mr. ADAM. Mr. Chairman, I also want to thank you very much and to reiterate that Ghana has shown the way, the willingness to govern the management of these resources transparently and also to invest the revenues from oil and other minerals efficiently. But Ghana still needs support in terms of institutional building.

There are other countries that are emerging: Liberia, Sierra Leone, Guinea, if Ghana is successful. I believe that it will have a spillover effect on these countries so that we can enhance improved governance of natural resources in the area.

Finally, some of the contracts which we describe as bad deals are producing oil, which is consumed by many important countries, including the U.S. I understand in the U.S., the oil you consume, about 12 percent of that is from some African or West African countries. And if some of the oil you consume is coming from badly negotiated contracts, contracts that are tainted with corruption, I think that the U.S. will be promoting corruption if you continue to consume that oil. And, therefore, as part of your bilateral relationship with countries where you are getting your oil from, you will play a very important role if you help them to improve on the governance around the contracts so that you will be consuming clean oil. And then we will be setting an example why other countries around the world should consume clean oil as well. I want to thank you once again for the opportunity.

Mr. SMITH. Yes?

Mr. BOLDIN. I would just like to say thank you on behalf of myself and Oxfam for lending your ear, for allowing us to make our voice heard today. So thank you.

Mr. SMITH. Thank you, Mr. Boldin. Thank you.

Ms. GILFILLAN. Sorry. I had forgotten I really wanted to also thank you, Chairman Smith. And thank you for your longstanding leadership on this issue, on transparency of extractive industries. I know that you and your staff have really been committed to this issue. And I think that that is very important. So I want to thank you for all your leadership. And we look forward to working with you more on these issues.

Mr. SMITH. I want to thank each and every one of you. You have provided extraordinary insight and recommendations that are very specific. This is an activist subcommittee. So I can assure you we will follow up with what you have conveyed today as well as previously, but I think today now, you know, we are at a turning point in many ways on this whole issue. Good has been accomplished. As you said, the Europeans are now taking up this cause very robustly.

And I especially, Anquan, want to thank you because the meeting we had just a few weeks ago, you know, we were going to do this at some point, but you just brought it all to a head and said, you know, let's go ahead and bring this information forward to hold all of us accountable. That includes the executive branch as well as the legislative branch. We don't have much influence on the judicial branch, but let's hope they get their act together and rule soon and hopefully favorably. So thank you again for your leadership. And I am sure the people back in Senegal have to be much pleased by your keeping your promise to keep their interests ever in front of the minds of Americans. Thank you all.

And the hearing is adjourned.

[Whereupon, at 4:41 p.m., the subcommittee was adjourned.]

# APPENDIX

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## Material Submitted for the Hearing Record

**SUBCOMMITTEE HEARING NOTICE**
**COMMITTEE ON FOREIGN AFFAIRS**
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515-6128

**Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations**
**Christopher H. Smith (R-NJ), Chairman**

July 16, 2013

**TO: MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS**

You are respectfully requested to attend an OPEN hearing of the Committee on Foreign Affairs, to be held by the Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations in Room 2167 of the Rayburn House Office Building (and available live on the Committee website at www.foreignaffairs.house.gov):

**DATE:** Thursday, July 18, 2013

**TIME:** 2:00 p.m.

**SUBJECT:** Is There an African Resource Curse?

**WITNESSES:** Ms. Corinna Gilfillan
Director
Global Witness, USA

Mr. Mohammed Amin Adam
Executive Director
Africa Centre for Energy Policy

Mr. Anquan Boldin
Ambassador
Oxfam America

Mr. Tutu Alicante
Executive Director
EG Justice

**By Direction of the Chairman**

*The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202/225-5021 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee.*

## COMMITTEE ON FOREIGN AFFAIRS

MINUTES OF SUBCOMMITTEE ON *Africa, Global Health, Global Human Rights, and International Organizations* HEARING

**Day** *Thursday* **Date** *July 18, 2013* **Room** *2167 Rayburn HOB*

**Starting Time** *2:38 p.m.* **Ending Time** *4:41 p.m.*

**Recesses** [ *0* ] (____to ____) (____to ____) (____to ____) (____to ____) (____to ____) (____to ____)

**Presiding Member(s)**

*Rep. Chris Smith*

*Check all of the following that apply:*

**Open Session** [✓]
**Executive (closed) Session** [ ]
**Televised** [✓]
**Electronically Recorded (taped)** [✓]
**Stenographic Record** [✓]

**TITLE OF HEARING:**

*Is There an African Resource Curse?*

**SUBCOMMITTEE MEMBERS PRESENT:**

*Rep. Karen Bass, Rep. Tom Marino, Rep. Mark Meadows*

**NON-SUBCOMMITTEE MEMBERS PRESENT:** *(Mark with an * if they are not members of full committee.)*

**HEARING WITNESSES: Same as meeting notice attached? Yes** [✓] **No** [ ]
*(If "no", please list below and include title, agency, department, or organization.)*

**STATEMENTS FOR THE RECORD:** *(List any statements submitted for the record.)*

**TIME SCHEDULED TO RECONVENE** _____
or
**TIME ADJOURNED** *4:41 p.m.*

Gregory B. Simpkins
**Subcommittee Staff Director**