

United States House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20515

November 1, 2021

Memorandum

To: Members, Committee on Financial Services
From: FSC Majority Staff
Subject: November 4, 2021, National Security, International Development, and Monetary Policy Subcommittee Hearing entitled, “From Timber to Tungsten: How the Exploitation of Natural Resources Funds Rogue Organizations and Regimes”

The Subcommittee on National Security, International Development and Monetary Policy will hold a hybrid hearing entitled, “From Timber to Tungsten: How the Exploitation of Natural Resources Funds Rogue Organizations and Regimes” on Thursday, November 4, 2021, at 10:00 AM in room 2128 of the Rayburn House Office Building and via Cisco WebEx. There will be one panel with the following witnesses:

- **Kidan Araya**, Member, Illicit Trafficking Working Group, Women of Color Advancing Peace and Security; Board Member, Africa Policy Accelerator, CSIS
- **Carla García Zendejas**, Director, People, Land, and Resources, Center for International Environmental Law (CIEL)
- **Channing Mavrellis**, Illicit Trade Director, Global Financial Integrity
- **Kathleen Miles**, Director of Analysis, Center on Illicit Networks and Organized Crime (CINTOC)
- **Joshua Fruth**, Chief Strategy Officer, Section 2 Financial Intelligence Solutions

Background

Natural resources are valuable economic drivers for government and national wealth. Legitimate, sustainably operated natural resource enterprises create jobs, generate revenue, and grow local and regional economies’ GDP. These commodities, however, also present lucrative opportunities for exploitation by bad actors such as criminals, kleptocrats, terrorists, and rogue regimes. Illicit activities involving unlawful or abused harvesting of resources like timber, gold, charcoal, oil, wildlife, minerals, and metals are estimated to generate between \$110-\$281 billion in proceeds every year¹ and represent the fastest-growing transnational crimes.² Beyond the harmful, long-lasting effects on local species and ecosystems, indigenous communities, and the global climate, these crimes and the funds that they generate pose serious threats to national security and global stability.

Natural resource exploitation is a global concern but is often concentrated in biodiverse regions prone to violent conflict and political instability.³ Notable entities that have been known to engage in natural resource exploitation include Nicolas Maduro’s heavily sanctioned regime in Venezuela,⁴ the Lord’s Resistance Army in the Central African Republic,⁵ and the Mexico-

¹ Financial Action Task Force, *Money Laundering from Environmental Crime* (Jul. 2021).

² Shelley, L., *Dark Commerce: How A New Illicit Economy is Threatening Our Future* (2018)

³ Financial Action Task Force, *Money Laundering from Environmental Crime* (Jul. 2021).

⁴ Freedom House, *Illegal Mining in Venezuela is Exacerbating Violence, Ecocide, and Global Corruption. The International Community Must Act.* (Oct. 2020)

⁵ Enough Project, *U.S. Sanctions LRA Ivory Traffickers: Important Step, but More Comprehensive Approach Needed, Say Experts* (Dec. 2017).

based Sinaloa cartel.⁶ Many organizations that engage in natural resource exploitation have operations that cross national borders or continents, and are also engaged in corruption, extortion, and money laundering.

Methods of Natural Resource Exploitation

Like most transnational crimes, illicit natural resource extraction depends on vast networks of intermediaries, illegitimate business structures, illicit financial flows furthered by complex money laundering schemes, and combinations of formal and informal financial tools.⁷ One common tactic used to shield illicitly sourced products is “comingling” where illegally obtained items like precious metals and timber are “hidden in the herd” by packaging and shipping them with legally sourced items throughout the supply chain, making it difficult for law enforcement and border officials to identify the illegal items as they move towards the end users.⁸ Shell companies,⁹ front companies,¹⁰ and trust companies can be used to hide the ownership of those obtaining extraction licenses, opening trade finance accounts, or selling and shipping their exploited goods. Trade-based money laundering schemes¹¹ are used to facilitate the movement and sales of illicit goods and to legitimize the proceeds that can then be routed through offshore bank accounts.¹² These methods and supply chains within trafficking routes and networks of facilitators are generally the same or overlap regardless of whether they are used to transport people, extract natural resources,¹³ or move narcotics and illegally obtained goods like endangered wildlife.¹⁴

The Role of Corruption

Terrorists, illicit networks, and rogue regimes thrive when governments are corrupt or susceptible to corruption.¹⁵ Corrupt actors in the private sector, including some lawyers, accountants, and other corporate and trust formation agents, also play a critical role in connecting terrorists to legitimate trade networks and likely enable criminal groups to evolve beyond resource extraction to partake in more complex, illicit finance endeavors.¹⁶ In the Democratic Republic of Congo (DRC), for example, high-ranking government officials traded mining contracts for funds that were laundered abroad, draining revenues that should have gone to the people of the DRC.¹⁷ These corrupt deals can have broader geopolitical significance, as seen in a recent deal to gain control of that country’s valuable cobalt reserves where China agreed to cancel \$28 million in loan repayments and provided an extra \$17 million for pandemic support in exchange for DRC’s participation in its Belt and Road Initiative.¹⁸

Businesses and other private-sector actors that benefit from the availability of natural resources can play a role in mitigating corruption concerns by addressing related supply chain risks and by working with partners to recognize investment vulnerabilities. Enacting due-

⁶ Associated Press, *Mexican Cartel Earns More From Mining and Logging Than Drugs* (Mar. 2014).

⁷ Knorr-Evans, M., and Parker-Forney, M., World Resources Institute, *Buyer Beware: One Study Finds 62% of Wood Products Mislabeled* (Sep. 3, 2019).

⁸ Financial Action Task Force, *Money Laundering from Environmental Crime* (Jul. 2021).

⁹ ACAMS, *AML Glossary of Terms* (Last Accessed Oct. 26, 2021).

¹⁰ *Ibid.*

¹¹ Financial Action Task Force, *Trade Based Money Laundering* (Jun. 23, 2006).

¹² Ben Ahmed, T., International Consortium of Investigative Journalists, *Pandora Papers: Offshore Havens and Hidden Riches of World Leaders and Billionaires Exposed in Unprecedented Leak* (Last Accessed Oct. 26, 2021).

¹³ Financial Action Task Force, *Money Laundering from Environmental Crime* (Jul. 2021).

¹⁴ Financial Action Task Force, *Money Laundering and the Illegal Wildlife Trade* (Jun. 2020).

¹⁵ UNEP, *The Rise of Environmental Crime – a Growing Threat to Natural Resources, Peace, Development and Security*, (2016).

¹⁶ Izenman, K. and Keatinge, T., RUSI, *Exploring Connections: Corruption, Terrorism and Terrorist Financing*, (Apr. 2020).

¹⁷ The Sentry, *From Central African to Australia: Following the Kleptocrats’ Money* (Jul. 2, 2018).

¹⁸ Mining.com, *What China’s increasing control over cobalt resources in the DRC means for the West* (Jan. 2021)

diligence measures throughout a firm's global supply chain can eliminate avenues for bad actors and limit exposure to corruption, sanctions, and financial crime compliance risks. Despite this, recent research showed that 43% of these partners are not currently subject to due diligence review, while 65% of surveyed firms admitting to knowing or suspecting that their third parties are involved in illegal or environmentally damaging activities.¹⁹ Tactics to manage these common risks include staff education and awareness, screening of third parties at the start of the relationship, and ongoing risk-monitoring of the parties within the supply chain. Sharing best practices and red-flag indicators, the issuance of guidelines from regulators and non-governmental organizations, and public-private partnerships are also methods which help identify high-risk regions and actors that facilitate natural resources exploitation.²⁰ With such enhancements, end-user companies and consumers can gain confidence that their purchases are not contributing to environmental degradation or the financing of terrorism and criminal syndicates.²¹

Distinguishing Features of Bad Actors Engaged in Environmental Crime

The financial options of criminal organizations and rogue regimes that profit from natural resource extraction depend, in part, on their structure and the non-state or state status of the bad actor. In instances where a transnational criminal organization or insurgent group takes control of a mine or forest, for example, violence and intimidation are typical components. Bribery is often used to move illicitly extracted goods past government officials, as well as extortion of those legally in business in the form of protection, transit fees, or "taxation."²² Front companies may be used to disguise the source and ownership of the illicitly harvested commodities, allowing the goods are merged into the legal supply chain. These crimes of opportunity are low-risk, high-reward activities which leverage the weak or non-existent governance structures in the areas in which they are operating. Using this scheme, the terrorist group Al-Shabaab generates significant profits from the illegal extraction and trade of timber and rubies in the weakly controlled Mozambique regions of Mocímboa da Praia and Pemba, with proceeds from timber estimated at \$2 million per month.²³ In Nigeria, Boko Haram has taken control of rare forests to illegally export highly valuable rosewood to Chinese importers.²⁴ Chinese organized crime, like the Xaysavang Network, works closely with African and Asian crime groups to traffic endangered animal parts, diversifying both products and roles in the supply chain.²⁵ In Colombia, the Revolutionary Armed Forces of Colombia (FARC) was reportedly taking in more funds from illicit gold mining than from drug trafficking before it entered into peace negotiations.²⁶

In instances where a violent or illegitimate group is intertwined with the government or acts as the state itself, the financial flows are different. In areas like Afghanistan and Lebanon, groups like the Taliban and Hizballah strike agreements with government officials who may be among their membership and who own access to mines, forests, and ports, removing the need to extort customs agents or obtain fraudulent licenses. For example, in Afghanistan, insurgent

¹⁹ Refinitiv, *The Real Risks: Hidden Threats Within Third-Party Relationships* (2020)

²⁰ Financial Action Task Force, *Money Laundering from Environmental Crime* (Jul. 2021).

²¹ The Sentry, *From Central African to Australia: Following the Kleptocrats' Money* (Jul. 2, 2018).

²² Thompson, R, FBI, *Statement Before the Senate Foreign Relations Committee on Illicit Mining: Threats to U.S. National Security and International Human Rights* (Dec. 5, 2019).

²³ Habibe, S., Forquilha, S., and Pereira, J., IESE Scientific Council, *Islamic Radicalization in Northern Mozambique – The Case of Mocímboa da Praia* (Sep. 2019).

²⁴ Environmental Investigation Agency, *The Rosewood Racket – China's Billion Dollar Illegal Timber Trade and the Devastation of Nigeria's Forests* (Oct. 31, 2017).

²⁵ Van Uhm, D. and Wong, R., Trends Organ Crim, *Chinese organized crime and the illegal wildlife trade: diversification and outsourcing in the Golden Triangle* (2021)

²⁶ Shelley, L., Terrorism Research Initiative, *Perspectives on Terrorism* (Aug. 2020).

groups have fought for control of the Nangarhar talc mines and their lucrative contracts,²⁷ in addition to illegally mining gemstones, gold, coal, and marble.²⁸ With the recent change in control, however, the Taliban will now profit from the same extractions but as the governmental authority itself, obviating the needs for many of the detection-evasion techniques used by non-state actors. There is further concern that the Taliban will work with China to extract, through technically legal contracts, Afghanistan's untapped reserves of lithium and rare earth materials, a supply estimated to be worth more than \$1 trillion and of significant geopolitical value.²⁹

These types of agreements also benefit kleptocrats who demand bribes, divert revenue from licit extraction, and launder that money through the legal financial system, such as in Equatorial Guinea with the Obiang family³⁰ and in the Odebrecht scandal with the Brazil's state oil company.³¹ In Colombia, the FARC exploited corrupt political leaders and land-registry officials to mine and tax proceeds from tungsten that was processed and supplied to multinational corporations.³² More recently, the FARC and National Liberation Army have expanded from Colombia into Venezuela, establishing strong relationships with Venezuelan armed forces to take control of gold mines and share profits with government officials and the militants.³³

Existing tools and regulations

Both the United States and the international community have guidance, regulations, and laws to disclose natural resource extraction, protect supply chain integrity, and subdue terrorism financing mechanisms, but their utility, scope, and success are uneven.

- *Section 1504 of the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act* requires companies listed on U.S. exchanges to disclose payments that they make to governments for oil, gas, and mining resources. The law established a global standard for the public disclosure of extractive payments after the European Union, Canada, and Norway – which include some of the largest capital markets for oil, gas, and mining companies – adopted disclosure laws based on the U.S. model.³⁴
- *Section 1502 of the Dodd–Frank Wall Street Reform and Consumer Protection Act* requires companies listed on U.S. exchanges that use “conflict minerals” – including tin, tungsten, tantalum, and gold, from the DRC and its nine neighboring countries – to carry out checks on their supply chains to determine and publicly report whether their purchases are fueling conflict in the DRC. The goal of this provision is to ensure that businesses are following appropriate due diligence.³⁵ Some critics have argued that Section 1502 is prohibitively expensive and has caused more harm than good³⁶ while others assert that the law has spurred intense efforts to operationalize and expand regional, national, and industry due diligence systems, having a demonstrative, positive impact on the ground.³⁷ The latter group has suggested that this provision be expanded into other commodities in additional countries.³⁸

²⁷ Homewood, J., The Organization for World Peace, *Talc And Terrorism: Afghanistan's Mines Fuel The Islamic State And The Taliban* (Aug. 6, 2018).

²⁸ OECD, *Terrorism, Corruption, and the Criminal Exploitation of Natural Resources* (Oct. 2017).

²⁹ Marlow, I. and Curran, E., Bloomberg, *China Eyes Afghanistan's \$1 Trillion of Minerals with Risky Bet on Taliban* (Aug. 24, 2021).

³⁰ Fernandes, L., New York Times, *Oil, Instagram and the Plunder of Equatorial Guinea* (Nov. 27, 2017).

³¹ U.S. Department of the Treasury, *Advisory on Political Corruption Risks in South Sudan* (Sep. 6, 2017).

³² Smith, M. and Willis, A., Bloomberg, *Colombia Plans Raid to Seize FARC Tungsten Mine Supplying World* (Dec. 26, 2021).

³³ OECD, *Gold Flows from Venezuela: Supporting Due Diligence on the Production and Trade of Gold in Venezuela* (Sep. 8, 2021).

³⁴ Letter from the Chamber of Commerce to Members of Congress on H.R. 6270 (Sept. 22, 2020).

³⁵ Global Witness, *U.S. Conflict Minerals Law* (Nov. 15, 2017).

³⁶ Seay, L., Center for Global Development, *What's Wrong with Dodd-Frank 1502?* (Jan. 5, 2012).

³⁷ Interfaith Center on Corporate Responsibility, *Dodd-Frank Section 1502 (Conflict Minerals Rule) Investor Statement* (Feb. 13, 2017).

³⁸ Global Initiative Against Transnational Organized Crime, *The Paradox of Plenty: Mineral Trafficking, Conflict and Crime* (Jul. 6, 2013).

- *The Lacey Act* prohibits U.S. companies from exporting, importing, selling, or trading illegally obtained fish and wildlife. It was expanded in 2008 to cover plant materials like timber products.³⁹ Despite success in reducing the volume of environmental crimes, the law’s efficacy may be affected by questions about the responsibility of importers to observe conflicting national laws, the lack of international databases to identify prohibited materials and violators, and the belief that the U.S. itself should do more to police illegal industries.⁴⁰
- *The Global Magnitsky Human Rights Accountability Act*, passed in 2016, imposes targeted sanctions denying U.S. entry and blocking U.S.-based property for foreign government officials engaged in “acts of significant corruption” including “corruption related to government contracts or the extraction of natural resources.”⁴¹ Despite this authority, Treasury not issued Global Magnitsky sanctions on persons engaged in this type of corruption.
- *The Financial Action Task Force’s Environmental Crime Guidance* from July 2021 indicates the growing impact of environmental crimes on the financial services sector. FATF urges governments to develop laws, regulation, and guidance for collaboration on combating these crimes.⁴²
- *The Corporate Transparency Act of 2020 and the Anti-Money Laundering Act of 2020* will improve transparency through the reporting of the beneficial owners of U.S.-registered shell companies and improve information sharing and other counter-trafficking capabilities.⁴³ Passed in January 2021, Treasury is working on the associated rulemakings, strategies, and other national security activities to close loopholes and ensure broad participation by reporting entities.

Legislation

- **H.R. 151, Preventing Future Pandemics Act of 2021** (Quigley/Upton), would address global public health risks from wildlife markets and give the President the option to impose sanctions against persons that enable or facilitate illicit wildlife markets.
- **H.R. 5457, Afghan Threat Finance Cell Establishment Act of 2021** (Lynch/Taylor), would re-establish the interagency “Afghan Threat Finance Cell,” led by Treasury.
- **H.R. ___, Afghanistan Illicit Finance Act**, would require FinCEN to determine if individuals or entities in Afghanistan constitute a Primary Money Laundering Concern.
- **H.R. ___, Combating Wildlife Trafficking and Proceeds Study Act**, would require Treasury to examine the financing and proceeds of the illicit wildlife trade.
- **H.Res. ___, Expressing concern about the rise in illicit mining and trafficking of gold in Latin America and the pervasive problem that such mining poses for the security, stability, and environment of the region.**

³⁹ Forest Legality Initiative, *U.S. Lacey Act*, (Last accessed Oct. 26, 2021).

⁴⁰ CRS, *The Lacey Act: Compliance Issues Related to Importing Plants and Plant Products* (Feb. 25, 2014).

⁴¹ Global Magnitsky Human Rights Accountability Act (2016)

⁴² Financial Action Task Force, *Money Laundering from Environmental Crime* (Jul. 2021).

⁴³ Simons, T., Thomson Reuters, *How Will The Corporate Transparency Act Affect AML Compliance?* (Jul. 29, 2021).