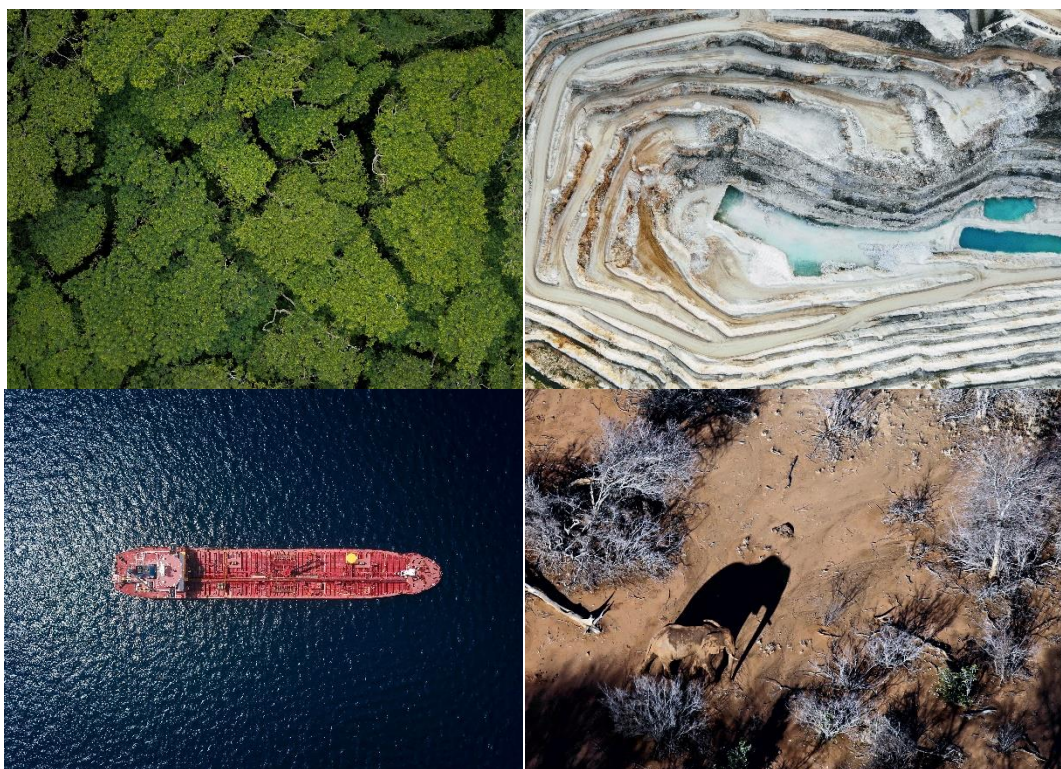


From Timber to Tungsten

How the Exploitation of Natural Resources Funds Rogue Organizations and Regimes



**House Committee on Financial Services
Subcommittee on National Security, International
Development, and Monetary Policy**

November 4, 2021

Written testimony of
Channing Mavrellis
Illicit Trade Director
Global Financial Integrity



Chairwoman Waters, Ranking Member McHenry, distinguished members of the Subcommittee on National Security, International Development, and Monetary Policy, it is an honor and privilege to testify before you today on the convergence of natural resource exploitation, rogue actors and regimes, and illicit financial flows (IFFs). I am immensely grateful for the invitation and the opportunity to join this esteemed panel.

Natural resources have long been used to finance conflict and violence, perpetrated by state actors as well as non-state actors like transnational criminal organizations (TCOs), terrorist groups, and armed groups. The focus on these crimes has traditionally been directed toward the overt activity and its obvious impact on the environment. It is only in the last ten years that the international community has really begun to recognize the scale of the IFFs associated with these activities as well as the impacts to economic and national security.

Illicit natural resource exploitation represents a low-risk, high-reward activity for participants. From Global Financial Integrity's (GFI) 2017 report *Transnational Crime and the Developing World*, the retail value of environmental crimes—specifically wildlife trafficking, illegal logging, illegal and unreported fishing, illegal mining, and crude oil theft—was more than US\$275 billion each year.¹ This makes environmental crime the third most valuable transnational crime behind counterfeiting and drug trafficking, and it must be stressed that this is absolutely a conservative estimate.

The exploitation of natural resources to finance illicit activity is a serious threat to the U.S. and its allies as it funds rogue actors and regimes, undermines legitimate business, and contributes to conflict, corruption, transnational crime, and terrorism. My testimony will focus on the intersection of natural resource exploitation and illicit state and non-state actors, providing an overview of commodities, actors, dynamics, impacts, and recommendations.

What does it involve?

Natural resources refer to commodities like oil, gas, and minerals as well as wildlife, fish and timber. Environmental crimes are often more dangerous than “traditional” transnational organized crimes because the threshold for government corruption is very low, the risk of prosecution and punishment even lower, yet the rewards are comparable or even higher.

The conversation around conflict and the exploitation of natural resources is very narrow, typically directed at tungsten, tin, tantalum, and gold (referred to as “3TG”) as well as diamonds, which are used by armed rebel groups in Africa as a source of financing in their attempt to overthrow the state. This restricted focus has influenced domestic legislation/regulation as well as international conventions while ignoring three important points:

1. Conflict occurs over access to all natural resources and/or all natural resources are used to fund conflict, including other types of minerals, oil, gas, timber, fish, and wildlife.

¹ Channing May, *Transnational Crime and the Developing World* (Washington, D.C.: Global Financial Integrity, 2017), xi, <https://gfintegrity.org/report/transnational-crime-and-the-developing-world/>.

2. Conflict is greater than civil wars between armed groups and the state; it can also involve conflicts between and/or within these groups as well as TCOs, terrorist groups, civilians, civil society, and the private sector, including human rights abuses.
3. Conflict occurs on every continent, impacting both developed and developing countries.

In addition, what also needs to be considered is natural resource exploitation that is controlled and/or condoned by rogue regimes; while not strictly illegal, it still presents a serious threat as it funds licit and illicit activities of the regime, further bolstering their power.

The following case studies provide an overview of how different actors, locations, and methods combine under the lens of conflict, focusing on three natural resources: minerals, timber, and fish.

Minerals

Illegal mining occurs when mining is conducted “without state permission (in absence of land rights, mining licenses, and exploration of mineral transportation permits), or mining activity with state permission obtained through corruption.”² The illegal exploitation and trade of mineral resources was estimated at US\$12 billion to US\$48 billion annually by the United Nations Environment Programme and Interpol, however even these organizations recognize this is a “gross underestimate” given additional assessments, such as a study by the Global Initiative against Transnational Organized Crime (GI-TOC) which put illegal gold mining in nine Latin American countries alone at roughly US\$7 billion each year.³

As highlighted by the Financial Action Task Force (FATF), illegal mining is unique in comparison to other environmental crimes in that “criminals use the mining sector to both generate criminal proceeds through illegal mining, and to launder proceeds from other crimes using the cash-intensive nature of the industry.”⁴ Drug trafficking has a symbiotic relationship with natural resource exploitation in Latin America, as the exploitation of these resources, such as gold, emeralds, timber, coltan, and more, is usually poorly regulated and/or monitored, the profits are typically consistent and high, and therefore the activities serve as an excellent medium to launder narcotics proceeds as well as a source of additional income from extortion, taxation, and other crimes.

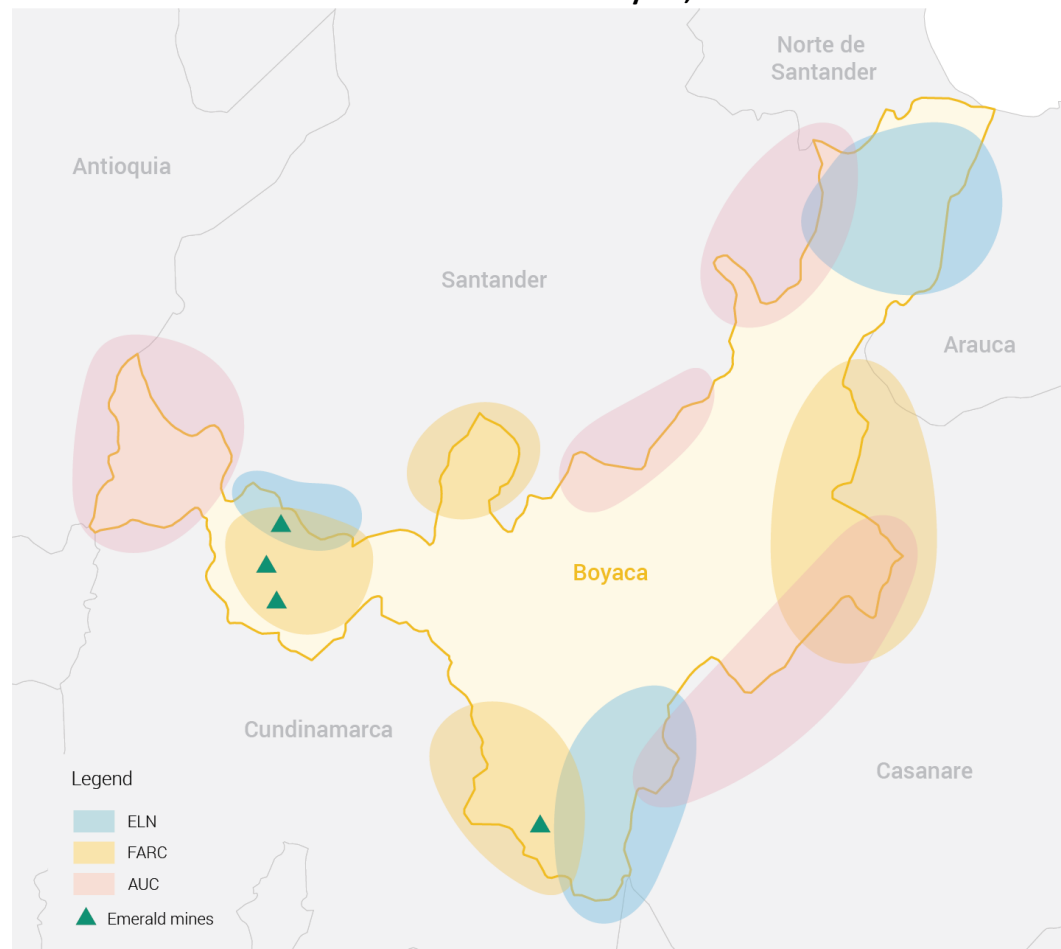
² Financial Action Task Force, *Money Laundering from Environmental Crime* (Paris: Financial Action Task Force, 2021), 8, <https://www.fatf-gafi.org/publications/methodsandtrends/documents/money-laundering-from-environmental-crime.html>.

³ Christian Nellemann et al., *The Rise of Environmental Crime: A Growing Threat to Natural Resources, Peace, Development and Security*, A UNEP-INTERPOL Rapid Response Assessment (Oslo: United Nations Environment Programme; RHIPTO Rapid Response-Norwegian Center for Global Analyses, 2016), 20, http://unep.org/documents/itw/environmental_crimes.pdf; Livia Wagner, *Organized Crime and Illegally Mined Gold in Latin America* (Geneva: Global Initiative against Transnational Organized Crime, 2016), 8, <http://globalinitiative.net/wp-content/uploads/2016/03/TGIATOC-OC-and-Illegally-Mined-Gold-in-Latin-America-Report-1718-digital.pdf>.

⁴ Financial Action Task Force, *Money Laundering from Environmental Crime*, 14.

There has been a great deal of attention paid to illegal gold mining and drug trafficking in Colombia and the role of different non-state actors, particularly criminal groups, terrorist groups, and rebel groups. However, while illegal gold mining emerged as a major financing mechanism for these groups in the late 1990s,⁵ emeralds have been at the center of major conflicts in Colombia since the 1960s when “emerald magnates used paramilitary groups to defend their turf from guerillas and drug traffickers.”⁶ Douglas Farah explains that, while significant international attention has been placed on conflicts arising from coca cultivation and cocaine trafficking, one conflict “that has proven to be intractable and largely impervious to efforts to bring peace [is] the lucrative emerald trade.”⁷

FIGURE 1. The nexus of emeralds and conflict in Boyacá, Colombia



Source: Yansura et al., *Financial Crime in Latin America and the Caribbean*

⁵ “Exploring Illegal Mining in Colombia’s Amazon,” *InSight Crime* (blog), September 8, 2021, <https://insightcrime.org/investigations/exploring-illegal-mining-colombia-amazon/>.

⁶ Julia Yansura et al., *Financial Crime in Latin America and the Caribbean: Understanding Country Challenges and Designing Effective Technical Responses* (Washington, D.C.: Global Financial Integrity, 2021), 119, <https://gfinetegrity.org/report/financial-crime-in-latin-america-and-the-caribbean/>.

⁷ Douglas Farah, “Emerald Wars: Colombia’s Multiple Conflicts Won’t End With the FARC Agreement,” *Small Wars Journal* (blog), December 8, 2016, <https://smallwarsjournal.com/jrnl/art/emerald-wars-colombia%E2%80%99s-multiple-conflicts-won%E2%80%99t-end-with-the-farc-agreement>.

As highlighted in GFI's 2021 report *Financial Crime in Latin America and the Caribbean: Understanding Country Challenges and Designing Effective Technical Responses*, Colombia is responsible for two-thirds of the world's emerald production, with the central department of Boyacá the seat of both mining and conflict (Figure 1).⁸ The "Green Wars" describes a period of extreme violence and instability during the 1970s and 1980s when Colombia's "emerald barons" fought for control over Boyacá; while a peace deal was brokered by the Catholic Church in 1991, conflict has never left the region as high-profile assassinations still occur and mine operators continue to employ private armies to protect themselves against state and non-state actors.

One notable company that has been operating in the department for years has been Esmeraldas y Minas de Colombia (Esmeracol), whose shareholders have been directly linked to drug trafficking and money laundering. An investigation by Colombia's Anti-Laundering Unit determined that the company was controlled by the El Dorado cartel, which used the company, its mine, as well as front companies and a professional soccer club "to launder \$10 billion in proceeds from the sale of 900 tons of cocaine to the U.S. over a decade."⁹ The cartel's leader, Julio Lozano Piratque, used straw purchasers, including family members, to buy and hold his shares in Esmeracol, which "was a pattern he and his organization would repeat for many years."¹⁰

More recently in 2019, Colombia's "emerald czar" Horacio Triana, his brothers-in-law Gilberto, Ómar and Pedro Rincón (also known as Clan Rincón), as well as the former mayor of Cúper in Boyacá, José Rogelio Nieto, were successfully prosecuted in the U.S. on charges of running an international cocaine trafficking network, which they did with the assistance of Los Urabeños and the Sinaloa Cartel.¹¹ Clan Rincón owns many of the emerald mines in Boyacá, and they arranged protection with the United Self-Defense Forces of Colombia (Autodefensas Unidas de Colombia, or AUC) in order to keep the now-disbanded Revolutionary Armed Forces of Colombia (Fuerzas Armadas Revolucionarias de Colombia) out of the region, negotiating a tax on coca farmers and laboratories (instead of emerald mines) as payment.¹²

Timber

Illegal logging is the most valuable environmental crime, worth an estimated US\$52 billion to US\$157 billion annually.¹³ The crime of illegal logging includes any activity on the supply chain—from harvesting and processing to transporting, buying, and selling—that convenes domestic or international laws. Overall, 10 to 30 percent of the global timber trade involves illegally harvested timber, however when the trade involves tropical wood—particularly from the forests of

⁸ Yansura et al., *Financial Crime in Latin America and the Caribbean*, 119.

⁹ Eugen Iladi, "The Dark Side of Gem Stones in Colombia and Beyond," *Colombia Reports* (blog), July 26, 2016, <https://colombiareports.com/dark-side-gem-stones-colombia-beyond/>.

¹⁰ Farah, "Emerald Wars: Colombia's Multiple Conflicts Won't End With the FARC Agreement."

¹¹ "Leaders of Colombia's 'Clan Rincon' Sentenced to Prison Terms for Roles in International Drug Trafficking Conspiracy," U.S. Department of Justice, March 17, 2020, <https://www.justice.gov/usao-sdfl/pr/leaders-colombia-s-clan-rincon-sentenced-prison-terms-roles-international-drug>.

¹² Yansura et al., *Financial Crime in Latin America and the Caribbean*, 119.

¹³ May, *Transnational Crime and the Developing World*, 69.

Southeast Asia, the Amazon basin, and Central Africa—the share of illegal timber skyrockets to 50 to 90 percent.¹⁴

Equatorial Guinea is a small country in West Africa roughly the size of the state of Maryland with a population of 1.4 million. Natural resources play an overwhelmingly large role in the country's economy, with petroleum and timber responsible for nearly 95 percent of the country's exports by value.¹⁵

The country is ruled by autocratic President Teodoro Obiang Nguema Mbasogo (Obiang Mbasogo), Africa's longest-serving head of state (41 years as of 2021). The exploitation of the country's natural resources, particularly its vast oil reserves, via bribes, kickbacks, and "fees" have financed the kleptocratic Obiang regime for decades.

While the Minister of Agriculture and Forestry, now First Vice President Teodoro Nguema Obiang Mangue (Teodorin), son of Obiang Mbasogo, had a government salary of US\$4,000 per month. However, during the eight-year period of 2004-2011, he spent more than US\$300 million on luxury real estate, vehicles, and goods as well as, interestingly enough, Michael Jackson memorabilia. These funds came from enriching himself off of the country's natural resources—specifically, forcing timber, oil, and gas companies which sought to operate in Equatorial Guinea to pay millions of dollars in bribes; for timber, he taxed almost every step of the supply chain, from licensing and harvest to export.¹⁶

The family's looting was assisted by the now-shuttered Riggs Bank, which had allowed the Obiangs "to deposit suitcases full of banknotes and wire \$700 million dollars into accounts there, without proper oversight."¹⁷ Teodorin also was aided by two U.S. lawyers, who created anonymous shell companies on his behalf, obscuring his ownership and allowing him to move tens of millions of dollars through U.S. banks. In addition, the family has employed public relations firms, including a U.S. firm that "specializes in helping African leaders and states 'build their global influence' to rebrand their image and increase investment into the country."¹⁸

¹⁴ Christian Nellemann and INTERPOL Environmental Crime Programme, eds., *Green Carbon, Black Trade: Illegal Logging, Tax Fraud and Laundering in the World's Tropical Forests*, A Rapid Response Assessment (Arendal, Norway: United Nations Environment Programme; GRID-Arendal, 2012), 6, http://www.unep.org/pdf/RRALogging_english_scr.pdf; Christian Nellemann et al., eds., *The Environmental Crime Crisis: Threats to Sustainable Development from Illegal Exploitation and Trade in Wildlife and Forest Resources*, A UNEP Rapid Response Assessment (Nairobi and Arendal, Norway: United Nations Environment Programme; GRID-Arendal, 2014), 8, <http://www.grida.no/publications/rr/crime/>.

¹⁵ "Equatorial Guinea," Observatory of Economic Complexity, accessed November 2, 2021, <https://app-bee.oec.world/>.

¹⁶ Guy Adams, "Teodoro Nguema Obiang: Coming To America (to Launder His Millions?)," *The Independent*, June 21, 2012, <https://www.independent.co.uk/news/world/americas/teodoro-nguema-obiang-coming-america-launder-his-millions-7855043.html>.

¹⁷ Adams.

¹⁸ "Equatorial Guinea Seeks to Shake off 'Oil Curse' Image," *Reuters*, March 10, 2014, sec. Energy, <https://www.reuters.com/article/equatorial-image-idUSL2NOLK08Q20140310>.

The U.S. never did convict Teodorin, however in 2014, the U.S. Department of Justice reached a settlement agreement with Teodorin in regards to more than US\$70 million in assets purchased with the alleged proceeds of corruption.¹⁹ Besides the U.S. settlement as well as a settlement with the Swiss government, Teodorin was successfully convicted in France for embezzling and laundering public funds—US\$177 million—in a corruption case brought against him in 2008 by Transparency International-France and Sherpa.²⁰

While all of this should be applauded, a major challenge that presents when dealing with assets recovered from kleptocratic and rogue regimes is how to ensure that the funds are returned to, and actually benefit, the citizens of the country, and not back into the pockets of those in power.

Fish

Illegal, unreported, and unregulated (IUU) fishing, as well as the related IFFs, have a major impact all over the world. Illegal fishing frequently occurs in the waters off developing countries, where the capacity, rule of law, and/or political will to monitor and enforce fishing regulations can be insufficient, however the catches from these regions still end up on our plates. Illegal and unreported fishing is estimated to be worth US\$15.5 billion to US\$36.4 billion annually, with the majority of the value—US\$12.8 billion to US\$30.2 billion—generated in developing countries due to their large role in the international trade of fishery commodities.²¹

Fishing is a major industry and source of employment in most maritime developing countries. The Food and Agricultural Organization (FAO) estimates that 59.5 million people are directly employed in fisheries and aquaculture, and the majority of these are in small-scale, artisanal capture fishing and aquaculture operations in developing countries.²² These local artisanal and small-scale fishermen just can't compete with crooked companies operating industrial long-distance fishing fleets that fish illegally. When local fishing stocks are depleted due to illegal fishing, the industrial fleets can move on—the locals are left behind to deal with the consequences. Communities as well as individuals lose a major source of food, employment, and income.

When legitimate economic activities disappear, individuals may opt for illicit employment; they may turn to crime, such as drug trafficking, smuggling, piracy, and arms trafficking, which are often linked with fisheries crimes. A prime example of this occurred in 1991 in Somalia after the fall of the Barre Government, when “many services that were previously provided by the government broke down, including the coast guard. Industrial fishing fleets from Europe and Asia swarmed to the country’s territorial waters, known as exclusive economic zones (EEZ), to fish,”

¹⁹ “\$26.6 Million In Allegedly Illicit Proceeds to Be Used To Fight COVID-19 and Address Medical Needs in Equatorial Guinea,” U.S. Department of Justice, September 20, 2021, 6, <https://www.justice.gov/opa/pr/266-million-allegedly-illicit-proceeds-be-used-fight-covid-19-and-address-medical-needs>.

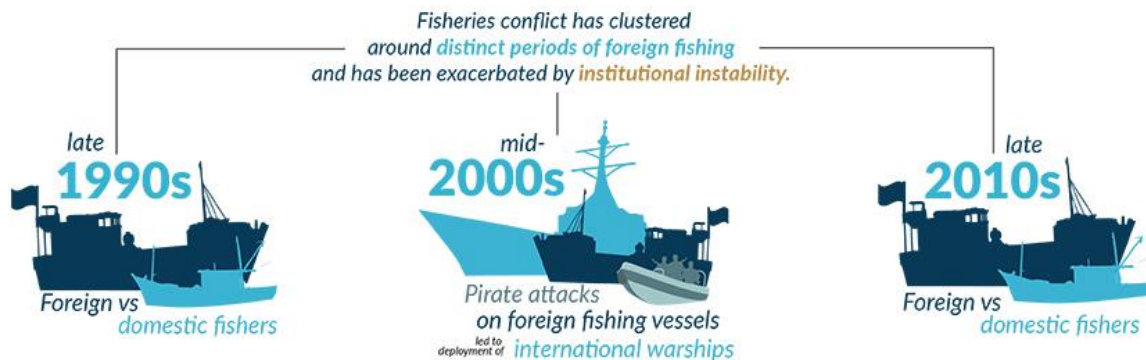
²⁰ “France: Equatorial Guinea Vice President’s Conviction Upheld,” Human Rights Watch, July 28, 2021, <https://www.hrw.org/news/2021/07/28/france-equatorial-guinea-vice-presidents-conviction-upheld>.

²¹ May, *Transnational Crime and the Developing World*, 62.

²² Food and Agriculture Organization of the United Nations, *The State of World Fisheries and Aquaculture 2020: Sustainability in Action* (Rome: Food and Agriculture Organization of the United Nations, 2020), 36–37, <https://www.fao.org/3/ca9229en/ca9229en.pdf>.

contributing to conflict between local and foreign fishers and significantly contributing to the rise of piracy.²³

FIGURE 2. Timeline of Fisheries Conflict in Somalia



Source: One Earth Future, *Rough Seas: The Causes and Conflicts of Fisheries Conflict in Somali Waters*

Three decades later, the situation still presents significant challenges, with foreign fishing vessels, particularly those from Iran, Yemen, and Southeast Asia,²⁴ responsible for the largest portion (31 percent) of fisheries conflicts (Figure 2).²⁵ A study by One Earth Future found that IUU fishing by foreign vessels in Somali waters "is fueling public anger and perpetuating conflict in five ways: by directly competing with the domestic fishery; through links to piracy; through nearshore illegal and destructive bottom trawling; by contributing to regional political conflict over vessel licensing; and by reducing long-term livelihood security."²⁶

The connection between Iran, Yemen, Somalia and transnational crime extends beyond illegal fishing. In 2017, an investigation by the UN Security Council reported the link between weak governance and IUU fishing in Somalia, and how the "weak governance of the fishing sector and a lack of institutional capacity for more effective maritime security, including the monitoring of perhaps more than 200 Iranian and Yemeni fishing dhows operating off the coast of Puntland, exacerbates the risk of fishing dhows being used for illicit purposes, including small arms trafficking."²⁷ More recently in 2020, research by the GI-TOC has identified a potential overlap

²³ May, *Transnational Crime and the Developing World*, 63; Colleen Devlin et al., *Rough Seas: The Causes and Consequences of Fisheries Conflict in Somali Waters* (Broomfield, Colorado: Secure Fisheries, 2020), 10, <https://securefisheries.org/sites/default/files/Rough%20Seas-fisheries-conflict-somali-waters.pdf>.

²⁴ Jay Bahadur, *Fishy Business: Illegal Fishing in Somalia and the Capture of State Institutions* (Geneva: Global Initiative against Transnational Organized Crime, 2021), 1, <https://globalinitiative.net/wp-content/uploads/2021/07/GITOC-ESAObs-Fishy-Business-Illegal-fishing-in-Somalia-and-the-capture-of-state-institutions.pdf>.

²⁵ Devlin et al., *Rough Seas*, 10.

²⁶ Sarah M. Glaser, Paige M. Roberts, and Kaija J. Hurlburt, "Foreign Illegal, Unreported, and Unregulated Fishing in Somali Waters Perpetuates Conflict," *Frontiers in Marine Science* 6 (2019): 1, <https://doi.org/10.3389/fmars.2019.00704>.

²⁷ Kairat Umarov, "Letter Dated 2 November 2017 from the Chair of the Security Council Committee Pursuant to Resolutions 751 (1992) and 1907 (2009) Concerning Somalia and Eritrea Addressed to the President of the Security Council" (New York: United Nations Security Council, November 2, 2017), 25, <https://www.undocs.org/S/2017/924>.

between the vessels, operators, owners, and agents involved in IUU fishing in Somalia and arms trafficking from Iran to Somalia and Yemen.²⁸

How is it accomplished?

It is extremely important to stress that transnational crime, including the illicit exploitation of natural resources, is not just conducted by transnational criminals and transnational criminal organizations. As illustrated in the examples above, state actors, such as rogue or kleptocratic regimes, as well as non-state actors including armed groups, TCOs, terrorist organizations, and companies also play a pivotal role in engaging in, facilitating, and perpetuating these activities.

In particular, the exploitation of natural resources often involves the interplay of the government as well as the private sector. Governments often own and/or manage these resources while the private sector provides the capital expenditure, often through foreign direct investment in developing countries, as well as the knowledge needed to identify and capitalize on these resources. This can be a beneficial relationship for both sides, however the monumental profits that can be achieved through this exploitation, coupled with weak governance, can lead to acts of bribery and corruption; this can move these resources from benefiting the many (i.e. the country's citizens) to benefiting the few.

Companies can be better placed to illicitly exploit and/or launder natural resources as their veneer of legitimacy—in comparison to criminal and terror groups—can make it easier to hide the illicit source of the goods. For example, as noted in GFI's *Transnational Crime and the Developing World*, “some of the most damaging illegal fishing is conducted by seemingly legitimate enterprises, often fleets of corporate trawlers, which engage in harmful and unlawful fishing practices in order to maximize profits by dodging regulations.”²⁹

This means that global supply chains are at risk of being filled with natural resources that have been illegally-sourced. This may be done knowingly or unknowingly, as companies who do not ensure the transparency and legality of their supply chains put themselves at serious risk of facilitating illicit activity. It is extremely important to recognize that companies who knowingly trade in illegally-sourced natural resources are not just simply violating regulations, they are dealing in the commodities and proceeds of environmental crime.

A June 2021 report by the FATF on environmental crime highlighted what many of us in this community have known for a long time: that trade-based fraud, shell and front companies, as well as gatekeepers play a “significant role” in both facilitating these crimes as well as laundering the related proceeds.³⁰ This has been highlighted in the cases studies presented above.

²⁸ Jay Bahadur, *Snapping Back Against Iran: The Case of the Al Bari 2 and the UN Arms Embargo* (Geneva: Global Initiative against Transnational Organized Crime, 2020), https://globalinitiative.net/wp-content/uploads/2020/11/Snapping-back-against-Iran-The-case-of-the-Al-Bari-2-and-the-UN-arms-embargo_GITOC.pdf.

²⁹ May, *Transnational Crime and the Developing World*, 62.

³⁰ Financial Action Task Force, *Money Laundering from Environmental Crime*, 3.

Compared to other illicit trades and goods which are outright criminal, it can be particularly challenging to easily identify illicit natural resources as it is often just a piece of paper—a miner’s license, a logging permit, a CITES permit—that separates licit and illicit goods. Fraud, particularly document and trade fraud, is a key element in carrying out illicit natural resource exploitation.

The use of fraud in illicit natural resource extraction can occur throughout the supply chain. For example, a logging company may falsely inflate legal timber quantities on a transport permit in order to introduce illegally-logged timber, but then later falsely deflate the total amount of timber logged in order to harvest more without scrutiny.³¹ Or a company may engage in trade fraud, also known as trade misinvoicing, in order to obscure the specific commodity being exported. For example, a company may misinvoice an export of rough logs as finished wood pieces in order to evade an export ban or avoid export tariffs.

Corruption is an extremely important component and enabler of illicit natural resource exploitation. The majority of exploitation—timber, fish, minerals, oil, gas, and wildlife—relies on the granting of permits, rights, licenses, concessions, contracts, etc. by the government to individuals and businesses. These authorizations should be issued, among other considerations, in an equitable manner and on the basis of a scientific assessment of the amount of sustainable exploitation—fishing, logging, mining, etc.—that a land or body of water can provide.

When corruption is intertwined with the issuing of permits and licenses, the results typically include environmental degradation, illicit operators, and illicit enrichment. Transparency International points out that “corruption in mining approvals can result in environmentally unsound and socially destructive mining projects being approved, rights to a country’s mineral wealth being granted to unqualified or unethical operators, and politicians or government officials taking advantage of their position to profit from their interests in the sector.”³²

Corporate structures—sometimes one shell company, sometimes a network of front companies—are often used by illicit actors to commingle legitimate and illegitimate funds, obscure the supply chain by commingling legally and illegally sourced goods, as well as conceal beneficial ownership. As seen in the mining and timber case studies, anonymous companies as well as straw purchasers are frequently used to hide a company’s beneficial owners, allowing them to obtain bank accounts and run “legitimate” businesses when they would otherwise be excluded.

Another important component is the role of gatekeepers—legal professionals, company formation agents, notaries, and accountants—in enabling corrupt and criminal actors as well as facilitating the exploitation of natural resources. Due to the prevalence natural resources in international trade, other important intermediaries include freight forwarders, insurers, and customs brokers. These individuals and industries serve legitimate purposes, however rogue and

³¹ Nellemann and INTERPOL Environmental Crime Programme, *Green Carbon, Black Trade*, 47.

³² Lisa Caripis, *Combatting Corruption in Mining Approvals: Assessing the Risks in 18 Resource-Rich Countries* (Berlin: Transparency International, 2017), 5, https://images.transparencycdn.org/images/2017_CombattingCorruptionInMiningApprovals_EN.pdf.

unethical actors are able to provide their expertise in order to conceal criminal activities as well as the proceeds of crime.

For example, an operation by Colombia's Office of the Attorney General focused on the illegal gold trade found that over the period 2006 to 2016, C.I.J. Gutiérrez, one of Colombia's largest gold trading companies, created a network of supplies—both individuals as well as front companies—in order to move large amounts of illegally mined gold and launder the related proceeds from the sales, equal to roughly US\$740 million dollars.³³ This was accomplished due to the actions of some of the company's "legal representatives, accountants, auditors and suppliers... [who] falsified documents to justify income and make up accounting books."³⁴

Finally, none of the above actors and activities could continue to successfully operate without money laundering. Money laundering related to natural resources can include several methodologies. For example, criminal proceeds have long been used to purchase precious stones and metals, as the markets and transactions are often cash-intensive and anonymous, and the commodities are easily converted back currency. Criminals and other rogue actors can misinvoice international trade transactions involving natural resources in order to shift money into and out of countries, such as falsely declaring an export of 18 karat gold as scrap gold, illicitly moving the value from the country of export to the country of import.

As illicit actors often launder illegally-sourced resources into the legitimate supply chain, it can be difficult to detect resulting criminal proceeds. Indeed, the FATF reports "one of the key themes across environmental crimes is the reliance by criminals on "comingling" (i.e., mixing illegal logs, precious metals and stones, and waste products with their legal counterparts) early in supply chains. This practice makes it difficult to distinguish between legitimate and illicit financial flows which often requires in-depth co-ordination between AML authorities and specially trained environmental investigators, both, domestically as well as across borders."³⁵

Why is this a threat to the U.S. and its allies?

Natural resource exploitation finances rogue actors and regimes as well as nations that are unfriendly or unstable. TCOs, armed groups, terrorist organizations, kleptocratic regimes, and "legitimate" businesses are able to profit from illicit exploitation of natural resources—either directly through illegal mining/logging/fishing or indirectly through bribery and extortion. In addition, these actors are able to launder the proceeds from these and other crimes via natural resource extraction, such as the investment of drug trafficking proceeds into the mining of precious stones and metals. As long as these actors are able to profit, their crimes will continue.

³³ "2.4 Trillion Pesos Were Laundered in Fictitious Gold Purchase and Sale Operations," Office of the Attorney General of the Nation, April 11, 2019, <https://www.fiscalia.gov.co/colombia/noticias/2-4-billones-de-pesos-fueron-blanqueados-en-operaciones-ficticias-de-compra-y-venta-de-oro/>.

³⁴ Alliance El Espectador and CONNECTAS, "Sospechas doradas: las millonarias transacciones de CIJ Gutiérrez," Text, El Espectador, September 21, 2020, <https://www.elespectador.com/investigacion/fincenfiles-sospechas-doradas-las-millonarias-transacciones-de-cij-gutierrez-article/>.

³⁵ Financial Action Task Force, *Money Laundering from Environmental Crime*, 11.

These activities also keep poor countries poor and cause instability. High-demand natural resources, and the accompanying environmental crimes, are frequently located in developing and emerging market countries, while the financing for the exploitation and the resulting proceeds typically end up in developed countries. While the market value of environmental crimes is in the hundreds of billions of dollars, the World Bank estimates that economic impact of just wildlife trafficking, illegal logging, and illegal fishing alone is more than \$1.7 trillion a year.³⁶

The diversion of natural resource revenues away from a country's citizens and to the pockets of corrupt, kleptocratic, and/or rogue regimes further entrenches their power, locks countries in the so-called "natural resource curse," and continues their reliance on international aid.

There is also a serious threat to U.S. supply chains, as there is very limited visibility when it comes to natural resources. Poor supply chain visibility presents serious risks to those directly and indirectly involved in natural resources, including those businesses that use natural resources in their products as well as those financial institutions that finance mining/logging/fishing/etc. and handle related financial flows. For example, while the Lacey Act does ban the trafficking of illegally harvested timber (along with other wildlife), there are no reporting obligations for companies that deal in timber and wood products.

Section 1502 of Dodd Frank does require reporting, but only for four minerals—gold, tin, tungsten, and tantalum—and focuses only the Democratic Republic of the Congo and adjoining countries. This is a major oversight for two main reasons. As highlighted in the mining case study, there is a very high rate of illegal mining in Latin America involving gold (let alone other mineral resources and other countries), however companies are not required to report disclose where their products come from.

Like Section 1502, the Seafood Import Monitoring Program (SIMP) aims to provide a clear view down the supply chain in order to avoid the importation of seafood that was caught and or traded using illegal practices. The program was designed to combat illegally caught or fraudulently labeled (i.e. misrepresented) seafood entering the U.S. supply chain by establishing reporting and recordkeeping requirements. Unfortunately, SIMP has a limited scope: it covers just 13 "priority" species of seafood, which only represents 40 percent of U.S. seafood imports by volume and value.³⁷

Transparency in the sourcing of natural resources, particularly critical mineral resources, is also important to ensure the resiliency of our supply chains. The U.S. Department of Defense, in its review of critical minerals and materials in the White House report *Building Resilient Supply Chains, Revitalizing American Manufacturing, and Fostering Broad-Based Growth*, noted that with the globalization of supply chains, "U.S. manufacturers increasingly lost visibility into the risk accumulating into their supply chains," with the necessary materials and workforce becoming

³⁶ World Bank, *Illegal Logging, Fishing, and Wildlife Trade: The Costs and How to Combat It* (Washington, D.C.: World Bank, 2019), 18, <https://openknowledge.worldbank.org/handle/10986/32806>.

³⁷ Sandy Aylesworth, "NGOs Call for NOAA to Strengthen Seafood Import Standards," NRDC, May 10, 2019, <https://www.nrdc.org/experts/sandy-aylesworth/ngos-call-noaa-strengthen-seafood-import-standards>.

“increasingly concentrated offshore,” often in opaque conditions.³⁸ As it stands, only 8.5 percent of minerals deemed “critical minerals” by the Department of the Interior—gold tin, tungsten, and tantalum—have any supply chain visibility.³⁹

Illicit natural resource exploitation also threatens U.S. businesses by increasing their exposure to risk as well as creating unfair advantages. Exploiting natural resources controlled by kleptocratic and rogue regimes presents a huge financial, reputational, and legal risks to businesses and investors; those in power can bleed businesses, taking hundreds of thousands if not millions of dollars in bribes as well as legitimate business investments without any guarantee of return. As seen in the timber case study, to do business in Equatorial Guinea is to do business with the Obiangs, where “so-called commissions are obligatory, and fictitious contractual disputes are common, often resulting in extortion, death threats, and the loss of all money and assets.”⁴⁰ Similarly, illicit natural resource exploitation creates an unfair business advantage, as those companies that illegally produce/sell/purchase/trade the natural resource have lower input costs.

The threat to businesses as well as anti-corruption efforts is further compounded due to weakened disclosure requirements. Section 1504 of Dodd Frank requires those entities engaged in the commercial development of oil, natural gas, or minerals to annually disclose qualifying payments that they make to the U.S. government or a foreign government. This can be an effective measure for mitigating bribery and other corrupt acts, which provides an unfair advantage let alone undermines rule of law. This rule is also important because it applies not only to U.S.-based companies but to any company listed on U.S. stock exchanges.

However, the rule was significantly undermined in 2016 when it was repealed and “reissued” with weaker provisions that allow companies to (i) report their payments on a national level (versus on a more-detailed project level), (ii) avoid reporting if foreign law prohibits it, and (iii) raises the minimum payment reporting threshold. The second point—avoiding reporting requirements—is particularly worrisome because could potentially “perversely incentivize foreign governments to rush to pass new laws that make the reporting requirements moot.”⁴¹

While illicit dealings are, unfortunately, not uncommon when dealing with natural resources, particularly in countries with high levels of corruption, the U.S. and its allies should do all that is possible to ensure that the exploitation of all natural resources does not facilitate and/or support

³⁸ The White House, *Building Resilient Supply Chains, Revitalizing American Manufacturing, and Fostering Broad-Based Growth: 100-Day Reviews under Executive Order 14017* (Washington, D.C.: The White House, 2021), 153, <https://www.whitehouse.gov/wp-content/uploads/2021/06/100-day-supply-chain-review-report.pdf>.

³⁹ Department of the Interior, Office of the Secretary, “Final List of Critical Minerals 2018,” *Federal Register* 83, no. 97 (May 18, 2018): 23295–96.

⁴⁰ José María Irujo, “The High Price of Doing Business in Equatorial Guinea,” *El País*, April 3, 2013, https://english.elpais.com/elpais/2013/04/03/inenglish/1365000844_044894.html.

⁴¹ Isa Mirza, “SEC Issues Controversial New Rule on Payment Transparency in the Natural Resource Sector,” *JD Supra*, December 18, 2020, <https://www.jdsupra.com/legalnews/sec-issues-controversial-new-rule-on-93504/>.

transnational crime, money laundering, corruption, kleptocracy, tax evasion, conflict, and terrorism, among other considerations.

Recommendations

My testimony has shown the serious threats posed from the exploitation of natural resources by illicit state and non-state actors. The following are my top recommendations:

1. Expand laws and regulations surrounding natural resource reporting to encompass a wider geographic and species/commodity focus.
 - For minerals, Congress should expand of Section 1502 of Dodd Frank to include, at a minimum, all minerals deemed to be at a high risk for funding illicit actors and activities, irrespective of location.
 - For fish, Congress should pass the Illegal Fishing and Forced Labor Prevention Act (H.R. 3075), which, among other measures, seeks to expand the Seafood Import Monitoring Program to all species as well as require the collection of beneficial ownership information for each harvesting and transshipment vessel or aquaculture facility.
 - For timber, Congress should pass the FOREST Act of 2021 (H.R. 5508) to combat illegal deforestation as well as draft and pass legislation requiring those companies importing timber or products made wholly or in part of wood to establish reporting and recordkeeping requirements
 - Congress should reissue Section 1504 of Dodd Frank to cover all natural resources in order to strengthen disclosure requirements on payments made to governments.
2. In regards to the Corporate Transparency Act, FinCEN should broadly interpret “other similar entities” to include partnerships, sole proprietorships, trusts, foundations, and business associations, unless a particular entity qualifies for an exemption. Doing so, explains the Financial Accountability and Corporate Transparency (FACT) Coalition, will be “the best course of action to carry out the CTA’s transparency objectives and ensure the registry is highly useful to law enforcement, national security, and intelligence agencies as well as financial institutions would be for the rule to adopt a broad approach.”⁴²
3. Extend AML/CFT regulations to gatekeepers that are currently uncovered or exempted. The ENABLERS Act (H.R. 5525) was an important first step in acknowledging that serious action needs to be taken to address the complicit role that lawyers, investment advisers, corporation formation agents, and real estate agents play in allowing the US to be a safe haven for illicit financial flows. Congress should continue to work to identify the most

⁴² FACT Coalition, “Financial Accountability and Corporate Transparency Coalition to the Financial Crimes Enforcement Network on Beneficial Ownership Reporting Requirements,” May 5, 2021, <https://thefactcoalition.org/wp-content/uploads/2021/05/FACT-CTA-ANPRM-Comment-20210505-0329am-FINAL.pdf>.

appropriate framework to ensure that meaningful and actionable due diligence requirements can be imposed on gatekeepers.

4. Create a public-private partnership between applicable U.S. government agencies, businesses engaged in natural resource exploitation, financial institutions and other relevant stakeholders to better understand the risks stemming from the use of natural resources to finance illicit actors and activities, recognize the threats and vulnerabilities to U.S. supply chains, as well as improve the detection of related commodity and financial flows.
5. Improve the efficacy and efficiency of Trade Transparency Units (TTUs). TTUs were established to exchange trade data between the U.S. and its trade partners (on a bilateral basis) as well as improve the understanding of trade-based money laundering (TBML). However, as noted in GFI's *Financial Crime in Latin America and the Caribbean*, one major weakness in the TTU model is that "data is not shared continuously, rather it is done on weekly, monthly, quarterly, biannual, or annual basis... [which] prevents potential real-time identification of TBML and fraud threats."⁴³ The U.S. should explore more dynamic information sharing with its trade partners in order to move from a more reactive to proactive position. In addition, as noted by the U.S. Government Accountability Office, the Secretary of Homeland Security needs to both develop a programmatic strategy for the TTUs as well as a performance monitoring framework.⁴⁴

⁴³ Yansura et al., *Financial Crime in Latin America and the Caribbean*, 169–70.

⁴⁴ U.S. Government Accountability Office, *Trade-Based Money Laundering: U.S. Government Has Worked with Partners to Combat the Threat, but Could Strengthen Its Efforts* (Washington, D.C.: U.S. Government Accountability Office, 2020), 44–45.

Bibliography

- Adams, Guy. "Teodoro Nguema Obiang: Coming To America (to Launder His Millions?)." *The Independent*, June 21, 2012.
<https://www.independent.co.uk/news/world/americas/teodoro-nguema-obiang-coming-america-launder-his-millions-7855043.html>.
- Alliance El Espectador and CONNECTAS. "Sospechas doradas: las millonarias transacciones de CIJ Gutiérrez." Text. *El Espectador*, September 21, 2020.
<https://www.elespectador.com/investigacion/fincenfiles-sospechas-doradas-las-millonarias-transacciones-de-cij-gutierrez-article/>.
- Aylesworth, Sandy. "NGOs Call for NOAA to Strengthen Seafood Import Standards." NRDC, May 10, 2019. <https://www.nrdc.org/experts/sandy-aylesworth/ngos-call-noaa-strengthen-seafood-import-standards>.
- Bahadur, Jay. *Fishy Business: Illegal Fishing in Somalia and the Capture of State Institutions*. Geneva: Global Initiative against Transnational Organized Crime, 2021.
<https://globalinitiative.net/wp-content/uploads/2021/07/GITOC-ESAObs-Fishy-Business-Illegal-fishing-in-Somalia-and-the-capture-of-state-institutions.pdf>.
- . *Snapping Back Against Iran: The Case of the Al Bari 2 and the UN Arms Embargo*. Geneva: Global Initiative against Transnational Organized Crime, 2020.
https://globalinitiative.net/wp-content/uploads/2020/11/Snapping-back-against-Iran-The-case-of-the-Al-Bari-2-and-the-UN-arms-embargo_GITOC.pdf.
- Caripis, Lisa. *Combatting Corruption in Mining Approvals: Assessing the Risks in 18 Resource-Rich Countries*. Berlin: Transparency International, 2017.
https://images.transparencycdn.org/images/2017_CombattingCorruptionInMiningApprovals_EN.pdf.
- Department of the Interior, Office of the Secretary. "Final List of Critical Minerals 2018." *Federal Register* 83, no. 97 (May 18, 2018): 23295–96.
- Devlin, Colleen, Sarah M. Glaser, Ciera Villegas, and Natasia Poinsette. *Rough Seas: The Causes and Consequences of Fisheries Conflict in Somali Waters*. Broomfield, Colorado: Secure Fisheries, 2020. <https://securefisheries.org/sites/default/files/Rough%20Seas-fisheries-conflict-somali-waters.pdf>.
- Observatory of Economic Complexity. "Equatorial Guinea." Accessed November 2, 2021.
<https://app-bee.oec.world/>.
- "Equatorial Guinea Seeks to Shake off 'Oil Curse' Image." *Reuters*, March 10, 2014, sec. Energy.
<https://www.reuters.com/article/equatorial-image-idUSL2NOLK08Q20140310>.
- InSight Crime. "Exploring Illegal Mining in Colombia's Amazon," September 8, 2021.
<https://insightcrime.org/investigations/exploring-illegal-mining-colombia-amazon/>.
- FACT Coalition. "Financial Accountability and Corporate Transparency Coalition to the Financial Crimes Enforcement Network on Beneficial Ownership Reporting Requirements," May 5,

2021. <https://thefactcoalition.org/wp-content/uploads/2021/05/FACT-CTA-ANPRM-Comment-20210505-0329am-FINAL.pdf>.

Farah, Douglas. "Emerald Wars: Colombia's Multiple Conflicts Won't End With the FARC Agreement." *Small Wars Journal* (blog), December 8, 2016. <https://smallwarsjournal.com/jrnl/art/emerald-wars-colombia%E2%80%99s-multiple-conflicts-won%E2%80%99t-end-with-the-farc-agreement>.

Financial Action Task Force. *Money Laundering from Environmental Crime*. Paris: Financial Action Task Force, 2021. <https://www.fatf-gafi.org/publications/methodsandtrends/documents/money-laundering-from-environmental-crime.html>.

Food and Agriculture Organization of the United Nations. *The State of World Fisheries and Aquaculture 2020: Sustainability in Action*. Rome: Food and Agriculture Organization of the United Nations, 2020. <https://www.fao.org/3/ca9229en/ca9229en.pdf>.

Human Rights Watch. "France: Equatorial Guinea Vice President's Conviction Upheld," July 28, 2021. <https://www.hrw.org/news/2021/07/28/france-equatorial-guinea-vice-presidents-conviction-upheld>.

Glaser, Sarah M., Paige M. Roberts, and Kaija J. Hurlburt. "Foreign Illegal, Unreported, and Unregulated Fishing in Somali Waters Perpetuates Conflict." *Frontiers in Marine Science* 6 (2019): 704. <https://doi.org/10.3389/fmars.2019.00704>.

Iladi, Eugen. "The Dark Side of Gem Stones in Colombia and Beyond." *Colombia Reports* (blog), July 26, 2016. <https://colombiareports.com/dark-side-gem-stones-colombia-beyond/>.

Irujo, José María. "The High Price of Doing Business in Equatorial Guinea." *El País*, April 3, 2013. https://english.elpais.com/elpais/2013/04/03/inenglish/1365000844_044894.html.

May, Channing. *Transnational Crime and the Developing World*. Washington, D.C.: Global Financial Integrity, 2017. <https://gfintegrity.org/report/transnational-crime-and-the-developing-world/>.

Mirza, Isa. "SEC Issues Controversial New Rule on Payment Transparency in the Natural Resource Sector." *JD Supra*, December 18, 2020. <https://www.jdsupra.com/legalnews/sec-issues-controversial-new-rule-on-93504/>.

Nellemann, Christian, Rune Henriksen, Arnold Kreilhuber, Davyth Stewart, Maria Kotsovou, Patricia Raxter, Elizabeth Mrema, and Sam Barrat. *The Rise of Environmental Crime: A Growing Threat to Natural Resources, Peace, Development and Security*. A UNEP-INTERPOL Rapid Response Assessment. Oslo: United Nations Environment Programme; RHIPTO Rapid Response-Norwegian Center for Global Analyses, 2016. http://unep.org/documents/itw/environmental_crimes.pdf.

Nellemann, Christian, Rune Henriksen, Patricia Raxter, Neville Ash, and Elizabeth Mrema, eds. *The Environmental Crime Crisis: Threats to Sustainable Development from Illegal Exploitation and Trade in Wildlife and Forest Resources*. A UNEP Rapid Response

- Assessment. Nairobi and Arendal, Norway: United Nations Environment Programme; GRID-Arendal, 2014. <http://www.grida.no/publications/rr/crime/>.
- Nellemann, Christian and INTERPOL Environmental Crime Programme, eds. *Green Carbon, Black Trade: Illegal Logging, Tax Fraud and Laundering in the World's Tropical Forests. A Rapid Response Assessment*. Arendal, Norway: United Nations Environment Programme; GRID-Arendal, 2012. http://www.unep.org/pdf/RRALogging_english_scr.pdf.
- Office of the Attorney General of the Nation. "2.4 Trillion Pesos Were Laundered in Fictitious Gold Purchase and Sale Operations," April 11, 2019. <https://www.fiscalia.gov.co/colombia/noticias/2-4-billones-de-pesos-fueron-blanqueados-en-operaciones-ficticias-de-compra-y-venta-de-oro/>.
- Umarov, Kairat. "Letter Dated 2 November 2017 from the Chair of the Security Council Committee Pursuant to Resolutions 751 (1992) and 1907 (2009) Concerning Somalia and Eritrea Addressed to the President of the Security Council." New York: United Nations Security Council, November 2, 2017. <https://www.undocs.org/S/2017/924>.
- U.S. Department of Justice. "\$26.6 Million In Allegedly Illicit Proceeds to Be Used To Fight COVID-19 and Address Medical Needs in Equatorial Guinea," September 20, 2021. <https://www.justice.gov/opa/pr/266-million-allegedly-illicit-proceeds-be-used-fight-covid-19-and-address-medical-needs>.
- U.S. Department of Justice. "Leaders of Colombia's 'Clan Rincon' Sentenced to Prison Terms for Roles in International Drug Trafficking Conspiracy," March 17, 2020. <https://www.justice.gov/usao-sdfl/pr/leaders-colombia-s-clan-rincon-sentenced-prison-terms-roles-international-drug>.
- U.S. Government Accountability Office. *Trade-Based Money Laundering: U.S. Government Has Worked with Partners to Combat the Threat, but Could Strengthen Its Efforts*. Washington, D.C.: U.S. Government Accountability Office, 2020.
- Wagner, Livia. *Organized Crime and Illegally Mined Gold in Latin America*. Geneva: Global Initiative against Transnational Organized Crime, 2016. <http://globalinitiative.net/wp-content/uploads/2016/03/TGIATOC-OC-and-Illegally-Mined-Gold-in-Latin-America-Report-1718-digital.pdf>.
- The White House. *Building Resilient Supply Chains, Revitalizing American Manufacturing, and Fostering Broad-Based Growth: 100-Day Reviews under Executive Order 14017*. Washington, D.C.: The White House, 2021. <https://www.whitehouse.gov/wp-content/uploads/2021/06/100-day-supply-chain-review-report.pdf>.
- World Bank. *Illegal Logging, Fishing, and Wildlife Trade: The Costs and How to Combat It*. Washington, D.C.: World Bank, 2019. <https://openknowledge.worldbank.org/handle/10986/32806>.
- Yansura, Julia, Channing Mavrellis, Lakshmi Kumar, and Claudia Helms. *Financial Crime in Latin America and the Caribbean: Understanding Country Challenges and Designing Effective Technical Responses*. Washington, D.C.: Global Financial Integrity, 2021. <https://gfindegrity.org/report/financial-crime-in-latin-america-and-the-caribbean/>.