

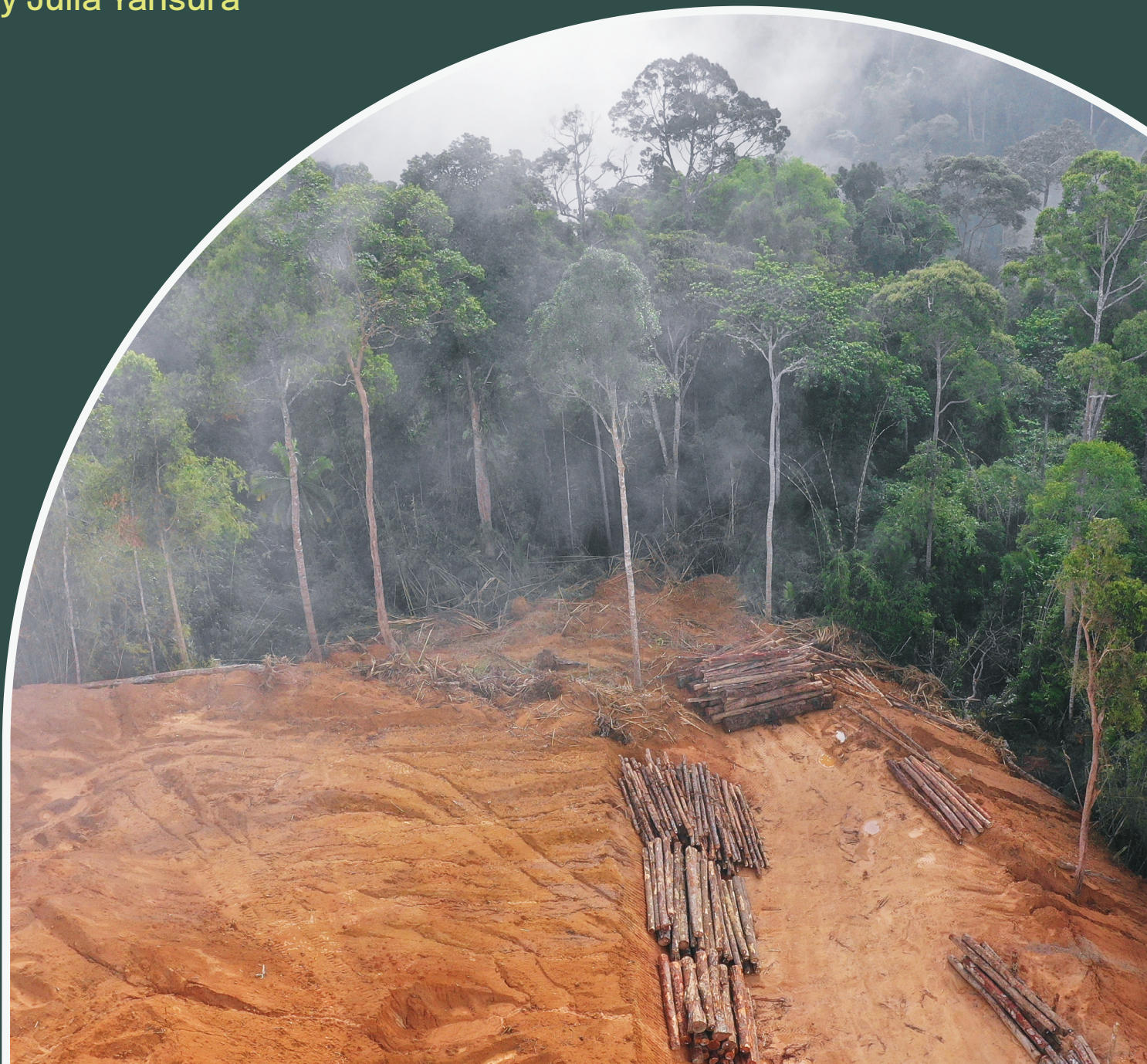


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Environmental Crimes Pose Unique Illicit Finance Challenges and Require *Specific Solutions*

By Julia Yansura



POLICY BRIEF

Environmental Crimes Pose Unique Illicit Finance Challenges - and Require Specific Solutions

By Julia Yansura, FACT Coalition

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Environmental crime is one of the world's largest illicit economies. It is growing over [five percent a year](#) – three times faster than the world's GDP – according to Interpol. The proceeds from environmental crimes such as illegal logging, illegal mining and wildlife trafficking reach up to [USD\\$281 billion](#) a year internationally. These funds go into the pockets of criminal groups, many of whom are [also involved](#) in other illicit activities including drug trafficking, human trafficking, and corruption.

Environmental crime also causes significant societal harm, depleting or contaminating local resources that, if managed responsibly, could sustain communities for generations. The World Bank has estimated that the true, societal costs of environmental crime amount to [USD\\$1 trillion to USD\\$2 trillion](#) per year internationally.

Given the size of this illicit economy, governments have understandably tried to address environmental crime through existing frameworks on anti-corruption, anti-money laundering, and counter-terrorism financing (AML/CFT).

In the case of the United States, the 2021 [U.S. Strategy on Countering Corruption](#) discusses illegal mining and outlines strategies to address illicit finance, many of which are very relevant to environmental crime. Meanwhile, the [Council on Transnational Organized Crime](#) addresses crimes such as wildlife and timber trafficking, illegal fishing, and illegal mining, noting that such offenses cause “a direct and escalating threat to public health, public safety, and national security.” The 2024 U.S. [National Money Laundering Risk Assessment](#) notes the “unique money laundering threat” posed by what they term “nature crimes” – a subset of all environmental crimes – and highlights these crimes’ convergence with foreign corruption, drug trafficking and transnational organized crime. The 2024 [National Strategy for Combating Terrorist and Other Illicit Financing](#) includes as an objective “enhanc(ing) Treasury’s efforts

to counter nature crimes, such as criminal forms of logging and wildlife trade.” The technical distinctions between nature crime and environmental crime aside, environmental crimes are already included, albeit briefly, within larger U.S. strategies on AML/CFT.

But including a sentence here or there is not sufficient to combat these highly complex, highly unique crimes. Following the money is the right approach, and AML/CFT offers many useful tools to pursue environmental criminals. For example, new U.S. requirements on [beneficial ownership](#) will help to unveil the real people behind anonymous shell companies, which feature prominently in environmental crime cases. Meanwhile, regulations on [residential real estate](#) will close a significant illicit finance loophole. **However, applying generic AML/CFT approaches without tailoring them to the specific realities of environmental crime is unlikely to be fully effective.**

This policy brief addresses why environmental crimes are distinct and suggests specific strategies to address the challenges they pose.

Challenges and Opportunities

1

These cases are uniquely difficult to investigate and prosecute due to a “double laundering” process.

In a typical narcotics money laundering case, investigators take it as a given that the drugs are illegal, allowing them to focus efforts on the networks involved and their financial activities. In a typical environmental crime money laundering case, investigators must first determine that the commodity is illegally sourced, and second, investigate the networks involved and their financial activity. This is because there are legitimate markets for many natural resources, such as timber, metals and fish; it is the way these commodities are sourced and traded that makes them legal or illegal, not the commodity itself. This is also a factor that makes natural resource commodities particularly vulnerable to corruption.

In many environmental crime cases, illegally sourced commodities are laundered (for example, making illegally sourced timber appear to be of legal origin by falsifying documents or bribing officials) and then the financial proceeds are subsequently laundered (for example, making dirty money appear to be legitimate earnings). While it’s easy to imagine this occurring through black markets for goods and cash, the reality is that many illegally-sourced environmental products enter licit supply chains via formal businesses and their proceeds move through the formal financial sector.

As a result of this double laundering, illicit finance cases involving environmental crime are complex and time consuming, often amounting to “twice the work.” Because many investigators and prosecutors face incentive structures that prioritize big, quick wins, environmental crimes may be neglected.

Governments should ensure that specialized units are assigned to environmental crimes and that they have sufficient resources to do their job. In the U.S., for example, Homeland Security Investigations (HSI) [created](#) a Wildlife and Environmental Crimes Unit in 2023 to provide specialized attention to this issue, a positive step. The U.S. Department of Justice (DOJ) has also established specialized units that work on natural resources.

Beyond building skilled, specialized units, it is important to ensure that prosecutors have multiple tools to go after these complex crimes. One important step is ensuring that all environmental crimes are predicate, or underlying, offenses for money laundering. This is not currently the case in the U.S. However, a bill in Congress, the FOREST Act, would [establish foreign environmental crimes as predicate offenses](#) for money laundering if they represent “[any act, engaged in knowingly, to carry out, enable, or encourage illegal deforestation.](#)” Under this language, illegal logging occurring in a foreign jurisdiction would be covered, and it appears that illegal mining or other environmental crimes would likely be covered if they resulted in illegal deforestation. While U.S. prosecutors already have robust statutory authority to prosecute money laundering that touches the US financial system, the FOREST Act would place an additional tool at their disposal.

It is also important for governments to utilize civil forfeiture (a non-conviction based asset forfeiture mechanism) where possible and appropriate. It should be noted that in the U.S., civil forfeiture laws apply to some, but not all, environmental crimes. While civil forfeiture is widely used against many types of criminal activity, often as a parallel action to the criminal case, it does not appear to be used very often by itself in environmental cases in the U.S. context. U.S. authorities should explore using civil forfeiture in environmental crime cases, particularly those cases in which the original crime is highly complex or may be linked to corruption, making it overly difficult to pursue the original criminal case.

2

Perhaps more so than any other crime, many of the immediate perpetrators are also victims.

Environmental crimes are uniquely challenging to investigate and prosecute because many of the low-level stakeholders involved in day to day operations are both victims and perpetrators. In gold mining camps in Brazil’s Amazon region, for instance, [slave labor](#) is a persistent problem. In Colombia, as the U.S. State Department [notes](#), there is a “strong connection between illegal mining, forced labor, and trafficking-in-persons, which provide miners

and sex workers for illegal mining camps.” Moreover, they [state](#) that “children are engaged in illegal mining operations as well as activities related to the supply chains of these operations.” Meanwhile, illegal, unreported and unregulated (IUU) fishing [often involves](#) forced labor, debt bondage, human trafficking, and modern slavery. A similar phenomenon occurs with wildlife trafficking, where criminal networks often recruit poachers from poor rural villages near protected areas.

Without sufficient resources to properly investigate these cases – and follow the money to those who are really in control – authorities risk arresting the wrong people and further victimizing vulnerable groups. Similar to other complex crimes such as human trafficking, we need robust investigations and skilled, highly sensitive investigators in order to properly untangle this complex web and reach those who are truly responsible.

3

Financial institutions don't currently have the same tools to identify environmental criminals.

Financial institutions are considered a first line of defense against financial crime. Among many important AML/CFT responsibilities, financial institutions screen customers against lists to comply with national and international sanctions. For financial institutions, sanctions list provide absolute clarity about who not to work with.

Sanctions, while never perfect, can be a powerful tool. As part of the War on Drugs, the U.S. Office of Foreign Assets Control (OFAC) [designated](#) more than 2,000 kingpins and accomplices, largely in Colombia and Mexico. During the first Obama administration, the U.S. applied [over 1,500](#) sanctions related to transnational organized crime. And more recently, in light of Russia's invasion of Ukraine, the U.S. has applied [over 4,000](#) sanctions.

In the case of environmental crime, only a [handful](#) of individuals and groups have been sanctioned by the U.S., including [three Malaysian](#) stakeholders in 2022, [seven stakeholders](#) in a 2018 case involving Laos, Thailand and Hong Kong, and [12 entities](#) in a 2018 case involving illegal fishing in China. Under the Global Magnitsky Act, the U.S. has used sanctions in several environmentally-linked corruption cases, including in mining cases in [Guatemala](#) and the [Democratic Republic of the Congo](#) (though the latter may [potentially be rescinded](#)). As the Royal United Services Institute (RUSI) and others [have concluded](#), however, this does not amount to a robust use of sanctions to combat environmental crime.

Going forward, the U.S. should consider increasing economic sanctions specific to environmental crimes. As the Financial Action Task Force (FATF) [notes](#), “in cases where a (money laundering) conviction is not practically possible (e.g. due to lack of evidence), countries can rely on other disruptive measures, such as use of targeted financial sanctions.” Such a

measure would provide financial institutions with concrete information on who the environmental criminals are – and instructions to keep their dirty money out of our shared financial system.

The U.S. should also ensure that existing environmentally-focused sanctions are robustly monitored and enforced. For example, following U.S. sanctions on Venezuela, which [included](#) sanctions on the state-owned gold mining company MINERVEN, numerous allegations emerged of small and large-scale smuggling of Venezuelan gold out of the [Dutch Caribbean](#), [Turkey](#), and [Uganda](#) to reach international markets. There are similar allegations of sanctions evasion for [timber from Myanmar](#), which has purportedly been routed into the U.S. via third countries. As these cases suggest, making sanctions designations is only a first step; ongoing monitoring by the U.S. government as well as private sector stakeholders is absolutely critical.

4

In the case of illegal gold mining, one of the most lucrative environmental crimes, transportation requirements are lax.

A major focus of U.S. AML efforts over the past 20 years has been to curtail bulk-cash smuggling, which is [heavily associated](#) with narcotics-related money laundering. Without the same controls for moving gold that we have for moving cash, an easy window has [opened for criminals](#).

Illegal gold mining and gold trafficking are among the most dangerous and lucrative environmental crimes. In Colombia, some experts [estimate](#) that illegal gold generates more revenue for criminal groups than cocaine. The Global Initiative against Transnational Organized Crime (GITOC) has [calculated](#) that illegally mined gold generates around USD\$7 billion a year in Latin America. The problem also affects other regions of the world; Swissaid has [estimated](#) that USD\$30 billion worth of gold was smuggled out of the African continent in 2022 alone.

Despite the massive scale of the problem, efforts to address gold trafficking leave much to be desired. As Rodrigo Botero from Fundación para la Conservación y el Desarrollo Sostenible (FCDS) [writes](#), “amidst smiles, photos and statements, some of the countries that purchase gold promote a project here or there... But essentially there is no meaningful control” over suspect gold. “There is no serious effort being made by the countries and businesses that purchase gold,” Botero [concludes](#).

The U.S. is undoubtedly part of this problem. In a 2019 testimony, a top official at the U.S. State Department [noted](#) that, “the heightened focus on counternarcotics operations increased the risks for these groups to produce and traffic narcotics and the move into the under-regulated gold mining sector offered lucrative incentives,” further explaining that,

“one of the main incentives is that it is easy to import illegal gold into the United States.”

While passengers traveling into the U.S. would have to declare cash or monetary instruments worth USD\$10,000 or more, gold bars do not trigger the same requirement. As a [result](#), “it is legal for a passenger to fly into the United States with, for example, 50 pounds of gold bullion, worth USD\$1 million at today’s prices, without providing the same customs declaration information required when traveling with USD\$1 million in cash.”

Shoe-horning illicit gold into existing U.S. AML/CFT efforts is problematic since these efforts do not cover gold smuggling the same way they do cash smuggling. Going forward, U.S. legislators should consider adding gold to the USD\$10,000 declaration requirement, while law enforcement should increase efforts to scan suitcases for gold bars, particularly at ports of entry that are known to have issues with gold trafficking.

5

Current efforts are not working as environmental crimes grow faster than our ability to combat them.

In their recent report, Earth League International [writes](#) that, “although governments and law enforcement authorities have attempted to address environmental/wildlife crime through policies and regulations, there is little evidence to show that such efforts have succeeded (...).” Robert Muggah from the Igarapé Institute also [weighs in](#), arguing that despite the “surge in declarations over the past few years with commitments to tackle various aspects of environmental crime...evidence of real impact is in short supply.”

Meanwhile, environmental crime is one of the [fastest growing](#) types of crime and represents [the single largest source of financing](#) of conflicts and of non-state armed groups, including terrorist groups, comprising approximately 38 percent of their illicit income. While environmental crimes are often perceived as low priority compared to other types of crimes, such as drug trafficking, the reality is that they are generating billions of dollars a year in illicit proceeds. The highly lucrative nature of these crimes, combined with insufficient attention from law enforcement, makes them increasingly attractive to criminal networks.

In light of these troubling dynamics, it is clear that our collective response to environmental crime falls short. Governments seeking to do more should consider developing specialized responses that take into consideration the unique characteristics of these challenging crimes. Governments should also commit to multilateral efforts to combat environmental crimes, which are frequently transnational in nature and require international cooperation to investigate and prosecute. Beyond a cursory sentence in an existing AML/CFT or anti corruption framework, environmental crimes and illicit finance require greater attention and more specialized strategies.