

# Dirty Money and the Destruction of the Amazon

Uncovering the U.S. Role in Illicit Financial Flows from Environmental Crimes in Peru and Colombia



**FACTCOALITION**

Financial Accountability & Corporate Transparency



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Founded in 2011, the Financial Accountability and Corporate Transparency (FACT) Coalition is a non-partisan alliance of more than 100 state, national, and international organizations working toward a fair tax system that addresses the challenges of a global economy and promotes policies to combat the harmful impacts of corrupt financial practices. More information about the Coalition can be found at the back of this report or on the FACT Coalition website at [www.thefactcoalition.org](http://www.thefactcoalition.org).

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The U.S.-based Financial Accountability and Corporate Transparency (FACT) Coalition is proud to present its report, ***Dirty Money and the Destruction of the Amazon: Uncovering the U.S. Role in Illicit Financial Flows from Environmental Crimes in the Amazon Basin.***

Environmental crimes are the world's third-largest criminal activity by value annually, demonstrating that this is a global problem that requires global solutions. As the world's largest economy and reserve currency, the U.S. must play a part in mitigating its own role in enabling these crimes. Per the 2022 Financial Secrecy Index, the United States is the world's top supplier of financial secrecy. The U.S. Treasury Department estimates that illicit financial flows equaling 2% of U.S. gross domestic product (GDP), or approximately \$466 billion, move through the U.S. financial system each year. In 2021, U.S. Treasury Secretary Janet Yellen admitted that, "There's a good argument that right now, the best place to hide and launder ill-gotten gains is actually the United States."

Whether they derive from the proceeds of corruption or other crimes, illicit financial flows – and the secrecy that drives them – make our world less safe. Financial secrecy threatens U.S. national security, jeopardizes public safety, empowers authoritarians to the detriment of global democracy, and undermines progress toward a more just and sustainable global economy. As this report demonstrates, illicit financial flows are also an obstacle to global efforts to combat the climate crisis.

U.S. actions to curb climate change have included domestic environmental reforms, investments in the energy transition, and foreign aid (albeit insufficient) to support climate adaptation and mitigation in developing countries. There has been less focus on what structural financial transparency reforms the U.S. should advance domestically to curb its role in hiding and moving the illicit proceeds of global environmental crimes, some of which contribute to the climate crisis. The U.S. must investigate and take steps to address the role of its financial secrecy system in helping to perpetuate the climate crisis and enable environmental crimes.

With this report, FACT, on behalf of its 100-plus members including several environment and conservation organizations, joins experts and advocates who focus on other important dimensions of addressing the climate crisis and rampant environmental destruction. In raising these examples of environmental crimes in the Amazon – and, in some cases, the links to illicit financial flows into the U.S. – we invite a conversation about the role that U.S. financial secrecy reforms should play in the broader climate and environmental justice movements.

Sincerely,

**Ian Gary**  
Executive Director

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# GLOSSARY

**AML** - Anti-Money Laundering

**BSA** - Bank Secrecy Act

**CTA** - Corporate Transparency Act

**FATF** - Financial Action Task Force

**FENAMAD** - Federación Nativa del Río Madre de Dios y Afluentes

**FinCEN** - Financial Crimes Enforcement Network

**FIU** - Financial Intelligence Unit

**GDP** - Gross Domestic Product

**GTANW** - Autonomous Territorial Government of the Wampis Nation

**GTO** - Geographic Targeting Order

**IFFs** - Illicit Financial Flows

**LLCs** - Limited Liability Corporations

**MLAT** - Mutual Legal Assistance Treaty

**OAS** - Organization of American States

**OFAC** - Office of Foreign Assets Control

**SARs** - Suspicious Activity Reports

**UIAF** - Unidad de Información y Análisis Financiero, Colombia's financial intelligence unit

**UIF-Peru** - Financial Intelligence Unit of Peru

**UNCAC** - UN Convention Against Corruption

**UNODC** - United Nations Office on Drugs and Crime

**WRI** - World Resources Institute



# EXECUTIVE SUMMARY

Environmental crimes are the third largest type of criminal activity in the world: according to Interpol, yielding as much as \$281 billion in proceeds every year. In addition to driving environmental degradation and climate change, nature crimes pose a tangible national security danger, as they have become an increasingly important part of the criminal and money laundering operations of illicit networks and armed groups. Nature crimes also fuel – and are fueled by – petty and grand corruption. Environmental crimes and their associated, “convergent” crimes feed off one another, creating economies of scale for destruction. It is clear that environmental crimes need to be a stronger part of the global policy conversations around climate change, national security, and domestic governance.

Deforestation of the Amazon poses a major climate risk for the world as a whole. Illegal mining and forestry crimes are two drivers of illegal deforestation in the Amazon, where the United Nations Office on Drugs and Crime (UNODC) has said there has recently been a “veritable gold rush” and “explosion” of forestry crimes. In Peru and Colombia, these environmental crimes have cleared swaths of the Amazon forest, poisoned local communities and indigenous groups with mercury, and made these countries less safe: fueling narco trafficking, violence, and corruption.

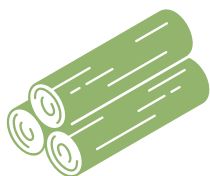
There is a pervasive perception that environmental crimes are “low-risk, high-reward” offenses. The Financial Action Task Force as well as experts in the U.S. and Latin America have asserted that there exist serious legal, information sharing, and capacity challenges that make it difficult to investigate and prosecute these offenses. Financial secrecy – which environmental criminals use to obscure their identity, facilitate their operations, and launder the proceeds of crime – is no small part of that equation.

The United States, as the world’s largest economy and premier supplier of financial secrecy, has a crucial role to play in denying financial safe haven to criminals that would degrade the Amazon.

While the U.S. has a strong anti-money laundering (AML) framework, critical gaps – like the prevalent use of anonymous entities and the failure to bring certain professional gatekeepers, like real estate agents, under AML rules – make the country susceptible to an influx of illicit financial flows from nature crimes.

In addition to closing these gaps, new tools, like adding foreign environmental crimes as a predicate offense for money laundering, may further help U.S. investigators crack down on these crimes. The U.S. must also be a good partner in sharing information with and contributing to the capacity of law enforcement authorities in the region.

To illustrate the challenges that financial secrecy poses to domestic and international environmental crime investigations, consider the following:



- A Nevada LLC pleaded guilty to purchasing more than 1,000 cubic meters of wood that was purportedly sourced illegally from the Loreto region of the Peruvian Amazon; the company's true owners declared bankruptcy and dissolved the company, while it was under investigation, and before the court could order a compliance plan (see *page 51*).



- Colombia's second largest gold export company allegedly employed a chain of anonymous companies to launder more than \$1 billion and obscure the origin of their gold, which was illegally mined in Colombia. The exported gold was almost exclusively exported to just two U.S. refineries in Miami, which apparently failed to conduct appropriate due diligence checks on the source of the gold (see *page 53*).



- Former Peruvian president Alejandro Toledo bought U.S. real estate in Maryland, reportedly to hide and launder approximately \$1.2 million of bribes received as part of the Odebrecht scandal, in which the Brazilian firm admitted to paying hundreds of millions of dollars in bribes to facilitate projects like an interoceanic highway that contributed to the deforestation of the Amazon forest (see *page 52*).


**As such, the report concludes with the following recommendations** to help safeguard the U.S. financial system and make the U.S. a more robust partner in enforcement, information sharing, and capacity building in the Peruvian and Colombian Amazon. They include the following:

## U.S. Administration

- **Implement the bipartisan Corporate Transparency Act (CTA)** – which requires certain opaque U.S. entities to name their true, “beneficial” owner to a nonpublic database at the Financial Crimes Enforcement Network (FinCEN) – in a way that facilitates the use of that information by trusted foreign law enforcement partners for investigations.
- **Complete rules to establish anti-money laundering obligations for real estate professionals** in the U.S. residential and commercial real estate markets.
- **Increase technical assistance to countries in the Amazon basin** to boost their capacity to tackle transnational illicit financial flows from environmental crimes.
- **Enforce anti-money laundering laws** to deter U.S. laundering of environmental crime proceeds.
- **Increase U.S. government diplomatic leadership in multilateral bodies, including the UN Convention Against Corruption (UNCAC) Conference of States Parties**, to address the illicit financial flows derived from environmental crimes, including from the Amazon region.

## U.S. Congress

- **Support passage of the FOREST Act**, which would add illegal deforestation as a specified unlawful activity – or “predicate offense” – to the U.S. money laundering criminal statute.
- **Make all environmental crimes predicate offenses for money laundering.**
- **Support passage of the ENABLERS Act**, which would authorize the U.S. Treasury to require professionals that provide financial, company, trust, or third-party payment services for their clients to maintain risk-based anti-money laundering requirements as appropriate.
- **Support passage of the United States Legal Gold and Mining Partnership Strategy Act**, which would provide technical assistance to allow regional governments to use targeted sanctions on persons engaged in laundering of illicit gold assets and authorize \$10 million for the State Department to pursue a strategy to curb illicit gold mining in the Western Hemisphere.
- **Increase funding for Treasury’s Financial Crimes Enforcement Network**, which is responsible for updating U.S. anti-money laundering rules. Congress should also consider a multiyear effort to increase FinCEN’s budget.



**United States, as the world's largest economy and premier supplier of financial secrecy, has a unique role to play in ensuring that the U.S. financial system does not harbor illicit finance flows fueling environmental degradation.**

# 1. INTRODUCTION

In an interview earlier this year, Robert Muggah, the founder of the Brazilian policy institute Igarapé, wrote that “Crime is among the top, if not the top issue confronting the protection of a standing forest in the Amazon.”<sup>1</sup> Though the Amazon is the world’s largest tropical forest and most biodiverse ecosystem, it could be in threat of extinction. Forest cover loss from illegal deforestation not only threatens the vitally important ecology of the Amazon but jeopardizes the lives of indigenous and local communities that call the Amazon home. The commodities reaped through

these activities are lucrative. Paramilitary groups and drug trafficking networks – violent organizations that present an even more immediate threat to the communities and countries in which they operate – have increasingly turned to environmental crimes to complement their profits and as well as to launder the proceeds of their crimes. As this report will raise, there is no doubt that illegal deforestation and its associated illicit financial flows degrade the environment, put communities at risk, drive conflict, and undermine good governance.

International policymakers may have only recently begun to prioritize the dangers of environmental crimes, but this illicit sector is well-established: according to 2018 UN and Interpol estimates, environmental crime is the third largest type of criminal activity in the world by value – **by some estimates, as much as \$281 billion annually** – and its prevalence only appears to be growing.<sup>2,3</sup> Because of long-standing gaps in legal frameworks and weak enforcement, experts at the Financial Action Task Force (FATF) have assessed environmental crimes as “low-risk, high-reward” crimes.<sup>4</sup>

The United States, as the world’s largest economy and premier

supplier of financial secrecy, has a unique role to play in ensuring that the U.S. financial system does not harbor illicit finance flows fueling environmental degradation. **As the report suggests, certain financial secrecy,<sup>5</sup> vehicles – including anonymous U.S. shell entities and U.S. real estate – mask the true beneficiaries behind crimes that degrade the environment and make it harder for law enforcement to “follow the money.”** Addressing the U.S. piece of the financial puzzle is only one of several crucial steps needed to tackle environmental crime. Taking on environmental crime requires global cooperation and a multidimensional approach.

This report examines two specific classes of environmental crimes – illegal mining and forestry crimes – in Colombia and Peru as a means to explore how U.S. financial secrecy may enable environmental crimes in the Amazon.

This report explores the following questions:

- » **What is the scale of environmental crimes in the Amazon, and what are the impacts on local communities?**
- » **How is dirty money derived from environmental crimes in the Amazon basin channeled through the U.S. financial system?**
- » **How do weaknesses in U.S. anti-money laundering policies contribute to environmental crimes and harms to indigenous communities in the Amazon basin?**
- » **What actions should the U.S. take to close gaps in its anti-money laundering framework, increase enforcement, and boost cooperation with foreign governments in order to help curb illicit financial flows from financial crimes?**

This report points to how the U.S.'s role as a major enabler of illicit financial flows helps facilitate environmental crimes in the Amazon basin.

**Section 2** provides a background on environmental crimes and associated, “convergent” crimes in Peru and Colombia. It further explores the unique challenges that nature crimes pose to domestic and international investigators, and why there may be limited legal accountability for these offenses.

**Section 3** surveys how the proceeds of environmental crimes may find their way into the U.S. financial system, given current gaps in the U.S. anti-money laundering (AML) regime. It further examines new initiatives designed to prevent the illicit proceeds from environmental crime from entering the United States.

**Sections 4 and 5** reviews cases from Peru and Colombia that suggest the ways through which illicit financial flows may find their way into the U.S. financial system.

**Section 6** concludes with timely recommendations on what the U.S. government should do to address the issues highlighted herein.



## METHODOLOGY

To prepare this report, FACT researchers performed a literature review of environmental crimes in the Peruvian and Colombian Amazon and global anti-money laundering best practices to tackle environmental crime. To complement that research,

our staff conducted 19 interviews with experts in Latin America, including local and regional activists, and indigenous leaders, as well as with U.S. anti-money laundering experts and government officials in Peru, Colombia, and the United States.

These interviews helped researchers gain an understanding of environmental crime and their associated illicit financial flows, and identify how weaknesses in U.S. anti-money laundering rules may play a role in enabling environmental crimes in Peru and Colombia. Researchers then further analyzed gaps in U.S. policies to curb illicit financial flows, which enable environmental crimes.

To narrow the research lens and to leverage the languages spoken by our staff, this inaugural analysis centers on cases in Peru and Colombia. While we recognize that environmental crimes occur Amazon-wide, Peru and Colombia are prominent examples of the challenges of illegal gold mining and deforestation. Future research covering other countries in the Amazon could supplement this report to provide a more holistic view of the range of environmental crimes, money laundering methodologies, and U.S. financial links in the Amazon.

Additionally, our research pointed to the fact that environmental crimes and their associated financial flows are largely a new law enforcement priority; further, they are challenging both to detect and investigate.

As such, we intend for cases included here to point to a broader problem and a new area for investigation and policymaking.

As FACT is a U.S.-based advocacy coalition, this report focuses on U.S. policy responses to the problem. While we recognize that this is a global problem that also demands action from actors at the regional and international levels, we defer to other organizations better placed to speak to policy recommendations for these actors. Latin American organizations, such as the Igarapé Institute in Brazil, are exploring such recommendations that would empower law enforcement to investigate the financial proceeds of environmental crimes.<sup>6</sup>

Finally, other organizations – including FACT members Global Financial Integrity, the Center for Climate Crime Analysis, and the Environmental Investigation Agency – are already working to provide responses to the trade-based policy dimensions of environmental crimes.<sup>7</sup> FACT seeks to complement that work by focusing on the facets of the U.S. financial secrecy system that enable these crimes, and offer anti-money laundering and transparency recommendations to address those U.S. loopholes.

# 2. UNDERSTANDING ENVIRONMENTAL CRIMES AND CHALLENGES TO INVESTIGATIONS

## Environmental Crimes in the Peruvian and Colombian Amazon

The profits from environmental crimes are significant. **FATF estimates that forestry crimes and illegal mining – the two crimes that are the focus of this report – generate respectively up to an estimated \$152 billion and \$48 billion worldwide annually.**<sup>8</sup>

Despite this, FATF has observed, “Economic crime is not often part of the public policy dialogue on environmental protection. However, the considerable damage that such crimes have and the significant criminal gains highlight the important role of anti-money laundering in tackling crimes that harm the environment.”<sup>9</sup> In an interview, Luis Eduardo Llinás Chica, the director of Colombia’s financial intelligence unit Unidad de Información y Análisis Financiero (UIAF), suggested that for his

country, this is a vital concern: “Identifying and prosecuting ... environmental crimes is a matter of national security.”<sup>10</sup> To be effective at curbing climate change, countries have a need to collaborate and counter the illicit business driving environmental destruction.

Deforestation of the Amazon poses a major climate risk for the world as a whole. Since 1978, the Amazon has experienced a recorded 185 million acres of deforestation.<sup>12</sup> Just in 2022, the Amazon lost the equivalent of eleven soccer pitches every minute.<sup>13</sup> While not every country in the Amazon basin experiences deforestation equally, deforestation is a significant threat to the sustainability and resources of each country that makes up the Amazon.



This holds true in Peru and Colombia. In the past two decades alone, Peru lost 3.86 million hectares to deforestation, including a loss of 2.47 million hectares of rainforest.<sup>14</sup> Meanwhile, Colombia lost 3 million hectares of the Amazon rainforest

to deforestation from 1985 to 2019.<sup>15</sup> Per the UNODC in 2023, “virtually all” of the deforestation in the Amazon basin is illegal.<sup>16</sup> Illegal mining and forestry crimes are key drivers of deforestation in the part of the Amazon under study in this report.

### What are environmental crimes?

Certain activities – like mining, logging, land clearing, or fishing – are considered environmental crimes when carried out against the criminal law of a jurisdiction. Per the UNODC, these activities are often considered illegal when:

- »» They are undertaken without state permission;
- »» They are granted contracts and concessions through corruption or intimidation;
- »» They are fraudulent services (e.g. false treatment of hazardous waste); or
- »» Their extraction violates agreed terms, such as quotas or other requirements, such as is often the case with illegal mining or logging.

In the context of the Amazon, environmental crimes also include activities conducted on protected forest or indigenous lands. This includes the planting of coca plants, illicit palm oil cultivation, and illicit cattle ranching.

*Source: Adapted from UNODC/RHIPTO, as cited in the Financial Action Task Force’s “Money Laundering from Environmental Crime,” July 2021*<sup>11</sup>

## What are the risks of deforestation in the Amazon?



**Climate Change:** Deforestation in the Amazon eradicates valuable “carbon sinks,” which help absorb carbon from the air. Further, tree cover loss directly affects rainfall patterns and distribution in the region, as fewer trees yield lower evapotranspiration rates.<sup>17</sup> These factors combined yield higher risks of rising global temperatures, severe weather, and drought.



**Food and Water Insecurity:** Tree loss has dire implications, exacerbating risks of severe weather, droughts, climate change-related famine, and mass migration.<sup>18</sup> Scientists fear that increasing droughts and deforestation could convert the Amazon from a forest with the largest river system in the world to a tropical savannah.<sup>19</sup> Such a development would jeopardize 35 million people that rely on the region for sustenance,<sup>20</sup> and would endanger food security throughout South America, as the entire continent is influenced by the moisture and weather patterns of the forest.<sup>21</sup>



**Dangers to Indigenous Communities:** Indigenous communities who have ancestrally lived in the Amazon for thousands of years face repercussions from climate change, the contamination of their lands<sup>22</sup>, government corruption,<sup>23</sup> and organized crime networks.<sup>24</sup> In many cases, these communities are outside the modern social safety net: left without any social services or compensation if their homes become inhospitable or if their livelihoods are affected due to environmental crime.



**Biodiversity loss:** The Amazon hosts nearly one-third of the world’s known species, many of which are unique to that ecosystem.<sup>25</sup> Habitat alteration and destruction threatens the protection of the plant and animal species that live in the Amazon, the most biodiverse place on earth.

# ILLEGAL GOLD MINING

Illegal gold mining in the Amazon basin is a burgeoning industry. Why? For gold miners, traffickers, and money launderers, gold is a portable and relatively untraceable item to move across international borders. Gold is also a highly valued commodity in global markets, driving demand and encouraging innovative trafficking methods. Also, since gold is not an illegal substance, it is difficult for officials to determine the legitimacy of the metal's original source.<sup>26,27</sup> Due to a climb in gold's value, the UNODC reported a "veritable gold rush" in the Amazon basin during the COVID-19 pandemic,<sup>28</sup> the after-effects of which are still being seen.

**In Peru**, illegal gold mining is the most profitable criminal industry in the country, worth \$871 million annually.<sup>29</sup> In Peru, illegal mining also represents the largest source of money laundering by value – some \$8.172 billion in illegal transactions analyzed by the Peruvian financial intelligence unit were linked to illegal mining between 2013 and 2023.<sup>30</sup> Illegal gold mining is a major driver of deforestation in the Peruvian Amazon, and its impact is growing exponentially. In a thirty-year period (1980–2010), deforestation from illegal mining destroyed nearly 96,000 hectares of forest; yet in just the subsequent seven year period (2010–2017), that figure more than doubled.<sup>31</sup>

**In Colombia**, illegal gold accounts for up to 80% of the country's total gold production.<sup>32</sup> Criminal groups are said to control nearly half of all Colombian mines.<sup>33</sup> The illegal gold mining industry in Colombia is growing so much that some experts have estimated that gold has become the most lucrative commodity for Colombian criminal networks, even surpassing cocaine.<sup>34</sup> Yet others, including the International Crisis Group, say, "The two sectors are in fact complementary, as gold mining and trading provide opportunities to launder cocaine profits."<sup>35</sup> In either case, illegal mining exacerbates existing deforestation rates: research from the World Resources Institute (WRI) indicates that forest loss in Colombia is one to two times higher when associated with illegal mining operations than would have otherwise been the case.<sup>36</sup>

## ***Illegal Mining in Madre de Dios Region of Peru***

The illegal mining industry continues to be one of the main causes of deforestation in the southern Peruvian Amazon, especially in the Madre de Dios region.<sup>37</sup> In Madre de Dios, illegal mining has wreaked violence on indigenous environmental defenders, cleared forests from one of the most biodiverse rainforests on Earth, and polluted the area with mercury. Peru also declared a national health emergency due to high levels of mercury found in this community.<sup>38,39</sup> According to Humberto Balbuena, from the Peruvian nonprofit organization Conservación Amazónica, “Mercury affects not only individuals for the rest of their lives but also their children, making it a critical issue.”<sup>40</sup> A recent study indicated that native populations might be disproportionately affected by mercury contamination; they showed mercury levels three times higher than non-native ones.<sup>41</sup> It has also brought harm to indigenous and local women. Carlos Herz Sáenz, the director of the Peruvian research and advocacy group *Centro Bartolome de las Casas in Cusco*, told FACT that “in the mining sites, they [criminal groups] hold women as prisoners for prostitution, and I can recall 22 incidents where they [the women] died trying to escape. They also killed a couple of activists fighting for women’s rights.”<sup>42</sup>

## Mercury from Illegal Gold Mining Poisons the Amazon



*Julio Cusurichi*  
 Photo: San Francisco Chronicle/  
 Hearst Newspapers  
 via Getty Images

While the dollar value of illegal gold mining is substantial, the environmental and human costs are much greater. Miners use mercury as an inexpensive but dangerous way to strip gold from other materials uncovered in the mining process. This has a detrimental effect on the health of surrounding populations: some Amazonian communities have presented mercury contamination in their bodies that is up to 600 percent of the average internationally recognized reference dose, and much higher than other populations globally.<sup>43</sup> **Colombia** is the country with the highest mercury releases per capita in the world. A World Wildlife Fund study revealed that Colombia has “between 50 and 100 metric tons of releases, which is equivalent to 1.6 kilograms per inhabitant.”<sup>44</sup>

A Duke University study demonstrated how some of the communities most affected by mercury were those furthest away from the mining sites, as the rivers carried the contamination.<sup>45</sup> This unsustainable amount of mercury found in indigenous communities has led to rising health issues in children and women of childbearing age, as well as birth defects in both humans and animals living near or in the Amazon forest. As Julio Cusurichi, an indigenous leader of the Shipibo tribe and president of FENAMAD, a regional alliance of indigenous groups, in **Peru**, told FACT, “We have to eat fish. It is a staple of our indigenous diet. But it has been contaminated with mercury, leading to high levels of mercury in our community’s blood and hair. We have no government directive on what to do with the members of our community that have already been affected.”<sup>46</sup>

# FORESTRY CRIMES

Forestry crimes such as illegal logging and timber trafficking pose another real risk to the Amazon. According to the UNODC, there has been an “explosion” of illicit deforestation in the Amazon, which it attributes to the high supply of cheap forest land in the region and limited controls on the purchase of this land.<sup>47</sup>

**Illegal logging and timber trafficking are important components of forestry crimes.**

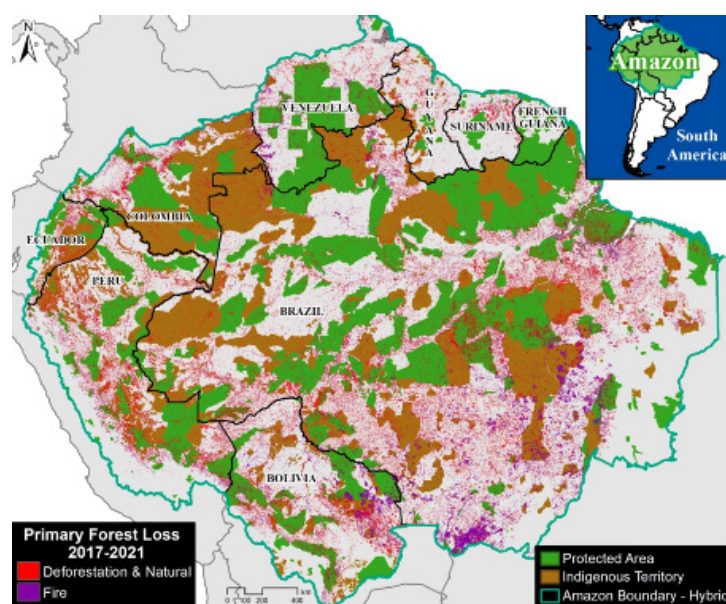
In **Peru**, the Rainforest Foundation U.S. asserts that illegal logging is one of the top drivers of deforestation.<sup>48</sup> It is estimated that the illegal timber trade in Peru is worth an estimated \$112 million yearly.<sup>49</sup> Thanks to “no-questions-asked” demand from global buyers, illegal logging operations can service massive markets, with the promise of even bigger profits. These groups use falsified documentation to export timber to international buyers: many of which, existing research shows, are major corporations or other licit actors in the financial system.<sup>50</sup> Environmental criminals can embed their operations in supply chains, either with or without the knowledge of those up the chain. A whole hierarchy of actors can enable these operations, including corrupt officials, company registries, and various criminal networks that manage projects, such as Peru’s Timber Mafia.<sup>51</sup>

**Colombia** lost more than 174,000 hectares of woodland – an area 30 times the size of Manhattan – in 2021; the main driver of this loss was illegal land grabbing for cattle ranching purposes, followed by logging, illegal construction, mining and coca production.<sup>52</sup> While nearly half of the timber supply chain from the country involves illegally felled trees, yielding around \$750 million annually, overall timber trade is not a major factor, driving approximately 10% of deforestation.<sup>53</sup> The single biggest cause of deforestation in Colombia has been cattle ranching.<sup>54</sup> There are encouraging recent signs that deforestation in Colombia is declining, by almost 30% in 2022.<sup>55</sup> According to the government this is a result of working with local communities, paying them to safeguard forests, and opening criminal investigations into those suspected of financing deforestation.<sup>56</sup>

### *Logging in the Wampis Nation of Peru*

Communities in Wampis Nation face increasingly devastating deforestation and loss of territory from illegal logging and timber. Illegal logging continues at uncontrolled rates and is indiscriminate in the species of wood, including prohibited species such as mahogany and cedar.<sup>57</sup> While the true amount of trafficked wood is still unknown, the Wampis estimate that more than 110 tons of wood – the weight of a blue whale – are trafficked from their communities each month. Last year, the leaders of the Autonomous Territorial Government of the Wampis Nation (GTANW) announced a state of emergency, stating, “our Wampis nation is experiencing the impact of the indiscriminate extraction of fine wood species, minerals, fish stocks, and flora and fauna – criminal acts that have been causing serious social conflicts between communities.”<sup>58</sup>

*Amazon Conservation’s Monitoring of the Andean Amazon Map Figure 1<sup>59</sup> shown below demonstrate the deforestation that has taken place within Peru and Colombia as of 2021.*



*[Finer M, Ariñez A, Mamani N, “Mining Deforestation Across the Amazon. MAAP: 178.” (2023)]*

# CONVERGENT CRIMES

Environmental crimes, such as illegal mining and forestry crimes, are usually just one piece of the operational puzzle that transnational criminal networks use to profit from, hide, and launder their ill-gotten gains. The other puzzle pieces, called “convergent” crimes, often include narcotics trafficking and corruption, among others.<sup>60</sup> Environmental crimes are becoming an increasingly crucial part of the broad operations of violent armed groups and drug trafficking organizations. Per FATF, “In South America, criminals involved in environmental crime can be a part of a broader criminal ecosystem, drawing on existing smuggling and laundering networks used for other crimes that will make use of numerous transit countries, bulk cash shipments, corruption and trade fraud as well as supported by a web of complex corporate structures.”<sup>61</sup> These overlapping networks of criminal activities, smuggling pathways and offshore financial structures create economies of scale for transnational crime.

## Drug Trafficking and Armed Violence

While a substantial industry, coca cultivation in the Amazon is a relatively inconsequential driver of deforestation.<sup>62</sup> Instead, it is the complex steps that drug trafficking organizations take to move and launder the proceeds of their crimes that wreak greater environmental destruction. According to a recent UNODC study of the Amazon, “drug trafficking groups are diversifying into crimes that affect the environment by default and design, including illegal land occupation for industrial agricultural purposes, illegal logging, illegal mining, poaching and trafficking in wildlife as a way of generating and laundering

illicit profits.”<sup>63</sup> The intersection of these crimes is so intense that UNODC has coined the term “narco-deforestation.”<sup>64</sup> César Ipenza Peralta, professor at the Universidad del Pacifico, confirmed this **in Peru**, adding that, “It’s becoming more apparent in Peru for mining proceeds to be used to fund narco-traffickers and armed groups, as happens in Colombia.”<sup>65</sup> The drug trade also drives deforestation through illegal infrastructure like clandestine airstrips in remote rainforest areas: Peruvian authorities detected 63 illegal airstrips used by drug traffickers in the Ucayali department alone.



**In Colombia**, drug traffickers also co-opt the licit and illicit timber trades, in part to set up drug smuggling routes in ships transporting timber to various ports.

Drug traffickers and other violent organizations also see immense potential for profit and money laundering in the Peruvian and Colombian gold sectors. According to Daniel Linares Ruesta of the Financial Intelligence Unit of Peru, “Drug traffickers are involved in gold mining because it is an avenue for them to convert their money into gold.”<sup>68</sup> **In Peru**, the rise of violent criminal organizations has driven the uptick in crime against

indigenous defenders and others in the community.<sup>69</sup> Often violent organizations extort artisanal miners and local communities, or engage in forced labor to drive higher yields.<sup>70</sup> This can be seen in the **Colombian Amazon** as well, with ex-FARC dissident members extorting the local communities in their mining operations.<sup>71</sup> Further, in Colombia the significant profits have lured former members of Colombia’s FARC, current ELN members, and paramilitaries to the illegal mining gambit.<sup>72</sup> Alfredo Yunca, a Colombian indigenous leader from Mirití-Paraná, Amazonas, told reporters in 2022 that “We fear for our future. We know there’s gold here.”<sup>73</sup>

**“Drug traffickers are involved in gold mining because it is an avenue for them to convert their money into gold.”<sup>68</sup>**

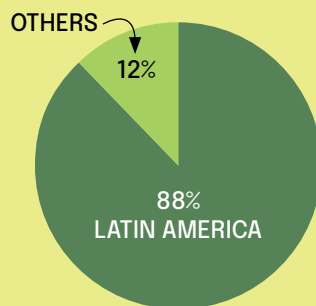
Daniel Linares Ruesta of the Financial Intelligence Unit of Peru (UIF- Peru)

*Illegal gold mining in Madre de Dios. Photo: Shutterstock*

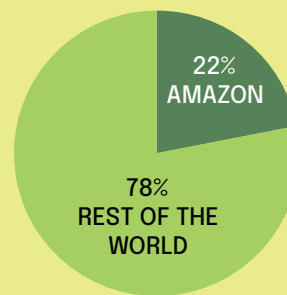


## Violence Against Environmental Defenders

Environmental criminals have increasingly grabbed or seized lands in the Amazon forest belonging to indigenous communities or protected under government conservation projects. Activists, many of them from indigenous communities, have organized to stop this encroachment, but doing so is very dangerous. A 2023 global study by Global Witness found that an environmental defender was killed, on average, every two days in the past decade, with Colombia proving to be the deadliest country in the world – representing more than a third of all killings globally.<sup>74</sup> In 2022, almost nine out of ten (88%) of attacks on environmental defenders were in Latin America, and more than one in five of all killings worldwide (22%) took place in the Amazon.<sup>75</sup>



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In 2022, more than one in five of all killings worldwide (22%) took place in the Amazon

*Source: Adapted from Global Witness' report, "Standing Firm: The Land and Environmental Defenders on the Frontlines of the Climate Crisis", September 2023*

## Corruption

Another convergent crime, corruption, weakens governance systems in ways that may threaten the government's ability to prevent environmental crimes and hold these criminals to account, and to more broadly protect the environment. Corruption, commonly

understood as the abuse of public office for private gain, creates systems with lax laws and weak enforcement, and comes at the expense of public interests including environmental protection.

According to an Organization of American States report, illegal mining and other crimes thrive in “institutional weakness, corruption, poverty, a cash-based economy, and high levels of informality.”<sup>76</sup> The corruption risks from gold are quite strong: per César Ipenza, a professor at Peru’s *Universidad del Pacífico*, told FACT that, in Peru, “gold is so powerful that it will move and buy authorities.”<sup>77</sup>

Such corruption can infiltrate supply chains, regulatory and trade agencies, police units, judicial systems, as well as national politicians in ways that benefit environmental criminals or other corrupt actors and projects, at the expense of protecting the environment. When it comes to gold mining **in Peru**, Carlos Herz Sáenz from Centro Bartolomé de las Casas explained trends he witnessed at a local-level, asserting, “When the Lima police are alerted of an illegal mining site, the local police of the region – due to corruption – have

already alerted the miners so that they can take their machinery and run.”<sup>78</sup> **In Colombia’s** timber trade, International Crisis Group found that “Sources involved in the timber sector allege that regional environmental authorities receive hefty kickbacks for paperwork laundering timber into the legal supply chain.”<sup>79</sup>

Corruption itself also enables deforestation in the Amazon. As the report will later raise, it has been widely reported that national politicians at the highest levels **in Peru** accepted bribes to give the Brazilian firm Odebrecht permits to build a massive highway through the Peruvian Amazon.<sup>80</sup> The highway project – in addition to driving its own deforestation – penetrated into some of the most rural parts of Peru, quite literally paving the way for increased forestry crimes in the Peruvian Amazon.<sup>81</sup> Deforestation ticked up 15% within 6 miles on either side of the highway.<sup>82</sup>



“Gold is so powerful that it will move and buy authorities.”<sup>77</sup>

César Ipenza,  
Professor at Peru’s  
*Universidad del  
Pacífico*

Photo: Shutterstock

# CHALLENGES TO INVESTIGATING ENVIRONMENTAL CRIMES

There are several obstacles to curbing environmental crimes.

**First**, environmental crimes, while perhaps easy to define on paper, may be more difficult to discern in practice. According to Julia Yansura, the Program Director for Latin America & the Caribbean at the U.S.-based nonprofit organization Global Financial Integrity, “Some environmental harm clearly constitutes an environmental crime, while other cases are more complex or may even occur technically within the law. Some cases are clear cut, whereas others may not be as black-and-white.”<sup>83</sup> As these commodities have both licit and illicit markets, it is sometimes challenging for law enforcement to identify whether a specific product has a legal or illegal origin. Further, these products come from rural areas that may not have strong state control, which means law enforcement may not have much visibility into these practices.<sup>84</sup>

While modern law enforcement methods and technologies have been incorporated into customs and trade practices, there may be no choice other than to take information at face value. When the underlying offense in the primary jurisdiction goes undetected, it hampers the ability to then investigate the resulting money laundering crime.

**Second**, law enforcement’s capacity for technical, financial investigations plays a role. As discussed later, environmental criminals often use financial secrecy and fraudulent documentation to obscure the ownership and origins of their operations, readying their illicit goods for regional and international trade. In 2021, FATF released a report after surveying 44 jurisdictions for their environmental criminal practices. The report found that “the number of financial investigations reported for environmental crimes is very low in most jurisdictions. This is in part due to gaps in relevant authorities’ detection capabilities.”<sup>89</sup> Again, Julia Yansura of Global Financial Integrity reflected on illegal mining cases:

*In Colombia, authorities have pursued many cases on money laundering and illicit gold, but not all have been successful. In some cases, prosecutors lost. Other times, cases were dismissed because too much time had passed. It’s largely a resource challenge for law enforcement to do that supply chain investigation, and to figure out what’s really happening.<sup>90</sup>*

### ***Illegal Mining and the Yuri Passé in Colombia***

To avoid state controls and military presence, illegal miners often go deeper into the Amazon to find new mineral deposits. This drives them into regions like the Río Puré National Natural Park, at the southern end of the Colombian Amazon. This thirst for profits has pushed these groups into the territory of the Yuri Passé, one of the few remaining indigenous communities in Colombia living in isolation from modern society<sup>85</sup> – and, until 2010, was even thought to be extinct.<sup>86</sup> As Daniel Aristizábal – a former Colombian Ministry of Interior official and current NGO employee dedicated to the Amazon’s conservation – has pointed out, miners encroach on the land of the Yuri Passé and drive the community into a smaller area, so that the community can maintain its policy of no contact. At the same time, these large groups of environmental criminals live by fishing and hunting, thereby weighing on the communities’ natural food supply. Further, activities like mining poison the water with mercury.<sup>87</sup> While the status of mercury poisoning in the Yuri Passé lands is not known, other communities in the nearby Caquetá River have already been badly impacted. The risks to the Yuri Passé may be even higher, since they lack modern tools to identify contaminants and practice mitigation.<sup>88</sup> Illegal mining and deforestation puts this community in real danger.

More robust technology and law enforcement capacity for financial investigations, in addition to improvements in financial transparency, may help track down the perpetrators and proceeds of environmental crimes.

**Third**, these crimes are usually transnational in nature, which means they require international cooperation and information sharing to investigate and prosecute. While there has been increased prioritization on environmental crimes in past years,<sup>91</sup> these cases have fallen susceptible to the same struggles in international information sharing that plague other investigations. In the FATF report, researchers found that “there are few practical

examples of successful cooperation on ML [money laundering] cases for environmental crimes on a regular basis. Countries have indicated that they have sent requests for information, but responses to requests are uncommon and that exchanges are insufficient.”<sup>92</sup> This leads to prolonged investigations that may or may not result in successful prosecutions. When talking about environmental criminal prosecutions in Latin America, Julia Yansura told FACT, “These investigations have only been prioritized in about the last five years. Even then, cases can take years and years to prosecute. Often, the prosecutorial process is very slow, and the communication among the relevant government agencies is lacking.”<sup>93</sup>

**These crimes are usually transnational in nature, which means they require international cooperation and information sharing to investigate and prosecute.**

*Alto Nanay community, which is an area currently affected by illegal mining.*

*Photo: OjoPúblico/Aldair Mejía*

**Fourth**, environmental crimes are one of many tools leveraged by criminal networks to profit from and launder the proceeds of their illicit enterprises. As the organizations involved in environmental crime grow more sophisticated, the investigative and prosecutorial challenges also become more complicated. At a basic level, convergent crimes mean that these cases get more complex for law enforcement – in identifying the players, operations, jurisdictions, and illicit activities involved. At a higher level, it means that prosecutors can charge these criminals with multiple offenses. In most jurisdictions, punishment for environmental crimes are not as strong as for other offenses: according to the 2021 FATF survey, “Several countries acknowledged

that the penalties available in their jurisdiction in relation to environmental offences were grossly inadequate...and disproportionate to the criminal proceeds and environmental damage that they cause.”<sup>94</sup> But this is a double-edged sword: if investigators prosecute criminals for offenses with higher punishments, it may mean they are not held accountable for environmental crimes, perpetuating the reputation that these are “low-risk, high reward” crimes. Finally, sophisticated criminal organizations may also have extensive corruption networks, which may systemically weaken governance and the ability of prosecutors to enforce laws against environmental and convergent crimes.

Environmental crimes require a multidisciplinary action to tackle. **These crimes span continents and industries, and demand policy solutions that respond to the various trade, illicit finance, domestic economic policy, climate policy, and international relations dimensions of this work.** Illicit finance is the sole focus of this report.

# 3. AN ECOSYSTEM OF SECRECY: ENVIRONMENTAL CRIMES AND THE U.S. CONTEXT FOR REFORM

Countries in the Amazon, including Peru and Colombia, remain best placed to develop and enforce their own statutes, and bring criminals to justice. Nevertheless, the United States – as world’s top supplier of financial secrecy<sup>95</sup> – needs to be a partner in mitigating nature crimes and their associated illicit financial flows.

## **The U.S. as a Supplier of Financial Secrecy to Latin America**

There is growing concern in the U.S. about the country’s status as a top financial secrecy jurisdiction. U.S. Treasury Secretary Janet Yellen acknowledged during the release of the 2021 U.S. Strategy to Counter Corruption – the first of its kind – that “there’s a good argument that, right now, the best place to hide and launder ill-gotten gains is actually the United States.”<sup>96</sup> The Treasury Department estimates that illicit proceeds of crimes flowing through the American economy each year are equivalent to 2% of U.S. GDP, which, using contemporary figures, equals about \$466 billion.<sup>97</sup> The Tax Justice Network’s 2022 Financial Secrecy Index found that the U.S. is the top supplier of financial secrecy, ahead of

Switzerland, the Cayman Islands, and other notorious tax havens.<sup>98</sup> According to the Brazilian policy group, the Igarapé Institute, the U.S. especially is a prime destination for illicit funds from Latin America: The geographic proximity and close trade connections between Latin America and the Caribbean, and the U.S. favor [facilitate] the crossborder illicit financial flows, giving rise to a regional ecosystem of institutions, channels, and facilitators for ill-gotten gains in the U.S. The mechanism is similar to that revealed by the Panama Papers, in 2016, and the Pandora Papers, in 2021, which exposed how individual and criminal organizations – facilitated by corrupt networks – maneuver to register anonymous



companies in the U.S. and acquire illicit assets to launder money.<sup>99</sup>

The geographic proximity and close trade connections between Latin America and the Caribbean, and the U.S. favor [facilitate] the crossborder illicit financial flows, giving rise to a regional ecosystem of institutions, channels, and facilitators for ill-gotten gains in the U.S. The mechanism is similar to that revealed by the Panama Papers, in 2016, and the Pandora Papers, in 2021, which exposed how individual and criminal organizations – facilitated by corrupt networks – maneuver to register anonymous companies in the U.S. and acquire illicit assets to launder money.<sup>99</sup>



Alto Nanay community, which is an area currently affected by illegal mining.

Photo: OjoPúblico/Aldair Mejía

Financial secrecy makes the U.S., in some ways, the perfect playground for criminals looking to stash the illicit proceeds of environmental crimes. Illicit actors use financial secrecy vehicles to operate their businesses and convert their products into profit. Like other crimes, the proceeds from environmental crime are laundered within both formal and informal institutions, making environmental criminals heavily reliant on financial secrecy vehicles, financial institutions, and white-collar intermediaries.<sup>100</sup> As Nelly Luna Amancio, co-founder of *Ojo Público*, told FACT: “Restricting criminals’ access to money is really the only way that we can make them accountable for their criminal act because a large part of their proceeds moves through the legal financial system.”<sup>101</sup>

Fortunately, awareness of illicit financial flows and environmental crime is growing among U.S. policymakers. In 2021, the U.S. Treasury Department, via its Financial Crimes Enforcement Network (FinCEN), issued an advisory

to U.S. financial institutions noting an “upward trend in environmental crimes and associated illegal financial activity” and called on these financial institutions to pay increased attention to nature crimes.<sup>102</sup> In public remarks in September 2023, Himamauli Das, a senior FinCEN official reiterated the importance of combatting nature crime: “The focus on financial crimes as it relates to environmental crimes and nature crimes is crucially important.”<sup>103</sup> Increased stakeholder interest and private sector collaboration are part of what experts in the region are calling for to move the needle forward. Per the Brazil-based regional policy group, Igarapé:

There is an urgent need to connect money laundering and environmental crime frameworks. Stakeholders need to develop a sufficient understanding of money laundering risks associated with environmental crime in order to improve awareness while prioritizing preventive actions and promoting joint efforts across public, private, financial, and civil society sectors.<sup>104</sup>

**The proceeds from environmental crime are laundered within both formal and informal institutions, making environmental criminals heavily reliant on financial secrecy vehicles, financial institutions, and white-collar intermediaries.<sup>100</sup>**

While this steer from FinCEN helps law enforcement and the private sector put a spotlight on nature crime, the U.S. has ample, if insufficient, tools in place to counter money laundering, including from international environmental crimes. As Nelly Luna Amancio of *Ojo Público* told FACT, “The mechanisms of money laundering don’t change. The actors do.”<sup>105</sup>

In increasing the priority of environmental crimes in anti-money laundering policies in the public and private sector, and by improving its own AML regulations, the United States can be a better partner to Latin America in protecting the Amazon basin.



The United States development agency, USAID, is the fourth largest conservation donor to the Amazon region.<sup>106</sup> Yet, in failing to address gaps in its domestic anti-money laundering framework, the United States undermines its own conservation policy and its ability to mitigate environmental crimes and their associated financial flows. U.S. policymakers, U.S. taxpayers, and foreign partners all have an interest in ensuring that U.S. structural reforms advance to improve the effectiveness of conservation efforts.

# U.S. ANONYMOUS COMPANIES AND THE CORPORATE TRANSPARENCY ACT

While money laundering methodologies are plentiful, anonymous entities usually play a central role in any scheme. Per FATF, when it comes to financial secrecy, “The overall intent is a deliberate effort to create as many layers as possible between the commission of the environmental crime and the account holder where the funds are placed following the sale of the illegal good.”<sup>107</sup> Shell companies are the perfect mechanism to create complex networks to obscure both the actors and origins of the money involved. Shell companies help criminals project legitimacy during the illicit production and trade of goods, as well as allow criminals to commingle illicit proceeds of the environmental crimes in their legitimate business accounts, among other things.<sup>108</sup> Himamauli Das from the U.S.’ FinCEN stated that when it comes to tackling nature crimes, “The focus on efforts to prevent bad actors from acting anonymously and hiding behind shell companies and opaque vehicles is incredibly important.”<sup>109</sup> As Daniel Linares Ruesta - a senior official at Peru’s equivalent to FinCEN, the Financial Intelligence Unit - told FACT researchers, shell entities are common among environmental criminal schemes coming from Peru. In reflecting on a particular illegal mining case, he noted that: “When we looked into how they were able to finance the project so quickly, we realized there was almost always a shell company behind the transactions.”<sup>110</sup>

**“ The focus on efforts to prevent bad actors from acting anonymously and hiding behind shell companies and opaque vehicles is incredibly important.”<sup>109</sup>**

- Himamauli Das, former Acting Director of the U.S. Financial Crimes Enforcement Network

**“ When we looked into how they were able to finance the project so quickly, we realized there was almost always a shell company behind the transactions.”<sup>110</sup>**

Daniel Linares Ruesta of the Financial Intelligence Unit of Peru

## How do criminals abuse anonymous shell entities?



1. To project legitimacy and conceal payments during a criminal operation



2. To use as a financial “getaway” vehicle, to hide and launder the proceeds of environmental crime



3. To evade legal or civil accountability, constantly evolving under new names and making it difficult for investigators to follow a paper trail



4. To facilitate convergent crimes, like corruption and tax evasion

The inability in the U.S. to identify the true natural person – also known as the “beneficial” owner – of certain entities is a major reason that the U.S. has been named the top supplier of financial secrecy.<sup>111</sup> While change is on the horizon, the U.S. does not yet have a database of the true “beneficial” owners of anonymous shell companies.

This makes it stand in contrast to other major economies and countries, including Colombia.<sup>112</sup> In interviews, a number of sources in the Amazon region and the United States cited U.S. beneficial ownership opacity as a problem for facilitating environmental crimes:

» Nelly Luna Amancio, co-founder of Peru's *Ojo Público*, observed, "A lot of the time, there are cases where lawyers open up shell companies for those trying to launder the funds from illegal logging, as we have seen examples of in Nevada." <sup>113</sup>

» Daniel Linares Ruesta of UIF-Peru confirmed, that "We've had cases where we can directly trace the dirty money route to U.S. company involvement." <sup>114</sup>

» A U.S.-based researcher, Julia Yansura of Global Financial Integrity noted that in the course of her analysis, "We've seen across the board that a lot of these cases [in the Amazon] come down to LLCs in the U.S." <sup>115</sup>

After a ten-year public debate, the U.S. Congress finally passed a bipartisan law in 2021 to end the abuse of anonymous U.S. shell entities. This law, the Corporate Transparency Act,<sup>116</sup> requires certain entities formed or operating in the U.S. to name their true, beneficial owner to a non-public database housed at Treasury's FinCEN.<sup>117,118</sup> While the law has not yet been implemented, FinCEN has estimated that the new requirements will cover approximately 33 million U.S. companies, plus 5 million new reporting companies each subsequent year.<sup>119</sup>

Even though the database is not public, the law lays out information-sharing protocols with authorized users, including with foreign governments through a request to a U.S. agency.<sup>120</sup> When asked about whether beneficial ownership registries would be helpful toward their work with partners to curb environmental crimes in the Amazon region, one State Department expert told FACT researchers, "That's a no-brainer, yes." <sup>121</sup>

FinCEN is currently in the process of finalizing rules to implement the law. As of the writing of this report, FinCEN has yet to finalize its rule that would establish the protocols by which local law enforcement, U.S. federal officials, U.S. financial institutions, U.S. regulators, and foreign competent authorities would be able to access information in the non-public database. As Himamauli Das, a senior FinCEN official, said in a public event on nature crimes in September, "It's important to have actors across borders – government actors particularly, but also financial institutions – cooperate and exchange information both domestically as well as internationally,...to better understand these networks of shell companies that are facilitating illicit activity." <sup>122</sup>

Yet there are real problems with FinCEN's public proposal. The access provisions, as currently proposed by FinCEN, could leave foreign competent authorities – including local and federal law enforcement in Peru and Colombia – in the lurch.<sup>123,124</sup> For instance, as FACT wrote in its comment on the proposed rule, the draft “limits any BOI access strictly to foreign persons that have undergone training on the appropriate handling and safeguarding of such BOI. This is inconsistent with, and more strict than, the standard applied to domestic users.”<sup>125</sup> FACT considers this an unnecessary hurdle.<sup>126</sup> This differentiated protocol has the potential to slow down or effectively block the use of U.S. beneficial ownership data in international investigations.

Further, the Corporate Transparency Act largely requires that foreign law enforcement as well as prosecutorial and judicial authorities – including those from Peru and Colombia – use an existing “international treaty, agreement, convention, or official request” to access beneficial ownership data in the FinCEN database.<sup>127</sup> A likely mechanism through which these officials would access the information is the Mutual Legal Assistance Treaty (MLAT) program – a bilateral agreement through which there is an exchange of evidence and information in criminal and related cases.<sup>128</sup> However, a 2021 Global Financial Integrity assessment of the U.S. MLAT program in Latin America suggested real challenges in information exchange through this mechanism. They included, among other things:



- **Difficulties in navigating between the U.S. common law legal system and the civil law system (as is found in Peru and Colombia);**
- **Frustration at the difference in evidentiary standards needed to execute an MLAT, with a high evidentiary burden required by the U.S.; and**
- **Logistical hurdles including language barriers and resource constraints in Latin American governments, which may prevent the successful execution of a request.<sup>129</sup>**

As one expert told GFI researchers, language and resource challenges especially “can draw out the process, people get frustrated, lose interest and the case does not move forward.”<sup>130</sup> As Julia Yansura of Global Financial Integrity told FACT researchers of her engagement with Latin American partners, “Sometimes officials tell us, ‘We wish the U.S. would just give us the information that we request so we can build our own cases.’”<sup>131</sup>

The U.S. government must make clear to governments, including in the Amazon basin, how they can access the information in the forthcoming beneficial ownership database. As a senior official within Peru’s Financial Intelligence Unit told researchers, “having international access to beneficial ownership information is fundamental for our investigations.”<sup>132</sup>

Lastly, ensuring the quality of beneficial ownership data is critical to the success of the database as a tool to both prevent and investigate crimes: not only for U.S. users, but for foreign authorities, as in the Amazon basin. In 2023, the United States committed – alongside 36 nations, including Colombia – to verifying information in its beneficial ownership database.<sup>133</sup> Doing so will make sure that database users are confident that, for instance, the person listed as an owner is a real person, or that the street address reported is both real and connected with the reporting entity. Nevertheless, verification relies on technology and data licenses, both of which are expensive. This is a crucial reason why the U.S. Congress needs to contemplate additional increases to FinCEN appropriations, to equip that bureau to take on the challenge of beneficial ownership verification.<sup>134</sup>

**“ Having international access to beneficial ownership information is fundamental for our investigations.”<sup>132</sup>**

Daniel Linares Ruesta of the Financial Intelligence Unit of Peru



# U.S. ANTI-MONEY LAUNDERING PROVISIONS

While the 2021 Corporate Transparency Act represents a landmark update to U.S. anti-money laundering laws, the United States has had an anti-money laundering regime in place for more than 50 years: the Bank Secrecy Act (BSA) constitutes the primary anti-money laundering legal framework in the United States. The BSA requires at least 25 different types of U.S. financial institutions, defined by the U.S. Treasury, to take a risk-based approach to counter money laundering in the U.S. financial system. While requirements vary by sector based on risk, generally these safeguards require financial institutions to “know their clients” by establishing due diligence policies, procedures, and controls, and to file Suspicious Activity Reports (or SARs) on transactions made by those clients, among other safeguards. This information provided by the private sector to FinCEN is then made available to local, state, and federal law enforcement officials for investigative purposes.

In addition to covering financial institutions like banks, brokers and dealers in securities, pawn brokers, and money service businesses, the BSA also covers dealers in precious gems and metals, including gold, as gold itself can serve as a monetary instrument. In particular, gold dealers are required to establish anti-money laundering programs, but they are not currently required to submit suspicious activity reports.<sup>135</sup> The current requirements may be insufficient to assess the risk in the gold sector to counter environmental crimes.<sup>136</sup>

Nevertheless, as the sections below will review, **the current U.S. anti-**

**money laundering legal, regulatory, and policy framework is insufficient to close the loopholes and avenues criminals use to infiltrate our financial system.** Although the BSA was a major step forward for U.S. anti-money laundering efforts, some money laundering vehicles and legal weaknesses, including gaps in the BSA for real estate and non-financial gatekeeper professions, continue to exist. As certain sectors are left virtually unchecked by AML policy, the U.S. is an attractive option for actors engaging in money laundering activities.

While the Bank Secrecy Act already defines certain industries as covered financial institutions, – e.g. real estate professionals – Treasury has not yet implemented anti-money laundering rules that apply to those industries. In some cases, there has been as much as a 20-year gap in implementation (see next section). Until the rules are finalized, these sectors can legally operate with few anti-money laundering checks in place.

## MONEY LAUNDERING IN U.S. REAL ESTATE MARKETS

The \$50 trillion U.S. real estate sector is an attractive place for investors of all kinds to put their money. The U.S. currently has no anti-money laundering requirements for real estate professionals to conduct know your customer checks or submit suspicious activity reports. This has contributed greatly toward U.S. financial secrecy and resulting money laundering avenues. 2021 research by FACT-member Global Financial Integrity documented at least \$2.3 billion dollars in real estate money laundering cases, with many of the top source countries for money laundering in U.S. real estate coming from Latin America.<sup>137</sup> U.S. Secretary of the Treasury Janet Yellen has noted that the figure GFI found likely only scratches the surface of the true scale of money laundering through U.S. real estate markets.<sup>138</sup>

The use of real estate to launder money from environmental crimes is something that academics and practitioners are starting to notice. Louise Shelley, a professor at George Mason University's TraCC program, said in a 2020 event at the World Wildlife Fund that, when it comes to environmental crimes, "the profits are going into real estate, shell companies... that are used to make purchases and launder money."<sup>140</sup> The same observation is true in the region. A senior official at the Peruvian Financial Intelligence Unit, Daniel Linares Ruesta, told researchers that the FIU has identified "cases where those close to the end of the illegal gold mining chain have laundered their money by buying real estate or properties, with shell company money they have accumulated."

## Why is real estate a popular money laundering methodology?

There are several primary draws to using real estate as a means for money laundering:

- » Real estate is a generally stable and appreciable asset class.
  
- » Real estate properties can be rented or developed for income, helping to convert the proceeds of the criminal enterprise into a legitimate, profitable business.
  
- » Around the world, either weak rules or lax enforcement generally means that real estate transactions are subject to limited anti-money laundering oversight. This is especially true in contrast to traditional financial instruments, like bank accounts, where there has long been anti-money laundering scrutiny.
  
- » Real estate ownership is hard to trace, and the properties are difficult for a prosecuting jurisdiction to seize or recover.

*Source: Global Financial Integrity, "Acres of Money Laundering: Why U.S. Real Estate is a Kleptocrat's Dream," September 2021* <sup>139</sup>



**“ [There are] cases where those close to the end of the illegal gold mining chain have laundered their money by buying real estate or properties, with shell company money they have accumulated.”**

Daniel Linares Ruesta of the Financial Intelligence Unit of Peru

While few U.S. cases of real estate money laundering for environmental crimes have made headlines, real estate money laundering is a common methodology for money laundering for other, “convergent” crimes from Latin America, including drug trafficking and corruption, which can drive deforestation. In just one instance, a boutique investment firm in South Florida laundered as much as \$50 million through commercial and residential properties on behalf of Colombian cartels.<sup>141</sup> As the report discusses later, corrupt officials embroiled in the Odebrecht scandal moved to the U.S. and bought real estate with the proceeds of corruption. In one case of an Ecuadorian government auditor, the official took \$10 million in bribes from Odebrecht and then bought at least three U.S. properties worth a total of \$7 million through LLCs.<sup>142</sup> It stands to reason that money from environmental and associated crimes from Latin America also finds its way into U.S. real estate markets.

As of right now, real estate professionals have no nationwide anti-money laundering obligations in the United States.

Real estate professionals are meant to be covered under the Bank Secrecy Act since 2002, when the U.S. passed the PATRIOT Act to improve its financial tools to counter the financing of terrorism.<sup>143</sup> Yet, real estate professionals received a “temporary” exemption at the time, with the understanding that eventually the U.S. Treasury would write a rule. This “temporary” exemption has lasted more than 20 years.<sup>144</sup>

Still, the U.S. is showing progress. In 2016, FinCEN established a short-term disclosure program – known as the real estate “Geographic Targeting Orders”, or GTOs – that required title agents to identify the true owner behind entity purchases of residential real estate in Miami and New York.<sup>145</sup> That program has been renewed every six months for the past 7 years, its transaction coverage broadened, and has now been expanded to approximately 12 metropolitan areas and the state of Colorado.<sup>146</sup>

More importantly, in 2021, the U.S. committed to establishing anti-money laundering obligations for real estate professionals as part of its inaugural Strategy on Countering Corruption.<sup>147</sup> FinCEN took the first step toward implementing this rule in 2021 by releasing an advanced notice of proposed rulemaking (ANPRM) to fact-find regarding money laundering risks and industry practices in both the residential and commercial real estate markets.<sup>148</sup>

FinCEN is expected to release a proposed real estate rule in 2023. A forthcoming rule should use a cascading responsibility on real estate professionals to make sure someone is always responsible for conducting AML checks; likewise, a rule should be nationwide, permanent, inclusive of both residential and commercial real estate, and should account for all types of transfers of ownership, not just the purchase of real estate.<sup>149</sup>

## U.S. BUSINESS PROFESSIONALS AS “ENABLERS”

Any effort to curb environmental crime should examine the role that financial and non-financial business professionals play in facilitating environmental degradation. For every entity used in an environmental scheme, there is likely a professional behind it that formed or registered that entity.

The 2021 FATF environmental crimes report stated, “Intermediaries such as lawyers, accountants and trust and corporate service providers play an important role in enabling illicit financial flows, and illegal logging and mining is [sic] no exception.”<sup>150</sup>



A senior official within Peru's FIU told FACT that this matches his experience of investigating environmental crimes, noting, "When you do the investigation, and you find a company, within a company, within another company, you have issues with the investigation. We have had a case where we couldn't find the actors because all we could find was the law firm involved."<sup>151</sup>

This is a crucial blind spot in U.S. anti-money laundering policy. In 2016, the Financial Action Task Force called out the U.S. for its failure to fully comply with FATF standards and require anti-money laundering obligations from certain "designated non-financial business professionals" – like lawyers, accountants, and corporate formation agents.<sup>152</sup> As Gary Kalman and Scott Greytak of FACT-member Transparency International-U.S. recently explained:

*Creating a complex layering of anonymously owned companies, routing investments through multiple countries and returning those illicit funds to the U.S. – all this requires a network of lawyers, accountants and money managers. Given gaps in current U.S. anti-money laundering law these 'enablers of corruption' offer their assistance – legally – with a little willful blindness.<sup>153</sup>*

These professionals can play an important role in helping their clients navigate and invest in U.S. monetary instruments or assets and may wittingly or unwittingly act as a conduit for dirty money entering the U.S. system. Either way, stronger checks would be important to mitigating money laundering risk. Congress is considering legislation to expand the Bank Secrecy Act to cover non-financial business professionals. The bipartisan ENABLERS Act<sup>154</sup> would authorize the U.S. Treasury Department to require professionals who provide certain services to their clients – such as forming or registering a company in the United States – to adopt safeguards that can help detect, flag, and prevent the laundering of criminal funds into and across the United States. The Act was passed by the House of Representatives and was endorsed by the Administration in 2022,<sup>155</sup> but it did not pass in the Senate. Congress still has a crucial opportunity to shut the door on corrupt and criminal funds entering the United States.

# FOREIGN ENVIRONMENTAL CRIMES AS PREDICATE OFFENSES FOR MONEY LAUNDERING

There have been increasing international calls to give law enforcement more tools to prosecute nature crime, particularly from countries where such crimes drive existential climate threats. One way to do this is by adding environmental crimes to the list of “predicate offenses” for money laundering (otherwise known as “specified unlawful activities”) that generate monetary proceeds that are laundered criminally. In a 2021 FATF survey of 44 countries, jurisdictions identifying as “source countries” for environmental crimes – for instance, Peru – reported taking steps to assess the money laundering risks of environmental crimes, including by adding environmental crimes as a predicate offense.<sup>156</sup> Daniel Linares Ruesta of UIF-Peru told FACT that since Peru made environmental crimes predicate offenses, the country has “seen an uptick in successful investigations.”<sup>157</sup> On the other hand, the FATF survey found that countries that serve as “destination countries” for illicit commodities have largely not contemplated these changes to their money laundering authorities. The 2021 FATF survey noted that, “Fewer countries in Europe and North America seemed to have considered ML risks from environmental crimes...As a result, this affects the allocation of resources and inter-agency collaboration to tackle these crimes.”<sup>158</sup>

The United States has extensive statutory authority to prosecute money laundering, capturing 12 of the 21 FATF-recommended predicate offenses,<sup>159</sup> and federal law enforcement have wielded it effectively against a range of actors implicated in deforestation, including drug traffickers, dealers in illegally mined gold, and corrupt politicians.

This successful track record seems striking given that foreign environmental crimes are not specifically listed as predicate offenses in the legal definition of money laundering, a gap that was flagged in FATF’s 2016 mutual evaluation report for the U.S.<sup>160</sup>

But in FATF's assessment, this gap is largely mitigated by a catch-all provision that can capture any foreign predicate crime that is transnational in nature and involves an organized criminal group set up to commit a serious offense, and more broadly, given the general willingness of U.S. courts to apply the AML laws extraterritorially.<sup>161</sup> Indeed, U.S. prosecutors have successfully relied on other predicate crimes, including narcotics offenses. Still, adding foreign environmental crimes as a predicate would help to give law enforcement and prosecutors an additional tool to investigate and obtain convictions for money laundering related to environmental crimes, as well as to require financial institutions to explicitly consider these risks in their AML compliance.

There is currently a proposal in Congress to add illegal deforestation as a predicate offense, pursuant to the proposed FOREST Act.<sup>162</sup> While the new authority would serve as another arrow in the quiver of a U.S. prosecutor investigating a crime, there are other benefits to adding illegal deforestation as well as other environmental crimes as predicate offenses.

First, it would send an important signal at home and abroad that the U.S. is a partner in tackling environmental degradation. Second, it would facilitate international cooperation, according to FATF, "where proceeds are located in the jurisdiction but the environmental offense occurred abroad, particularly where dual criminality requirements apply."<sup>163</sup>

While the European Union has added environmental crimes as predicate offenses to money laundering, many other jurisdictions, including the U.S., have failed to do so.<sup>164</sup> A move to add environmental crimes as a predicate offense would be in line with international standards, including Resolution 10/6 and Resolution 11/3 under the UN Convention Against Transnational Organized Crime (UNTOC).<sup>165</sup>





## Environmental Crimes and U.S. National Security

Senior U.S. officials continue to raise bipartisan alarm between the link between the U.S. financial system and environmental crimes, in ways that undermine U.S. national security.

“These crimes not only threaten fragile ecosystems, but they’re often related to other illicit activities, including corruption, terror financing, money laundering, human trafficking, and drug trafficking.”

*– Andrea Gacki, current director of the Financial Crimes Enforcement Network, public remarks, September 2023*

“It’s not just narcotics, it’s human trafficking, it’s illegal mining, it’s illegal logging, illegal fishing, it’s counterfeit goods, it’s the whole money laundering piece. [The actors participating in this malign activity are] more powerful, they’re more sophisticated, they’re corrupt, and they drive violence and irregular migration. And strengthening our partner nations to be able to handle that is what makes them stronger...”<sup>166</sup>

*– General Laura Richardson, head of U.S. Southern Command at the Department of Defense, Senate Testimony March 2023, reflecting on criminal actors in Latin America who use environmental crimes to boost and launder profits.*

“Criminal organizations are using these anonymous shell companies to help launder funds that are associated with illegally mined gold into the U.S.”<sup>167</sup>

*– Senator Marco Rubio (R-FL), Senate hearing December 2019, on how organizations the illicit gold mining and refining business are using U.S. entities.*

“Illicit mining threatens the national security and prosperity of the United States and our partners throughout Latin America by compromising the lawful gold supply chain and exploiting the U.S. financial system for illegal gain.”<sup>168</sup>

*– Richard Glenn, Then-Deputy Assistant Secretary for International Law Enforcement and Narcotics at U.S. Department of State, Senate Testimony December 2019.*

# 4. PERU: ENVIRONMENTAL CRIMES AND IFFS IN THE UNITED STATES

Criminal actors are experts at identifying and exploiting loopholes in the U.S. anti-money laundering regime. This section covers some examples, drawn from prior public reporting cited in this report, that show how illicit financial flows can come into the U.S. from illegal mining and forestry crimes in Peru.

While far from comprehensive, these examples illustrate how deforestation of the Peruvian Amazon is facilitated by U.S.-based actors, including: gold dealers and refiners, timber importers, private financiers as well as corrupt local politicians, all of whom often hide behind anonymous companies.

**Criminal actors are experts at identifying and exploiting loopholes in the U.S. anti-money laundering regime.**

## **Peter Ferrari and the \$3.6 Billion Gold Money Laundering Ring in Miami**

Peter Ferrari was a Peruvian national who was charged with one of the largest gold money laundering cases, which involved billions of dollars worth of gold from Peru making its way to Miami.<sup>169</sup> Officials described this as a drug-money machine masquerading as a gold-trading company: Ferrari was covering lead, iron and zinc bricks in a thin layer of copper or gold and exporting them to Miami as if they were solid gold ingots. The idea was that drug traffickers in the United States would pay for those “gold” bars in cash, and Ferrari would bring the dirty money back to Peru and launder it into the financial system.<sup>170</sup> According to an award-winning investigation by the Miami Herald, Ferrari used shell companies established in Chile and Miami to sell gold from Peru to three Miami-based traders dubbed “the three amigos” – Juan Granda, Samer Barrage, and Renato Rodriguez.<sup>171,172</sup> The three traders all pleaded guilty to conspiracy to commit money laundering and were sentenced to lengthy prison terms.<sup>173</sup> Meanwhile their employer, NTR Metals, pleaded guilty for

failure to maintain an adequate anti-money laundering program and forfeited \$15 million.<sup>174</sup> NTR's compliance officer previously refused to approve business with Ferrari, but Ferrari's representatives eventually managed to avoid any flags from NTR's compliance department.<sup>175</sup>

NTR Metals, now known as Elemetal, was reported in a Miami Herald analysis of corporate disclosures<sup>176</sup> as the subsidiary of a major U.S. gold refinery that supplied Apple and 67 other Fortune 500 companies, as well as Tiffany & Co.

## Global Plywood Case

Investigations by the watchdog group and FACT Coalition member, Environmental Investigation Agency, and by Al Jazeera found that illegal timber from Peru was reaching the U.S. via a U.S. company called Global Plywood and Lumber Trading LLC (Global Plywood).<sup>177</sup> In 2015, Global Plywood purchased 1,135 cubic meters of wood from three Peruvian suppliers, who harvested the wood from the Loreto region of Peru, without obtaining any legal certifications or permits. In 2021, the company pleaded guilty to violating the Lacey Act and acknowledged that it failed to exercise due care – such as checking regulatory tools and conducting investigations on their suppliers – to ensure that their wood was of legal origin. As a result, Global Plywood was ordered to pay \$200,000 to Peru's Ministry of the Environment as restitution for illegally sourced timber, in addition to paying millions to store and destroy the wood in the United States.<sup>178,179</sup> Global Plywood was registered in Nevada, a state notorious for its corporate secrecy, and the company's owners declared bankruptcy and dissolved the company in 2017, while it was under investigation, and before the court could order a compliance plan.<sup>180,181</sup>

## Ocho Sur Case

Anholt Services, a U.S. holding company based in Connecticut, served as a financial enabler of repeatedly non-compliant palm oil plantations in the Ucayali region of Peru. The plantation is owned by Ocho Sur, Peru's second largest palm oil producer that has operated palm oil plantations on indigenous land since 2016; by the end of 2020, more than 17,000 acres of forest was lost on indigenous territory.<sup>182,183</sup> When the Peruvian government finally stepped in to stop the operation, the plantations were simply sold and re-organized under a new corporate entity, backed

once again by Anholt Services as well as another U.S. investor, Amerra Capital Management, a member of the UN Environmental Programme Finance Initiative.<sup>184</sup> Ocho Sur is a subsidiary of Peruvian Palm Holdings, a Bermuda company whose directors are linked to Amerra Capital.<sup>185</sup> The opaqueness of the restructuring obstructed government efforts to detect and bring an end to these deceitful practices, and the destruction of the Peruvian Amazon continued to the benefit of American financiers. The plantation is currently facing complaints before the UN and before Peruvian courts from indigenous communities who claim they suffered losses of numerous hectares of land.<sup>186</sup>

## Odebrecht Case

In 2018, Brazilian company Odebrecht admitted to spending almost \$800 million in bribes to build projects such as the Interoceanic Highway in Peru.<sup>187</sup> The Interoceanic Highway became a hotspot for deforestation in the Amazon, likely due to the increase in access to remote parts of Peru. Within the first three years of opening, deforestation within six miles of the Interoceanic Highway rose to more than 15%, while more than 70 square miles of forest were destroyed in just two years.<sup>188</sup> According to Julio Guzmán, Peru's special prosecutor for environmental affairs, "illegal mining controls the area" in regions such as Madre de Dios, which is traversed by the Interoceanic Highway.<sup>189</sup>

Odebrecht allegedly maintained a division dedicated to bribing public figures in Peru such as former Presidents Garcia, Humala, and Toledo.<sup>190</sup> Along with its bribery scheme in Peru, recipients of Odebrecht's bribes were also connected to U.S. real estate. In 2007, former Peruvian President Toledo took Odebrecht's bribes in exchange for contracts like the Interoceanic Highway, laundered approximately \$1.2 million of the funds into the U.S., and purchased real estate in Maryland.<sup>191</sup> In 2016, Odebrecht agreed to a \$3.5 billion fine for its bribery scheme, the largest penalty for a foreign bribery case.<sup>192</sup> In late 2022, The U.S. Department of Justice seized almost \$700,000 linked to Odebrecht's bribes to Toledo, and stated its intent to return the funds to the Peruvian Government.<sup>193</sup>

# 5. COLOMBIA: ENVIRONMENTAL CRIMES AND IFFS IN THE UNITED STATES

Below are examples of cases with links to the U.S. financial system from Colombia. While far from comprehensive, the examples illustrate the problems associated with illicit financial flows coming into the U.S. from illegal mining in Colombia.

## Goldex

Goldex, once the second largest gold export company in Colombia, allegedly played a large role in Colombia's "gold wars" and much of what has been described as the resulting "blood gold" that ended up in the U.S.<sup>194</sup> According to Colombian prosecutors, Goldex exported illegal gold mined around the country, and laundered more than \$1 billion dollars for organized crime groups.<sup>195</sup> Prosecutors further allege that Goldex employed supply chains of bogus companies with short life-spans, a common practice for companies sourcing their gold from illegal sites, and bought gold directly from owners who apparently never existed or were deceased at the time of sale.<sup>196</sup> In the final six years of its operation, Goldex exported more than 47 tons of gold worth more than \$1.4 billion. Almost all (more than 97%) of this gold was supplied to two U.S. metal refiners, including Republic Metals Corp., or RMC, in Miami.<sup>197</sup> RMC continued to buy gold from Goldex even after one of its suppliers was brought to the U.S. to be tried on drug trafficking and money laundering charges, and after Goldex was sanctioned by Colombian authorities.<sup>198,199</sup> In 2019, after RMC declared bankruptcy and sold its assets in 2018, the U.S. Department of Justice agreed not to prosecute it in exchange for cooperation and taking steps to improve its AML programs.<sup>200</sup>

## CIJ Gutierrez

CIJ Gutierrez, one of the largest commercial gold companies in Colombia, reportedly used fake entities and transactions under the names of fictitious individuals to supply illegally mined gold to U.S. refiners including Metalor International SA and Asahi Refining U.S.A.<sup>201,202</sup> The U.S. and Switzerland were the primary export destinations for CIJ Gutierrez' gold.<sup>203</sup> The company was investigated by the Colombian prosecutors<sup>204</sup>, and two of its buyers – Metalor Technologies International SA and Argor Heraeus – were flagged by U.S. financial institutions for more than \$2.6 billion in suspicious transactions between 2007 and 2016, as revealed in the FinCEN Files exposé.<sup>205</sup> In 2019, CIJ Gutierrez was charged by Colombian prosecutors with laundering more than \$740 million from illegal gold.<sup>206</sup> The New York Times conducted an investigation on the supply chain used by Apple for their iPhones, which led back to CIJ Gutierrez. The NYT investigators later found that companies such as Tiffany and Co., Samsung, and Lenovo also sourced gold from CIJ Gutierrez.<sup>207</sup>

# 6. RECOMMENDATIONS FOR U.S. POLICYMAKERS

The U.S. already has a host of anti-money laundering policies and initiatives to curb illegal financial activities globally and sever associated financial streams in the U.S. The U.S. also plays an influential role in combating international financial crime.

Yet, unless the U.S. implements comprehensive reforms, including addressing the weaknesses described in the previous section, it will continue to provide an avenue for criminal actors wanting to abuse our financial systems and launder environmental crime proceeds.

**Unless the U.S. implements comprehensive reforms, including addressing the weaknesses described in the previous section, it will continue to provide an avenue for criminal actors wanting to abuse our financial systems and launder environmental crime proceeds.**

To protect U.S. national security, combat transnational organized crime, and protect the environment and indigenous communities, the FACT Coalition offers the following timely recommendations.

## THE U.S. ADMINISTRATION

### Executive Branch

#### »» **Develop an interagency strategy to tackle illicit financial flows from environmental crimes -**

The U.S. government sought to advance the global fight against corruption when it released the first-ever U.S. government strategy to counter corruption in December 2021.<sup>208</sup> The strategy plans on addressing corruption through its five pillars, including by curbing illicit finance through the U.S., but does not specifically draw the link to environmental crimes. To complement the anti-corruption strategy and

better tackle the financial aspects of environmental crimes, the administration should mobilize relevant agencies, including Treasury, Justice, and State Departments, pursuant to an interagency strategy to address illicit financial flows from environmental crimes.

## Treasury Department

### »» **Implementation of the Corporate Transparency Act (CTA) should facilitate access for trusted foreign law enforcement agencies -**

Treasury's FinCEN is developing rules to implement the bipartisan Corporate Transparency Act (CTA), which will establish a non-public directory of the true, "beneficial" owners of certain entities - including LLCs, corporations, and other similar entities - formed or registered in the U.S.<sup>209</sup> The landmark CTA is the most important U.S. anti-money laundering reform in the past 20 years and must be faithfully implemented in a timely manner. Of particular importance to deterring illicit financial flows from Amazon deforestation, FinCEN must make important changes to allow for less complicated access to information in the directory by domestic and foreign authorized users.<sup>210</sup> Foreign authorities, by law, must make a request for information through the U.S. government; still, the current implementing rules set up unnecessary hurdles for foreign law enforcement access and use of the information for investigations and prosecutions, a critical issue for international environmental crime enforcement.<sup>211</sup>

### »» **Complete AML regulations for real estate -**

Lack of U.S. AML regulations for the \$50 trillion real estate industry is a major money laundering loophole that is exploited by criminals, including those involved in environmental crimes. The U.S. Treasury must make good on pledges made in the U.S. Strategy on Countering Corruption and take concrete action to extend AML obligations to the residential and commercial real estate sectors. In December 2021, the U.S. Treasury released an advanced notice of proposed rulemaking, calling for public input into the design of regulations to tackle money laundering in the real estate sector.<sup>212</sup> The Treasury Department must quickly finalize a permanent and nationwide reporting regime that would require real estate professionals to identify the true nature of their clients. FACT recommends that such a regime should apply to both commercial and residential real estate transactions, without monetary thresholds, and apply to both buyers and sellers of a real estate property.



### » Increase technical assistance to countries in the Amazon basin -

The Treasury Department's Office of Technical Assistance (OTA) should increase assistance to countries in the Amazon basin region to boost their capacity to tackle transnational illicit financial flows from environmental crimes.<sup>213</sup> Once the CTA is implemented, OTA could assist governments in understanding and accessing the new U.S. beneficial ownership directory. In addition, pursuant to funding from Congress, FinCEN should also deploy a liaison in the U.S. Embassy in Peru and Colombia whose remit would include supporting regional coordination and enhanced information-sharing on environmental crimes, in addition to narcotics-related finance.<sup>214</sup>

### » Increase sanctions against environmental crimes groups and their facilitators -

The U.S. Treasury's Office of Foreign Asset Control (OFAC) should increase targeting efforts under Executive Order 13581, which authorizes sanctions on transnational crime organizations, and other relevant sanctions authorities, against criminal groups and facilitators responsible for environmental crimes in the Amazon basin.<sup>215</sup>

## Justice Department

### » Enforce AML laws to deter U.S. laundering of environmental crime proceeds -

FACT urges the Department of Justice to continue to vigorously investigate and prosecute violations of U.S. anti-money laundering laws, along with the Lacey Act, in cooperation with relevant domestic agencies and international law enforcement authorities. Efforts like the new TIMBER inter-agency working group – which includes the Department of Justice, the Department of Agriculture, the Department of the Interior, and the Department of Homeland Security, as well as the U.S. Council on Transnational Organized Crime's Strategic Division – are welcome. The TIMBER Working Group is designed to increase the ability of the U.S. to “identify and investigate complex timber trafficking cases domestically and transnationally” and to “build the ability of partner governments worldwide to combat this devastating illegal trade.”<sup>216</sup> (On illegal mining, see below for discussion of the United States Legal Gold and Mining Partnership Strategy Act, reintroduced in Congress.)

## » Improve Information Sharing via Mutual Legal Assistance Treaties (MLATs) -

The Department of Justice Office of International Affairs should simplify and digitalize requests from foreign authorities via the MLAT program to make the program more efficient. Simplifying the process, standardizing forms, and offering increased foreign training on appropriate request protocols could facilitate international information sharing. Congress should consider additional appropriations for the Department of Justice to support these improvements.

## U.S. Department of State & USAID

### » Increase U.S. government diplomatic leadership to address the illicit financial flows derived from environmental crimes, including from the Amazon region.

The U.S. Department of State should use its voice in relevant multilateral bodies, including FATF, UN Convention Against Corruption, UN Office of Drugs and Crime and the recently-launched Nature Crimes Alliance to expand focus on illicit financial flows from environmental crimes. At FATF, this includes the application of the mutual evaluation framework to governments in the Amazon region as well as the U.S. itself, with particular attention to the risk of money laundering from environmental crimes.<sup>217</sup> In addition, the U.S. has an opportunity to demonstrate international leadership and draw attention to the needed international reforms, when it hosts the upcoming 10th Conference of States Parties (CoSP) to the UN Convention Against Corruption (UNCAC) in December 2023. This would build on Resolution 8/12, which was adopted at the 2019 UNCAC CoSP, acknowledging the significant interlinkages between corruption, environmental destruction and the exploitation of natural resources.<sup>218</sup>

### » Increased support to partner governments and civil society groups -

With the expanded focus by the State Department and USAID on anti-corruption, the U.S. government can provide greater support to governments in the Amazon region to address illicit financial flows from environmental crimes, building on the USAID Prevenir Amazonia program in Peru<sup>219</sup>, and the two bilateral Memoranda of Understanding on mining signed with Peru in 2017 and Colombia in 2018, which include capacity building and mentoring to Peru's Financial Intelligence Unit, for them to identify money-laundering risks in the mining sector and to take steps to raise scrutiny on suspicious transactions linked to illegal mining.<sup>220</sup>

# U.S. CONGRESS

## »» **Support passage of the FOREST Act -**

Congress should pass the FOREST Act, first introduced in 2021 to deter illegal deforestation.<sup>221</sup> The Act would prohibit “access to U.S. markets for commodities that originate from illegally deforested land—reducing the long-term incentive to sacrifice productive forests for agriculture uses. It would also increase traceability and transparency in global supply chains by obliging companies trading in covered commodities to trace their products back to the source.”<sup>222</sup> Of particular relevance here, the FOREST Act calls on the U.S. to do more to prevent the “United States financial system from being used to launder proceeds from illegal deforestation.” The bill would add illegal deforestation as a specified unlawful activity, also known as predicate offenses, to the U.S. money laundering criminal statute.

## »» **Make all environmental crimes predicate offenses for money laundering -**

In addition to illegal deforestation, Congress should amend the money-laundering statute to add all foreign environmental crimes, including illegal mining, to the list of “specified unlawful activities”, known as predicate crimes.<sup>223</sup> Doing so would bring the U.S. in line with international best practices including FATF standards, recent amendments to the E.U.’s 6th Anti-Money Laundering Directive, and UNODC resolution 10/6, which “calls upon States parties to develop or amend national legislation, as necessary and appropriate, in accordance with fundamental principles of their domestic law, so that crimes that affect the environment falling within the scope of the Convention are treated as predicate offenses.”<sup>224</sup>

## »» **Support passage of the ENABLERS Act -**

In 2022, there was a bipartisan introduction of the ENABLERS Act, which would authorize Treasury to require professionals that “provide financial, company, trust, or third-party payment services for their clients, including those who form, buy, or sell companies, manage money and other assets, process payments, or act as trustees” to meet AML requirements as appropriate.<sup>225</sup> Depending on the risk that each professional has, Treasury could require that gatekeepers “identify and verify the true owners of their corporate clients, collect and report to Treasury certain information that can be used to guard against corruption, money laundering, the financing of terrorism, and other

forms of illegal finance, establish AML programs, report suspicious activity and/or, establish due diligence policies and procedures to know their customers.” Criminals need professional enablers or gatekeepers to help them navigate the U.S. financial system and hide their ill-gotten gains. The ENABLERS Act closes a major loophole in the U.S. anti-money laundering framework by requiring certain professionals, such as lawyers, non-bank corporate service providers, and accountants, to know their customers and conduct due diligence to make sure the money they accept is not derived from criminal activity. The ENABLERS Act is awaiting re-introduction.



### **Support passage of the United States Legal Gold and Mining Partnership Strategy Act -**

Reintroduced in 2023 in the Senate by Senators Marco Rubio (R-FL) and Bob Menendez (D-NJ) and in the House by Representatives Cory Mills (R-FL) and Sydney Kamlager Dove (D-CA), this bill is a bipartisan effort to prevent illicit gold mining in Latin America.<sup>226</sup> It would discourage mining in foreign environmental protected areas and provide technical assistance to allow regional governments to use targeted sanctions on persons engaged in laundering of illicit gold assets. It would also authorize \$10 million for the State Department to develop and implement a strategy to curb illicit gold mining in the Western Hemisphere. By passing this Act, the U.S. will have increased leadership in addressing the IFFs from illicit mining in Latin America.



### **Increase funding for FinCEN -**

The U.S. Financial Crimes Enforcement Network (FinCEN) plays an essential role in protecting the integrity of the U.S. financial system. It has also recently taken an increased interest in environmental crimes.<sup>227</sup> Among other responsibilities, FinCEN is tasked with implementing the Corporate Transparency Act and putting in place anti-money laundering rules for the real estate industry, which this report identified as important measures to deter U.S. money laundering from environmental crimes. The Biden Administration has asked Congress for \$229 million for FY2024, a 20 percent increase in FinCEN’s funding above previously enacted levels. Instead, Congress is contemplating cuts to this crucial bureau.<sup>228</sup> Congress should not only fully fund FinCEN for FY2024 but should also consider a multiyear effort to increase FinCEN’s budget. A long-term investment in FinCEN can empower that bureau to address money laundering loopholes in the U.S. financial system, modernize its technology, and become a more central training resource for law enforcement going after money laundering crimes.

# CONCLUSION

As this report has shown, environmental crimes generate enormous proceeds for criminals who find ways to funnel these finds into the global financial system. As a top financial secrecy jurisdiction, the U.S. is an attractive destination for criminals seeking to hide their money from environmental and other crimes. By heeding the recommendations in this report, the U.S. can move from an enabler of environmental crimes to a global leader in blocking the dirty money derived from this hugely profitable industry. With the climate crisis upon us and the fate of indigenous communities at stake, the U.S. must act urgently to address its complicity in the multi-billion dollar criminal effort to launder money from environmental crimes in the Amazon basin.



Photo: OjoPúblico/  
Aldair Mejía

# NOTES

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