FROM TIMBER TO TUNGSTEN: HOW THE EXPLOITATION OF NATURAL RESOURCES FUNDS ROGUE ORGANIZATIONS AND REGIMES

HYBRID HEARING

BEFORE THE

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INTERNATIONAL DEVELOPMENT
AND MONETARY POLICY
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FROM TIMBER TO TUNGSTEN: HOW THE EXPLOITATION OF NATURAL RESOURCES FUNDS ROGUE ORGANIZATIONS AND REGIMES

Thursday, November 4, 2021

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON NATIONAL SECURITY,
INTERNATIONAL DEVELOPMENT
AND MONETARY POLICY,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:07 a.m., in room 2128, Rayburn House Office Building, Hon. Jim A. Himes [chairman of the subcommittee] presiding.

Members present: Representatives Himes, Torres, Dean, Auchincloss; Barr, Sessions, Williams of Texas, Hill, Zeldin, Davidson, and Gonzalez of Ohio.

Ex officio present: Representative Waters.

Chairman HIMES. The Subcommittee on National Security, International Development and Monetary Policy will come to order. Without objection, the Chair is authorized to declare a recess of the subcommittee at any time. Also, without objection, members of the full Financial Services Committee who are not members of this subcommittee are authorized to participate in today's hearing.

subcommittee are authorized to participate in today's hearing.

Today's hearing is entitled, "From Timber to Tungsten: How the Exploitation of Natural Resources Funds Rogue Organizations and

Regimes."

I welcome the witnesses. Thank you for being here. As you have probably noticed, there is going to be some weird combination of inperson and remote, and it is a pretty busy day, so people will be coming in and out. But thanks very much for being here.

And I now recognize myself for an opening statement of 4 min-

utes or less.

The illicit exploitation of natural resources has catastrophic effects in many dimensions. Proceeds go to fund violent extremists, terrorists, or to feed corruption. The environment is devastated. Local populations who might otherwise benefit from their natural endowment are left out, or worse, impressed into the destruction of the environment that they inhabit.

When developed safely and equitably, materials like timber, charcoal, gold, and rare earth minerals can create good-paying jobs, encourage foreign investment, and lift communities out of poverty.

Environmental crime slams the door on all of that.

This is not a small problem. Experts estimate that illicit natural resources generate more than \$100 billion a year in revenue, making it the fastest-growing international crime. The worst offenders in this space rely on many of the same tactics that this subcommittee has scrutinized before: shell and front companies to hide ownership; trade-based schemes to transport goods; and vast networks of financial players that avoid anti-money laundering laws and anti-corruption measures.

Sadly, examples abound and bring this crime into our day-to-day lives. Gold that was illegally mined by the FARC and the National Liberation Army in southern Venezuela could be in our smartphones, tablets, and computers. Teak, timber, and rosewood that was smuggled by Boko Haram or Al Shabaab in Africa could be used to make boats and furniture. And sanctioned persons in Afghanistan may have supplied the talc used in paint and plastics.

Companies that deal in these materials have a responsibility to implement strong supply chain monitoring, but Congress must also review the conditions that enable these priminals to their

review the conditions that enable these criminals to thrive.

As threats in this space evolve, so, too, must our strategies for combating money laundering, terrorism, finance, and environmental crime. The tools and resources that are already at our dis-

posal can help disrupt these threats.

Banks, non-governmental organizations (NGOs,) and international law enforcement agencies play a role in identifying illicit flows and tracking criminals. But despite many improvements in detection and reporting systems, natural resource exploitation remains a lucrative and booming industry for terrorists and criminals.

We need to discuss how we can improve legal remedies, refine information sharing, and encourage the private sector to implement

standards that recognize risks and suspicious behaviors.

Our methods of financial negotiation need to adapt, our analysis must get sharper, and we must collaborate with our partners by offering assistance and expertise where it is needed most. By working together, we can ensure that our best and strongest ideas to dismantle environmental crime networks are brought to the forefront.

With that, I would like to welcome our panel of witnesses and

thank them for helping us shine a light on this issue today.

And I now recognize the ranking member of the subcommittee, the gentleman from Kentucky, Mr. Barr, for 5 minutes for an opening statement.

Mr. BARR. Thank you, Mr. Chairman. I appreciate you holding this hearing, and I thank the witnesses for appearing before us.

Today's hearing is entitled, "From Timber to Tungsten: How the Exploitation of Natural Resources Funds Rogue Organizations and Regimes."

As our witnesses will undoubtedly explain today, timber and tungsten are just two examples of the many valuable natural resources that have the potential to be exploited. Other examples include oil, coal, rare earth elements, and countless other natural resources that have commercial applications.

These resources can be a source of pride and prosperity for the nations and communities that hold them. However, the resources

are increasingly making it into the hands of bad actors, rogue regimes, terrorist organizations, or organized crime syndicates, and used to finance terrorism and other illegal activities.

In a 2021 report, the Financial Action Task Force (FATF) estimated that illicit extraction or harvesting of resources like oil, timber, metals, and minerals generated between \$110 billion and \$281

billion per year.

Environmental crime typically occurs in regions with robust stores of valuable natural resources, but without stable governments that can provide security or enforce existing laws, this, in turn, perpetuates the struggles for the people in these parts of the world.

The enrichment of bad actors through resource exploitation requires vast and sophisticated networks of shell companies, intermediaries, and money-laundering operations, and, in some cases, direct collaboration and coordination with corrupt government leaders.

The U.S. and other nations have dedicated resources to combating money laundering and countering terrorist financing, but to-day's hearing will inform us where the gaps remain, what more we can do, and the possible long-term strategic consequences of illicit resource extraction by our adversaries.

The Chinese Communist Party (CCP) has made no secret of its intent to grow its sphere of influence, monitor its citizens and others around the globe, and control the means of production and tele-

communications to gain leverage globally.

This is evident in the context of our hearing today. One example is China's relationship with the Democratic Republic of the Congo (DRC), where China had trapped the DRC with massive debt through its Belt and Road Initiative, and was able to leverage that vulnerability to gain control over the DRC's cobalt reserves.

Nowhere is the threat of malign Chinese influence more evident than in Afghanistan. In the near term, we must focus on bringing to safety Americans and Afghan allies still trapped in Afghanistan, fighting to survive the brutal Taliban regime. Once we have accomplished that goal, we must turn our attention to the long-term strategic implications of our withdrawal from Afghanistan, and specifically through the lens of competition with China as they seek to usurp the U.S. as the preeminent global economic superpower.

This hearing will allow us to examine this problem through one specific lens: how the Taliban and other terror groups, the Chinese, and non-state actors, can take advantage of the vast resources

available in Afghanistan.

Afghanistan has some of the most valuable stores of rare earth elements in the world, including many that play an important role in emerging technologies and are becoming increasingly scarce.

In 2010, the U.S. conducted a geological survey of Afghanistan to identify natural resources present in the country. Afghanistan is believed to hold more than \$1 trillion worth of mineral resources. The survey identified stores of gold, copper, tin, and rare earth elements needed in the production of advanced batteries. Those resources were largely untapped because of the precarious security situation in the country.

Given the shift in power in Afghanistan, the Taliban, potentially through collaboration with the Chinese, who met with Taliban leaders in Doha just last week, may be able to harvest these elements and control the supply of scarce resources needed to fuel growth in the United States and other advanced economies, including key elements needed for electric vehicles such as lithium and

neodymium.

The Administration's haste to fully abandon gasoline-powered vehicles and choke off energy production to fuel those vehicles make us less reliant on domestic energy and subjects us to the will of adversaries, whom we will increasingly rely on to provide us with the materials we need to live in our daily lives. And this could be one example of where the climate goals of this Administration directly conflict with our national security needs.

I look forward to hearing from our witnesses today on this important topic. The problem of illicit natural resource extraction and environmental crime financing bad actors is widespread, complex, and has potential long-term implications on U.S. national security. The insights on the problem and advice for specific solutions we hear today will help guide our policymaking.

Thank you, and I yield back.

Chairman HIMES. I thank the ranking member, and I welcome today's distinguished witnesses: Ms. Kathleen Miles, the director of analysis with the Center on Illicit Networks and Transnational Organized Crime; Ms. Kidan Araya, a member of the Illicit Trafficking Working Group, Women of Color Advancing Peace and Security, and a board member of the Africa Policy Accelerator at CSIS; Ms. Carla Garcia Zendejas, the director of people, land, and resources at the Center for International Environmental Law; Ms. Channing Mavrellis, the illicit trade director at Global Financial Integrity; and Mr. Joshua Fruth, the chief strategy officer of Section 2 Financial Intelligence Solutions.

Witnesses are reminded that their oral testimony will be limited to 5 minutes. You should be able to see a timer on the desk in front of you that will indicate how much time you have left. I would ask that you be mindful of the timer, and quickly wrap up your testimony once your 5 minutes have expired, so that we can be respectful of both the other witnesses' and the subcommittee members'

And without objection, your written statements will be made a part of the record.

Ms. Miles, you are now recognized for 5 minutes to give an oral presentation of your testimony.

STATEMENT OF KATHLEEN MILES, DIRECTOR OF ANALYSIS, CENTER ON ILLICIT NETWORKS AND TRANSNATIONAL OR-**GANIZED CRIME (CINTOC)**

Ms. MILES. Good morning, Chairman Himes, Ranking Member Barr, and members of the subcommittee. It is an honor to be here today before you to discuss resource crime and its intersection with organized crime.

My name is Kathleen Miles. I am the director of analysis at the Center on Illicit Networks and Transnational Organized Crime (CINTOC), and the CEO of Ex Arca, an information company that tracks money and influence in politics. At both CINTOC and Ex Arca, I work on uncovering how various illicit networks generate revenue.

At CINTOC, I have led projects in Africa on wildlife trafficking and its intersection with other serious organized crime such as drugs and human trafficking.

Prior to my work at CINTOC, I worked for Booz Allen Hamilton, supporting the U.S. intelligence community in counter-threat finance and financial operations. And during that time, I worked on

the Afghan Threat Finance Cell.

Over many years working at the nexus of illicit finance and organized crime, I have come to the following conclusion: Any time we talk about illicit and illegal commodities and organized criminal groups, we are really discussing the ability of these networks to create, launder, and utilize wealth.

Today, I am going to discuss two topics: natural resource trafficking and why illicit actors increasingly exploit this lucrative

crime sector; and solutions going forward.

At CINTOC, we have discovered that criminal supply chains are typically commodity-agnostic. In other words, they operate the same way whether they are moving timber, drugs, or people. Additionally, illicit organizations function the same as commercial firms, constantly working to maximize competitive advantage and profits.

Natural resource crime allows illicit networks to diversify revenue sources while reducing risk and keeping profits high. Additionally, criminal actors are less likely to get caught, and if they do, they face lower penalties than compared to other serious crime,

like drug and human trafficking.

In a 2016 investigation in Tanzania, I was tracking the network of a high-profile Iranian operative and businessman. This individual and his network operated front companies that provided cover for drugs and ivory shipments. His network also used his corrupt political influence to secure uranium mining rights for a Russian company. By helping to procure the mining rights, this Iranian individual made more money and posed a greater threat to U.S. national security than the drugs he was also trafficking.

Natural resources create a particularly difficult problem for law enforcement. At the most basic level, a major problem is simply the lack of knowledge and the ability to identify which shipments are

legal and which are not.

While illicit drugs are a high priority for law enforcement, who receive requisite training, access to experts, and specialized education, their understanding of natural resource trafficking is oftentimes spotty and inconsistent, even in cases when these resources are worth more than the drugs on the illicit market.

This inconsistent training means natural resources can literally hide in plain sight and be used to comingle assets. If we want to thwart illicit finance, we need to take a more holistic approach looking at the business enterprise of the network and not leave

money on the table.

If you remember one thing I have said today, please let it be this: Transnational crime organizations operate like any other import and export business. Their focus is on moving products from one place to another as efficiently as possible, and they do not move just one commodity. However, our law enforcement system is organized by commodity. From the DEA to the ATF, to the Fish and Wildlife Service, enforcement officials are siloed by their authorities, expertise, and commodity.

In order to be more efficient, our law enforcement teams ought to work to understand the entire range of goods smuggled by each network they target and then work to disrupt the systems that enable that network, systems like social media platforms that facili-

tate organized crime.

CINTOC's research has uncovered organized crime groups using Facebook to market and sell illegally-sourced timber, elephant ivory, and even plots of land in the rainforest. This is just the tip of the iceberg. There are dozens of other groups engaged in resource crimes operating on Facebook, Instagram, and other platforms. Social media platforms provide a space for organized criminals to meet, market, and sell goods that is global, ungoverned, and largely anonymous.

As Congress debates how to reform the laws governing cyberspace, I implore you to consider reforms to Section 230 of the Communications Decency Act that would remove the liability shield for

tech platforms that host and enable criminal commerce.

This cannot wait. We are already seeing how wildlife markets on social media platforms are accelerating the extinction risks of

iconic and endangered species.

CINTOC and our partners with the Alliance to Counter Crime Online recommend the following changes: stripping immunities for hosting terror and serious crime content; putting the onus on tech firms to monitor their platforms; regulating that firms must report crime and terror activity, along with the full data of the users who uploaded it to law enforcement; and appropriating resources to law enforcement to contend with this data.

Distinguished subcommittee members, if it is illegal in real life, it should be illegal to host it online.

Thank you for inviting me to speak today.

[The prepared statement of Ms. Miles can be found on page 116 of the appendix.]

Chairman HIMES. Thank you, Ms. Miles.

Ms. Araya, you are now recognized for 5 minutes.

STATEMENT OF KIDAN ARAYA, MEMBER, ILLICIT TRAF-FICKING WORKING GROUP, WOMEN OF COLOR ADVANCING PEACE AND SECURITY; AND BOARD MEMBER, AFRICA POL-ICY ACCELERATOR, CSIS

Ms. ARAYA. Chairman Himes, Ranking Member Barr, and distinguished members of the subcommittee, thank you for inviting me today to speak at this critically important hearing.

My name is Kidan Araya, and I come here before you as someone who has researched and spent time listening to communities who have been negatively impacted by illicit natural resource governance in Africa. My expertise lies in illicit timber trafficking in Africa, but my testimony today will offer insight comparable to a variety of resources that are illicitly traded on the continent.

Africa is often considered the continent with the highest concentration of natural resources but also the continent with some of

the highest rates of illicit capital trade.

The United Nations estimates that every year, nearly 89 billion U.S. dollars of illicit capital leaves the continent. The African Development Bank estimates that the overall economic impact is 120 billion U.S. dollars per year for the illicit trade of natural resources specifically.

Corruption and bribery are key drivers of what sustains illicit trafficking of natural resources and bolsters its existence. Illegal trade exploits governance weaknesses in countries across the supply chain and a lack of enforcement of laws and at ports in those

countries.

Natural resources often reside in impoverished local communities, oftentimes rural, where individuals are recruited to illegally extract resources with the usual promises of steady income or development. Illicit trade of natural resources also takes advantage of a lack of corporate transparency and resource traceability in Africa.

The financial crimes committed resulting in lost tax revenue throughout the illicit trade of natural resources in Africa deserve attention. For example, tax evasion from gold in Africa alone was valued at an estimated \$40 billion U.S., according to a United Nations report.

The bribery and corruption that continues to fuel the illicit trade can often be cash-based or free gifts, making it difficult to trace. Africa stands out from other continents in that an overwhelming percentage, some estimate up to 95 percent, of all transactions are made in cash.

There are various financiers and beneficiaries of illicit natural resource trade, including corrupt regimes and terrorist and/or armed conflict groups. Such an example can be seen in The Gambia, West Africa. Yahya Jammeh, the former president of The Gambia was reportedly involved in running an illicit timber trafficking cartel in the country.

During 2014 to 2017, an estimated \$163 million worth of timber was illegally exported from The Gambia into China, with most of that considered to be conflict timber imported from neighboring Senegal, bound in territories controlled by a local terrorist group.

Terrorist groups in Somalia and Mozambique have also reportedly used the illicit trade of natural resources such as charcoal, timber, and precious gems to finance their trade to varying degrees.

It is important to note that illicit crime also robs individuals and communities of their ability to earn a fair living. Illicit trade is a term that we throw out there, but we need to remind ourselves that this is a transnational crime, it is dangerous activity, and the presence of this crime keeps communities in cycles of poverty, insecurity, and instability.

I have spoken with young people who told me they got involved in the fight against illegal deforestation after witnessing the lack of opportunity in their communities drive their friends to seek out dangerous, often deadly, migration journeys for a better life. If these young people can risk their safety to speak out against illicit trade, sometimes in the presence of violent, corrupt, and very powerful entities, countries such as the U.S. can surely step up to do even more to end illicit trade in natural resources in Africa.

There are policy opportunities to address this issue. The progress and actions that African countries are pursuing to reduce illicit trade in natural resources should be a part of the African Growth and Opportunity Act. Renewal conversations, especially for highrisk illicit trade countries, as tackling environmental crime and recovering much needed tax revenue, will significantly help accomplish bilateral goals of helping African states become economically independent.

Aiding in anticorruption efforts abroad, and clearly communicating that policies such as the Global Magnitsky Act expand and apply to high-level individuals who are involved in facilitating envi-

ronmental crime, could also be helpful.

The U.S. can also bolster climate adoption financing and local community development projects, while encouraging international bodies to do so, and helping out communities who have been harmed environmentally and economically by illicit natural resource extraction.

Illicit trafficking of natural resources in Africa benefits from being in the shadows and is oftentimes not discussed. I hope today can play an important role in changing that. Further analysis can be found in my written testimony.

Thank you for your time today.

[The prepared statement of Ms. Araya can be found on page 36 of the appendix.]

Chairman HIMES. Thank you, Ms. Araya.

Ms. Garcia Zendejas, you are now recognized for 5 minutes.

STATEMENT OF CARLA GARCIA ZENDEJAS, DIRECTOR, PEO-PLE, LAND, AND RESOURCES, CENTER FOR INTERNATIONAL ENVIRONMENTAL LAW (CIEL)

Ms. Garcia Zendejas. Thank you, Chairman Himes and Ranking Member Barr, for the opportunity to appear before this subcommittee today. I am Carla Garcia Zendejas, director of people, land, and resources at the Center for International Environmental Law (CIEL), a nonprofit organization that uses the power of law to protect the environment, promote human rights, and ensure a just and sustainable society.

Forests play a vital role in mitigating climate change, protecting biodiversity, and supporting the lives and livelihoods of indigenous peoples and local communities. Deforestation and forest degradation, driven by unsustainable and illegal logging, threaten the ability of forest ecosystems to fulfill these functions.

For decades, CIEL has worked to reduce the demand of illegal and unsustainable timber using legal tools such as the Lacey Act, the European Union Timber Regulation, and the Convention on

International Trade in Endangered Species (CITES).

While communities worldwide facing deforestation experience many of these issues I will address today, I will focus my remarks on Peru, to offer an in-depth examination of the diversity of impacts that one country faces. Even with a concerted effort to improve forest management institutions, much with the financial and technical support of the United States, Peruvian forests and the communities that depend on them are still at great risk. Illegal logging in Peru has a direct

consequence on many issues including climate change.

In 2020, Peru experienced the highest rate of deforestation in 20 years. More than 500,000 acres were lost. Illegal logging and the illegality of the forest trade in Peru also serves as a primary driver of criminal activities that occur on the land where forests have been destroyed, often enabling criminal organizations to exploit the land once it has been clear cut.

Illegal logging serves as a vector for violence, crime, corruption, and exploitation, targeting landowners, environmental defenders, and indigenous peoples. Illicit uses of the land include gold mining, and plantations for coconut and palm oil. Illegal gold mining is now the most profitable illicit activity in Peru, not drug trafficking.

Criminal networks exist throughout the gold supply chain, and exporters have legitimate companies that serve to effectively launder the ore along the way. Illegal logging and its related international trade is considered the third-largest crime in the world.

As CIEL uncovered in our 2019 report, "Authorized to Steal," public officials enable criminal networks to harvest timber in the Peruvian Amazon illegally. Some of the violations are committed by organized crime networks comprised of forestry agents, public officials, and private corporations colluding to extract and sell illegally sourced wood.

Our reporting on the Amazon regions of Loreto and Ucayali demonstrates that while improvements have been made in the Peruvian legal framework to allow for enhanced forest management systems, it is precisely these digital systems that are used by corrupt Peruvian forest officials, in conjunction with fraudulent timber harvest approvals, to foster criminal activity.

And although Peru does impose criminal and administrative penalties on those involved in trafficking and selling illegally-logged wood, there is a lack of enforcement and prosecution of these

crimes.

Our investigation showed that laundering illegal timber with official documents can only occur with the involvement of public officials. In September, criminal charges were filed in the Yacu Kallpa case, the largest illegal logging case in Peru's history.

Prosecutors are now seeking to hold more than 90 people responsible for falsifying documents and evading laws. These individuals are allegedly responsible for illegal logging and trafficking in \$1.6 million of Amazonian wood, intended for export in the Dominican

Republic, Mexico, and the United States.

The criminal charges came only weeks after a U.S. district court for the District Court of Columbia decision announced that Global Plywood, responsible for purchasing an illegal shipment of wood bound for the U.S., pleaded guilty for violating the Lacey Act.

Recent indictments are the result of the Operacion Amazonas investigation led in Peru by OSINFOR and the Peruvian Customs and Tax Authority. There has not been a similar operation since 2015.

The ensuing investigation led to the largest amount of illegal timber ever destroyed under the Lacey Act, with an agreement to destroy the larger shipment, worth approximately \$1 million.

I would also note that Peruvian officials, including a former head of OSINFOR, received death threats for their actions. OSINFOR was designed to increase transparency and combat corruption, yet the Peruvian government and the timber industry have strived to erode its independence and effectiveness.

Another effective tool is the Annex on Forest Sector Governance of the U.S.-Peru Trade Agreement, which contains verification and enforcement measures. Using the Forest Annex, the Office of the United States Trade Representative (USTR) requested verification of timber shipments, then blocked the importation of timber from La Oroza in 2017, after illegalities were verified in Peru.

The success of legal frameworks in halting illegal logging is dependent on whether companies believe the risk of prosecution out-

weigh the profits from illegal timber.

To solve the ongoing crisis, the U.S. should continue to use the Lacey Act, the Forest Annex, and existing laws prohibiting the importation of illegally-harvested wood, while incorporating similar provisions into other legislation.

Thank you.

[The prepared statement of Ms. Garcia Zendejas can be found on page 92 of the appendix.]

Chairman HIMES. Thank you, Ms. Garcia Zendejas. Ms. Mavrellis, you are recognized for 5 minutes.

STATEMENT OF CHANNING MAVRELLIS, ILLICIT TRADE DIRECTOR, GLOBAL FINANCIAL INTEGRITY

Ms. MAVRELLIS. Chairman Himes, Ranking Member Barr, and distinguished members of the subcommittee, it is an honor and a privilege to testify before you today.

My testimony will focus on the intersection of natural resource exploitation and illicit state and nonstate actors, and provide an overview of the dynamics and threats and shortcomings in our re-

sponse, as well as recommendations.

Natural resources have long been used to finance conflict and crime. In fact, crimes involving natural resources can often be more problematic than traditional transnational crimes like drug trafficking, because the threshold for government corruption is very low, the risk of prosecution and punishment even lower, yet the rewards are comparable or even higher.

Despite the magnitude of the value and the seriousness of the impacts, the conversation around conflict and the exploitation of natural resources in the U.S., as well as globally, has traditionally remained very narrow, typically directed at how tungsten, tin, tantalum, and gold, as well as diamonds, are used by armed rebel groups in Africa as a source of financing in their attempt to overthrow the state.

This restricted focus ignores three important points. First, conflict can occur over access to any natural resource, and any natural resource can be used to fund conflict.

Second, conflict is greater than civil wars between armed groups and the state. It can also involve conflicts between criminal organizations, terrorist groups, civil society, civilians, and the private sec-

tor, including violence as well as human rights abuses.

Finally, conflict occurs on every continent, impacting both developed and developing countries. For example, as highlighted in Global Financial Integrity's recent report, "Financial Crime in Latin America and the Caribbean," emeralds have been at the center of the major conflicts in Colombia since the 1960s.

The industry is mired with high-profile assassinations, the use of armed groups by emerald magnates to protect their interests from state and nonstate actors, as well as mines and mining companies owned by major drug trafficking organizations.

For Equatorial Guinea, natural resources play an overwhelmingly large role in the economy, as well as financing the Obiang regime's looting. While the Minister of Agriculture and Forestry, now first Vice President Teodoro Nguema Obiang, had a government salary of \$4,000 per month. However, during an 8-year period, he spent more than \$300 million on luxury real estate, vehicles, and goods. These funds came from enriching himself off of the country's natural resources, specifically forcing timber, oil, and gas companies which sought to operate in Equatorial Guinea to pay millions of dollars in bribes.

Meanwhile, as noted by the State Department, the government continues to commit a wide range of significant human rights abuses.

Research by secure fisheries and the U.N. Security Council has shown that illegal, unreported, and unregulated (IUU) fishing by foreign vessels in Somali waters, primarily vessels from Iran, Yemen, and southeast Asia, is fueling public anger and perpetuating conflict, including piracy.

Additionally, the Global Initiative Against Transnational Organized Crime has identified a potential overlap between the vessels, operators, owners, and agents involved in IUU fishing in Somalia

and in arms trafficking from Iran to Somalia and Yemen.

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

The Financial Action Task Force's recent report on environ-

mental crime highlighted what many of us in this community have known for a long time: Corruption, trade-based fraud, shell and front companies, as well as gatekeepers, play a significant role in both facilitating these crimes as well as laundering the related pro-

ceeds.

The use of natural resource exploitation as a funding source, either directly or indirectly, clearly allows rogue actors and their regimes to continue their activities and to further entrench their

power, while generating conflicts.

There is also a serious threat to U.S. businesses, as natural resource supply chains often provide poor visibility, presenting serious risks to the businesses and financial institutions directly and indirectly involved. Transparency in the sourcing of natural resources, particularly critical minerals, is also important to ensure

the resiliency of American supply chains.

Additionally, exploiting natural resources controlled by rogue regimes and actors presents huge financial and reputational and legal risks to businesses and investors. Similarly, it can create an unfair business advantage, as those companies that illegally produce and/or trade in natural resources have lower input costs.

The following are my top three recommendations, with additional

recommendations included in my written testimony.

First, expand Section 1502 and reissue with Section 1504 of the Dodd-Frank Act to encompass a wider geographic and species commodity focus.

Second, the Financial Crimes Enforcement Network (FinCEN) should interpret other similar entities in the Corporate Trans-

parency Act to the broadest extent possible.

Finally, Congress should extend Bank Secrecy Act/Anti-Money Laundering (BSA/AM)L obligations to gatekeepers that are currently uncovered or exempted, in particular, legal professionals, company formation agents, accountants, and real estate.

Thank you, and I look forward to your questions.

[The prepared statement of Ms. Mavrellis can be found on page 98 of the appendix.]

Chairman HIMES. Thank you, Ms. Mavrellis.

And Mr. Fruth, you are recognized for 5 minutes.

STATEMENT OF JOSHUA T. FRUTH, CO-FOUNDER AND CHIEF STRATEGY OFFICER, SECTION 2 FINANCIAL INTELLIGENCE SOLUTIONS, LLC

Mr. Fruth. Chairman Himes, Ranking Member Barr, and distinguished members of the subcommittee, I am honored to appear before you today to discuss how environmental crime in Afghanistan will enable China to choke off supply chains, and fund terrorists with attack ambitions, and how to employ humanitarian assistance and interagency soft power policy options to mitigate these threats.

I am co-founder of Risk Consultancy Section 2, but I have spent my career in the intelligence community, law enforcement, and banking compliance fields as an AML director. I am here today as

a private citizen.

From 2018 to 2019, I deployed as a Department of Defense (DOD) contractor assigned to the Drug Enforcement Administration (DEA), embedded with U.S. Special Operations as the lead counter-threat finance adviser to two successive commanding generals of NATO Special Operations in Afghanistan, Major Generals Buck Elton and Chris Donahue.

On November 1st, General Elton and I coauthored a White Paper that serves as the basis for my testimony today. It was submitted into the record.

We argue that there are two types of environmental crime in Afghanistan with national security implications, including the drug trade and Chinese mining of rare earths.

The Taliban have been involved in the opiates business for decades, but the Afghan drug trade recently changed for the worst. Around late 2017, the Taliban discovered a plant in the mountains

of central Afghanistan, comprised of highly pure ephedra, which is used in the production of amphetamines.

Within a year, they developed an industrial-scale crystal methamphetamine production infrastructure and earned more operating revenue than they had in the past 20 years in the heroin business.

In mid-2019, a major U.S.- and Afghan-partnered operation destroyed the Taliban's methamphetamine trade, but they have since reconstituted that capability.

At the end of that assignment, I authored a White Paper for U.S. Central Command on post-drawdown threat finance solutions, available by request to Members at a higher classification.

Without global recognition or access to frozen funds, the Taliban could consolidate, professionalize, and industrialize the drug trade and become the world's largest drug cartel and narco terror state. Worst case, they could align themselves with Mexican cartels, due to their mutual Chinese interlocutors, supplying precursor chemicals and money-laundering services. The drug trade has killed more Americans than the war on terror, and it is likely those profits will be used to fund additional attacks.

Under the protection of a narco terror state, supported by foreign intelligence agencies, armed with American weapons, and funded by drugs and Chinese mining operations, U.S. officials are correct in their assessment that ISIS-K and al-Qaida may have the capability to attack the homeland in just 6 to 12 months. They may exploit our porous southern border undercover as refugees fleeing Afghanistan's humanitarian crisis. Without positive identification, pockets of ungoverned spaces emerge for terrorists to exploit poor population resource controls and develop U.S. operating bases for attack planning.

The most serious environmental issue in Afghanistan is a hybrid threat financial facilitation network built around China extracting rare minerals. We assess they have incentivized Pakistan to manage and pay off Afghan terror groups to mitigate risks to mining.

Afghanistan is known as the Saudi Arabia of lithium, with 1.4 million metric tons of rare earths worth over a trillion dollars. Many of these are used to produce lithium ion batteries for electric

Neodymium is used in magnets that dramatically extend the driving range of EV batteries. On September 21st, the Department of Commerce initiated an investigation into the national security impacts of neodymium magnet imports.

If China gains control of Afghanistan's neodymium, lithium, cobalt, and dysprosium deposits, it threatens the American auto in-

dustry as we rapidly transition to electrification.

China is undercutting us in other rare earth markets, and our domestic deposits can't keep up with our demands. We import 80 percent of our rare earths from China, but only 23 percent of our oil from the Middle East. The Organization of the Petroleum Exporting Countries (OPEC) accounts for 40 percent of the world's oil, while China represents 75 percent of global lithium-ion battery cell capacity, compared to America's 7 percent.

If China seizes Afghanistan's rare earths and Taiwan's semiconductor industry, it could choke off technology supply chains for

military, diplomatic, and trade leverage.

Beijing is expanding their space-, land-, and sea-based tele-communications infrastructure, flooding the market with Huawei and ZTE hardware. Once they control the rare earth source materials, emerging technologies, hardware, and 5G infrastructure, they can collect intelligence on end users around the world, while concurrently controlling the information environment to China's benefit.

We provided policy recommendations in the White Paper for how to employ noncombat interagency authorities and capabilities to counter these risks. However, these solutions are contingent on evacuating the estimated 14,000 U.S. permanent legal residents, Afghan Special Immigrant Visa (SIV) allies, and underserved population groups.

We face a ripe environment for high-value hostage-taking and humanitarian abuses, and anticipate that China and Pakistan may use these matters as negotiating leverage to weaken our disruption

efforts.

Failure to act could also diminish our credibility with partners and surrogate intelligence networks whom we need to execute these objectives. We recommend leveraging medical and food aid to facilitate evacuation operations, thereby avoiding direct terrorist financing, while also reminding the Afghan people how sharply our values contrast with those of the Taliban.

While our combat mission is over, our national security challenges in Afghanistan have only just begun. We can debate the merits of our past decisions at any time, but there is only one time to resolve the issues of the present, and that time is now.

[The prepared statement of Mr. Fruth can be found on page 48 of the appendix.]

Chairman HIMES. Thank you, Mr. Fruth.

I now recognize myself for 5 minutes for questions.

Ms. Miles, let me start with you. I was intrigued by your proposal of removing Section 230 protections. There is obviously precedent for that with respect to prostitution.

My first question about that is, given the vast array—we have heard a lot of examples here today—if we could snap our fingers, which we can't, but if we could snap our fingers and remove the civil liability protection in 230 for trade in illicit goods, would we be talking about a very substantial attack on this trade or would it be marginal?

Ms. MILES. We believe it to be pretty substantial. We see a lot of connection between organized crime groups across different continents, whether they are in South America, messaging and working with people in Africa or Asia. We believe that by attacking the social media systems that are helping to propagate this crime, we would have a pretty substantial impact on the overall crime networks.

Chairman HIMES. And the social media platforms have been discussed lately here. I wonder if you could anticipate what their objections would be in this narrow realm, and whether or not you believe those objections would be meritorious? Obviously, we have done this before, so I am just wondering, what would that dynamic look like with the platforms?

Ms. MILES. I think the platforms are concerned about opening up liability. They don't want to be sued every time someone sells a joint on Facebook. And so, we can keep the liability tailored to say, serious organized crime, people engaged in moving metric tons of drugs, people engaged in human trafficking-these are serious crimes that we can all agree on—to mitigate liability from smaller crimes that are harder to police on the platform.

I would also say that I think Facebook in particular spent a lot of time recently talking about how much they are dealing with organized crime on their platform, and I would like to remind everyone that they have only spent 4 percent of their annual revenue over 5 years, and they have spent almost 20 percent on public rela-

Chairman HIMES. Thank you. I appreciate that.

This question is for Mr. Fruth to start with, but then I will open it up. I happen to sit on the Select Committee on Intelligence as well, and I wonder—I will start with Mr. Fruth, because he may have the most direct experience, but I'll open it up afterwards.

In as much as their activities are visible, is the intelligence community (IC) sufficiently focused on this threat? And let me expand it beyond the intelligence community to include law enforcement. We haven't heard a lot more about what the IC and law enforcement could do in addition to what they are doing today.

Mr. Fruth?

Mr. Fruth. Thank you, Mr. Chairman, for the question. I think that we have certainly transitioned away from a counter insurgency environment to incorporate more of an emphasis on great power competition, and I take that to encompass China, Russia, Iran, and to a lesser extent, other jurisdictions as well.

I do think that the geographic combatant command area of responsibility emphasis where it is geographic in nature, could potentially silo us in some places where we could potentially be focused more functionally on the problem set pertaining to China. But I do think we have made more of a shift in the last few years in that direction.

Chairman HIMES. Thank you. I appreciate that.

Do any of the other witnesses have a view on the question of whether the IC and the law enforcement sector could be doing more, and if so, how? Ms. Miles?

Ms. MILES. I really think, from my experience both working in the intelligence community and with Federal law enforcement and outside of it, we really need to have more people working crossfunction and cross-region. When you are talking about someplace like China, for some reason, our China experts focus on China. We need to have China experts focusing on Afghanistan, Africa, South America, and North America. By bringing and marrying functional and regional experts, we can have a more holistic approach of dealing with the problems.
Chairman Himes. Thank you, I appreciate that.

For my last question, I think, let me target it at Ms. Araya and Ms. Garcia Zendejas. Another area we haven't talked a bunch about is consumer preference. We see consumers really driving change in areas like electric vehicles and that sort of thing.

What can we do, narrowly speaking, Congress—and I point at you because you talked about things that go into consumer products like wood, that sort of thing—what can we to do as Congress or what can we do more broadly as a society to really raise the awareness amongst consumers about how they might participate in

tamping down this trade?

Ms. Araya. Thank you, Mr. Chairman. I think one way that we could do that is to promote the transparency and to let consumers know that this is going on. Many times when I have talked to people about my work with illicit timber trafficking, or the stories that communities have shared with me about how they are exploited, many of my friends in the United States have no idea that is what is going on.

And I also think that another way to do that effectively is to celebrate companies who are doing the right thing and who are being transparent in their supply chains. And that is something that I think Congress could uplift and let the American people know that these are the companies that we should be looking to seek business

with.

Chairman HIMES. Okay. Ms. Garcia Zendejas, I am out of time,

so very quickly.

Ms. Garcia Zendejas. I think it goes into the same point of highlighting those that do good, and actually pointing out those who don't, in a more public setting, because few people are aware of the Lacey Act and what the Lacey Act can do, but knowing that USTR is doing great things is something that should be promoted.

Chairman HIMES. Thank you. Thanks very much.

I now recognize the distinguished ranking member of the subcommittee, Mr. Barr, for 5 minutes of questions.

Mr. BARR. I thank my friend, the chairman, again, for his leadership in holding this hearing. And I really appreciate the excellent

testimony and insights of our witnesses.

I want to continue to hone in on China. We all know that China has a long-term strategy and a multi-pronged approach to usurp the United States as the preeminent global superpower. Within the purview of today's hearing, we have heard that China is seeking to secure and cut off key elements of the supply chain, including rare earth elements that make everyday technology possible.

Mr. Fruth, in a post-drawdown Afghanistan, how are the Chinese exploiting the rise of the Taliban to secure rare earth elements in the country, what is the intel on that, and can you elaborate on the relationship between the Chinese and Taliban forces and other terrorist groups, perhaps, as it relates to natural resource extraction?

Mr. FRUTH. Thank you for the question. I think that, first and foremost, China wants to get rare earths from anywhere it can. It doesn't matter if it is DRC, Australia, Brazil—they will choke us out of any market they can

out of any market they can.

Afghanistan, however, is an absolute treasure trove as it pertains to rare earths. I think that the Chinese, amongst Pakistan, were the first to recognize the legitimacy of the Taliban Islamic Emirate regime, and I think that China and Pakistan have complementary needs.

The Taliban want the recognition, they want the humanitarian aid, and they need money and assistance in governance. China is

interested in the China-Pakistan economic corridor, their Belt and Road Initiative, the rare earths, and obviously they want security for their mining operations. So, I think they are going to employ Pakistan and the Taliban to essentially manage all of the other insurgent groups in Afghanistan, to ensure that there is a secure environment for them.

In terms of the other terrorist groups, obviously we have seen a connection between the Taliban and al-Qaida and Haqqani over history. However, we saw the Taliban and ISIS-K fighting up and through 2019 when the Taliban nearly obliterated ISIS-K, pushed them through Nangarhar into the Peshawar in Pakistan. We assess that the situation has changed. There is an old saying in Afghanistan about, "turning your turban," which is essentially a local reference to changing your loyalties to favor the victor.

We in the West oftentimes simplify these groups, but there are a lot of gray areas in Afghanistan. A lot of ISIS-K members may

actually be working as proxies for the Taliban right now.

Mr. BARR. Let's talk about electric vehicles (EVs) and rare earth in that context. Afghanistan is home to key deposits of lithium and neodymium, two key elements in the creation of batteries for emerging technology, including EVs. With the fall of the Afghan government, and China's likely emerging partnership with the Taliban, they will be able to harvest and exclude from the market key stores of these materials.

Again, Mr. Fruth, what impact might this have on the U.S. auto industry, specifically in the context of a growing shift to electric ve-

hicles?

Mr. Fruth. Well, a couple of things. I think, number one, transportation is one of our 16 components of critical infrastructure. So, I think the most immediate concern that I have is the supply chain issues. If they can choke off the market and hold the American auto industry hostage, that could apply negotiating leverage in other policy matters.

I think beyond that, I am worried from a cybersecurity perspective about vulnerabilities that could emanate from China making components that go into these vehicles, particularly as they make

gains in the autonomous and quantum and AI fields.

Mr. BARR. This is what I meant when I said in my opening statement that the national security strategy of abandoning Afghanistan could be in direct conflict with the Administration's climate goals and move toward EVs.

Let's talk about the geology of Afghanistan really quickly. The United States has conducted geological surveys of Afghanistan,

identifying stores of valuable natural resources.

Mr. Fruth, I recognize that you are not a geologist, but you have focused on great power competition, including as it relates to China. What might be the impact if those U.S. Government geological surveys become available to the Taliban, and/or the Chinese if they engage in partnerships with the Taliban, for resource extraction?

Mr. Fruth. Thank you for the question, and thank you for the point that I am not a geologist or a scientist. But I would say that effectively, it improves the conditions for China to exploit Afghanistan's rare minerals.

They are mapped better. I think the airfields have been improved dramatically in the 20 years that we have been there. They can pull copper from Mes Aynak. They can pull gold and rare earths from Ghazni, Kandahar, Nimruz, and Herat. And then they can drive down from Nimruz and Farah. They can drive down the Pakistan-Iran border to the port of Gwadar for international shipping or they can just go through Badakhshan as part of their Belt and Road Initiative into China.

Mr. BARR. My time is running out, but in the White Paper, you allude to a collaboration with Pakistan. Can you elaborate on Pakistan's goals through the relationship with China and Afghanistan?

Mr. FRUTH. Sure. Pakistan is essentially acting as an intermediary between China and these Sunni terror groups. They are financially incentivized by China to do so. They are in a difficult current economic state. They are reliant on their loans from the IMF with quarterly periodic reviews and disbursement periods, and they are FATF grey-listed.

So, I think that one of the ways to potentially combat this is to apply financial pressure on Pakistan as the gatekeeper of this hybrid threat network that includes China and four Sunni terror

groups.

Mr. BARR. Thank you. I yield back.

Chairman HIMES. The gentleman yields back.

The gentleman from New York, Mr. Torres, is now recognized for 5 minutes.

Mr. TORRES. Thank you, Mr. Chairman.

Mr. Fruth, I actually found your testimony to be terrifying. I have felt for a long time that one of the greatest national security threats to the United States is our dependency for advanced semiconductors on Taiwan, which is at ever-rising risk of an invasion from China. And China is facing a demographic crisis and could become more provocative and desperate over time.

Do you see the risk of China controlling rare materials in Afghanistan comparable to the risk of China controlling semiconductors in Taiwan? Do you see them as comparable national security

threats?

Mr. FRUTH. Representative Torres, that is an excellent question. I actually don't even see them in that respect. I see them as two parts of the same plan. I think they want to seize Afghanistan for the rare earths, and they want to seize Taiwan for, not only the semiconductors, but also the silicon.

Mr. TORRES. So, how do we address it? Because it is not clear to me what the solution is.

Mr. FRUTH. I agree with the other witness who had mentioned that this is a functional problem set versus a geographic problem set. So, I think we can't silo ourselves.

I think if we are in a post-drawdown environment and we know that military options, at least from a combat perspective, aren't on the table, I do think there are options that I have laid out in the White Paper that I submitted into my testimony for interagency capabilities and authorities, and also with our other host nation mission partners that we had in the past and our allies to apply pressure through the Departments of Commerce, Treasury, and State,

and through other elements of DOD, to combat both of these threats.

But I think we just need to understand the geostrategic implications of China trying to secure the semiconductors and the rare earths, in terms of controlling the supply chains, as well as laying the infrastructure for telecommunications. Because their goal is to control the hearts and minds of Americans and others around the world by controlling the telecommunications business, as well as the information environment, through psychological operations and deception.

Mr. Torres. Ms. Miles, I was struck by your testimony. If I understood your testimony correctly, the enforcement apparatus of the United States is too siloed, focusing on particular commodities and particular criminals. But you seem to think that we need to take a more systemic approach to enforcement, focusing on the supply chain, which is agnostic about particular commodities. So, what should we do to break down the silos that prevent effective enforce-

ment?

Ms. MILES. Thank you so much for your question. I really think that to effectively address the silos, you kind of have to start breaking it down and breaking down specifically the groups inside the U.S. Federal Government that focus commodity-based and putting them into task forces, putting them into groups, and enabling those groups to leverage all 18 intelligence communities' authorities, all 18 intelligence communities' knowledge, to systematically go after networks.

And then, I think simultaneously, you really have to take a look at strengthening some of the banking laws around transparency

and strengthening the laws around technology.

We are seeing a globalization, especially on social media platforms, of organized crime, and if we don't get our hands around how these groups are interacting with each other in cyberspace, we are never going to be able to combat them.

Mr. TORRES. But it sounds like we need either a new entity or an interagency task force specifically focused on illicit natural resource extraction, because it spans across multiple jurisdictions enforcement jurisdictions.

Ms. MILES. Yes.

Mr. TORRES. Okay. Ms. Mavrellis, as you know, there can be a direct line that runs from illicit natural resource extraction to international supply chains to the shelves of U.S. retail stores.

If you are an American business and you become aware that your supply chains are entangled with illicit natural resource extraction, what are your legal obligations? What happens when you fail to meet those legal obligations? And a third question would be, are most businesses even aware of their entanglement with illicit natural resource extraction?

Ms. Mavrellis. Thank you for the question. I am going to address your last question first. I think you have to recognize that there are those businesses that knowingly choose to do this, and there are those that don't really understand what they are getting involved in.

What I would recommend is, and it is based more for terrorism, but the Customs Trade Partnership Against Terrorism (CTPAT)

could be really well-used and expanded to looking at natural resource supply chains. It requires businesses in the U.S. who want to have essentially kind of a preferred status with Customs and Border Protection (CBP) to introduce due diligence programs. They recently introduced regulations or requirements to have tradebased money laundering programs within these companies to better understand that, Hey, if I am selling a good overseas, and I am getting payments in cash for this, or I am getting payments from third parties, this is a red flag indicator.

So, I think there is a lot more we can do from the private-sector side as well as—sorry—from kind of the CBP side, from the USTR side, in terms of promoting these programs for businesses that use

or engage in natural resources.

Chairman HIMES. The gentleman's time has expired.

The gentleman from Ohio, Mr. Davidson, is recognized for 5 minutes.

Mr. DAVIDSON. Thank you, Mr. Chairman. Thank you to our witnesses, and I really appreciate the focus on China in particular.

Ms. Miles, your construction is so important and, frankly, would be so relevant here in Congress. Often we focus in silos or committees of jurisdiction instead of focusing on problems. And if you want to solve a problem, generally you align authority, responsibility, and accountability, and we have to do that within our government for a whole-of-government approach, whether it is China or solving illicit finance, for example.

When we look at finance, a lot of times we focus on the banking system or the payment system. In America, we have our traditional banking system. We have some derivatives of money services businesses. But over the course of the war on terror, we had to confront alternative payment systems like hawala networks.

Right now, in fintech, we are confronting cryptocurrencies, and people don't understand crypto right now, just like lots of people still don't understand hawala.

Mr. Fruth, you have had to solve this problem of illicit finance and the bad actors regardless of how the system moves. Can you

offer any insights on following the money?

Mr. Fruth. I appreciate the question, Congressman. I don't think there is anything nefarious about cryptocurrency. I think when we deal with bad actors, they are going to exploit fiat currency, they are going to exploit cryptocurrency; it is just one mechanism or another.

I will say that we are seeing cryptocurrency being exploited by both transnational criminal organizations as well as terrorist

groups.

Thinking back to August of last year, DOJ announced over 300 cryptocurrency wallets associated with ISIS, al-Qaida, and Hamas. Of course, we know that ISIS-K and al-Qaida are present in Afghanistan. They have external operations attack ambitions against the West. And we have seen a nexus, for example, with the cartels and Chinese financial facilitators, utilizing cryptocurrency, operating in the casino business. So, we may see those two different typologies meet, if we have an EXOPs threat of those Sunni insurgent groups coming to the United States.

But I would say that there is nothing inherently wrong with cryptocurrency. It is just one stage in a multi-pronged, layering process that we would see that incorporates both fiat and cryptocurrency.

Mr. DAVIDSON. Yes, thank you. And a lot of times, people come up with solutions that go macro. And I think about Dodd-Frank's

conflict minerals reporting requirement.

Prior to coming to Congress, I was in manufacturing, and we would fill out conflict minerals reports on tin, for example, because it is a component that goes into steel. I had a little metal stamping company in Ohio, but I was required to fill this out, and I can assure you, we didn't have the resources or even access to the resources to figure out whether U.S. Steel—how they source their metal or make it or whatever. But we had all of these reporting requirements.

I don't think it was really focused on solving the problem, but it had a macroeconomic impact on small businesses all over America.

The conflict minerals were coming in at the border, so the companies that were the importers of record could be used. And we also have tools that help focus that, like sanctions, not so much passive things like forcing the Securities and Exchange Commission to be a regulatory body, but actually things with teeth and power that use resources to get at it like the Office of Foreign Assets Control (OFAC) and our sanctions regimes.

So as you think about that, Mr. Fruth, you are not a financial regulator, but to talk about this in the United States with crypto markets, there are folks who want to outright ban all of this technology in order to stop the possibility that somebody would use it in illicit finance.

Thankfully, we haven't done that to the U.S. dollar, but could you highlight the right way to focus on the root problem of illicit use?

Mr. Fruth. I don't know that it is a regulatory issue per se as much as it is a resource allocation issue. I am a certified cryptocurrency investigator. I have worked some interesting cryptocurrency cases.

In 2018, I wrote an article for Reuters entitled, "Crypto-cleansing," which was the basis of how a lot of folks in the AML business came to understand the art of the. "how," in terms of how to laun-

der money through cryptocurrency.

Again, I would say that, right now, it is an education issue, having a common operating picture across public and private sector partners with equities in the problem set versus a regulatory issue. That is not to say that there isn't a regulatory framework needed to help support cryptocurrency, but, again, I don't think there is anything innately nefarious about cryptocurrency. There is a public ledger of transactions.

There are ways to obfuscate that, such as going through mixers or homomorphic-encrypted, note-to-note encrypted privacy coins. But generally speaking, I think it is just one component or stage within a money-laundering process that is going to include fiat cur-

rency anyway.

Mr. DAVIDSON. Thank you. I look forward to scheduling a subsequent briefing about the classified nature of China's extraction of rare earth minerals in Afghanistan.

And I yield back.

Chairman HIMES. The gentleman's time has expired.

The gentleman from Massachusetts, Mr. Auchincloss, who is also the Vice Chair of the Full Committee, is now recognized for 5 minutes.

Mr. AUCHINCLOSS. Thank you, Mr. Chairman.

I want to focus on Afghanistan. Following the drawdown, there are really three imperatives, I think. One is to prevent the rise of a narco terror state in Afghanistan, and Mr. Fruth, you have out-

lined that, I think quite compellingly, in your testimony.

The second is to provide the conditions for economic development and humanitarian protections in this country, and that is perhaps the most urgent, given the starvation and privations being faced by

a majority of the population this coming winter.

And, finally, to counter the Chinese Communist Party's hegemony over rare earth element mining that is going to propel its dominance in energy and information technology, and that would actually increase the strategic value of Taiwan to it, to create that

synergistic value that, Mr. Fruth, you again have outlined.

And it strikes me that a lot of the approaches being put forward right now to meet those three imperatives are very defensive, and they are very focused on governmental solutions. And I would offer that really we need to be a little bit more proactive and leaning into public-private partnerships here in that we could be pushing forward for our own responsible rare earth element mining in Afghanistan, first at Mes Aynak and then elsewhere.

This would short-circuit the rise of a narco terror state by creating a licit economy that is distinct from the illicit one. This could disrupt the Chinese Communist Party's attempts to gain hegemony over rare earth elements (REE) mining in Central Asia, and it could create revenue streams that, if properly framed, could be reinvested into the population and into physical infrastructure in the country. There are a lot of challenges to do in that: commercial;

diplomatic; security; and legal.

And starting with you, Ms. Garcia Zendejas, I am wondering if I could hear from the panel about what lessons we might draw from responsible mining practices in Africa, from the establishment of special economic zones globally, or how we might think about being proactive in Afghanistan for NATO-domiciled companies to start looking to invest there, so that we are the ones establishing working protections, we are the ones establishing control over the rare earth elements, that we are the ones establishing revenue streams that are fed back into the population as opposed to being siphoned off by a kleptocracy. How can we go about framing this so that it is a triple-line win?

Ms. Garcia Zendejas. Thank you. Thank you for the question. I would like to speak a bit about Colombia to respond to your ques-

There are legitimate infrastructure development projects in Colombia, many of which have been funded by the Inter-American Development Bank, where the U.S. has approved and supported these investments, for example, of the Hidroituango, the largest dam in Colombia.

The communities there have been fighting against this dam, unfortunately, because it is in the middle of a conflict zone where the FARC and drug traffickers are still very much entrenched. There are mining interests that are both legal and illegal that are part of this area also.

Just a few days ago, the leader of the Cartel Del Golfo was arrested and may be extradited to the United States. That cartel has been controlling that area, so they have been supporting and trying to kill indigenous and environmental defenders who oppose this dam project and who oppose legal projects.

Mr. AUCHINCLOSS. So, what is the lesson for Afghanistan from this?

Ms. Garcia Zendejas. The lesson for Afghanistan is that, even with legitimate development projects, if you do not take care of assessing the contextual risk in the situation, you will only exacerbate the situation of human rights violations.

There needs to be a solid ground where communities and all of the risks that are in place are assessed, and due diligence is required, so any public-private partnership can come into a somewhat stable situation.

Mr. AUCHINCLOSS. In my final 20 seconds, Mr. Fruth?

Mr. Fruth. I don't think there is any chance that China and Pakistan will allow us into Afghanistan to engage in any type of mining contracts.

Mr. Auchincloss. I yield back.

Chairman HIMES. The gentleman yields back. The gentleman from Texas, Mr. Williams, is recognized for 5

Mr. WILLIAMS OF TEXAS. Thank you, Mr. Chairman.

Every question I get from my constituents regarding national security has to do with the Biden Administration's disastrous Afghanistan withdrawal. In order to satisfy their arbitrary deadline, we rushed out of the country without any cohesive strategy. American soldiers lost their lives, American citizens are still stranded in the Taliban-controlled capital, and we left military equipment in the hands of a deadly terrorist group.

We surrendered all of our leverage that would allow us to monitor the Taliban's activities as they look to rebuild and monetize their drug networks to carry out attacks across the globe. So, it was an inexcusable blunder that will be a stain on President Biden for the rest of history.

Mr. Fruth, my question is, given your experience on the ground in Afghanistan, I want to get your thoughts on this debacle, and can you describe what you think the long-term national security consequences will be from these actions?

Mr. Fruth. Thank you for the question. I think, from my perspective as an intelligence professional, I am just looking at the current state environment and the future state rather than looking

I would say that I would concur that we need to get our folks out of the country, as well as our Afghan SIV allies. I think we also need to look out for disenfranchised and vulnerable populations in Afghanistan as well, so that in a future state, because we are not going to be there militarily, if we want to utilize all of our soft power interagency capabilities and authorities to deter the unholy alliance between China, Pakistan, and various terrorist groups in the country, I think in order to do that, we need to make sure that a robust kidnap-for-ransom environment isn't used by our near-peer state adversaries as a means of negotiation that undercuts and undermines our negotiating leverage and disruption efforts.

Mr. WILLIAMS OF TEXAS. It seems like many of my Democrat colleagues want to turn a blind eye to the absolute disaster at the southern border that the Biden Administration has caused. And I

live in Texas.

Over 2 million people have illegally crossed into our country in 2021 alone, and we have no idea, absolutely no idea, how many others have evaded Border Patrol and are currently residing in our

country illegally.

Instead of trying to stop the surge of illegal entries into our country, Democrats are trying to incentivize even more people to come in. The Biden Administration wants to pay an unbelievable amount of money, almost half-a-million dollars each, to individuals who were separated at the border, when they made the choice to enter the country illegally.

This is more money than some of the families of 9/11 receive, and it is disgraceful. There is also over a hundred billion dollars earmarked in the Build Back Better scam just for illegal immigrants, which would be paid for by raising taxes on small business. So, instead of stopping the flood of people coming to our country, the

Democrats are incentivizing more to show up.

Mr. Fruth, again, can you talk about the national security implications of having the southern border as porous as it has ever, ever been?

Mr. Fruth. Thank you for the question, Congressman. I think my main concern with a porous border isn't the 2 million people a year or what have you; it is the 400,000 to 500,000 people that CBP would call, "got-aways." A got-away is somebody that maybe we picked up on the camera and took a picture of, but we have never identified or spoken to them and we don't know who they are.

I think the popular misconception is that folks crossing the border, the migrants, are from three or four different countries. That is just not true. They are from 150 different countries. So, we don't know if they are narcos, sex traffickers, foreign intelligence officers, or terrorists.

Also, we are in an environment where we have an ongoing pandemic, and I am concerned that we don't know if these folks are vaccinated, we don't know if they are exhibiting symptoms, and that concerns me as well.

But back to the kind of main components of those risks. From a narcotics perspective, we know that we have a fentanyl murder epidemic in this country. It is absolutely a murder epidemic. It involves China and it involves the Mexican cartels. They are putting the fentanyl in other powders in Mexico, and they are actually starting to professionally press the counterfeit pills in this country. So, they are embedding their operatives in this country.

Just this past week, we had an active ISIS threat here in Northern Virginia, just down the street from where I live. So, obviously, I am concerned about those folks crossing the border, particularly in light of the Under Secretary of Defense for Policy saying that they could be here in 6 to 12 months.

I am also concerned about sex traffickers. We know that folks who are crossing the border with the coyotes, the smugglers, oftentimes are forced to pay for their smuggling through debt servitude and sexual exploitation. And, of course, we are concerned about foreign intelligence officers from a number of different jurisdictions penetrating our borders.

Mr. WILLIAMS OF TEXAS. How about that half-a-million dollars going to people who are breaking the law? What do you think about

that, quickly? Do you think that is a good idea?

Mr. Fruth. I don't have any feedback on that, Congressman.

Mr. WILLIAMS OF TEXAS. I have a lot of feedback. It is not good. I yield back.

Chairman HIMES. The gentleman yields back.

The gentlewoman from Pennsylvania, Ms. Dean, is recognized for 5 minutes.

Ms. DEAN. Thank you, Mr. Chairman. And I thank our witnesses

for coming today and testifying before us.

An issue that is close to my heart is protecting endangered and at-risk wildlife. I care a lot about elephant slaughter for the illegal trade of ivory, and other wildlife trafficking. And, therefore, I want to do anything we can to combat that.

Ms. Miles, I would like to start with you. How do criminal enterprises or rogue actors take advantage of, and profit from, wildlife trafficking? And do they avoid law enforcement scrutiny of their op-

erations through the trafficking of wildlife?

Ms. MILES. Thank you so much for your question. Typically, in my experience, people who are trafficking wildlife, especially the people who are able to take elephant ivory off the Continent of Africa and transport it across continents into Asia and into markets for selling, are organized criminals. And they don't care what is in the box. Whether it is heroin or ivory, they have created corrupted pathways that allow them to bring illicit goods from the supply to market.

I think when we really want to talk about how to solve the ivory trade issue, we have to be looking at, where do these routes already exist, how are we moving drugs, how are we moving timber, how are we moving every other resource, and attack the network across every single commodity that they are trafficking.

Ms. DEAN. So, we have to check and understand the routes, and interfere and disrupt the routes, and the network that is going on?

Ms. MILES. Yes.

Ms. DEAN. In addition to that, just last week, I led a letter with a bipartisan group of my colleagues urging the Japanese government to close the country's domestic legal ivory market. So, I am hoping that part of the solution would be to stop the marketing at other countries, in other locations.

One of my gravest concerns is that the legal ivory market complicates enforcement efforts for illegal ivory poaching by creating something of a gray market where illegally trafficked items are mixed in with legal items. Do you have a comment on that?

Ms. MILES. Yes. We see that all the time, the commingling of licit and illicit goods. It works well to do it with ivory but also with other items as well.

Ms. DEAN. Thank you.

Ms. Araya and Ms. Zendejas, are there other instances where illegal wildlife trafficking is mixed into legal commerce because of the existence of an open market in a specific country?

Ms. Araya?

Ms. ARAYA. Thank you, Congresswoman, for the question. Yes, there is. And I would like to use my time to also state that a key way to combat both wildlife trafficking and the mixture of licit goods with illicit goods is supporting African governments in fighting this crime.

As other witnesses have stated, there is the transnational crime, and there needs to be work done in the countries that are demanding these resources, and there also needs to be work done in the countries that are exporting this. And we have talked about corruption and bribery and how that has made it difficult for this trade to stop, but there are African countries that do want to do the right thing. One example of that is Gabon, which actually has an ivory trade, and has spoken out against forest crimes where traffickers not only illegally deforest the forest, but they take away the ivory of elephants.

I think allowing those champions to know that they are supported by the U.S., and to have a strengthened bilateral enforcement can also prove as an example to other African countries that this is possible, that they can receive the support, that they can stop this. And I think that will have a big impact, because if it is not allowed to leave the continent, then these transnational criminals don't have a business.

Ms. DEAN. I really appreciate your pointing that out, that there are countries of origin that want to interfere and disrupt this corrupt, illicit, illegal, and inhumane trade. Thank you for pointing that out and, of course, the country of Gabon.

Ms. Zendejas, did you want to add to the conversation?

Ms. GARCIA ZENDEJAS. No, I don't have anything to add on that.

Ms. Dean. Yes, Ms. Mavrellis?

Ms. Mavrellis. We did a report at Global Financial Integrity in 2018, looking at the illegal trade in great apes, and we saw a lot of issues in terms of particularly CITES permits being used. With the live animals, it is very easy to launder them into the trade, particularly when you have governments like Guinea that were providing them.

But when looking at the whole supply chain, there are certain critical points that we need to target, definitely supporting what the other witness said in terms of keeping it on the continent. A lot of the times, looking at the trade in great apes, there were just three or four international suppliers that were perfect chokepoints to go after. Instead, we focus on either just the poacher or the people buying them.

Ms. DEAN. And if you don't mind offline—

Chairman HIMES. The gentlelady's time has expired. We will take additional information for the record.

The gentleman from Arkansas, Mr. Hill, is now recognized for 5 minutes.

Mr. HILL. I appreciate that, Mr. Chairman.

It's nice to have this panel here. It is a good discussion. We have had several discussions on trade-based money laundering over the past few years, oil-fueled ISIS murder throughout Syria and Iraq and it took us 2 years—

Chairman HIMES. The gentleman will briefly suspend. I think your microphone may be off, Mr. Hill.

Mr. HILL. Maybe I was using—

Chairman HIMES. We will start the clock again.

Mr. HILL. Gosh, you are so generous. Thank you. I thank the chairman. I was speaking into Mr. Williams' microphone. Sorry about that.

Well, thanks for the panel being here. We have had an effort to have trade-based money laundering at the forefront of this subcommittee for a number of years, including when it was just a task force. So, it is good to have you back.

Smuggling oil out of Syria and Iraq fueled ISIS and funded ISIS for years, and it was pressure from this committee and from others in the Congress that caused the Obama Administration to change policy and interdict that oil before it crossed the border into Turkey. So, we know how these commodities fuel bad actors around the country.

I was in the Congo not long ago, in Brazzaville, and we have an embassy there that only has 14 people in it. So, for us to really do anything very significant to aid in stopping deforestation in the Congo is challenging. And that trip to Africa reinforced, Ms. Araya, your comments about corruption.

It is hard for us to take actions here about interdicting terror finance or trade-based money-laundering finance and transnational crime when it is the countries' leadership itself that is facilitating it. And that is endemic in all of the continents of the world, but particularly, I would say, in Africa and Latin America.

Mr. Fruth, quick question, should we impose Magnitsky sanctions for trade-based money laundering in some of these countries of concern?

Mr. FRUTH. That is not for me to say, Congressman, but I think that there are a lot of different authorities and capabilities that we can utilize against these countries, their leadership, whether it be OFAC designations, whether it be State Department designations, whether it be Commerce entity listing—I think there is a wide range of different capabilities that we can use, but certainly corruption is an issue, and it is an issue in Afghanistan as well.

Mr. HILL. Yes. We talked about how there is no Mutual Legal Assistance (MLAT) treaty with China. I think that was referenced in somebody's testimony. Can somebody talk about the value of having a legal treaty, extradition-type treaty, MLAT treaty with a country? Does that speed up the ability of catching people engaged in trade-based money laundering?

Ms. Mavrellis?

Ms. MAVRELLIS. It depends. We just completed a report looking at financial crime in Latin America and the Caribbean. And our chapter looking at money laundering, it is really excellent to have that because it facilitates intelligence sharing, but there are a lot of issues in terms of two different types of legal systems—civil and common law—having to deal with each other.

They are talking with different languages. It is not just Spanish and English, but also different types of legal structures. And so, there are issues communicating in terms of what level of evidence is needed, and it is hard sometimes for our partner countries to know what is sufficient evidence to get assistance from the United

Mr. HILL. I heard you reference conflict minerals, and, of course, in the Dodd-Frank Act, we imposed an enormous, costly regulation

on public companies on conflict minerals.

And I want to quote from The Washington Post: "The legislation signed into law by President Obama set off a chain of events that has propelled millions of miners and their families deeper into poverty. According to interviews with miners, community leaders, activists, and Congolese and Western officials, if Obama's law wasn't signed, the ban would not have existed."

And it goes on to talk about the negative consequences of trying

to use the public securities laws to tackle this problem.

It has really been costly. I think it is overdone. I don't think that

is the right tool to use.

Should we consider a special suspicious activity report (SAR) for trade-based money laundering where we enhance, maybe go beyond the financial system on a suspicious activity report?

Mr. Fruth, you are nodding. Do you have a comment on that? Mr. Fruth. Yes. I am a big fan of more boxes on the SAR forms. As a person, I don't know how many other folks here have, but I have actually written SARs and I have also received SARs, on both the public and private sector side. And I am a big fan of allowing more boxes on the SAR form, so by the time FinCEN actually receives that, we have a more detailed understanding of what the different threat landscape is and predicate sources of funds in different schemes. So, I would absolutely concur with that.

Mr. HILL. Is that the kind of thing you think that would enhance

the public-private partnership that has been outlined today?

Mr. Fruth. I do. I think FinCEN is one of the most underutilized agencies within the U.S. Government and certainly an asset for law enforcement, the intelligence community, et cetera. So, I think expanding out detail on those SAR forms, such as your suggestion about trade-based money laundering, is an excellent idea.

Mr. HILL. Thank you for that. I would invite the panelists to comment on that in writing to the subcommittee. That would be helpful to understand your thoughts on the details of the partner-

ship. I thank you for the testimony.

And I yield back.

Chairman HIMES. The gentleman's time has expired.

The gentleman from Ohio, Mr. Gonzalez, is recognized for 5 minutes. He is coming to us remotely.

Mr. GONZALEZ OF OHIO. Thank you, Chairman Himes and Ranking Member Barr, for holding this hearing. And thank you to our witnesses. It has certainly been an enlightening hearing so far, and I appreciate everybody's contributions and questions.

Mr. Fruth, I want to start with you. In your testimony, you highlight that there is over a trillion dollars worth of rare earth minerals in Afghanistan. We talked a bit about that.

About a decade or so ago, the Obama Administration made a similar indication, but the reports at the time seemed to indicate that getting the proper mining infrastructure to properly access these minerals could take several years to establish.

If China were to immediately insert themselves into the country now to begin exploiting the resources there, how quickly do you think it would take them to establish the mining capabilities in the country?

Mr. Fruth. Thank you for the question, Congressman. And as a fellow Ohioan, it is good to see you. I was born and raised in Ohio.

First off, I am not a geologist. I worked in the intelligence community over the course of my career, so I can't speak to that. What I can say is, whatever our assessment was 10 years ago, I don't even know if that is the relevant qualitative factor that I would look at. It is more about what China's assessment is.

China has prioritized drawing rare earths from Afghanistan. So however we look at the situation, the reality is that China has prioritized this. And whether it takes them 2 years to extract these minerals or 10 years, China is playing the long game. They are looking at the next decades. If they can control these rare earths, that is going to supply them with the critical components that they need for their emerging technology over the course of the next decade.

So I don't know that it is so much a matter of whether it is a 2-year ordeal or a 10-year ordeal. The fact of the matter is, if they secure these rare earths, they are going to extract them, however much time it takes.

Mr. Gonzalez of Ohio. Yes. And I could tell by your brilliance that you must be from Ohio, so I am just glad that you reminded me of that.

But that being said, so obvious follow-up to that question is, what should we be doing now to best prepare ourselves? How do we prevent China from taking over rare earths and securing that supply chain? And how do we prevent Afghanistan from basically being in a similar relationship status with China as North Korea is?

Mr. FRUTH. Excellent question. So, two parts. China is financially undercutting us from a cost perspective in all of these emerging rare earth theaters, which tells me that they actually prioritize being able to choke the market off more than they prioritize the profit margins coming from these rare earths. So, that is point number one.

Point number two, if we look at this hybrid threat collective that I have outlined in my testimony, in Afghanistan right now, it includes China, it includes various terrorist organizations, and it includes Pakistan.

China knows that they can't manage all of the different divisions—political, religious, ideological, Tribal, et cetera—throughout

Afghanistan, so they are employing Pakistan to do that on their be-

So my answer to you on that would be, we need to apply lots and lots and lots of pressure on Pakistan, who has proclaimed to be our friend for the last 20 years and taken aid from us, and even possibly bombed our friends in the Northern Resistance Front in the Panjshir with laser-guided munitions that we provided to them to bomb ISIS and al-Qaida.

So, they are not our friends, they are not behaving as an ally, and we should start applying financial and economic pressure on them accordingly, and that could help break down the security situation that they are trying to provide for China to extract these rare

Mr. Gonzalez of Ohio. Thank you for that. And one last question on Pakistan. Where do you see the biggest leverage points there from a U.S. perspective? I think you highlighted some, but just maybe drill down a little bit deeper?

When you said, put pressure on Pakistan, where are we best

equipped to do that?

Mr. Fruth. Pakistan has been in a difficult economic position for some time. If you think back, I think 2016, 2017, the New York Department of Financial Services levied \$225 million in fines at Habib Bank Limited and removed their New York correspondent branch license. If you remember, that was absolutely detrimental to the Pakistani economy, and the entire global financial system started contemplating whether they should de-risk Pakistan.

Now, they are FATF grey-listed. Their energy minister just came

out, I think a couple of days ago, and said that they think that they are actually going to get off the FATF grey list here soon.

I think it is absurd. I don't think they should be off the FATF grey list. If anything, I think we should be applying more pressure and looking at our partnerships with the IMF, considering the conditions that were set out in their IMF loans, and reviewing, with an interagency effort, whether or not they have violated those conditions with recent revelations from the interior minister that they were the custodians of the Taliban for the past 20 years, that they sheltered them, and that they have been providing thousands of kids from Pakistani madrasas every year to reconstitute the Taliban against U.S. interests in Afghanistan.

Mr. GONZALEZ OF OHIO. Thank you. Your testimony has been very, very enlightening. I appreciate all that, and I look forward to following up in person.

And I vield back.

Chairman HIMES. The gentleman's time has expired.

I now recognize the gentleman from Texas, Mr. Sessions, for 5 minutes, who is coming to us remotely.
Mr. Sessions. Yes. Mr. Chairman, thank you very much, and

thank you also to Ranking Member Barr.

My question really, I think, is for Ms. Araya, or to anyone who is on this panel. But what I am interested in, and I really want to follow up on the conversation about animals and poaching and the ability that we have to cede the destruction of at least Africa and where these animals are indigenous to, and you have made a powerful recommendation in your testimony to expand funding programs for the International Affairs Department of the U.S. Fish and Wildlife Service, providing technical assistance and to use

technology that helps.

And I just wanted to talk about this, because the problem that I see is yet in the funding packages that some of our colleagues have put out, they seem to not be able to distinguish between legitimate trade and the ability that we have to protect these animals from poaching. And I think the U.S. Fish and Wildlife Service is important, and I would like to hear that conversation that anyone on the panel may have about the funding levels.

Ms. ARAYA. Thank you, Congressman, for your comment. I can't provide comments on a specific funding package, but I think it is very important for more funding to go towards U.S. agencies such as U.S. Fish and Wildlife, APHIS, even certain parts of the U.S. Department of State, that are governing illicit trafficking, because, as I mentioned before, there are governments, there is law enforcement in these countries who do want the help, they do want capacity-building in order to detect different wildlife trafficking, different species of timber, different illicit goods, but they don't have the current capacity or knowledge or funding to do so.

When I was on the continent, I met different guards—forest guards, wildlife guards—who said that they actually wanted to do more to curb this trade locally, but they didn't have the funds to do that, especially compared to many of these traffickers who are on the ground, who have weapons, who are considered to be vio-

lent. It was very difficult for them to even go against that.

I think letting our African partners know that the U.S. takes this very seriously, and for the United States to provide funding to our experts in our country who can provide that technical assistance to aid our African country partners in doing this important work to end wildlife crime, illicit environmental crime, will be very critical moving forward.

Mr. Sessions. Thank you. I did listen to your conversation, as well as some of the members of this committee who have talked about capacity-building relationships, continuing those, but perhaps the most important part was actually engaging the partners where they would choose to do that.

Does anyone else on the panel have any conversation specifically related to that?

Ms. Garcia Zendejas. Thank you. Thank you for the question. I would like to mention that wildlife trafficking levels in Peru are

even higher than illicit trade in timber.

But I wanted to highlight an effective operation, which was Operacion Amazonas, and it was successful precisely because of this interagency, very broad effort. It included the Peruvian Customs and Tax Authority. It included the supervising offices for forest. It included the Peruvian environmental prosecutor, the attorney general for ministry and the environment, including the World Customs Organization and INTERPOL.

That has been the most successful operation that has led to these indictments both in the U.S. and in Peru, and it is this cross-sector effort that made it possible.

Mr. Sessions. Anyone else?

Ms. Mayrellis. I would just like to add, I think having and placing U.S. Fish and Wildlife Service staff, as recommended in the Preventing Future Pandemics Act, within other governments, within other countries, is extremely critical to sharing that knowledge and capacity-building to those countries, to help them know how to engage in investigations, particularly the financial side of the investigations.

I think it is also important to involve the private sector, looking at things like United for Wildlife and the efforts pushed through there, involving the transportation sector, involving the financial sector, and educating them and involving them in detecting this

and stopping this.

Mr. Sessions. I want to thank you, Mr. Chairman. I think the discussion of INTERPOL also is important and finding willing partners.

Mr. Chairman, I want to thank you very much, and I yield back my time.

Chairman HIMES. The gentleman's time has expired.

I now recognize for 5 minutes the Chair of the Full Committee, the distinguished gentlewoman from California, Chairwoman Waters.

Chairwoman Waters. Thank you so very much, Chairman Himes.

I am very pleased to be able to participate in this hearing today.

And I would like to direct this question to Ms. Mavrellis.

Earlier this year, Congress passed the Corporate Transparency Act of 2020 (CTA) and the Anti-Money Laundering Act of 2020 into law. The tools and authorities provided in these laws include reporting on the beneficial owners of U.S.-registered shell companies and improving information sharing between financial institutions and government regarding red flags and other threat indicators.

As Treasury and other agencies work to implement these laws through rulemaking, what do agencies like the Financial Crimes Enforcement Network (FinCEN) need to do to ensure that the ac-

tions taken are effective?

For example, what should be included in the rule to ensure that the beneficial owners of currently anonymous shell companies do

not escape the mandated reporting requirements?

Ms. Mavrellis. Thank you very much for the question, Madam Chairwoman. Coming from Global Financial Integrity, the work that we do with the Financial Accountability and Corporate Transparency Coalition (FACT), for us, it is extremely important for FinCEN to interpret, "other similar entities," to include partnerships, sole proprietorships, trusts, foundations, and business associations, unless a particular entity qualifies for an exemption.

It is a difficult issue because you have companies being incorporated at a State level, while all of this regulation going on is at a Federal level. So having the widest definition possible really helps to make sure that no types of entities fall through the cracks.

It also really tries to keep the transparency objectives of the CTA, making sure that it is highly useful to law enforcement, to national security and intelligence agencies, as well as the financial institutions. It helps to bring us into better compliance or into better harmony with our other allies, like the U.K. and the EU.

I also want to stress the importance of the financial institution information sharing. I think the FinCEN Exchange needs to be promoted and really expanded to be like what we see with other colleagues, like the U.K.'s Joint Money Laundering Intelligence Taskforce (JMLIT). They have working groups that work together to put out papers, and to identify red flags. And I think we really need to work with financial institutions to encourage them to feel more comfortable sharing information between themselves.

They are allowed to under the PATRIOT Act, but I think there is a lot of hesitation legally to do so, as well as to do it within FinCEN Exchange. So, FinCEN Exchange can be a more informal relationship for them to have the connection, share the informa-

tion, and it can be very productive, I think.

Chairwoman WATERS. Thank you very much. And I think I heard part of that just as I was coming in about the kinds of interactions that could or should be taking place to help them to do their job.

Are you aware of the need for additional resources for FinCEN? Ms. Mavrells. Absolutely. They have a huge mandate, and their staffing is about 300, so significant amounts of resources need to go in, and not just in terms of having good pay for the staffers but having more human capacity to handle this. I think it is extremely important that they are able to accomplish this task.

They are having to handle just a wide remit of different activities. In terms of just thinking about the number of Suspicious Activity Reports (SARs) and Currency Transaction Records (CTRs) that they have to handle each year, having the capacity to really evaluate them and getting actionable intelligence from them is just—you could put a price on it, but it is priceless to be able to do so.

Chairwoman WATERS. Thank you very much. In working with my staff and with the Chair of this subcommittee, we have identified the fact that there is a need for additional resources. And we have made some moves, but this should be a bipartisan effort in order to get the resources that are needed to do what we expect them to do. So, I thank you.

And I yield back the balance of my time.

Chairman HIMES. The gentlewoman yields back.

And I believe this concludes our questioning. I would like to thank our witnesses for their testimony today and for a very engag-

ing discussion.

The Chair notes that some Members may have additional questions for these witnesses, which they may wish to submit in writing. Without objection, the hearing record will remain open for 5 legislative days for Members to submit written questions to these witnesses and to place their responses in the record. Also, without objection, Members will have 5 legislative days to submit extraneous materials to the Chair for inclusion in the record.

With that, this hearing is adjourned.

[Whereupon, at 11:44 a.m., the hearing was adjourned.]

APPENDIX

November 4, 2021

Written Testimony of Kidan Araya Illicit Trafficking Working Group Member, Women of Color Advancing Peace and Security Board Member, Africa Policy Accelerator, CSIS

United States House of Representatives
Before the U.S. House Financial Services Committee
Subcommittee on National Security, International Development, and
Monetary Policy

Hearing on "From Timber to Tungsten: How the Exploitation of Natural Resources Funds Rogue Organizations and Regimes" November 4, 2021

Chairman Himes, Ranking Member Barr, and distinguished members of the House Financial Services Subcommittee on National Security, International Development, and Monetary Policy, thank you for inviting me to speak at this critically important hearing on illicit natural resource governance, and for your interest in combating financial crimes that fuel corruption around the world. I am honored to speak here today on this issue of illicit natural resource governance in Africa. As Americans, much of the news we see on Africa is related to poverty and war. Yet many of these sensational headlines fail to state that the conflict and criminality found across various African countries are partly fueled by the illicit natural resource trade.

I come before you as someone who has spent time not just researching the issues at hand, but also spending time visiting and working with communities who have been negatively impacted by illicit natural resource governance in Africa. My expertise lies in illicit timber trafficking and illegal logging in Africa, but my testimony today will discuss and offer analysis covering a variety of natural resources that are illicitly traded in Africa, as environmental crime rarely stays in siloes once incubated and allowed to fester unchecked. My involvement in policy research and advocacy against illicit natural resource governance started when I received a U.S. Department of State Benjamin A. Gilman scholarship in 2012 to study in Cameroon, where I researched forest communities, including indigenous people in the Congo Basin rainforest. I learned how political corruption and ethnic conflict led to higher rates of illicit natural resource exploitation.

I will give a brief overview of the financial impact of illicit trafficking of natural resources in Africa, discuss how armed conflict and corruption fuel illicit natural resource governance on the continent, and recommend policy opportunities that the United States can seize to effectively combat illicit trade in Africa.

My testimony is fueled by my experience working at the intersections of environmental crime, Africa policy, and strategic advocacy strategies. Currently, I am an Illicit Trafficking

Working Group Member at the Women of Color Advancing Peace and Security, a nongovernmental organization founded by Ambassador Bonnie Jenkins, the current Undersecretary for International Security and Arms Control of the United States. Additionally, I currently serve as a Board Member of the Africa Policy Accelerator, a professional network of the next generation of U.S.-Africa policymakers in D.C., housed at the Center for Strategic and International Studies. I also managed partnership engagement for an international campaign against illegal logging where I collaborated with policymakers, journalists, civilians, and musicians across West, Central, and Southern Africa to combat environmental crime.

Financial Impact of Environmental Crime in Africa

Africa is often considered the continent with the highest concentration of natural resources¹, but also the continent with some of the highest rates of illicit trade. The United Nations estimates that nearly \$89 billion USD of illicit capital leaves Africa every year², and overall, an economic impact of \$120 billion USD from illicit natural resources being traded out of Africa according to the African Development Bank³.

Corruption and Bribery Enable Illicit Trafficking

Corruption and bribery are key drivers of what sustains illicit trafficking of natural resources in Africa and bolsters its existence. It blurs the lines of what is illicit and what is illegal - with a weakened rule of law enabling the illegal to become legitimized or "legal" with corrupted paperwork, often secured through bribes and political favors. Illegal trade exploits governance weaknesses in countries across the supply chain. Natural resources often reside in impoverished local communities, oftentimes rural, where individuals are recruited, oftentimes exploited, by mostly foreign-backed traders or companies to illegally extract resources with promises of steady income or development. In some countries, it is illegal to harvest or to transport restricted and/or high value resources without documentation, yet traffickers operate around this requirement by bribing workers at checkpoints until the illicit goods reach transit ports4. There, corruption and/or the lack of capacity and knowledge to enforce existing laws around due diligence of inspecting exports for contraband enables illicit goods to be exported, sometimes with paperwork purchased through bribery that provides false information in order to give the impression that the resources were obtained legally.⁵ Additionally, traffickers have been known to mix illicit items with normal manufacturing items, but only declare the manufactured items in export and tax declaration. Bribing a port official to avoid customs

¹ Sawe, B. E. (2018, August 20). Which continent is the richest in natural resources? WorldAtlas. Retrieved November 1, 2021,

from https://www.worldatlas.com/articles/which-continent-is-the-richest-in-natural-resources.html.

² Africa could gain \$89 billion annually by curbing illicit financial flows. UNCTAD. (2020, September 28). Retrieved October 28, 2021, from https://unctad.org/news/africa-could-gain-89-billion-annually-curbing-illicit-financial-flows.

³ Illicit trade in natural resources in ... (n.d.). Retrieved November 1, 2021, from https://www.ofdb.org/fileadmin/uploads/afdb/Documents/Events/IFF/Documents_IFF/ANRC_ILLICIT_TRADE_IN_NATURAL_RESOUR

Hunt, L. (2021, February 15). Rosewood trafficking worsens in the Gambia. China Dialogue. Retrieved November 1, 2021,

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Sequeira, S. (n.d.). Investigating and tackling corruption in African ports. London School of Economics and Political Science. Retrieved October 30, 2021, from https://www.lse.ac.uk/Research/research-impact-case-studies/investigating-tackling-corruption-african-ports.

process inspections, which reduces taxes and fees, is a common practice in order to skip official due diligence checks. 6

The following illegalities are a few examples of illegalities that can be found when procuring and/or exporting resources illegally: providing false information, not complying with the amount of land a vendor has been licensed to extract from, extracting a different species or the size of product than approved for, or regulations around how a product is meant to be processed. For example, some laws limit processing types such as banning unprocessed timber from leaving a country for example but allow exports of processed timber. Political connections and bribery can make for products that break a number of these regulations and are therefore illegally harvested to be exported into international markets marked as "legal." How does illicit trade continue to happen every year and go mostly unchecked?

Lack of Corporate and Financial Transparency

Illicit trade of natural resources takes advantage of a lack of corporate transparency and resource traceability in Africa. First, the lack of corporate monitoring and the ease of creating shell companies makes it possible for traffickers to export illicit resources. Secondly, the financial crimes committed resulting in lost tax revenue throughout the illicit trade of natural resources in Africa deserves attention. The tax evasion occurring from not declaring goods or significantly under-declaring the amount of natural resources at the point of export is estimated to be in the millions for African countries. For example, gold in Africa accounted for 77 percent of underreported exports in 2015 from the continent, worth an estimated 40 billion USD, according to a United Nations Report. Examining the declarations of what countries report as exports to trade partners' import data, and comparing the data, is a common method for economists to detect discrepancies and potential trafficking.8

Third, the bribery and corruption that continues to fuel the illicit trade is often cash-based or through gifts, making it difficult to trace. Africa stands out from the other continents in that an overwhelming 95 percent of all transactions are made in cash. Hence, a major barrier in tracking the money made from environmental crime and illicit trade is the lack of formal banking on the continent. Some researchers have documented that those individuals engaged in trafficking often lie outside formal banking systems, and much of the capital flowing from illicit trade in Africa is transferred from urban financial centers to rural areas where the extraction of resources takes place.

⁶ Igbanugo, H., & Gwenigale, R. (n.d.). Assessing and minimizing customs related corruption in SSA... Retrieved November 3, 2021, from http://jgbanugolaw.com/wp-content/uploads/2015/02/Assessing-and-Minimizing-Customs-Related-Corruption-in-SSA-Ports-buke-2011-06f

July-2011.pdf.

Lewis, D. (2019, April 24). Gold worth billions is smuggled out of Africa - new analysis. Reuters. Retrieved November 3, 2021, from https://www.reuters.com/investigates/special-report/gold-africa-smuggling/.

⁹ Assoko, J. T.-L. (2020, June 8). The Africa Report. MasterCard: "in Africa, our biggest competitor is cash". The Africa Report.com.
Retrieved November 3, 2021, from https://www.theafricareport.com/29360/mastercard-in-africa-our-biggest-competitor-is-cash/.

10 FATF. (n.d.). FATF report money laundering from environmental crime. Retrieved October 28, 2021, from https://www.fatf-gafl.org/media/fatf/documents/reports/Money-Laundering-from-Environmental-Crime.pdf.

Financiers of Illicit Natural Resource Governance in Africa

Despite the illegality, there are various financiers and beneficiaries of illicit natural resource trade, including corrupt regimes and terrorist and/or armed conflict groups. These actors often benefit from a lack of good governance that can create more illicit trade of natural resources, even directly contributing to poor governance of an environment in order to maintain conditions advantageous for illicit trade.

Such an example of this can be seen in The Gambia, a small country in West Africa. Yahya Jammeh, former President of The Gambia and notorious dictator, whose \$3.5 million USD in assets were seized last year by the United States Department of Justice, was reportedly involved in running an illicit timber trafficking cartel in the country.11 Using his political position, he allegedly set up the Westwood Company with Swiss investors, where Jammeh enabled the company to hold the only export license for expensive, banned rosewood timber in the country.¹² During Jammeh's rule from 2014-2017, an estimated \$163 million dollars worth of timber was illegally exported from The Gambia into China, with most of that considered to be conflict timber from neighboring Senegal.¹³ This timber is known to come from the Casamance region, an area in Senegal that has been in conflict for over 30 years. In fact, the majority of rosewood exported from The Gambia—the most trafficked wildlife product in the world and highly in demand in China¹⁴—is found in territories controlled by noted terrorist group Movement of Democratic Forces of Casamance who have reportedly killed thousands of people¹⁵. They are alleged to have made significant money, estimated earnings of \$19.5 million, from the illicit timber trade between 2010 and 2014¹⁶ by selling traffickers access to rosewood timber areas, providing forged transport permits, and providing security personnel for loggers during their time illicitly extracting the timber. It was estimated that the Swiss timber traffickers paid \$15 million to the Jammeh regime to export timber out of the country.¹⁷ This is a critical example of terrorists not exporting illicit products themselves, but enriching themselves through facilitating access and enabling other corrupt actors to use the presence of terrorist organizations and regional instability to profit from natural resources.

Unfortunately, The Gambia and Senegal are not the only countries where we see armed terrorist groups financing their activities from illicit trafficking of natural resources. The emerging crisis in the Cabo Delgado region of Mozambique is home to al-Shabab, a terrorist organization tied to the Islamic State by internationally recognized organizations such as

¹¹ "Department of Justice Seeks Recovery of Approximately \$3.5 Million in Corruption Proceeds Linked to Ex-President of the Gambia." The United States Department of Justice. (July 15, 2020). https://www.justice.gov/opa/pr/department-justice-seeks-recovery-approximately 35-million-corruption-proceeds-linked-ex.
¹² Trial International. (2020, March 23). Westwood: Dealing in conflict timber across the Gambia and Senegal. TRIAL International.

¹² Trial International. (2020, March 23). Westwood: Dealing in conflict timber across the Gambia and Senegal. TRIAL International. Retrieved October 31, 2021, from https://trialinternational.org/latest-post/westwood-dealing-in-conflict-timber-across-the-gambia-and-senegal/.
¹³ []

AFP. (2021, February 11). Rebels in Senegal's Casamance under pressure after offensive. France 24. Retrieved October 31, 2021, from https://www.france24.com/en/live-news/20210211-rebels-in-senegal-s-casamance-under-pressure-after-offensive. 15 France 24. Febels in Senegal's Casamance under Pressure after Offensive." France 24. February 11, 2021. https://www.france24.com/en/live-news/20210211-rebels-in-senegal-s-casamance-under-pressure-after-offensive. 16 Sharife, K., & Anderson, M. (2019, March 27). The inner circle that helped Jammeh steal a billion dollars. OCCRP. Retrieved October 30, 2021, from https://www.occrp.org/en/greatgambiaheist/the-inner-circle-that-helped-jammeh-steal-a-billion-dollars.

The Crisis Group. 18 This group is partially financed by the illicit trade of timber and rubies. Although research is conflicted and limited on how much groups are profiting off the illicit trade, reports that the terrorist group has increased attacks on critical areas such as "ports, transport hubs, and sites of natural resources" indicates that the terrorist group may be trying to gain further control of the trade for their own gain¹⁹.

In the Horn of Africa, it is well-known that the terrorist group al-Shabaab (different from above referenced group in Mozambique), utilized the illegal charcoal trade in Somalia to make an estimated \$25 million USD to finance their activities.²⁰ These proceeds were used to purchase weapons and finance attacks on civilians. A UN Security Council Resolution barred charcoal exports from Somalia, however, there are reports that al-Shabaab is still using illicit natural resources to fund their activities through some charcoal, livestock, and sugar commodities.21

We also see the presence of armed conflict allowing illicit trade to emerge and go mostly undiscussed, as reported on the border of Cameroon and Nigeria. This is the site of the Anglophone Crisis, which the U.S. considers a humanitarian crisis as hundreds of Cameroonians have been killed in conflict since 2019. Due to the presence of armed conflict, local reports have claimed that the conflict makes it easier to conceal illicit timber as there is weakened enforcement of proper certifications;22 21 Nigerian nationals were arrested in January 2021 for smuggling Cameroonian conflict timber into Nigeria for export,23

I would also argue that the presence of illicit natural trade is an indicator for rising corruption in countries that are considered strong helms for democracy in Africa. Ghana, often considered the democratic stronghold and model for democracy, has experienced an uptick in illicit trafficking of timber and gold in recent years. For example, despite several national bans on the exportation of rosewood timber in Ghana, scientists have determined that there has been no significant impact on the reduction of harvesting of the timber, and in fact increased by over 129 percent while the ban was active and while the timber was protected by the Convention on International Trade in Endangered Species (CITES), the international authorities designated to protect designated species from illicit international trade.24 The Ghanaian government has acknowledged that corruption is a major barrier in confronting the trade, yet the trade is believed to still continue. 25 The manner in which

¹⁸ International Crisis Group. (2021, August 9). Stemming the insurrection in Mozambique's Cabo Delgado. Crisis Group. Retrieved November 1, 2021, from https://www.crisisgroup.org/africa/southern-africa/mozambique/303-ste

¹⁹ France 24. "Rebels in Senegal's Casamance under Pressure after Offensive." France 24. France 24, February 11, 2021. https://www.france24.com/en/live-news/20210211-rebels-in-senegal-s-casamance-under-pressure-after-offensive

²⁰ White, E. (2019, April 29). *The unintended consequences of Charcoal*. The Strategist. Retrieved November 3, 2021, from https://www.aspistrategist.org.au/the-unintended-consequences-of-charcoal/.

²¹ Petrich , K. (2021, October 13), How crime is closely linked to Al-Shabaab's survival strateay. The Conversation, Retrieved November 1, 2021, from https://theconversation.com/how-crime-is-closely-linked-to-al-shabaabs-survival-strategy-134432.

2 Ojewale, O. (2021, July 5). Timber trafficking in Cameroon goes against the grain of economic growth. ENACT Africa. Retrieved October

^{31, 2021,} from https://enactafrica.org/enact-observer/timber-trafficking-in-cameroon-goes-against-the-grain-of-economic-growth.

²⁴ Dumenu, W. K. (2019). Assessing the impact of felling/export han and CITES designation on exploitation of African rosewood

⁽Pterocarpus erinaceus). Biological Conservation, 236, 124–133. https://doi.org/10.1016/j.biocon.2019.05.044
25 "Ghana Business News." Retrieved October 31, 2021. https://www.ghanabusinessnews.com/wp-

content/uploads/2020/02/Rosewood-Committee-Report.pdf.

illicit trade of natural resources manifests offers insights into how illicit trafficking is handled by authorities in any given country. For the case of Ghana, a study by the U.S. Department of State on human trafficking found that Ghana "did not adequately address corruption in trafficking crimes, including alleged complicity from officials who facilitated trafficking."26 It is also important to note that illicit trafficking endangers the economic lucrativeness of legal natural resource trade, as the illegal deforestation connected to the illicit timber trade has been connected to reduced yields for shea butter, one of Ghana's top exports into the international market,²⁷

The Democratic Republic of Congo in Central Africa is host to a high amount of intersections of illicit natural resource trade where illegal gold, timber logging, rare earth minerals, and labor violations fuel longstanding conflict in areas of the country. There is high financial criminality in the forest sector with widespread tax evasion from illegal logging reported due to corruption. For example, it is estimated that 90 percent of forest taxes in DRC were not paid due to illegal schemes between concession owners and political officials. ²⁸ The minerals largely used for electronic devices such as coltan, tungsten, tin, in addition to precious metals such as gold, are widely considered to be conflict minerals coming from regions of DRC.29

It is important to note that illicit natural resource governance and the common factors that maintain the trade breed an environment where various crimes can thrive as well. For example, drug trafficking is present in many African countries where illicit natural resource trade is as well. Some of the biggest cocaine busts in 2021 have been in Africa, with large amounts of cocaine seized at maritime ports in Nigeria, The Gambia, Benin, South Africa, and Senegal.30 Drug traffickers take advantage of governance weaknesses, corruption, and lack of enforcement at ports, to illicitly export products. These are intersectional connections that policymakers must discuss more and should be on the radar of the U.S. government with its official stance of preventing illicit drugs from entering the country.

Illicit Natural Resource Trade Hurts African Communities

It is important to note that illicit crime robs individuals and communities of their ability to earn a fair living, and African countries from the much-needed revenue that could be earned through the taxation of legal trade. There are some logging and mining businesses who want to extract resources legally but report that they are priced out of competition by traffickers who pay bribes to political officials to gain control of concessions.

²⁶ U.S. Department of State. (2021, September 14). 2021 trafficking in persons report - united states department of state. U.S. Department of State. Retrieved October 31, 2021, from https://www.state.gov/reports/2021-trafficking-in-persons-report/.
²⁷ "Sustaining Livelihood in a Changing World with Shea Butter." MyJoyOnline.com, August 2, 2021.

https://www.myjoyonline.com/sustaining-livelihood-in-a-changing-world-with-shea-butter/?param=. ²⁸ "90% Of DR Congo's Logging Revenues Lost to Tax Avoidance in 2012." Global Witness. Retrieved November 1, 2021.

https://www.globalwitness.org/en/archive/90-dr-congos-logging-revenues-lost-tax-avoidance-2012/.

²⁹ The Enough Project. (n.d.). *Progress and challenges on conflict minerals: Facts on Dodd-Frank 1502.* The Enough Project. Retrieved

November 3, 2021, from https://enoughproject.org/special-topics/progress-and-challenges-conflict-minerals-facts-dodd-frank-1502. ³⁰ Ba, D. (2021, October 20). Senegal seizes record 2 tonnes of occaine off Atlantic coast. Reuters. Retrieved November 3, 2021, from https://www.reuters.com/world/africa/senegal-seizes-record-2-tonnes-cocaine-off-atlantic-coast-2021-10-19/.

Illicit natural resource exploitation erodes existing community dynamics and trust in rural communities impacted by the trade. As some community members may become involved in trafficking, tension is created between other members who are against the trade. People do not want to provide information on the illicit trade that could potentially implicate their family members or close friends in the trade which complicates enforcement and prosecution of environmental crimes. There have been reports of traditional leaders such as chiefs making deals with foreign traffickers that they can operate on their land. However, these deals rarely trickle down to the average community member and can create jealousy and resentment against leaders who financially benefit from illicit trade.

During my travel to West Africa, I met with a variety of traditional leaders who wanted to do something to curb the trade but were afraid that armed traffickers would attack their community as a result. Additionally, I encountered people who did not want to speak up about the illicit trade or provide any intelligence about it out of fear of retaliation by trafficking rings. Illicit trade is a term we throw out there, but we need to remind ourselves that this type of trade is **illegal**. It is a transnational crime. It is a dangerous activity. Some traffickers have been reported to have violent weapons, and the presence of this crime keeps communities in cycles of poverty, instability, and insecurity.

This trade robs African communities of opportunities to earn decent incomes from legalized trade of their natural resources. For example, I visited a community in the Democratic Republic of Congo where they had formerly engaged in illegal timber trafficking before there was a ban enforced against the trade. The chief told me traffickers would pay \$1 United States Dollar for a rosewood tree and would not pay community members for the labor and time it took to cut that tree. I asked the chief if he had any idea about how much the tree was worth on the international market and he said no. I did not have the heart to tell him that this tree which they sold for such a low price that led them to deforest their village over time, was most likely sold in markets in China for over a \$1,000 USD per cubic meter, enriching foreign traders while leaving their small Congolese community desolate. 32

In fact, most of the people I have worked with throughout Africa are not environmentalists or conservationists, but people who became interested in fighting environmental crime after following the money. They became frustrated that the money from a lucrative natural resources trade was not trickling down to their communities. Some have firsthand experienced or seen the negative effects of illicit natural resource governance in their communities. I have spoken with young people from The Gambia and Zambia who told me they got involved after witnessing illegal deforestation contribute to soil degradation, making it difficult for their extended family members living in rural villages to grow food and pursue traditional livelihoods. They told me stories of the lack of opportunity and presence of crime driving some of their friends and cousins to seek out dangerous and often deadly migration journeys for a better life. One young Gambian person even filmed

^{31 &}quot;The Wind of Change Blowing through Ghana's Villages (Commentary)." Mongabay Environmental News, March 23, 2018. https://news.mongabay.com/2018/03/the-wind-of-change-blowing-through-ghanas-villages-commentary/.

32 Cerutti, P. (2018). "Informality, global capital, rural development and the environment: Mukula (rosewood) trade between China and Zambia." Retrieved October 31, 2021. https://pubs.iied.org/sites/default/files/pdfs/migrate/136031IED.pdf.

himself going to the Port of Banjul and opening up a container of illicit rosewood timber to document how the government and shipping corporations allow the export of the banned timber. If these young people can risk their safety to speak out against powerful, corrupt, and sometimes violent entities in order to intervene in stopping the illicit trade, countries such as the U.S. with the power and resources can surely step up to do even more to end illicit natural resource trade in Africa.

Policy Recommendations

After working with leaders to combat illicit timber trafficking across different sectors in Africa, I realized that exposing the problem and speaking about the issue was not enough and in fact —I needed to be a part of the solution. I became increasingly interested in the field of climate and biodiversity finance as a tool to incentivize countries who are ridden with environmental crime to shift the narrative and change for the better, which I am currently focused on with my position at the Wallace Global Fund in Washington, D.C. Gabon, a country in Central Africa once known for high levels of environmental crime, is now seen as an environmental leader, partially due to the funding they have received from rich countries to protect their forests.³³ When countries see that protecting natural resources and governing them in a way that promotes sustainable, legal trade can be lucrative and bring a positive spotlight to their country, the cycles of environmental crime can be disrupted.

As a leading global power, and specifically a leading development finance provider and trade partner to many African countries, the U.S. can utilize their extraordinary position to influence the reduction of illicit natural resource governance and trade. Environmental crime and illicit trafficking of natural resources in Africa benefits from being in the shadows—the fact that it is so widely practiced yet rarely discussed at a high-level is a critical barrier. I hope today can play an important role in changing that pattern. The U.S. taking a strong stance against illicit trade of natural resources in Africa is an important step forward and letting countries know that the U.S. does not stand for global environmental crime.

Earlier this year, I was a guest speaker at an event for the U.S. Embassy of Banjul in The Gambia to present on illegal deforestation and its negative impacts on the country. In a country where internet costs \$5 per gigabyte while the majority of the population earns less than \$1 per day³⁴, it speaks volumes that the event had over 80+ people attend and/or interact with the event video. Many commented on how much they appreciated that the U.S. took this matter seriously. It is the everyday African people who lose out to illicit trade the most, and as the U.S. pursues strategic objectives on the continent, combating environmental crime and illicit trade of natural resources should be a key one, given its enormous impact on the economic development and security of the continent.

³³ The Economist. (2021, November 2). As leaders pledge to protect forests, Gabon points to how. The Economist. Retrieved November 1, 2021, from https://www.economist.com/middle-east-and-africa/as-leaders-pledge-to-protect-forests-gabon-points-to-how/21806081.
34 Sonko, J. (2021, April 16). 'A day without internet is a day in the dark': The Gambia's growing digital divide. Global Voices. Retrieved October 30, 2021, from https://globalvoices.org/2021/03/31/a-day-without-internet-is-a-day-in-the-dark-the-gambias-growing-digital-divide/.

Potential Financial Costs of Illicit Natural Resource Governance by the United States

The United States is a generous, top provider of foreign aid to African countries. It is important to note that if illicit natural resource governance in Africa is not significantly reduced, top donors such as the U.S. may experience increased foreign aid demands due to continue siphoning of potential revenue lost from illicit trade. The World Bank estimates that countries lose \$6-9 billion dollars alone each year from skipped tax revenue from illegal logging. ³⁵ Billions of dollars lost to tax evasion directly results in loss to muchneeded public utilities such as infrastructure for schools and hospitals necessary to advance development goals in Africa. Additionally, the armed conflict, instability, and insecurity that regions face where illicit trade natural resources thrive contributes to greater development needs such as poverty and hunger.

The U.S. may also experience increased spending on anti-terrorism efforts if illicit natural resource governance is not halted. As demonstrated throughout different African countries such as Senegal, Somalia, and Mozambique, terrorist groups use the illicit natural resource trade to finance their activities. It may not seem like a large amount on the scope of wider global terrorism illicit financial flows, but millions of dollars for smaller, rural-based armed conflict groups in Africa is enough to cause incredible damage and harm to the communities and regions that they operate in.

There is also a global security risk to allow illicit natural resource governance to continue in Africa. It presents a national security risk to not stop illicit extraction of natural resources in Africa; scientists have made a direct link between the biodiversity loss caused by illegal deforestation of lands for logging and mining and increased disease spread; the WHO considers that to be an emerging disease driver. Reducing disease threats should include plans to end illicit natural resource trade that harms biodiversity and local environments.

Additionally, the World Bank estimates that there will be up to 86 million climate refugees by 2050 in Africa, the largest expected increase of migrants for any continent.³⁷ In many cases, illicit natural resource governance does not follow environmental standards to extract in a manner that does not harm the environment or is sustainable—the goal is to take as much as possible as quickly as possible without regard for the rule of law. This exacerbates vulnerabilities in existing environments and can lead to desertification and other climate change risks. Although this migration is predicted to be internal within Africa, it is likely that African countries who are more climate-resilient will receive influxes of

³⁵FATF. (n.d.). FATF report money laundering from environmental crime. FATF. Retrieved November 1, 2021, from https://www.fatf-gafi.org/media/fatf/documents/reports/Money-Laundering-from-Environmental-Crime.pdf.

³⁶ World Health Organization. (n.d.). Biodiversity & Infectious Diseases. questions & answers. Retrieved November 2, 2021,

from https://www.who.int/docs/default-source/climate-change/qa-infectiousdiseases-who.pdf?sfvrsn=3a624917_3.

3² World Bank Group. (2021, October 27). Climate change could further impact Africa's recovery, pushing 86 million Africans to migrate within their own countries by 2050. World Bank. Retrieved October 30, 2021, from https://www.worldbank.org/en/news/press-release/2021/10/27/climate-change-could-further-impact-africa-s-recovery-pushing-86-million-africans-to-migrate-within-their-own-

climate migrants and will request development financiers such as USAID to ask for financial support to cover the costs associated with incoming migrants.

Many traffickers and corrupt individuals benefiting from environmental crimes think that the global community does not see environmental crime as a "serious" crime. The U.S. has the power and influence to send a clear message that that is not the case. One such way is incorporating the tracking of illicit flows from environmental crime in existing legislation on corruption such as the Global Magnitsky Act. In Africa more than other continents, fact bodies have found that the families of politically exposed persons who are involved in illegal logging are more involved in the process. Ensuring that those high-level individuals involved are barred from using capital gained from illicit natural resource trade in the U.S. would set an exemplary bar. Additionally, the U.S. must expand kleptocracy and money laundering detection mechanisms beyond banking systems considering much of the currency exchanged for illicit natural resource governance in Africa is outside the formal banking system and/or through the exchange of gifts. Efforts to monitor gifts, real estate, and luxury goods that can be provided to corrupted public officials by trafficking rings in exchange for engaging in illicit natural resource extraction must be revamped.

Another area of enforcement is the Africa Growth and Opportunity Act (AGOA), a legislation to provide African countries tax breaks with trading with the U.S. A key part of the AGOA legislation is that African countries must be making anti-corruption progress and shifting from an aid economy to a trade-based economy to maintain AGOA benefits. The progress and actions that African countries are pursuing to reduce illicit trade in natural resources must be part of the AGOA renewal conversations for high-risk illicit trade countries, as tackling environmental crime and generating much-needed tax revenue will significantly help accomplish goals of becoming economically independent nations. We have seen AGOA benefits suspended for countries who have reportedly engaged in human rights violations; the plans and reported progress that African countries are making in stopping the illicit trade of natural resources should be a part of annual reporting under AGOA. Expanding funding and programs for the International Affairs department at the U.S. Fish and Wildlife Service for example, could be one way of providing technical assistance for customs and other enforcement agencies in African countries who want to receive help in wiping out illicit trade. For example, there is a new democratically elected president in Zambia, who under his administration has seized illegally logged timber that is said to be connected to "politically exposed individuals." 38 Offering technical assistance to Zambia, a country who has struggled in recent political regimes to curb corruption around illicit natural resource trade, would be an excellent intervention.

 $Strengthening\ collaboration\ with\ intergovernmental\ partners$

A key intervention for the U.S. is strengthening leadership and collaboration with international bodies with the capacity to meaningfully intervene in ending illicit trade. One such body is the United Nations Security Council, who played a role in working with

^{38 &}quot;ACC Intercepts and Seizes 47 Mukula-Laden Trucks." Zambia Reports, 3 Nov. 2021, https://zambiareports.com/2021/11/03/acc intercepts-seizes-47-mukula-laden-trucks/.

Somalia to curb illicit charcoal trade funding terrorist groups. Recently, in October 2021, the UN Security Council held a high-level meeting and released a presidential statement with the intent of the Council to work together to stop the funding of armed conflict groups in the Great Lakes Region of Africa, most notably the Democratic Republic of Congo, from profiting from illicit exploitation of natural resources.³⁹ This is a step in the right direction, and the U.S. can use their position at the Council to push resolutions, legislation, and intergovernmental enforcement on illicit goods moving forward. Additionally, the World Bank in its negotiation deals with African countries should also require tangible progress and enforcement mechanisms on ending illicit trade, considering tax revenue that could be gained from legal trade of products could generate significant income for countries in debt. Furthermore, the implementation of CITES which regulates trade on protected timber and wildlife species has been shown to be abused and non-respected in countries across Africa.⁴⁰ Even though CITES is a binding international law, corruption in countries can enable traffickers to secure the documents needed to trade and export protected species through bribery or forgery. The U.S. can use their voice to support the implementation of strengthening CITES, such as rolling out an electronic permit system versus the current paper-based system, and ensuring that countries are strictly obliging by these rules, which could play a significant role in curbing illicit trade of protected species. The U.S. recently introduced the Funding Our Roads and Ecosystems Sustainably Together Act, or FOREST Act, and the U.S. should encourage other countries, specifically common importing source countries such as China, to strengthen gaps and weaknesses in their enforcement measures to protect global supply chains against illicit trade.

We must also remind ourselves that where America does not take a strong stance, countries that have differing views of governance can fill in. As one example, Russia is alleged to have recently procured more natural resources in Africa through offering mercenary services to Central African Republic, a country in Central Africa plagued by years of armed conflict and potentially Mali, a country in West Africa plagued by Islamic terrorism.⁴¹ Climate change is already set to worsen conflict and resource degradation, acting as a threat multiplier according to the U.S. Department of Defense.⁴² Terrorist groups such as al-Shabaab in Somalia, who contribute to climate change by cutting down trees for illicit trade of charcoal, are reportedly offering protection and aid services to communities who experience flooding.⁴³ There is a serious risk that armed conflict groups gain even a further stronghold in communities by providing services that are needed by the communities who experience further environmental degradation as a cause of illicit

³⁹ United Nations, (2021, October 20), Security Council presidential statement on Great Lakes urges concerted efforts against armed groups illicit funding from pillaged natural resources | meetings coverage and press releases. United Nations. Retrieved October 28, 2021, from https://www.un.org/press/en/2021/sc14669.doc.htm.

troin futps://www.un.org/press/ett/2021/sct-14609.doc.nun.

*USAID. (2021, January). West Africa Biodiversity And Climate Change (WA BICC) West Africa Rosewoods Synthesis Report. Retrieved November 1, 2021, from https://pdf.usaid.gov/pdf_docs/PA00IDXW.pdf.

*USAID. (2021, September 24). Who blessed the VLADS down in Africa? Foreign Policy. Retrieved October 30, 2021,

from https://foreignpolicy.com/2021/09/24/russia-wagner-group-mall-africa-putin-libya/.

*2 Banusiewicz, J. (2014, October 13). Hagel to address 'threat multiplier' of climate change. Defense, Gov. Retrieved October 31, 2021,

from https://www.defense.gov/News/News-Stories/Article/Article/603440/.

43 Letter dated 5 October 2021 from the chair of the Security Council Committee pursuant to Resolution 751 (1992) concerning Somalia

addressed to the president of the Security Council: Final Report of the Panel of Experts on Somalia (\$\int S/2021/849) [en/ar] - somalia ReliefWeb. (2021, October 17). Retrieved October 30, 2021, from https://reliefweb.int/report/somalia/letter-dated-5-october-2021-chair-security-council-committee-pursuant-resolution-751.

extraction. The U.S. can bolster climate adaptation financing and local development projects while encouraging international bodies to do so as well. The funding of civil society and local community initiatives in areas impacted by armed conflict and illicit trade of natural resources is critical in combating this effort. Individuals who are well-respected in their communities, who speak the language, understand cultural customs, and have years of experience in their geographies are better suited to combat these issues than large non-governmental organizations could be from abroad.

The U.S. can also play a strategic role in placing more pressure on corporations and other countries to practice further transparency with their supply chains. In the spirit of U.S. efforts to be a good ally and promote good governance, it is time to ensure that companies who are procuring high-risk African resources work with partners to protect them from illicit interference in order to make supply chains safe and transparent. It is time to look at environmental crime from a holistic manner, seeing beyond the products and considering the issue for the conflict, corruption, poverty, and terrorism the illicit trade fuels throughout Africa. Once illicit goods arrive in importing countries, they can be considered as a product of that country, with the origin difficult to trace. Additionally, funding support for institution building of custom agencies and law enforcement in African countries should be provided so authorities can practice stronger enforcement and due diligence.

Despite the pervasive corruption and crime, I know and have collaborated with African leaders across communities and civil society who have dedicated their lives' work to ending the illicit trade of natural resources. Some have even risked their lives to protect their environment from threats as Global Witness estimated that there were 15 murders of environmental defenders in Democratic Republic of Congo alone in just 2020.44 With all of these recommendations, I implore the U.S. to take a stronger stance on illicit trafficking in Africa and believe the U.S. can be a strong, invested partner in ending illicit natural resource trade in Africa while promoting good governance, democracy, and transparency throughout global supply chains. Thank you for your time today.

⁴⁴ Global Witness. (2021, September 13). The industries causing the climate crisis and attacks against defenders. Global Witness. Retrieved October 30, 2021, from https://www.globalwitness.org/en/campaigns/environmental-activists/last-line-defence/.







Congressional Testimony: House Financial Services Committee, Subcommittee on National Security, International Development and Monetary Policy

Witness: Joshua T. Fruth, Co-Founder/CSO, Section 2 Financial Intelligence Solutions, LLC

"From Timber to Tungsten: How the Exploitation of Natural Resources Funds Rogue Organizations and Regimes." Washington D.C., 11/4/2021 at 10:00AM EST

Witness Testimony:

"Chairman Himes, Ranking Member Barr, Representative McHenry, and distinguished members of the committee: I am honored to appear before you to discuss how environmental crime in Afghanistan will enable China to choke off critical supply chains, fund terrorists with External Operations (Ex-Ops) ambitions, and how humanitarian assistance and evacuation support can precede interagency soft-power policy options to help mitigate these threats.

My name is Joshua Fruth, and I am a co-founder of risk consultancy Section 2 Financial Intelligence Solutions (S2FIS com). I was previously the Director of Anti-Money Laundering (AML) Advisory Services at New Jersey based Matrix International Financial Services (Matrix-IFS). Most of my career, however, has been spent in the public sector as a law enforcement officer, U.S. Army Intelligence Officer, and Federal Contractor. Today, I am here apolitically as a private citizen representing only my views and feedback on Afghanistan to assist legislators in framing the post-drawdown operating environment and the potential for policy solutions going forward

From 2018 to 2019, I served as a DOD contractor assigned to the Drug Enforcement Administration's (DEA) Kabul Country Office (KCO), embedded at Special Operations Joint Task Force – Afghanistan (SOJTF-A). I was the lead Counter Threat Finance (CTF) advisor to two successive Commanding Generals of NATO special operations in Afghanistan: Major General (Ret.) Buck Elton and Major General Chris Donahue. On November 1, 2021, Maj Gen Elton and I co-authored a white paper for the U.S. Air Force, Air University, Journal of Indo-pacific Affairs (JIPA), titled: "Evacuation Operations, Great-Power Competition, and External Operations Terror Threats in Post-Drawdown Afghanistan: Mapping Out the Path Ahead." This document serves as the basis for my testimony today and was submitted as part of my written testimony into the record. In this white paper, we argue that there are two types of environmental crimes in Afghanistan with national security implications, to include the drug trade and China's emergent Rare Earth Elements (REE) mining operations.

Narco-terrorism & Ex-Ops Threats to the Homeland

The Taliban have been prevalent in the opiates business for decades, but the Afghan drug trade recently made a drastic change for the worst. Around late 2017, the Taliban discovered a plant indigenous the mountainous areas of central referred to locally as the "Oman Bush." A dry, barky plant that grows like a weed, Afghanistan's Oman Bush is comprised of highly pure

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ephedra, which is the primary reagent used in the production of amphetamines like methamphetamine and ecstasy. Within one year of discovering this plant, the Taliban developed an industrial scale crystal methamphetamine production infrastructure and earned more operating revenue from methamphetamine than they had earned in the prior two decades in the heroin trade.

After a series of highly successful operations corroborating the massive, industrial scale of this problem set, U.S. and Afghan forces conducted a record-breaking successful operation in mid-2019 to destroy the Taliban's meth trade. However, in the two years of power vacuum that have followed, the Taliban has been able to reconstitute their meth production capability. At the end of my tenure on that assignment, I authored a white paper for U.S. Central Command (USCENTCOM) titled "Counter Threat Finance 2020: Afghanistan. Laying the Framework for Post-Drawdown Preventive and Forensic Targetting." That document is available by request to subcommittee members at both controlled unclassified and classified levels.

With a degraded financial system, lack of international recognition, and frozen financial assets, the Taliban could consolidate, professionalize, and industrialize the drug trade. It is entirely possible that the Taliban's new "Islamic Emirate" regime could rapidly develop into the world's largest drug cartel and narco-terror state. In order to launder the drug proceeds, the Taliban will rely on the hawala system with Sarafi Exchange settling debts for hawaladers through China and Pakistan's banking systems; and to a lesser extent – Qatar, Turkey, and the United Arab Emirates. In a potential worst-case scenario, the Taliban may align itself with Mexican and South American drug cartels, due to the fact that they mutually utilize the same Chinese interlocutors for precursor chemicals and money laundering services. ⁽ⁱⁱ⁾

The drug trade has killed more Americans than the War on Terror, and it is likely that those profits will be used to fund future terrorist attacks. Under the protection of a narco-terror state supported by foreign intelligence agencies, armed with American weapons, and funded by drugs and Chinese mining operations, we concur with Undersecretary of Defense for Policy Colin Kahl's assessment that ISIS-K and al-Qaeda may have the capability to attack the homeland within 6-12 months. We assess that they could exploit our porous southern border in an undercover capacity posing as refugees fleeing Afghanistan's humanitarian crisis. Without positive identification, pockets of ungoverned spaces might emerge where terrorists could exploit poor population resource controls to develop a U.S. base of operations for attack planning. I am particularly concerned about the prospect of crypto currency and the casino business being used as part of the financial facilitation scheme to operationalize and sustain these cells within the United States.

Rare Earth Elements (REE) for China's Great Power Competition (GPC) Aspirations

The most serious environmental crime issue in Afghanistan is a Hybrid Threat Finance (HTF) network built around Beijing's rare earths mining. We assess China is financially incentivizing Pakistan to in turn fund Afghan terror groups in order to create a stable security environment and mitigate risk to anticipated mining operations. Vi Vii Viii ix x xi xii xiii As the "gatekeeper" and

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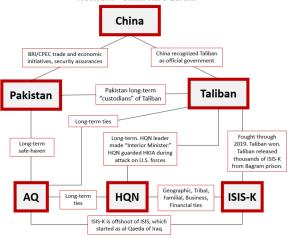






"middleman" in this enterprise," degrading Pakistan economically may be the most effective way to gain leverage in disrupting this network.

Afghanistan's Hybrid Threat Finance (HTF) Network - China Rare Earths



Known as the "the Saudi Arabia of lithium," xiv Afghanistan is home to over \$1 trillion USD and 1.4 million metric tons of rare earth minerals, many of which are necessary for the lithium-ion batteries used in electric vehicles (EV). Xv Neodymium is one of the minerals prevalent in Afghanistan's Helmand Province that is used in magnets which dramatically extend the drive range of EV batteries. Xvi On September 21st, 2021, the Department of Commerce initiated an investigation to determine the national security impacts of neodymium magnet imports. Xvii If China were to seize control of Afghanistan's lithium, neodymium, cobalt, nickel, dysprosium, and other related deposits, it could result in a serious and long-term threat to the American automotive industry at a time when we are rapidly transitioning towards electrification. Xviii xix xxi

Afghanistan is not the only place where we can extract these minerals. However, China is also completing to undermine and undercut, and beat our price in other rare earth markets, like the Democratic Republic of Congo (DRC), Brazil, and Australia.

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This comes at a time when our domestic deposits of these minerals can't keep up with our demands. We have historically imported about 80 percent of our rare earths from China, compared to about 23 percent of our oil imported from the Middle East. As a frame of reference, OPEC only accounts for 40 percent of the world's oil, but China currently accounts for about 75 percent of global lithium-ion battery cell capacity, compared to just 7 percent for the United States. To us to achieve our green-energy ambitions in the automotive industry, we face significant upward hurdles if China remains unopposed in a post-U.S. drawdown Afghanistan. The electric vehicle battery industry is just one example of many of the supply chain challenges that will become significantly more complicated if and when Beijing seizes and mines Afghanistan's rare earth minerals.



Rare Earths, clockwise from top center: praseodymium, cerium, lanthanum, neodymium, samarium and gadolinium, xxii

China's planned mining operations in Afghanistan align directly with its plans to seize Taiwan. If Beijing were to both gain control of Afghanistan's rare earths and seize Taiwan's semiconductor and silicon industries, "seiii it would enable them to choke off critical emerging technology supply chains to gain military, diplomatic, and trade leverage with other nations. This could enhance the attractiveness of the Belt and Road Initiative, making China a preferred trade partner and solidifying their global leadership role. According to a 22 October 2021 report from the National Counterintelligence and Security Center (NCSC) titled "Protecting Critical and Emerging U.S. Technologies from Foreign Threats," U.S. authorities outlined five critical emerging technologies "that may determine whether America remains the world's leading superpower or is eclipsed by strategic competitors in the next few years." They included artificial intelligence, bioeconomy, autonomous systems, quantum computing, and semiconductors. These areas of emerging technology focus require significant reserves of rare earths and a high availability of advanced semiconductors.

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Beijing's two-pronged approach to winning the Great Power Competition (GPC) involves dominating both emerging technology and the information environment. China is taking a page from Sun Tzu's playbook in the *Art of War* by attempting to win a fight without fighting. Once they achieve emerging technology superiority, Beijing will continue to expand their space, sea, and land-based telecommunications infrastructure, particularly to developing nations. They will flood the market with Chinese-sourced hardware from Huawei and ZTE. Once they control the rare earth source materials, semiconductor technology, hardware, software, data, and 5G internet infrastructure, China can then collect intelligence on end-users around while controlling the information environment to the benefit of the Chinese Communist Party (CCP) through propaganda, information suppression, disinformation, and misinformation. "Soily"

While we live in a nation deeply divided on nearly every policy issue, it is our ability as free people to exercise our strong opinions on these matters that inherently makes us American. If China gains superiority in both emerging technology and the information environment, I fear we as a people risk our voices being suppressed and drowned out by a globally dominant CCP, and that is contingent in part on environmental crime in Afghanistan.

Summar

We provided policy recommendations in the white paper** for how to employ non-combat interagency authorities and capabilities to counter the nefarious operations of China, Pakistan, and terrorist groups operating in Afghanistan in a post-U.S. drawdown environment. Our recommendations included a combination of proposed actions from the Departments of Defense, State, Treasury, Commerce, Homeland Security and the New York Department of Financial Services (NYDFS). They included the formal recognition of the pro-American National Resistance Front (NRF) anti-Taliban force in the Panjshir Valley, financial and economic pressure on Pakistan (for its long-term support to the Taliban, other terror groups, and China), and a functional (rather than geographic) approach to offensive information operations, among other recommendations.

We are however concerned that a currently ripe Kidnapping-for-Ransom (KFR) environment could obstruct those efforts. **Description** In order to succeed in these proposed operations, we must first support evacuation operations for westerners, our Afghan Special Immigrant Visa (SIV) allies, and underserved population groups (prominent women and girls, LGBTQ, and religious or ethnic minorities). This will reduce the risk of high value hostage-taking and ongoing humanitarian abuses being used as negotiating leverage by China and Pakistan to weaken our interagency disruption efforts. Failure to do so could diminish our credibility with allies and surrogate intelligence networks, making it more challenging to execute some of our proposed solutions.**Description** Environmental States and food, thereby avoiding direct terrorist financing while concurrently reminding Afghan citizens who we are, and how sharply our values contrast with the Taliban. While our combat mission has ended, our national security challenges with respect to Afghanistan have only just begun. We can debate the merits of our past decisions at any time, but there's only one time to resolve the issues of the present, and that time is now."

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About Section 2 Financial Intelligence Solutions, LLC

Section 2 (S2) is a financial services industry risk and compliance consultancy focused on mitigating the risks posed by Hybrid Threat Finance (HTF) networks to Anti-Money Laundering (AML) compliance programs. S2 provides advisory and investigative services, original data and technology products, transaction monitoring system implementation and optimization services for detection programs, and Threat Finance Academy (TFA) training for regulated financial institutions. Learn more at www.s2fis.com.

Joshua T. Fruth



Joshua Fruth serves in the private sector as Co-Founder and Chief Strategy Officer for risk consultancy Section 2 (s2fis.com), and previously served as Director of Anti-Money Laundering Advisory Services at New Jersey-based Matrix International Financial Services (Matrix-IFS). Josh has served in the public sector as a Captain and Intelligence Officer in the U.S. Army Reserves, civilian Police Officer, and Federal Contractor. He has completed assignments within U.S. Central Command (USCENTCOM), U.S. Indo-Pacific Command (USINDOPACOM), U.S. Army Civil Affairs and Psychological Operations Command (USACAPOC), ILS Army Intelligence and Security Command (INSCOM), the

U.S. Army Intelligence and Security Command (INSCOM), the National Counterterrorism Center (NCTC), Drug Enforcement Administration (DEA), Special Operations Joint Task Force – Afghanistan (SOJTF-A), U.S. Department of Commerce, Bureau of Industry & Security (BIS), and spent a decade as an inner-city law enforcement officer combating violent and sexual crimes and the organized criminal trafficking of narcotics, weapons, and persons.

Fruth is a published contributor, trainer, and keynote speaker featured by various national and international media outlets, technology, financial crime, and banking associations. Fruth is an Honor Graduate of the Special Operations Forces Captains Career Course (SOFCCC) at the John F. Kennedy Special Warfare Center and School (USAJFKSWC), Distinguished Honor Graduate of the Basic Intelligence Officer's Course (MIBOLC) at the U.S. Army Intelligence Center of Excellence (USAICoE) and a graduate of the Fort Benning School of Infantry and Ohio OPOTA Police Academy. He pioneered the Hybrid Threat Finance (HTF) doctrine and has spent the past five years instructing the interagency and banking sector on how to utilize this doctrine in Anti-Money Laundering (AML) transaction monitoring and Counter Threat Finance (CTF) targeting practices. He is currently located in the Washington, D.C. area.

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SENIOR LEADER PERSPECTIVE

Evacuation Operations, Great-Power Competition, and External Operations Terror Threats in Post-Drawdown Afghanistan

Mapping Out the Path Ahead

Authors: Maj Gen Buck Elton, USAF, Retired; and CPT Joshua Fruth, US Army Reserves

Editor: Dr. Vanessa Neumann

Within months of the US withdrawal and Taliban takeover, Afghanistan emerged as the global epicenter of human rights atrocities, terrorism, and hostile actions by our great-power competition (GPC) near-peer state adversaries, and organized crime in the forms of human trafficking, drug trafficking, weapons trafficking, and conflict mineral mining of rare earth elements (REE) that could prove challenging to US supply-chain resourcing and trade policy for decades to come. The domestic policy implications of the US withdrawal and subsequent collapse of the US-trained, advised, mentored, equipped, and financed Afghan National Defense Security Forces (ANDSF) will also be the subject of policy discussions and military white papers for decades to come.

Our leaders cannot afford to look backward. Instead, we must understand the new operating environment and frame the threat landscape, which should incorporate three primary lines of effort (LOE): post-drawdown humanitarian aid and evacuations, confronting the GPC in theater, and countering nonstate armed groups and their operations. This white paper frames these three collective challenges to inform leaders and policy makers of potential solutions nested under current administration priorities, guidance, and policies.

Introduction: Proposed Priority Lines of Effort (LOE)

Priority LOE #1: Post-Drawdown Humanitarian Aid and Evacuation Efforts

The Taliban have implemented a style of governance reminiscent of medieval times. We are watching in real time, one of the worst human rights atrocities

against underserved communities and vulnerable populations seen globally since the 1990s conflict in the Balkans or the Islamic State of Iraq and Syria (ISIS) terrorist group's claim of an Islamic caliphate in Iraq and Syria. The first elicited involvement from the Clinton administration, while the latter resulted in a global "Defeat ISIS" campaign. Afghanistan's degraded financial system, skyrocketing unemployment, and food and medical shortages have resulted in a humanitarian crisis only rivaled in modern times by Venezuela under the Maduro regime. Despite our hostilities with Nicolas Maduro's Bolivarian Revolutionary authoritarian regime, the United States announced on 22 September 2021 that we would provide \$247 million in humanitarian assistance and \$89 million in economic and development assistance to the most vulnerable Venezuelans.²

Under its strict Deobandi Salafist interpretation of Islam, the Taliban's "Islamic Emirate" regime has implemented the most significant gender inequality measures anywhere in the world. Women and girls have lost basic rights, face education and employment restrictions, and have been subjected to increased physical abuse, sexual violence, and human trafficking. Members of the LGBTQ community; religious/ethnic/racial minorities, such as the Shiite Hazaras, Uighurs, and population groups from the Panjshir; and individuals who worked with US and NATO forces as diplomats, interpreters, law enforcement officers, and members of the military, all face an extraordinary risk of violence, torture, human trafficking, and execution.

The most immediate risk ahead of us is a ripe kidnap-for-ransom (KFR) environment, wherein the Taliban utilize other Sunni violent extremist organizations (VEO) as proxies to leverage a humanitarian crisis by holding American citizens (AmCits) and our special immigrant visa (SIV) allies hostage. This offers the Taliban the opportunity to enrich their coffers and gives its Chinese and Pakistani partners hostage-negotiating leverage in other major policy issues. In line with current US government policies on gender equality, violence against women, LG-BTQ rights, and human trafficking, we should also prioritize evacuation of these population groups—lest we lose legitimacy in the international community for not defending underserved communities when it counts the most.³ We are additionally concerned about China's, Russia's, Iran's, and Pakistan's exploitation of the information environment, where they are messaging the world that the United States does not honor its responsibilities to its partners and allies. The continued evacuation of AmCits and at-risk Afghans must precede any other soft-power counter-Taliban and counter-Chinese malign influence efforts in and around Afghanistan to ensure these adversaries do not disrupt our larger priorities in the region, as the failure to do so could obstruct our ongoing efforts.

We can accomplish successful evacuations without military intervention or the use of private mercenaries, whose presence and operations within Afghanistan's geographic territory in a post-drawdown environment could instigate an international incident with GPC implications—particularly if done in a vacuum without official overt or back-channel coordination. Those private-sector organizations assisting in these efforts should be humanitarian-centric, apolitical, and nested within the official policies and priorities of the White House, Congress, and the interagency. Rescuing Americans and our allies from humanitarian crises should never be relegated to partisanship, and failure to do so would have geostrategic consequences that extend far beyond Afghanistan.⁵

The White House recently approved a proposal by the Joint Chiefs for public/private-sector partnerships to coordinate the evacuation of US citizens and Afghan allies. We strongly concur with this policy and believe that our first post-drawdown priority concerning Afghanistan must be to secure funding, intergovernmental diplomatic engagement, and interagency support to these public/private-sector partnerships. We envision this construct as focused on humanitarian assistance operations that lay the framework for post-drawdown evacuation efforts.

Priority LOE #2: Great-Power Competition in Afghanistan

The second and most significant risk in post-drawdown Afghanistan is the medium- to long-term ramifications of Chinese REE extraction as a primary LOE in China's geostrategic plan. The National Counterintelligence and Security Center (NCSC) released a report titled "Protecting Critical and Emerging U.S. Technologies from Foreign Threats" on 22 October 2021. The report outlined five critical emerging technologies "that may determine whether America remains the world's leading superpower or is eclipsed by strategic competitors in the next few years," and included the following:

- 1. Artificial intelligence;
- 2. Bioeconomy;
- 3. Autonomous systems;
- 4. Quantum computing; and
- 5. Semiconductors.7

These areas of emerging technology focus require significant reserves of rare earths and a high availability of advanced semiconductors. China's planned REE mining operations in Afghanistan align with Beijing's intention to seize Taiwan for its semiconductor industry. Companies like Taiwan Semiconductor Manufacturing Company (TSMC) and United Microelectronics are dominant forces in the global semiconductor supply chain. While these semiconductor "microchips"

are very small, they are comprised of numerous microelectronic components and REEs, including silicon. Silicon is required to manufacture the wafers (substrates or slices) of semiconductors used in integrated circuits and solar cells. Taiwan has an abundance of this material, and China intends to seize it. China is engaged in an operation to compete with the United States in emerging technology while also gaining control of global technology supply chains. China intends to couple these high technology efforts with its global telecommunications infrastructure development projects so that it not only controls technology hardware but additionally gains long-term control of the information environment.

China's plans to seize Taiwan, lay telecommunications infrastructure around the world, and mine precious REEs are components of its larger malign influence plan. The US government must address with authorities, budget appropriations, and resourcing targeted as a functional problem set. If relegated to the geographic combatant command (GCC) areas of responsibility (AOR) construct, we risk limiting shared understanding and whole-of-government solutions to this global China-centric problem set via geographically siloed, canalized operations. Any prospective solutions should be nested within the framework of Executive Order (EO) 14017, America's Supply Chains.⁹

Priority LOE #3: Countering Nonstate Actors, Organized Crime, and Terrorist External Operations

To accomplish its objectives in Afghanistan, China intends to financially incentivize Pakistan— and, by extension, Sunni VEOs, to mitigate the risks those insurgent groups present to REE mining operations. Sunni terror groups in Afghanistan will be dramatically enriched through these incentives, enabling the Taliban to maintain governance and provide safe haven for Sunni VEOs with external operations (Ex-Ops) ambitions to attack the United States, our allies, and our interests at home and abroad. Observers also expect these organizations to profit significantly from transnational organized crime, including cross-border weapons proliferation, rampant human trafficking, gemstone and mineral mining/smuggling, and money laundering to operationalize hostile state actions, organized crime, sanctions evasion, and terrorist financing. The Taliban is likely to consolidate, professionalize, and industrialize the narcotics trade, which, as of recent years, includes not only opiates but also hashish and industrial-scale methamphetamine production. The Taliban's Islamic Emirate could potentially emerge in a short time as the world's top drug cartel and narco-state. 10

We are additionally concerned by the potential of the Taliban declaring an Islamic caliphate in a manner like ISIS. The global impetus for a Defeat ISIS-like

⁴ JOURNAL OF INDO-PACIFIC AFFAIRS ♦ WHITE PAPER (NOVEMBER 2021)

coalition or US military re-engagement in Afghanistan is unlikely in the short term. The power vacuum, subsequent funding, and recruitment that would undoubtedly come from such a declaration by the Taliban would be a significant threat to the homeland. Thus, a post–US drawdown environment will provide insurgents with attack ambitions, with the power vacuum, protection, and funding needed to reconstitute, train, plan, and execute attacks on the United States and US and allied interests at home and abroad.

Section One: Post-Drawdown Humanitarian Aid and Evacuation Efforts

Without a US military presence, we are most immediately concerned with an environment ripe for imminent KFR events forming around AmCits, other Westerners, and Afghan SIV partners. Rampant human rights atrocities have been committed against underserved population groups that have been disenfranchised under Taliban rule. This includes women and girls—particularly those women who previously played prominent roles in society, such as judges, journalists, activists, doctors, and teachers. Additional underserved communities vulnerable for exploitation include religious, ethnic, and racial minority groups such as the Shiite Hazaras and Uighurs (who are not recognized under the Taliban's brand of Deobandi Salafist Islam), members of the LGBTQ community, and prepubescent boys used as *bacha bazi* sex slaves. ¹¹

Media outlets reported six airplanes carrying American and Afghan citizens were being held hostage at the Mazar-i-Sharif airport in early September 2021. The US Department of State indicated that the "Taliban will not let them leave," and "The Taliban is basically holding them hostage to get more out of the Americans." While speaking with Fox News television host Chris Wallace, Congressman Michael McCaul, the lead minority Congressman on the House Foreign Affairs Committee, said: "In fact, we have six airplanes at Mazar-i-Sharif airport, six airplanes, with American citizens on them as I speak, also with these interpreters, and the Taliban is holding them hostage for demands right now." He additionally added: "We know the reason why is because the Taliban want something in exchange. This is really, Chris, turning into a hostage situation where they're not going to allow American citizens to leave until they get full recognition from the United States of America." ¹²

This incident should serve as a warning for the prospect of a more robust KFR environment to come. The Taliban have surely calculated the risks associated with a large-scale KFR scenario and likely might be waiting for a post-drawdown environment where the number of AmCits and other Western citizens still in coun-

try has dwindled to low numbers to ensure they will not be met with a military response. If the Taliban engages in KFR operations, we suspect it may employ other Sunni VEOs—such as Islamic State—Khorasan (ISIS-K)—as proxy "strawmen" to provide a layer of separation and aura of plausible deniability around these operations. ¹³ The more time elapses after the US withdrawal, the higher the likelihood of a KFR environment materializing. If this scenario were to play out, it could risk payments aggregating in millions of dollars or more, which could serve to further enrich the Taliban's coffers and fund other Sunni VEOs with Ex-Ops ambitions. This scenario must be avoided. The best practice in the current operating landscape would likely utilize existing relationships between Westerners with surrogate networks in country to either move evacuees by land or to coordinate for chartered aircraft out of a major airport to another jurisdiction for medical screening and patriation administrative processing—but the latter risks a direct KFR-initiating confrontation.

US citizens, citizens of our Western allies, Afghans with SIV, and their families are in a unique risk category for violence and exploitation that should exceed our risk appetite and merit immediate action. Other population groups are also at risk of torture, violence, and sexual exploitation at the hands of the Taliban. At highest risk are women, girls, members of the LGBTQ community, and ethnic and religious minorities. These are communities that the United States and its Western allies defend and advocate for on the world stage. Any ongoing humanitarian assistance opportunities intended to aid these underserved communities would nest within current US policy. We must not miss the opportunity to do right by these groups at the time of their most dire need and comply with current US humanitarian policies.

To further enumerate the imminent necessity to extract our citizens and allies from country and support the most oppressed, let us explore the current human rights environment just two months after the Taliban seized control of Afghanistan:

Human Rights Atrocities

- Human trafficking: Post drawdown, Afghanistan has emerged as the world's
 most prolific human trafficking state, ranging from child soldiers and forced
 labor to child brides, sex slaves, and systemic rape by members of the Taliban.¹⁴
- Women's and Girls' Rights, Exploitation, and Threats to Prominent Women: It is
 the policy of the United States to champion equal rights for women and girls
 across the globe, and to end violence against women.¹⁵ Media reports and

 $^{6 \}quad \textit{JOURNAL OF INDO-PACIFIC AFFAIRS} \bullet \textit{WHITE PAPER (NOVEMBER 2021)} \\$

numerous personal stories shared by victims and their families have revealed horrific treatment of prominent women by the Taliban. This specifically includes women who performed the duties of activists, those who have worked with the US Department of State, schoolteachers, medical doctors, judges, actresses, and journalists. Reported incidents and threats against these women include some of the following:

- The Taliban have banned education for girls over 12 years old. According to Nobel laureate Malala Yousafzai, who survived a Pakistani Taliban assassination attempt at 15 years old: "Afghanistan is now the only country in the world that forbids girls' education." 16
- Women have been denied the ability to receive employment in the government but have been allowed to work in some fields, such as medicine, due to the Taliban's religious views that medical care for females must be conducted by other females so that a man does not touch them.¹⁷
- In early September 2021, a dozen Taliban "special forces" ran into the crowd of protesting women in Herat and fired their weapons into the air, sending demonstrators fleeing.¹⁸
- Threats to women activists to "skin their children alive" in front of them, and then "rape them to death" in front of their husbands. 19
- $\circ~$ A woman was reportedly lit on fire for "bad cooking." ²⁰
- Prominent women have reported that the Taliban marked their homes with a large "X" to send a message to Taliban fighters that they are free to rape, kidnap, and harm these women as *qhanimat* (spoils of war).²¹
- Child Brides: Taliban fighters have reportedly gone door-to-door and forced families to give up their daughters as young as 12 years old to the Taliban for forced marriages or direct human trafficking. Taliban commanders allegedly ordered imams in various areas to bring them lists of unmarried females between 12 to 45 years old for their soldiers to marry because they viewed them as *qhanimat* to be divided up among the victors. There are also reports that some areas have been required to place a marking on the front of their home once their daughter turns 12. These children are sometimes forcefully married to men in their 50s or 60s and raped without consent. The penalty for families that refuse to comply with this was reported as death. Girls in ethnic and religious minority sects such as the Shiite Hazaras of Uruzgan and Daykundi, or the families of the National Resistance Force (NRF) resis-

tance fighters in the Panjshir, were reportedly trafficked into underground sex trafficking networks.²²

- The Bacha Bazi Boys: Bacha bazi is a slang term used in some parts of Afghanistan for the "dancing boys," and refers to the sexual exploitation of male children forced into prostitution. Many of the boys exploited are prepubescent. Horrific stories have emerged over the years of little boys chained to beds and gang-raped to the point of near death. If these children survive and are released, they face public shaming and are often shunned from their community. In 2011, two US special forces soldiers severely beat an Afghan local police commander who, when confronted, laughingly confessed to having chained a 12-year-old missing boy to a bed and savagely raped him for weeks. Those soldiers were involuntarily separated and later reinstated, leading to US legislation named "Mandating America's Responsibility to Limit Abuse, Negligence and Depravity." This law became known as the Martland Act, which was named after SFC Charles Martland. In a post-drawdown environment, these efforts by the United States are invalidated in Afghanistan and could lead to greater bacha bazi exploitation.²³ Both the Martland Act and US policy on human trafficking support humanitarian assistance operations for these victims.
- LGBTQ Community: A Taliban judge issued an order that makes members of LGBTQ community eligible for the death penalty. The approved methods of execution are either by stoning or by dropping a nine-foot wall on top of the victim, burying him or her under heavy rubble in which he or she cannot escape, only to die of dehydration if the initial impact failed to cause immediate death.²⁴ The United States is a world leader in advocating for the protection of the LGBTQ community. Afghanistan is now the most dangerous place in the world for members of the LGBTQ community. The official US policy is that no one deserves to face violence for their sexual orientation or gender identity. Our policies should match our actions by evacuating members of this underserved community.²⁵
- Ethnic, Religious, and Racial Minorities: The Shiite Hazaras of the mountainous areas of central Afghanistan; the Uighurs; the people of the Panjshir Valley; and other minority groups—or those persons in areas where there has been resistance to Taliban rule—face the highest risks of sexual assault, human trafficking, torture, and execution. According to the 20 January 2021, White House EO on Advancing Racial Equity and Support for Underserved Communities through the Federal Government: "It is therefore the policy of my Administration that the Federal Government should pursue a

comprehensive approach to advancing equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality. Affirmatively advancing equity, civil rights, racial justice, and equal opportunity is the responsibility of the whole of our government." The whole of our government includes the Department of State, USAID, and numerous other agencies with international mandates. Thus, we should apply this thinking beyond our borders and back humanitarian assistance operations that support the protection and evacuation of these underserved communities vulnerable under a Taliban-led Afghanistan. ²⁶

- Violence Against Males Who Have Worked with US Forces: Men who have worked with Western forces have publicly and on widely disseminated videos been executed by being shot in the back of the head or having their throats slit and/or have been brutally tortured, including being lashed hundreds of times. The severity of the lashings in some cases was so severe that it caused internal bleeding and damage to organs.²⁷ Our intelligence community and military rely on international relationships built on trust. For us to maintain that trust in the international community, we must maintain our promises and support those who have fought side-by-side with our military personnel, including those who have operated as translators or information sources to our intelligence community. Failure to extract these personnel could damage the reputation of the US intelligence community in the international community for decades to come and could degrade our capabilities to build relationships and surrogate networks.
- Extreme Poverty and Cash, Food, and Supply Chain Shortages: The general humanitarian situation in Afghanistan is rapidly deteriorating, with citizens running out of fiat currency and unable to withdraw additional funds from the nearly defunct banking system. Additionally, foreign aid is far short of necessity, and many Afghans are unable to find employment. The United Nations' World Food Program indicated that nearly the entire population of 40 million people could fall below the poverty line in coming months, and that 95 percent of Afghans are not getting enough food to eat. Unfortunately, this has led to reporting that some families are so desperate, they have given up their children to pay off debts, leading to broken families and human trafficking concerns.²⁸

Prior to the Taliban takeover, health clinics were dependent on foreign funding. Currently, most of these clinics are running out of essential resources and basic medicines. Many doctors and nurses have not been paid in months.

Advocacy organizations are urging other countries to continue providing humanitarian aid. "To pause the lifesaving funding because we're still negotiating female rights would be utterly wrong," said Jan Egeland, Secretary General of the Norwegian Refugee Council. The United States halted its aid to Afghanistan upon leaving the country but has since announced it would send \$64 million in new humanitarian assistance.²⁹ Engaging Afghanistan with humanitarian assistance—such as medical aid, food, and clean drinking water—could enable negotiating leverage to facilitate evacuation operations and other policy issues, while also limiting the potential of engaging in direct terrorism financing.

The aggregation of these human rights atrocities perpetrated by the Taliban in the power vacuum of the US withdrawal should be countered strongly by the United States and its allies. Before considering punitive economic levers, such as sanctions, we should first prioritize evacuating AmCits, SIVs, prominent women, and their families, all of which face the greatest danger under the Taliban's regime. The completion of such a humanitarian operation presents the United States and our allies with options to leverage all our soft-power authorities and capabilities for nonmilitary intervention. Those options are discussed in the *Policy Recommendations* section of this white paper.

Section Two: Great-Power Competition in Afghanistan

Great-Power Competition in Afghanistan: China-Pakistan Strategic Overview

China and Pakistan stand to gain the most from the Taliban's rapid takeover and ongoing governance of Afghanistan, while Russia and Iran may stand to lose more than they had anticipated. Beijing and Islamabad have both made public statements in support of the Taliban's new Islamic Emirate regime and appear to have synchronized messaging in the information environment. Both nations provide humanitarian aid to support the Taliban's legitimacy and governance. China and Pakistan have mutual interests in Afghanistan that include the China–Pakistan Economic Corridor (CPEC); Belt and Road Initiative (BRI); REE extraction; and countering India, the United States, and NATO in the region. These LOEs are contingent upon the stability and security assurances offered through partnerships that China and Pakistan maintain with each other, the Taliban regime, and other major Sunni VEOs operating in Afghanistan.

Beijing's priorities in Afghanistan include China's CPEC/BRI interests, securing REE mining, and countering the Afghan-based Uighur ethnic minority and are likely to include the projection of regional airpower through Bagram Airfield.

China has previously attempted mining projects in Afghanistan that have been hampered by security concerns. China perceives an incentivized Pakistan as a key ally to help manage REE mining security concerns associated with various Sunni VEOs operating within Afghanistan, due to the Pakistani Inter-Services Intelligence (ISI) service's longstanding and well-established relationships with al-Qaeda (AQ), the Haggani Network (HQN), and the Taliban. While the Taliban does not recognize the Uighur Muslim minority, other VEOs might feel differently about China's dehumanizing treatment of an estimated 3.5 million Uighur Muslims in concentration camps across Xinjiang, China. Beijing likely feels generous in financially incentivizing Pakistan (and by extension various insurgent groups) not to obstruct China's efforts, with the understanding that Beijing's control over rare earths—coupled with its efforts to control the global semiconductor industry—would have numerous geostrategic ramifications in emerging technology and supply chain controls. Countering these Chinese malign influence and supply-chain controls has direct implications for Pres. Joe Biden's EO 14017, which provides for interagency authorities focused on China-centric supply-chain risks.30

As China attempts to instill controls with Pakistan and the Taliban to ensure that no other great power gains a foothold in Afghanistan for the foreseeable future, there may be a limited window of time available to prevent this hypothesis from fully materializing. We view Pakistan as a "gatekeeper" for Chinese operations in Afghanistan. Soft-power actions that deter hostile Pakistani operations that violate US national security interests may help amplify effects to deter and degrade Chinese GPC malign influence and REE mining operational successes in Afghanistan.

Concurrent to the US withdrawal, former President Ashraf Ghani fled to the United Arab Emirates. ³¹ The Taliban almost immediately consolidated power over every province and district in Afghanistan, except for the Panjshir Valley. The Panjshir Valley, canalized between historically challenging mountainous terrain, served as the headquarters for the NRF, an anti-Taliban collective that includes former Afghan commandos and law enforcement officers. Former Vice President Amrullah Saleh and Ahmad Massoud, the son of the symbolic leader of the same name known as the "Lion of Panjshir," lead the NRF. Saleh and Massoud appear to have fled Afghanistan, and the Taliban have largely seized the Panjshir Valley, leading experts to believe that many of the group's remaining resistance fighters have left Afghanistan for neighboring jurisdictions, presumably to reconstitute. Open-source media articles, social media, and surrogate networks appear to have corroborated Pakistan's involvement supporting the Taliban militarily to degrade

the NRF's capability in the Panjshir Valley and help the Taliban consolidate power over this pocket of resistance.

Pakistan ISI Chief Lt Gen Faiz Hameed met Taliban leader Mullah Abdul Ghani Baradar in Kabul shortly after the US withdrawal. Within approximately one day of this meeting, the anti-Taliban NRF was attacked in the Panjshir Valley with kinetic airstrikes. Hameed was reportedly involved in these kinetic airstrike operations against the NRF. Analysts and open-source reports indicate that Pakistani special operations teams, ISI intelligence officers, and Pakistani Air Force assets collectively participated in this operation to degrade the NRF's capabilities to resist and reconstitute. NRF leader Ahmed Masood claimed that the NRF had been attacked by Pakistani Air Force drones using smart bombs (with guidance systems potentially given to the Pakistani Air Force by the United States) only one day after Hameed's arrival in Kabul. Masood also advised that Pakistan provided intelligence to the Taliban in the form of detailed aerial maps of NRF strongholds.³² Pakistan may have used MK-82 500-pound bombs using US Air Force-, Lockheed Martin-, and Raytheon-developed, GBU-12 and GBU-10 Paveway laser-guided bomb kits to strike the NRF in the Panjshir. The United States provided Pakistan with 1,000 such kits in 2010 to support Islamabad "in its offensive against militants on the Afghan border." At the time, the US military assistance had been branded as "underscoring Washington's role in backing Pakistan's months-long campaign against Taliban and Al-Qaeda militants." Then-Air Force Secretary Michael Donley had then stated that "the Pakistani Air Force was playing 'a big part' in operations against the Islamist extremists."33 Pakistan has thoroughly and indisputably supported the Taliban, the HQN, and AQ for years.

Other rumors indicate that Pakistan used Chinese-provided CH-4 drones, which look nearly identical to the General Atomics MQ-9 Reaper (likely due to China's constant theft of intellectual property). The presumption is that these systems are compatible.³⁴

China, Pakistan, the Taliban's Islamic Emirate, AQ, the HQN, and ISIS–K have formed an alliance that appears to be scoped around the extraction of Afghan-sourced REE by China. The aggregate valuation of Afghanistan's unmined REE ranges wildly from \$1–6 trillion USD. China has long maintained mining contracts in country but was obstructed by US/NATO presence and a deteriorated and disputed security environment. We assess China views a favorable post–US drawdown security situation for its REE mining as something it can "purchase" through Pakistan by requiring that Islamabad manage relationships with the various Sunni VEOs in Afghanistan on China's behalf.

REEs are essential to every technology that we value, ranging from satellites to cell phones, fighter jets, semiconductors, and elements of critical infrastructure. One of the REE-enabled industries we are most concerned about in a post-drawdown as it pertains to Afghan resources is the electric-vehicle battery (EVB) industry. President Biden signed an EO on 5 August 2021, aimed at making 50 percent of vehicles zero emission in the United States by 2030, aggressively increasing demand on electric vehicles (EV). According to the Pew Research Center, about 2 percent of new car sales are currently electric. Some states have set deadlines for when new gasoline combustion powered cars will no longer be allowed to be sold.

To implement President Biden's plan, we face significant obstacles in China's near-monopolistic control of 80–90 percent of the global EVB market. The two most critical resources that make up EVBs are lithium and neodymium. China is about to mine vast swathes of these two REEs from Afghanistan at a time when the American auto industry is rapidly transitioning to EVs.

The most common type of EVBs are lithium-ion and lithium polymer, due to their high energy density relative to their weight. As a result, lithium-ion battery technology has been prevalent in portable electronics, laptop computers, smartphones, and many other applications since the 1990s. While the global supply of unmined lithium deposits is still relatively ample, the bigger issue is that lithium reserves are depleting in areas where extraction is easier, leaving only marginal resources that cost more per metric ton to exploit than their relative value. By 2028, there is anticipated to be a global shortfall of 800,000 tons of lithium.³⁶ Exploiting Afghan-sourced lithium could further strengthen China's power over global supply chains. According to a Pentagon memo leaked to The New York Times in 2010, Afghanistan's Ghazni province has enough lithium to make it the "Saudi Arabia of lithium." Experts agree that lithium and REEs are only economically viable in maritime shipping (not as air freight), and Afghanistan is a landlocked country. Here China has a significant advantage over the United States, as "the most accessible deep-water ports are the Chinese-built ports in Gwadar, Pakistan, and Chabahar, Iran."38 Additionally, China maintains a territorial border with Afghanistan via Badakhshan Province, home to the Wakhan Corridor, which is a strategically important component of the BRI and CPEC trade initiatives. This means that China might be able to ship these minerals by land, avoiding costly air freight and maritime shipping options altogether.

Rare earth magnets are the main component of an EVB that deals with drivingrange capability. Those magnets are made with neodymium, which is widely seen as the most efficient way to power EVs. Neodymium magnets can make the difference between an EV with a range between charges of 200 miles versus 600 miles. China currently controls 90 percent of the global neodymium supply. Prices of neodymium oxide more than doubled during a nine-month rally last year and are still up 90 percent. In June, the US Department of Commerce said it is considering an investigation into the national security impact of neodymium magnet imports. ³⁹

Global transition to EVs is estimated to require an 87,000-percent increase in REE supply by 2060. 40 Supply for the United Kingdom to transition its 31.5 million gasoline-powered vehicles to EVs would require 207,900 tons of cobalt, 264,600 tonnes of lithium carbonate, 7,200 tonnes of neodymium and dysprosium, and 2,362,500 tonnes of copper. The global REE supply requirements are 40 times greater, requiring mineral supplies to increase from 400 kilotonnes in 2020 to 11,800 kilotonnes in 2040 to cover the global demand posed by EVs. 41 This dramatic increase poses numerous supply chain challenges that are currently centered around China. 42

This economic issue will inevitably become a national security disaster if not mitigated now. Supply-chain obstructions used as instruments of economic power can influence, intimidate, and alter the diplomatic and military policies of other nations. The Afghan/China REE issue is a recipe for economic disaster in the Western automotive industry. Coordination between Pakistan and the various Sunni VEOs in Afghanistan is a result of the wealth they project stemming from China to facilitate extraction of REEs.

The coalition of state and nonstate actors supporting Chinese REE mining operations maintains varying motivations, ranging from monology of REEs to trade routes, security, governance, financial profit, and ethnic cleansing. This section aims to provide a high-level overview of China's, Pakistan's, and the Taliban's priorities in this relationship. Subsequent sections provide corroboration, additional context behind these relationships, and an overview of the involvement of other Sunni VEOs.

China's main priorities in this coalition are as follows:

- 1. REEs: To provide for safe and secure extraction of precious REEs to influence, disrupt, and control supply chains that raise China's standing in global diplomatic, military, economic, and trade relations.
- 2. Security: Ensure safety and security of CPEC and BRI trade routes.
- 3. Uighurs: Deter, deny, and degrade the Afghan-based Uighur Muslim population; or worse.
- 4. NATO Deterrence: Counter the United States and NATO in the region, potentially to include securing Bagram Airfield to both project airpower and

Evacuation Operations, Great-Power Competition, and External Operations Terror Threats...

to embarrass and undermine the United States in the information environment.



Figure 1. Left: Open-source available images taken 2 October 2021, of Bagram Airfield, Parwan. Right: Aerial photographs taken shortly thereafter, proclaiming to indicate the presence of Chinese aircraft.

On the evening of 2 October 2021, photographs posted through open sources by Parwan locals showed Bagram Airfield lit up with lights at night. The base had not been illuminated since US forces cut the power to the base and abandoned it in the middle of the night. Open-source rumors and contacts in the area advised that the Chinese military had occupied the base to conduct "inspections" and were employing local Afghans for various functions around the base. Analysis of open-source aerial photographs resulted in claims that Chinese military aircraft had landed on Bagram Airfield. Rumors from locals indicated that the leader of Chinese intelligence met with Taliban Interior Minister Sirajuddin Haqqani in Bagram. 43

- 5. Counter India: Counter India in the region.
- 6. Pakistan as Proxy Manager: China intends to employ Pakistan as the "parent in the room" to manage and mitigate risks associated with various ethnic, religious, tribal, and organizational divisions that could degrade the security situation and disrupt China's other priorities in Afghanistan.
- 7. Recognize Taliban: China intends to recognize the Taliban as the legitimate government of Afghanistan and likely intends to foster friendly relations with other Sunni VEOs based in Afghanistan and Pakistan to ensure China's own security around REE extraction points and employ proxy forces to accomplish future Chinese gray-area initiatives in the region. Recent open-source intelligence reports indicate that the Taliban is engaged in high-level meetings daily at the Chinese Embassy in Afghanistan. 44

Pakistan's main priorities in this coalition are as follows:

- 1. Trade Initiatives: Financial incentivization through CPEC and BRI trade initiatives with China.
- 2. Profit for Security: Likely financial incentivization to guarantee security of REE extraction points. China likely sees Pakistan as the preferred partner to manage and mitigate the complex cultural, tribal, historic, religious, and other divisions between Afghans and various insurgent groups (including the Taliban, Tehrik-i-Taliban (TTP), AQ, ISIS–K, HQN, and other VEOs) from security threats to major extraction projects.
- 3. IMF Loans: Hedging risks of adverse financial actions by the International Monetary Fund (IMF) and the West. The IMF is currently providing quarterly loan disbursements to Pakistan due to challenging economic conditions. If the IMF were to find Pakistan in violation of the conditions set forth in its IMF agreements, it could be detrimental to the Pakistani economy. Negative Financial Action Task Force (FATF) reviews (up to an including "blacklisting") and pressure from the West, which maintains significant clout and voting rights within the IMF, could lead to a high-risk economic environment for Pakistan, up to and including its de-risking from international financial markets and sanctions. The backing of the Chinese state, its banking, and trade relationships, provides Pakistan insurance against worst-case economic conditions that may be more probable considering recent derogatory revelations about Pakistan's involvement in Afghanistan. ⁴⁵
- 4. Afghanistan as a Proxy State: We believe Pakistan views a Taliban-run Afghanistan as a potential proxy state, and Islamabad is leveraging the ISI and the HQN terrorist group to instill Pakistan's influence into the Taliban-run government. Islamabad was the first to recognize the Taliban as the legitimate government of Afghanistan, but Pakistan's involvement in ensuring the Taliban's victory was far more nefarious than that.

Taliban Islamic Emirate's main priorities in this coalition are as follows:

1. Funding: The Taliban-led regime runs the risk of not being recognized by most of the world's nations. Perhaps more significant, Afghanistan may become a fully sanctioned jurisdiction. Financial institutions around the world will de-risk Afghanistan, leaving the country isolated from the international banking system and unable to receive IMF loans and international infrastructure and development projects. Economic investment is the single most important factor in the Taliban's ability to maintain power and govern. The Taliban do not care about the REEs present in their country. This is a regime

that has perpetrated some of the worst human rights atrocities in our lifetimes. It is not concerned that those REEs should belong to the Afghan people. Instead, the Taliban will receive significant financial incentives from China to ensure the security of Chinese REE mining operations.

- 2. Governance: The Taliban's primary concern is to instill governance. The Taliban lacks an understanding of how to employ all the various levers and agencies of government to effectively manage a society. They lack the knowledge and experience to perform simple governance tasks, such as managing international airports and airspace deconfliction. The Taliban will seek China's and Pakistan's assistance to perform these vital functions.
- 3. Deterrence: The presence of great powers like China and regional powers like Pakistan in a Taliban-run Afghanistan serve the Taliban's desire to deter US and NATO forces from returning militarily to Afghanistan in the event the West reconsiders the withdrawal in light of potential future deteriorating human rights conditions, Ex-Ops terrorism activity, or GPC concerns. Based on its history, the Taliban will remain cautious of any powerful nation's military operating within its borders. However, unlike the Soviet Union and United States, the Chinese and Pakistanis are recognizing the legitimacy of a Taliban-led government. So long as their stance remains the same, the Taliban are expected to allow for a continued presence of Chinese and Pakistani forces where it benefits the Taliban's priorities.

GPC in Afghanistan: Russia, Iran, Turkey Strategic Overview

The Russians realize that Beijing oversees this Afghanistan-based coalition that includes Pakistan and four Sunni VEOs. Moscow also realizes that Pakistan is the indirect gatekeeper, and that is why the Russians approached Pakistan about security cooperation going forward. The Russians will attempt to engage the Pakistanis in their long-term goal of pursuing the Turkmenistan, Afghanistan, Pakistan, India (TAPI) oil pipeline and may be concerned about Chinese influence being used to discourage Pakistani and Afghan involvement in this project. Moscow will reinforce Russian relationships with Uzbekistan and Tajikistan to hedge against these concerns and ensure that a diminishing security environment in Afghanistan does not spill over into Russia. Moscow is attempting to publicly portray itself as a neutral player whose priorities in Afghanistan will not undermine other great powers, but Russia may find that its influence in Afghanistan has waned considering Chinese economic programs that leverage Pakistan and Sunni VEOs as proxies to achieve Beijing's own priorities.

Iran had high hopes for a relationship with a Taliban-run Afghanistan. However, cracks are already beginning to emerge in that plan. Chief among Tehran's

goals was for the Taliban to be recognized as the legitimate government of Afghanistan globally, for Kabul's assets to be unfrozen, and for Afghanistan to maintain access to the international financial system. Historically, Iran has used hawala auctions in both Afghanistan and Iraq to trade its battered Iranian Rial (IRR) currency (also known as the Toman) for other flat currencies, such as the US dollar. 48 However, it does not appear that the international community will recognize the Taliban, that the Taliban will be able to access Afghan assets frozen by the IMF, or that Afghan financial institutions will be able to clear the US dollar—all of which effectively serve as a death sentence for any financial institution with a global correspondent capability. Just a few years ago, punitive damages to Pakistan's Habib Bank Limited (HBL) by the New York Department of Financial Services (NYDFS), which included fines of \$225 million USD and the loss of its New York correspondent clearing branch, were detrimental to the Pakistani banking system and economy. The Afghan banking system is far more vulnerable now that Pakistan's system was then. Due to its own US-sanctioned, severely degraded economy and currency, Iran acutely understands the soft power of the US financial regulatory system and sees Afghanistan's loss of USD clearing as a critical fail point in Iranian-Taliban relations. 49

Iran's second hope for Afghanistan was to have an excellent trade partner. The ongoing violence and disenfranchisement of Shiite groups such as the Hazaras and population groups in Herat will be a major point of contention for Iran. Iran's power emerges from the religious leadership wing and Islamic Revolutionary Guard Corps' (IRGC) ability to leverage a centralized command-and-control structure over hundreds of Shiite militia groups (SMG) globally. If Tehran were to ignore violence against Shiite groups in Afghanistan by the Taliban regime, Iran would risk losing legitimacy among hundreds of other groups that currently answer to Supreme Leader Ayatollah Ali Khamenei.

Tehran also hoped that the Taliban regime could serve as a mutual interlocutor to solidify a more robust relationship with China that would help Iran hedge against US and partner-nation scrutiny and to evade Western sanctions. However, Beijing stands to gain little from this relationship, and it adds a dynamic of complexity for China to have to play middleman in Islamic sectarian politics between Iran and Pakistan. While Iran publicly claims to be happy about the US withdrawal from Afghanistan, the post-drawdown environment may not have emerged in the manner Tehran had hoped. US policy makers should keep this in mind in any ongoing discussions around a new Joint Comprehensive Plan of Action (JCPOA) with Iran as a point of leverage for the United States that will make Iran more desperate for a resolution. In mid-October 2021, former Iranian Foreign Minister Mohammad Javad Zarif was quoting Russian president Vladimir

Putin's talking points on the prospect for the United States losing global legitimacy if it were to renege on the next JCPOA. Behnam Ben Taleblu, a senior fellow specializing in Iranian security and political issues at Washington's Foundation for the Defense of Democracies, indicated that Iran's "Eastern orientation" foreign policy intended to utilize Russia and China to "turn the superpower into the supplicant" and to "tempt Washington into premature sanctions relief." We believe Iran values Russian military influence and Chinese economic influence in such a scenario but may find a warmer partner in Russia than China for JCPOA relief talks. ⁵⁰

We are beginning to see what appears to be further cooperation between Iran and Russia in Syria, where both are supporting the mostly Shiite regime of Bashar al-Assad and countering new incursions of Turkey into Syria. ⁵¹ If Moscow does not gain the foothold Russia hoped in Afghanistan due to China and Pakistan, it may pivot toward increased cooperation with Iran in the region. Tehran also may shift toward increased cooperation with Russia to ensure Iran's security interests and to increase opportunities for sanctions evasion, potentially going so far as to leverage Russia to assist in JCPOA negotiations on its behalf. It is important to remember that Russia and Iran also have mutual interests in the energy industry and in Venezuela, which has security and energy industry implications.

Russia in turn ironically may view the United States as an ideal partner on the Afghanistan problem set going forward. Moscow has likely assessed that the probability of the United States militarily re-entering Afghanistan in the short-to mid-term is very low. However, Moscow likely understands the US priority to evacuate AmCits and SIVs from Afghanistan and recognizes that the Afghan-bordering countries of Pakistan, Iran, and China are not friendly for US facilitated extractions. Therefore, Moscow may attempt to leverage Russian influence in Uzbekistan and Tajikistan to aid US evacuation efforts in exchange for humanitarian aid, a seat at the table in JCPOA discussions, and security cooperation in Syria—up to and including the re-evaluation of the Assad regime by the United States.

Russia will likely use the Syria conflict to paint Bashar al-Assad as the victim of ISIS's re-emergence and reconstitution from its al-Qaeda in Iraq (AQI) days. Additionally, Moscow will highlight ongoing Turkish aggressions in Syria against Assad, while concurrently portraying Iran-backed SMGs as having played a pivotal role in ISIS—Core's defeat, portraying the Turks as undermining US relationships with the Kurds, and using these points of justification to show mutual interests ahead of serving as a potential intermediary in JCPOA talks.

Separately, trade relations apparently halted between Iran and Turkey in mid-October 2021. This follows news that Turkey signed a trilateral defense agreement with Azerbaijan and Georgia. Iran immediately responded with the announcement of a bilateral security agreement with Armenia. These actions, taken in aggregate with the current security situation in Syria, portray a new era "Caspian Sea Scenario" with GPC implications. While Turkey's agreement with the natural gas wealthy Shiite Azerbaijani regime no doubt caused shock and dismay in Iran, the situation also presents complex risks in the Caucasus region for Russia. We expect Moscow will seek considerable discussions with the United States on these issues for security assurances. These collective considerations could serve as part of Moscow's indirect plan to counter Chinese GPC emergence that is beginning to encroach on Russia's priorities, while still projecting strength, deterrence, and risk mitigation in the face of NATO.

Section Three: Nonstate Actors, Organized Crime, and Terrorist External Operations

I think the intelligence community currently assesses that both ISIS—K and Al Qaeda have the intent to conduct external operations, including against the United States, but neither currently has the capability to do so. We could see ISIS—K generate that capability in somewhere between 6 or 12 months. I think the current assessments by the intelligence community is that Al Qaeda would take a year or two to reconstitute that capability, and . . . we have to remain vigilant against that possibility. §2

—Colin Kahl, Undersecretary of Defense for Policy

The Hybrid Threat in Post-Drawdown Afghanistan

The funding of a terrorist organization is crucial to its ability to wage insurgency, and to plan and execute Ex-Ops attacks outside of its primary jurisdiction of operations. Our doctrinal and institutional views of terrorism and transnational organized crime have changed significantly since 11 September 2001. Back then, we viewed AQ as a group of mujahideen funded by wealthy Saudi oil financiers and networked through the Pashtun people of Afghanistan and Pakistan. Twenty years later, we recognize the direct "hybrid threat" network convergence between terrorism and organized crime, such as drug trafficking. This has resulted in many terrorist groups themselves developing into hybrid threats that emit the characteristics of not only a terrorist group but also those of a criminal syndicate and/or elements of a hostile state actor. Certainly, in the case of the Taliban's new Islamic Emirate, the Taliban now clearly fits the characteristics of a drug cartel, terrorist group, and hostile state actor.

Hybrid threat is the network intersection between one or more state or nonstate threat organizations operating in at least two threat classifications. Those threat classifications could include terrorism; hostile foreign intelligence operations; or-

ganized crime in the form of drug, weapons, or human trafficking; or offensive cyber operations.

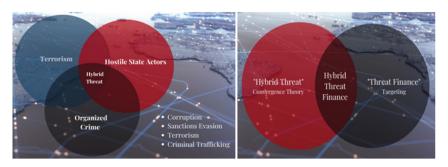


Figure 2. Left: "Hybrid Threat" convergence theory. Right: Hybrid Threat Finance (HTF) targeting doctrine. Source: Section 2's Threat Finance Academy (TFA) (s2fis.com)

Hybrid threat finance (HTF) is the theory that those network intersections are often materialized transactionally, meaning that hybrid threat networks are in fact networks as a direct result of their financial relationships. In the modern day, most terrorist organizations are predominantly funded through their own criminal enterprises. This includes various revenue-generation events, such as KFR, fraud, and the organized criminal trafficking of narcotics, weapons, humans, antiquities, minerals, gemstones, and endangered wildlife. Terrorist organizations have also found ways to enforce a zakat (religious tax) on civilians in areas where they have seized territorial control. This tax can range from utilities, such as the Taliban's control of the Kajaki Dam, to paid highway checkpoints, and traditional income taxes that would normally be paid to one's government. Terrorist organizations also engage in fundraising via witting and unwitting donors to nongovernment organization charities and, occasionally, raise direct funds in cryptocurrency through the Dark Web.

Revenue generation is not the only critical component to terrorism finance. The ability to obfuscate and access funds for operational sustainment through money laundering is one of the most important success or failure criteria of any terrorist group. Understanding the importance of revenue generation and money laundering to terrorism helps to inform the process used by the US government to engage in counter threat finance (CTF) preventative and forensic targeting practices. Terrorist organizations often rely on unconventional and Islamic banking practices to launder their ill-gotten proceeds. This includes the use of cash-intensive dealer-brokers known as *hawaladers*, who operate *hawala* currency exchange businesses. These *hawaladers* accept debts from their counterparts on behalf of cus-

tomers and log those debts on handwritten and digital ledgers. When debts are small, *hawaladers* can settle them through remittance programs like Western Union or MoneyGram, programs like PayPal, or general-purpose reloadable (GPR) "open-loop" prepaid cards. When a large amount of debt has accumulated from one *hawalader* to another in Afghanistan, that debt is often settled by an intermediary known as a *saraf*, who operates a sarafi exchange business. The sarafs have access to accounts in the formal banking system and can settle debts through wire transfers, online automated clearing house transfers, or cryptocurrency.

Counter Threat Finance Targeting Philosophies

Preventive Targeting: Targeting source illicit revenue-generating activities as they occur, to prevent the enemy's ongoing operational sustainment (preventive measures).

Forensic Targeting: Forensic analysis of the enemy's placement, layering, and integration of funds designed to provide anonymity to their illicit funding source(s). Used to identify, freeze, seize, and retrace assets to high-value individuals (forensic measures).⁵⁴

The United States and its allies have not recognized the Taliban's Islamic Emirate as the legitimate government of Afghanistan and have worked with the IMF to ensure that the Taliban's new regime does not have access to the billions of dollars in coffers that had been intended for the previous US-backed government. Additionally, the United States has cut off US dollar clearing to the Afghan banking system—a banking death sentence that has led to a global de-risking of the Afghan banking system.

China and Pakistan intend to fill this void by funding and laundering the proceeds of terrorism in Afghanistan in exchange for the monetary and supply-chain controls they gain through REE extraction. Beijing and Islamabad have taken the approach of recognizing the Taliban as the legitimate power in Afghanistan and presenting themselves as business partners to help with revenue generation and governance. Afghanistan- and Pakistan-based VEOs intend to utilize the support of the Chinese and Pakistani banking systems as intermediaries to regain access to the global financial system. China's banking sector is notorious for privacy laws used to facilitate global money laundering and terrorist financing. China's incursion into Afghanistan to extract resources is also a tremendous funding opportunity for the VEOs. In the current environment, the Taliban and other VEOs operating within Afghanistan's geographic borders have limited capability to transact internationally, which is thought to be a critical component of terrorist financing necessary to execute Ex-Ops attacks on the West.

Evacuation Operations, Great-Power Competition, and External Operations Terror Threats...

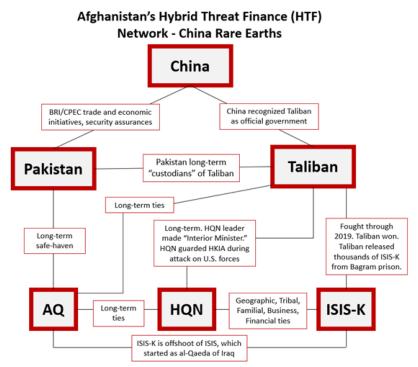


Figure 3. Relationship between Afghanistan's hybrid threat finance network and China's desire for REEs

We assess the current primary HTF network model in Afghanistan to include China, Pakistan, the Taliban, ISIS–K, AQ, and HQN. These VEOs likely see this relationship as mutually beneficial, as the environment for revenue generation through China/Pakistan financial incentivization and the trafficking of narcotics, minerals, gemstones, people, and weapons are nearly unobstructed. Additionally, the prospect for utilization of the Chinese and Pakistani financial systems will enable these groups to access, operationalize, and relocate funds globally to facilitate ongoing governance and Ex-Ops aspirations. We believe these groups view the relationship with China and Pakistan as a business partnership that is unlikely to interfere with their operations.

The Taliban has maintained longstanding good relationships with AQ and the HQN, which have been well-corroborated over decades of research and academic white papers. These relationships were further cemented through recent open-

source reporting. Osama bin Laden's former security chief, Amin ul-Haq, returned to his hometown in Nangarhar to a celebrity welcome captured on video one day before the US withdrawal, after taking refuge in Pakistan for the past two decades. 55 We believe that the Pakistani ISI intelligence service has long provided safe haven to AQ members. Additionally, AQ amir Ayman al Zawahiri released his first video in four years to congratulate the Taliban after the US withdrawal.⁵⁶ On the HQN side, the Taliban promoted Sirajuddin Haggani as the interior minister of its Islamic Emirate. That role mirrors the position of Pakistan's interior minister, who recently admitted that Pakistan has served as the "custodian" to the Taliban for the past two decades. We also observed HQN's Badri 313 unit placed in charge of security at Hamid Karzai International Airport (HKIA) prior to an ISIS-K attack that killed 13 US service members. The HQN is believed to have strong ties with Pakistan's ISI, oftentimes functioning as a proxy for ISI operations. In fact, most of these VEOs have had long-term positive relationships with one another, with the exception of the relationship between the Taliban and ISIS-K. However, we believe that ISIS-K will "turn their turbans," an old Afghan reference meaning to shift one's loyalties in favor of the victor, to find mutual ground.

Understanding the Taliban/ISIS-K Relationship and the 26 August 2021 ISIS-K Suicide Attack on Abbey Gate at Hamid Karzai International Airport (HKIA), Kabul

Explaining the relationship between the Taliban and ISIS–K is complicated; however, it is a critical relationship to understand in a post–US drawdown environment. Although the news cycle of stories suggests ISIS–K is in a full-fledged conflict with the Taliban, ⁵⁷ there is most likely a working agreement between the two organizations, up to and including the Taliban's use of ISIS–K as a proxy force. The Taliban's relationship with ISIS–K has long been contentious. ISIS–K and the Taliban were involved in significant fighting for years until mid- to late 2019, when the Taliban nearly obliterated ISIS–K, pushing the latter's remaining fighters through Nangarhar Province back into Pakistan.

On 15 August 2021, the Taliban seized Bagram Airfield uncontested from the ANDSF. According to Pentagon Press Secretary John Kirby, the number of ISIS—K prisoners in Bagram prison was "in the thousands." Upon seizing the prison, the Taliban executed ISIS—K leader Abu Omar Khorasani and eight of his deputies but released thousands of ISIS—K fighters. The Taliban could have executed these prisoners instead, but it did not. The simple act of executing ISIS—K's leadership

and releasing the rank-and-file fighters appears to indicate that the Taliban may have placed conditions upon their safe release.⁵⁸

On 26 August 2021, just 11 days after the Taliban's release of these prisoners, known ISIS–K terrorist Abdul Rehman al-Loghri detonated a suicide vest at the Abbey Gate of HKIA, killing 11 US Marines, one Sailor, and one Soldier and 170 Afghan citizens. Eighteen additional US troops and many additional Afghan citizens were wounded. We have not observed any credible information indicating that members of the HQN or Taliban were killed. According to Congressional hearings on the suicide attack, al-Loghri was among those released on 15 August 2021 from Bagram Airfield after the Taliban seized the base.⁵⁹

At the time of the attack, the Taliban had entrusted airport security to the HQN's Badri 313 unit. There were no Taliban or HQN Badri 313 members reported killed or wounded during this suicide attack. Members of ISIS–K and the HQN are believed to maintain familial, tribal, business (smuggling), and financial (hawala) ties along the eastern Afghanistan border with Pakistan.

The complex history of Sunni terrorism has made it challenging for Westerners to understand the alliances and rivalries among various groups. In Afghanistan, Westerners are currently struggling to understand where ISIS–K fits in the Sunni VEO landscape. We take the position that ISIS–K may in fact be currently operating as a proxy force for the Taliban. This is in contrast with other analysts who believe that ISIS–K is still involved in a large-scale conflict with the Taliban. This distinction is important for policy makers, who, according to recent media reports, were or are deliberating the possibility of intelligence sharing with the Taliban against ISIS–K. Weeks after the attacks, during US/Taliban meetings in Doha, Qatar, the Taliban emerged from the talks indicating that the group refused to cooperate via intelligence sharing with the United States against ISIS–K. The Taliban's refusal to ensure that Afghanistan does not emerge as a global hub for terrorism Ex-Ops is a clear violation of the Doha Agreement. 60

These collective activities appear to demonstrate operational precoordination and an ongoing working relationship among the Pakistani leadership (and by virtue the ISI), the Taliban, AQ, the HQN, and ISIS–K and indicates that the Taliban may have leveraged ISIS–K as a proxy strawman layer of separation to oversee and/or facilitate the attack on US service members and Afghan civilians at HKIA on 26 August 2021. We are concerned that the public face of their relationship may remain contentious for the Taliban to continue to leverage ISIS–K members for operations that require "plausible deniability," including KFR operations. If there is a working relationship between the Taliban, AQ, HQN, and ISIS–K to operate in Afghanistan for mutually agreed upon and beneficial deliverables, we grow concerned about the prospect of the Taliban potentially declar-

ing an Islamic caliphate to consolidate power and increase funding from the Islamic world.

Prospect for a Taliban-led Caliphate Declaration and a Risk Comparison to ISIS's Former De Facto Caliphate

As Afghanistan emerges into the global hub of terrorism, the prospect for an Afghan-sourced, facilitated, and/or financed Ex-Ops terrorist attack by a Sunni VEO against the United States, its interests globally, and its allies will now be higher than at any point in history. The partnerships of AQ, ISIS—K, and HQN, presumably facilitated through Pakistan's ISI, with the Taliban's Islamic Emirate, is laying the framework for a potential caliphate declaration that would be indescribably more dangerous and capable than ISIS ever was in the height of its self-proclaimed de facto caliphate.

ISIS was born through a confluence of events that included AQI's reconstitution after former president Barrack Obama's campaign promised an Iraq withdrawal order, the Muslim Brotherhood's hijacking of the Arab Spring movement in North Africa (and that that organization's subsequent takeover, loss, and expulsion from Egypt during the Mohamed Morsi era), and the proliferation of young Sunni jihadists to Syria to fight the Shiite forces of Bashar al-Assad. ISIS never had legitimate state recognition, true governance, major nation-state partnerships, or major nonstate Sunni VEO partnerships. While they stumbled into the Captagon business, they never possessed a truly global drug empire like the Taliban does; nor did ISIS accumulate the level of conventional arms the Taliban just seized from the ANDSF.

The Taliban is not just stronger than ISIS was at its inception; it is almost incomparably stronger. Despite this, it took three distinct, unfriendly, and powerful groups to destroy and reseize ISIS's de facto territorial caliphate in Iraq and Syria. That included the United States and some NATO allies augmenting the Kurds; Russia augmenting the military forces of Syria's Assad regime; and Iran's IRGC, its Quds Force, and the support Tehran's forces received from numerous SMG. These efforts were not resisted or countered by any other major nation-state, except for Turkey's incursion into bordering Kurdish held territories, which were efforts that occurred late in the conflict and were focused on limiting the capabilities of the Kurds rather than prohibiting the degradation of ISIS. The political impetus to repeat such a Defeat ISIS—like coalition effort in the international community currently does not exist and is highly unlikely to exist any time soon. Rather, the opposite is most likely, with China, Pakistan, Iran, and potentially, to

a lesser extent, Russia collectively focusing operations on preventing the United States, NATO, and other partners from militarily re-entering Afghanistan.

Although many national security policy experts believe we will be back in Afghanistan soon, our capacity to reverse course in the near to mid future is limited due to the full collapse of the Afghan government, leaving the Taliban with billions of dollars' worth of military equipment, involvement of near-peer state adversaries filling the vacuum post the US withdrawal, and the extent that those adversaries value the potential economic opportunities of REE mining, energy pipelines, and other trade deals—as well as the resolve of those nations to prevent the United States from securing an air base in Afghanistan that could be used to kinetically strike their interests.

Policy Recommendations

1. Department of State:

- a. DOS/Foreign Service:
 - i. Recognize the NRF as an ally of the United States, up to and including the initiation of diplomatic engagement—and, if the conditions are right, recognition of the NRF as the legitimate government of Afghanistan.
 - ii. Formally refuse to recognize the Taliban's Islamic Emirate as the legitimate government of Afghanistan.
 - iii. Engage with allies and neutral jurisdictions on the prospect of accepting additional Afghan refugees.
- a. Bureau of International Narcotics and Law Enforcement Affairs:
 - i. Budget appropriations for training to assist Afghan refugees with assimilating into Western cultures. Of particular concern is a 27 August 27 2021 study from the Center for Immigration Studies that reviewed the crime rates for Afghan refugee men living in Austria. That study revealed that Afghan men living in Austria were 22.1 times more likely to engage in rape, 35.7 times more likely to engage in robbery, and 10.1 times more likely to engage in violence against police officers. Cultural sensitivity, criminal law, and assimilation training are necessary assurances to help facilitate additional refugee patriation pacts and mitigate the risks associated with culture shock, lack of understanding of our Western laws, and assimilation issues.
- a. US Agency for International Development (USAID):
 - i. Humanitarian assistance (HA) assurances to the Taliban regime and NRF in exchange for safe facilitation of US- and ally-supported

evacuation of AmCits, SIV, Priority 2 (P2), and prioritized high-risk individuals and their families.

ii. HA operations should prioritize medical needs. Additional appropriations are needed for lodging, medical screening, and legal documentation support. Time constraint hurdles in Afghan refugee medical screening have primarily involved:

3. Medical:

- a. COVID-19: Waiting for testing results (nonrapid test), contact tracing, and isolation periods.
- b. Tuberculosis: Many individuals from the region demonstrate false positive Tuberculosis results and require follow-on chest X-rays to mitigate Tuberculosis diagnosis.

3. Legal/Documentation Support:

- a. Many Afghans do not possess passports, or their passports have expired.
- b. Some Afghans do not have Tazkeras (Afghan identification cards), or they have expired.
- c. Some Afghans have presented fraudulent or fictitious documentation, which makes positive identification challenging. Counterintelligence (CI) screenings via interviews and screenings through various databases (Office of Foreign Assets Control [OFAC], terrorist, and other watchlists) are challenging without positive identification.

2. Department of Treasury:

a. Conduct a thorough review on the conditions set forth in Pakistan's IMF loans, their periodic reviews, and loan disbursement cycles. There may be sufficient derogatory information available to impact Pakistan's ability to access additional loan disbursements going forward. We recommend engagement with the IMF, World Bank, Egmont Group, and FATF on this and other programs. We recommend significant US engagement on the next Pakistani FATF mutual evaluation through the presentation of derogatory information that corroborates Pakistan's direct impact in violating the terms of its loans, foreign aid support, military aid support, and other international agreements through terrorism financing and actions hostile to the United States, NATO, and other allies. We should share derogatory information with partner and international authorities on Pakistan's performance incident to their FATF and IMF periodic reviews, which considers recently demonstrated and corroborated material and financial support to terrorism, corruption, and

hostile actions against the United States and NATO interests.⁶² There is a historical precedence to IMF loan disbursements being blocked in Kenya for similar reasons. The United States should explore these options.

- a. Financial Crimes Enforcement Network (FinCEN):
 - i. Issuance of public release instructing US regulated financial institutions to issue suspicious activity reports (SAR) around key industries and relationships that associate Chinese, Pakistan, and Taliban REE mining operations, BRI/CPEC initiatives, financial services, and unmanned aircraft systems (UAS).
- a. Office of Foreign Assets Control (OFAC):
 - i. Targeted designations intended to degrade key industries and relationships that associate Chinese, Pakistan, and Taliban REE mining operations, BRI/CPEC initiatives, financial services, and UAS.
 - ii. Refugee screening support.

3. New York Department of Financial Services:

a. Regulate financial institutions in line with NYDFS Part 504 guidance to monitor and report suspicious activity associated with the nexus of Chinese, Pakistan, and Taliban REE mining operations, BRI/CPEC initiatives, financial services, and UAS.

4. US Department of Commerce:

- a. Bureau of Industry and Security (BIS):
 - i. Targeted-entity listing packages associated with the Chinese, Pakistan, and Taliban nexus around REE mining, BRI/CPEC initiatives, financial services and UAS.
 - ii. US Export License restrictions.

5. Department of Defense:

- a. Counterintelligence (CI):
 - i. CI support to refugee screening.
- a. Information Operations (IO):
 - i. Pakistan is actively engaged in an online IO campaign generating propaganda, misinformation, and disinformation that strongly refutes, counters, and attacks Westerners promoting the well-corroborated stories listed above. These IOs are friendly toward China and the Taliban; attempt to mitigate public connections to AQ, HQN, and ISIS–K; and appear to be precoordinated and aligned with the messaging campaign coming out of China. This behavior is not restricted to media outlets. Rather, it predominantly takes place in social media campaigns by individual account posters, in a coordinated and concerted manner.

- ii. A cross-GCC dedicated IO apparatus incorporating elements of INDOPACOM, CENTCOM, SOCOM, the interagency, and allied jurisdictions to counter Chinese malign influence, REE mining, intellectual property theft, ongoing planning to seize Taiwan, efforts to lay telecommunications infrastructure globally, hostile military maneuvers, and trade/economic intimidation tactics. These efforts should also target Pakistan as a gatekeeper to China's operations in Afghanistan.
- iii. IOs should inform the world clearly and concisely of China's intent to do the following:
 - 1. Control global supply chains via dominance in technology, REE mining, intellectual property theft, and complex corporate beneficial ownership of US and other jurisdictions' high technology companies.
 - 2. Control, propagate, and suppress the information environment via ownership of the telecommunications infrastructure (satellites, ocean lines, and cell towers), hardware (ZTE, Huawei), software, and data/internet, leading to loss of personal zx and national independence for compliant jurisdictions.
 - 3. Utilize all elements of Chinese national power to intimidate, threaten, and potentially invade noncompliant jurisdictions.
- iv. These aggregate efforts should accurately depict China as a less-desirable partner than the United States, whose foreign policy does not seek to strip partners of their independence, individual rights, or an information environment free from suppression.
- v. This effort should be scoped to refute, delegitimize, and counter an apparent Chinese, Pakistani, and Taliban Islamic Emirate coordinated information campaign using propaganda, misinformation, and disinformation to control the information environment surround their relationships with one another and with other Sunni VEOs in Afghanistan.

6. Department of Homeland Security:

i. Refugee screening support.

Summary

A post–US drawdown Afghanistan plays a significant role in the GPC with China and is likely to serve as the global epicenter of Ex-Ops terrorist threats to the homeland for the near-term future. Beijing believes China can win the GPC if it can dominate in emerging tech and IOs. Both of those LOEs require it to

extract significant REEs to choke the United States out of critical supply chains. The threat of Afghan-sourced terrorists engaging in Ex-Ops attacks against US and allied interests are anticipated to be viable within 6–12 months.

An allied, interagency, soft-power-centric solution may have the dual benefits of degrading Chinese REEs extraction operations and threat finance denial of terrorist financing/money laundering by various Afghan-based Sunni VEOs to plan, sustain, and operationalize proceeds into high-profile attacks. For US and allied force denial and degradation operations to be successful, we assert that HA operations are necessary to evacuate remaining US persons, Westerners, valuable SIV applicants, and additional high-value vulnerable persons from Afghanistan. We are concerned that failing to do so could enable a ripe environment for KFR, which could give our enemies negotiating leverage that counters our soft-power capabilities. While the US military no longer occupies Afghanistan, the fight for this nation is far from over. We encourage our leaders to formulate a strategy to assist in the process of devising post-drawdown solutions that counter our state and nonstate adversaries' Afghanistan-based operations. •

Maj Gen Buck Elton, USAF, Retired

Major General Elton retired in October 2020 after 31 years of service. He flew MC-130H, MC-130E, and MQ-1s in Air Force Special Operations Command; commanded at the squadron, group, wing, and task force levels; and was the commanding general of the Special Operations Joint Task Force in Afghanistan. He also served as the deputy commanding general of Joint Special Operations Command, the deputy director for special operations and counterterrorism on the Joint Staff, and director of operations of the US Special Operations Command.

CPT Joshua Fruth, US Army Reserves

Captain Fruth is the cofounder and chief strategy officer of risk consultancy Section 2 Financial Intelligence Solutions (\$2fis.com) and was previously the director of anti-money laundering advisory services at New Jersey-based Matrix International Financial Services (Matrix-IFS). Josh served in the public sector as a US Army Intelligence Officer, civilian Police officer, and federal contractor. He completed assignments within CENTCOM), INDOPA-COM, US Army Civil Affairs and Psychological Operations Command (USACAPOC), US Army Intelligence and Security Command (INSCOM), the National Counterterrorism Center (NCTC), Drug Enforcement Administration (DEA), Special Operations Joint Task Force-Afghanistan (SOJTF-A), and US Department of Commerce, Bureau of Industry & Security (BIS). Mr. Fruth spent a decade as an inner-city law enforcement officer, combating the criminal trafficking of narcotics, weapons, and persons and interdicting gang, domestic, and sexual violence. Fruth is a published contributor, trainer, and keynote speaker featured by various major national and international media outlets and technology, financial crime, and banking associations. He is an honor graduate of the Special Operations Forces Captains Career Course (SOFCCC) at the John F. Kennedy Special Warfare Center and School (USAJFKSWC), distinguished honor graduate of the Basic Intelligence Officer's Course (MIBOLC) at the US Army Intelligence Center of Excellence (USAICOE), and a graduate of the Fort Benning School of Infantry and Ohio OPOTA Police Academy. Josh previously reported to Maj Gen Buck Elton as his lead advisor on counter threat finance and counternarcotics.

Dr. Vanessa Neumann

Dr. Neumann is a Venezuelan–American entrepreneur, author, diplomat, and global political thought leader. Since 2010, Dr. Neumann has led the Latin American consultancy she founded, Asymmetrica, specializing in resolving complex investor issues (including litigation) by finding diplomatic, political, and commercial solutions that are of-

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ten outside the scope of more traditional approaches. Her first commercial book, *Blood Profits*, was published in 2017; a Brazilian edition, *Lucros de Sangue*, followed in 2018.

In 2019–2020, Dr. Neumann took a sabbatical to serve as ambassador to the United Kingdom and Ireland for the interim president of Venezuela, Juan Guaidó, whom she accompanied to a bilateral meeting at Number 10 Downing Street with UK prime minister Boris Johnson. During her tenure, she set a global precedent by freezing \$2.2 billion in sovereign gold bullion at the Bank of England, away from the kleptocratic and illegitimate Maduro regime. Dr. Neumann has done fieldwork in the reintegration of Colombian paramilitaries and was consequently the academic reviewer for the US military's Special Operations Command (SOCOM) teaching text on counterinsurgency in Colombia, ARIS Series. In 2018 she launched the *Golden Hydra* report on illicit finance in South America's Tri-Border Area at the US Congress and testified before the House Foreign Affairs Committee in 2019. Previously, she served four years in the Task Force Against Illicit Trafficking at the Organization for Economic Cooperation and Development (OECD).

She holds a PhD in political philosophy from Columbia University and a current fellowship at Yale University's Global Justice Program.

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House Financial Services Committee

Subcommittee on National Security, International Development, and Monetary Policy

Hearing entitled

From Timber to Tungsten: How the Exploitation of Natural Resources

Funds Rogue Organizations and Regimes

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STATEMENT SUBMITTED FOR THE RECORD

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15 rue des Savoises, 1205 Geneva, Switzerland 41-22-789-0500 ◆ Fax: 41-22-789-0739 ◆ geneva@ciel.org ◆ http://www.ciel.org Laundering Illegal Logged Timber in the Peruvian Amazon, criminal organizations benefit from corrupt government practices with devastating consequences for indigenous peoples, the environment and the climate crisis

Thank you, Chairman Himes and Ranking Member Barr, for the opportunity to appear before this subcommittee today. I am Carla García Zendejas, Director of People, Land, and Resources at the Center for International Environmental Law (CIEL), a nonprofit organization that uses the power of the law to protect the environment, promote human rights, and ensure a just and sustainable society. CIEL works closely with a broad range of stakeholders in the United States, Latin America, and around the world on a diverse range of issues in environmental law and policy, including climate change, toxic chemicals, natural resource conservation and extraction, international financial institutions, human rights, biodiversity, and international trade.

Forests play a vital role in mitigating climate change, protecting biodiversity, and supporting the lives and livelihoods of Indigenous Peoples and local communities. Deforestation and forest degradation driven by unsustainable and illegal logging increasingly threaten the ability of forest ecosystems to fulfill these critical functions. For decades CIEL has worked to reduce the demand for illegal and unsustainable timber using legal tools such as the Lacey Act, the European Union Timber Regulation, and the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

While communities worldwide facing deforestation experience many of the issues I will address during today's hearing, I will focus my remarks on Peru to offer an in-depth examination of the diversity of impacts that one country faces. Even with a concerted effort to improve forest management institutions, much with the financial and technical support from the United States, Peruvian forests and the communities that depend on them are still at great risk.

There is no question that illegal logging in Peru has a direct consequence on many issues, including primarily climate change. The Ministry of Environment announced that in 2020 Peru experienced the highest rate of deforestation in twenty years, more than 500,000 acres were lost. Aside from the critical nature of biodiversity and habitat loss, impacts to forest ecosystems lead to changes in weather and exacerbate droughts, endangering the health of local and Indigenous communities while also eliminating the capacity for climate regulation. Illegal logging and the illegality of the forest trade in Peru also serve as a primary driver of a series of criminal activities that occur on the land where forests have been destroyed. These activities often enable criminal organizations to derive economic and territorial control from the use of the land once it has been clear-cut.

Illicit uses of the land once trees have been felled include mining of gold and silver, ² production of crops such as coca, agribusiness such as palm oil, and non-metals mining such as the extraction of sand. These activities prosper within established criminal structures and organizations that come with an increase in

¹ Peru, Ministry of Environment -MINAM, GeoBosques, Bosque y Pérdida de Bosque http://geobosques.minam.gob.pe/geobosque/view/perdida.php

² BBC, (2021) Rare Nasa photos reveal Amazon 'gold rivers' https://www.bbc.com/news/world-latin-america-56030334

violence related to drug trafficking and arms dealing. This violence is targeted against landowners, environmental defenders and Indigenous Peoples who had been dependent on the land and forests they inhabited for their livelihoods.

While the Peruvian government has improved upon the legal framework and infrastructure that allows for enhanced forest management systems, it is precisely these digital management systems that are used by corrupt Peruvian forest officials, in conjunction with fraudulent timber harvest approvals, to foster illicit trade in forest products. Furthermore, the lack of systematic enforcement and prosecution of those responsible for environmental crimes in Peru is a major failure and a significant gap in the accountability system that allows illicit forest crimes to continue to occur.

Illegal logging and its related international trade is considered the third-largest crime in the world. As CIEL uncovered in our 2019 report, "Authorized to Steal: Organized Crime Networks Launder Illegal Timber from the Peruvian Amazon," Public officials systemically enable criminal networks to harvest timber in the Peruvian Amazon illegally. Some of the violations related to deforestation and illegal logging are committed by organized crime networks comprised of forestry regents, public officials, and private corporations who collude to extract and sell illegally sourced wood. These criminal networks have operated a massive fraud for years with impunity; their crimes generate environmental, social, and economic instability. Although Peruvian law does impose criminal and administrative penalties on those involved in trafficking and selling illegally logged wood, few sanctions were applied, providing little incentive to abide by those laws.

Illegally sourced timber from the Peruvian Amazon is sold in many continually updated, modernized, and increasingly sophisticated ways to avoid being detected by national and international agencies and institutions along the global supply chain. In Peru, Forest Management Plans and Forest Transport Permits are approved by forest officials for timber that does not exist or is otherwise fraudulent. These officials coordinate with concessionaires, timber owners, sawmill operators, exporters, and others in the supply chain to make illegally harvested forest products appear legal.

The coordination allows illegally sourced wood to then be transported and marketed with official documentation issued by Peruvian officials from the Regional Forestry and Wildlife Authorities, as CIEL's reporting on the Amazonian regions of Loreto and Ucayali demonstrates. Our investigation showed that laundering illegal timber with official documents cannot occur without the involvement of public officials, and we have uncovered how digital platforms created to increase proper forest management are being used as tools for criminal activity.

CIEL's 2017 report, "Continuous Improvement" in Illegal Practices in the Peruvian Forest Sector, 5 revealed the exportation of higher levels of timber of dubious legal origin to markets that do not

³ Latin America Press, (2018), López Tarabochia, Milton. Illegal Logging: *An Organized Crime That Is Destroying Latin American Forests* https://www.eurasiareview.com/21052018-illegal-logging-an-organized-crime-that-is-destroying-latin-american-forests/

https://www.ciel.org/reports/authorized-to-steal/

⁵ https://www.ciel.org/reports/continuous-improvement-illegal-practices-peruvian-forest-sector/

prohibit the entry of illegal timber, such as China and Mexico. This suggests that Peruvian exporters may know their products to be illegal at the time of export. After reviewing thousands of official documents from the Peruvian government, we demonstrated how Peruvian timber exporters, acting with the complicity of certain government actors, continuously improve upon their illicit practices to avoid transparency and continue their trade in high-risk timber.

While institutions such as the Agency for the Supervision of Forest and Wildlife Service, also known as OSINFOR, are designed to increase transparency and contribute to efforts to combat corruption and illegality, the Peruvian government has continued to erode their independence and effectiveness. The data set underlying "Authorized to Steal" was created in an attempt to expose these criminal networks, including connections in the government, and to increase transparency within the supply chain for timber that is either illegally harvested or of dubious legal origin.

Furthermore, illegal logging can become a driver for illicit crops and illegal mining. Peru's Financial Intelligence Unit has determined that illegal gold mining is now the most profitable illicit activity and not drug trafficking. Documentation and investigations have proven that criminal networks exist throughout the gold supply chain. Exporters have legal companies aware of the gold's illegal origin. Ultimately, these export companies launder the ore.⁶

Consequently, illegal logging serves as a vector for violence, crime, corruption, and the exploitation of Indigenous Peoples and their rights while simultaneously driving deforestation, the loss of biodiversity, and the climate emergency.

Recent developments

In September, criminal charges were filed six years after the start of the largest illegal logging case in Peru's history. The case, often referred to as Yacu Kallpa, after the vessel which contained that and other shipments of illegal timber, resulted in Peruvian prosecutors seeking to hold more than 90 people, including dozens of forest regents, concessionaires, business people, and former public officials responsible for falsifying documents in an effort to evade laws designed to protect against illegal logging. The individuals are allegedly responsible for participating in the supply chain of illegal logging and timber trafficking of \$1.6 million of Amazonian wood intended for export to the Dominican Republic, Mexico, and the United States.

The criminal charges came only weeks after the U.S. District Court for the District of Columbia announced that Global Plywood and Lumber Trading LLC (Global Plywood), the company responsible for purchasing 85% of the wood in a prior 2015 shipment from Peru to the United States, pleaded guilty to violating the Lacey Act. As a result of the guilty plea, the court sentenced Global Plywood to pay \$200,000 in restitution to the Ministry of the Environment of Peru and a \$5,000 fine.

⁶ Mongabay, (2020), Peru uncovers organized crime network laundering illegally mined gold, https://news.mongabay.com/2020/03/peru-uncovers-organized-crime-network-laundering-illegally-mined-gold/
⁷ Insight Crime, (2021), Yacu Kallpa: Illegal Timber and Impunity in Peru https://insightcrime.org/news/yacu-kallpa-illegal-timber-impunity-peru/; Ojo Publico, (2021), Yacu Kallpa: 90-funcionarios-y-empresarios acusados-por-tala

The discovery and investigation that led to the recent indictments are the result of a major operation in 2015, "Operacion Amazonas." Its success was predicated on the inclusion of prosecutors and agents from SUNAT (Peruvian Customs and Tax Authority) and OSINFOR in coordination with FEMA (the Peruvian Environmental Prosecutor), the Attorney General of the Ministry of the Environment of Peru, World Customs Organization, and Interpol. Due to the removal of OSINFOR directors and the precarious independence of the institution resulting from political shifts in Peru, there has not been a similar operation since 2015.

After U.S. authorities were alerted to two shipments containing illegal timber en route to the United States, officials seized the timber at the Port of Houston. Subsequent cooperation between U.S. and Peruvian officials provided evidence that the timber could not be the species that had been authorized for harvest, which was subsequently corroborated by the U.S. Forest Service's Forest Products Laboratory.

The ensuing investigation led to the largest amount of illegal timber ever destroyed under the Lacey Act, which contains strict liability standards for forfeiture. At the same time, there was an agreement to destroy the larger shipment worth approximately \$1 million. Additionally, the U.S. importer agreed to pay for all costs related to storage, transport, and destruction of the smaller shipment of timber.

I would note that the Peruvian public officials who alerted the U.S. authorities about the Yacu Kallpa shipment received death threats for their actions. Harassment and reprisals are unfortunately commonplace against Indigenous Peoples and environmental defenders who protect the forest, but forestry officials working to uncover and stop illegal logging in Peru have also been victimized.

It remains to be seen if Peruvian prosecutors can carry out criminal procedures fully within such a highprofile case or if political instability and the fledgling Castillo administration and the judiciary can hold public and private actors accountable.

Peru is not an outlier in Latin America when it comes to instability and the weak rule of law. These issues most assuredly predate the pandemic, but the country's current fragility must not be underestimated.

Solutions in Trade and Legal Frameworks

Effective tools such as those incorporated into the provisions of the U.S.-Peru Trade Promotion Agreement (PTPA) Annex on Forest Sector Governance contain verification and enforcement measures that have been used successfully. Using the PTPA, CIEL and partners petitioned the U.S. Trade Representative (USTR) to request verification of timber shipments from Peru after presenting strong evidence of illegality in 2012. Years later, an audit by Peruvian officials verified that a significant portion

⁸ Department of Justice, (2021), U.S. Corporation Sentenced for Importing Illegally-Sourced Wood from the Amazon, https://www.justice.gov/opa/pr/us-corporation-sentenced-importing-illegally-sourced-wood-amazon; Department of Justice, (2017), Justice Department Reaches Agreement to Ensure Destruction of Timber Believed to Have Been Harvested in Violation of Peruvian Law, https://www.justice.gov/opa/pr/justice-department-reaches-agreement-ensure-destruction-timber-believed-have-been-harvested">https://www.justice.gov/opa/pr/justice-department-reaches-agreement-ensure-destruction-timber-believed-have-been-harvested

of the timber exported by La Oroza in a particular shipment was illegal; 9 USTR took action by blocking the importation of timber from La Oroza, one of Peru's major exporters, in 2017 and extending the measure again in 2020. 10 It was the first time that the mechanisms of the Forest Annex of the PTPA had been used for this purpose. USTR ordered the use of these enforcement actions against another company in 2019, blocking Inversiones WCA E.I.R.L. (WCA)¹¹ based on illegal timber found in three specific shipments to the United States.

Existing legal frameworks have the potential for impact. However, their success in halting illegal logging worldwide is highly dependent on whether companies believe that the risks of being prosecuted in the U.S. or Peru outweigh the financial gains from sourcing illegal, lower-cost timber.

To solve the ongoing crisis, the United States should continue to enforce the Lacey Act, the Forest Annex of the U.S.-Peru Trade Promotion Agreement, and existing regulations prohibiting the importation of illegally harvested wood from the Peruvian Amazon and the rest of the world. Simultaneously, similar provisions must be incorporated into other legislation to provide the United States with additional tools to stop U.S. companies involved in illegal activities.

In closing, I want to emphasize that while evidence of criminal actors along the supply chain has been well-documented, this is only one case study where deforestation is used as a mechanism to fund additional illegal activities.

Corporations and individuals must be held accountable for their actions so that there is an incentive to stop illicit activities and an end to the criminal networks they source. There is an enduring need to protect the world's forests and remaining carbon sinks, and actions to hold those responsible for their devastation must be a shared effort.

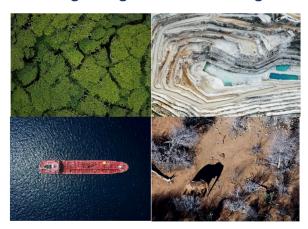
Thank you.

⁹ United States Trade Representative, (2017), USTR Announces Unprecedented Action to Block Illegal Timber Imports from Peru https://ustr.gov/about-us/policy-offices/press-office/press-releases/2017/october/ustr-announces-unprecedented-action ¹⁰ United States Trade Representative, (2020), *USTR Announces Enforcement Action to Block Illegal Timber Imports from Peru* https://ustr.gov/index.php/about-us/policy-offices/press-office/press-releases/2020/october/ustr-announces-enforcementaction-block-illegal-timber-imports-peru

11 United States Trade Representative, (2019), USTR Announces Enforcement Action to Block Illegal Timber Imports from Peru

 $[\]underline{https://ustr.gov/about-us/policy-offices/press-office/press-releases/2019/july/ustr-announces-enforcement-action}$

From Timber to Tungsten How the Exploitation of Natural Resources Funds Rogue Organizations and Regimes



House Committee on Financial Services
Subcommittee on National Security, International
Development, and Monetary Policy
November 4, 2021

Written testimony of Channing Mavrellis Illicit Trade Director Global Financial Integrity



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

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

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

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

What does it involve?

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

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

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

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

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

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

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

Minerals

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

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

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

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

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

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

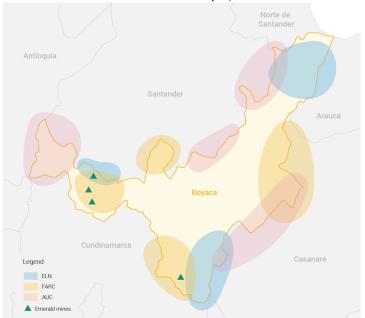


FIGURE 1. The nexus of emeralds and conflict in Boyacá, Colombia

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

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

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

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

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

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

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

Timber

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

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

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

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

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

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

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

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

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

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

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

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

¹⁴ Christian Nellemann and INTERPOL Environmental Crime Programme, eds., Green Carbon, Black Trade: Illegal Logging, Tax Fraud and Laundering in the World's Tropical Forests, A Rapid Response Assessment (Arendal, Norway: United Nations Environment Programme; GRID-Arendal, 2012), 6,

http://www.unep.org/pdf/RRAlogging_english_scr.pdf; Christian Nellemann et al., eds., *The Environmental Crime Crisis: Threats to Sustainable Development from Illegal Exploitation and Trade in Wildlife and Forest Resources*, A UNEP Rapid Response Assessment (Nairobi and Arendal, Norway: United Nations Environment Programme; GRID-Arendal, 2014), 8, http://www.grida.no/publications/rr/crime/.

^{15 &}quot;Equatorial Guinea," Observatory of Economic Complexity, accessed November 2, 2021, https://app-bee.oec.world/.

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

¹⁷ Adams.

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

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

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

Fish

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

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

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

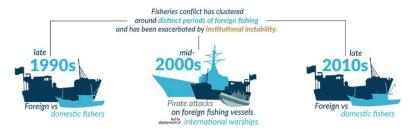
¹⁹ "\$26.6 Million In Allegedly Illicit Proceeds to Be Used To Fight COVID-19 and Address Medical Needs in Equatorial Guinea," U.S. Department of Justice, September 20, 2021, 6, https://www.justice.gov/opa/pr/266-million-allegedly-illicit-proceeds-be-used-fight-covid-19-and-address-medical-needs.

 ^{20 &}quot;France: Equatorial Guinea Vice President's Conviction Upheld," Human Rights Watch, July 28, 2021, https://www.hrw.org/news/2021/07/28/france-equatorial-guinea-vice-presidents-conviction-upheld.
 21 May, Transnational Crime and the Developing World, 62.

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

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

FIGURE 2. Timeline of Fisheries Conflict in Somalia



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

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

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

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

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

²⁵ Devlin et al., Rough Seas, 10.

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

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

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

How is it accomplished?

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

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

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

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

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

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

 $^{^{\}rm 29}$ May, Transnational Crime and the Developing World, 62.

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

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

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

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

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

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

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

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

³² Lisa Caripis, Combatting Corruption in Mining Approvals: Assessing the Risks in 18 Resource-Rich Countries (Berlin: Transparency International, 2017), 5.

 $https://images.transparencycdn.org/images/2017_CombattingCorruptionInMiningApprovals_EN.pdf.$

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Recommendations

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

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

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

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

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

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

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NATURAL RESOURCES AND TRANSNATIONAL OGRANIZED CRIME

Testimony to the House Subcommittee on National Security, International Development, and Monetary Policy.

Delivered at the 4 November 2021 Hearing entitled, "From Timber to Tungsten: How Natural Resource Exploitation Funds Rogue Actors & Regimes"



Kathleen Miles, Director of Analysis Center on Illicit Networks and Transnational Organized Crime, Washington DC



Vice Chair Gottheimer, Ranking Member Barr, and members of the Subcommittee: It is an honor to be here today before you to discuss resource crime and its intersection with organized crime.

My name is Kathleen Miles, and I am the Director of Analysis of CINTOC, the Center on Illicit Networks and Transnational Organized Crime, and the CEO of Ex Arca, an information company that tracks money and influence in politics. At both CINTOC and Ex Arca, I work on uncovering how various illicit networks generate revenue. At CINTOC, I have led projects in Southern and Eastern Africa on wildlife trafficking and its intersection with other serious organized crime such as drug and human trafficking. Prior to my work at CINTOC, I worked for Booz Allen Hamilton supporting the US Intelligence Community in countering threat finance and financial operations and during that time I worked on the Afghan Threat Finance Cell.

Over many years working at the nexus of illicit finance and organized crime, I have come to the following conclusion -- any time we talk about illicit and illegal commodities and organized criminal groups, we are really discussing the ability of these networks to create, launder, and utilize wealth. Whether we are discussing the Taliban's profits from heroin or Hezbollah's ties to timber trafficking, the root of the issue is the ability of the illicit organization to earn money to fund its operations.

Today, I am going to discuss three topics: 1. CINTOC's Martini Glass Model for understanding criminal supply chains, 2. natural resource trafficking and why illicit actors increasingly exploit this lucrative crime sector, and 3. solutions going forward.

At CINTOC, we developed the Martini Glass Model (submitted below) to demonstrate how illicit supply chains operate. As a whole, we have discovered that criminal supply chains are commodity agnostic. In other words, they operate the same way whether they are moving timber, drugs, people, or counterfeit electronics. Additionally, illicit organizations function the same as commercial firms, they are constantly working to maximize competitive advantage and profits.

The Martini Glass model breaks down the criminal supply chain into three basic steps:

- At the wide end of the glass we have production, where raw materials are cultivated or produced,
- At the stem of the glass we have distribution, where goods are shipped transnationally, and
- 3. At the wide base of the glass we have retail, where goods are sold to consumers





For our purposes today, I am going to focus on the stem of the martini glass or the distribution sector, which is typically where my research has documented activity involving transnational illicit networks including Lebanese Hezbollah and Chinese Triads. In the distribution part of the supply chain, we observe functional experts skilled at moving goods and laundering money collaborating to transport illicit goods across countries and continents. These functional experts are typically non-political. They are members of organized crime networks and do not care about the commodity they are moving. Rather these experts "own" corrupted pathways that enable them to move any type of illicit good from the source location to market.

For example, in 2015, I had the pleasure of supporting the Drug Enforcement Agency (DEA) in the extradition of the Akasha Network. The network was made up of four key individuals, who were extradited for attempting to ship 99 kilos of Afghan heroin from Kenya to New York. They were recorded offering everything from ivory to rare minerals in addition to the drugs for which they were ultimately prosecuted and sentenced. The Akasha Network is a transnational organized crime syndicate facilitating illicit goods getting to markets and creating wealth for not only the Akasha family, but in the case of the heroin they were moving, also for the Afghan Taliban.

Natural resource crime allows illicit networks to reduce risk, while keeping profits high. They are less likely to get caught, and if they do will face lower penalties, than compared to other serious crimes like drug and human trafficking. Also, criminal organizations, like commercial investors, want to diversify their sources of income. In a 2016 investigation in Tanzania, I was



tracking the network of a high-profile Iranian operative and businessman. This individual and his network operated front companies that provided cover for drugs coming into Africa and ivory shipments leaving the continent. He bought political influence through bribery in Tanzania and used corrupt politicians to secure mining rights for companies of his choosing for uranium and gold. Specifically, this individual and his network helped to facilitate uranium mining rights for Russian companies. We assessed this individual to earn more money and that he was a greater threat to US national security by helping to facilitate mining rights, than the drugs he was also trafficking.

Natural resources create a particularly difficult problem for law enforcement. At the most basic level, a major problem is simply a lack of knowledge and ability to identify which shipments are legal and which are not. While illicit drugs such as cocaine and heroin are high priorities for law enforcement who receive requisite training, access to experts, and specialized education, their understanding of natural resource trafficking is spotty and inconsistent, even in cases when these resources are worth more than drugs on the illicit market.

For example, most law enforcement are trained to identify and handle illicit drugs. Relatively few police officers and customs officials are trained to know the difference between a rare soft wood and Monkey puzzle wood, an endangered wood from South America, or between elephant ivory and other similar looking items like hippo teeth. This lack of consistent training and attention means that valuable resources literally hide in plain sight.

Since these resources can hide in plain sight, they can also be commingled with other assets, which is another way that criminals wash dirty money. A few years ago, I was lucky enough to have a conversation with the lead DEA analyst in the landmark Lebanese Canadian Bank (LCB) case. In this case, DEA agents and analysts pieced together how Hezbollah utilized secondhand car exports from the US to West Africa to launder drug proceeds back to Lebanon. The case was ground-breaking, illuminating a complex trade-based money laundering scheme. Yet, it was not as comprehensive as it could have been. That same analyst noted the presence of timber shipments from the same West African network. But because the DEA team had limited time, resources, and importantly, did not have not have a timber expert on the team, it elected not to pursue the timber shipments. If we want to thwart illicit finance, we need to take a more holistic look at the business enterprise of the target network, and not leave money on the table.

If you remember one thing I have said today, please let it be this: transnational criminal organizations operate like any other import-export business. Their focus is on moving products from one place to another as efficiently as possible, but they don't just move one commodity.

However, our law enforcement system is organized by commodity: from the Drug Enforcement Agency to the Bureau of Alcohol, Tobacco, Firearms and Explosives to the Fish and Wildlife Service, enforcement officials are siloed, both in terms of their authorities and their expertise, by commodity. In order to become more efficient, our law enforcement teams ought to work to understand the entire range of goods smuggled by each network they target, and then work to disrupt the systems that enable that network. To actively effect change, we need members of the national security community and federal law enforcement to look for specific points of convergence where they can have the most impact – i.e. breaking the stem of the martini glass.



Second, we also need to address the systems that facilitate organized crime activity. One key area I want to highlight is the role social media plays in facilitating organized crime.

CINTOC's research has uncovered organized crime groups using Facebook to market and sell illegally-sourced timber, elephant ivory, and even plots of land in the rainforest. This is just the tip of the iceberg. There are dozens of other groups engaged in resource crimes operating on Facebook, Instagram, and other platforms. Social media platforms provide a space for organized criminals to meet, market, and sell goods that is global, ungoverned and largely anonymous.

As Congress debates how to reform the laws governing cyberspace, I implore you to consider reforms to Section 230 of the Communications Act that would remove the liability shield for tech platforms that host and enable criminal commerce. This cannot wait. We are already seeing how wildlife markets on social media platforms are accelerating the extinction risks of iconic and endangered species.

CINTOC and our partners at the Alliance to Counter Crime Online recommend:

- Stripping immunities for hosting terror and serious crime content;
- · Putting the onus on tech firms to monitor their platforms;
- Regulating that firms must report crime and terror activity, along with full data about the users who uploaded it, to law enforcement;
- · Appropriating resources to law enforcement to contend with this data.

Distinguished committee members, if it is illegal in real life, it should be illegal to host it online.

Thank you for inviting me to speak.

Online Resources:

How wildlife traffickers move goods online: http://bit.ly/2Sxj5JW
The Alliance to Counter Crime Online: http://www.counteringcrime.org
The Center on Illicit Networks and Transnational Crime: http://www.cintoc.org
Time to Reform CDA230: https://www.youtube.com/watch?v=HJuXYGKMH7I

Articles and reports authored by CINTOC:

Breaking Criminal Supply Chains: https://www.cintoc.org/congressional-testimony
The Curse of the Shiny Object: https://cco.ndu.edu/News/Article/1311348/the-curse-of-the-shiny-object/



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FROM TIMBER TO TUNGSTEN: HOW THE EXPLOITATION OF NATURAL RESOURCES FUNDS ROGUE ORGANIZATIONS AND REGIMES

Before the House Committee on Financial Services, Subcommittee on National Security, International Development and Monetary Policy on November 4, 2021

WRITTEN TESTIMONY

BY ROBBY STEPHANY SMITH, NATIONAL SECURITY ADVISOR | SUBMITTED November 10, 2021

Coalition for a Prosperous America (CPA) thanks the Subcommittee on National Security, International Development, and Monetary Policy for holding this hearing, which explores the capital available to rogue regimes and international malign actors via their exploitation of the globe's vast natural resources, including minerals, timber, and other naturally occurring assets, and looks at solutions to the problems this exploitation poses. CPA is a nonprofit, bipartisan organization representing the interests of 4.1 million households across the country who are engaged in domestic production through our agricultural, manufacturing and labor members.

Natural Resource Exploitation: A Tool for Financing Rogue Regimes and Organizations, a Financial Trap for Unwitting American Investors

We understand that many of the world's terrorist organizations, violent extremist groups, rogue actors, pariah states, and malign actors all harness and harvest natural resources to gain capital, create industry that they can control, gain access to global marketplaces, enrich themselves, and more. Politically-connected businesses tend to exploit natural resources with little care for the local community or the environment. These businesses often violate international law along the way, enriching themselves and their regimes while destroying livelihoods and leaving communities unable to responsibly benefit from their own natural resources. Examples of these activities include cobalt mining in the Democratic Republic of the Congo (DRC), illegal, unregulated, and unreported (IUU) fishing off the coast of Ecuador, timber smuggling and illegal logging in Nepal, coal mining in Myanmar, and more.

This is a global phenomenon. The United States and its allies should institute policies to halt and punish these illicit activities. The world's financial centers and sectors must better understand the root causes of these lucrative operations and levy consequences on those implementing and benefiting from these practices – from businesses to corrupt bureaucrats and rogue regime militants. The real risks to the United States, however, come not just in the form of negative environmental impacts or the rogue behavior of international bad actors and nefarious regimes that are direct results of these sources of ill-gotten financial means, but in the actual risks to American investors posed by non-vetted – and often Chinese - companies' exploitation of our free and open capital markets.

The average American investor often is propping up the very companies that are facilitating the internationally condemned activities that are exploiting our natural resources for the benefit of

the rogue actors and regimes that we are trying to stop. Upon a simple scan, dozens of known Chinese natural resources companies, as well as others complicit in transnational criminal activity and environmental exploitation are currently raising capital from US investors in our capital markets as publicly traded companies, in electronically traded funds (ETFs) and indexes, as well as in other passive investment vehicles, and in relationships between parent and subsidiary corporations.

The risks to investors are great, as are the risks to the global environment. In order to better grapple with rogue actors' natural resources exploitation as a means of financial underwriting, the financial services industry must take on the tough task of working with the U.S. and foreign governments (including border protection and customs officials), international organizations (including international law enforcement and security agencies), firms, and more. But stopping bad behavior is not good enough. While we want to stop the nefarious activities of these rogue regimes and organizations, as well as to stop the environmental damage being done at their behest or by their natural resource exploitation, we also must protect American investors from unwittingly financing these activities. Mitigating rogue regime and organization financing via ill-gotten natural resources is important, but the U.S. government has an even greater responsibility to use its powers to protect its citizens from harm – and this includes acting to protect American investors from supporting bad actor companies complicit in financing destructive operations that harm our planet, limit our future livelihoods, finance our adversaries, and benefit those who comb the globe for riches with impunity while destabilizing our society.

While Chinese companies are not the only ones complicit in financing this bad behavior or directly raising capital for their suspect operations via the U.S. capital markets, they are a predominate offender, and through their Belt and Road Infinitive (BRI) have a global footprint of impact and a trail of evidence of their questionable and destructive operations. While this document specifically addresses Chinese bad actor companies in our assessment of risks to investors in U.S. capital markets and in its appendices listing Chinese companies complicit in environmental damages, other countries, regimes, and companies ought to be researched and included in a robust analysis of offenders. However, for the purposes of this statement, the focus is on Chinese companies, their offensive behavior, and the myriad ways in which they pose risks to U.S. investors in our capital markets. More research is needed on these Chinese companies as well as their linkages to the BRI, international development, and U.S. financing.

Below is an outline of the various ways Chinese companies – in all industries – exploit U.S. capital markets and pose risk to investors, as well as policy solutions to close loopholes. Following is an explicit listing of Chinese mining and extraction companies that are publicly traded, as well as examples of publicly traded Chinese companies complicit in environmental damages.

Risks to Investors Posed by China's Manipulative Behavior, Fundraising Schemes, Lack of Disclosure and Accountability, and Gaps in U.S. Law

Variable Interest Entities (VIEs)

Unlike in the United States, the government of the People's Republic of China (PRC) restricts foreign ownership in Chinese companies in a wide array of what it deems to be "strategic"

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sectors. These sectors notably include many of China's most profitable technology firms and internet companies. In order to list overseas and access foreign capital, Chinese firms often use the Variable Interest Entity (VIE) structure to subvert Beijing's foreign ownership limits. While there is dissent in China regarding whether or not U.S. dollars or the Chinese renminbi are better for these sensitive industries, as of now, the dollar prevails as the currency of choice.

To raise capital, Chinese parent companies set up a shell company outside of China (often incorporated in the Cayman Islands), which mirror the value of the parent via a contract, and list on an American exchange. Unbeknownst to the vast majority of American investors, rather than owning shares of a Chinese company (Alibaba Group, for instance), they are in fact invested in a Cayman-based company with no assets or operations. Further, the legal validity of a VIE contract has not been explicitly confirmed by the Chinese government. This leaves American investors entirely devoid of legal recourse to recuperate their losses in the event of delisting or fraud and no minority shareholder rights. These shell companies in the Caymans, and other offshore locations, enjoy foreign issuer status and yet are not subject to the U.S. securities laws that would provide material risk information and protection to American investors.

Recently, Securities and Exchange (SEC) Chairman Gary Gensler discussed this issue and outlined steps the SEC is taking to protect American investors. These steps include pausing IPO approvals for Chinese companies; asking SEC staff to enforce higher disclosure standards for listed Chinese companies (only) to make information more readily available to American investors, including political and regulatory risk posed by the CCP and warnings on what the government of China could do to significantly change the rules in the middle of the game.

Americans must not be complicit in funding Chinese companies engaged in industries or activities that undermine American values, economic, and national security interests. Congress should take action to protect American investors from the risks associated with scandalously deceptive VIEs and their questionable legal status, beginning with informing American investors of whether their money is, in fact, invested in Chinese shell corporations domiciled in the Cayman Islands with no real equity ownership rights or investor protections whatsoever. This dubious financial structure should be terminated, as it is "unreformable".

A-shares, Indices, and ETFs

Over the last nearly two decades, basic investor protection measures required by law in the U.S. for inspecting the audits of public companies have been evaded by U.S.-listed and traded Chinese companies. The Chinese government is the only foreign government which does not comply with the required third-party financial audits of companies listed in the United States and has sought special waivers for non-compliance with U.S. law.

Last year, the *Holding Foreign Companies Accountable Act* (HFCAA) was signed into law, and the SEC is now working with the Public Company Accounting Oversight Board (PCAOB) to implement the law to bring Chinese companies into compliance with U.S. securities laws. This is welcome progress, but the new law only covers Chinese companies listed on a U.S. exchange, or N-shares.

The HFCAA neglects to address A-shares (securities listed on mainland Chinese exchanges and only accessible to American and foreign investors via inclusion in indices and associated index funds) and H-shares (Hong-Kong listed shares). For example, there are over 4,200 such A-share companies in American passive investment products that have basically never seen the regulatory light of day and little, if any, diligence. The vast majority of American investors are unaware that their Exchange-Traded Funds or mutual fund portfolios includes exposure to China A-share companies that are not compliant with U.S. securities laws and, in some cases, have been sanctioned by the U.S. for egregious human rights and national security abuses.

The scope of the HFCAA is limited to approximately 260 U.S. -listed N-shares, and approximately 900 securities traded on the over the counter (OTC) market but neglects to include the A-shares present in indices and Exchange-Traded Funds (ETFs) tracking them, which, as mentioned earlier, leaves over 4,200 Chinese companies not covered by the same laws that protect American investors and are required of U.S. companies. Put another way, HFCAA only covers about 22 percent of the problem, if we consider the problem to be Chinese companies not covered by American securities law, leaving 78 percent of the problem yet unresolved. Exposure to these indices through ETFs amounts to hundreds of billions of dollars or more in U.S. investment.

Congress must therefore pass a similar act like HFCAA to address the glaring problem facing U.S. investors.

Risks to Investors Posed by Lack of Disclosure and Accountability of Chinese Companies

Disclosures

Many criteria are considered to be required material information to investors, but often this information neglects to include important and financially significant information on key risk factors such as political or national security risk posed by the location or type of investment being made. In order to protect American investors from unknowingly investing in Chinese corporate bad actors – including enablers of genocide and other gross human rights violations, the Chinese Communist Party (CCP), Chinese military companies, the Chinese civilian-military fusion operations, the Chinese surveillance technology regime, and the list goes on.

The Committee should work closely with the SEC to promulgate rules that require greater disclosures of national security, human rights and political information that is material to investor protection, as well as reassess the definitional standard of a foreign issuer to ensure that the highest degree of scrutiny and protection is brought to bear against companies that pose a heightened risk to American investors.

ESG Standards

As the SEC pursues implementation of new rules and definitions regarding environmental, social, and governance (ESG) standards, it is paramount that an approach be taken to include national security, human rights and political factors into the analysis of both social and governance factors when providing information to American investors and investment managers.

This would include such information as a company's status as being a sanctioned entity by the U.S., ties or connectivity to forced labor, linkages to state-owned enterprises and dubious foreign governments, genocide or other gross human rights violations, support for foreign militaries or the military industrial / civilian-military fusion operation of a foreign government (notably those considered to be an adversary of or non-allied with the U.S.), and connection to surveillance technology companies and those in the technology sector that have linkages to international espionage or the construction of a" surveillance state".

Chinese solar companies are an excellent example whereby a company could have a false positive rating under ESG for its efforts on renewables. But the company in question has direct links to forced labor and using dirty-coal fire power plants to manufacture its product. This real-world example should serve as a template for how companies should receive a negative rating in ESG. ESG must be inclusive of forced labor, and related U.S. government sanctionable activities.

It is highly troubling that of the at least 440 Chinese companies on the Commerce Department's Entity List, only 4 of them —less than 1% - are on the Treasury Department's Office of Foreign Assets Control (OFAC) list of sanctioned companies, thereby imposing an investment ban via capital markets sanctions per Executive Order 14032 and the establishment of the Non-SDN Chinese Military-Industrial Complex Companies List (NS-CMIC List). This means that companies that are sanctioned by our government and denied access to U.S. technology, components, equipment, and other services are still allowed to raise large sums of capital from unsuspecting American retail investors and enjoy all of the global prestige of being listed or traded on the world's deepest and most voluminous markets. This is a scandalous double-standard that must be reconciled immediately. Simple improvements to ESG standards and sharing information with investors such as U.S. sanctions status would greatly enhance investor protection and improve the efficacy and quality of what is ESG.

Risks to Investors Posed by the Gaps and Inconsistencies in Imposition of U.S. Sanctions

The Global Magnitsky Human Rights Accountability Act

The U.S. has a robust sanctions arsenal, including the individual and targeted sanctions of the *Global Magnitsky Human Rights Accountability Act* that freeze assets or block property, eliminate access to visas, and imposes other punitive measures for criminal activity. However, this law has untapped potential when it comes to punishing bad actor companies and protecting American investors. While companies affiliated with sanctioned individuals have been listed in previous executive orders implementing the *Global Magnitsky Human Rights Accountability Act* sanctions (the first in 2017), companies are not formally targeted by this law. And until the capital markets sanctions imposed by Executive Orders 13959, 13974, and now 14032, U.S. sanctions did not focus on purely financial and capital markets activities of bad actor corporations – instead, they primarily targeted the individual. While targeting individuals is meritorious, there is room for greater Congressional and Executive action to enhance the *Global Magnitsky Human Rights Accountability Act*, or establish new laws covering corporate bad actors and capital markets activities. Congress must clarify its intentions, or pass new laws, that create a requirement that the State Department, in consultation with Treasury, report semiannually on the presence of PRC-incorporated companies in U.S. capital markets (including in

passive investment funds and products), and their ties to activities that violates internationally recognized human rights or represent a national security risk to the U.S. The resulting list of companies must then be placed on the capital markets sanctions NS-CMIC List. Chinese corporate human rights abusers, for example, or companies engaged in militarizing illegal manmade islands in the South China Sea, should not be permitted to attract funds, often in the billions of dollars, from unwitting American retail investors. It is that simple.

Appendix A:

Most Active Publicly-Traded Chinese Mining Companies, per IntelTrak Project Count by Owner

- 1. Zijin Mining Group (2899.HK / MSCI ACWI, MSCI EM, FTSE EM)
- 2. China Nonferrous Mining Corp. (CNMC) (1258.HK)
- 3. Ganfeng Lithium Co. Ltd. (002460, SZ/MSCI ACWI, MSCI EM, FTSE EM)
- 4. Sinosteel Engineering & Tech (000928.SZ)
- 5. China Molybdenum Co. Ltd. (000831.SZ)
- China Nonferrous Metal Industry's Foreign Engineering and Construction Company (000758.SZ)
- 7. Hesteel Group (HBIS) (000709.SZ / MSCI ACWI, MSCI EM, FTSE EM)
- 8. Baosteel Group Corporation (600019.SS)
- 9. China Metallurgical Group Corporation (601618.SS)

Natural Resource Extraction

China Nonferrous Metal Mining (Group) Company (CNMC)

- Damage to Ecosystem and Wildlife/Imposition on Preserved Lands
 - China Nonferrous Metal Mining (CNMC)'s Tagaung Taung Nickel Mine project in Thabeikying, Myanmar ignited an ongoing dispute between CNMC and villagers, who claim that their land and water resources have been contaminated by the project, endangering local marine life.
 - o Thabeikying, Myanmar
 - https://www.rfa.org/english/news/myanmar/mine-runoff-adds-to-controversy-08302019135617.html
- Pollution
 - Some CNMC projects have allegedly caused local land and water resources to become contaminated.

Appendix B:

These companies are publicly-traded, posing risk to U.S. investors if their corporate bad actor status is not known via disclosure or investment in them is not prohibited via sanctions.

Publicly-traded but not natural resource-specific companies:

China Gezhouba Group Company (CGGC) 中国葛洲坝集团股份有限公司 (600068.SS)

- Pollution
 - China Gezhouba Group Corporation's \$1.06 billion coal-fired power unit project in Tuzla faced major pushback with regard to environmental concerns. The project uses cooling water from the major drinking water source in the area, leading to concerns about pollution.
 - o Tulza, Bosnia
 - https://www.reuters.com/world/china/bosnias-11-bln-deal-china-backed-coal-fired-plant-under-threat-2021-07-15/

China Grand Pharmaceutical and Healthcare Holdings (China Grand Pharmaceuticals) (0512.HK)

- Environmental Damage
 - The Norges Bank Investment Management (NBIM), which oversees Norway
 Government Pension Fund Global, decided to exclude China Grand
 Pharmaceutical and Healthcare Holdings from its fund due to "unacceptable risk
 that the company contributes to serious environmental damage."
 - o Norway
 - https://www.swfinstitute.org/news/88643/norway-swf-bans-some-chinese-medicine-companies-over-environmental-impacts

China North Industries Corporation (NORINCO) (中国北方工业集团有限公司/中国兵器工业集团公司) (00065.SZ)

- · Displaced populations
 - Because the environmental impact assessment claimed fewer than 30 people
 would be affected by this event, environmentalists challenged the validity of the
 assessment as it was clear there was no public engagement, particularly from local
 indigenous peoples who the project would directly impact.
 - O Thailand
 - https://www.voanews.com/a/thai-water-project-clears-major-hurdle-after-china-shows-interest/6283331.html

China Railway Construction Corporation (CRCC) (中国铁建股份有限公司) (0390.HK)

• Environmental Damage

- In June 2021, CRCC's road construction project was accused of causing a serious environmental disaster resulting in landslides and damaging houses in Sindhupalchok, Nepal. Locals have protested against CRCC and demanded payment for damages.
- o Sindhupalchok, Nepal
- https://www.timesnownews.com/international/article/protests-in-nepalssindhupalchawk-against-chinese-road-construction-firm-after-landslides-damageto-houses/774062

Dongfang Electric Corporation (DEC) (1072.HK)

- Disrupted or Deprived Local Populations of Livelihoods
 - o In 2015, the 1,870 MW Ethiopian Gibe III hydroelectric dam project was operationalized following its completion by Dongfang Electric Corporation. Since the project's inception, environmental activists have campaigned against the dam, concerned that it can cause environmental damage to the already fragile local environment. In May 2011, food resources were so scarce in the drought-ridden border region between Kenya and Ethiopia that two of the main ethnic groups were in conflict for more land and water. This led to 70 ethnic Turkana people from Kenya being killed when they attempted to buy food across the border in Ethiopia. The project is also primarily financed by the state-owned Industrial and Commercial Bank of China.
 - o Sodo, Ethiopia
 - https://theconversation.com/fears-over-ethiopian-dams-costly-impact-onenvironment-people-80757

MMG Limited (1208.HK)

- Disrupted or Deprived Local Populations of Livelihoods
 - In 2017, reports emerged that local subsistence farmers in Peru had been displaced and lost their livelihoods to MMG Limited's Las Bambas copper mining project. The mining operations, which were awarded to MMG in 2014, resulted in widespread local protests due to their negative environmental implications.
 Locals were allegedly not properly compensated for their displacement, despite initial assurances.
 - Apurímac, Peru
 - https://www.reuters.com/article/us-mmg-peru-insight/displaced-by-mining-peru-villagers-spurn-shiny-new-town-idUSKBN1E10JG

PetroChina Company Ltd. (PTR: NYSE)

• Displacement of Local Populations

- In 2011, the Norwegian Council on Ethics recommended the Norwegian
 government divest US\$90 million held in the Norwegian Government Pension
 Fund Global (GPFG) from the Chinese oil giant PetroChina due to human rights
 abuses connected to controversial oil and gas pipelines under construction in
 Myanmar. The pipeline allegedly forcibly-displaced locals in the area.
- o Myanmar
- https://earthrights.org/media_release/chinese-oil-company-linked-to-human-rights-abuses-in-burma-myanmar/

Power Construction Corporation of China (PowerChina) 中国电力建设集团有限公司 (601669.SS)

- Environmental Damage
 - On October 26, 2016, Power Construction Corporation of China (PowerChina) and PT Intraco Penta began building the Bengkulu power station, a 200-megawatt (MW) coal-fired station in South Sumatra Province, Indonesia. In May 2018, a number of farmers in Bengkulu city expressed opposition to the plant because its construction was damming a stream and causing their land to flood. Locals also reported that sea life washed up dead on their beaches, allegedly due to the chemicals from the plant's waste treatment center. On November 15, 2019, the plant was connected to the power grid.
 - o Palembang, Indonesia
 - https://www.thejakartapost.com/news/2019/12/06/10-dead-turtles-over-2-months-in-bengkulu-some-found-near-power-plant.html;
 https://ejatlas.org/conflict/bengkulu-coal-fired-power-plant-bengkulu-province-indonesia
- Pollution
 - In July 2017, Power Construction Corporation of China (PowerChina) entered a
 joint venture arrangement with Iso Tech Group and Taylor Power Environmental
 Company to build, own, and operate the Barguna 350-megawatt (MW)
 supercritical coal-fired power plant in Barisal, Bangladesh. The joint venture
 signed a power purchase agreement with the Bangladesh Power Development
 Board. The project has faced pushback from locals and environmental activities
 who allege that it will contaminate local water resources and damage arable lands.
 - o Barishal, Bangladesh
 - http://www.newagebd.net/article/47813/coal-fired-power-plant-in-bargunadespite-environmental-concerns

Rio Tinto Group (RIO:NYSE)

Pollution

- On July 15, 2021, PAKT and the Coalition against Corruption in the Environment filed a claim against Rio Tinto's subsidiary, Rio Sava Exploration, with the Basic Public Prosecutor's Office in Loznica for causing environmental pollution in the Jadar River valley area. Leaks of hazardous substances by the facilities for monitoring groundwater levels used by Rio Sava caused significant material damage to the local owners of land plots. The NGOs allege that Rio Sava has been causing environmental damage since 2015.
- o Loznica, Serbia
- https://balkaninsight.com/2021/07/14/serbia-green-ngos-file-charges-against-lithium-mining-giant/

Shanghai Electric Power Co., Ltd. (上海电力股份有限公司) (2727.HK)

Pollution

- On October 24, 2009, Shanghai Electric won a \$1.38 billion contract to build the 1,244-megawatt coal-fired Vinh Tan 2 thermal power plant in Vietnam's Binh Thuan province. Vinh Tan 2 is one of three power plants in Binh Thuan's Vinh Tan power complex and will supply electricity to Vietnam's southern region. The plant has been the focus of significant complaints and protests by local residents due to dust pollution and health issues. Additionally, there have been claims made that the plant has degraded water quality in the area. As of 2016, cinders and fumes from the plant were still blowing into residential areas, affecting thousands of civilians, and some residents have reported their children contracting pneumonia.
- o Pan Thiet, Vietnam
- https://old.business-humanrights.org/en/vietnam-govt-orders-vinh-tan-2-coal-power-plant-to-reduce-pollution-amid-protests
- Damage to Ecosystem and Wildlife/Imposition on Preserved Lands
 - o In February 2018, a construction contract for the Hunutlu Thermal Power Plant was signed by Shanghai Electric Power Co., AVIC International, and Emba Elektrik Üretim. The contract is valued at \$1.7 billion and outlines the construction of a 1,320-megawatt (MW) power plant near Sugozu Village, Turkey. A lawsuit alleging future environmental harm was filed in 2018, and local environmentalists allege the area is internationally protected under the Bern Convention on Conservation of European Wildlife and Natural Habitats.
 - o Sugozu Village, Turkey
 - $\circ \quad https://www.banktrack.org/project/emba_hunutlu_coal_power_plant$

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Kidan Araya
Additional Response to Questions
Hearing: "From Timber to Tungsten: "How the Exploitation of Natural Resources Funds Rogue
Organizations and Regimes"
Subcommittee on National Security, International Development, and Monetary Policy
(Committee on Financial Services)

A critical intervention with the potential to disrupt the supply and profitability of illicitly traded natural resources is empowering and ensuring African countries enforce existing laws and regulations governing trade and illicit products. As source countries who are victims of having their resources illicitly exported out of the country, governance and programmatic mechanisms should be strengthened to allow local and national authorities to easily monitor their supply chains to detect products derived from environmental crime. For the case of African countries, some international companies may possess knowledge of illegalities occurring throughout the supply chain but turn a blind eye or distance themselves to the realities of illicit activities. Gaps in reporting the source of products and lack of transparency in supply chains can enable proof of custody in connection to a company knowing if their supply chain is corrupted to be unprovable or untraceable. This must be addressed through policy and programmatic interventions at an international scale.

Similarly, ensuring that businesses are reporting on product sourcing and standards must be imperative. In addition to strengthening reporting requirements on high-risk goods entering the U.S., one intervention is to enable United States government programs to implement a grant and/or loan fund to support smaller businesses in implementing supply chain transparency and traceability measures. For example, additional government resources and programs, such as more funding to the U.S. Fish and Wildlife Services International Program to provide education and technical assistance to business owners on the potential risks that they are exposed to when engaging in resource trade in particular troubled geographies and what trade regulations they need to abide by, can be helpful.

Government can also discourage illicit trade by enforcing that private companies make supply information transparent and public to a reasonable degree. Some companies have already begun to employ innovative strategies to combatting corruption and illicit goods in their supply chain. For the case of combatting illicit trade in Africa, companies such as Tesla and Ford have employed blockchain technology to trace cobalt in the Democratic Republic of Congo, a supply chain rife with environmental crime and child labor violations. These technologies may allow producers and users to see where the cobalt used in their electrical vehicles was sourced from. By moving paper-based certification methods that are vulnerable to tampering via corruption-driven bribery to a traceable technology, Blockchain technologies can disrupt the profitability and ease at which illicit trade operates through reducing the amount of products that are not properly certified from entering markets for sale. Blockchain technology is new and the reporting of results and its ability to reduce illicitly extracted natural resources must be studied and monitored further if it is fit for purpose.

Tony's Chocolonely, a chocolate company based in The Netherlands, is another private sector example of a company implementing traceability and transparency of their data throughout their supply chain as they source cocoa from Africa. They have an open tracker that other companies can use to understand which cocoa farmers are the sources of cocoa beans being shipped and exported and what is being processed in their factory sites so they are aware of the amount of product that has been certified to sell. These innovative tools should be more than voluntary measures by socially responsible companies. They can be required and even subsidized by government to encourage strong private sector business practices. The FOREST Act should be passed into law as "it enables the creation of a risk-based framework for increasing transparency and reporting in companies' international supply chains and provides financial and technical assistance that enable countries, companies, and the U.S. federal government to coordinate solutions to reduce illegal deforestation." Additionally, the FOREST Act would mark illegal deforestation as a financial crime, further discouraging producers to engage in illicit trade of timber and be marked and sanctioned as a company engaging in financial crime activity.

These companies mentioned offer useful case study examples that should be further studied and analyzed to see the benefits they offer in making supply chains more transparent, legal, and humane. The United States Government should be supporting such innovation and enforcing agencies should provide standards of reporting. Companies who are making additional, successful efforts to ensure their supply chains are free of illicit trade and environmental crime should be celebrated and upheld as the standard. The Corporate Excellence Ceremony held by the U.S. Department of State and Secretary General Mr. Anthony Blinken, is one such example of this; more US agencies should promote the event and perform more communications outreach to let the American people know of such companies in order to increase awareness about the risks of illicit trade and environmental crime in supply chains and encourage consumers to generally engage in business with companies who are engaging in good practices.

Ultimately, one of the most important interventions is improving governance, democracy, and anti-corruption measures in African countries, and other source countries of supplies, therefore cutting off traffickers to access of international markets. In the case of African countries who are key source countries of rare earth minerals, timber, and other commodities, an underutilized U.S. legislation that could increase transparency and legality in the supply chain of natural resources is the Africa Growth and Opportunity Act (AGOA). AGOA is a legislation to provide African countries tax breaks with trading with the U.S. A key part of the AGOA legislation is that African countries must be making anti-corruption progress and shifting from an aid economy to a trade-based economy to maintain AGOA benefits. The progress and actions that African countries are pursuing to reduce illicit trade in natural resources must be part of the AGOA renewal conversations for high-risk illicit trade countries, as tackling environmental crime and generating much-needed tax revenue will significantly help accomplish goals of becoming economically independent nations. Reporting on high-risk natural resources must be included in reporting under AGOA and will provide data for African countries to combat the issue locally. The plans and reported progress that African countries are making in stopping the illicit trade of natural resources should be a part of annual reporting under AGOA.

Overall, it will also be critical for measures to conquer illicit trade at the root of the crime in countries and communities who are most negatively impact and victimized. A huge part of what makes environmental crime and illicit trade lucrative for people to engage in within source countries is systemic poverty and underinvestment seen deeply at the community and individual level, the sites of where resources are illicitly extracted. Increasing investment and funding for development programs in African countries will significantly reduce the likelihood of community members to engage in the illegal sale of their resources to corrupted companies and supply chains.



SECTION 2 FINANCIAL INTELLIGENCE SOLUTIONS, LLC Washington D.C., January 4, 2022



Congressional Testimony: House Financial Services Committee, Subcommittee on National Security, International Development and Monetary Policy

Questions for the Record

Questions from: Chairman Jim Himes

Reference Hearing: "From Timber to Tungsten: How the Exploitation of Natural Resources Funds Rogue Organizations and Regimes." November 4, 2021.

Responses: January 4, 2022.

Witness Testimony from: Joshua T. Fruth, Co-Founder/CSO, Section 2 Financial Intelligence Solutions, LLC

"Chairman Himes.

I have placed a lot of time and consideration into answering your questions with robust, solutionoriented responses, and I appreciate your sincere interest, feedback, and leadership on these important matters. As you know, my testimony was predominantly scoped around postdrawdown Afghanistan and the exploitation of its Rare Earth Elements (REE) by China, Pakistan, and the Taliban. In accordance with that emphasis, I would like to bring to your attention my grave concern about a proposal that occurred after our hearing, which if implemented, would have disastrous consequences related to the specific problem sets we are discussing.

Our reference hearing occurred on November 4, 2021, but a recent proposal by some House members threatens to invalidate all of the potential courses of action that Major General (Ret.) Buck Elton and I recommended in our US Air Force, Air University, Journal of Indo-Pacific Affairs (JIPA) white paper on post-drawdown Afghanistan, which was entered into the record.

In a December 20, 2021, letter to President Biden, 46 House members proposed to the President that he work with the International Monetary Fund (IMF) to release \$9.4 billion in frozen assets to the Taliban. From the time of my tenure in Afghanistan, to our extremely unfortunate withdrawal, which personally hurt me deeply, I did not shed a tear. However, when I read this letter, I cried in frustration. Chairman, while I appreciate that some of your House colleagues have big hearts to recognize legitimate humanitarian concerns and that they sincerely believe releasing frozen IMF funds would result in improved living conditions for the Afghan people, they unfortunately would not.

Having served as the lead advisor for the NATO Special Operations, Counter Threat Finance (CTF) function in Afghanistan, and having conducted and published the most thorough and exhaustive research into the Taliban's financing and operational expenditure patterns we have to date, I can tell you with near certainty that unfreezing these assets would be the single worst

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foreign policy decision by the United States in our lifetimes and would result in the greatest terrorist financing event to date in world history. The fallout of such a decision would be grave beyond words. I offer to work with you and your team, including coordination around release of some of my research, to inform and facilitate policy considerations.

The proposal to release these frozen funds would provide billions of dollars directly to a terrorist group that we have fought for the past 20 years. I would like to remind House members that the Taliban is the same organization who provided partnership and safe-haven to al-Qaeda before and after they attacked us on 9/11. With near certainty, I assess they are still presently providing safe-haven, funding, and operational sustainment support to al-Oaeda in support of the group's future operations. The Taliban is also one of the world's largest ever drug cartels, manifesting in real-time into the world's greatest narco-terror state. I also remain concerned that such a significant funding stream could increase the likelihood that the Taliban's "Islamic Emirate," which they now self-refer to as the Islamic Emirate of Afghanistan (IEA), could declare an Islamic Caliphate. Under such a declaration, the Taliban's de facto Caliphate would be "significantly" more dangerous and less opposed than ISIS ever was in the height of its own Caliphate proclamation. Such an event could further consolidate global Sunni terrorism under the Taliban's protection and support. One of the benefits we have historically had in combatting Sunni terror groups, specifically, is that they are far more decentralized and segmented, when compared with the Shiite terror groups that fall under the command and control of the Islamic Revolutionary Guard Corps (IRGC) and Iranian Supreme Leader Ayatollah Ali Khamenei. We do not want to encourage further centralized command and control of Sunni terror groups in a conflict jurisdiction that we just militarily departed.

My final concern with potentially releasing IMF frozen funds to the Taliban is that it would help cement their leadership and governance in Afghanistan. The primary benefactor of this would be China. China's main ambition in Afghanistan is to extract its vast deposits of Rare Earth Elements (REE). Releasing these funds to the Taliban would help guarantee the security conditions for China to do it.

During my tenure in Afghanistan, I conducted an intensive analysis of five years of intelligence reporting on the Taliban's funding and spending patterns. Much of the associated analysis and product output is classified. However, the unclassified footnotes here are that the Taliban still controlled a lot of territory during this time in 2018-2019. They enriched their coffers to record levels (think billions of US Dollars) with the introduction of the methamphetamine funding stream, made with the newly discovered "Oman Bush" ephedra plant sourced from the central mountainous and used as a production reagent. They also received lines of significant revenue from the Kajaki Dam (responsible for electricity for a large portion of Afghanistan and disputed by the Taliban and government forces for years), as well as from opiates, hashish, Zakat (religious tax), and gemstones. I conducted detailed analysis into the spend patterns of what they did with these funds.

Needless to say, the Taliban didn't use these funds to instill governance or support civilians and social welfare programs in areas under their territorial control. Presumably, the House members

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who advocated for the release of IMF frozen funds to the Taliban might argue that circumstances have changed since the U.S. and NATO withdrawal, but that would be an extremely naive and uninformed view of this organization, their history, and their decisioning calculus. It would also underscore the cultural significance of Afghanistan's world-leading corruption that is so rampant, most Americans would have trouble conceptualizing its integral role in Afghan business culture. I believe it is specifically this corruption nexus, coupled with a lack of true understanding about the Taliban's business practices and ambitions, that is leading to this ground-truth disconnect for some House members. This is an instance where we must be cautious, resist our Western perspectives and confirmation bias, and not project our expectations of financial support in exchange for humanitarian aid, onto the Taliban. That is a recipe for disappointment and very unhappy constituents, once it's discovered that the Taliban have diverted those funds to further counteract our national security interests and exasperate every transnational security issue we have in and around Afghanistan.

I appreciate the humanitarian concerns some colleague members have with the horrid conditions under the Taliban regime that disproportionately affect women, children, and disenfranchised population groups. To some extent, those conditions were enabled by the manner in which we evacuated. However, we must never forget that we as Americans are the beacon of freedom and hope in the world. The United States did not place Afghan citizens into dire humanitarian conditions by supporting the freeze of IMF assets. Those funds were intended for a NATO backed government that considered human rights and the rule of law. The Taliban does not.

Upon departing Kabul, Afghan citizens desperately attempted to latch onto departing American aircraft, and some of them perished in this effort. I believe this speaks volumes to the integrity and values others see in the United States. At the end of the day, the blame for the current humanitarian crisis in Afghanistan is not on the United States or the IMF for freezing funds. Blame falls squarely on the Taliban's shoulders. This terrorist regime is comprised of violent, repulsive, medieval, narco-terrorist murderers, pillagers, and rapists. The conditions for world-leading human suffering in Afghanistan were created directly by the Taliban's systemic, very recent, and still ongoing atrocities. We must remember who our enemy is. We cannot release funds to the Taliban. Chairman, those funds will not be used in the manner your colleagues intend. Instead, those resources will fund the Taliban and its associated networks of terrorist, hostile state actors, and organized crime groups directly against the National Security interests of the United States and our allies.

Furthermore, Treasury's Office of Foreign Assets Control (OFAC) released the "Provision of Humanitarian Assistance to Afghanistan and Support for the Afghan People, Issuance of Afghanistan-related Counter Terrorism General Licenses, and related Frequently Asked Questions; Counter Terrorism Designations" on December 22, 2021. This release included three general licenses aimed at easing humanitarian aid flows into Afghanistan. Two of the licenses allow U.S. officials and those of certain international organizations, such as the United Nations, to engage in transactions involving the Taliban or Haqqani Network for official business. A third license gives non-governmental organizations (NGOs) protection from U.S. sanctions on

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the Taliban and the Haqqani Network for work on certain activities, including humanitarian projects. $^{\mathrm{iii}}$

These actions take an important step towards the public/private partnerships we discussed in the hearing and are intended to help bridge the gap for food and medical aid to Afghan civilians. This is the right approach Chairman, rather than the release of the IMF frozen funds. Consistent with my testimony on November 4th 1 believe it is important that we utilize these licenses in a targeted manner to leverage food and medical aid in exchange for the continued evacuation of US families, Special Immigrant Visa (SIV) families, and disenfranchised population groups at the highest risk of violence; such as prominent women and girls, members of the LGBTQ community, and activists.

I plead with you Chairman to do everything in your power to counter the dangerous line of uninformed thinking by some well-meaning colleagues around releasing frozen IMF assets to the Taliban. The National Security community would forever be in your debt. I will stand by to support you in any way I can, and I thank you for your continued leadership and support in these important matters.

Now, without further ado, I would like to respond to your important questions.

Chairman Himes: "Natural resources are valuable economic drivers for government and national wealth and legitimate, sustainably operated natural resource enterprises can create jobs, generate revenue, and grow local and regional economies' gross domestic products. These commodities, however, also present lucrative opportunities for exploitation by bad actors such as criminals, kleptocrats, terrorists, and rogue regimes. Can you identify best practices that governments and the private sector can implement or encourage to disrupt the profitability of environmental crime? How can the private sector adopt anti-corruption strategies and manage potential risk?"

Joshua Fruth: "Chairman, thank you for the important question.

Q: Can you identify best practices that governments and the private sector can implement or encourage to disrupt the profitability of environmental crime?

For those of us focused on transnational security issues in the federal law enforcement, military, and intelligence spaces, we focus intensely on the doctrinal and operational aspects of what we call the "hybrid threat." Hybrid threat doctrine recognizes the network intersection between hostile state and non-state actors operating across differing threat classifications, such as corruption and sanctions evasion, transnational organized crime, terrorism, and cybercrime. We have learned several consistent truths about global crime patterns.

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First, we have come to find that the vast majority of global crime (to include environmental crime like natural resource exploitation or the criminal trafficking of drugs, weapons, endangered wildlife, people and organs, intellectual property and government secrets) is associated with state or non-state, transnational or transregional threat organizations, rather than bad actors operating on their own accord. Second, we have discovered that these organizations are interconnected in a sophisticated global network resembling an orb-weaver spider's web, which is necessary for the complex logistical requirements of executing their illicit business models across international black markets. Thus, we recognize that the hybrid threat represents the parallel dark side of globalization. Third, we consistently see that the primary connective tissue between these various threat organizations is "transactional" in nature, and that it is specifically this transactional component that results in hybrid threat networks. This specific area of emphasis on illicit network finance is the basis of our "Hybrid Threat Finance" (HTF) model of targeting, which focused on Preventative and Forensic Targeting. Preventative Targeting is designed to prevent the enemy from generating operating revenue in the first place. Forensic Targeting is focused on preventing the operational use and sustainment support of those illicit funding stream(s) through money laundering, and focus heavily on forensic law enforcement and financial crime investigations.

To get back to your question, the best way we can practice public/private partnerships to combat environmental crime and other organized criminal activities is to reinforce our Anti-Money Laundering (AML) and Know Your Customer (KYC)/Customer Due Diligence (CDD) practices. Our Financial Crimes Enforcement Network (FinCEN) could be better resourced to work with financial institutions and international Financial Intelligence Units (FIU) to better inform banks on what these suspicious patterns look like. We can and absolutely should vastly expand the infrastructure of the U.S. military, law enforcement, and intelligence communities' Counter Threat Finance (CTF) programs. These are some of the best "bang for the taxpayer's buck" intelligence programs our nation has. Our CTF apparatus has resulted in significant disruptions to the operational sustainment capabilities of our state and non-state adversaries, by utilizing the full extent of the capabilities and authorities of the interagency to combat illicit finance. I would be happy to meet with you or your staff to provide a more robust and granular plan, up to and including in a more secure medium.

Q: How can the private sector adopt anti-corruption strategies and manage potential risk?

Chairman, I appreciate this question. Unfortunately, most of the corruption conditions that face the private sector are the direct result of decisions made in the pubic sector. The best way to support private sector anti-corruption strategies is for our government to be more thoughtful in certain policy areas that have helped breed this corruption nexus. Thus, prior to addressing private sector strategies, I need to address some variables in how our government must lead to ensure the success of industry in managing risk. These considerations include refusing to release \$9.4 billion in IMF-frozen assets to the Taliban, placing more scrutiny on our foreign aid programs and the quality control oversight of expenditures, and conversely, reviewing where we need to "back off" from counter-corruption efforts to ensure the success of National Security

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priorities that take higher precedence. Then I will circle back to your initial question regarding private sector strategies.

First, our number one corruption issue in the present is the well-meaning but incredibly dangerous proposal to the President by some of House members to release \$9.4 billion in frozen IMF funds to the Taliban's regime. This would be the world's greatest corruption and terrorist financing event, and we must counter the factually incorrect narrative of this line of thinking in the strongest bipartisan manner to protect our National Security interests from the incredible corruption, terrorism, and Great Power Competition (GPC) fall-out that would inevitably follow that decision.

Second, I believe we need to be much more thoughtful in our foreign aid allocations, because poor foreign aid choices in the public sector create untenable corruption conditions for the private sector. For example, we gave billions of dollars in weapons and equipment to the Afghan National Defense Security Forces (ANDSF) and trained a military that is now under the control of the Taliban. The reasons for the ANDSF's collapse are numerous. They include first and foremost the shutdown of the Bagram Airfield, which resulted in our Afghan allies being forced to conduct operations without Close Air Support (CAS) or kinetic airstrike capacities to augment them in kinetic engagements with the Taliban. Military white papers over the upcoming decades will look back on this event and suggest that we would have saved countless lives, taxpayer dollars, and would have mitigated the follow-on domino-like effect of future conflicts stemming from this withdrawal had we only maintained a small contingent force in Bagram and Kabul to sustain Intelligence, Surveillance and Reconnaissance (ISR), CAS, and kinetic airstrike capabilities. Regardless, the current operating environment is such that billions in U.S. taxpayer funded weapons and equipment are now in the hands of the Taliban, and the change in environment and Taliban corruption have clearly had negative domino effects which have essentially destroyed the private sector throughout the country

However, what is done is done, and we must find lessons learned that will empower and inform our decisionmakers going forward. Another area that we can glean usable feedback from is the corruption issue associated with thousands of Afghan military "ghost soldiers." The term "ghost soldiers" refers to individuals represented as being members of the Afghan armed services for the purpose of receiving payment from the U.S. government for their training, equipment, and compensation. The reason we call them ghost soldiers is because these people either never existed in the first place or were prior armed forces members that went AWOL or were killed. What I'm telling you Chairman is that it was a massive fraud issue. These funds were pocketed by corrupt leaders in the Afghan military and government. We also hear instances of Afghan service members that were not receiving their salaries, or sufficient equipment and ammunition to perform their combat-related duties. This was also the result of corruption in the ranks.

From a U.S. perspective, this comes down to insufficient Quality Control (QC) to ensure that the funds allocated to a foreign government have been spent in a manner that honors our taxpayers' contributions. Basically, we need more streamlined operating procedures in place. In the case of corruption within the Afghan government, we clearly were not positioned to accurately account

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for, or mitigate, this systemic corruption. In the case of Pakistani, they also severely misused foreign aid, to the extent of directly undermining our interests, potentially bombing our National Resistance Front (NRF) allies in the Panjshir Valley with laser guided munitions we provided them, and actively supporting the Taliban to kill us and our allies. These are just two examples where foreign aid that was allocated to promote U.S. National Security interests was so abysmally misused, that those allocated funds were actually employed to "counter" our efforts. I question if these two examples are isolated or whether they potentially represent a more systemic quality control issue across U.S. foreign aid programs.

The third corruption issue I want to discuss with you Chairman, is when we need to "back off" from counter-corruption efforts in areas where we are competing with China and Russia for Rare Earth Elements (REE). We need to be honest with ourselves and recognize that according to the Corruption Perceptions Index (CPI), many of the most resource wealthy countries are also some of the world's most corrupt. China is acutely aware of this corruption nexus and exploits it by bribing key officials with kickbacks and other perks in exchange for mining contracts and Belt and Road Initiative (BRI) projects. Chairman, we need to have a real discussion as to how we as a nation are going to compete in this space. This is a private/public partnership area that needs to connect our National Security apparatus with industry in order to extract the requisite amount of precious REEs necessary to compete against our near-peer state adversaries in the decades to come

Our U.S. public/private sector partnerships focused on competing for mining contracts (against China or others) in these developing states should incorporate Counter-Corruption and Counter Threat Finance (CTF) experts with interagency classified support into their resourcing plans for the explicit reason of identifying power brokers and formulating an engagement strategy. We should not however be utilizing these personnel to "combar" corruption or impart our values on these nations and their governments. There is a time and place for the United States to enforce a counter-corruption program on a foreign government, and those circumstances should most often be scoped to aid programs paid for by the U.S. taxpayer. Competition for rare earth minerals is not however the time. If we push our ideological positions too hard on the corrupt governments of these developing resource-wealthy countries, we will push them straight to China. Our goal here is not to police the belief system or business practices of these countries. Our goal instead is to beat China and win these contracts to extract these rare earths for our current and future state needs. China will not criticize these governments for corruption, human rights issues, or anything else. Their only focus is on the rare earths. We need to get serious and do the same.

One of the ways we can do that is to counter Chinese propaganda and regain control of the information environment. We must clearly articulate, both in public and private, to prospective partner jurisdictions, relevant stakeholders, and the public how China uses its Belt and Road Initiative (BRI) developmental loans and other programs to exploit smaller countries in a manner that is harmful to the local populace. We need to emphasize that we are a far more fair and honest trade "partner." I emphasize the world "partner," as we are looking for resource "partners," as opposed to communist China, who wants to take over entire sectors of other nations' industry, governance, and daily life. For example, China is implementing their 5G

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telecommunications networks, cell towers, mobile phone and computer hardware, software, and other technologies in these developing countries. China will eventually use its dominance in technology to control the information environment and collect intelligence on device end users. Having China as a partner means that citizens in these countries will lose individual freedoms. Partnering with the United States is the more free, democratic, and ethical choice in the long run, even if we struggle to compete at Beijing's initial price point, which will have unforeseen long-term consequences.

Circling back to your initial question about public/private partnerships to combat corruption, Chairman, most of our potential areas of opportunity to improve these relationships are in the illicit finance and regulatory spaces. We need to support FinCEN by increasing their budget, resourcing, and the number of FinCEN embedded liaisons in interagency task forces, fusion centers, and private sector engagement. FinCEN analysts are "force multipliers" and we should treat them accordingly.

FinCEN and other interagency partners likewise need to do a better job at engaging with the banking industry and other relevant private sector stakeholders to help inform these organizations on threat organization typologies so that we can better detect and report instances of our financial system being exploited by hybrid threat financial networks. Additionally, we need to continue recent efforts around improving beneficial ownership reporting by creating a U.S. government regulatory standard that we require Legal Entity Identifiers (LEI) for businesses. This will result in a global standard for entity identification and verification that will make it harder for bad actors to hide behind layers of shell and front companies."

Chairman Himes: "Illicit natural resource extraction has close connections to international supply chains that lead to the shelves of U.S. retail stores. For example, supply from illegal logging operations can be found in furniture and flooring; tainted gold can be used to make jewelry, smartphones, and other electronics; and illegally trafficked tungsten can find its way into tools, household appliances, and electrical wiring equipment. Generally, are companies aware that their supply chains may be involved in illicit natural resource extraction? How can international enforcement mechanisms be improved to better detect and deter illicit flows of commodities and the proceeds of those sales? How can the private and public sectors work together to ensure that American consumers are not unwittingly supporting kleptocracy, transnational crimes, and terrorism?

Joshua Fruth: "Thank you, Chairman, for the question.

Q: Generally, are companies aware that their supply chains may be involved in illicit natural resource extraction?

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If we view supply chains in a flowchart model, we see that there are numerous stages of product movement in a global product distribution plan. In Counter Threat Finance (CTF) and high-risk Supply Chain Risk Management (SCRM), we break down those various stages of product movement in these flowcharts, and then we do the same thing in the inverse with the associated transactions. Generally, product goes in one direction; money goes in the other. Sometimes the transactions take a different path on the way back than the product took on the way out. There can be many stages of logistical movement between the seller, consignee, and ultimate end user. As a general rule of thumb, the earlier the stage of product distribution, the higher the likelihood that the people and companies involved are aware of the illicit nature of their business practices. A few stages in, companies may not be aware of the illicit source of their materials.

Q: How can international enforcement mechanisms be improved to better detect and deter illicit flows of commodities and the proceeds of those sales? How can the private and public sectors work together to ensure that American consumers are not unwittingly supporting kleptocracy, transnational crimes, and terrorism?

Supply Chain Risk Management (SCRM) is a critically important function to banks, hedge funds, government agencies, and Fortune 500 companies. In the era of hybrid threat financial networks, specifically those associated with Chinese, Russian, and Iranian illicit finance, expertise in this area is a gap requiring additional regulatory support. As a banking compliance function, supply chains (particularly in correspondent banking and private wealth management compliance), we would generally look two stages back. That is, to say that we conduct "Know Your Customer" (KYC) due diligence and Know Your Customer's Customer (KYCC) due diligence. From a government perspective, we analyze the entire supply chain and all associated entities, sometimes in both unclassified and classified environments. Well-regulated supply chain, commerce, and financial controls are key here. I think a key driver of change (in support of recent advances in beneficial ownership reporting requirements) would include the formal U.S. government adoption of the Legal Entity Identifier (LEI) for all companies wishing to do business in the United States. That would be a huge help to fight global corruption and money laundering, by helping to establish a global registry that makes it more challenging for bad actors to hide behind obscure corporate structures."



About Section 2 Financial Intelligence Solutions, LLC

Section 2 (S2) is a financial services industry risk and compliance consultancy focused on mitigating the risks posed by Hybrid Threat Finance (HTF) networks to Anti-Money Laundering (AML) compliance programs. S2 provides advisory and investigative services, original data and technology products, transaction monitoring system implementation and optimization services for detection programs, and Threat Finance Academy (TFA) training for regulated financial institutions. Learn more at www.s2fis.com.

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Joshua T. Fruth



Joshua Fruth serves in the private sector as Co-Founder and Chief Strategy Officer for risk consultancy Section 2 (s2fis.com), and previously served as Director of Anti-Money Laundering Advisory Services at New Jersey-based Matrix International Financial Services (Matrix-IFS). Josh has served in the public sector as a Captain and Intelligence Officer in the U.S. Army Reserves, civilian Police Officer, and Federal Contractor. He has completed assignments within U.S. Central Command (USCENTCOM), U.S. Indo-Pacific Command (USINDOPACOM), U.S. Army Civil Affairs and Psychological Operations Command (USACAPOC), U.S. Army Intelligence and Security Command (INSCOM), the

National Counterterrorism Center (NCTC), Drug Enforcement Administration (DEA), Special Operations Joint Task Force – Afghanistan (SOJTF-A), U.S. Department of Commerce, Bureau of Industry & Security (BIS), and spent a decade as an inner-city law enforcement officer combating violent and sexual crimes and the organized criminal trafficking of narcotics, weapons, and persons.

Fruth is a published contributor, trainer, and keynote speaker featured by various national and international media outlets, technology, financial crime, and banking associations. He is an Honor Graduate of the Special Operations Forces Captains Career Course (SOFCCC) at the John F. Kennedy Special Warfare Center and School (USAJFKSWC), Distinguished Honor Graduate of the Basic Intelligence Officer's Course (MIBOLC) at the U.S. Army Intelligence Center of Excellence (USAICoE) and a graduate of the Fort Benning School of Infantry and Ohio OPOTA Police Academy. He pioneered the Hybrid Threat Finance (HTF) doctrine and has spent the past five years instructing the interagency and banking sector on how to utilize this doctrine in Anti-Money Laundering (AML) transaction monitoring and Counter Threat Finance (CTF) targeting practices. He is headquartered out of the Washington, D.C. area.

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Questions for the Record

Hearing: "From Timber to Tungsten: "How the Exploitation of Natural Resources

Funds Rogue Organizations and Regimes"

Subcommittee on National Security, International Development, and Monetary Policy

(Committee on Financial Services)

Rep. Jim Himes

Responses by Carla García Zendejas Center for International Environmental Law (CIEL) December 21, 2021

Threat to National Security

1. Ms. García Zendejas, the FARC and the ELN have expanded their illegal mining operations into Venezuela and are known to launder proceeds through neighboring countries. In many cases, these operations are fueled by a lack of official land title documentation processes and facilitated by corrupt politicians and military officials. Can you explain how these legal gaps allow for illicit mining to continue in Colombia? What financial reporting processes can help address these concerns? How do these operations threaten the stability of South America?

$\underline{\text{A. Can you explain how these legal gaps allow for illicit mining to continue in Colombia?}}\\$

Cross-border illegal mining operations into Venezuela and Colombia by the National Liberation Army (ELN) and dissidents of the former Revolutionary Armed Forces of Colombia (FARC) are being facilitated by various factors. According to the Center for Strategic and International Studies (CSIS), the opening of a large swath of Venezuela's southern territory to mining activities by the Venezuelan regime in 2016, labeled as the "Mining Arc," has quickly become a hub for legal, and in particular illegal, mining.

Within illegal mining operations, "at nearly each step . . . state security forces take a cut," therefore they have no interest in combatting unlawful activities since they directly benefit from their existence. For example, given that the military controls the supply of fuel in the region, they profit by selling it to illegal actors that operate the fuel-intensive mines. Additionally, both the army and the national guard operate checkpoints all along illicit transport routes by land and by air, collecting bribes in exchange for facilitating the illegal export of minerals from Venezuela.

At an internal level, Venezuela has no interest in curbing the situation. As pointed out by CSIS, the regime secures loyalty from military and political leaders by providing posts in the "Mining Arc" area or allowing direct control over gold mines, which "represents an extremely lucrative opportunity in an otherwise failing economy."²

The lack of protection or recognition of indigenous land rights or fulfillment of the right to free, prior, and informed consent (FPIC) has also resulted in the encroachment of mining activities. Venezuela's southern territory—where the "Mining Arc" is located, contains some of the most biodiverse areas of the Amazon rainforest and is home to more than 30 different groups of Indigenous peoples. Despite their ancestral presence, they were not consulted before implementing public policies to promote mining in the region. The lack of consultation regarding the use and exploitation of their lands has caused Indigenous peoples to flee their ancestral homes, while others are being forced or coerced into working at illegal mines through threats of violence or due to financial necessity. Whether they are forcefully displaced or trapped by the mining system, the lives and traditions of Indigenous communities have been disrupted and sometimes destroyed. This phenomenon has led to their inability to serve as the primary stewards of the environment and biodiversity in the region, unable to stop the activities of illegal invaders.

Recent studies in other countries in the Amazon region, ⁴ bordering Venezuela, have provided "statistical proof of the Indigenous claim that they are the more effective forest guardians." ⁵ Assuring full property rights over their territories and the institutional framework for enforcing these rights, through free, prior, and informed consent "may be one of the few ways of saving

¹ Rendón, Moises et al., "Illegal Mining in Venezuela: Death and Devastation in the Amazonas and Orinoco Regions". The Center for Strategic and International Studies. April 2020. Available at: https://www.csis.org/analysis/illegal-mining-venezuela-death-and-devastation-amazonas-and-orinoco-regions

³ Human Rights Watch, "Venezuela: Violent Abuses in Illegal Gold Mines". February 2020. Available at: https://www.hrw.org/news/2020/02/04/venezuela-violent-abuses-illegal-gold-mines

⁴ Baragwanath, Kathryn and Bayi, Ella. *"Collective property rights reduce deforestation in the Brazilian Amazon"* in Proceedings of the National Academy of Sciences of the United States of America. August 11, 2020. Available at: https://www.pnas.org/content/117/34/20495

⁵ Branford, Sue. "Indigenous best Amazon stewards, but only when property rights assured: Study". Mongabay. August 2020. Available at: https://news.mongabay.com/2020/08/indigenous-best-amazon-stewards-but-only-when-property-rights-assured-study/

the Amazon Forest." 6 Nevertheless, no consultation has been held with Indigenous peoples in the "Mining Arc," despite the fact that Venezuela ratified ILO Convention 169 in 2002.

Once extracted from Venezuela's territory, minerals such as bauxite, coltan, ⁸ diamonds, and gold, in particular, are fraudulently "legalized" after being smuggled into neighboring countries, including Colombia, which also has problems related to illicit activities.

Illicit mining, crops and timber trafficking are expanding inside Colombia as a result of various factors, including legal gaps regarding the protection of environmental defenders. Although the Colombian government has carried out military interventions to tackle illegal activities, this has only been a dissuasive tool in the short term. Given that military troops are faced with pressure to show immediate results, repression can fall directly on the weakest actors, such as *campesinos* and vulnerable communities that participate in illicit activities due to threats or financial necessity. The Colombian government has been incapable of creating a comprehensive strategy to hold powerful actors accountable. Sophisticated networks in which criminal actors and legal agents continue to function with economic power and capacity for corruption broadly persist, including their concerted efforts intended to "capture the state."

Human rights and environmental defenders are confronting and speaking out against these criminal structures, facing unprecedented violence as a result. Colombia has become the world's deadliest country for environmental activists for two consecutive years. ¹³ A critical part of a broader strategy to tackle illegal economies and their associated crimes should be focused on protecting land and environmental defenders. In this context, the Escazu Agreement is a decisive step towards defending their lives and rights. The Treaty establishes groundbreaking provisions that oblige State parties to set up safeguards to prevent, investigate, and punish the attacks, threats, and intimidation that environmental leaders endure. ¹⁴ Yet, despite the fact the Colombian President signed onto the agreement in 2019, he has not sent the urgent message for ratification to Congress. "If Duque truly claims to protect the environment as he [did at COP26], he must invest political capital to ensure that Congress ratifies the treaty. If he insists

⁶ Id.

See Ratifications of C169 - Indigenous and Tribal Peoples Convention, 1989 (No. 169). Available at: https://www.ilo.org/dyn/normlex/es/f?p=NORMLEXPUB:11300:0::NO::P11300_INSTRUMENT_ID:312314

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⁹ InSightCrime. "Exploring Illegal Mining in Colombia's Amazon". September 2021. Available at: https://insightcrime.org/investigations/exploring-illegal-mining-colombia-amazon/

¹⁰ Garzón, Juan et al., "Fuerzas Militares y la protección del ambiente: Roles, riesgos y oportunidades". Fundación Ideas para la Paz. September 2020. https://www.ideaspaz.org/publications/posts/1894 [All quotes are unoffical translations by CIEL.]

11 Environmental Investigation Agency, "Condenando el Bosque: llegalidad y falta de gobernanza en la Amazonía Colombiana", 2019. Available at: https://content.eia-

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Garzón, Juan et al., supra note 10.

¹³ Front Line Defenders, "Global Analysis 2020". February 2021. Available at: https://www.frontlinedefenders.org/en/resource-publication/global-analysis-2020

¹⁴ Ariza, Isabella and Gómez, Luisa, "Escazu: Setting protections for environmental defenders in Latin America and the Caribbean". Corporate Accountability Lab. March 2021. Available at: https://corpaccountabilitylab.org/calblog/2021/3/23/escaz-setting-protections-for-environmental-defenders-in-latin-america-and-the-caribbean

on saying that the ratification process is urgent, he would force Congress not to let the agreement languish, as it is now."¹⁵ This legal gap has contributed to the lack of security and protection for those who defend the land, environment, and biodiversity against illegal economies, facilitating their continuation.

B. What financial reporting processes can help address these concerns?

Coordinated global responses and collaborative processes have been successful in addressing concerns when it comes to illegal mining, illegal logging and timber trafficking.

"Operation Amazonas" ¹⁶ has been a pioneering example of joint operation carried out in Peru by INTERPOL, the World Customs Organization, the Peruvian Customs and Tax Authority and the Agency for the Supervision of Forest and Wildlife Service (OSINFOR) in coordination with the Peruvian Environmental Prosecutor and the Attorney General of the Ministry of the Environment of Peru. The 2014 operation resulted in the seizure of illegal timber products worth USD 20.6 million. It is only through this collaborative process that agencies were granted access to "intelligence revealing the involvement of organized criminal networks in illegal logging, the sale and use of fraudulent permits to sell illegally sourced timber, and the mislabeling of timber exports." ¹⁷ This effort between national and international law enforcement and customs agencies was a major achievement in environmental terms. "Operation Amazonas" successfully contributed to combating criminal organizations making a profit from Amazonian forests.

Currently, substantial fact-finding efforts have uncovered the *modus operandi* of actors engaged in illicit mining activities in Venezuela. ¹⁸ These activities involve transnational crimes carried out by complex networks at the local, regional, and international levels. This scenario shared similarities with the context in which "Operation Amazonas" was launched, suggesting the crucial need and relevance of a similar coordinated global response and collaborative

¹⁵ Echeverry, Blanca and Miller Andrew, "Will Iván Duque protect environmental defenders?" The New York Times. November 22, 2021. Available at: https://www.nytimes.com/es/2021/11/22/espanol/opinion/lideres-ambientales-asesinados-colombia.html

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¹⁷ Environmental Investigation Agency, "Operation Amazonas targets Illegal Timber Trade in Perú". November 2014. Available at: https://eia-global.org/press-releases/operation-amazonas-targets-illegal-timber-trade-in-peru

¹⁸ Rendón, Moises et al., supra note 1. At least two routes have been identified through which minerals, mainly gold, are fraudulently legalized after being smuggled into neighboring countries. As a first option, armed non-state actors smuggle gold across the Colombian, Brazilian, and Guyana border "using riverboats, private airplanes, trucks, or poor Venezuelan refugees working as "mulas." Once in [these countries], the gold is laundered and is falsified as legal Colombian, [Brazilian or Guyanese] gold before entering the global market." An alternative route involves the Dutch Caribbean. As explained by CSIS, "illegally mined gold makes its way to Curaçao, where it is handled by gold smelting and trading companies that are based out of the island's free-trade zone. Gold traders then use customs papers to obscure the gold's true origin before exporting it into the global market."

processes between international security and customs agencies, as well domestic agencies in countries where the gold is extracted, smuggled, laundered, legalized, and traded.

Likewise, as mentioned by the International Crisis Group, an alternative approach to halting these abuses would be to clean up the gold trade, encouraging countries to take additional steps to ensure that mineral trading companies and firms adhere to stricter due diligence guidelines. For example, supply chain checks can be put in place, relying on "international standards from the Organisation for Economic Co-operation and Development (OECD) such as those enshrined in the Dodd-Frank Act for U.S. companies, signed into law in July 2010, and the EU supply chain due diligence obligations concerning minerals from conflict-affected and highrisk areas, which enter fully into force in 2021." ¹⁹

According to the International Crisis Group, rigorous application of supply chain due diligence can help to guarantee that companies importing gold from Latin America and the Caribbean, beyond simply relying on official customs documents should employ "appropriate care to ensure they know the legal origin of the minerals and are not funding armed groups, sanctioned regimes or human rights abusers." ²⁰

C. How do these operations threaten the stability of South America?

As investigations by InSightCrime and CSIS have highlighted, criminal groups are competing for control of Venezuela's valuable minerals. Illegal mining and associated activities are causing irreversible damage to the environment, fueling human rights abuses, and creating significant security threats for Venezuela and the region.

The "Mining Arc" intersects with the Venezuelan Amazon rainforest, a biodiverse zone containing 36 protected areas, including national parks. This rainforest has been illegally logged to create mines, roads, and mining camps. As of 2020, just four years after the opening of the Arc, "over 2,821 square kilometers (approximately 1,090 square miles) of forest had been destroyed, 50 percent of that area in "protected territories." ²¹ Notably, the environmental degradation of one of the most critical carbon sinks and biodiverse hotspots in the world is incalculable.

In terms of the human rights situation, approximately half a million impoverished Venezuelans work in illegal mines, many of them are underage and come from local Indigenous communities. Work conditions are deplorable, and miners are subjected to violent abuses. ²² Mine owners and armed criminal actors perpetrate mutilations, gang rapes, and massacres.

¹⁹ International Crisis Group, "Gold and Grief in Venezuela's Violent South". February 2019. Available at: https://www.crisisgroup.org/latin-america-caribbean/andes/venezuela/073-gold-and-grief-venezuelas-violent-south

²¹ Rendón, Moises et al., supra note 1.

Human Rights Watch, supra note 3.

"Sex trafficking of women and girls has become a major issue." Reports show that the average age of sex trafficking victims is 13-14 years old. Execually transmitted diseases, including HIV/AIDS, have spiked in the region because of sexual exploitation." In addition, "standing water and unsanitary conditions at mine sites have exponentially increased water- and mosquito-borne disease in the local population. Although Venezuela was the first country in Latin America to eradicate malaria, the disease has returned at an astonishing rate." Unsanitary conditions near the mines have facilitated spikes in other diseases, including diphtheria, yellow fever, dengue, and chikungunya.

Moreover, soil and rivers are seriously polluted by mercury, commonly used in gold extraction. It should be noted that illicit gold mining "is so powerful that it fuels a multimillion-dollar shadow industry of mercury."²⁷ Thus, as long as illicit gold mining continues, the polluting mercury industry will persist, poisoning ecosystems and vulnerable communities. ²⁸ For example, "[i]n the Caura river basin, a tributary to the Orinoco, 92 percent of indigenous women had elevated levels of mercury, which could damage the kidney and brain and impede fetal development."²⁹

Expanding illicit economies and the struggle for power and territorial control by armed actors in Southern Venezuela and neighboring countries are exposing the region to spikes in armed violence. In the midst of one of the largest displacement crises in the world, threatened and impoverished Venezuelan communities have become victims of armed groups and the lifeline that illicit mining provides. ³⁰ While illicit operations continue causing environmental degradation and human rights abuses, much of this occurs within sight of the authorities. Far from attempting to avert this violence, Venezuela's armed forces benefit from and facilitate cross-border operations.

To avoid increased tensions and violent clashes at the expense of local communities, Indigenous peoples, and critical ecosystems, coordinated global actions and collaborative processes are needed to hold major actors in the supply chain accountable. Therefore, due diligence efforts directed at companies importing minerals are particularly critical to halt the abuses.

²³ Rendón, Moises et al., supra note 1.

²⁴ Statement submitted for the record at Hearing entitled "Illicit Mining: Threats to U.S. National Security and International Human Rights" by Carrie Filipetti (Deputy Assistant Secretary of State for Western Hemisphere Affairs) to the U.S. Senate Foreign Relations Subcommittee on the Western Hemisphere, Transnational Crime, Civilian Security, Democracy, Human Rights, and Global Women's Issues -, December 2019. Available at:

https://www.foreign.senate.gov/imo/media/doc/120519_Filipetti_Testimony.pdf

²⁵ Rendón, Moises et al., supra note 1.

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Ebus, Bram and Laffay, Tom. "Mercury: Chasing the quicksilver". InfoAmazonía. September 2020. Available at: https://mercurio.infoamazonia.org/en/gold/

Rubiano, Sebastián. "The Amazon biome in the face of mercury contamination". WWF, Gaia Amazonas and UNEP, 2019.
Available at: https://wwflac.awsassets.panda.org/downloads/reporte_eng_1.pdf

²⁹ Rendón, Moises et al., supra note 1.

³⁰ International Crisis Group, supra note 16.

Potential Remedies

1. All witnesses, illicit natural resource extraction has close connections to international supply chains that lead to the shelves of U.S. retail stores. For example, supply from illegal logging operations can be found in furniture and flooring; tainted gold can be used to make jewelry, smartphones, and other electronics; and illegally trafficked tungsten can find its way into tools, household appliances, and electrical wiring equipment. Generally, are companies aware that their supply chains may be involved in illicit natural resource extraction? How can international enforcement mechanisms be improved to better detect and deter illicit flows of commodities and the proceeds of those sales? How can the private and public sectors work together to ensure that American consumers are not unwittingly supporting kleptocracy, transnational crimes, and terrorism?

The requirement of due care (or due diligence in many other countries' timber legality frameworks) is key to increasing companies' awareness of illegal activities in their supply chains, and ultimately eliminating imports of goods with illegalities in their supply chains or facing prosecution for failing to do so. For fish, wildlife, and plants, these obligations already exist under the Lacey Act, but the Act excludes agricultural commodities. ³¹ The FOREST (Fostering Overseas Rule of Law and Environmentally Sound Trade) Act, ³² recently introduced in both the US House and Senate, would create much-needed due diligence requirements for companies selling "forest-risk" commodities in the United States, and requiring that companies not sell commodities grown on illegally deforested land.

With the <u>UNFCCC COP26 commitment</u> made by many of the world's countries to end deforestation by 2030, ³³ international efforts to stop illegal deforestation and links with other illegal activities must increase substantially in the coming years. The European Union has released their draft "<u>Regulation to minimise EU-driven deforestation and forest degradation"</u> and the <u>UK is working on similar legislation</u>. ³⁵ These and other future laws, coupled with enactment and enforcement in the United States of the FOREST Act, will help reduce illegal deforestation and associated transnational crimes worldwide.

³¹ Animal and Plant Health Inspection Service, U.S. Department of Agriculture, "Common Cultivars and Common Food Crops". July 2021. Available at: https://www.aphis.usda.gov/aphis/ourfocus/planthealth/import-information/lacey-act/declaration/common-cultivars-food-crops

³² "FOREST Act of 2021". Available at: https://www.schatz.senate.gov/imo/media/doc/forest_act.pdf

³³ UN Climate Change Conference, UK 2021, "Glasgow Leaders' Declaration on Forests and Land Use". November 2021. Available at: https://ukcop26.org/glasgow-leaders-declaration-on-forests-and-land-use/

at: https://ukcop26.org/glasgow-leaders-declaration-on-forests-and-land-use/ ³⁴ European Commission, "Proposal for a Regulation on deforestation-free products". November 2021. Available at: https://ec.europa.eu/environment/publications/proposal-regulation-deforestation-free-products_en

^{35 &}lt;u>Department for Environment, Food & Rural Affairs</u>, "Government sets out world-leading new measures to protect rainforests". November 2020. Available at:

https://www.gov.uk/government/news/government-sets-out-world-leading-new-measures-to-protect-rainforests



December 11, 2021

The Honorable Jim Himes United States House of Representatives 2137 Rayburn House Office Building Washington, D.C. 20515

Dear Congressman Himes,

I would like to thank you again for inviting me to testify before the Subcommittee on National Security, International Development, and Monetary Policy on November 4, 2021, at the hearing titled "From Timber to Tungsten: How the Exploitation of Natural Resources Funds Rogue Organizations and Regimes."

As requested, please find below my responses to the Questions for the Record. Please do not hesitate to contact me as well as Global Financial Integrity (GFI) if we can answer any further questions or provide any additional assistance.

Best regards,

Channing Mavrellis

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2. Can you please give us some examples of how this would occur with shipments of illegally sourced hardwood or metals and, specifically, how do the bad actors along the supply chain profit from this process? What is the illicit financial flow in these transactions and what make it hard for financial institutions, law enforcement, and others to detect?

Through our work at GFI, we have documented how illegally sourced natural resources make their way into international markets, with devastating environmental as well as security impacts. As highlighted in GFI's 2019 report *Illicit Financial Flows and Colombia*, Colombian authorities discovered that Goldex, a large gold exporter, was buying from illegal sources. In 2015, they ordered the arrest of more than two dozen people involved in the case, accusing them of laundering nearly US\$1 billion. According to investigators, 90 percent of Goldex's 6,000 "registered" suppliers simply did not exist, were owned by deceased persons, or operated small informal shops that were not involved in gold transactions. During the trial, company executives admitted purchasing at least US\$7 million worth of gold from Colombian drug trafficking organizations. Between 2004 and 2014, Goldex sold 47 tons of gold to companies based in the US 1

While illegally-sourced natural resources are an important issue in their own right, TBML does not always involve illegally-sourced materials. Criminals seeking to launder money through trade may opt to use legally-sourced, low-profile products so as not to attract the attention of authorities. For example, in one case a Colombian cartel used narcotics proceeds to buy stuffed animals in Los Angeles and then exported them to Colombia, where the toys were re-sold in pesos at a discount, thus enabling the cartel to deposit its laundered profits into the banking system.²

There are several reasons why trade-related illicit financial flows (IFFs) are difficult to detect. The global AML/CFT regime has largely focused on efforts to guard the formal financial system and, to a lesser extent, combat currency smuggling; it has typically failed to address safeguarding international trade.³ As one expert put it, "The front door of money laundering is the banking system. The government has done a pretty good job of closing the front door, but the back door–international trade–is wide open."⁴

For financial institutions, one of the greatest challenges is having limited visibility over trade transactions. Trade finance is the financing of goods or services by a third party for an importer and/or exporter in order to facilitate international trade; this includes instruments such as letters of credit, documentary collection, payment-in-advance, and factoring. Financial institutions have greater insight into the validity of trade finance transactions as they receive documentary information (e.g. invoices, bills of lading, etc.). However, only 20 percent of international trade transactions are financed, with the remaining 80 percent of trade completed through open account transactions. This means that for the majority of trade transactions, financial institutions must generally rely on customer due diligence and standard AML compliance measures to detect illicit activity.

¹ Global Financial Integrity, *Illicit Financial Flows and Colombia* (Washington, D.C.: Global Financial Integrity, October 2019), 16, https://gfintegrity.org/report/illicit-financial-flows-colombia/.

² Global Financial Integrity, *Illicit Financial Flows and Colombia*, 22.

³ Julia Yansura, Channing Mavrellis, Lakshmi Kumar and Claudia Helms, Financial Crime in Latin America and the Caribbean (Washington,

D.C.: Global Financial Integrity, October 2020), 163-4, https://gfintegrity.org/report/financial-crime-in-latin-america-and-the-caribbean, 4 John Zdanowicz guoted in "Trade-based money laundering flourishing." UPI. May 11, 2009, available at

https://www.upi.com/Top_News/2009/05/11/Trade-based-money-laundering-flourishing/17331242061466/?ur3=1.

⁵ Yansura et al, Financial Crime in Latin America and the Caribbean, 163-4..

3. If you were advising the department on actions to take to combat TBML, particularly with natural resources trafficking in mind, what would you recommend?

The following are some of GFI's top recommendations for combatting TBML:

- Extend the AML/CFT due diligence obligations across the supply chains. Banks do not always have
 full visibility on transactions and are not best placed to detect malfeasance. Instead, the Treasury
 should examine how freight forwarders, export agents, third party vendors and other trade
 intermediaries should be subject to AML requirements and conduct customer due diligence.
- Require beneficial ownership information for all companies involved in cross-border trade and for all shipping vessels, speedboats and aircrafts.
- Conduct an assessment of countries that are high-risk for AML/CFT or corruption that have free
 zones that have a material impact on U.S. trade either export/import ports or ports of
 transshipment.
- Currently, there are no international standards on TBML. The U.S. treasury should advocate at the FATF and support the creation of an international framework like the current AML/CFT standards
- Modify the Data Analysis & Research for Trade Transparency System (DARTTS) system to allow for real-time exchange of information on a pilot basis with trusted partners to examine the impact on enforcement.
- Address as a matter of highest priority the connectivity and compatibility issues with the crossborder exchange of data through DARTTS. Delays of several months, and regular connectivity issues disincentivize participation and interest in the Trade Transparency Unit (TTU) program.
- To ameliorate concerns around the effectiveness of the TTU program, the Department of Homeland Security (DHS) should develop a performance monitoring framework that is unique to its high-priority TTU relationships.
- One of the limitations around any kind of bilateral and international co-operation mechanism is balancing countries at differing stages of rule of law adherence and corruption risks; DHS should develop a roadmap that includes corruption and rule-of-law risks within its TTU program and develop mitigation strategies for continued co-operation or re-orientation of priorities in those risk scenarios.
- The criticisms of the TTU program underscore the fact that to effectively address risks from crossborder trade and TBML, financial and technical assistance is paramount. As a pilot program, it is recommended that funding and technical assistance be allocated to select 'Major Drug Producing/Transit' countries to determine how the effectiveness of the TTU program changes.
- Collecting revenue through customs departments is critical for developing countries. It is
 therefore recommended that the U.S. reorient its approach within the TTU program to provide
 support around revenue collection and TBML. Focusing purely on TBML ignores the priorities of
 partner countries and reduces partner country investment in the TTU program, thereby limiting
 its overall effectiveness.
- Through other departments of the U.S. government, a focus on building TBML awareness within partner countries should be a policy priority. A multi-pronged approach that makes TBML a priority while at the same time providing capacity building and technical assistance within the civil society, private and public sectors in target countries would be critical.

4. Can you elaborate on how witting and unwitting intermediaries enable illicit financial flows? Given recent revelations in the Pandora Papers, in your opinion, what changes in the awareness, management, and oversight of these professions could mitigate natural resources exploitation and the money laundering and terror finance that drive it?

Gatekeepers play a key facilitating role in the exploitation of natural resources, as well as helping criminal and corrupt actors conceal their criminal activities and proceeds of crime. Due to the prevalence of natural resources in international trade, this includes key facilitators in transportation and logistics such as freight forwarders, insurers and customs brokers. Moreover, criminal activities related to natural resource exploitation and trade can only operate successfully with money laundering. The Pandora Papers highlighted once again that money laundering schemes are impossible without a global network of gatekeepers and facilitators such as lawyers, accountants, investment advisers, corporate service providers and real estate agents. The U.S. was highlighted especially as a key destination for illicit wealth, with various professional gatekeepers helping corrupt actors stash their money in U.S. trusts, real estate, and other luxury assets.

While these professionals are known as gatekeepers because they are meant to safeguard the financial system, their skills and professional expertise provides an entry point for corrupt and criminal actors to navigate the loopholes in the financial system. By representing criminals in financial and real estate transactions, establishing anonymous legal entities on their behalf, providing investment advice and helping them move funds through bank accounts, professional gatekeepers are the intermediaries that help them find a safe haven for their illicit proceeds in the U.S. while also adding a sense of legitimacy to the transaction. Meanwhile, gatekeepers are not required to understand the nature or source of income of their clients because the current U.S. regulatory framework does not impose any anti-money laundering (AML) or customer due diligence (CCD) requirements on them. Although gatekeepers are sometimes directly complicit or willfully blind in assisting their client's illicit transactions, this absence of regulation means that it can create a safe space where the gatekeeper unwittingly helps in laundering proceeds because it is not required to ask uncomfortable questions.

To remedy this, the U.S. should extend AML/CFT regulations to gatekeeper professions that are currently not covered under the requirements of the Bank Secrecy Act. The ENABLERS Act (H.R. 5525) was an important first step in acknowledging that serious action needs to be taken to address the complicit role that lawyers, investment advisers, corporation formation agents, and real estate agents play in allowing the US to be a safe haven for illicit financial flows. Congress should continue to work to identify the most appropriate framework to ensure that meaningful and actionable due diligence requirements can be imposed on gatekeepers.

5. Can you identify best practices that governments and the private sector can implement or encourage to disrupt the profitability of environmental crime? How can the private sector adopt anti-corruption strategies and manage potential risk?

There are several measures both the government and the private sector can consider to discourage the profitability of environmental crime. While some of these recommendations speak directly to illegal mining, they are still quite applicable to all environmental crimes:

Cross-educate between the financial and environmental sectors: Financial institutions have shown
a strong interest in better understanding environmental crimes in recent years, however there

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has been limited information provided on environmental crime methodologies, typologies, and red flag indicators. Conversely, the environmental community have a growing appreciation for the financial aspects of these crimes. It would be extremely beneficial for a working group to be created, such as in the vein of the United for Wildlife Financial Taskforce, which can better educate the financial sector on red flags associated with environmental crimes, as well as better educate the environmental sector, particularly those organizations and individuals that fight environmental crime, on the type of information that financial institutions need to better detect and prevent related IFFs. It is extremely important that such a working group not limit its focus to only one type of environmental crime, but rather encompass all environmental crimes—illegal logging, illegal fishing, illegal mining, wildlife trafficking, and illegal waste trade—so that the fight moves forward in a unified, rather than piecemeal, fashion.

- Improve supply chain transparency: The government should expand the Seafood Import
 Monitoring Program to include all species. The government should also explore developing and
 implementing similar programs for extractives and timber. Requiring companies that import
 seafood, extractives, and timber to establish reporting and record keeping policies will both help
 honest companies ensure the legality of their supply chains as well as make it much harder for
 dishonest companies to operate.
- Support formalization of artisanal and small-scale mining: International efforts have continued to focus on the risks from the artisanal and small-scale mining (ASM) sector. Ensuring that resources are invested in integrating the ASM sector into the supply chain is vital. However, this must account for gaps in illiteracy as well as abuse of the system. The most successful programs tend to be community-based programs around formalization. But these are also resource-intensive and expensive, and the governments in the region do not necessarily have the resources to commit to such intensive programs. Understanding on how future interventions can engage and strengthen the mining community ensures the success of long-term formalization.
- Recognize that financial crimes occur throughout the supply chain: Ongoing programmatic efforts
 have focused on the formalization of the ASM sector and creating processes to strengthen supply
 chain integrity. This unfortunately only targets the source and origins of the activity, but excludes
 the risks from corruption, TBML, ML that exist in other parts of the supply chain. Therefore,
 expanding the aperture through which financial crime risks are addressed spreads out the
 responsibilities through the supply chain and not just on the ASM sector, where it is hardest to
 implement and unintended consequences of policy making further engender poverty and
 negatively impact development.
- Expand the focus beyond gold (mining): Currently, much of the focus on illegal mining is related
 to the gold sector and its associations with organized crime. However, any mineral resource can
 be illicitly exploited, and all are vulnerable to financial criminal activity. Understanding and
 investing resources in other mining sectors is essential to also ensuring long term economic
 growth in regions affected by illegal mining.
- Provide guidance and training on TBML: Ensuring that policies and guidance manuals on how to
 understand and detect TBML are provided to both governments and the private sector is key.

Regarding anti-corruption measures from the private sector to manage potential risks, we suggest the following:

Increase general awareness of corruption: Corruption is a phenomenon that all countries
experience, and have been experiencing for decades. It is important to collectively work with

government entities and officials, the private sector, civil society, academia, the press, and others to focus efforts in identifying corruption, understanding its elements, developing strategies to combat it, and engaging in multinational efforts to address it regionally. Corruption should be addressed in a holistic manner and all actors in society should take a role from their own sector and capabilities.

- Bolster data access and use of technology: Improve access to data and develop technological
 tools to support fraud risk management not only to facilitate efficiency, but also strengthen the
 appropriation of control and risk management.
- Increase transparency of the financial system: Transparency can be achieved by creating a reliable
 trail of true ownership and movement of assets, within the country and abroad. In this sense, GFI
 recommends improving the transparency and availability of information on the beneficial
 ownership of legal persons and structures, not only to tackle corruption but also other financial
 crimes.
- Carefully consider de-risking: Efforts to tackle the illicit trade must ensure that they do not
 negatively impact artisanal and small-scale operators or small stakeholders involved in natural
 resources and the extractive sector. Excluding them or declining to purchase products from the
 ASM sector pushes the trade underground and exacerbates the increased presence of criminality
 and exploitation.

6. In your opinion, given the size of the problem of natural resources exploitation, are there likely opportunities to deter natural resource exploitation that funds kleptocrats, terrorists, and transnational criminal organizations? What does Treasury's application of the Magnitsky Act in this arena signal to the rest of the world about the priority that the United States places on these crimes?

There are several things that can be done by governments to deter illicit natural resource exploitation including:

- Establishing laws that 1) clearly articulate the physical areas of natural resources—minerals, gas/oil, timber, and fish—controlled by the government, 2) specify the government department or agency responsible for their stewardship, and 3) provide for the public disclosure of information on extraction/exploitation contracts, bidding and procurements processes and the stake of the government in concession agreements. These steps are also applicable for forests and waters in regards to the granting logging and fishing licenses, respectively;
- Establish a public beneficial ownership registry so that the owners of the firms bidding
 on/receiving extractive concession licenses as well as logging/fishing licenses are known to the
 public;
- Mandate that all public officials involved in the implementation of any law regulating the
 extractive, timber, and fishing industries are not permitted to hold any financial or ownership
 interest in any legal entity involved in the relevant sector;
- Commit to harmonizing the country's extractive industry standards so they are in line with the Extractive Industries Transparency Initiative;
- Adopt a whole-of-government approach towards regulating the natural resource exploitation, with participation from all relevant ministries to flag risks of fraud and tax evasion and formulate policy accordingly;

- Carry out a risk assessment on exploitation in each natural resource sector to identify the
 threats, vulnerabilities and criminal activities observed and design a risk-based policy
 mechanism that will enhance the regulatory approach;
- Involve multi-stakeholder groups, including civil society, in risk assessment and re-formulation
 of the legislative framework around natural resource exploitation;
- Conduct a risk assessment of a country's free trade zones given these zones are often used as a
 source and conduit of trade misinvoicing and smuggling across different routes and different
 commodities. This should be done with specific reference to commodities like gold that are high
 value and high risk;
- Establish multi-agency teams to address customs fraud, tax evasion and other financial crimes with a specific focus on the natural resources;
- Implement commercially available risk assessment tools that the customs authorities can use to detect trade misinvoicing of natural resources.

In regards to applying the Global Magnitsky Act, any time the U.S. government imposes sanctions on individuals or companies, this signals to the global community that a special focus must be put on the activities of those individuals and entities. This is extremely important in aligning global priorities and strengthening the international community's response, such as bolstering domestic legislation and regional/domestic conventions as well as improving enforcement. Most importantly in the context IFFs, sanctioning individuals and companies involved in illegal natural resource exploitation will show financial institutions that serious consideration must be taken to prohibit their use of the financial system.

Additionally, Global Financial Integrity welcomes the Biden administration's new U.S. Strategy on Countering Corruption, especially the government's recognition that "corrupt elites and non-state armed groups enrich themselves through illicit proceeds and trade of high-value commodities, including gold, wildlife, timber, petroleum, and other natural resources." It is hoped that this focus on natural resources suggests that the administration will give thoughtful attention to the positive ripple affect the application of the Global Magnitsky Act would have in this sector.

7. Generally, are companies aware that their supply chains may be involved in illicit natural resource extraction? How can international enforcement mechanisms be improved to better detect and deter illicit flows of commodities and the proceeds of those sales? How can the private and public sectors work together to ensure that American consumers are not unwittingly supporting kleptocracy, transnational crimes, and terrorism?

Companies whose supply chains involve illicitly extracted/exploited natural resources either i) knowingly purchase these goods, ii) rely on willful blindness in establishing their supply chains, or iii) do not understand the serious nature of illicit natural resource exploitation and the ease with which goods can be laundered into supply chains. Requiring companies that import seafood, extractives, and timber to establish reporting and record keeping policies will both help honest companies ensure the legality of their supply chains as well as make it much harder for dishonest companies to operate.

There are several steps that can be taken to improve international enforcement to deter illicit flows of commodities including:

 Establish a new global norm that all customs departments will use distributed ledger technology (such as blockchain) to securely and automatically send export invoices to the importing

Global Financial Integrity

country customs department. Data asymmetry – in which the importing country is unaware of what exited a foreign port – enables illicit actors to smuggle and mis-invoice goods as well as use various commodities for trade-based money laundering (TBML). By automatically providing export invoices to the importing customs department, the importing country can match actual shipments of natural resources with the export invoice issued by the exporting country. If an export invoice does not exist for a particular shipment this would be a red flag for smuggled minerals.

- Requiring all companies that are involved with the extraction and shipment of natural resource commodities internationally (or, at least, when shipping to the United States) to have a Legal Entity Identifier number as a way to ensure the legitimacy of the firms involved in the transaction. According to the Global Legal Entity Identifier Foundation, "the Legal Entity Identifier (LEI) is a 20-character, alpha-numeric code based on the ISO 17442 standard developed by the International Organization for Standardization (ISO). It connects to key reference information that enables clear and unique identification of legal entities participating in financial transactions. Each LEI contains information about an entity's ownership structure and thus answers the questions of 'who is who' and 'who owns whom'. Simply put, the publicly available LEI data pool can be regarded as a global directory, which greatly enhances transparency in the global marketplace [emphasis added]." Some 1.8 million entities around the world and almost one-quarter of a million firms in the U.S. use LEIs, and LEIs are expected to becoming a standard around the world. Moreover, in its recent Notice of Proposed Rulemaking related to the implementation of the Corporate Transparency Act, FinCEN will allow the use of an LEI by reporting companies which suggests the Treasury Department trusts this type of identifier.
- Given the opacity in the global shipping industry, and the amount of counterfeit and illegal goods being delivered by ship, require all ship-owning and ship-operating firms to 1) use an LEI and 2) report their beneficial owners (B.O.) to a public registry operated by the International Maritime Organization. While B.O. registries are becoming more commonplace their implementation is episodic. Without a global agreement for such a registry, the lack of transparency in the shipping industry and the risks associated with that opacity is likely to persist. Additionally, the U.S. should unilaterally require that any ship entering an American port must provide to CBP verifiable B.O. information for the ship owner and the ship operator. In so doing, the U.S. will enhance port security as well as its ability to identify and interdict illicit goods of all types including natural resources.

In regards to improving public-private partnerships, CBP already has a program that facilitates this type of cooperation. The Customs Trade Partnership Against Terrorism (CTPAT) Program, according to the CBP website, "is a voluntary public-private sector partnership program which recognizes that CBP can provide the highest level of cargo security only through close cooperation with the principal stakeholders of the international supply chain such as importers, carriers, consolidators, licensed customs brokers, and manufacturers. The Security and Accountability for Every Port Act of 2006 provided a statutory framework for the CTPAT program and imposed strict program oversight requirements." In addition to terrorism protection, in recent years CTPAT's mission was expanded to include efforts to identify TBML. GFI recommends that, if feasible, this program be expanded again to ensure that shipments of natural resources are legitimate and not connected to kleptocrats, organized crime, terrorist organizations.



SECTION 2 FINANCIAL INTELLIGENCE SOLUTIONS, LLC WASHINGTON D.C., JANUARY 4, 2022



Congressional Testimony: House Financial Services Committee, Subcommittee on National Security, International Development and Monetary Policy

Questions for the Record

Questions from: Representative Jake Auchincloss

Reference Hearing: "From Timber to Tungsten: How the Exploitation of Natural Resources Funds Rogue Organizations and Regimes." November 4, 2021.

Responses: January 4, 2022.

Witness Testimony from: Joshua T. Fruth, Co-Founder/CSO, Section 2 Financial Intelligence Solutions, LLC

"Representative Auchincloss,

Thank you for your interest in this subject and for the opportunity to answer excellent these follow up questions. As I did not get the chance to say this you after our November 4^{th} hearing, thank you for your service in the United States Marine Corps and your continued service today for our country. Without further ado, Γ II dive into your questions.

Representative Auchincloss: "The Evacuation Operations, Great-Power Competition, and External Operations Terror Threats in Post-Drawdown Afghanistan states that, "As China attempts to instill controls with Pakistan and the Taliban to ensure that no other great power gains a foothold in Afghanistan for the foreseeable future, there may be a limited window of time available to prevent this hypothesis from fully materializing."

What should be done during this window of time with Pakistan, the "gatekeeper," to prevent China from taking foothold of the supply chain in Afghanistan? What soft-powers should be utilized to deter Pakistan from supporting China's mining efforts?

Joshua Fruth's Response: "Thank you for the question, Congressman. In the time that has elapsed since our November 4, 2021 hearing, 46 House members proposed in a December 20, 2021 letter to President Biden that he work with IMF to release \$9.4 billion in IMF frozen assets to the Taliban's Islamic Emirate regime, presumably under the belief that those funds in the hands of the Taliban would somehow mitigate the very human rights catastrophe they deliberately and unilaterally created and continue to perpetrate. If this course of action is executed, "ALL" prospective soft-power interagency actions outlined by Major General (Ret.) Buck Elton and I in our Air Force, Air University, Journal of Indo-Pacific Affairs (JIPA) white

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SECTION 2 FINANCIAL INTELLIGENCE SOLUTIONS, LLC Washington D.C., January 4, 2022



paper are off the table. Upon receipt of these funds, the Taliban would not stabilize the humanitarian crisis. Instead, they would enrich their coffers and pay off anyone who opposes them. The greatest benefactor of this action by the United States and IMF would be China. If the United States unfreezes those IMF funds, the Taliban and their Pakistani allies will in short time be able to deliver on the tenable security environment China desires for the purpose of Rare Earth Elements (REE) mining projects.

This would be the single worst foreign policy decision in our lifetimes, and unequivocally, the single greatest terrorist financing event in world history, at our own hands. The main point here is that we do not want to contribute to a stabilized security situation that benefits the Taliban. Pakistan, and China. However, I continue to advocate for humanitarian aid programs in the form of food, clean water, and medicine, as well as Non-Combat Evacuation Operations (NEO) of U.S. families, Special Immigrant Visa (SIV) families, high-value/high-threat women and girls (activists, doctors, judges, former government personnel, etc.), and other targeted population groups (LGBTQ, Hazaras, etc.). These programs can help mitigate humanitarian concerns while preventing the United States from engaging in direct terrorist financing to the benefit of our Great Power Competition (GPC) near-peer adversaries, terrorist External Operations (Ex-Ops) plans, resolute Taliban governance, and global narcotics trafficking. The Taliban is demonstrating to the world their inability to govern. We should not interrupt our enemy while they are in the process of making a mistake. Instead, we should allow them to fail in governance, rather than financially solidifying their hold on power. If we do in fact release those funds and help support their governance, don't be surprised if they declare their own Islamic Caliphate in the near to mid future, begin to consolidate command and control of and provide safe-haven to various Sunni Violent Extremist Groups (VEO) in a manner substantially more dangerous and unopposed than ISIS-Core ever was in the height of their own Caliphate

With the understanding that one of the primary focal points here is NOT to support the Taliban and Pakistan's creation of a tenable security environment for China, now let's circle back to your question. When I reference 'soft-power' actions, I'm specifically referring to non-combat interagency efforts that have economic, trade, and other impacts, either for the intent of deterring or incentivizing a specific target audience's behavior. When I canalized my focus to Pakistan as the "gatekeeper" of an emerging alliance of China, Taliban, and various other Sunni VEOs, I was specifically referring to punitive operational impacts designed to influence their behaviors. My focus would start with the United States Congress taking the lead in pushing for interagency and global partner support, focused on efforts that would degrade the capabilities of the Pakistani banking system and deny Islamabad access to international loans. With international bodies, I would reference Pakistan's substantial history and current financing, logistical support, command and control, operational engagement, custodianship, and other support (such as sending thousands of kids from Pakistani machrassas to fight for the Taliban and kill NATO personnel annually) to terrorist groups like the Taliban, al Qaeda, and the Haqqani Network.

Next, I would recognize the National Resistance Front (NRF) as the legitimate government of Afghanistan. I would provide medical, food, arms, anti-aircraft, night-vision, satellite

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communication equipment and additional capabilities to support the NRF's resistance to the Taliban. We are supporting our Ukrainian allies against Russian incursion. We should do the same with the NRF against Taliban, Pakistani, and Chinese interests. The NRF is largely comprised of pro-American, anti-Taliban fighters that came from elite Afghan military and law enforcement units. These are our friends, and our government should publicly recognize them as allies. They have incredible drive and morale in the worst of conditions, even without our support. Imagine what they could do, and the speed by which they could recruit, with our support.

Congressman, you might wonder what the NRF has to do with Pakistan. I believe American citizens might be a bit concerned if they learned that Pakistan may have bombed our NRF allies with the very military aid paid for by the U.S. taxpayer and gifted to the Pakistani military. Our NRF friends and former should-to-shoulder battle buddies were recently bombed in the Panjshir Valley with extremely accurate laser guided munitions. Those airstrikes resulted in the deaths of important NRF senior figures. There is a strong open-source argument that the Pakistani Air Force conducted these airstrikes in support of the Taliban. There is suspicion that Pakistan used the Chinese-produced CH-4 Unmanned Aerial System (UAS), which suspiciously resembles our General Atomics MQ-9 Reaper, in these attacks. For these bombs to reach their extremely precise targets, the munitions would have required laser guidance systems, which are a relatively new technology for the Pakistani Air Force. In 2010, the U.S. Air Force provided Pakistan with 1,000 MK-82 500-pound bombs with 700 GBU-12 and 300 GBU-10 Paveway laser-guided bomb kits built by Lockheed and Raytheon. They also received F-16 fighter jets. The expectation of this arms deal was for Pakistan to use these munitions to support our counterterrorism efforts in the Afghanistan/Pakistan border regions. Instead, it appears that Islamabad may have used our U.S. taxpayer lethal military aid to undermine our national security objectives and to murder our friends.

The first thing I would do Congressman, after declaring the NRF the legitimate government of Afghanistan, would be to order the Department of Defense and Intelligence Community to conduct a thorough investigation into these claims and to corroborate or mitigate whether or not Pakistan used U.S.-sourced aircraft, munitions, and/or laser guidance kits to execute our allies in cold blood.

If corroborated, I would apply targeted Office of Foreign Assets Control (OFAC) sanctions and Department of Commerce Entity Listing to specific organizations and individuals involved in those supply chains (from Pakistan through China), including component control and denial of export licenses for component/material support to these projects and systems. I would feel more comfortable discussing with you additional, more granular details about these prospective targets in a more secure environment.

This punitive focus on Pakistan should extend through the entire Department of Treasury, to include at the policy level, OFAC, Financial Crimes Enforcement Network (FinCEN), and international engagement with other Financial Intelligence Units (FIU). This would ideally include significant engagement with the Financial Action Task Force (FATF) (both regional task

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forces as well as participation in Pakistan's FATF Mutual Evaluation Report), Egmont Group, Association of Certified Anti-Money Laundering Specialists (ACAMS), the World Bank, and the International Monetary Fund (IMF). I would order a review into any international loans Pakistan has received, to include a report on whether or not Pakistan has violated any of the agreed upon conditions set out in the issuance of those loans. If it is determined that Islamabad did in fact violate those conditions, our Treasury and State Departments should be engaging these international bodies with partner nations to seek aggregate punitive actions. This would include ensuring that the Know Your Customer (KYC)/Due Diligence reviews, by IMF for example, include derogatory information provided by the United States Intelligence Community, hopefully resulting in the freeze of periodic loan disbursements to Pakistan. The Department of Defense should halt any programs that provide military aid, equipment, or weapons systems to Pakistan immediately and the U.S. Agency for International Development (USAID) should follow suit with halting all foreign aid programs. Any funds allocated for Pakistani foreign aid should instead be reappropriated to support the NRF and/or India. These are our allies. The NRF and India put pressure on the Taliban, Pakistan, and China. The juice was never worth with squeeze with Islamabad. Congressman, it's time we start to water the plants we want to blossom, rather than the weeds, and Pakistan has been a weed of terror and backstabbing for decades.

Representative Auchincloss: "During your testimony, you mentioned that the US should apply pressure to Pakistan, in part by ensuring that they are fulfilling their IMF obligations. Is there concern that too much financial pressure will push Pakistan closer to China?"

Joshua Fruth: "Thank you Congressman. This isn't just a great question. In my opinion this is THE question we should be asking.

The short version of my answer is that we must make our punitive economic and trade actions on Pakistan so ruthlessly debilitating that not even China can save their economy. Beyond the courses of action I have laid out above, we can ratchet up sanctions and efforts to de-risk the Pakistani banking system in a systematic, progressive manner, as needed. Pakistan took advantage of our kindness and viewed us as weak. The Pakistanis only respond to strength. I believe that demonstrating the full weight of the United States' economic power will result in a near immediate and significant change in Islamabad's behavior. Specifically in reference to the question regarding their propensity to run to China, my rebuttal would be to signal that they have already done so during our era of kindness, strategic patience, and foreign aid. Those days must come to an end, and we must shift our approach to punitive deterrence and behavioral influence.

FATF blacklisting, loss of IMF loans, bank de-risking, aggressive OFAC designations and Commerce entity listing, and loss of foreign aid would crush the Pakistani economy, financial system access, and corner target individuals and companies. Support for these efforts in the U.S.

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Congress members would most certainly be met with swift and aggressive efforts to counter these efforts by the Pakistani ISI's lobbying machine, a counterintelligence concern which should be considered while piecing together punitive policy options. I'm not sure if I would even look at the qualitative metric of whether or not it pushes Islamabad closer to China. They have done that on their own accord through the Belt and Road Initiative (BRI), China-Pakistan Economic Corridor (CPEC), and lethal, constant support of the Taliban against the United States and our allies. Put simply, Pakistan is not our friend, whether we are willing to recognize it, or continue our policy of "look the other way" ignorance.

When weighing foreign policy options in light of hostile foreign state behaviors, we must constantly weigh incentive (reward) vs. deterrence (punitive). We have tried incentive, but Pakistan has not changed their behavior. Therefore, it is now time to shift our focus on deterrence. The actions I am describing do just that. If Islamabad wants to save their economy and banking system, we will require proven, tangible changes in behavior. One of those requirements will be that they are not involved in managing the security situation in Afghanistan in a manner that facilitates and enables Chinese mining operations of rare earths. Afghanistan's economy and human rights situation is extremely dire. Pakistan having placed some of their people (such as Sirajuddin Haqqani) into leadership positions in the Taliban's new 'Islamic Emirate' regime isn't enough. China needs major support from Pakistan to manage the security environment around these various insurgent groups. We need to deter their involvement. That includes a system of periodic reviews of these behaviors to determine if Pakistan has earned relief from prospective U.S. and partner nation punitive actions. If Pakistan doubles down and continues this behavior, we need to escalate punitive actions, up to and including full-fledged jurisdictional sanctions."

Representative Auchincloss: "According to the United States Agency for International Development (USAID), Pakistan has received \$7.7 billion over the last decade, one of the largest recipients of U.S. foreign assistance. Why is this substantial amount of aid not sufficient for Pakistan to exclude China from Afghanistan's rare earths?"

Joshua Fruth: "Congressman, you have your finger on the pulse on this problem set. Before I dive deep into this excellent question, let's ask ourselves why Pakistan has received \$7.7 billion in USAID foreign aid in the first place. I think we can all agree on that answer. It's because we "wanted" them to act like a partner in helping to contain Afghan-sourced terrorism. In hindsight, we all now know that they weren't only a terrible partner, but in fact were actively working to undermine our National Security interests and priorities. Now that we have militarily withdrawn from Afghanistan, is the juice worth the squeeze? Pakistani leadership views us as weak and culturally broken. At least when Iran behaves in a manner hostile to the United States, they make it known. I prefer that to Pakistan, who places its arm around our shoulders claiming to be a friend, only the hand on that arm is holding a knife to stab us in the back.

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Islamabad has lied to us for 20 years about their involvement with the Taliban, al-Qaeda, and Haqqani Network. All along, we were giving them foreign assistance. They may have in fact killed our NRF allies in the Panjshir with aircraft, bombs, and laser guidance kits that we gave them. We cannot allow this to continue Congressman. Islamabad has mocked us with their exploitation of our foreign aid, demonstrating time and time again that 'incentivization' does not impact their derogatory behaviors. When incentives do not work, that's when we must shift our policy to 'punitive' actions that deter that bad behavior.

Shifting to the second part of your question. The frank reality here is that Pakistan doesn't need rare earths to anywhere even close to the extent that China does. They lack the funding, infrastructure, and economic stability to support such large-scale operations unilaterally. They stand far more to gain economically by being an excellent security, BRI, and CPEC partner to China."

Representative Auchincloss: "African nations, also with valuable mineral resources, have been targets of illegal exploitation from bad actors but some have had success with legally and responsibly extracting rare earths for the benefit of the local community. Contingent on the United States' success with soft-power actions, what lessons should we take into consideration to develop responsible public-private partnerships including the utilization of special economic zones, to ensure that contract proceeds actually go to the community?"

Joshua Fruth: "Thank you for the question Congressman. Any time we go into a theatre of operations where there is a heavy prevalence of Rare Earth Elements (REE), we must expect to compete with China. The United States is more ethical and honest in its relationships with other countries than Beijing. There is likely a solid argument to corroborate and amplify your position here. If the criticism is that China's Belt and Road Initiative (BRI) developmental loans place vulnerable emerging jurisdictions in Sub-Saharan Africa and other places into a disadvantageous position where they are essentially being stripped of critical resources at little to no benefit to the civilian populous, then maybe our Department of State and other agencies should be amplifying that messaging in the information environment and with public and private sector stakeholders in those specific jurisdictions.

We are competing for mining rights. We need to be able to convince these governments that we are the preferred partner over China. However, it may not be that simple. According to the Corruption Perceptions Index, many of the most resource wealthy nations happen to also be some of the world's most corrupt. China knows this and plays into the corruption nexus by financially incentivizing key individuals and companies who care more about personal profits than nationalism. Corruption amongst government leaders often results in kickbacks in exchange for rewarding government contracts.

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U.S. public/private sector partnerships focused on competing for mining contracts (against China or others) in these developing states should incorporate Counter Threat Finance (CTF), counter-corruption, intelligence collection, and information operations into their resourcing plan for the explicit purpose of developing our engagement approach. This is not, however, the time for us to impart our values on countercorruption onto these governments. Those actions should be reserved for situations where we have allocated U.S. foreign aid and scoped only to that aid. Our goal here is to win these contracts and extract the rare earths for ourselves. China will not criticize these governments for corruption, human rights, or anything else. Their only focus is on the rare earths. We need to get serious for the sake of our future technology needs and do the

We are the more fair, honest, and transparent trade partner, and there would be far greater long-term benefits to these countries should they choose to partner with the United States over China. Beijing would instead use its BRI loan and development programs to take over industries and limit individual rights as if they had conquered these states through their own economic and soft-power actions."

Representative Auchincloss: "What steps should the United States take to prevent Afghanistan from developing into a narco-terror state?"

Joshua Fruth: "Congressman, we can't do that. Afghanistan is already the world's leading narco-terror state, and it will only get worse. However, I outlined some post-drawdown targeting approaches that provide some policy options in a white paper I completed in Afghanistan in 2019. That paper provided a plan in pretty granular detail. That document is available at both Controlled Unclassified Information (CUI) and classified levels. Please have your team reach out to me directly so that we can coordinate a follow up that meets your expectations."



About Section 2 Financial Intelligence Solutions, LLC

Section 2 (S2) is a financial services industry risk and compliance consultancy focused on mitigating the risks posed by Hybrid Threat Finance (HTF) networks to Anti-Money Laundering (AML) compliance programs. S2 provides advisory and investigative services, original data and technology products, transaction monitoring system implementation and optimization services for detection programs, and Threat Finance Academy (TFA) training for regulated financial institutions. Learn more at www.s2fis.com.

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Joshua Fruth serves in the private sector as Co-Founder and Chief Strategy Officer for risk consultancy Section 2 (s2fis.com), and previously served as Director of Anti-Money Laundering Advisory Services at New Jersey-based Matrix International Financial Services (Matrix-IFS). Josh has served in the public sector as a Captain and Intelligence Officer in the U.S. Army Reserves, civilian Police Officer, and Federal Contractor. He has completed assignments within U.S. Central Command (USCENTCOM), U.S. Indo-Pacific Command (USINDOPACOM), U.S. Army Civil Affairs and Psychological Operations Command (USACAPOC), U.S. Army Intelligence and Security Command (INSCOM), the

National Counterterrorism Center (NCTC), Drug Enforcement Administration (DEA), Special Operations Joint Task Force – Afghanistan (SOJTF-A), U.S. Department of Commerce, Bureau of Industry & Security (BIS), and spent a decade as an inner-city law enforcement officer combating violent and sexual crimes and the organized criminal trafficking of narcotics, weapons, and persons.

Fruth is a published contributor, trainer, and keynote speaker featured by various national and international media outlets, technology, financial crime, and banking associations. He is an Honor Graduate of the Special Operations Forces Captains Career Course (SOFCCC) at the John F. Kennedy Special Warfare Center and School (USAJFKSWC), Distinguished Honor Graduate of the Basic Intelligence Officer's Course (MIBOLC) at the U.S. Army Intelligence Center of Excellence (USAICoE) and a graduate of the Fort Benning School of Infantry and Ohio OPOTA Police Academy. He pioneered the Hybrid Threat Finance (HTF) doctrine and has spent the past five years instructing the interagency and banking sector on how to utilize this doctrine in Anti-Money Laundering (AML) transaction monitoring and Counter Threat Finance (CTF) targeting practices. He is headquartered out of the Washington, D.C. area.

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