



Out of the Woods:
**Trade Misinvoicing and Exports of
Tropical Timber from Colombia**

Channing Mavrellis



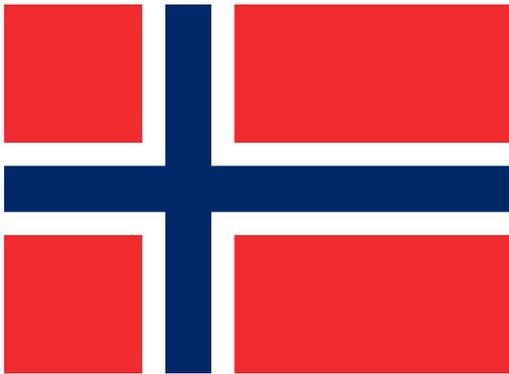
GLOBAL FINANCIAL INTEGRITY

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Introduction

Colombia is a nation rich with natural resources, many of which play an important role in the country's economy, including fertile lands, oil, and minerals like coal and gold. The country is also blessed with abundant forests: more than half of Colombia – almost 60 million hectares – is covered by natural forests, including national parks, protected areas, and private lands. All of these resources attract both legitimate and illegitimate actors and activities, the latter of which present economic, environmental, societal, and national security threats to Colombia.

Issues with informality and illegality in the timber sector have been well documented. Efforts by the government, the private sector, and civil society have encompassed, among other initiatives, addressing transparency and integrity throughout the timber supply chain. However, one thing that may not be readily apparent is the need to identify and curtail trade misinvoicing involving the export of Colombian timber products. This Trade Brief provides an analysis of Colombia's tropical wood exports between 2009-2018, assessing the level of trade misinvoicing and providing recommendations on how to address related gaps in policy and enforcement. Addressing trade misinvoicing is a critical step towards safeguarding Colombia's forests and overall biodiversity.

Timber and Trade Misinvoicing

Deforestation – the permanent removal of trees in order to make the land available for other uses – is a major threat to Colombia’s environment, economy, indigenous peoples, and security as well as the global effort to fight climate change. Some of the primary drivers of deforestation in Colombia are the expansion of agricultural and ranching land, illicit crop cultivation, migration and settlement, infrastructure projects, illegal mining, and illegal logging. Deforestation can cause soil erosion, flooding, loss of habitat for plants and animals, and contributes to climate change, as the felling of trees releases stored carbon and the reduction of forest cover lowers the amount of carbon dioxide that can be absorbed. Additionally, the loss of forests threatens the lands and livelihoods of indigenous communities.

In regards to security threats, deforestation can finance armed groups and/or criminal actors. While it is estimated that illegal logging is responsible for only ten percent of Colombia’s deforestation, it is still a very lucrative activity: it is valued at up to US\$750 million each year.¹ Armed groups “...are cutting down the rainforest in order to launder earnings from other illicit activities. By investing in the destruction of the rainforest, the illegal actors can take previously ‘unproductive’ forestland and convert it for cattle ranching and other agricultural activity which they hope will eventually turn a profit.”² There has been a marked increase in environmental crimes during the global pandemic, including deforestation, connected to diminished monitoring and enforcement by governments coupled with increased economic pressure on some of the most vulnerable populations, both of which criminals take advantage.



Photo: Katherin Alfonso

¹Helena Calle and Jaime Flórez, “This is how timber trafficking operates in Colombia,” Ojo Público, November 5, 2018, <https://ojo-publico.com/921/how-timber-trafficking-operates-colombia>.

²Taran Volckhausen, “Colombia Faces Soaring Deforestation Following FARC Guerrilla Demobilization,” Earth Island Journal, August 7, 2017, https://www.earthisland.org/journal/index.php/articles/entry/colombia_faces_soaring_deforestation_farc_guerrilla_demobilization/.

Clarity on legality

One major hurdle the government of Colombia must address when it comes to the export of unworked or primary timber (technically referred to as roundwood) is the actual legality of it.³ Resolution 12 of 1966 of the Foreign Trade Board prohibits the export of timber products in the “first degree of transformation” unless they have been logged from commercial plantations,⁴ which, according to Decree 1791 of 1996 from the Ministry of the Environment, refer to products “obtained directly from logs such as blocks, benches, planks, boards and also sheets and chips, among others.”⁵ Based on expert opinions, Forest Trends explains that this definition likely concerns logs, roundwood, sawnwood, and hoopwood.⁶ However, as evidenced by the focus of this trade advisory, Resolution 12 does not appear to be enforced whatsoever. This is a major policy and enforcement gap that, left unaddressed, will allow for the flow of illicit timber and funds out of the country.

The Colombian government along with foreign governments, civil society, the private sector, and indigenous communities have endeavored - albeit to differing degrees - to protect Colombia's forests from deforestation and illegal logging. Colombia has received support, including hundreds of millions of dollars of financial support,⁷ from various donor governments including the Governments of Denmark, Norway, Japan, and the United States, from the European Union (EU) and from the United Nations Food and Agricultural Organization (FAO) to foster sustainable management of forests and reduce carbon emissions. Colombia has also worked to strengthen the legality of the national timber system through the FAO-EU Forest Law Enforcement, Governance and Trade (FLEGT) Programme.⁸ One result of these initiatives is Visión Amazonía, an effort by the Colombian government, developed with the support of the governments of Norway, Germany, and the United Kingdom, to “reduce deforestation and its negative effects on the environment and society” through sustainable development.⁹

In 2009, Colombia enacted the Intersectoral Pact for Legal Timber (Pacto Intersectorial por la Madera Legal en Colombia), an initiative by the government, the private sector, civil society, and local communities to “ensure that the wood extracted, transported, transformed, commercialized and used in Colombia comes exclusively from legal sources,”¹⁰

³Roundwood is timber that has not been transformed from its natural state after being felled, i.e. it is left as logs and has not been sawn into planks, chopped, etc.

⁴Government of Colombia, “Guía Para Exportar e Importar Productos Maderables y No Maderables En Colombia” (Bogotá: Ministry of the Environment and Sustainable Development, 2016), 9, https://www.minambiente.gov.co/images/BosquesBiodiversidadYServiciosEcosistemicos/pdf/Gobernanza_forestal_2/13_Guia_Exportaci%C3%B3n_e_Importaci%C3%B3n_de_Productos_Maderables.pdf

⁵“Decreto 1791 de 1996” (1996),

https://www.minambiente.gov.co/images/BosquesBiodiversidadYServiciosEcosistemicos/pdf/Ordenaci%C3%B3n-y-Manejo-de-Bosques/dec_1791_041096.pdf

⁶“Known Forest Product Export Restrictions, as of June 2020,” Forest Trends, June 2020,

<https://www.forest-trends.org/known-log-export-bans/>.

⁷Mike Gaworecki, “Colombia Expands Indigenous Reserves near Key Deforestation Hotspot,” Mongabay, July 14, 2017,

<https://news.mongabay.com/2017/07/colombia-expands-indigenous-reserves-near-key-deforestation-hotspot/>.

⁸Adriana Patricia Yepes Quintero, “UN-REDD and FAO-EU FLEGT Programmes in Colombia: Working Side by Side to Protect the Country's Forests,” Food and Agriculture Organization of the United Nations, September 1, 2019,

<http://www.fao.org/redd/news/detail/en/c/1236493/>.

⁹“What Is Amazon Vision?,” Visión Amazonia, Ministry of the Environment and Sustainable Development, Government of Colombia, accessed January 25, 2021, <https://visionamazonia.minambiente.gov.co/en/what-is-amazon-vision/>.

¹⁰“Objetivo,” Pacto Intersectorial por la Madera Legal en Colombia (PIMLC), accessed January 22, 2021, <http://pactomaderalegalcolombia.weebly.com/>.

with the second phase launching in 2016.¹¹ There are approximately 70 signatories to the Pact, including the Ministries of Environment, Agriculture, Trade, and Mining, Colombia's National Tax and Customs Department (Dirección de Impuestos y Aduanas Nacionales or DIAN), as well as private sector associations, national federations, and Autonomous Regional Corporations, among others.

One of the Pact's commitments is to establish codes of conduct for responsible purchasing practices that prohibit the commercial acquisition and/or sale of wood or its products without observing legal requirements.¹² This is an important commitment as it relates to establishing legality, transparency, and integrity within Colombia's timber supply chain, 47 percent of which is estimated by the Ministry of the Environment and Sustainable Development to be comprised of illegal timber.¹³ One part of the supply chain that has not always received as much attention is the trade misinvoicing that can occur when timber is exported, which, among other impacts, can have direct repercussions on income taxes collected by DIAN as well as undermine Colombia's commitments to domestic and international initiatives.

Trade misinvoicing is the intentional manipulation of the value of an international trade transaction through the falsification of, among other items, the price, quantity, quality, or country of origin of a good or service. When timber exporters in Colombia misinvoice their exports, their actions can allow them to evade income taxes, aid and abet capital flight from other countries, and, even if the timber has been traded legally up to that point, jeopardize its legality in other jurisdictions. It is important for Colombia to ensure the trade integrity of its timber exports, that is that they are legal, properly priced, and transparent, so the government can curtail illicit financial flows and safeguard its natural resources.

What follows is an analysis of trade misinvoicing within Colombia's timber exports, in particular exports of tropical wood, over the period 2009-2018. The intention is to help the Colombian Government, and DIAN especially, know where to focus their attention and resources so that if and when the country is able to increase its production and exports of responsibly-sourced timber, the government is able to effectively curtail illicit financial inflows and outflows related to trade misinvoicing and, more specifically, collect the appropriate taxes due.

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¹¹"Lanzamiento de La Segunda Fase Del Pacto Intersectorial Por La Madera Legal En Colombia," Ministry of the Environment and Sustainable Development, Government of Colombia, April 28, 2016, <https://www.minambiente.gov.co/index.php/noticias/2278-lanzamiento-de-la-segunda-fase-del-pacto-intersectorial-por-la-madera-legal-en-colombia>.

¹²"Firmantes y Compromisos," Pacto Intersectorial por la Madera Legal en Colombia (PIMLC), accessed January 22, 2021, <http://pactomaderalegalcolombia.weebly.com/firmantes---compromisos.html>.

¹³Calle and Flórez, "This is how timber trafficking operates."

Value Gap Analysis of Timber Exports¹⁴

This section examines the trade of timber products between Colombia and its trade partners over the period 2009–2018¹⁵, with the analyzed timber products ranging from charcoal and rough wood to plywood and broom handles.¹⁶ Between 2009 and 2018, Colombia reported exports to 105 trade partners, whereas 123 trade partners reported timber imports from Colombia, representing a total of 140 unique trade pair sets.¹⁷ After refining the data following GFI methodology, 88 complete trade pairs were left.¹⁸

For these complete trade pairs, Colombia reported a total of US\$435.6 million in timber exports to its trade partners, whereas its trade partners reported US\$501.2 million in timber imports from Colombia,¹⁹ with an absolute value gap of US\$168.9 million.²⁰ When the value gaps are netted out, Colombia reported US\$65.6 million less in timber exports than its partners' imports.²¹

The largest value gap by absolute value is between Colombia and Panama, with Colombia reporting US\$51.7 million in timber exports to Panama while Panama reported US\$14.4 million in timber imports from Colombia, resulting in a value gap of US\$37.3 million. It is possible that exporters in Colombia are overstating their exports of timber to Panama.

In total, the top ten value gaps by absolute value account for a total absolute value gap of US\$150.8 million over the period 2009–2018, or US\$54.4 million netted out (See Table 1).

¹⁴As the products listed under Chapter 44 are reported in various units, such as by cubic meter or per item, it is not possible to conduct a volume gap analysis.

¹⁵Trade partners includes countries, states, and special administrative regions (SARs) as well as other regions and/or [reporters] as [identified] by Comtrade, specifically "Free Zones," "Other Asia, nes," and "Areas, nes". Note: "nes" stands for "not elsewhere specified".

¹⁶For more information about the Harmonized System, see "Harmonized Commodity Description and Coding Systems (HS)," United Nations International Trade Statistics Knowledgebase, October 27, 2020, <https://unstats.un.org/unsd/tradecb/Knowledgebase/50018/Harmonized-Commodity-Description-and-Coding-Systems-HS>; "UN Comtrade Database," United Nations, accessed October 27, 2020, <https://comtrade.un.org/>.

¹⁷A "trade pair set" refers to Colombia and a trade partner.

¹⁸52 trade pair sets were removed because they were either "orphaned," that is Colombia reported exports but the trade partner did not report any imports, or "lost", that is Colombia did not report any exports but the trade partner did report imports. For more information, see "Value Gap Trade Misinvoicing Methodology," Global Financial Integrity, accessed October 28, 2020, <https://gfiintegrity.org/research/methodology/>.

¹⁹As export values are recorded as FOB (free on board, i.e. the cost of the good[s]) and import values are recorded as CIF (cost, insurance, freight), a margin of 6.2% was used to convert CIF values to FOB values. See Guannan Miao and Fabienne Fortanier, "Estimating CIF-FOB Margins on International Merchandise Trade Flows" (Paris: Organisation for Economic Co-operation and Development, March 11, 2016), 18, [http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=STD/CSSP/WPTGS\(2016\)8&docLanguage=En](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=STD/CSSP/WPTGS(2016)8&docLanguage=En).

²⁰An absolute value gap refers to the addition of the absolute values of positive and negative value gaps (i.e., trade sets where Colombia reported a higher export value than its trade partner's import and where the trade partner reported a higher import value than Colombia's exports).

²¹That is, positive and negative value gaps (i.e., trade sets where Colombia reported a higher export value than its trade partner's import and where the trade partner reported a higher import value than Colombia's exports) were added together.

Table 1. Colombia's Top Value Gaps by Trade Partner, 2009-2018 (in U.S. dollars)

Exports to Trade Partner Reported by Colombia	Total Export Value (US\$)	Value Gap (US\$) Absolute	Total Import value (US\$)	Imports from Colombia Reported by Trade Partner
Panama	\$51,708,992	\$37,334,976	\$14,374,016	Panama
Chile	\$1,776,534	\$29,939,564	\$31,716,098	Chile
Venezuela	\$46,855,929	\$27,924,311	\$74,780,240	Venezuela
Ecuador	\$7,016,842	\$22,946,688	\$29,963,530	Ecuador
India	\$78,591,610	\$10,259,155	\$88,850,765	India
USA	\$31,516,850	\$8,024,846	\$39,541,696	USA
Costa Rica	\$29,765,937	\$5,522,813	\$24,243,124	Costa Rica
Vietnam	\$28,230,542	\$3,553,083	\$24,677,459	Vietnam
Dominican Republic	\$5,735,127	\$3,497,558	\$9,232,685	Dominican Republic
Bangladesh	\$1,826,637	\$1,810,758	\$15,879	Bangladesh
TOTAL	\$283,025,000	\$150,813,751	\$337,395,492	

Data source: UN Comtrade Database

When comparing Colombia's top ten trade partners for timber exports by value between 2009 and 2018, it is notable that while Colombia's trade with Chile has the second largest value gap, Chile is Colombia's 20th largest trading partner by value. Additionally, the Colombia-Chile value gap is nearly 17 times larger than Colombia's reported exports to Chile.



Trade Misinvoicing Analysis of Tropical Wood Exports

Methodology

Colombia's reported exports of rough (i.e., unworked) tropical wood was the largest timber commodity export by value at US\$88.2 million over the period 2009–2018 or nearly 20 percent of Colombia's total timber exports.²² Due to this, GFI used tariff-level trade data from Panjiva for HS 440349 to analyze individual export transactions for potential misinvoicing over the ten-year period.²³ Between 2009 and 2018, Colombia exported nearly 3.5 million cubic meters of tropical wood worth more than US\$83 million via 2,797 export transactions.

After refining the data,²⁴ the resulting 2,632 export transactions were then analyzed on an annual basis to determine the total value, volume, and average price per cubic meter, as well as estimated value of under- and over-invoicing. To determine which export transactions were misinvoiced, a range of 30 percent above and below the average annual per-unit price was used to simulate a generous risk threshold for a customs department, where any per-unit price outside this range was assessed as potential misinvoicing.

Analysis

Between 2009 and 2018, an estimated 1,067 export transactions of tropical wood worth US\$5.4 million were misinvoiced, representing 6.4 percent of tropical wood exports by value and 40.5 percent of export transactions (Table 2). It was more common for misinvoiced export transactions to be under-invoiced (52.5 percent), however the value of over-invoicing (US\$3.1 million) was greater than under-invoicing (US\$2.3 million).²⁵

Between 2009 and 2018, an estimated 1,067 export transactions of tropical wood worth US\$5.4 million were misinvoiced, representing 6.4 percent of tropical wood exports by value and 40.5 percent of export transactions.

²² The complete definition of HS 440349 is "Wood, tropical; other than dark red meranti, light red meranti and meranti bakau, in the rough, whether or not stripped of bark or sapwood, or roughly squared, untreated". Trade data acquired from "Panjiva," Panjiva, October 27, 2020, <https://panjiva.com/>.

²³ Panjiva is a global trade data company. Between 2009 and 2016, Colombia only reported exports of HS 4403490000 – "Wood, tropical; other than dark red meranti, light red meranti and meranti bakau, in the rough, whether or not stripped of bark or sapwood, or roughly squared, untreated." Beginning in 2017 (and coinciding with the update of the universal HS Nomenclature system), Colombia furthered [expanded] HS 440349000 into two HS codes: HS 4403491000, which encompassed tropical wood of the the genus ipe (canaguante, ebano verde, lapacho, polvillo, purple oak, black tahuari, tajibo) (Tabebuia spp.), and; HS 4403499000, which encompassed all other types of tropical wood (i.e., those besides red meranti, light red meranti, meranti bakau, and ipe). As such, the analysis of trade data from 2009–2016 only involves exports of HS 4403490000, whereas in 2017 and 2018, HS 4403491000 and HS 4403499000 are analyzed together.

²⁴ GFI refined this data set in two ways so as to conduct a more accurate analysis of the trade. First, we removed any export transactions that showed a strong indication of data entry error; in particular, those transactions where the volume reported (m3) very likely was missing a decimal point. In total, 52 transactions were removed from the data set due to potential data entry errors. Second, as export transactions were analyzed on an annual basis, any export company that had three or fewer export transactions in a given year was removed as it was posited that these companies, in not trading regularly, would likely have transactions that lay outside trade averages. In addition, if a company only had one export in a year, and that export was misinvoiced, the 100 percent "rate" of misinvoicing would skew annual averages when compared to companies that exported numerous times; in total, 113 transactions were removed.

²⁵ The average price per unit was calculated on an annual basis to account for pricing variation from year to year. Once the data set was refined each year, the average price per unit was calculated.

Table 2. Trade misinvoicing of Colombia tropical wood exports, 2009-2018

Year	Total Export Value (US\$)	Total Export Volume (M ³)	Average US\$/M ³	Total Export Transactions	Total Misinvoicing Value (US\$)	Total Misinvoiced transactions	Total Value of Under-invoicing (US\$)	Total Under-invoiced Transactions	Total Value Of Over-Invoicing (US\$)	Total Over-Invoicer Transactions
2009	4,873,479.61	13,901.22	352.44	213	152,142.41	65	16,422.50	10	135,719.91	55
2010	7,968,577.81	19,607.72	423.99	260	273,550.07	73	46,515.60	33	227,034.47	40
2011	6,981,317.35	17,147.83	483.58	237	362,773.39	132	156,931.57	73	205,841.82	59
2012	8,367,777.31	23,756.77	393.24	281	451,333.63	97	168,644.08	47	282,689.55	50
2013	11,026,444.72	32,179.61	364.70	239	619,501.62	88	231,710.19	36	387,791.43	52
2014	18,045,127.28	42,021.30	462.37	483	1,905,411.75	266	892,964.56	140	1,012,447.19	126
2015	7,994,251.41	23,012.71	373.40	284	817,254.90	154	399,852.21	97	417,402.69	57
2016	9,594,963.80	23,303.68	466.75	268	507,997.68	101	332,068.06	70	175,929.63	31
2017	4,391,927.54	15,689.06	290.76	190	115,790.26	33	18,751.66	13	97,038.60	20
2018	4,615,032.51	16,983.46	290.64	177	157,353.52	58	15,158.86	41	142,194.66	17
Total	83,858,899.34	227,603.36		2,632	5,363,109.23	1,067	2,279,019.28	560	3,084,089.94	507

Data source: Panjiva database.

In comparing the value and number of misinvoiced transactions each year, 2014 had the highest in both regards. The total value of misinvoicing for 2014 was estimated at US\$1.9 million, equivalent to 35.5 percent of the total value of misinvoicing over the 10-year period, and with 266 misinvoiced transactions, the average value of misinvoicing per transaction was nearly US\$7,200.00.

Export Company

After refining the data (as outlined in the Methodology section), there were 36 Colombian entities that exported tropical timber over the period. The names of the companies were anonymized, changing each name to Exporter [XX], with each company being randomly assigned its own specific number.

As seen in Table 3, Exporter 1 was the largest exporter in the market (21.8 percent) over the ten-year period by both volume and value, with nearly 59,000 m³ of tropical wood exports worth US\$18.3 million via 516 export transactions. However, Exporter 2, the second largest exporter by volume and value, was responsible for the largest amount of total trade misinvoicing at US\$1.2 million compared to Exporter 1's \$529,000. While this represents 12.1 percent of the company's total exports by value, an estimated 61.4 percent of its total export transactions were misinvoiced (204), with an average export transaction misinvoiced by approximately US\$6,000.



Table 3. Trade misinvoicing of Colombia tropical wood exports by Colombian export companies, 2009-2018

Colombian Exporter	Total Export Value (US\$)	Total Export Volume (M ³)	Average US\$/M ³	Total Export Transactions	Total Misinvoicing Value (US\$)	Total Misinvoiced transactions	Total Value of Under-invoicing (US\$)	Total Under-invoiced Transactions	Total Value Of Over-Invoicing (US\$)	Total Over-Invoicer Transactions
Exporter 1	18,264,223.97	58,963.74	309.75	516	529,323.53	161	(517,587.90)	159	11,735.63	2
Exporter 2	10,146,486.76	36,902.96	274.95	332	1,230,869.98	204	(1,195,702.13)	201	35,167.85	3
Exporter 3	9,918,102.11	32,441.43	305.72	350	54,052.04	53	(41,134.65)	51	12,917.40	2
Exporter 4	6,827,703.39	12,776.03	534.42	188	494,109.85	115	(2,226.80)	1	491,883.05	114
Exporter 5	6,614,628.71	13,687.27	483.27	146	352,553.06	54	(38,999.33)	8	313,553.73	46
Exporter 6	6,499,760.32	11,472.71	566.54	205	581,010.44	114	(26,470.26)	6	554,540.17	108
Exporter 7	5,462,849.44	9,469.18	576.91	151	655,715.82	92			655,715.82	92
Exporter 8	4,397,639.73	9,656.01	455.43	142	61,207.74	14			61,207.74	14
Exporter 9	3,855,020.66	9,874.96	390.38	53	108,451.53	12	(40,285.31)	6	68,166.22	6
Exporter 10	2,593,705.72	7,699.82	336.85	82	38,079.14	13	(38,079.14)	13		
Exporter 11	1,449,737.99	5,566.14	260.46	64	70,412.03	29	(70,412.03)	29		
Exporter 12	1,407,879.81	5,672.18	248.21	138	256,714.85	56	(255,840.72)	55	874.13	1
Exporter 13	1,058,682.54	3,203.37	330.49	39	5,519.61	6	(5,519.61)	6		
Exporter 14	1,054,697.86	1,416.44	744.61	20	248,360.92	18			248,360.92	18
Exporter 15	619,182.00	843.10	734.41	35	114,992.77	32			114,992.77	32
All Others	3,688,598.33	7,958.02	463.51	171	561,735.90	94	(46,761.38)	25	514,974.52	69
Total	83,858,899.34	227,603.36	368.44	2,632	5,363,109.23	1,067	(2,279,019.28)	560	3,084,089.94	507

Data source: Panjiva database.

Note: Some totals may be off due to rounding

The largest share of estimated export under-invoicing was attributable to Exporter 2 (US\$1.2 million); this means that over the ten-year period, the company potentially moved those funds out of Colombia illicitly. Conversely, the largest share of potential export over-invoicing by value was generated by Exporter 7 (US\$656,000), creating an illicit flow of funds into Colombia. It is interesting to note that three companies – Exporters 1, 2, and 12 – were responsible for the majority (86.4 percent) of the value of potentially under-invoiced transactions.

Export Destination

The majority (91.6 percent by value, 93.5 percent by volume) of Colombian tropical wood was exported to India and China, which is consistent with the fact that the two countries are the largest importers of tropical wood globally.²⁶ Based on the total size and value of trade going to India and China, it is unsurprising that the total value and frequency of potential misinvoicing to both countries was also highest among all of Colombia's trade partners: an estimated US\$2.5 million via 1,671 total export transactions for India and US\$2.0 million via 708 total export transactions for China (Table 4).

²⁶ While India is the leading importer of Colombian tropical wood, followed by China, China is the global leader in importing tropical wood, followed by India.

Table 4. Trade misinvoicing of tropical wood exports by export destination, 2009-2018

Destination Country	Total Export Value (US\$)	Total (M ³) Exported	Average US\$/M ³	Total Export Transactions	Total Misinvoicing (US\$)	Total Misinvoiced transactions	Total Under-invoicing (US\$)	Total Under-invoiced Transactions	Total Over-Invoicing (US\$)	Total Over-Invoicer Transactions
Bangladesh	21,570.57	79.89	270.00	1	-	0				
Belgium	80,427.95	161.74	497.27	6	19,308.83	5			19,308.83	5
Canada	27,939.53	14.29	1,955.18	1	21,164.50	1			21,164.50	1
China	26,887,551.75	50,850.63	528.76	708	1,992,973.99	334	(37,314.35)	5	1,955,659.64	329
Cyprus	35,190.00	46.00	765.00	1	6,272.10	1			6,272.10	1
Dominican Republic	25,667.70	36.96	694.47	2	3,387.17	1			3,387.17	1
Germany	17,000.00	20.65	823.24	1	4,587.70	1			4,587.70	1
Hong Kong	233,987.32	413.23	566.24	7	11,608.18	3			11,608.18	3
India	49,919,448.72	160,968.70	310.12	1,671	2,494,027.53	603	(2,162,817.64)	529	331,209.89	74
Iran	9,604.50	33.70	285.00	1	397.32	1	(397.32)	1		
Israel	13,837.90	14.56	950.41	1	6,770.18	1			6,770.18	1
Japan	88,631.65	153.58	577.10	5	5,161.32	3			5,161.32	3
Lebanon	9,735.40	30.46	319.61	1	-	0				
Portugal	7,207.20	17.16	420.00	1	-	0				
Saudi Arabia	400.00	1.00	400.00	1	-	0				
Singapore	284,507.64	1,001.71	284.02	14	40,715.60	11	(40,715.60)	11		
South Korea	163,096.83	266.57	611.83	13	28,893.13	6			28,893.13	6
Spain	52,869.58	72.00	734.30	4	16,256.00	2			16,256.00	2
Syria	95,612.89	172.00	555.89	4	31,544.37	3			31,544.37	3
Taiwan	1,156,760.07	1,853.65	624.04	44	214,070.61	23	(299.19)	1	213,771.42	22
Turkey	16,696.09	20.48	815.24	1	4,269.24	1			4,269.24	1
United Kingdom	25,540.70	48.19	530.00	2	-	0				
United States	51,819.70	47.41	1,093.01	3	23,738.25	3			23,738.25	3
Vietnam	4,633,795.65	11,278.80	410.84	139	437,963.20	64	(37,475.18)	13	400,488.02	51
Total	83,858,899.34	227,603.36	368.44	2,632	5,363,109.23	1,067	(2,279,019.28)	560	3,084,089.94	507

Data source: Panjiva database.

Note: Some totals may be off due to rounding.

By value, the majority of potentially under-invoiced transactions (US\$2.2 million or 94.9 percent) was attributable to exports to India, whereas exports to China accounted for 63.4 percent (US\$2.0 million) of total over-invoiced transactions. This means that the under-invoicing caused illicit outflows of funds from Colombia to India, and the over-invoicing resulted in illicit inflows of funds from China to Colombia.

The under- and over-invoicing of exports by total number of misinvoiced transactions occurred at roughly the same frequency (52.5 percent of misinvoiced exports were under-invoiced, compared to 47.5 percent over-invoiced), however under-invoiced tropical wood was exported to six destination countries in comparison to over-invoiced exports destined for 17 different countries.

Consignee Country

One aspect of international trade that is important to recognize is that the consignee (i.e., the individual or entity that purchases the good or service) may not necessarily be located in the destination country. A company may be headquartered in one country but conduct business, such as import and export transactions, in multiple countries.

When evaluating the value and frequency of potential trade misinvoicing by consignee country, the top three countries over the ten-year period were China, Singapore, and the United States with nearly US\$4 million in estimated misinvoicing or 74.5 percent of total misinvoicing by value (Table 5). There were twice as many countries that received over-invoiced exports from Colombia (21) in comparison to under-invoiced exports (11).

Table 5. Trade misinvoicing of tropical wood exports by location of consignee, 2009-2018

Consignee Country	Total Export Value (US\$)	Total (M ³) Exported	Average US\$/M ³	Total Export Transactions	Total Misinvoicing (US\$)	Total Misinvoiced transactions	Total Under-invoicing (US\$)	Total Under-invoiced Transactions	Total Over-Invoicing (US\$)	Total Over-Invoiced Transactions
[Missing] ²⁷	272,160.85	666.34	408.44	12	38,808.52	5			38,808.52	5
Anguilla	31,716.91	55.60	570.45	1	4,727.56	1			4,727.56	1
Belgium	80,427.95	161.74	497.27	6	19,308.83	5			19,308.83	5
Brazil	48,568.38	93.40	520.00	1	-	0				
Canada	20,483.10	41.38	495.00	1	1,523.61	1			1,523.61	1
China	22,862,865.14	42,876.95	533.22	608	1,765,498.70	287	(31,320.39)	4	1,734,178.31	283
Cyprus	35,190.00	46.00	765.00	1	6,272.10	1			6,272.10	1
Denmark	69,557.70	127.23	546.71	2	-	0				
Dominican Republic	23,749.14	32.39	733.22	1	3,387.17	1			3,387.17	1
Ecuador	581,186.69	1,819.15	319.48	19	19,409.62	9	(19,409.62)	9		
Germany	621,735.66	1,338.07	464.65	19	86,560.82	8	(789.79)	1	85,771.03	7
Hong Kong	5,126,556.11	12,563.75	408.04	137	252,963.15	47	(25,803.26)	9	227,159.89	38
India	2,609,476.82	7,249.14	359.97	155	274,609.99	78	(128,382.46)	42	146,227.53	36
Israel	13,837.90	14.56	950.41	1	6,770.18	1			6,770.18	1
Japan	1,199,619.69	2,514.33	477.11	28	1,936.62	1			1,936.62	1
Panama	1,091,642.50	2,927.39	372.91	33	33,239.12	13	(7,267.89)	1	25,971.23	12
Singapore	27,328,988.37	90,824.29	300.90	901	1,519,133.27	331	(1,372,501.73)	309	146,631.54	22
South Korea	135,654.44	215.05	630.80	10	28,893.13	6			28,893.13	6
Spain	29,674.78	28.24	1,050.81	2	13,579.55	1			13,579.55	1
Taiwan	1,063,689.60	1,749.74	607.91	47	189,012.76	22	(575.31)	2	188,437.45	20
Turkey	16,696.09	20.48	815.24	1	4,269.24	1			4,269.24	1
United Arab Emirates	256,117.00	344.50	743.45	14	39,547.08	14			39,547.08	14
United Kingdom	89,944.95	269.61	333.61	14	1,037.10	2	(1,037.10)	2		
United States	17,213,902.79	55,613.50	309.53	527	708,328.17	183	(659,326.58)	176	49,001.58	7
Vietnam	3,035,456.78	6,010.53	505.02	91	344,292.97	49	(32,605.16)	5	311,687.81	44
Total	83,858,899.34	227,603.36	368.44	2,632	5,363,109.23	1,067	(2,279,019.28)	560	3,084,089.94	507

Data source: Panjiva database.

Note: Some totals may be off due to rounding.

²⁷The name of the consignee's country was missing from trade data, i.e. the field was blank.

The type of misinvoicing that occurs (i.e., over- or under-invoicing of exports) in relation to the location of a consignee can often be illustrative of certain monetary and/or fiscal policies in a particular country. Export under-invoicing constitutes an illicit outflow of funds from the exporting country, and may be done in order to evade domestic income taxes and/or covertly shift money abroad. Conversely, export over-invoicing creates an illicit inflow of funds to the exporting country, and is often used in order to exploit government export subsidies or rebates.

The largest potential illicit outflow of funds from Colombia involves under-invoiced exports to Singapore, with an estimated value of US\$1.4 million over the period 2009-2018. Singapore is a known tax haven, that is, a country with very low tax rates for foreign individuals and businesses which often provides significant financial opacity. Tax Justice Network has ranked Singapore the eighth worst globally in its 2019 Corporate Tax Haven Index and the fifth worst globally in its 2020 Financial Secrecy Index.²⁸

The largest potential illicit outflow of funds from Colombia involves under-invoiced exports to Singapore, with an estimated value of US\$1.4 million over the period 2009-2018.

With a flat corporate tax rate of 17 percent during 2009-2018, Singapore provides a more advantageous financial regime in comparison to Colombia's corporate tax rate which has varied between 25 and 34 percent over the same time period. For export and import companies that are related parties, it is possible that the tropical wood exports to Singapore are intentionally under-invoiced in order to shift profits, and therefore tax liability, from Colombia to Singapore: when the goods arrive in Singapore and are then sold on at their accurate value, the profits (the amount of export under-invoicing to Singapore, US\$1.4 million) stay in Singapore. Instead of being taxed on US\$1.37 million in Colombia (equivalent to more than US\$347,000 in taxes in Colombia over the ten-year period), by shifting the profits to Singapore the involved entities potentially only paid US\$233,000, saving themselves nearly US\$114,000.

The largest illicit flow of funds into Colombia comes from potentially over-invoiced tropical wood exports to China, estimated at more than US\$1.7 million. There are several reasons why Colombian exports to China could be over-invoiced, two of which relate to Colombia's fiscal regime and China's monetary regime.

The largest illicit flow of funds into Colombia comes from potentially over-invoiced tropical wood exports to China, estimated at more than US\$1.7 million.

²⁸"Singapore," Tax Justice Network, accessed November 20, 2020, <https://taxjustice.net/country-profiles/singapore/>.

One of the most common reasons to engage in export over-invoicing is to exploit export subsidies or rebates as well as tax exemptions, as overstating the value of an export would allow an exporter to falsely inflate the subsidy, rebate, or exemption they can claim from the government; all of this is often not dependent on the country to where the commodity is exported. Colombia does offer a variety of incentive programs both specific to the forestry and/or agricultural sector as well as general incentive programs and exemptions for all industries.

For example, there is an incentive for companies that establish commercial tree farms for specific species. However, commercial tree farming is quite rare in Colombia, with commercial forest plantations representing less than one percent of the country's forested area.²⁹ The country also provides companies that invest in the Colombian agricultural sector (of which the forestry sector is included) a ten-year exemption period on corporate income tax provided certain conditions are met.³⁰ There are also general exporter incentive programs not related to specific industries or sectors, such as the "High Value Exporter" designation (Usuarios altamente exportadores or Altex), which allows entities that export more than US\$2 million in a year to receive special benefits to facilitate their exports, most notably the elimination of a physical customs inspection.³¹

What is noteworthy regarding the significant level of export over-invoicing to China specifically relates to the country's monetary policy. China has relatively strict capital controls that are designed to combat money moving out of the country, which at high levels would weaken the yuan. Export over-invoicing from Colombia coupled with import over-invoicing in China could provide Chinese importers with the justification to send additional funds out of China illicitly in order to contravene the country's capital controls.

Consignee Company

Between 2009 and 2018, there were at least 208 different consignee entities or individuals that purchased tropical timber from Colombia.³² Of these, 48 consignees did not have any export transactions that involved trade misinvoicing. For the remaining 160 consignees, the top ten as ranked by total value of misinvoicing are shown in Table 6 below.

²⁹ PROFOR, "Current Situation and Future Potentials of Commercial Forest Plantations in Colombia: English Summary" (Bogotá: PROFOR, 2017), 19, https://www.profor.info/sites/profor.info/files/Commercial%20forest%20plantations%20Colombia_English%20Summary_0.pdf.

³⁰ "Colombia: Corporate - Tax Credits and Incentives," pwc, July 7, 2020, <https://taxsummaries.pwc.com/colombia/corporate/tax-credits-and-incentives>

³¹ "Usuarios Altamente Exportadores," legiscomex, accessed December 17, 2020, https://www.legiscomex.com/Documentos/USUARIO_EXPORTADOR.

³² There are 207 distinct entities and individuals, however there were 12 export transactions where the consignee name was missing, hence it is unclear if this represents one or more entities/individuals.



Table 6. Trade misinvoicing of tropical wood exports by consignee, 2009-2018

Consignee	Total Value Exports (US\$)	Total Volume (M ³)	Average US\$/M ³	Total Transactions	Total Misinvoicing (US\$)	Total Misinvoiced Transactions	Total of Under-Invoicing (US\$)	Number of Under-Invoiced Transactions	Total of Over-Invoicing (US\$)	Number of Over-Invoiced Transactions
Consignee1	\$25,247,740.15	84,204.35	\$299.84	794	\$1,454,994.49	295	\$(1,338,743.02)	284	\$116,251.47	11
Consignee2	\$8,800,640.79	28,293.51	\$311.05	242	\$268,822.97	79	\$(268,822.97)	79		
Consignee3	\$677,710.30	782.07	\$866.56	16	\$263,120.99	11			\$263,120.99	11
Consignee4	\$2,792,037.27	4,889.05	\$571.08	82	\$236,524.71	45			\$236,524.71	45
Consignee5	\$1,314,220.95	5,102.54	\$257.56	124	\$179,036.72	42	\$(178,162.59)	41	\$874.13	1
Consignee6	\$909,481.57	1,485.81	\$612.11	18	\$155,795.67	18			\$155,795.67	18
Consignee7	\$5,483,493.83	17,485.23	\$313.61	119	\$154,483.91	35	\$(154,483.91)	35		
Consignee8	\$2,724,003.11	5,499.31	\$495.34	46	\$122,938.14	13	\$(26,457.10)	1	\$96,481.04	12
Consignee9	\$252,108.22	279.69	\$901.38	6	\$111,101.70	6			\$111,101.70	6
Consignee10	\$661,318.78	1,036.69	\$637.91	23	\$100,862.62	17			\$100,862.62	17
All Other	\$34,996,144.37	78,545.11	\$445.55	1162	\$2,315,427.30	506	\$(312,349.68)	120	\$2,003,077.62	386
Total	\$83,858,899.34	227,603.36	\$368.44	2,632	\$5,363,109.23	1,067	\$(2,279,019.28)	560	\$3,084,089.94	507

Data source: Panjiva database.

Note: Some totals may be off due to rounding.

Consignee 1 is responsible for the largest share of trade misinvoicing by both value and volume: 27 percent of all trade misinvoicing by value (US\$1.5 million) and 28 percent of all trade misinvoicing by number of trade transactions (295). Consignee 1 primarily engaged in under-invoicing which was worth US\$1.3 million over the decade 2009-2018 and equivalent to 59 percent of all under-invoicing. While one consignee was responsible for a large portion of total under-invoicing, the amount of over-invoicing was largely spread across 136 consignees, each responsible for anywhere between 0.01 to 8.53 percent of total over-invoicing.

Consignee 1 purchased tropical wood from four exporters, as seen below in Table 7. GFI analysis of the trade data shows that Exporters 2, 3, and 9 all appear to be related to Consignee 1, as Exporter 3 shares the same name as Consignee 1, and Exporters 2, 3, and 9 all share the same shipper identification number from Colombia's customs department, DIAN.

Table 7. Trade misinvoicing of tropical wood exports by Consignee 1 and its Exporters, 2009-2018

Consignee Company and Exporters	Total Value of Exports (US\$)	Total Volume (M ³)	Average US\$/M ³	Total Transactions	Total Misinvoicing (US\$)	Total Misinvoiced transactions	Total of Under-Invoicing (US\$)	Number of Under-Invoiced Transactions	Total of Over-Invoicing (US\$)	Number of Over-Invoiced Transactions
Consignee 1	\$25,247,740.15	84,204.35	\$299.84	794	\$1,454,994.49	295	\$(1,338,743.02)	284	\$116,251.47	11
Exporter 2	\$10,146,486.76	36,902.96	\$274.95	332	\$1,230,869.98	204	\$(1,195,702.13)	201	\$35,167.85	3
Exporter 3	\$9,848,695.34	32,119.50	\$306.63	348	\$54,052.04	53	\$(41,134.65)	51	\$12,917.40	2
Exporter 9	\$3,855,020.66	9,874.96	\$390.38	53	\$108,451.53	12	\$(40,285.31)	6	\$68,166.22	6
All other	\$60,008,696.58	148,705.94	\$403.54	1,899	\$3,969,735.67	798	\$(1,001,897.19)	302	\$2,967,838.48	496
Total	\$83,858,899.34	227,603.36	\$368.44	2632	\$5,363,109.23	1,067	\$(2,279,019.28)	560	\$3,084,089.94	507

Data source: Panjiva database.

Note: Some totals may be off due to rounding.

As Consignee 1 and Exporters 2, 3, and 9 all appear to be related parties, it is possible that the high level of export under-invoicing, particularly between Consignee 1 and Exporter 2, is a sign of abusive profit shifting from Colombia to another jurisdiction, in this instance to Singapore as that is where Consignee 1 is headquartered. Entities often engage in profit shifting in order to exploit more advantageous tax regimes. Over the period 2009-2018, Colombia’s corporate tax rate ranged between 25 percent to 34 percent, with an average of 29.9 percent, whereas Singapore’s tax rate ranged between 17 percent and 18 percent, with an average rate of 17.1 percent. By purchasing tropical wood from Exporters 2, 3, and 9 which were under-invoiced by nearly US\$1.3 million, Consignee 1 was able to shift this value to Singapore; instead of paying an additional US\$382,000 in taxes in Colombia, Consignee 1 only paid US\$218,000 in Singapore, a savings of more than US\$160,000 for the company.

Customs Agencies

According to the Ministry of the Environment and Sustainable Development, exports with a FOB value (“free on board”, or market value) of more than US\$10,000 are considered “indirect exports” and the exporter must process the export through a customs agency (Agencias de Aduanas).³³ Customs agencies are intended to help facilitate customs clearance by working with customs authorities to ensure compliance with legal regulations. They are authorized by Colombia’s National Tax and Customs Administration, DIAN, and are regulated by the Financial Superintendence of Colombia (Superintendencia Financiera de Colombia or SFC).

Over the decade 2009-2018, there were a total of 33 different customs agencies that processed exports of tropical wood from Colombia; of these, only three did not process misinvoiced exports. Customs Agency 3 was responsible for the largest share of tropical wood exports by value and number, at US\$19.4 million (23 percent) and 526 export transactions (20 percent) (Table 8).

Over the decade 2009-2018, there were a total of 33 different customs agencies that processed exports of tropical timber from Colombia; of these, only three did not process misinvoiced exports.

³³ Ministry of Finance and Public Credit of Colombia. 2008. Decree 2883 of 2008: Partial modification to the Decree 2685 of 1999. Available at <https://www.suin-juriscol.gov.co/viewDocument.asp?id=1498303>

Table 8. Trade misinvoicing of tropical wood exports by customs agency, 2009-2018

Customs Agency	Total Export Value (US\$)	Total (M ³) Exported	Average US\$/M ³	Total Export Transactions	Total Misinvoicing (US\$)	Total Misinvoiced Transactions	Total Under-Invoicing (US\$)	Total Under-Invoiced Transactions	Total Over-Invoicing (US\$)	Total Over-Invoiced Transactions
CA 1	\$7,287,101.39	12,271.22	\$593.84	218	\$932,915.63	124	\$(26,470.26)	6	\$906,445.37	118
CA2	\$6,950,118.99	24,813.04	\$280.10	184	\$856,365.55	102	\$(821,382.49)	101	\$34,983.07	1
CA3	\$19,387,413.92	53,010.70	\$365.73	526	\$709,071.73	179	\$(249,741.45)	96	\$459,330.28	83
CA4	\$4,836,730.06	8,338.35	\$580.06	140	\$565,734.25	81			\$565,734.25	81
CA5	\$5,845,018.08	18,106.27	\$322.82	166	\$277,168.16	50	\$(277,168.16)	50		
CA6	\$1,975,436.88	7,723.81	\$255.76	103	\$275,722.52	79	\$(275,537.73)	77	\$184.79	2
CA7	\$954,387.13	4,221.96	\$226.05	48	\$251,110.06	43	\$(250,235.93)	42	\$874.13	1
CA8	\$7,370,912.96	19,953.22	\$369.41	285	\$237,483.99	94	\$(44,678.49)	28	\$192,805.50	66
CA9	\$6,765,380.23	19,747.18	\$342.60	224	\$192,664.31	46	\$(135,779.78)	38	\$56,884.53	8
CA10	\$3,501,064.62	7,173.84	\$488.03	75	\$190,567.68	26	\$(31,699.21)	4	\$158,868.47	22
CA11	\$965,599.31	1,392.12	\$693.62	27	\$183,064.23	17	\$(1,186.96)	1	\$181,877.27	16
CA12	\$1,311,452.92	2,922.66	\$448.72	158	\$137,085.99	59	\$(10,952.16)	17	\$126,133.83	42
CA13	\$2,911,100.94	6,156.88	\$472.82	68	\$130,797.67	24	\$(7,300.12)	4	\$123,497.55	20
CA14	\$4,044,783.05	10,435.25	\$387.61	63	\$116,568.93	20	\$(46,005.08)	12	\$70,563.85	8
CA15	\$1,320,697.46	5,137.46	\$257.07	59	\$59,389.95	24	\$(59,389.95)	24		
All Others	\$8,431,701.40	26,199.40	\$321.83	288	\$247,398.59	99	\$(41,491.51)	60	\$205,907.08	39
Total	\$83,858,899.34	227,603.36	\$368.44	2,632	\$5,363,109.23	1,067	\$(2,279,019.28)	560	\$3,084,089.94	507

Data source: Panjiva database.

Note: Some totals may be off due to rounding.

While Customs Agency 3 was the largest player, only four percent of its exports by value were misinvoiced. Customs Agency 1 was responsible for the largest amount of trade misinvoicing by value at US\$933,000 despite being the third largest exporter by value, the majority of which was through export over-invoicing (US\$906,000). Customs Agency 2 exported the second highest amount of misinvoiced exports, valued at US\$856,000, which primarily involved export under-invoicing (US\$821,000).



Discussion

It is notable that more than 40 percent of tropical wood export transactions were misinvoiced over the period 2009-2018, suggesting the issue of misinvoicing may be a systemic problem for timber exports. Under-invoicing of exports can lead to tax loss – in this instance, Colombia lost an estimated US\$604,000 in corporate income taxes over the decade just related to tropical wood.³⁴ This amount is equal to nearly two-thirds (64 percent) of the total budget for FAO-EU FLEGT Program projects in Colombia since 2016.³⁵ The government of Colombia is losing money that could potentially fund projects to help combat deforestation in the country.

It is notable that more than 40 percent of tropical wood export transactions were misinvoiced over the period 2009-2018, suggesting the issue of misinvoicing may be a systemic problem for timber exports.

It is also important to mention that trade misinvoicing doesn't just cost the Colombian government taxable income. Individuals and entities that engage in illegal activity along the timber value chain, including employing trade misinvoicing when exporting timber from the country, face lower operating costs that allow them to be more competitive than businesses that ensure their practices are legal and sustainable. WWF Colombia points out the necessity of assessing the whole value chain when it comes to sustainable timber production, as "legal timber production, with its added costs to be sustainable, cannot compete in the market with illegal products."³⁶

Another issue that arises with the trade misinvoicing of tropical wood exports from Colombia is whether the misinvoicing – which could constitute a violation of Colombia's customs law due to a false declaration of value, among other items – would render the wood "illegally harvested."³⁷ For example, the EU's Timber Regulation, in its definition of illegally harvested timber, includes timber whose trade contravenes the country of harvest's trade and customs legislation.³⁸ Likewise, the United States' Lacey Act prohibits, among other items, the importation of fish, wildlife, and plants that were "taken, possessed, transported, or sold" in violation of any foreign law.³⁹ Therefore, even if tropical wood is harvested, transported, transformed, and marketed according to Colombia's laws, if the timber is misinvoiced upon export it would become "illegally harvested" and therefore illegal to import into either jurisdiction.

Even if tropical wood is harvested, transported, transformed, and marketed according to Colombia's laws, if the timber is misinvoiced upon export it would become "illegally harvested".

³⁴ "Colombia Corporate Tax Rate," Trading Economics, accessed 25 January 2021, <https://tradingeconomics.com/colombia/corporate-tax-rate>.

³⁵ "FAO-EU FLEGT Program: Colombia," Food and Agriculture Organization of the United Nations, accessed January 25, 2021, <http://www.fao.org/in-action/eu-fao-flegt-programme/our-projects/en/#/web/country/COL>.

³⁶ Dimitri Selibas, "Colombia's Sustainable Forestry Drive Boosts Biodiversity and Business," Mongabay, December 30, 2020, <https://news.mongabay.com/2020/12/colombia-sustainable-forestry-drive-boosts-biodiversity-business/>.

³⁷ For more information on Colombian customs regulation, see "Decreto 1165 de 2019" (2019),

https://boletin-diario.icdt.co/wp-content/BOLETINDIARIO/2019/JULIO/3JULIO/DeMINHACIENDA1165_19.pdf?utm_source=Mie mbros+ICDT&utm_campaign=7da1f65812-EMAIL_CAMPAIGN_2019_07_03_06_42_COPY_01&utm_medium=email&utm_term=0_b9b9549c02-7da1f65812-85640633.

³⁸ "Regulation (EU) No 995/2010" (2010),

<https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32010R0995&from=EN>.

³⁹ "Lacey Act," 18 USC 42-43, 16 USC 3371-3378 § (2004), <https://www.fws.gov/le/pdf/files/Lacey.pdf>.

Recommendations and Conclusion

Recommendations

There are a multitude of recommendations that could be made in regards to improving Colombia's efforts to combat deforestation and illegal logging, timber production (particularly illegal logging), the forestry sector, and green growth, however this trade advisory focuses specifically on the misinvoicing of tropical wood exports from Colombia. The following are recommendations to help improve the trade integrity of these exports, that is, to ensure that the exports are legal, properly priced, and transparent.

Address the legality of the exports: According to Colombian law, it is illegal to export raw, or primary form, timber unless it is from a commercial plantation. Given the very low share of plantation timber to all forested area (340,000 ha to 59.6 million ha, or 0.57 percent), it is not possible for all of the tropical wood (let alone all raw timber regardless of type) being exported to come from commercial plantations. That means that a significant portion of timber exports are illegal, with the associated value constituting illicit financial flows into and/or out of Colombia. Yet as evidenced by the nearly 2,800 export transactions over the period 2009-2018, there appears to be no enforcement of Resolution 12 of 1966 of the Foreign Trade Board. Either DIAN needs to enforce Resolution 12 and require definitive proof of the timber's origin (i.e. from a commercial plantation) and block any exports of raw/primary timber that come from natural forests, or the Colombian Government needs to amend or overturn Resolution 12 to allow for exports.

Require exporters to record timber species: DIAN should create a field on the customs declaration where exporters must declare the timber species. This will allow the government as well as outside observers to better track which species are being exported, which will contribute to improved control on domestic production. The government will be able to monitor which species are being exported, particularly those that are endangered and/or listed on an international registry such as CITES, and compare that to the known forestry coverage of that species. If the export of a particular species exceeds the reasonable production volume based on forest cover, the government will be able to identify species that are at a high-risk for illicit trade, for example having come from illegal logging.

Stricter scrutiny of pricing abnormalities: DIAN should apply stricter controls for export transactions that exhibit a high risk for trade misinvoicing, specifically those transactions which are priced significantly (e.g. 30 percent) outside the average per-unit price. Customs departments often focus primarily on the over- and under-invoicing of import transactions as customs duties and taxes such as VAT are imposed at import; under-invoiced imports can cost a country a significant amount in lost revenues. However, export transactions pose an equal risk for tax loss, as under-invoiced exports can facilitate profit shifting by individuals and entities, allowing them to declare lower revenues and pay less in income taxes.

While export over-invoicing may inflate an individual or entity's revenues, which could increase their taxable income, excessive government rebates or subsidies could be paid to the company. Further, the illicit inflow of funds also presents a risk to a country as the government does not necessarily know where and/or how the funds were generated nor where and how the funds will be utilized in country, if they remain at all. DIAN should consider technical tools that detect trade misinvoicing, such as GFTrade, in order to better curtail illicit financial flows.⁴⁰

Improve beneficial ownership policy: The beneficial owner of a company is the real (i.e. "natural") person or people who ultimately own or control a company; knowing the identity of a company's ultimate beneficial owner allows for transparency and accountability. According to Global Financial Integrity's "Beneficial Ownership & Colombia: Policy Needs and Opportunities," there are currently five different definitions of beneficial ownership in Colombia; this creates significant loopholes that can be exploited by illicit actors.⁴¹ The Government of Colombia should harmonize the definitions into one which is applicable nationwide. In addition, Colombia should enact Bill 341/20 to create a beneficial ownership registry.⁴² This will be extremely beneficial to DIAN as it can review the ownership of export companies and helping to identify related-party transactions, which can carry a higher risk of abusive transfer pricing and/or abusive profit shifting via trade misinvoicing.

Stricter scrutiny on high-risk countries: DIAN should increase scrutiny on countries to which exports have shown a higher risk of trade misinvoicing. This includes countries like Singapore, which is a recognized tax haven and financial secrecy jurisdiction, for which exports had a much higher level of under-invoicing. Additionally, increased attention should be given to countries where there is a high level of export over-invoicing, such as China, for which exporters and/or consignees may be attempting to evade capital controls. Export under-invoicing, particularly when done in an effort to shift profits, is detrimental to a country as it erodes the tax base; export over-invoicing allows illicit money to flow into a country, which may be used for illicit activities.

Stricter scrutiny on customs agencies: According to Decree 2883 of 2008, customs agencies (*Agencias de aduanas*) are required to attest to the veracity of the information contained in the customs declarations and forms they submit on behalf of clients. DIAN should increase scrutiny on transactions involving customs agencies that have a history of high levels of misinvoiced exports. As experts in customs law and procedures, customs agencies are in a position to undermine measures intended to prevent trade misinvoicing. DIAN, as the entity that authorizes the formation of customs agencies, should ban any of them as well as its owner(s) that are found to facilitate and/or engage in trade misinvoicing or any other illicit activity.

⁴⁰ "GFTrade," Global Financial Integrity, accessed December 21, 2020, <https://gfintegrity.org/gftrade/>.

⁴¹ "Beneficial Ownership & Colombia: Policy Needs and Opportunities" (Global Financial Integrity, 2020), https://secureservercdn.net/45.40.149.159/34n.8bd.myftpupload.com/wp-content/uploads/2020/03/BO_Final_Eng.pdf.

⁴² "Proyecto de Ley Numero 341/20" (2020), <http://leyes.senado.gov.co/proyectos/images/documentos/Textos%20Radicados/proyectos%20de%20ley/2020%20-%202021/PL%20341-20%20Anticorrupcion.pdf>.

Conclusion

Deforestation in Colombia is not a simple, straightforward matter; there are a multitude of drivers that are related to social, political, economic, and environmental conditions, some of which have their roots laying decades ago. Illegal logging generates up to US\$750 million annually, and illegality in the timber supply chain has major societal, environmental, economic, and security impacts on the country. It is extremely important that the Colombian government ensures trade integrity exists throughout the entire value chain – from felling to export.

While the illicit financial flows from the misinvoicing of tropical timber exports are not staggering in comparison to other illicit activity in Colombia, the rate of trade misinvoicing in this sector is quite high, and it will be difficult for the government to mobilize domestic resources to combat deforestation. There are several steps that the Colombian Government can take to address the misinvoicing of tropical wood exports, not the least of which is to address the legality of the trade. With robust customs data, enhanced screening for pricing abnormalities, improved beneficial ownership regulations, and stricter screening of high-risk trade partners and entities, these measures will go a long way to combating trade misinvoicing not just in the timber sector, but across all of Colombia's trade transactions.

About GFI

Global Financial Integrity (GFI) is a Washington, DC-based think tank focused on illicit financial flows, illicit trade, trade misinvoicing and money laundering. By publishing high-calibre analyses, providing fact-based advocacy and offering a cloud-based database to curtail trade fraud, GFI aims to address the harms inflicted through corruption, transnational crime, tax evasion and kleptocracy. By working with partners to increase transparency in the global financial system and promote Trade Integrity, GFI seeks to create a more equitable and safe world.



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Out of the Woods:
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