



OAS | DTOC

Department against Transnational Organized Crime

ON THE TRAIL OF ILLICIT GOLD
PROCEEDS: STRENGTHENING
THE FIGHT AGAINST ILLEGAL
MINING FINANCES

PERÚ

OAS Cataloging-in-Publication Data

Organization of American States. Secretariat for Multidimensional Security. Department against Transnational Organized Crime.

On the trail of illicit gold proceeds: strengthening the fight against illegal mining finances : Peru's case.

v. ; cm. (OAS. Official records ; OEA/Ser.D/XXV.22)

ISBN 978-0-8270-7256-5

1. Money laundering. 2. Gold mines and mining--Corrupt practices. 3. Mineral industries--Corrupt practices. 4. Organized crime. 5. Transnational crime. I. Title. II. Series.

OEA/Ser.D/XXV.22

November, 2021



OAS|DTCO

Department against Transnational Organized Crime (DTCO)
Organization of American States (OAS)

A large, light orange outline map of Peru is positioned in the background, framing the central text.

ON THE TRAIL OF ILLICIT GOLD PROCEEDS: STRENGTHENING THE FIGHT AGAINST ILLEGAL MINING FINANCES

Peru's case



TABLE OF CONTENTS

PROLOGUE	5
INTRODUCTION	7
LEGAL FRAMEWORK	8
GOLD PRODUCTION AND MINING SECTOR	12
ILLEGAL GOLD MINING ACTIVITY AND EXPORTS	16
ILLICIT FINANCIAL FLOWS OF ILLEGAL MINING	23
ILLICIT SUPPLY CHAINS	26
ILLEGAL GOLD LAUNDERING	29
GOLD SMUGGLING AND CONTRABAND	33
CONCLUSIONS	37

PROLOGUE

In the past few decades, the globalization process has increased the reach of transnational organized crime and illicit financing. Criminal syndicates have fueled black markets for foodstuffs, water, housing, technology, and, with the ongoing COVID-19 pandemic, medical equipment. Revenues of these criminal syndicates continue to grow, while the black markets they penetrate continue to expand.

Another industry that has been infected with illegal money is the mining industry. As regulations and oversight for countless industries have improved, the market for gold, lithium, and other minerals has experienced sustained growth. Through more unstable and overlooked financing markets and institutions, international criminal syndicates are able to extract, transform, and sell minerals illegally through stolen land, extortion, and corruption. Then, mineral sales are turned into laundered assets that help finance their operations and activities.

Many countries in the Americas have had to grapple with this issue and with multiple associated criminal manifestations. In Colombia, for instance, illegal armed groups have been among the biggest producers and exporters of illegal gold, coltan, tungsten, as well as of cocaine and firearms. In French Guyana and Suriname, extensive networks of forced labor have been found, along with child labor tied to domestic illegal gold markets. Sexual slavery is also commonplace in the illegal mining towns. Slaves in illegal mining regions are very often migrant workers or poor residents, working to pay off debt, or lured by promises of higher pay and benefits for their families and communities; many often don't return.

While criminal syndicates often produce the gold themselves by means of illegal permits, they also extort small-scale mining companies and miners to produce their gold. The illegal gold is not only sold in domestic and regional markets, but also shipped to the United States, Canada, and European markets. This expansion of illegal mining -especially illegal gold mining- has destroyed and displaced communities, contaminated clean water sources, and ravaged environments and ecosystems.

This complex phenomenon is part of an illegal gold market in Latin America, and this is reflected in the increasing percentage of these countries' gold reserves that are illegally-sourced.

Illegal mining continues to be one of the most common and quickest ways for criminal syndicates to launder funds, as it is still in high demand and under-regulated. In Colombia, for instance, illegal gold mining will soon overtake the cocaine trade as the most prevalent way for criminal syndicates to launder funds. Many of these small-and medium-scale miners have links to organized crime groups and armed militias from Colombia and Venezuela. These miners are often threatened with extortion from criminal groups, and for their businesses to survive, they must pay bribes. Often, but not always, a portion of the minerals extracted and transformed is stolen by the overseeing criminal groups.

This reality is also highly pervasive in Peru, the subject matter of this study. Peru is amongst the largest producer of minerals in the world, with 2019 production levels ranking it as the second-largest producer of copper and zinc. Peruvian exports are dominated by products from the mining sector, which accounted for over 60% of national exports in 2019. Gold alone accounted for 17.8% of the country's export in 2019, making the country the 8th largest gold producer in the world and the largest in Latin America.

Illegal gold mining is a priority concern for the Peruvian government, which has deployed significant resources in the form of investigators, security officials, and development and formalization programs to combat this illicit activity's growth.

Peru is home to sophisticated criminal networks and organizations. There is a significant oversight system to these industries, although corruption and systemic issues are still present. This oversight system includes the Attorney General's Office, in particular the Prosecution Office Specialized in Environmental Matters (FEMA as per its acronym in Spanish), the Ministry of Energy and Mines; the Geological, Mining and Metallurgical Institute, the National Service for Environmental Certification for Sustainable Investments, the National Peruvian Police, the General Coast Guard Office, the Ministry of the Environment, among others.

The Department Against Transnational Organized Crime of the Organization of American States (OAS-DTOC) provides valuable expertise and oversight into regulations for the mining sector in Peru and the broader region to help combat illegal mining and related criminal practices. The OAS DTOC coordinates projects and events with member states, including Peru, helping to build capacity to combat transnational organized crime.

The OAS DTOC is committed to providing technical assistance to the Government of Peru in their fight against the pervasiveness and power of illegal miners operating in their country. We hope that this report and subsequent activities with the Peruvian counterparts will contribute to achieve this goal.

Gaston Schulmeister

Director

Department against Transnational Organized Crime

Secretariat for Multidimensional Security

Organization of American States

INTRODUCTION

Peru's well-developed mining sector has shaped the country's economy and society to a significant degree. The mining sector contributes up to 10% of GDP, while minerals like gold and copper weigh heavily in Peru's trade composition.

Peru's abundant reserves of mineral resources have helped to fuel the development of its mining sector, attracting a variety of small, medium, and large enterprises to engage in exploration and extraction. However, the country's mineral wealth and governance challenges in remote mining areas, also offer ample opportunities for organized crime and illegal mining activity.

As a result, large populations of illegal miners and transnational criminal networks have become deeply entrenched in Peru, giving the country a central role in the international illegal gold trade. While Peru has taken active steps to combat illegal gold mining and the sale and export of illegal gold, a variety of criminal actors have continued to successfully engage in and promote these illicit activities, producing detrimental effects for citizen security, the economy, and the environment.

LEGAL FRAMEWORK

Peru's mining sector has developed alongside an extensive legal and regulatory framework governing its activities. Peru has developed and adopted laws and regulations that adapt to the realities of small, medium, large-scale, and artisanal mining, seeking to promote mining activity as well as environmental protection and sustainable development. At the same time, the country's legal framework gives special attention to preventing illegal activity by promoting formalization and combating illegal mining and connected money laundering activity.

The Peruvian Constitution declares that the Peruvian state is the owner of natural resources located in Peruvian territory, but establishes the ability of the state to grant rights for exploitation and general mining activities to national and foreign individuals or companies in accordance with applicable sectoral regulations.

Peru's Mining Law of 1992 further details and develops these concepts and creates the foundation for the legal framework governing mining activity. It states that mining activities of surveying and prospecting are permitted in national territory, however mining activities of exploration, exploitation, processing, and mineral transportation require a mining concession granted by the state. The Mining Law also sets out the framework for mineral rights and related activities, and also defines the jurisdiction of different state entities in the mining sector.

The Peruvian government also has an established set of royalty and taxation requirements for the mining sector enshrined in its legal framework. This includes the Law of Mining Royalties (Law 28258) of 2004, requiring payments of 1% to 12% on the commercial sales of mineral resources.

Peru's 1993 Environmental Protection Regulations set out the environmental regulations and restrictions with which the mining sector must comply. This includes assigning miners and mining companies the responsibility for the accurate management of emissions, dumping, and disposal of waste products that result from mining processes. The law also set standards and controls for the use of chemicals, including mercury, in mining activity. In 2015, Peru banned imports of mercury to combat its widespread use in mining activity. In 2016, Peru also ratified the Minamata Convention on Mercury with the aim of reducing its use progressively.

In 2012, Peru passed a series of laws elaborating and bolstering the nation's framework against illegal mining. Law 1102 of 2012 incorporated illegal mining into the penal code, setting sentencing guidelines of between 4 and 8 years of imprisonment for unauthorized exploration, extraction, and development of mineral resources. The law also establishes guidelines of sentences up to 10 years for mining in unauthorized areas, such as natural reserves and peasant or indigenous community lands, as well as for using river dredges, and contaminating irrigation or water systems.

Legislative decree 1106 of 2012 addresses anti-money laundering linked specifically to illegal mining and organized crime with sentencing guidelines.

Peru's legal framework also establishes registries to track and control mining activity. Among these are the Special Registry of Gold Traders and Processors, established in 2012, which requires the registration of persons or companies that commercialize or refine gold, and also mandates that they maintain detailed records of their suppliers and the destination of the gold.

Legislative decree 1293 of 2016 established the formalization of artisanal and small-scale mining as a goal and priority for the Peruvian government. To that end, the decree also created the Integral Registry of Mining Formalization (REINFO) under the oversight and management of the Ministry of Energy and Mines (MINEM). REINFO seeks to combat illegal mining, promote the development of the mining sector, and bring greater transparency to mineral supply chains through the formalization of artisanal and small-scale miners. The decree also sets out the applicable requirements and processes for formalization.

The entities charged with oversight and regulation of the Peruvian mining sector include the Ministry of Energy and Mines (MINEM), the Geological, Mining and Metallurgical Institute, the National Service for Environmental Certification for Sustainable Investments (SENACE), the Agency for Assessment and Environmental Control (OEFA), and the Supervisory Board for Investment in Energy and Mines (OSINERGMIN).

The Ministry of Energy and Mines is responsible for formulating and evaluating policies on sustainable development of mining activities. The Ministry also grants mining concessions to develop mining activities of benefit, transportation and general work.

The Geological, Mining and Metallurgical Institute is charged with granting titles for mining concessions to conduct mining activities of exploration and exploitation.

The National Service for Environmental Certification for Sustainable Investments (SENACE) evaluates and approves the environmental impact assessments of mining projects to ensure the sustainable exploitation of natural resources.

The Agency for Assessment and Environmental Control (OEFA) further promotes compliance with environmental regulations in the mining sector.

The Supervisory Board for Investment in Energy and Mines (OSINERGMIN) is responsible for supervising mining companies and ensuring their compliance with the safety regulations applicable to mining infrastructure and operations.

The National Society for Mines, Fuel and Energy promotes the implementation of mining, hydrocarbon and electrical activities while preserving the environment and social development.

Other agencies and institutions responsible for the implementation of environmental policies and for the prevention and investigation of environmental crimes related to illegal mining are:

The FEMAs: The Board of Supreme Prosecutors created the FEMAs (Prosecution Offices specialized in environmental matters within the Attorney General's Office), to prevent and investigate environmental crimes. The FEMAs will also have competence over those investigations into crimes described in Title XIII of Book Two of the Penal Code such as illegal mining and related crimes, crimes against the ecology and any other environment-related crimes.

The FEMAs are supported by the work of the National Peruvian Police, which collaborates via the Environment Executive Office (DIREJMA) in the investigation of environment related crimes and in the implementation of interdiction operations against illegal mining. The Intelligence Office – OFINTE is responsible for providing the DIREJMA with intelligence on illegal activities such as illegal mining.

The General Guardcoast Office (DICAPI), conducts actions against illegal mining, seizes prohibited goods and machinery used in illegal mining activities or destroys them when they cannot be seized.

The Ministry of Defense (CCFFAA) – through the Joint Command of the Armed Forces, cooperates with the Attorney General's Office in interdiction operations against illegal mining at a national level.

The Ministry of the Environment (MINAM) created the Functional Unit against Environmental Crimes (UNIDA), which has the authority to produce and exchange relevant technical information to prevent, reduce, and monitor environmental crimes, in particular those related to illegal logging, illegal wildlife trafficking and illegal mining.

Peru's legal and regulatory framework also establishes institutions and regulations to combat money laundering and terrorist financing both through the mining sector, and in the broader economy. Peru's Financial Intelligence Unit was established in 2002 through the adoption of Law 27693 and oversees and investigates activity from reporting entities in the country. Peruvian law imposes reporting obligations for a variety of entities including financial entities and non-financial businesses and organizations at risk of exposure to money laundering. Those entities are required to monitor suspicious and unusual activity and file reports with the Peruvian Financial Intelligence Unit (UIF).

Reporting institutions and designated non-financial businesses and professions linked to the mining sector in Peru include¹;



Mining companies



Dealers in jewelry, precious metals and stones



Gold traders



Manufacturers and traders of explosives



Loan and pawn companies with collaterals



Companies that distribute, transport and/or trade chemical products that may be used in illegal mining



Companies engaged in the trade of specific classifications of machines and equipment, including heavy machinery used in mining activity



Cash transportation, custody, and management companies



Laboratories and businesses that produce and commercialize chemicals used in the production of drugs and/or explosives

¹ "Mutual Evaluation Report of Peru - FATF." 1 Jun. 2018, <http://www.fatf-gafi.org/media/fatf/documents/reports/mer-fsrb/GAFILAT-Mutual-Evaluation-Peru-2019.pdf>.

GOLD PRODUCTION AND MINING SECTOR

Peru has a well-developed mining sector whose production is economically significant domestically and globally, representing approximately 10% of GDP. Mineral extraction and production in Peru is carried out by a diverse set of actors, including large multinational mining companies as well as artisanal, small, and medium-scale producers. The gold trade in Peru has also grown to include an array of businesses that support mining activity, such as gold processors, local service providers, transport companies, engineering and construction firms, and others.

Peru is amongst the largest producers of minerals in the world, with 2019 production levels ranking it as the second-largest producer of copper and zinc.² Peruvian exports are dominated by products from the mining sector, which accounted for over 60% of national exports in 2019. Gold alone is also a heavily significant export product for Peru, accounting for approximately 17.8% of the country's exports in 2019, making it the country's second most important export, behind copper.

Peru's gold production is also significant in terms of global production with the country ranking as the 8th largest gold producer in the world in 2019 and the largest gold producer in Latin America.³ Peru's mining sector has also attracted significant international investment, receiving 23% of the country's foreign direct investment (FDI) over the past ten years.⁴

² US Geological Survey, "Mineral Commodity Summaries 2020" October 14, 2019, <https://pubs.usgs.gov/periodicals/mcs2020/mcs2020.pdf>.

³ Gold Hub, "Historical Mine Production: Gold Production by Country" <https://www.gold.org/goldhub/data/historical-mine-production>.

⁴ Ministry of Energy and Mines, "Mining Annual Report 2020" 1 June, 2021, <https://cdn.www.gob.pe/uploads/document/file/1921117/Anuario%20Minero%202020.pdf.pdf>



Operation against illegal mining carried out by the National Police of Peru and the Army of Peru in the buffer zone of the Tambopata National Reserve.

Peru recorded the production of 128.4 metric tons of gold in 2019. This marked a decline of 8.4% from 2018 when the country produced 140.2 tons, and a decline of 22.7% from the ten-year high of 166.2 tons produced in 2011. In 2019, Peruvian gold production was heavily centered in the departments of Cajamarca, La Libertad, and Arequipa, with the three regions representing a total of 63.4% of gold production, followed by Ayacucho (9.4%), Puno (7.1%), Madre de Dios (5.5%), and Cusco (4.8%).

“Artisanal and small-scale miners are also significant actors in Peru’s mining sector, with an estimated population of over 250,000.”

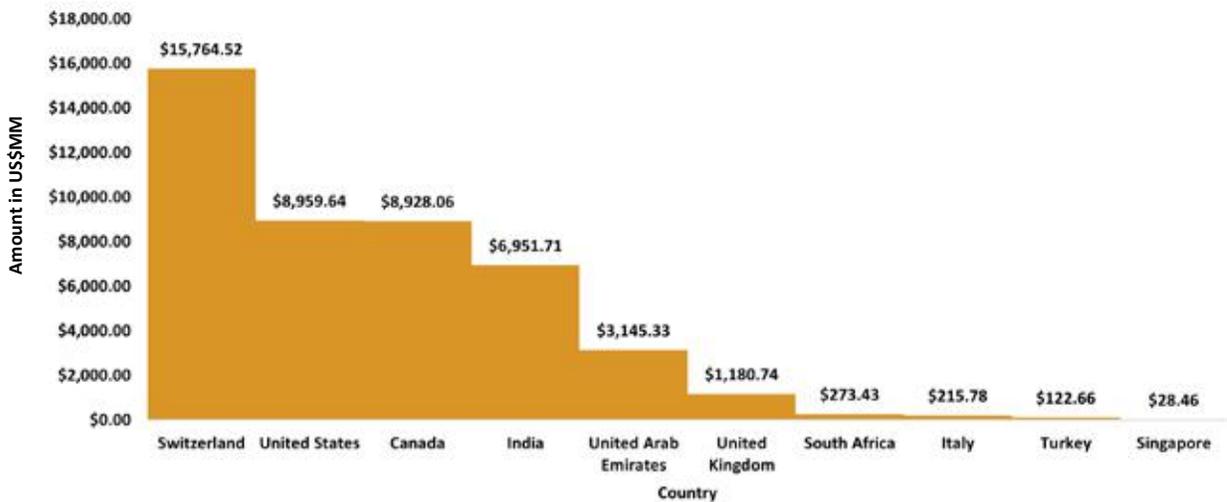
Artisanal and small-scale miners are also significant actors in Peru’s mining sector, with an estimated population of over 250,000.⁵ However, some estimates suggest the population of informal and

⁵ Planet Gold, “How can Peru transform artisanal mining after COVID-19?,” May 25, 2020, <https://www.planetgold.org/how-can-peru-transform-artisanal-mining-after-covid-19>.

illegal miners could reach 500,000.⁶ Artisanal gold miners produced an estimated 14,645,205 grams of gold in 2019. Artisanal gold mining activity was largely concentrated in the departments of Madre de Dios, Puno, Arequipa, and Piura. Artisanal and small-scale mining represents an important segment of the gold trade in Peru; however, it has also been at the center of Peru’s challenges with non-compliance and even criminality in the country, making it a priority concern for officials.

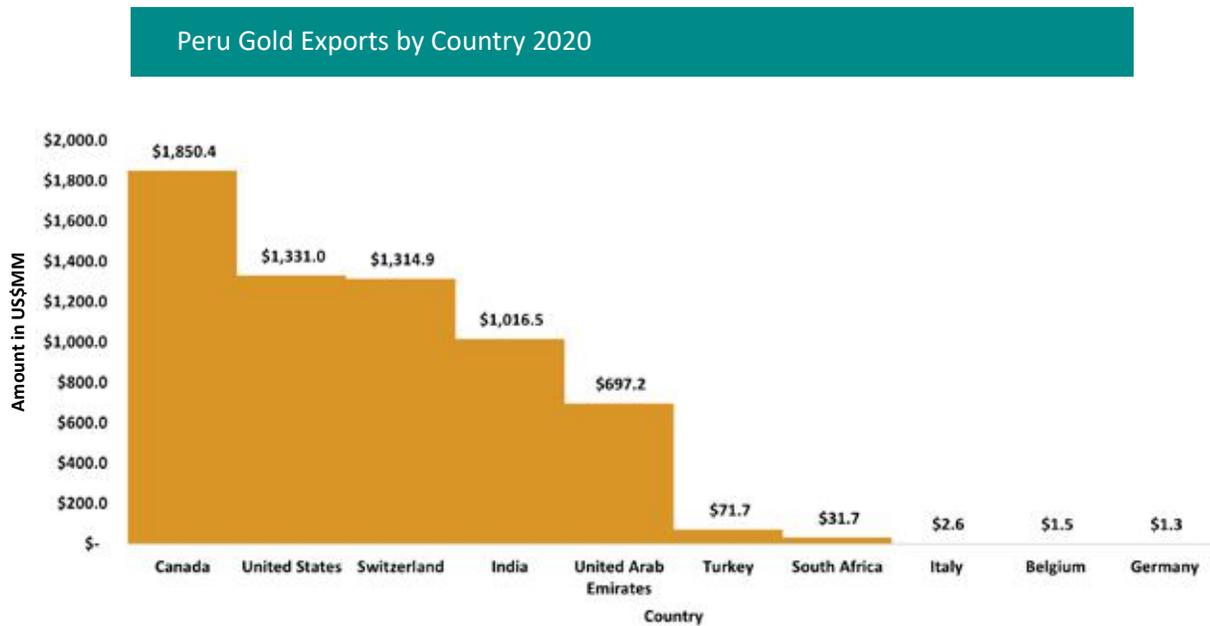
According to the data reported by the National Superintendency of Customs and Tax Administration (SUNAT), main recipient countries of peruvian gold exports between 2014 and 2020 were Switzerland, United States of America, Canada, India and United Kingdom. Switzerland was the main destination country of Peruvian gold in this timeframe, with almost 35% of total production, followed by United States and Canada with 20% each and India with 15%. These four countries together accounted for 90% of total production.

Peru Gold Exports by Country 2014 - 2020



Source: National Superintendency of Customs and Tax Administration (SUNAT)

Despite the COVID-19 pandemic crisis production figures for 2020 were similar to those reported in 2019, in terms of export volumes and destination countries. The purchasing countries remained broadly similar, but with differences in the amounts exported: Canada 29%, United States 21%, Switzerland 21%, India 16% and United Arab Emirates 11%. New export destinations also emerged, such as Turkey, South Africa, Italy, Belgium and Germany.



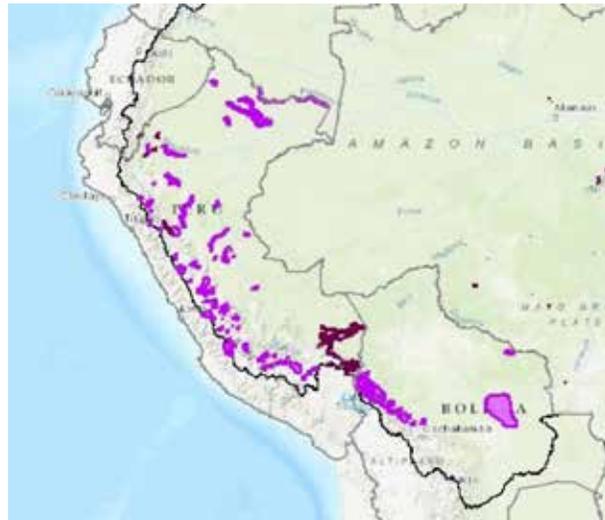
Source: National Superintendency of Customs and Tax Administration (SUNAT)

ILLEGAL GOLD MINING ACTIVITY AND EXPORTS

Illegal gold mining is a priority concern for the Peruvian government, which has deployed significant resources in the form of investigators, security officials, and development and formalization programs to combat this illicit activity's growth. These efforts notwithstanding, illegal mining activity remains widespread in parts of the country, often centering in remote regions with weak government presence, resulting in mass deforestation, environmental contamination, and violence.

Illegal Mining
Activity in Peru

Source:
Georeferenced
Amazonian Socio-
Environmental
Information
Network





Operation against illegal mining carried out by the National Police of Peru and the Army of Peru in the buffer zone of the Tambopata National Reserve.

Officials have identified illegal mining activity throughout multiple regions of the country, with remote areas rich in natural resources offering the most attractive opportunities to illegal miners. Illegal mining activity is known to be heavily concentrated in remote regions in the departments of Madre de Dios, Arequipa, Puno, Piura, Amazonas, La Libertad, and Ayacucho.

The illegal gold trade in Peru is facilitated by factors such as institutional weakness, corruption, poverty, a cash-based economy, and high levels of informality. The quarter of a million artisanal and small-scale miners in Peru, many of whom operate informally, represent a focal point for illegal gold production.

“Sophisticated criminal networks and organizations have also developed around the country’s illegal gold trade, promoting production, contraband flows, and the sale and export of illegally extracted minerals.”

While the government seeks to accommodate artisanal and small-scale mining, this segment of the mining sector has also been associated with persistent formalization and compliance issues, as well as environmental degradation, criminality, and violence, leaving officials to maintain a difficult balance between promoting inclusion and ensuring compliance.

Formalization of artisanal and small-scale mining through the REINFO is a primary strategy of the Peruvian government for combating illegal activity in this sector. However, this strategy has had minimal success since its introduction. While the opening of formalization processes has attracted significant interest from informal miners, few have been successfully formalized. This formalization process requires deeper attention by Peruvian authorities since the implementation of this policy has produced various challenges.

Over the past four years, more than 90,000 miners in Peru have initiated formalization processes through the REINFO, yet fewer than 2% of those miners have actually completed the formalization process.⁷ While REINFO was designed to be a temporary measure that would expire in February 2019, demands by miners and the slow pace of formalization has led the government to grant multiple extensions of the registration period, currently set to close on December 31, 2021.

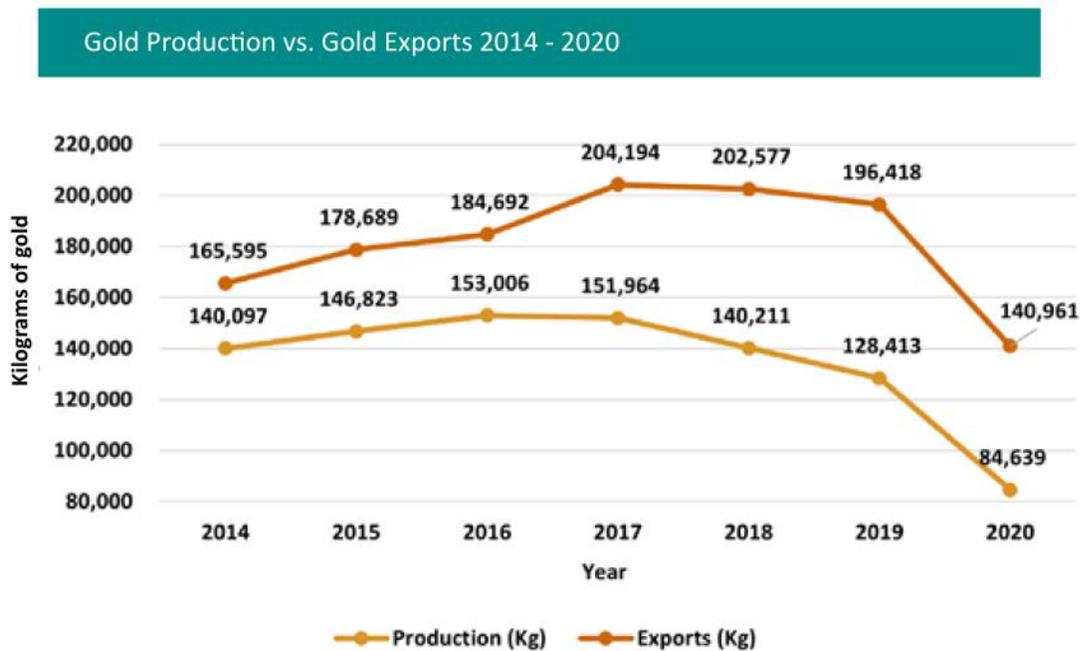
In interviews, officials have highlighted concerns that allowing endless formalization processes act as shields for illegal miners and facilitate the introduction of illegal gold into Peruvian markets. A source of particular concern is the provision prohibiting prosecution of those in the process of formalization for involvement in illegal mining. Such protections, coupled with indefinite formalization processes, provide perverse incentives for miners while leaving the processes open to abuse by criminal miners.

Sophisticated criminal networks and organizations have also developed around the country's illegal gold trade, promoting production, contraband flows, and the sale and export of illegally extracted minerals. This has made it more difficult to combat Peru's illegal gold trade and has also brought additional challenges for officials, such as armed violence and human trafficking. The transnational nature of many of these criminal networks further complicates the government's efforts to investigate and combat these illicit operations. Limits on international cooperation and the exchange of information represent a significant barrier for investigators in Peru and restrict visibility into larger illegal gold networks.

Insights into the scope of illegal gold production in Peru can be gleaned from discrepancies in gold production and gold exports. Official gold production and export data recorded by the Peruvian government reveal a significant and consistent gap with exports outpacing production. In 2019 this gap reached nearly 2,000,000 troy ounces, equivalent to 62 metric tons.

The unaccounted-for exports of gold in recent years have reached staggering levels. Between 2015 and 2019, Peru officially produced approximately 720 tons of gold, however, during the same period, the country exported 2,242 tons, leaving nearly 70% of its gold exports without a record of production.⁸ The bulk of this gold is believed to come from unregistered informal and illegal mining.

Peru exercises oversight of gold exports to prevent the outflow of illegal gold. In 2019, Peru's customs and tax authority SUNAT executed six extraordinary control actions in which it seized 172.7 kilograms with a value of nearly \$7 million.⁹ These seizures represented an increase of 23% compared to 2018.



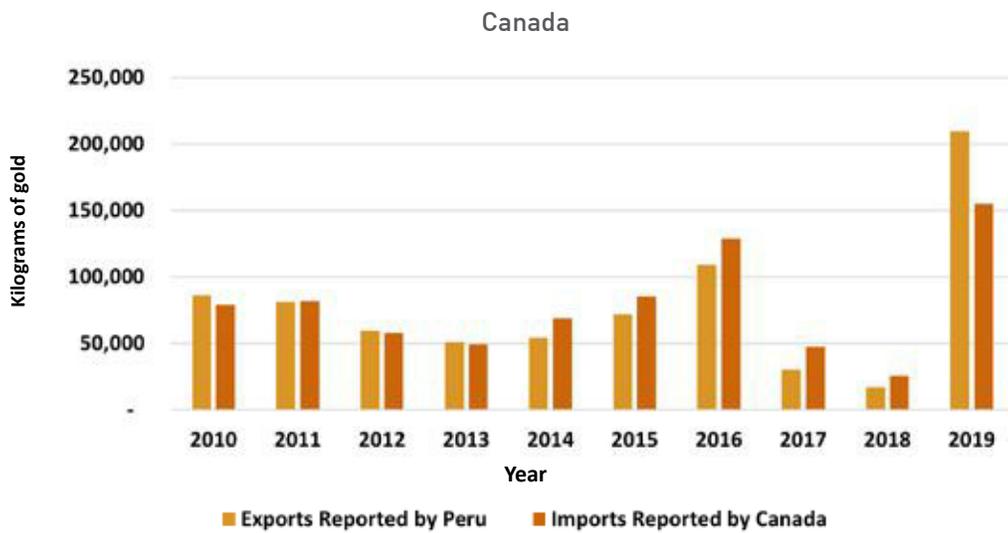
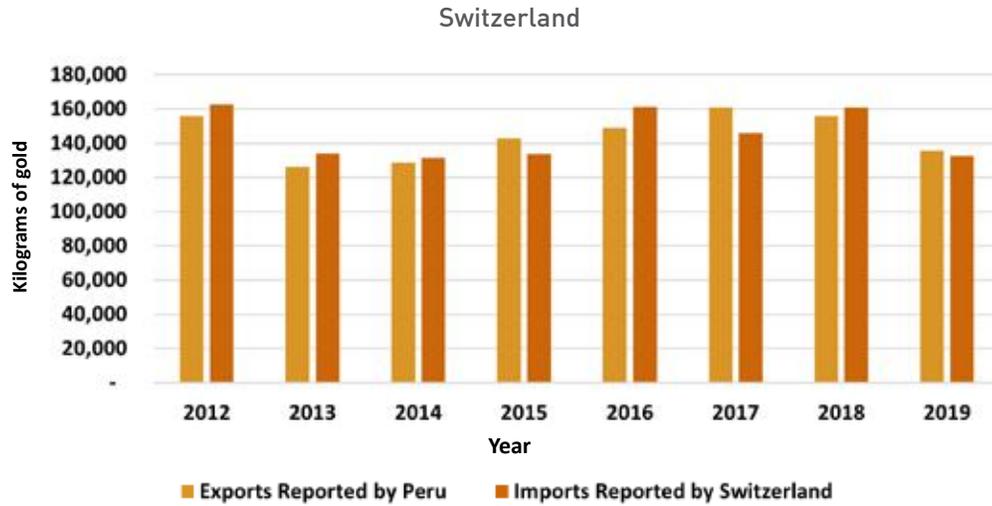
Source: Ministry of Energy and Mines, and Central Bank of Peru

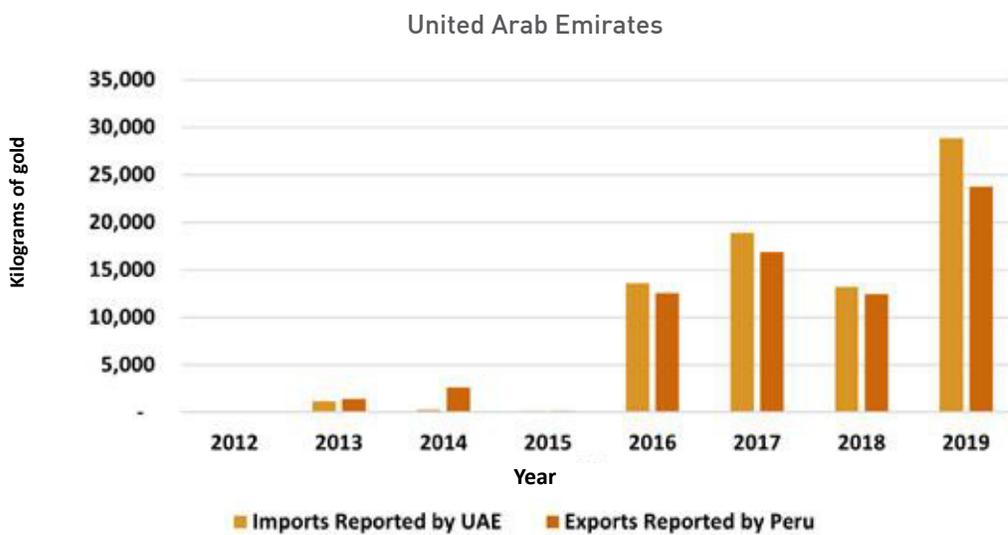
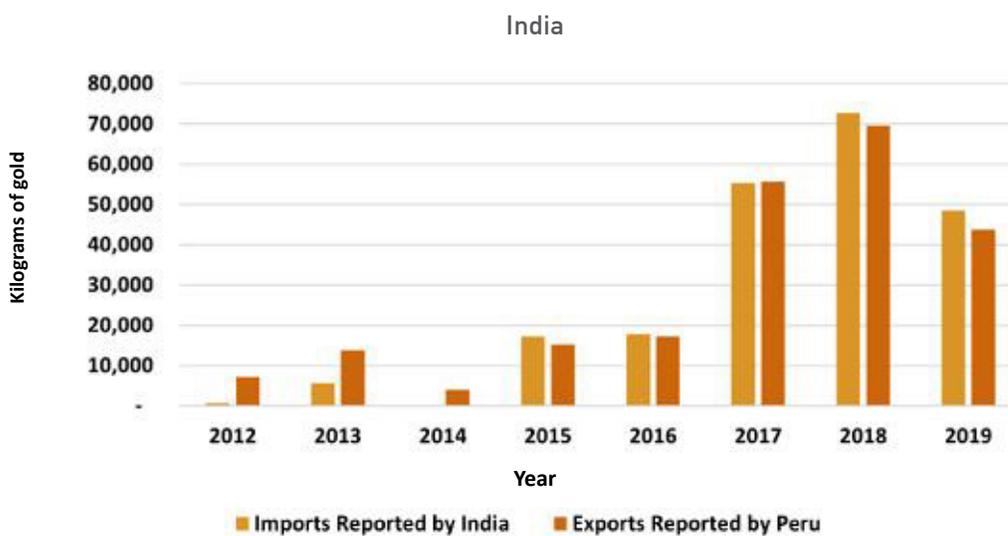
Disparities in trade data also indicate trade-based money laundering activity in Peru's gold exports, with some trading partners registering notable differences in gold trade flows from those reported by Peru. Additionally, the prominence of contraband gold smuggled out of Peru and into neighboring countries suggests that illegal gold production could be significantly higher than may be indicated by the export and production discrepancies.

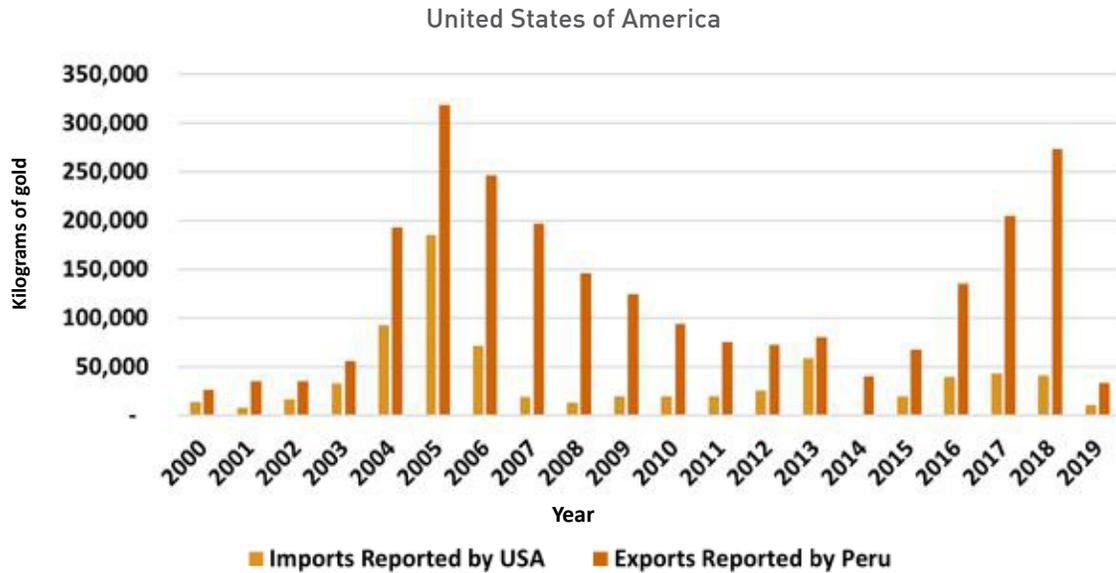
⁸ Convoca, "More than 1500 tons of gold were exported from Peru without knowing who got them extracted" September 27, 2020, <https://convoca.pe/investigacion/mas-de-1500-toneladas-de-oro-se-exportaron-desde-el-peru-sin-que-se-sepa-quien-las>

⁹ National Superintendency of Customs and Administration, "Outcome-based Management Report," February 2020, <https://www.sunat.gob.pe/cuentassunat/planestrategico/informeGestion/inforGestion-2019.pdf>

Gold Exports vs Gold Imports Reported by Export Destination





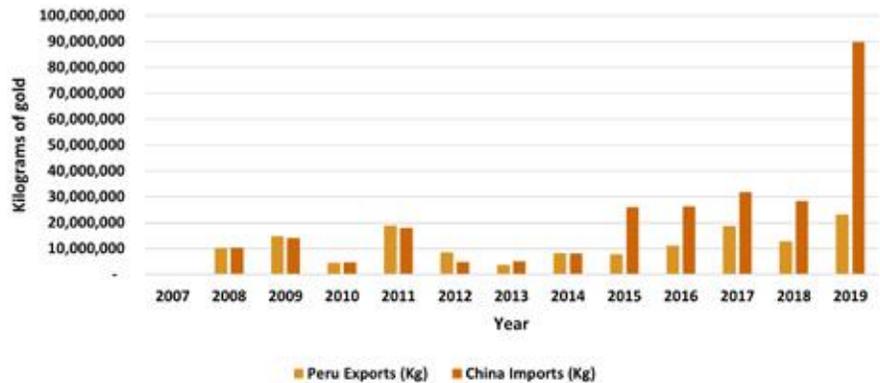


Source: UN COMTRADE

Concentrate gold mineral is also exported to other countries, with China being the main recipient country of this type of export. According to the United Nations foreign trade database (COMTRADE), between 2007 and 2019, China imported more than 267 thousand tons of minerals and gold concentrates, under harmonized system (HS) 26169. Based on the information reported by both countries, there are major differences between the quantities reported as exports from Peru and imports by China.

Exports (Peru) and imports (China) of precious metal (other than silver) Ores and concentrates 2007-2019

Year	Peru Exports (Kg)	China Imports (Kg)
2007	282,562	287,217
2008	10,231,000	10,387,247
2009	14,737,575	14,221,782
2010	4,519,150	4,582,798
2011	18,869,783	17,892,674
2012	8,571,698	4,888,434
2013	3,655,507	5,071,493
2014	8,259,204	8,197,384
2015	7,811,966	26,044,434
2016	11,113,833	26,315,734
2017	18,697,701	31,929,674
2018	12,902,911	28,405,675
2019	23,160,215	89,772,942
Total	142,813,105	267,997,488



Source: UN COMTRADE

ILLICIT FINANCIAL FLOWS OF ILLEGAL MINING

The Peruvian government actively monitors the financial system and reporting entities for money laundering activity linked to illegal mineral extraction. Officials have identified illegal mining as the second most significant predicate crime in the country based on the number of financial intelligence reports originating from the mining sector.¹⁰ Reporting data from Peru's Financial Intelligence Unit offer insight into money laundering and illicit financial flows into illegal mining in the country. The data show illegal mining is a widespread challenge that promotes sizable illicit transactions.

Between January 2011 and January 2020, illegal mining represented the primary predicate offense in Peru, as measured by the value of illicit transactions detected and reviewed by the Financial Intelligence Unit.¹¹ Nearly \$7 billion of a total of \$14.164 billion in illicit transactions detected during this period were linked to illegal mining. Between February of 2019 and January of 2020, approximately \$977 million of the \$1.955 billion in detected illicit transactions were linked to illegal mining, compared to \$794 million linked to tax fraud, and \$69 million linked to drug trafficking.

When broken down by predicate offense, illegal mining represented a plurality (48%) of the illicit transactions measured by value detected between January 2011 and January 2020. The use of illegal gold and other minerals in Peru's mining sector alone represented a plurality (42%) of illicit transactions measured by value detected between January 2011 and January 2020.

Between January 2010 and December 2018, Suspicious Transaction Reports (STRs) linked to the predicate of illegal mining in Peru were heavily concentrated in areas known to be home to illegal mining operations

¹⁰ Superintendency of Banking, Insurance and Pension Funds, "National Risk Assessment on Money Laundering and Financing of Terrorism" November 2016, https://www.sbs.gob.pe/portals/5/jer/ESTUDIO-ANALISIS-RIESGO/20170420_EVNARETER.pdf.

¹¹ Financial Intelligence Unit, "Statistical Information, January 2011 to May 2020," <https://www.sbs.gob.pe/Portals/5/jer/ESTADISTICAS-OPERATIVAS/2021/Bolet%C3%ADn%20estad%C3%ADstico%20mayo%202021.pdf>

as well as areas through which illegal minerals are trafficked, commercialized, and exported.¹² During this period, 191 reports linked to illegal mining originated from the department of Puno in southeastern Peru, making it the largest source of such reports, followed by Lima with 152 reports, and Madre de Dios with 84 reports.

However, the total number of reports originating from the departments where illegal mining is focalized remains low compared to total reports in the country.

- Madre de Dios: 0.42%
- Puno: 1.4%
- Arequipa: 1.8%
- Piura: 1.4%
- Amazonas: 0.1%
- La Libertad: 3%
- Ayacucho: 1%

This discrepancy can be partially explained by the differing presence of reporting entities and transactions in these departments. However, the prominence of illegal mining activity in these areas, along with the low or average number of reports, suggest compliance and oversight issues with respect to reporting entities.

During the same period of January 2010 to December 2018, notaries public originated 34% of suspicious operation reports linked to illegal mining by supervised business entities, followed by credit and savings cooperatives (21%), buyers and sellers of vehicles (16%), and state enterprises (15%).

“A key divergence in these illicit supply chains leads illegal gold either through Peru’s legal gold markets and financial system, or out of the country as contraband.”

¹² Superintendency of Banking, Insurance and Pension Funds, “Statistical Report of Suspicious Activity Reports (SARs) submitted by FIU supervised companies: 2010-2019,” <https://www.sbs.gob.pe/Portals/5/jer/estudios-estrategicos/ROS%20de%20entidades%20supervisadas%20por%20UIF%202019.pdf>

Source: Financial Intelligence Unit, Superintendency of Banking, Insurance and Pension Funds



ILLICIT SUPPLY CHAINS

In Peru, widespread illegal mining activity has led to the development of multiple routes and illicit supply chains to bring massive quantities of illegal gold to international markets. These illicit supply chains link together a diverse range of domestic and international actors around different phases of illegal activity. Illegal gold flows have also developed specialized routes in Peru. A key divergence in these illicit supply chains leads illegal gold either through Peru's legal gold markets and financial system, or out of the country as contraband.

Illicit gold supply chains in Peru depend heavily on access to supplies and equipment for illegal mining activity, including fuel, explosives, mercury and cyanide. Smugglers and fixers have established international routes to ensure the flow of key materials and supplies to illegal mining operations.

Mercury flows, for example, enter almost exclusively through Bolivia as contraband. Since Bolivia has not restricted its imports of mercury, this chemical is legally imported into Bolivia, primarily from Mexico. Then it is smuggled into Peru where it is stored and distributed in illegal mining regions. Cyanide, which is legally imported into Peru, primarily from Australia and China, is believed to filter into illegal gold networks domestically. Officials also report a convergence between the flow of illicit chemicals for illegal mining and those used for illicit drug processing in Peru, with common sources and flows between the two illicit economies.

Artisanal and small-scale miners often lack the financial capacity to secure mining equipment and supplies for extraction. As a result, they will often secure financing in advance from illicit sources, including unscrupulous gold traders and processors, "drop-by-drop lenders", and criminal organizations engaged in drug trafficking, extortion, and other illegal revenue-generating activities.

Illegal gold routes that move through Peruvian markets require the illicit origins of gold to be concealed. The Peruvian government closely monitors the mining sector for illegal gold transactions and flows. However, gold supply chains remain vulnerable to the introduction of illegal gold at multiple points of the production and commercialization processes. The methods for achieving this vary greatly and are constantly adapting to minimize the risk of detection. However, dominant typologies center on falsified transactions through recognized businesses and shell companies. Indeed, officials report widespread oversight challenges resulting from the complicity of businesses in the gold sector acting as vehicles for illegal gold sales and exports.



Interdiction against illegal mining in the Malinowski River carried out by the Port Authority of Puerto Maldonado in coordination with the Army of Peru, the Attorney General's Office specialized in environmental matters (FEMA) and the National Police of Peru.

In contrast, many criminal networks favor smuggling illegal gold out of the country. Interviews with officials and a review of cases and open source trade and production data indicate gold smuggling out of Peru is a prevalent practice. The desire to evade Peru's controls over the sale and export of gold is believed to be a primary motivation for gold smuggling flows out of the country. However, gold smuggling in many cases is motivated by the need to transport the illicit minerals to a buyer or criminal gold consolidator elsewhere in the region.

Poor border controls and the presence of illegal mining activity in border regions are among the factors that facilitate and promote illegal gold smuggling. Indeed, gold smuggling routes are believed to move primarily through border areas with weak or non-existent controls while also occasionally passing through monitored crossings by enlisting the aid of corrupt officials.

“As has been the case in other countries, illegal miners and criminal networks have subverted Peruvian mining registries designed to promote the formalization of small-scale and artisanal miners...”



Interdiction against illegal mining in the Malinowski River carried out by the Port Authority of Puerto Maldonado in coordination with the Army of Peru, the Attorney General's Specialized Office in Environmental Matters (FEMA) and the National Police of Peru.

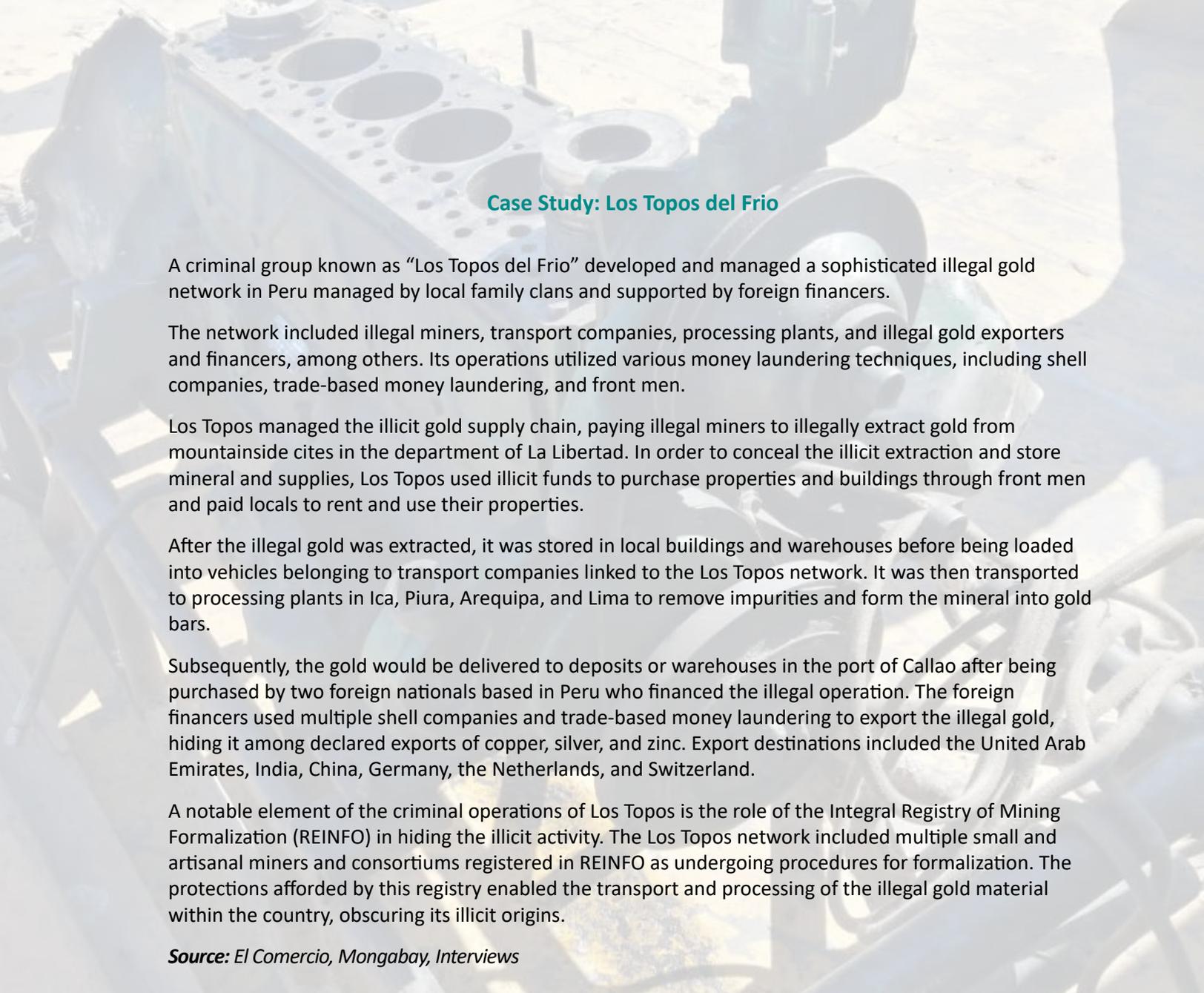
ILLEGAL GOLD LAUNDERING



Operation carried out by the Attorney General's Specialized Office in Environmental Matters (FEMA) together with the Peruvian Navy-COAM and the Peruvian National Police to eradicate illegal mining activities that have been taking place in the Nanay river basin.

In order to sell and export illegal gold in Peru, the illegal gold trade has adapted and developed multiple methods to hide the illicit origins of illegal minerals. Criminal organizations, unscrupulous firms, and other illicit actors exploit corruption, limitations in Peru's oversight practices, and formalization programs to facilitate the flow of illegal gold to legal gold markets.

As has been the case in other countries, illegal miners and criminal networks have subverted Peruvian mining registries designed to promote the formalization of small-scale and artisanal miners, in order to launder illegal gold. Peruvian authorities have confirmed the subversion of the Integral Registry of Mining Formalization (REINFO) by criminal organizations to disguise the provenance of illegal gold. The legal protections afforded to miners engaged in the formalization process are a key vulnerability that is exploited by illegal miners.



Case Study: Los Topos del Frio

A criminal group known as “Los Topos del Frio” developed and managed a sophisticated illegal gold network in Peru managed by local family clans and supported by foreign financiers.

The network included illegal miners, transport companies, processing plants, and illegal gold exporters and financiers, among others. Its operations utilized various money laundering techniques, including shell companies, trade-based money laundering, and front men.

Los Topos managed the illicit gold supply chain, paying illegal miners to illegally extract gold from mountainside sites in the department of La Libertad. In order to conceal the illicit extraction and store mineral and supplies, Los Topos used illicit funds to purchase properties and buildings through front men and paid locals to rent and use their properties.

After the illegal gold was extracted, it was stored in local buildings and warehouses before being loaded into vehicles belonging to transport companies linked to the Los Topos network. It was then transported to processing plants in Ica, Piura, Arequipa, and Lima to remove impurities and form the mineral into gold bars.

Subsequently, the gold would be delivered to deposits or warehouses in the port of Callao after being purchased by two foreign nationals based in Peru who financed the illegal operation. The foreign financiers used multiple shell companies and trade-based money laundering to export the illegal gold, hiding it among declared exports of copper, silver, and zinc. Export destinations included the United Arab Emirates, India, China, Germany, the Netherlands, and Switzerland.

A notable element of the criminal operations of Los Topos is the role of the Integral Registry of Mining Formalization (REINFO) in hiding the illicit activity. The Los Topos network included multiple small and artisanal miners and consortiums registered in REINFO as undergoing procedures for formalization. The protections afforded by this registry enabled the transport and processing of the illegal gold material within the country, obscuring its illicit origins.

Source: *El Comercio, Mongabay, Interviews*

Operation carried out by the Attorney General’s Specialized Office in Environmental Matters (FEMA) together with the Peruvian Navy-COAM and the Peruvian National Police to eradicate illegal mining activities that have been taking place in the Nanay river basin.

In one notable case, a complex illegal gold network in Peru utilized the fraudulent registration of artisanal and small-scale miners in the REINFO in order to transport and hide the origin of large quantities of illegally produced gold before.¹³ In February 2020, Peruvian authorities disrupted the network, seizing illegal gold valued at over \$10 million USD that was being managed by this illicit network prior to its export to international buyers.¹⁴

The illegal gold trade in Peru also depends heavily on the complicity of legal and formal businesses within the mining sector. Gold traders and processors, including well-established companies and local businesses, play a key role in the illicit supply chain by purchasing substantial quantities of illegal gold from illegal miners at heavily discounted prices under specialized agreements. This often includes financing of mining operations to secure supplies. These companies then sell and export the illegal gold, concealing its origins through falsified transactions and documentation. The role of these firms is made possible by insufficient oversight as well as the cooperation of corrupt officials in evading detection and the creation of fraudulent documentation obscuring the origin of illegal gold.

A key challenge for Peruvian officials is the size of the country's gold sector and the volume of gold exports that constantly flow out of the country. Resource limitations leave officials with insufficient capacity to properly investigate and oversee the numerous actors in the gold sector, including traders and exporters. Corruption is also a significant challenge that imperils the oversight capacities of the government.

Officials also express concern over the gold laundering methods that involve legal mining companies and operations. Such illicit schemes can consist of an arrangement between the owner/operator of a legal mine and illegal miners or other actors in possession of illegal gold, such as criminal organizations. The owner of the legal mine purchases the illegal gold and then reports it as having been extracted from the legal mine, mixing illegal and legal minerals before sending it to the next steps of the legal supply chain. In some cases, some inactive mines in Peru have been recorded as the source of gold by the mining titleholders. This method of laundering is facilitated by the proximity of legal mines to illegal mines as well as the general remoteness of mining areas, which limits physical inspections and oversight by officials who may otherwise detect the illicit activity.

The illegal gold trade in Peru is also believed to be utilized by drug trafficking organizations, including organizations outside of the country, to launder illicit drug revenue through practices such as trade-based money laundering. As in other countries, this practice is facilitated by the involvement of criminal organizations in both illicit drug trafficking and illegal mining. Drug trafficking organizations use the export of illegal gold and trade misinvoicing to repatriate illicit drug funds from abroad into Peru. This practice

¹³ Mongabay, "Perú: crimen organizado utiliza permisos de formalización minera para 'lavar' oro ilegal," February 24, 2020, <https://es.mongabay.com/2020/02/peru-crimen-organizado-reinfo-oro-ilegal/>

¹⁴ El Comercio, "Los Topos del Frío: mafia de minería ilegal cayó con casi US\$10 millones en oro," February 12, 2020, <https://elcomercio.pe/peru/mafia-de-mineria-ilegal-cayo-con-casi-us10-millones-en-oro-noticia/?ref=ecr>



Operation carried out by the Attorney General's Specialized Office in Environmental Matters (FEMA) together with the Peruvian Navy-COAM and the Peruvian National Police to eradicate illegal mining activities that have been taking place in the Nanay river basin.

often involves the use of mineral traders and exporters as shell companies to launder the origin of illegal gold. Drug trafficking organizations and other transnational criminal groups can also use illicit funds to finance illegal gold mining activity, providing easier access to machinery and other equipment, for example. In exchange, drug traffickers receive a substantial percentage of the proceeds of illegal mineral extraction.

GOLD SMUGGLING AND CONTRABAND

In Peru, a significant portion of illegally mined gold is smuggled out of the country as contraband rather than laundered and traded through Peruvian gold markets. Reforms and increased oversight over mineral commercialization adopted starting in 2012 significantly reduced some key vulnerabilities enabling the laundering of illegal gold in Peru. However, the government was less successful in combating the illicit extraction of gold, which continued to spread in multiple parts of the country.

As illegal mining continued producing significant amounts of illegal gold in Peru, criminal groups and illegal actors sought new routes and destinations for illegal gold supply chains. According to officials, these factors helped to push a significant portion of Peru's illegal gold supply chains through neighboring countries. While opportunities remain to launder and commercialize illegal gold domestically, illegal miners and other actors involved in illegal gold mining and laundering increasingly opted to smuggle illicit minerals to neighboring countries, including those offering fewer comparative restrictions and less vigorous oversight of the gold trade.

Other factors have also contributed to the prominence of illegal gold smuggling from Peru. The presence of illegal gold facilitators, buyers, or other illicit partners in neighboring countries can necessitate the smuggling of gold out of the country as an early step in the illicit supply chain. Indeed, there is evidence that sophisticated international supply chains have developed around both the contraband of supplies like mercury and explosives for illegal mining and the contraband of illegal gold.

Illegal mining activity in Peru is also often concentrated in border areas, which facilitates the movement of illegal gold as contraband across national borders. A prime example of this is seen in illegal

“...widespread gold smuggling and the capacity to commercialize gold in neighboring countries limits the ability of the government to disincentivize illegal mining activity through enhanced oversight of the legal gold trade.”

mining regions of Madre de Dios, a department in southeastern Peru which borders Bolivia, a notable destination for contraband illegal gold.

The prominence of illegal gold smuggling creates unique challenges for the Peruvian authorities. For example, widespread gold smuggling and the capacity to commercialize gold in neighboring countries limits the ability of the government to disincentivize illegal mining activity through enhanced oversight of the legal gold trade. In essence, even if the Peruvian government could identify and block all illegal gold from being sold and exported from within the country, the opportunities to smuggle and sell illegal gold in neighboring countries will continue to provide viable routes to legal markets and ensure the profitability of the illegal gold trade.

Another notable challenge posed by significant gold smuggling activity is that it severely limits the ability of Peruvian authorities to investigate and disrupt illegal gold supply chains. While protocols exist for international cooperation between Peru and its neighbors, in practice, the capacity for actions such as coordinated intervention is non-existent, and even information-sharing protocols are slow and limited. Peruvian officials report encountering significant resistance when requesting broader information sharing on the economic activity of foreign nationals suspected of engaging in the illegal gold trade from abroad.

As a result, Peruvian officials are often left with a narrow view of the transnational illegal gold networks that thrive off illegal mining in the Andean country. This similarly limits the government's window of opportunity to intervene against illegal gold operations.

Contraband Routes: The development of cross border illicit gold routes and the growth in demand for illegal gold by smugglers and unscrupulous traders in neighboring countries continue to contribute to the widespread contraband of Peruvian illicit gold abroad. Similarly, illegal mining activity depends on contraband inflows into Peru of fuel, mercury, cyanide, and other supplies used during extraction.

According to Peru's SUNAT, there are four primary points of entry for contraband coming into Peru

1. Land routes through the departments of Tumbes and Piura in the north and Puno in the south,
2. Land routes and free trade zones located in the southern border department of Tacna,
3. Border regions with Colombia under the Colombia-Peru Customs Cooperation Convention
4. Maritime and aerial movement through the Jorge Chávez International Airport and the seaport located in the department of Callao.

The SUNAT also estimates that 40% of contraband enters through Puno alone.

Active smuggling routes exist between Peru and each of its neighboring countries, including Bolivia, Brazil, Ecuador, Colombia and increasingly Chile, facilitating the movement of contraband gold and supplies used for illegal mining. While Peruvian authorities are concerned by the cross-border movement of illegal

contraband gold through multiple countries, Bolivia and Ecuador are highlighted as particular sources of concern due to the prominence of the illicit flows transiting those countries.

In some cases, illegal gold miners from the neighboring countries of Bolivia and Ecuador cross into Peru to illegally extract gold before smuggling it back out of the country. Another notable smuggling practice involves illegal gold traders based in neighboring countries who arrange to purchase illegal gold from illegal miners based in Peru, typically with cash. In some cases, this also involves the financing and smuggling of equipment such as machinery and mercury, by the foreign gold trader. The trader then purchases and smuggles the illegal gold to the neighboring country where it is laundered to hide its illicit origins.

Bolivia: Bolivia plays a substantial role in Peru's illegal gold trade. This role centers on the smuggling of substantial volumes of mercury imported legally into Bolivia from Mexico and elsewhere. The role of Bolivian nationals in the smuggling and financing of illegal gold is also significant.

Sophisticated smuggling networks exist between Peru and Bolivia. Illegal gold traders and facilitators (also called "fixers") based in Bolivia secure and smuggle the illicit mineral back from Peru for processing and export. The relative ease with which gold is laundered and commercialized in Bolivia makes it an attractive destination for illegal gold, reducing the risk of detection and seizure.

The cross-border smuggling of gold from Peru is also facilitated by the significant presence of illegal mining operations in border regions, including Madre de Dios and Puno. Peruvian officials also point to enforcement challenges and insufficient bilateral cooperation in combating illegal gold supply chains

Bolivia is also reported to be a primary source for illegal mining supplies, including mercury, which represent vital inputs for illegal mining operations in Peru. The sourcing of mercury in Bolivia is facilitated by the country's comparatively lower restrictions on its import and commercialization. Illegal gold traders and facilitators in Bolivia are able to smuggle contraband mercury into Peru with relative ease across porous border regions. Mercury is reportedly smuggled in small bottles, sometimes hidden in compartments within passenger vehicles. Peruvian officials also report that mercury is consolidated and stored in small warehouses and other points near mining areas in Peru where it can then be sold and distributed.

Chile: While Chile is not generally believed to be a primary route for illegal gold flows, in recent years, Chilean and Peruvian authorities have identified a worrying rise in incidents of illegal gold contraband between the two countries. As with other countries, these contraband flows to Chile aim to exploit opportunities to launder and export illegal gold to third countries.

While many of the details of the contraband routes are not clear, human couriers have been identified as a smuggling modality. Chile's northern border with Peru is highlighted as a land route for these contraband flows, while commercial flights and Peru's port of Callao have also been utilized for gold smuggling¹⁵.

¹⁵ Ciper, "The hidden plot of the largest gold smuggling detected in Chile," August 19, 2016, <https://www.ciperchile.cl/2016/08/19/la-trama-oculta-del-mayor-contrabando-de-oro-detectado-en-chile/>

Notably, cases have involved Chilean gold traders and launderers found financing illegal mining operations with cash in Peru to secure illegally mined gold. Once contraband Peruvian gold crosses into Chile, its origin is concealed using falsified documentation, thus enabling the illegal gold trader to export the illicit minerals.

Ecuador: Significant contraband flows have also been detected between Peru and Ecuador, with illegal gold networks promoting connectivity between the countries. The cross-border movement of illegal miners from Ecuador to Peru also takes place, with Ecuadoran miners crossing to illegally extract gold country before returning with the illicit mineral¹⁶. Similarly, Peruvian miners have also been reported to cross into Ecuador to engage in illegal mining activity.

At the same time, there are indications that Peruvian gold miners and facilitators play a notable role in accelerating the growth of the illegal gold trade in Ecuador, including through the financing of illegal gold extraction and the contraband of illegal mining supplies.

¹⁶ Mongabay, “Illegal Ecuadorian Miners in Cordillera del Cóndor: the border is still vulnerable,” November 9, 2020, <https://es.mongabay.com/2020/11/mineria-ilegal-contaminacion-cordillera-del-condor/>

CONCLUSIONS

Peru faces complex and substantial challenges in combatting the illegal gold trade due to the scale of the illegal activity, corruption, significant and persistent informality, deeply entrenched illicit actors, and limitations of international coordination.

Peru's sizable artisanal and small-scale mining population is a significant complication in the broader struggle against illegal mining. The government favors formalization as its primary strategy for promoting transparency and legality in ASM mining, primarily by offering a path to legalization through the REINFO process. However, after repeated extensions to what was designed to be a temporary program, REINFO has yielded poor results in terms of formalizing this sector due in large part to misaligned incentives which led most miners to begin but not complete the formalization process. At the same time, REINFO is often abused by illegal miners and criminal networks in order to conceal illegal gold networks within Peru.

Peru's ability to combat the illegal gold trade is also complicated by the transnational nature of its illicit supply chains, including the prominence of contraband inflows and outflows of mercury, cyanide, and illegal gold. The transnational nature of these illicit networks is also bolstered by the proximity of illegal mining activities to border regions where the government lacks sufficient enforcement and oversight capacity. This means the window for intervention for officials to deal with these contraband networks is often restricted to the initial phases of extraction, processing, and transport of illegal gold.

For this reason, international cooperation is particularly essential for Peru's efforts to combat illegal gold mining; however, information sharing and requests for timely coordinated actions with foreign officials are slowed by diplomatic and resource limitations.

Despite Peru's enhanced efforts to restrict the sale and export of illegal gold, this activity continues to occur with notable frequency, making the country's gold sector a key pathway for the flow of illegal gold. This points to the need to increase oversight over gold traders and exporters as well as to combat corruption in the country's customs agency and beyond.

Finally, Peruvian authorities should also broaden their investigation and enforcement actions to address the breadth of illicit gold supply chains in the country. This includes targeting the financiers, money launderers, mineral processors, and unscrupulous traders who are generally the primary beneficiaries of illegal gold revenue. Most enforcement actions by officials focus on a single illicit activity, typically illegal extraction or transport of illicit minerals. However, more comprehensive investigations to identify criminal actors and partnerships across an illicit supply chain would offer a more effective means of combatting the complex illegal gold trade in Peru.



Organization of American States

Department against Transnational Organized Crime (DTOC)

1889 F Street, N.W., Washington, D.C. 20006, USA

<http://www.oas.org/es/sms/ddot/>

ddot@oas.org

 @oea_ddot