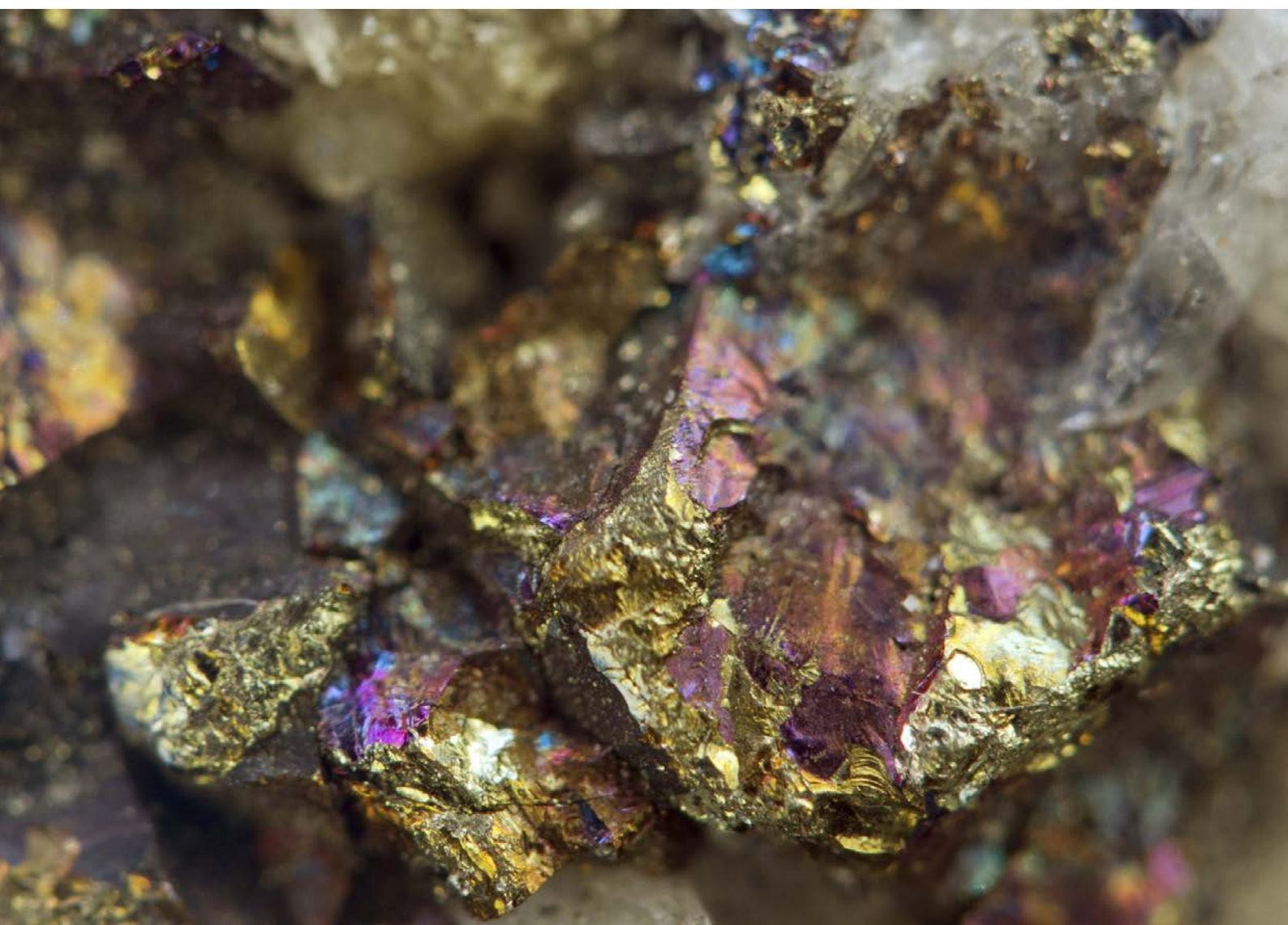


DUE DILIGENCE IN COLOMBIA'S GOLD SUPPLY CHAIN

Gold mining in South West Colombia



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The OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (OECD Due Diligence Guidance) provides detailed recommendations to help companies respect human rights and avoid contributing to conflict through their mineral purchasing decisions and practices. The OECD Due Diligence Guidance is for use by any company potentially sourcing minerals or metals from conflict-affected and high-risk areas.

About this study

This report is the third of a series of assessments on Colombian gold supply chains and the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas in the Colombian context. It analyses conditions of mineral extraction and related risks in the region of South West Colombia.

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Find out more about OECD work on the minerals sector: mneguidelines.oecd.org/mining.htm



Cofunded by the European Union

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Executive Summary

- As in other regions of Colombia, the region of South West Colombia – formally encompassing the departments of Cauca, Valle del Cauca and Nariño, though Nariño is not covered in this study - presents a significant number of the risks highlighted by the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (OECD Due Diligence Guidance).
- Gold production in this region is mostly controlled by artisanal and small-scale mining operations, only a fraction of which are regularised. The 2010-2011 mining census undertaken by the government revealed that out of 544 mining units identified in Cauca, 170 (31,4%) were dedicated to gold mining and more than 90% operated without a mining title (MME, 2011). While a handful of multinational companies – both junior mining companies and large-scale miners - are looking to undertake advanced exploration programmes, the presence of non-state armed groups has prevented them from moving forward with their plans.
- A significant portion of gold mining activities are undertaken by Afro-Colombian communities (and indigenous communities to a lesser extent), who are often targets of extortion, intimidation and infiltration by non-state armed groups and criminal organisations seeking to extract rents from their operations.
- These mining communities are sometimes organised in cooperatives or artisanal and small-scale miner associations that supply significant volumes to national and international traders based in nearby Cali (Colombia's third largest city). Migrant workers, sometimes including minors and women working in hazardous conditions, make up the bulk of the artisanal (known locally as *barequeros*) and small-scale mining workforce.
- Mining municipalities in Cauca are hubs for criminal activities and have suffered the impacts of armed conflict. A recent study by the United Nations Office on Drugs and Crime (UNODC) revealed that 70% of alluvial mining operations in Cauca are located in regions where coca is being grown.
- The FARC, ELN¹, criminal gangs, and state forces have fought for control over these territories. Unsurprisingly, close to 30% of Cauca's 338,000 victims of forced displacement came from the top five gold producing municipalities. In the run-up to its announced demobilisation, the FARC officially abandoned its links to illegal mining in Cauca, but authorities believe that the ELN is looking to progressively expand its presence into former FARC-controlled territories.
- Less visible criminal networks have also succeeded in controlling part of the illegally produced gold. Constant police and military operations against illegal mining operations and judicial investigations have shed light on the importance of these networks, involving small-scale miners and prospectors from Antioquia, Nariño and Valle del Cauca, national trading companies, local municipal authorities, and corrupt law enforcement agents.
- International traders – most of whom are based in the Free Trade Zone near Cali - are sourcing from mining municipalities in Cauca. Cali is the main hub for gold produced in Cauca, yet local sources report some other destinations, like Medellín, Bogotá or

Buenaventura (by sea). Under strict scrutiny from mining authorities, the Attorney General's Office and tax and customs agencies since 2015, the main international traders in Cali have reduced the volumes of gold they source directly from Cauca. Gold from Cauca now transits less visibly through national traders, although Cali remains an important hub for all gold extracted in South West Colombia.

- While some of these companies have sought to vertically integrate their suppliers into their business model to ensure better traceability, they are not prone to publicly divulging this information or providing details about the way they undertake due diligence for all their suppliers as recommended by the OECD Due Diligence Guidance.
- In conclusion, as the FARC demobilises, the Cauca department has an opportunity to remove one traditional risk factor from its gold supply chain. But without further efforts to reduce involvement by other criminal elements in mining and trading activities, supply chain risks will remain high.

Introduction

The region of South West Colombia (including the departments of Cauca, Valle del Cauca and Nariño, though Nariño is not covered in this report) presents many supply chain risks. The presence of artisanal and small-scale mining operations – only a portion of which are legal – as well as large-scale multinational companies with hopes of undertaking advanced exploration programmes, indigenous and Afro-Colombian communities, national and international gold traders, non-state armed groups and criminal organisations extracting rents from mining operations, and a weak state presence makes this a high-risk area to source gold from.

As in other regions of Colombia, gold mining in South West Colombia dates back to pre-colonial times and expanded during the Spanish colonial period. Production, declined progressively however, after independence before resurging in the 2000s. Today, despite being among Colombia's poorest regions (24% of the population live in extreme poverty and 51.6% live below the poverty line, according to the National Statistics Department) the department of Cauca is Colombia's fourth gold producer, and Cali, the capital of the neighbouring department of Valle del Cauca, serves as Colombia's second gold trading hub after Medellín.

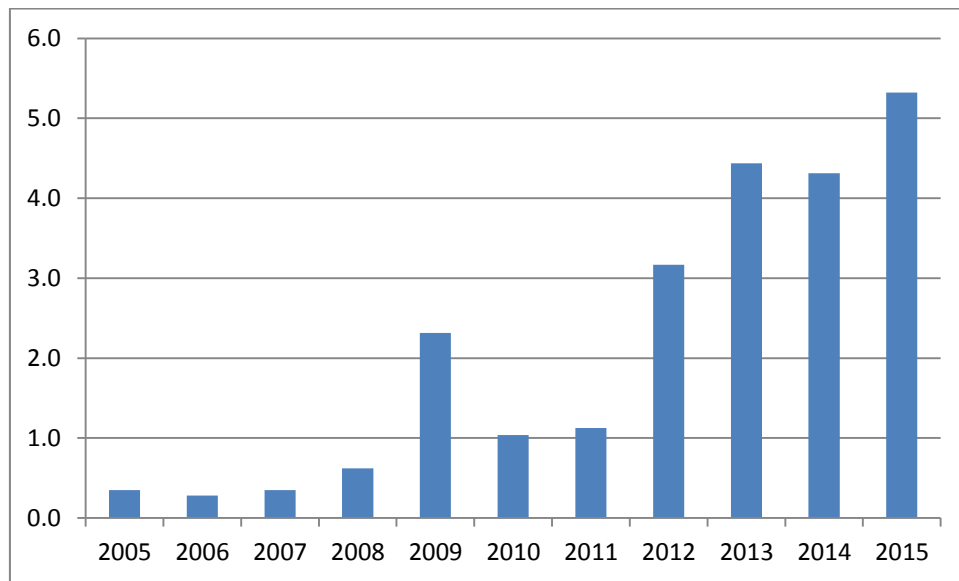
Indigenous and Afro-Colombian communities form a significant part of the Cauca and Valle del Cauca population. In 2005, indigenous and Afro-Colombian communities comprised 21.5% and 22.5% respectively of Cauca's population, and 0.1% and 27.2% of Valle del Cauca's population (DANE, 2005).

The gold mining sector in Cauca and Valle del Cauca

The department of Cauca has had a long but intermittent history of gold mining. Gold production expanded rapidly in Cauca during the time of the Spanish colony in the sixteenth century when Popayan, Cauca's capital, served as an important business hub and indigenous and Afro-Colombian communities provided cheap labour to extract alluvial gold.² Following independence in 1819, mining activities decreased, leaving some Afro-Colombian communities to subsist from artisanal mining. In the early 1900s, a Franco-British company sought to undertake underground mining in Timbiquí and, in the late 1980s, a Russian company brought in new dredging and alluvial mining technology. Both ventures were short-lived, but they provided some basic skills and techniques that small-scale miners in Cauca – mostly from Afro-Colombian communities – use to this day.

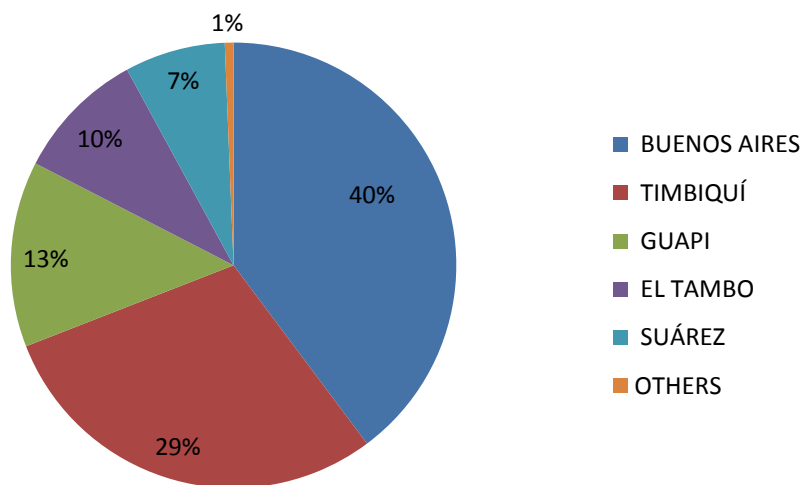
In the early 1990s, the Cauca and Valle del Cauca departments produced approximately 500kg of gold annually, which dropped to 116kg in 1998. As international gold prices rose in the late 2000s, production in Cauca resurged and has continued to increase steadily since 2009. Gold production in Cauca reached a ten-year high in 2015 at 5.3 tonnes, representing 9% of Colombia's total production (SIMCO, 2016).

Figure 1: Gold production in Cauca, 2005 to 2015 (in tonnes)



Source: Colombian Mining Information System – SIMCO, 2016

Figure 2: Percentage of departmental gold production



Source: Colombian Mining Information System (SIMCO)

In 2015, 15 out of 42 Cauca's municipalities reported gold production, with 70% of total production concentrated in just two municipalities: Buenos Aires, 40%, and Timbiquí, almost 30% (SIMCO, 2016).

Mining titles and collective territories

According to a 2014 report from the Intercultural Studies Centre of the University Javeriana in Cali (Centro de Estudios Interculturales de la Universidad Javeriana) 350,000 hectares - approximately 10% of the department's territory – had been granted as concessions to mining companies, and more than 1 million hectares were under consideration for 652 additional

mining titles, representing more than half of the department's territory (Verdad Abierta, 2014). According to the same report, 82,000 hectares of the 350,000 hectares with mining titles are part of the Afro-Colombian Communal Councils (a collective territory adjudicated to an Afro-Colombian community to administrate) and 7,000 hectares overlap with indigenous reserves (Verdad Abierta, 2014).

By 2012 in the Guapi, Timbiquí, and López de Micay municipalities, 26 mining titles had been granted and more than 120 additional titles were under consideration (Cococauca, 2012). The neighbouring Valle del Cauca department also counts ten “designated Afro-Colombian community mining areas” (zonas mineras de comunidades negras delimitadas), totalling more than 30,000 hectares (Anuario estadístico minero colombiano, 2010).

Many Afro-Colombian communities living in Cauca and Valle del Cauca sustain their livelihood with small-scale mining activities on their collective lands (indigenous and Afro-Colombian community land). However, some communities who opposed the presence of foreign miners and entrepreneurs have seen some of their leaders threatened (see section below) (Cococauca, 2016). Some indigenous communities, such as those in the Caldonio and Canoas municipalities, are opposed to extractive activities, while others have accepted the presence of miners in their territories (Tacueyo, Las Delicias).

Gold mining actors in Cauca and Valle del Cauca

Artisanal and Small-Scale Miners (ASM)

Gold panners (*barequeros*) constitute a major part of the workforce in mining operations in Cauca. This is particularly the case in the Timbiquí and Guapi municipalities, which produce more than 42% of gold from Cauca. By the end of 2015, 11,817 *barequeros* had registered with their local authority. Although Timbiquí and Guapi reported a similar number of *barequeros* in 2015, the former produced more than twice as much as the latter (SIMCO, 2016), raising suspicion about the volumes declared and suggesting a heightened risk of money laundering (see OECD, 2016). As for Buenos Aires, Cauca's major gold producer and where gold mining mostly takes place underground, 425 *barequeros* had officially registered with the municipality, but local sources estimate that the number of ASM could be closer to 1,000 (interview with local source).

Most of the artisanal and small-scale mining workforce in Cauca is not local. According to local government officials and law enforcement agents, the majority of miners come from neighbouring departments like Nariño, Valle del Cauca, and Huila, but also from Antioquia, Chocó, Atlántico or South Bolívar (interview). A law enforcement agent estimates that non-local workers represent more than 80% of the mining population at certain mining sites (e.g. River Sambingo between the municipalities of Morales and Mercaderes) (interview).

While there are a small number of legal artisanal and small-scale mining concessions producing gold, most gold is produced by non-regularised miners. The 2010-2011 mining census undertaken by the government revealed that out of 544 mining units identified in Cauca, 170 (31,4%) were dedicated to gold mining and more than 90% operated without any mining title (MME, 2011). Recent studies by UNODC using satellite imagery to identify alluvial mining operations concluded that 42% of these operations are illegal, while another 28% have applied for concessions (UNODC, 2016); 30% are believed to hold mining titles, but none have received an environmental licence (UNODC, 2016). Furthermore, estimates of backhoes and dragon

dredges range from more than 200 in Timbiquí, Guapi and López de Micay (Cococauca, 2012), to more than 500 in the whole department (interview with law enforcement officer, 2016).

Cooperatives or artisanal and small-scale miner associations are important stakeholders in mining municipalities in Cauca.³ Since 2001, cooperatives were established by groups of traditional artisanal and small-scale miners to facilitate applications for mining titles and legalisation efforts, while also providing access to machinery, training and legal counsel, amongst other 'services' (interview). These cooperatives, which in some cases have received mining concessions in their own right, also serve as intermediaries between potential buyers and, in some cases, have been known to receive direct support from international traders (e.g. Coominercol and Coomultimineros from Giraldo & Duque) in Cali (El Espectador, 2015; Henao, 2015).

Large-scale companies

Large-scale companies do not currently operate in Cauca. Although a number of multinational companies – both junior and large-scale - have been granted mining concessions in the Cauca department, they are only undertaking preliminary studies of the area and, in most cases, have ceased exploration in this region due to security concerns. In 2014, Anglo Gold Ashanti held some 40 titles out of the 241 granted for the whole department, representing more than 60,000 hectares in the municipalities of El Tambo, La Sierra, La Vega and San Pablo (Verdad Abierta, 2014).⁴ According to local sources, the company was reportedly forced to forfeit six titles and voluntarily return another twelve after not being able to fulfil its exploration plans due to the presence of non-state armed groups and illegal backhoes operating on some of its concessions (interview with international organisation official, 2016). Even though the company has not begun operations in Cauca, AngloGold Ashanti reportedly requested 43 additional titles, representing more than 100,000 hectares in this same department (Verdad Abierta, 2014).

Other multinational companies also have interests in Cauca. Votorantim Metais (Brazil) and Anglo American still hold a number of concessions throughout the department, but have not been able to undertake their exploration programmes due to the aforementioned security concerns. Other junior companies such as Cosigo Resources, have entered into joint ventures to explore in Cauca. Local sources also report that a Chinese mining company made an offer to buy a 1,400 hectares ranch in the Patía municipality to start exploration there (interview with adviser from the Governor's office).

In addition to multinational companies, there are a number of Colombian mining investors who hold titles in Cauca. Sociedad Minera del Sur, a medium scale operation based in the municipality of Suarez is owned by Giraldo & Duque, one of the main international traders based in Cali. According to local sources, this mid-scale company can process close to 300 tonnes of raw material every day, including from local miner associations who have agreements with the company to process and sell their gold (interview with local miner from Suarez, 2016). Other smaller scale mining entrepreneurs based in Cali hold mining titles in Cauca but have not been able to establish comparable operations.

Small-scale, national and international traders

International traders – most of whom are based in the Free Trade Zone near Cali - are sourcing from mining municipalities in Cauca. Cali is the main hub for gold produced in Cauca, yet local sources report some other destinations, such as Medellín, Bogotá or Buenaventura (by sea). In the case of Buenaventura (Valle del Cauca), illegal gold is reported to arrive by sea from the

different gold producing municipalities located on the Pacific coast, before being smuggled to Ecuador by sea (interview with police officers, 2016). While in some cases, traders source directly from small-scale mining operations and *barequeros*, they can also source indirectly through a network of small traders (*compra ventas*) located in the urban centres of Buenos Aires, Santander de Quilichao, Argelia, Timbiquí, or Guapi, with corresponding offices in Cali (Valle del Cauca). Some of these local traders have informal agreements with international traders, while others are vertically integrated.

Cali hosts three major international traders and a number of smaller local traders. Giraldo & Duque is the oldest and most renowned. Between 2006 and 2007, the company was one of the first 100 Colombian exporters to the USA and became the first trader, in 2013, to export gold from the Free Trade Zone near Cali. Between 2010 and 2014 it exported close to 16 tonnes of gold, principally to Switzerland (Metalor), the United States (Metal Republic) and India (El Espectador, 2015). Fundición Ramirez and Northern Texas Resources Colombia (a subsidiary of Northern Texas Resources (NTR) which belongs to Elemetal based in the United States and United Kingdom), also have trading operations based in the Free Trade Zone near Cali and source part of their gold from Cauca (interviews with international gold traders).⁵

In addition to these three main international gold traders, Cali also hosts a number of national traders, who buy their gold from the neighbouring departments of Cauca, Nariño and Chocó and then sell it to the three main international traders. According to law enforcement officers, international traders have become more reluctant to buy their gold directly from mining cooperatives or local traders due to the risk of being accused of buying illegally produced gold (interview with local source, 2016), and are now reported to be sourcing from national traders based in Cali. Law enforcement officers believe that the international gold traders feel more at ease buying from national gold traders because they are less scrutinized by law enforcement agencies.

Other traders, such as Irca, export to Miami-based subsidiaries of international refiners, such as Halach Gold from Istanbul Gold Refinery or Kaloti (Dubai) and have increased gold exports from USD 284,000 in 2015 to USD 6.2 million in 2016 (Legiscomex, 2016).

Links between gold mining, armed conflict and criminal dynamics

Cauca is a FARC stronghold and is also marked by an active presence of the ELN. Until 2015, the FARC guerrilla movement, which signed a peace agreement with the Colombian government in November 2016, was present in more than 30 municipalities and the ELN, Colombia's second rebel movement, in 4 municipalities (PNUD, 2014).

Up until its demobilisation in February 2016, the FARC had a strong presence in the north of Cauca (municipalities of Caldono, Caloto, Corinto, Buenos Aires and Santander de Quilichao). This area constitutes a strategic corridor between the centre of the country and the Pacific coast, where the FARC 6th Front maintained influence for the last 30 years. Today, two of the 26 military sites, where the FARC demobilised, are located in this area (municipalities of Buenos Aires, and Caldono). The FARC also operated in mining municipalities along the Pacific coast (municipalities of Timbiquí, Guapi and López de Micay), with its 29th and 30th Fronts. The secluded nature and weak state presence have made this region a hub for illegal activities, including illegal gold mining.

In the run-up to its announced demobilisation, the FARC officially abandoned its links to illegal mining in Cauca. Authorities believe, however, that the ELN is looking to progressively expand

its presence into former FARC-controlled territories. For example, in the northern municipality of Caloto, different sources recently reported the presence of the ELN (Milton Hernández mobile column of the Manuel Vásquez Castaño Front).

In the south of Cauca, the ELN has a stronger presence and is believed to directly control illegal gold mining activities (interview with police officers and local experts, 2016). In February 2016, media outlets reported that in the Mercaderes municipality, along the Sambingo River, the ELN received up to an estimated USD 1 million per month from extortion of the 2,500 miners and 70 backhoes that were operating illegally (El Tiempo, 2016). Other sources suggest that the illegal armed group operating in this municipality is no longer part of the ELN, but a dissident faction dedicated to drug production and illegal gold mining activities (interview with local government official, 2016).

Despite their continued presence, both the FARC and the ELN appear to be reducing their involvement in mining activities in Cauca. Local sources note that both still collect extortion payments from illegal mining activities, particularly from *barequeros*, backhoe owners and local traders, but they reportedly do not offer them as much 'protection' as they did in the past. This has forced small scale-miners, particularly illegal ones, to establish their own protection schemes by hiring informal armed guards or security companies (interviews with local experts, local authorities and police officers).

Despite their presence in Cauca, the BACRIM – which emerged as a result of paramilitary demobilisation between 2003 and 2006 - have played only a marginal role in promoting and protecting illegal mining operations. In 2012, according to local NGOs, BACRIM were present in 19 of the 42 Cauca municipalities (Indepaz 2012). While some former paramilitaries have been personally linked to illegal mining activities, the BACRIM were never powerful enough to control the department's mining regions. The presence of other criminal networks involved in gold mining activities prevented them from establishing a foothold in these areas.

Illegal mining in Cauca appears to be controlled by specialised criminal networks. Police, military and judicial investigations have shed light on the importance of these networks, involving small-scale miners and prospectors from Antioquia, Nariño and Valle del Cauca, national trading companies, local municipal authorities, former civil servants from the National Mining Agency, corrupt law enforcement agents, and illegal armed groups (interview with intelligence officers). During 2015-16, when some networks were dismantled by law enforcement agencies, it became apparent that some network members had financed political campaigns at municipal levels, paid bribes to local authorities to allow the transfer of heavy machinery, bribed mining authorities to register *barequeros* and falsified RUCOM declarations (El País, 2015; Semana, 2016).

There are unconfirmed intelligence reports that drug traffickers from Cali and Cauca were also involved in illegal mining activities. Law enforcement officers recently received information about a former Colombian heroine dealer extradited to the United States, who is now back to Colombia and reportedly involved in illegal gold mining activities in Northern Cauca (interview with law enforcement officer, 2016). A drug lord known as "El Mexicano" is also believed to be financing illegal mines in Buenos Aires and other municipalities of Northern Cauca (interview with law enforcement officer, 2016).

The existence of relationships between drug trafficking and illegal mining is not surprising (see OECD, 2016). In 2015, 8,660 hectares of coca were registered in Cauca, a 36% increase compared to 2014 (UNODC, 2016). With 3,468 hectares of coca registered, the El Tambo municipality became Colombia's fifth most affected municipality. Although there are no

reliable figures at departmental level, the Cauca department is also reported to host most of the 595 hectares of poppy crops registered at a national level (UNODC, 2016a). UNODC also recently reported that 70% of alluvial mining operations detected by satellite imagery were located in regions where coca is being farmed, with Timbiquí and López de Micay being the most significant (UNODC, 2016b).

Prevalence of “Annex II risks” in Cauca

This section examines the so-called “Annex II risks” which are the risks companies should consider when carrying out supply chain due diligence. These risks, outlined in more detail in Annex II of the OECD Due Diligence Guidance, include:

- Serious abuses associated with the extraction, transport or trade of minerals;
- Direct or indirect support to non-state armed groups;
- Direct or indirect support for public or private security forces engaged in illegal activity;
- Bribery and fraudulent misrepresentation of the origin of minerals;
- Money laundering and the payment of taxes, fees and royalties due to governments.

Serious abuses associated with the extraction, transport and trade of gold

The worst forms of child labour

Cauca authorities are concerned about the impact of the illegal economy, including non-regularised mining, on children and youth. Although the Ministry of Labour reported in 2015 that only 1% of the over 1,000 cases of the worst forms of child labour in Cauca were related to legal mining activities (SIRITI, 2016), anecdotal reports of minors working in illegal mining sites have been consistent since 2010. In 2010, the local environmental agency and the Ombudsman’s Office reported the presence of children and youth working in mines and who were exposed to hazardous and unsanitary conditions in the municipalities of Buenos Aires, Cajibío, El Tambo, Morales, Patía, Puerto Tejada, Santander de Quilichao, Suárez (Ombudsman’s Office, 2010). This information was confirmed by site visits by staff from the Ombudsman’s Office (Ombudsman’s Office, 2015, 2016).

There are a number of factors specific to this region, that have increased the risk of children working in mining activities. Since the 1980s, mining in Cauca has been traditionally controlled by men (MME, 2011), but the recent growth of illegal mining activities has enticed women, particularly from Afro-Colombian communities and single mothers, to engage in *barequero* as a form of subsistence. While most leave their children at home, some take their children (estimated ages between 7 and 15) to work with them (Ombudsman’s Office, 2016). Young men (estimated ages between 15 and 17) from poor families are also looking to supplement their income by working at these sites. Since miners migrate from one municipality to another, many of these cases are not reported.

Children working in mines have a high risk of being exposed to hazardous conditions. For instance, environmental authorities noticed that gold production in Buenos Aires has low mercury recovery rates, increasing the likelihood of exposure for children working on these sites (UNEP-Ministry of Environment, 2012). Health authorities also reported cases of young men in Guapi and Timbiquí needing treatment for malaria after working on mining sites (NHI, 2014). Since 2014 a number of landslides, some of them unreported, occurred in Cauca, killing miners and potentially affecting minors (Governor’s Office, 2016).

Despite the lack of official reports, civil society organisations and human rights defenders have also observed cases of sexual exploitation of minors near illegal mining sites in Cauca. For instance, in 2015, in the municipality of Timbiquí, two minors were treated for sexually transmitted diseases after visiting a mining site in the area (Ombudsman's Office, 2016). According to witnesses, it has become common practice for makeshift brothels to be set up near mines, where members of local communities offer sexual services from young women, some reportedly underage, to the miners.

Mining companies operating in Cauca have a mixed record in terms of risk assessment and mitigation of child labour on their concessions.⁶ Despite not being in production, large-scale multinational companies with mining titles in this region adhere to international human rights standards. AngloGold Ashanti, for instance, is a member of Global Compact and is implementing Guías Colombia, an initiative by a local think tank with specific recommendations on how to adhere to best practices in terms of preventing labour violations (FIP, 2016; interview with officer from large-scale mining company, 2016). In 2012, both AngloGold Ashanti and Anglo American adhered to the industry code of conduct of the Large-Scale Mining Association (now the Colombian Mining Association), outlining their commitment to the "international standards regarding child labour". Although the Colombian Mining Association still monitors the adherence of its members to this principle, not all companies have reported their progress to the association (interview with officer from the Colombian Mining Association, 2016).

Legal small-scale companies and mining associations in Cauca generally comply with Colombian labour legislation that prohibits child labour, but do not adhere to international standards or undertake systematic risk assessments. For instance, Sociedad Minera del Sur, a medium-scale mining operation in Suarez which processes gold for other small-scale miners in the region, works with them to ensure health and safety standards are met (interview). However, the company does not appear to undertake regular site inspections or employ a risk-based approach when processing gold from certain potentially at-risk operations (interview).

National and international traders based in Cali say they undertake informal risk assessments based on their knowledge of local suppliers and the human rights context. NTR - whose parent company NTR-Elemental is an LBMA Good Delivery Refiner and a member of the Conflict Free Smelter Initiative (CFSI) - and other international traders have achieved a certain level of vertical integration by supporting small-scale operations in Cauca to ensure a constant supply of gold (interview). However, according to law enforcement officers, some international traders and refiners also source from a high number of *barequeros* and *chatarreros* (artisanal miners who sort through tailings produced by small-scale miners) located in high-risk areas, for which they do not undertake site visits (interview with law enforcement officer, 2016).

War crimes or other serious violations of international humanitarian law, crimes against humanity or genocide

Although direct engagement by non-state armed groups in mining activities appears lower than in other regions, factions that extract rents from these operations in Cauca have committed violations that are considered to be war crimes or infringements of international humanitarian law.

FARC factions that benefited from illegal mining are believed to be responsible for a number of these violations. Between 2010 and 2015, FARC factions operating in mining areas (fronts

29, 8, 60, 6 and the Manuel Ruiz, Jacobo Arenas, Miller Perdomo and Gabriel Galvis mobile columns) were accused of recruiting children, targeted killings, threats against local populations, using landmines and restricting civilian mobility (CINEP, 2016; DAICMA, 2016; Ombudsman's Office, 2016). Since 2013, these groups have ambushed military and police units with improvised explosive devices, leaving civilians injured and dead (CINEP, 2016). Since mid-2015, when the FARC declared a national unilateral cease-fire, the groups reduced their operations and thus their impact on local communities (Ombudsman's Office, 2016).

While the FARC has reduced its operations, the ELN has stepped up its involvement in mining areas in southern Cauca (municipalities of Mercaderes, Almaguer, Bolivar, and La Vega). The ELN's Manuel Vasquez Castaño front (with its mobile columns Milton Hernandez and Camilo Cienfuegos), which operates in these areas, has been charged with recruiting children, use of landmines, restrictions to mobility and wounding civilians during attacks on security forces with improvised explosive devices (El Tiempo, 2015, DAICMA, 2016). These units are also being investigated for targeted killings of community leaders and public officials that reported the ELN's illegal activities; for example, officials in the Mayor's Office and municipal councillors in Almaguer, Mercaderes and La Vega have all received threats (Attorney General's Office, 2016; La W, 2016).

Non-state armed groups have resorted to threats and selective killings to reduce community opposition to illegal mining operations. Indigenous leaders have generally rejected legal and illegal mining operations in their territories. Members of indigenous communities have gone as far as burning backhoes and other machinery brought by illegal miners (e.g. in the municipality of Caldono in 2015). According to local community leaders, this has led to threats by criminal organisations or contract hitmen, who are hired to protect or have a direct stake in these operations (Ombudsman's Office, 2016, Community leader from Suarez, 2016). Sources consulted believe that these hired guns are sometimes related to former paramilitary groups that operated in Cauca, or to BACRIM such as the Rastrojos (law enforcement agency, 2016). In 2015 similar threats were issued against Afro-Colombian women leading an opposition movement against illegal mining operations in Buenos Aires and Suarez by a group known as the "Aguilas Negras" (Ombudsman's Office, 2015). Public officials in Timbiquí and Santander de Quilichao have also been subject to threats from these groups (interview with Ombudsman's Office, 2016).

Forced displacement and illegal appropriation of property⁷

Collective lands belonging to indigenous and Afro-Colombian communities are often forcefully appropriated by illegal gold miners. Historically, Afro-Colombian and indigenous communities were displaced as a result of disputes between non-state armed groups over the control of illegal crops, as well as sporadic clashes between authorities and these groups. Close to 30% of Cauca's 338,000 victims of forced displacement came from the top five gold producing municipalities, of which almost one third are members of Afro-Colombian communities and just under 10% are members of indigenous communities (Victims' Unit, 2016). According to a recent study by UNODC, backhoes and dredges monitored via satellite imagery were identified in collective indigenous territories in the municipalities of Caloto and López de Micay. The study also notes that close to half of the areas for alluvial mining in Cauca – most of them without a formal title - are on collective Afro-Colombian land (UNODC, 2016)

Judicial authorities have filed in favour of protecting collective lands, particularly those that displaced communities are hoping to return to. Any extractive activity undertaken on collective land is subject to a prior consultation process. The Constitutional Court has therefore filed in favour of numerous communities that claim they were not consulted. In

Cauca, the Court filed in favour of communities in Suarez, requesting that the National Mining Agency review the terms of titles (Constitutional Court, 2010). More importantly perhaps, in July 2015, a Land Restitution Judge ruled that authorities should halt all legal and illegal mining activities on the collective land of a community in Timbiquí, known as Renacer Negro. The community had endured the presence of illegal miners since 2010 and suffered from constant displacement (First District Judge, 2015). The number of victims of internal displacement - particularly from Afro-Colombian and indigenous communities - suggests that gold produced illegally in these regions could be the result of illegal appropriation of property. Authorities have not, however, made progress in land restitution efforts due to security conditions.

As is the case with Antioquia (see OECD, 2017) legal title holders in Cauca, and in particular large-scale mining companies, are increasingly looking to mitigate risks of overlap with land subject to land restitution processes. A number of companies have employed legal counsel firms to carry out background checks on land property titles to ensure there is no overlap with land claimed by victims of internal displacement (interview with company official, 2016). The work of the National Mining Agency to notify large-scale miners of legal decisions has led many to employ legal firms to check legacy issues relating to their titles. Most small-scale miners, local gold traders and international gold traders in Cali do not appear to have adopted mechanisms to assess this risk (interview with government official, 2016).

Direct or indirect support to non-state armed groups

In regions where they are present, the FARC and ELN have established systematic extortion rackets for the transport of machinery and for the right to operate in river beds or illegal underground mines. In municipalities such as Buenos Aires, Suárez and Timbiquí, the FARC initially established a 3% tax rate on production, but quickly moved to a flat rate of USD 2,000 to USD 3,500 per month per bulldozer (interview with local journalist, 2016; RCN 2013). *Barequeros* were usually charged USD 2 per day to work around backhoes and dredges, and USD 5 for every gram of gold they found (El Tiempo, 2011). Authorities believe that similar extortion schemes are employed by the ELN in its areas of operation (e.g. the municipality of Mercaderes), where local miners pay up to USD 5,000 a month to be granted permission to use one bulldozer along the Sambingo River (interview with law enforcement agent, 2016; RCN, 2016).

In Cauca the risk of small-scale legal mining cooperatives processing illegally produced gold that benefits illegal armed groups is high. Criminal networks behind the trade of illegal gold and renting of heavy machinery for illegal mining operations also allegedly facilitate the purchase of weapons for FARC and ELN fronts, as well as the BACRIM in Cauca (EL País, 2016). There are few controls on the gold produced by legal small-scale miners and whether it originates from their operations or from other sources that might be subject to extortion payments (interview with law enforcement officer, 2016). According to law enforcement agents consulted, international traders sourcing from these areas have sought to dilute their responsibility to undertake due diligence in their supply chain by buying from national traders who consolidate small amounts from these small-scale producers (interviews with law enforcement agents, 2016).

Large-scale multinationals that hold mining titles have been criticised by local authorities and law enforcement officers for not reporting illegal gold mining operations within their concessions. Companies only report such illegal activity when accidents occur (e.g. landslides) to avoid legal problems (interviews with local sources).

Bribery

A number of cases in Cauca point to the involvement of low ranking security officers working locally in illegal mining operations. In 2014, the Attorney General's office uncovered a network of navy officers and former police officers working with illegal miners and informal intermediaries. Corrupt officials at the Guapi and Cali airports allegedly facilitated the transport of machinery, cash and illegal gold from Timbiquí, Guapi and López de Micay (El Pais, 2015). In a similar case, an active police officer was captured in an operation against an illegal mining network in southern Cauca with links to the ELN (Semana, 2016; interview with military official, 2016). In some cases, security forces are accused of not providing protection to miners in rural areas with a high presence of criminal groups, leaving miners vulnerable to extortion and intimidation. In other cases, low salaries have allegedly led security force officers to become involved in illegal activities

Similar accusations of corruption related to mining activities involve local mayors, local councillors or local civil servants. In April 2016, a law enforcement operation revealed that former officials of a local administration were part of a network managing illegal mining operations in the municipality of Mercaderes (El Tiempo, 2016). In the municipality of Santander de Quilichao, officials from the Mayor's office are suspected of being involved in and turning a blind eye to the disappearance of machinery seized by law enforcement agents (interview with local public official, 2016). Local environmental protection agency staff are also suspected of accepting bribes in return for turning a blind eye to illegal mining operations and irregularities in small-scale legal operations (interview with law enforcement agent, 2016).

Miners, both legal and illegal, are believed to have a strong influence on municipal authorities. A number of current municipal authorities (e.g. in Buenos Aires) have family links to leaders of mining cooperatives and associations, who often support their political campaigns (El Espectador, 2016). There are also a number of municipal councillors in municipalities such as Timbiquí that have been members of mining associations themselves (interview with local government official, 2016). While this is not illegal, some local sources claim this has increased local administrations tolerance for illegal miners (interviews). Legal small and medium scale operations, some of them vertically integrated into the operations of international traders in Cali, have also reportedly supported pro-mining candidates for local governments in Suarez and Buenos Aires.

To combat these practices, national authorities have implemented a series of operations. Between 2010 and 2016, Ministry of Defence figures show that security forces intervened in more than 345 illegal mines in Cauca, confiscated 203 machines and vehicles, destroyed 115 backhoes and 16 'dragon dredges', captured 200 suspects and seized 10 kilos of gold produced illegally (Ministry of Defence, 2016).

According to police sources, inhabitants are always consulted before ground operations are launched (interview). However, seeking consent must be balanced with the obligation to keep the operation confidential. Prior consultation may also have side effects: in some cases, community leaders accused of collaborating with the authorities received death threats (interview).

Conclusions

The gold supply chain from Cauca to Valle del Cauca has undergone a series of changes over the last few years. While illegal armed groups - the FARC in particular - appear to have reduced their direct involvement in gold mining activities, other less visible criminal networks have succeeded in controlling part of the illegally produced gold.

After a series of media articles highlighting the sourcing of gold from unauthorized miners and allegedly facilitating money laundering, the main international traders in Cali reduced the volumes of gold they source directly from Cauca and Valle des Cauca region. Gold from Cauca now transits less visibly through national traders and although Cali remains an important hub for all gold extracted in South West Colombia, the Free Trade Zone of Palmira (near Cali) reportedly lost some of its attraction, in part due to stricter controls by the Colombian tax and customs office (DIAN).

During the Santos Administration, the Colombian government has been working in cooperation with miners to push forward and implement formalisation and legalisation of small-scale miners in the Valle del Cauca and Cauca departments. While it is too early to assess results in full, initial feedback from impacted stakeholders and observers has been mixed so far.

As the FARC demobilises, the f Cauca department could potentially remove one traditional risk factor from its gold supply chain, The FARC demobilisation will provide an opportunity for Cauca to remove one traditional risk factor from its gold supply chain, but without further efforts to reduce involvement in mining and trading activities by other criminal elements, supply chain risks will remain high.

Bibliography

- Attorney General's Office (2016), "Fiscalía dismantela banda delincriminal, presunta autora de dos masacres ordenadas por el ELN," 26 September, www.fiscalia.gov.co/colombia/seccionales/seccional-cali/fiscalia-desmantela-banda-delincriminal-presunta-autora-de-dos-masacres-ordenadas-por-el-eln/ (Accessed 1 October 2016)
- (2016), "Las FARC reclutaron ilícitamente a 11.556 menores desde 1975: Fiscal (e) Jorge Perdomo" 16 May, www.fiscalia.gov.co/colombia/noticias/destacada/las-farc-reclutaron-ilicitamente-a-11-556-menores-desde-1979-fiscal-e-jorge-perdomo/ (Accessed 1 October 2016)
- Borbon M., Campo A., and Resrepo C. (2014), "Brote de malaria en los municipios de Guapi y Timbiquí, Cauca," National Health Institute, Informe Quinquenal Epidemiológico, Volume 19, N. 15, 15 August.
- Colombian Army (2015), "Importante golpe a terroristas del Eln en el Cauca," www.ejercito.mil.co/?idcategoria=90265 (Accessed 1 October 2016)
- Colombian Mining Information System-SIMCO (2016), "Producción de Oro por Municipio Anual", www.upme.gov.co/generadorconsultas/Consulta_Series.aspx?idModulo=4&tipoSerie=116&grupo=496& (Accessed: 10 January 2016)
- Constitutional Court (2010), Ruling T-1045A/10, 14 December, www.corteconstitucional.gov.co/relatoria/2010/t-1045a-10.htm (Accessed 10 January 2016)
- El Espectador (2016), "Nuevas operaciones contra responsables de desaparecer río en Colombia," 19 April, www.elespectador.com/noticias/judicial/nuevas-operaciones-contra-responsables-de-desaparecer-r-articulo-628050 (Accessed 1 October 2016)
- (2015), "Magnates del Oro Versus Pequeños Mineros," 22 November, www.elespectador.com/noticias/nacional/magnates-del-oro-versus-pequenos-mineros-articulo-600767 (Accessed 1 October 2016)
- El País (2015), "Los tentáculos de la minería ilegal en Cauca," 13 March, www.elpais.com.co/elpais/judicial/noticias/tentaculos-mineria-ilegal-cauca (Accessed 1 October 2016)
- El Tiempo (2015), "Capturan al hombre más importante del Eln en Cauca", 25 December, www.eltiempo.com/politica/justicia/ataque-al-eln-en-cauca/16467198 (Accessed 1 October 2016).
- Henao, Julian (2015)⁸, "Plan Estratégico Sociedad Minera del Sur", November, Master's Thesis, Universidad ICESI, https://repository.icesi.edu.co/biblioteca_digital/bitstream/10906/78874/1/T00410.pdf (Accessed 1 October 2016)
- Juzgado Primero Civil del Circuito Especializado en Restitución de Tierras de Popayán (2015), Sentencia N. 071, 1 July, Popayán.
- La W (2016), "Capturan a cabecilla del Eln en el norte del Cauca," 5 April, www.wradio.com.co/noticias/actualidad/capturan-a-cabecilla-del-eln-en-el-norte-del-cauca/20160405/nota/3100699.aspx (Accessed 1 October 2016)

- Ministry of Environment and United Nations Environmental Program (2012), “Sinopsis Nacional De La Minería Aurífera Artesanal y de Pequeña Escala,” December,
www.minambiente.gov.co/images/AsuntosambientalesySectorialyUrbana/pdf/mercurio/Sinopsis_Nacional_de_la_ASGM.pdf (Accessed 1 October 2016)
- Ministry of Labour (2013), “Sistema de Información Integrado para la Identificación, Registro y Caracterización del Trabajo Infantil y sus Peores Formas,”
<http://apps.mintrabajo.gov.co/siriti/display.aspx> (Accessed: 30 April 2016)
- Ombudsman’s Office (2015), “Persisten amenazas contra líderes que se oponen a la minería ilegal en el norte del Cauca,” 15 January, www.defensoria.gov.co/es/nube/regiones/3136/ (Accessed 1 October 2016)
- (2014), “Informe de riesgo N° 035-14, de inminencia 1, para el corregimiento La Toma y las veredas El Hato, Yolombo, Gelima y Dos Aguas, del municipio Suárez, departamento del Cauca,” 18 December, www.defensoria.gov.co/es/public/sat (Accessed 1 October 2016)
- (2010), *La Minería de hecho en Colombia*, December, Bogotá, Defensoría Delegada para los derechos Colectivos y del Ambiente.
- OECD (2016), *Due diligence in Colombia’s gold supply chain*,
<https://mnequidelines.oecd.org/Colombia-gold-supply-chain-overview.pdf>.
- RCN (2016), “Policía captura a supuestos responsables de secar un río en el Cauca,” 6 April,
<http://gerente.com.co/rss-article/policia-captura-a-supuestos-responsables-de-secar-un-rio-en-colombia-por-mineria-ilegal/>, (Accessed 1 October 2016)
- Semana (2016), “Así secaron por completo un río en el Pacífico,” 4 August,
www.semana.com/nacion/articulo/fiscalia-y-policia-detras-de-quienes-secaron-por-completo-un-rio-en-el-pacifico/468588 (Accessed 1 October 2016).
- United Nations Office on Drugs and Crime (2016), “Colombia Monitoreo de territorios afectados por cultivos ilícitos,” July
www.biesimci.org/Documentos/archivos/Censo_Cultivos_Coca_2015_SIMCI.pdf (Accessed 1 October 2016)
- (2016), *Colombia Explotación de Oro de Aluvión*, June,
www.unodc.org/documents/colombia/2016/junio/Explotacion_de_Oro_de_Aluvion.pdf (Accessed 1 October 2016)
- VerdadAbierta.com (2014), “Minería en el Cauca: ¿riqueza para quién?”, 18 June,
www.verdadabierta.com/lucha-por-la-tierra/5362-mineria-en-el-cauca-riqueza-para-quien (Accessed 1 October 2016)

Notes

¹ For more detail on these armed groups, please refer to “Due Diligence in Colombia’s Supply Chain: Overview report”, OECD (2016).

² In 1559 a letter from the governor of Popayan mentioned that more than 6,000 indigenous and 300 Afro-Colombian people were working 250 days a year in gold exploitation. In 1567, another letter added that “It is a wonderful thing that metals in this Province are discovered every day. If it were possible to continue exploiting them, I believe there would not be anything more important in the Indies” (*Es cosa maravillosa los metales que en esta Gobernación se descubren cada día, que si hubiese posible para poderlos seguir, creo que no habría cosa más importante en las Indias.*)

³ Among them, Coominercol and Consejo Comunitario de la Toma in Suarez, Cooperativa Multiactiva in Buenos Aires, Asociación de Mineros de Bolivar in Mercaderes, and Asosantimar, Asociacion de Explotadores de Oro de Timbiquí, Cooperativa de Mineros de Timbiquí in Timbiquí.

⁴ Sources at the Ministry of Mines and Energy noted that in 2017 Anglo Gold Ashanti returned some of its mining titles in Colombia, so these figures could have changed.

⁵ In the last two years, however, these international gold traders have substantially reduced their exportation of gold through this free trade Zone, partly due to recent scandals revealed by the Colombian media.

⁶ According to a recent UNODC report on alluvial mining, close to 30% of the alluvial mining operations in Cauca are carried out within titled territories. It is therefore likely that some of the illegal mining operations where minors are working are located within titles granted to multinationals without their authorization.

⁷ Illegal appropriation of property is considered a War Crime under the Geneva Convention and under Article 8 of the Statute of the International Criminal Court.

⁸ Julian Henao is a member of the family that owns Giraldo & Duque and worked as one of its managers.

DUE DILIGENCE IN COLOMBIA'S GOLD SUPPLY CHAIN

Gold mining in South West Colombia

This report is part of a series of assessments on Colombian gold supply chains and the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas in the Colombian context. It analyses conditions of mineral extraction and related risks in the region of South West Colombia.

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