



Peru: Curtailing Smuggling, Regionalizing Trade

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7.1 INTRODUCTION

“I am like Pablo (Escobar), coming to Ecuador to get coke” boasted Juan Pablo Granda in an intercepted WhatsApp message (InSight Crime 2018). The skillful smuggler of gold likened his criminal acumen to that of the infamous Colombian drug lord, and while his charisma may have fallen short, the volume of the illicit business at stake did not. Granda was the operations manager and middleman for NTR Metals, a US-based refinery to which he helped smuggle over USD 3.5 billion worth of South American gold over a four-year period (2013–2017) (Castilla 2014; Gibbons 2017). Sourced from unregulated artisanal and small-scale gold mining (ASGM) in Peru, the mineral was laundered into the supply chain using shell companies. At first, it was shipped by air from Lima, but to avoid newly enforced controls deployed at Peruvian airports, in 2014 the merchandise began to be smuggled regionally by land into neighboring Andean countries before reaching its final destination.

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Granda is not the only unscrupulous character to have been associated with the gold industry in recent years. In 2017, Bloomberg dedicated an extensive feature article to the related case of the Chilean gold smuggler Harold Vilches. Headlined “How to Become an International Gold Smuggler,” the piece unraveled the epic journey of the 23 years old Chilean who, at 19, had set up the largest gold smuggling ring in South America with a reach that extended to Dubai, and attempts to smuggle African gold. The allure of the story is such that Vilches, under police surveillance in Chile, signed a film contract with an award-winning Hollywood producer.

Granda and Vilches are part of a network of middlemen linked to one of the largest gold syndicates in South America. This case reveals how the gold production system mutates in response to regulations, highlighting the complexity of effective policy development. In 2012, the Peruvian government developed an aggressive strategy to regulate ASGM which, besides the formalization of mining operations, considered trade management measures including improved surveillance of the ways in which gold was exported to other countries. In 2013, the Peruvian authorities seized 508 kg of gold at the Jorge Chávez International Airport in Lima (Castilla 2014), which was waiting to be cleared and sent to six Refineries abroad. The seizure was a turning point. From that point on, smuggling networks began to move their gold “by motorcycle, by mule, by armored car, and never the same way” to its final destination in neighboring Andean countries (Reuters 2014).

Despite the media coverage, the way in which ASGM-gold finds its way into global markets has not attracted much academic interest. Taking the case of Peruvian ASGM, this chapter lays bare some of the dynamics in this critical section of the global gold production system. More precisely, it demonstrates how the gold trade has responded to policy measures destined to curtail smuggling. Rather than advancing the formalization of the gold trade, these policy measures have paradoxically contributed to the increased infiltration of illicit buyers, traders and exporters (FATF 2015; GIATOC 2017). This chapter uses secondary literature and data collected in the field as part of the author’s Ph.D. research. It is divided in two sections. The first illustrates trends pertaining to the contraband of gold within the global production system. The second zooms in on the case of Peruvian ASGM to demonstrate the flexibility of the global production system in reacting to pressures. It ends with a discussion and conclusion.

7.2 SMUGGLING OF GOLD IN THE GLOBAL PRODUCTION SYSTEM

Much of the existing literature on illicit markets has overlooked the issue of gold. For example, it is notably absent from the list¹ of universally smuggled goods Hartnett and Dawdy's (2013: 43) compiled while examining the "archeology of the illegal and illicit economies" and Levi's (2018) inquisitive analysis of the anti-money laundering regime. Yet the gold economy exemplifies like no other Hartnett and Dawdy's claim that "most markets are grey, not black or white" (2013: 37), as part of a system in which formal, informal and illicit economies are interdependent (Halperin 1994). Illegally sourced gold is laundered and smuggled into the global market through a myriad of intermediaries. Before reaching its final destination, the mineral navigates multiple layers of actors across different countries. In this process, airports have become bottlenecks where gold can be seized, and illicit actors apprehended.

The Global Initiative Against Transnational Organized Crime (2016) identifies smuggling as occupying a unique position in the gold supply chain because it serves a dual purpose: generating profits and moving funds. Based on data compiled by the United Nations Office on Drugs and Crime and INTERPOL (2011), an estimated USD 2.3 billion worth of gold was laundered globally in 2010, but according to the 2016 report of the United Nations Environment Program Annual Report (2016: 7), ASGM global extraction and trade generates between USD 12 and USD 48 billion annually. In Latin America alone, this sector is worth an estimated USD 7 billion per year.

Gold is particularly appealing to criminal networks not only because it is highly lucrative, but also because it offers additional benefits: It transits between the legal and illegal sectors, can easily be blended into the legal economy and carries lighter sentences if detected (GIATOC 2017). Gold is, therefore, an extremely attractive vehicle for money laundering because it provides "a mechanism for organized crime groups to convert illicit cash into a stable anonymous, transformable and easily exchangeable asset to realize or reinvest the profits of their criminal activities" (FATF 2015: 3). Some drug trafficking organizations are already in the gold business in Peru and Colombia (GFI 2017; Rettberg and Ortíz-Riomalo 2016). In 2015, the Financial Action Task Force (FATF) published a special report on money laundering and terrorist financing associated with

gold which confirmed that organizations, such as Al-Qaeda, the Revolutionary Armed Forces of Colombia (FARC), the Liberation Tigers of Tamil Eelam (LTTE) and Hezbollah, were active in the gold economy (FATF 2015).

With that in mind, the intricacies of the gold trade undoubtedly present a challenge to policy makers. As it will be shown through the analysis of the ASGM regulatory process in Peru, measures taken to prevent the illegal export of gold ultimately stimulated unregulated cross-border trading with the participation of neighboring Andean states. A similar pattern of regionalization has been described within the Great Lakes Region (GLR) of Africa, where illegally sourced gold from Tanzania and the DRC is smuggled regionally to reach Refineries in the United Arab Emirates (UAE) (Geenen 2015). At the very end of the supply chain, India, the largest consumer of this metal worldwide has also witnessed how illicit actors have adjusted to regulations imposed to prevent the mineral being illegally introduced through its borders. These scenarios illustrate the changing nature of the global gold production system and how it adapts to new dynamics and players. The case of India, in particular, sheds light in that regard.

7.2.1 *India: At the Other Side of the Production System*

In 2013 the Indian government rose the import duty of gold by 15% to balance a record account deficit. This measure prompted a 300% increase in its contraband and the emergence of syndicates which, in 2014, smuggled 700 kg of this metal daily. Gold made its way into the country by air hidden in hand luggage and body cavities and by other methods used to circumvent customs controls at airports (BBC 2014). The syndicates use trade misinvoicing, a practice that the Global Financial Integrity (2019) estimates accounts for more of 87% of measurable illicit financial flows worldwide, to smuggle large quantities of gold. They also make use of diasporas to transport the mineral within the vast air traffic landscape in such a large and densely populated country. The *modus operandi* of these syndicates is illustrated in more details in the following example (FATF 2015).

In 2014, the French Police carried out an investigation into a syndicate being run by an Indian national and involving five countries: Morocco, Belgium, the United Arab Emirates UAE, London and India. The profitability of this illicit business rested on the conversion and resale of

untaxed smuggled gold. The metal was purchased at EUR 31 per gram in Belgium and resold for EUR 36.32 per gram in Dubai or India (FATF 2015). The syndicate bought the gold in Belgium with cash obtained in France from the sale of Moroccan cannabis (EUR 10 million in a six-month period). The investigation established two main routes. In the first, gold was sent to Dubai where it was laundered and officially exported. In Dubai, the metal was declared to customs using false invoices. In the second, gold was transported from Belgium via the hub airports of Bangkok and Singapore. In both routes, tickets and fake documentation provided by an Indian-based travel agency were distributed to family members who carried the mineral with them on the airline. The investigation traced up to 200 tickets used by the same person traveling between Dubai and India over a four-year period.

On receipt of the money, the Indian national arranged the transportation of the cash by car to Belgium where it was used to purchase gold and jewelry. The bulk of the cash was deposited in cash into the different accounts of companies associated with an identified gold trader and used to purchase gold from a wholesaler. False invoices generated by the Indian national (in the name of companies set up by him) were used to support the transactions on the gold coins and ingots as well as gold certificates. (FATF 2015: 7)

India has clearly become a major player in the global gold production system. It is now the largest purchaser of Peruvian gold with a 30% of the registered production, that is a 53% increase from the previous year. India's share of Peruvian gold exports is above traditional buyers like Switzerland and the United States whose imports declined by 12 and 5%, respectively (SIICEX 2019). Another key actor in this system is the UEA, whose gold imports increased from 67 tons (worth USD 1.6 billion) in 2006 to 446 tons (worth USD 15.1 billions) within ten years (Reuters 2019). Dubai has managed to capture 25% of the global gold trade in spite of Resistance from the London Bullion Market Association (LBMA) which has repeatedly raised concerns over Dubai's weak customs procedures and reputation for hand-carried gold smuggling; however, this reaction can also be interpreted as an attempt to maintain the status quo in a global gold market dominated by the LBMA-listed Refineries.

The core of the gold production system lies in gold-rich countries, a fifth of the mineral being sourced in the unregulated mines of developing countries. In Africa, the Tanzania Mineral Audit Agency (TMAA) was created in 2009 to monitor smuggling. To do so, the agency established auditing desks and special agents in main airports. Located at departure gates with additional X-ray machines, TMAA agents are vigilant to suspicious passengers. The units target special flights, mainly those heading to the United Arab Emirates (UAE) and India (Blore 2015). To avoid these controls, smugglers began to send the gold through Kenya and within the Great Lakes Region.

7.3 THE REGIONALIZATION OF THE PERUVIAN ASGM COMMODITY FRONTIER

In 2013, Peru ranked among the top 20 best performing countries on the anti-money laundering index issued by the Basel Institute on Governance. According to Mújica and Galdós (2016), however, the ranking did not accurately indicate the extent of the problem or the effectiveness of the National Plan to Combat Money laundering because it measured policy design without considering whether laws had been enforced. The Basel Institute has since readjusted its figures, and the Andean country has been repositioned to better reflect the extent of its illicit financial flows. In the organization's last report, Peru ranked 58th out of 125 countries (Basel Institute on Governance 2019).

The new score is undoubtedly related to improved and more accurate data gathering and processing. That said, it was only in 2012 that the Peruvian Financial Intelligence Unit (UIF) added illegal gold mining to the list of items associated with money laundering. In the space of only three years (2012–2015), the UIF registered USD 4299 million linked to this sector. This amount was almost half of the money illegally injected into the economy from 2007 to 2015, a total of USD 11,187 million. To some analysts, illegal mining seems “to generate more dirty money than drug trafficking” (Poder 2015) in a country that is one of the world's leading producers of coca (Zevallos Trigos 2017). Over seven years, USD 5125 million was accounted for by the drug economy compared to the USD 4299 of the gold economy in the space of only three years.

Article 3 of the National Mining Law (4 June 1992) states that the commercialization of gold is free in Peru. That is, anybody can buy the metal provided they obtain a traceable receipt for its purchase. Peru is

the largest gold producer of South America and ranks sixth in the world with an average extraction rate between 160 and 200 tons per year, 20% of which is sourced by ASGM. The country is considered a new gold giant, a testament to the commodity frontier's rapid expansion through ASGM. This informal sector employs 150,000 miners and provides indirect work to 300,000–500,000 people (Salo et al. 2016). To the Peruvian economist Victor Torres Cuzcano (2015) the industry is worth an average of USD 1315 million per year, a figure that amounts to between USD 3 billion and USD 5.6 billion according to The Global Initiative Against Transnational Organized Crime (2016: 18).

7.3.1 *The Peruvian ASGM Regularization Attempt*

In 2012, the Peruvian government launched a comprehensive strategy to regulate ASGM. Despite the industry's contribution to the economy and its potential to create employment opportunities for the poor, it has detrimental environmental and social impacts due to its unregulated nature. The ecological harm has been particularly widespread in the area of Madre de Dios where 110 points of illegal extraction were identified in a newly compiled map of illegal sites within the Amazon basin (RAISG 2019). ASGM leads to the deforestation and pollution of forests and rivers, and it is especially detrimental to the ecosystem due to the extended use of mercury. Mining in protected areas and water bodies is illegal in Peru, two restrictions that affect Madre de Dios greatly due to the wealth of its biodiversity and the fact that its richest deposits are along the Amazon river and its tributaries. ASGM in this Andean state has also been linked to sexual and labor exploitation, and human trafficking of children, women and men (Cortés-McPherson 2019b). In some areas, the activity becomes increasingly violent with the infiltration of criminal organizations that control access to mining camps (El Comercio 2017).

Peruvian ASGM policies are in line with the international mainstream, assuming that formalized miners will comply with fiscal, environmental and social requirements (Geenen 2012; Siegel and Veiga 2009; Verbrugge 2015). Yet, as has been the case in other countries, the Peruvian formalization process has not been successful (Salo et al. 2016). In 2012, over 74,000 miners signed up to formalize their operations, but 7 years later no real settlement was reached between them and the state. Although

the number of licensed miners has since increased, the process of formalization, mainly understood as the acquisition of “full legal and transferable mining titles to their claims” (Barry 1995), remains hampered by bureaucratic obstacles and structural limitations within the land regime (Damonte 2016, 2018; Dargent and Urteaga 2016; Pachas 2012; Perz et al. 2016).

For over a decade, Madre de Dios was responsible for 80% of the informal gold extraction in Peru. This extraordinary productivity can be partly explained by the emergence of small-scale mining entrepreneurs (Fisher 2007; Verbrugge 2014) who managed to accumulate capital, and introduced division of labor and the use of heavy machinery (Cortés-McPherson 2019a). These first miners, who had migrated from the Peruvian highlands to Madre de Dios in the early 1970s, were followed by successive waves of gold rushers with whom they competed for land. Madre de Dios has been the main focus of the eradication policy implemented by the Peruvian authorities since 2012, but military operations often targeted old miners, many of whom were already engaged in previous formalization processes. Thousands of police officers were deployed to the area in repeated military interventions which led to protests and deadlocks (GOMIAM 2015). In 2019, three military bases were established in La Pampa, an area where violence had escalated out of control.

Together with policies designed to formalize extraction and eradicate illegal mining sites, regulations to prevent the smuggling of gold were also enforced. Activos Mineros SAC was appointed as the official entity to buy gold sourced from ASGM (decree 012-2012-EM). A cadastre portal for gold traders (249-2013-EM) was enforced, and new rules were issued to control land routes and airports. Control checks were strengthened in the cargo areas of the Jorge Chávez International Airport in Lima, and detectors were installed in X-ray machines to find high-density metals carried by passengers. A task force was created² to improve surveillance at the airport, which is a South American hub. In addition to cargo surveillance, X-ray detectors for high-density metals were also installed in the key domestic airports of Cusco, Juliaca, Arequipa and Madre de Dios, disrupting the complacency with which passengers carried gold on domestic flights.

7.3.2 *Airports as Bottlenecks for Smugglers*

Approximately 80% of the ASGM-gold has historically been shipped through the Jorge Chávez International Airport via commercial cargo carriers or in hand luggage (El Comercio 2014) and, thus, particular emphasis was placed on monitoring this route. As a result, from the end of 2013 to June 2015, the Peruvian National Custom and Tax Administration Superintendence (SUNAT) seized USD 37 million in 35 interventions at the facility (Congreso Peru 2015). Investigations conducted by the country's Financial Intelligence Unit also led to the identification of shell companies stored their merchandise at the airport. In December 2013, law enforcement officials seized 508 kg of gold awaiting shipment to six Refineries abroad.

During these operations, another web of local intermediaries was exposed. The Peruvian District Attorney's Office for Anti-Laundering Crimes of the Public Ministry identified a money laundering organization that smuggled 13,289,107 kg of gold worth USD 626 million between April 2012 and April 2016 (Caretas 2017). The head of the network was Pedro David Pérez Miranda, a character well-known to Peruvian law enforcement officials and the media. An intermediary between the miners and the Refineries, Miranda was nicknamed *Peter Ferrari* due to his inclination for expensive cars and luxury goods. On the day he was sentenced to 18 months in jail, Miranda stated: "I have always been very proud that all the gold I have exported is legal. It might be informal, but it is legal" (Caretas 2017).

7.3.3 *The Regionalization of the Gold Commodity Frontier*

The new restrictions on trade provoked a 70% decrease in Peruvian gold exports (Gibbons 2017). Accordingly, other neighboring countries of the Andean region increased their trade. Bolivia acquired a special role in this context. A small producer, between January and August 2014, the country exported 24 tons of the metal, six times more than it had produced in the first seven months of 2014, and more than tripling its 2013 gold exports (Reuters 2014). Bolivia's southern border extends 1000 km along the most productive ASGM regions in Peru, Madre de Dios and Puno, from which the mineral was smuggled by land into Bolivia taking advantage of the porous borders between the two countries.

According to one local dealer, in a testimony published by Reuters, the gold was transported into Bolivia by motorcycle, mule, armored car and by plane using light aircraft. The latter method was the safest “to avoid losing a consignment to bandits stalking lawless borderlands” (Reuters 2014). The volume of the cross-border trade was such that shipments were restricted to 200 kg so as not to risk unbalancing the plane. In a new twist of events, the Peruvian gold smuggled into Bolivia was once again transported to the global market using Lima’s Jorge Chávez International Airport. In 2014, suspicious commercial flights from Bolivia carrying 35 tons of gold stopped over at the Peruvian airport en route to their final destination (Castilla 2014).

Thus, these trade management policies when coupled with investigations into money laundering have had a significant impact. In particular, measures directed at improving Peruvian airport surveillance prompted an adjustment of ASGM-gold trade patterns, which generated increased interaction between the formal, informal and illicit sectors. This point is neatly illustrated by the case of the US refinery that closes the chapter.

7.3.4 Global Refineries and Their Intermediaries

NTR metals made international media headlines, such as: “Peru Crack-down on Illegal Gold Leads to New Smuggling Routes” (Reuters 2014) and “Peru-U.S. Gold Case Show How Importer Shifted Gears” (InSight Crime 2017). The case was extensively documented. According to a US Homeland Security Investigation, between 2012 and 2015, NTR bought USD 3.6 billion worth of gold in Latin America. The US-based refinery started to buy Peruvian gold in 2012 and had imported USD 980 million worth of Peruvian ASGM-gold a year later. In December 2013, Peruvian authorities seized 508 kg of gold destined for six foreign Refineries, one of which was NTR Metals. That marked a turning point.

Controls and checks intensified as a result, leading to a massive decline of NTR’s imports from Peru - from an estimated \$980 million in 2013 to only \$79 million in 2014. Nonetheless, illegal gold routes only took another path. Peruvian smugglers began moving illegally mined gold into neighboring countries, from which the minerals were sent to the United States. As figures from the affidavit show, after Peru’s illegal gold crack-down, NTR imports from Ecuador and Bolivia grew by \$485 million. At the same time, the US company imported gold from other countries

in the region, most notably Colombia, as well as Chile, Guyana and the Caribbean. (InSight Crime 2017)

In order to continue purchasing Peruvian ASGM-gold, the refinery resorted to involving informal and illegal actors capable of navigating the obstacles they encountered. A web of middlemen negotiated on their behalf in the Andean region.

Authorities believe that Granda and his associates cut off competitors by offering quicker payments to costumers, and personally traveled to Peru and neighboring countries to meet with their sources of illegal gold. (InSight Crime 2017)

Intercepted WhatsApp messages indicate that members of the firm back in the United States were aware of the illegal nature of the gold business. As mentioned earlier in this chapter, in one of the messages, NTR operations manager, Juan Pablo Granda, compared himself to the Colombia drug lord Pablo Escobar. In other exchanges, NTR employees made references to the use of “mules” to carry the gold out of Peru. As Homeland Security Investigations (HSI) Special Agent Colbert Almeida wrote in an affidavit filed in March 10, 2017, the refinery sent the money “with the intent to promote the carrying on of organized criminal activity, including illegal gold mining, gold smuggling and the entry of goods into the U.S. by false means and statements, and narcotics trafficking” (InSight Crime 2017) an indication of how licit and illicit buyers, shell companies and Refineries reacted to the restrictions on transporting gold.

7.4 DISCUSSION AND CONCLUSION

This chapter has outlined how ASGM-gold ends up in international markets as part of the global gold production system, a topic that has not yet received sufficient scholarly attention. It has demonstrated the flexibility of the ASGM trade and its network of intermediaries in the face of external pressures. Paradoxically, efforts on the part of the Peruvian state to root out illegal cross-border smuggling using commercial flights have enabled the emergence of a clandestine regional gold trading system that offers ample opportunities for unscrupulous entrepreneurs.

These findings have important policy implications and serve as a stark reminder that policies aimed at formalizing ASGM need to look beyond

mining and approach the gold production system as a whole. Comprehensive policy development will need to acknowledge this complexity in order to reach political settlements among the various industry actors. The Peruvian case demonstrates the fact that measures aimed at improving trade management have proven to be effective in terms of seizing merchandise and disrupting the modus operandi of networks. In particular, as the chapter highlighted, airports are critical avenues to preventing the illegal transportation of gold overseas. But effective trade management will only be successful in conjunction with money laundering investigations and surveillance of illicit financial flows associated with the industry. In addition, more attention needs to be paid to strengthening customs procedures and border management.

Finally, this chapter also reveals the changing narrative of the gold economy in parallel to the expansion of ASGM worldwide. The informalization of gold production and the dynamics involved in smuggling the mineral has resulted in a growing infiltration of illicit intermediaries contributing to a narrative in which the gold economy is increasingly perceived as illicit or illegal. This factor further complicates the already difficult process for effective gold management and successful regulatory attempts within the global gold production system.

NOTES

1. The list include: tobacco, alcohol, tea, drugs, cotton, wool, pepper and butter.
2. The task force was composed by the public and private institutions in charge of managing the Jorge Chavez International Airport. The public ones being: Customs, the Money laundering Unit of the Ministry of Justice, the Financial Intelligence Unit and the National Reserve Bank, and the private involving airlines and the conglomerate Lima Airport Partners.

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