

**ILLICIT MINING: THREATS TO U.S. NATIONAL  
SECURITY AND INTERNATIONAL HUMAN RIGHTS**

---

---

**HEARING**

BEFORE THE

SUBCOMMITTEE ON WESTERN  
HEMISPHERE, TRANSNATIONAL  
CRIME, CIVILIAN SECURITY,  
DEMOCRACY, HUMAN RIGHTS,  
AND GLOBAL WOMEN'S ISSUES

OF THE

COMMITTEE ON FOREIGN RELATIONS  
UNITED STATES SENATE

ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

DECEMBER 5, 2019

Printed for the use of the Committee on Foreign Relations



Available via the World Wide Web:  
<http://www.govinfo.gov>

U.S. GOVERNMENT PUBLISHING OFFICE

COMMITTEE ON FOREIGN RELATIONS

JAMES E. RISCH, Idaho, *Chairman*

MARCO RUBIO, Florida	ROBERT MENENDEZ, New Jersey
RON JOHNSON, Wisconsin	BENJAMIN L. CARDIN, Maryland
CORY GARDNER, Colorado	JEANNE SHAHEEN, New Hampshire
MITT ROMNEY, Utah	CHRISTOPHER A. COONS, Delaware
LINDSEY GRAHAM, South Carolina	TOM UDALL, New Mexico
JOHNNY ISAKSON, Georgia	CHRISTOPHER MURPHY, Connecticut
JOHN BARRASSO, Wyoming	TIM Kaine, Virginia
ROB PORTMAN, Ohio	EDWARD J. MARKEY, Massachusetts
RAND PAUL, Kentucky	JEFF MERKLEY, Oregon
TODD, YOUNG, Indiana	CORY A. BOOKER, New Jersey
TED CRUZ, Texas	

CHRISTOPHER M. SOCHA, *Staff Director*

JESSICA LEWIS, *Democratic Staff Director*

JOHN DUTTON, *Chief Clerk*

SUBCOMMITTEE ON WESTERN HEMISPHERE,  
TRANSNATIONAL CRIME, CIVILIAN SECURITY, DEMOCRACY,  
HUMAN RIGHTS, AND GLOBAL WOMEN'S ISSUES

MARCO RUBIO, Florida, *Chairman*

ROB PORTMAN, Ohio	BENJAMIN L. CARDIN, Maryland
TED CRUZ, Texas	TOM UDALL, New Mexico
CORY GARDNER, Colorado	JEANNE SHAHEEN, New Hampshire
JOHN BARRASSO, Wyoming	TIM Kaine, Virginia

## CONTENTS

---

	Page
Rubio, Hon. Marco, U.S. Senator From Florida .....	1
Cardin, Hon. Benjamin L., U.S. Senator From Maryland .....	3
Filipetti, Carrie, Deputy Assistant Secretary, Bureau of Western Hemisphere Affairs, U.S. Department of State, Washington, DC .....	6
Prepared statement .....	8
Glenn, Richard H., Deputy Assistant Secretary, Bureau of International Nar- cotics and Law Enforcement Affairs, U.S. Department of State, Washington, DC .....	10
Prepared statement .....	12
Haeni, Jeffrey, Acting Deputy Assistant Administrator, Bureau for Economic Growth, Education and Environment, U.S. Agency for International Devel- opment, Washington, DC .....	18
Prepared statement .....	20
Lechleitner, Patrick J., Assistant Director for International Operations and Homeland Security Investigations, U.S. Immigration and Customs Enforce- ment, Washington, DC .....	22
Prepared statement .....	24
Thompson, Regina E., Deputy Assistant Director, Criminal Investigative Divi- sion, Federal Bureau of Investigation, Washington, DC .....	27
Prepared statement .....	29

### ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Responses of Carrie Filipetti to Questions Submitted by Senator Benjamin L. Cardin .....	43
Responses of Carrie Filipetti and Richard H. Glenn to Questions Submitted by Senator Benjamin L. Cardin .....	45
Responses of Richard H. Glenn to Questions Submitted by Senator Benjamin L. Cardin .....	48
Responses of Jeffrey Haeni to Questions Submitted by Senator Benjamin L. Cardin .....	49
Responses of Patrick J. Lechleitner to Questions Submitted by Senator Ben- jamin L. Cardin .....	60
The Committee Received No Responses From Ms. Regina E. Thompson for the Following Questions Submitted by Senator Benjamin L. Cardin .....	64
Miami Herald Article Submitted by Senator Benjamin L. Cardin .....	66
Venezuela, The Smugglers' Paradise Article Submitted by Benjamin L. Cardin .....	71
Global Witness Statement Submitted by Benjamin L. Cardin .....	75



# **ILLICIT MINING: THREATS TO U.S. NATIONAL SECURITY AND INTERNATIONAL HUMAN RIGHTS**

**THURSDAY, DECEMBER 5, 2019**

U.S. SENATE,  
SUBCOMMITTEE ON WESTERN HEMISPHERE,  
TRANSNATIONAL CRIME, CIVILIAN SECURITY, DEMOCRACY,  
HUMAN RIGHTS, AND GLOBAL WOMEN'S ISSUES,  
COMMITTEE ON FOREIGN RELATIONS,  
*Washington, DC.*

The subcommittee met, pursuant to notice, at 10:08 a.m. in room SD-419, Dirksen Senate Office Building, Hon. Marco Rubio presiding.

Present: Senators Rubio [presiding], Cruz, and Cardin.

## **OPENING STATEMENT OF HON. MARCO RUBIO, U.S. SENATOR FROM FLORIDA**

Senator RUBIO. The Senate Foreign Relations Subcommittee on the Western Hemisphere, Transnational Crime, Civilian Security, Democracy, Human Rights, and Global Women's Issues will come to order. We have the longest name. We've got to come up with an acronym.

Anyway, the title of the hearing is, "Illicit Mining and Threats to Our National Security, and the Threat to Human Rights."

I want to thank the ranking member. Our offices collaborate on a number of issues; in fact, on a lot of issues. But in particular with regard to this hearing, they've been great in terms of securing the panel of witnesses and so forth.

I also want to acknowledge the investigative reporting of the Miami Herald, which shined a light on this issue last year and in particular how it related to how illegally mined gold was being transacted out of South Florida.

Last year I had the chance to visit the Summit of the Americas in Peru, and I visited our embassy staff, which briefed me and my staff on the environmental and ecological impacts of illegal mining in Peru, and on the ongoing efforts to fight these activities, which are associated with crime, and I was really impressed with their work. I was also shocked to see the scale of this activity that's ongoing in so many places, not just Peru.

Illicit mining is a very lucrative business. In fact, at times it's far more lucrative than drug trafficking. So during this hearing we're going to hear directly from experts in our government about the negative impacts of illegal mining and about all the criminal

activities that surround it, such as the trafficking of firearms and explosives, human smuggling and trafficking; and, of course, it's also very valuable for money laundering.

Mining is an important income-generating industry for many countries in the Western Hemisphere. In 2016, Latin America produced 20.5 percent of global gold output, and supplied 58 percent of U.S. gold imports. According to these sources, like the 2016 Minerals Yearbook, the production leads to water contamination, it leads to mercury and cyanide releases, deforestation and ecosystem damage. That actually is according to a report called the Wires Act of 2017.

This mining has also been linked, in addition to those environmental damages, to human rights abuses, and that includes the displacement of the local populations from the areas being mined. It's led to human trafficking and forced labor, and even prostitution.

Illegal gold mining's effects are not limited to the communities outside of the United States. They are, in fact, a direct threat to our interests. Criminal organizations that traffic in illicit gold, for example, operate right here in the United States. Unfortunately, my home community in my home state of Florida, South Florida, has become a major entry point for this activity.

It's refined, it's made into jewelry or placed into our electronics, and then it's sold to U.S. consumers, much of it, if not all of it, untraceable. Criminal organizations are using these anonymous shell companies to help launder funds that are associated with illicit mined gold into the U.S. The Miami Herald reported last year that in Latin America, "criminals see mining and trading precious metals as a lucrative growth business carefully hidden from U.S. consumers who flaunt gold around their necks and fingers but have no idea where it comes from or who gets hurt."

Illegal mining operates outside the law, and because it does, international conventions and mining industry guidelines, things that control toxic mining processes, inputs like cyanide and mercury, are ineffective. Law enforcement presence in these areas is often weak, too. That's due to corruption, but also due to state resource constraints and the remoteness of these mining sites, and deforestation is directly linked to illicit gold mining, particularly extensive in the Amazon region, and has contributed to widespread damage within tropical rain forests.

I'm focusing here today on Latin America in particular given its proximity to our borders and its direct threat to our security and our interests. Specifically, countries like Venezuela, Peru, and Colombia continue to have major problems with illicit mining activity. This remains a major key factor of instability as you have criminal networks violating international standards of human rights within their borders. In 2016, the government of Peru declared a temporary state of emergency on widespread mercury poisoning in Madre de Dios, an area in which four or five adults tested positive for high levels of mercury.

In 2017, Colombia's Comptroller General reported that 80 percent of all mining activity in Colombia was illicit. Experts estimate that these groups may annually earn as much as \$2.4 billion from illegal mining, 3 times the value of Colombia's cocaine production.

Our State Department describes illegal gold mining in Latin America as “a direct threat to U.S. national security and to the integrity of the U.S. and international financial system.”

I want to commend the government of Peru, who at the beginning of this year began a comprehensive plan against illegal mining in that region I just mentioned earlier, in Madre de Dios, and in September of 2019 Colombian President Duque convened a regional group of leaders to coordinate action to prevent further Amazon rainforest destruction. Various other countries have responded by creating policies or laws controlling mining, including a permanent ban which is now in place in El Salvador.

In March of 2019 the Treasury Department imposed sanctions on Venezuelan state-run gold mining company Minerven for engaging in illicit transactions that have supported the illegitimate regime of Nicolas Maduro. But the willing countries that are trying to help us need to be equipped with the necessary tools to combat this illicit activity. Mining firms in countries can apply guidelines to reduce human rights abuses, environmental degradation, and other negative impacts. There is a major human toll if we do not get control of this problem, and I look forward to hearing your responses to questions.

What I really want to focus on today is how do we mitigate the impact that illegal gold mining has on the health and human rights of indigenous groups residing in these regions; how has the presence of sex trafficking in and around mines driven the recent sharp rise in HIV/AIDS cases and deaths in the region; what can the U.S. do to play a leading role in countering illegal mining in our hemisphere and beyond. It’s my hope that we can shed some light on this important issue and these important questions.

I want to now recognize my colleague, the ranking member, Senator Cardin.

**STATEMENT OF HON. BENJAMIN L. CARDIN,  
U.S. SENATOR FROM MARYLAND**

Senator CARDIN. Well, let me thank Chairman Rubio for his leadership on this and for calling this hearing. I want to thank all of our witnesses for being here today as we try to deal with this issue.

The chairman mentioned the article that appeared in the Miami Herald entitled “Dirty Gold, Clean Cash.” I would ask unanimous consent that that article could be made part of our record.

Senator RUBIO. Without objection.

[The information referred to is located at the end of the hearing]

Senator CARDIN. I would also ask consent that the article in regards to “Organized Crime Controls Gold: Exploitation in Venezuela,” be made part of this record; and also ask consent that the statement from Global Witness be made part of our record.

[The information referred to is located at the end of the hearing]

Senator CARDIN. They all underscore the point the chairman made, that illicit mining fuels corruption, conflict, human rights abuses, and threatens the United States’ national security.

We can give many examples. I’ll just give one global example of this. In Burma, the Burma jade trade is well known as being the

financial source for the Burmese military and their activities, and recently we've seen it used in regards to the Rohingya crisis. So the Burmese gems are now known as "genocide gems." I want to complement Cartier and Tiffany for not purchasing jade that's sourced from Burma.

In Latin America, over 20 percent of the world's gold supply comes from Latin America. Fifty-eight percent of U.S. gold imports come from those countries. The challenge is it's virtually impossible for us to be able to identify with certainty the source as to where that gold is coming from, so we could very well be supporting this illicit mining activity.

The State Department, as the chairman stated, and I'm going to repeat exactly what he said, the quote, because it's kind of chilling, that "illicit mining is a direct threat on U.S. national security and the integrity of the United States' and international financial systems." So we're at risk.

There's also a great deal of evidence that in our hemisphere, that we're going from narco-trafficking to illegal mining. And what is really frightening is that those criminal elements are finding it more profitable in the mining than they did in narcotics. There are estimates that in the Andes \$2.4 billion a year is earned in illicit mining, which is 3 times more than they were able to earn in cocaine trafficking.

So what do we do about this? I mean, I think that's the challenge. We know we have a problem; what do we do about it?

It should start with U.S. leadership. And quite frankly, Mr. Chairman, I think there's a very easy way for us to start. There is an international coalition known as the Extractive Industries Transparency Initiative, EITI, which is, I would suggest, a minimal effort to make sure that we have transparency, because we know in many cases these resources are in countries that are relatively poor even though they're resource rich. And the resource becomes a resource curse because it's used to fund corruption rather than the wealth of the country.

The EITI is an effort to try to get at that by adding transparency, and the United States should be a leader. Instead, President Trump has removed the United States as an implementing country. We need to reverse that. That was a mistake. It's an easy one, I think, for us to show our leadership in regards to dealing with transparency on extractive industries.

Fighting corruption at the highest levels of government and industry should be a cornerstone of U.S. foreign policy because it impacts our national security and it's who we are as a nation. Two pieces of legislation I authored, Section 1504 of the Dodd-Frank Act and the Global Magnitsky Act, work hand in hand to fight exactly that type of corruption that leads to the proliferation of illicit economic sectors all over the world.

I want to talk a moment about Section 1504, also known as the Cardin-Lugar anti-corruption provisions, requiring foreign and domestic oil and mining companies listed on the U.S. Stock Exchange to disclose their payments to governments, including tax payments. The late Senator Lugar was a great champion of 1504, which essentially gives us the information, and civil societies the evidence they need to hold leaders accountable for what's happening to their

mineral wealth. That part of Dodd-Frank instructed the Securities and Exchange Commission to write implementing rules for the law.

Well, it took them many years to get it done. They finally got it done, they issued the rules, and then the Trump administration came into power and one of the first things that they supported was a Congressional Review Act that removed that regulation from taking effect. Unfortunately, my Republican colleagues supported that.

Now, remember the debate during that discussion. They felt the rule was overly broad and that we would have a new rule. Well, it's 2 years later, or 3 years later now, and we're still waiting for that rule.

So we have a law, it's the law of the land, but we still don't have the implementing regulations issued by the SEC. But thankfully, the EU, Norway, and Canada all modeled their disclosure laws on Section 1504, and because of these efforts we've seen companies like Exxon exposed for their bad-faith dealings with corrupt government actors in the extractive industries.

So because we now have stock exchanges that require it, we are moving in that direction. It was U.S. leadership that provoked that activity, but the United States is now behind. Major oil companies such as Shell, BP, Total, Eni, and BHP also raise capital on the U.S. Stock Exchange to support the global standard now enforced in 30 countries and have written to the SEC to adopt similar rules. I hope we can get this done. We need a strong rule in the spirit of 1504 that will help, and I would hope we would have support on both sides of the aisle to get this done.

The Global Magnitsky Act also establishes the U.S. government to go after and enforce sanctions against corrupt actors. I encourage the administration to use this as a tool to create greater accountability in the illicit mining sector.

So I think we have some steps that we've already taken. The chairman mentioned some countries that have stepped forward and are doing some positive things. We know we have a problem. Let's work together to solve this problem and get the United States in the leadership in dealing with the extractive industries so that the resources of a nation can truly be a blessing rather than a curse.

I look forward to hearing from our witnesses.

Senator RUBIO. Thank you.

Let me introduce the panel here, quickly.

Ms. Carrie Filipetti is the Deputy Assistant Secretary in the Bureau of Western Hemisphere Affairs.

Mr. Richard Glenn is the Deputy Assistant Secretary in the Bureau of International Narcotics and Law Enforcement Affairs at the State Department.

Mr. Jeffrey Haeni is the Acting Deputy Assistant Administrator in the Bureau for Economic Growth, Education, and Environment at the U.S. Agency for International Development.

Mr. Patrick Lechleitner is the Assistant Director for International Operations and Homeland Security Investigations at U.S. Immigration and Customs Enforcement.

And Ms. Regina Thompson is the Deputy Assistant Director at the Criminal Investigation Division of the FBI.

We want to thank all of you for being here.

We'll start from right to left with you, Ms. Filipetti. Thank you.

**STATEMENT OF CARRIE FILIPETTI, DEPUTY ASSISTANT SECRETARY, BUREAU OF WESTERN HEMISPHERE AFFAIRS, U.S. DEPARTMENT OF STATE, WASHINGTON, DC**

Ms. FILIPETTI. Thank you, Chairman Rubio, Ranking Member Cardin. We greatly appreciate the opportunity to appear before you today to show the concerns of the State Department regarding illicit mining.

While my colleagues are going to describe the impact of this practice on the region, today I'm going to focus on Venezuela, where illicit mining perpetuates a horrific cycle of, as you said, corruption, violence, human rights abuses, disease, and ecological devastation.

As we know, Venezuela is a land blessed with immeasurable resources. We often speak about Venezuelan oil, but their resources extend far beyond that. Venezuela holds vast deposits of gold, precious minerals, and resources like coltan, which is used in manufacturing electronics. In fact, Venezuela's mining arc, or Arco Minero as it is called, comprises 12 percent of Venezuela's entire land mass, making it larger than Cuba, Portugal, or Panama.

Security is perhaps one of the most significant concerns when it comes to illicit mining, which we estimate makes up approximately 91 percent of all mining coming out of Venezuela. Prison gangs known as pranes colectivos, and ELN members and FARC dissidents, are all active in the mining arc. In many places these individuals maintain power over the mines themselves, over transit routes, or over the resources required to successfully mine, including mercury. This, along with their use of force, gives these gangs broad power over the communities living near the mines, in many cases making them dependent on the violent whims of these illegal groups for food, medicine, and a livelihood.

This leads to another threat, how illicit mining benefits the Maduro regime. The regime is determined to retain power, and it needs money to do so. This is a large reason why we have implemented sanctions, to cut off these sources of financial income and prevent the oil industry, for example, from being exploited for patronage. But since the regime lacks both the will and the capacity to stop people from exploiting mines, it facilitates its allies' access to mining revenue, and in so doing reinforces the loyalty of those allies.

And there are many innocents who are victims of this violent, corrupt network. There are, of course, the indigenous communities, as you both mentioned, who are disproportionately affected by illicit mining thanks to their high populations in the heavily mined states of Zulia, Amazonas, and Bolivar.

There are also those victims who are lured to the mines out of desperation. Many are subsequently exploited in forced labor or sex trafficking, including children, compelled through violence and fear by the groups running the mines.

In addition, trafficking in persons and sexual exploitation at mining camps has created significant spikes in HIV and AIDS.

A horrifying example is that of Leocer Jose Lugo, a former member of the Venezuelan military who was drawn to a mine in Bolivar

for work. When the gang he was working for discovered that he had previously worked for the armed forces, the 19-year-old was tortured and left for dead. They cut out his tongue and they made him swallow it, and when that wasn't enough they amputated his hands and they gouged out his eyes.

Leocer Jose Lugo is not the only example. Bolivar State is tragically the site of countless mass graves for an unknown number of victims, leaving National Assembly Deputy Angel Medina noting just last week that there have been over 40 massacres in the State of Bolivar alone since 2016.

But it is not just the violence that is a threat to the population. Among the other health risks are mercury poisoning and mosquito-borne diseases, particularly malaria. As a reminder, in 1961 Venezuela was the first country in Latin America to have eradicated malaria in the majority of its territory. Now, largely due to the collapsed public health system, the Maduro regime's incompetence, and the illicit mining industry, the WHO reported that Venezuela had the fourth highest malaria rate in the entire world between January and October of this year.

And with respect to mercury, a powerful neurotoxin used in the extraction of gold, a test performed in mining communities recently showed that over 90 percent of people working in the mines in Bolivar had unsafe concentrations of mercury in their urine, with effects also reaching 87 percent of women and 68 percent of children.

Now, this poisoned water harms both humans and the earth, as does the immeasurable amount of drilling and deforestation these practices require. They have wrought vast ecological damage to the vital Amazonian landscape, including portions of it that were supposedly protected, turning this beautiful ecologically significant landscape into the latest victim of the Maduro regime.

The crisis in Venezuela has led to the flight of over 4.6 million refugees, the collapse of a once prosperous country's educational, economic, industrial, and health care systems, and the deprivation of fundamental freedoms for tens of millions. Illicit mining is a key part of this story and one that needs to be better told.

This is why we deeply appreciate the opportunity to brief on the subject this morning. It's also why we have focused on imposing costs for engaging in the mining sector, both for the Maduro regime and for those foreign countries like Russia, China, and Turkey whose partnerships on illicit mining have enabled this horrific human and ecological devastation. It is why in March of this year the Treasury Department announced sanctions designations against the Venezuela state-owned gold industry, and it is why we stand in support of the National Assembly, the only remaining democratic institution in Venezuela, which has issued resolutions calling out the abuses of the mining industry and declaring contracts with the industry null and void.

Of course, our key focus is in uprooting the cause, the Maduro regime. A swift political transition is the single best and most effective way to reduce these and other abuses, and this remains the focus of the Department of State and our efforts on Venezuela.

Thank you very much for the opportunity to bring awareness of this important issue. I look forward to the questions.

[The prepared statement of Ms. Filipetti follows:]

## PREPARED STATEMENT OF CARRIE FILIPETTI

Chairman Rubio, Ranking Member Cardin, distinguished Members of the Subcommittee; thank you for the opportunity to appear before you today to share the concerns of the U.S. Department of State regarding illicit mining. While my colleagues have described the impact of this practice on the region as a whole, today I will focus my remarks on Venezuela, where illicit mining perpetuates a horrific cycle of criminality and both human and ecological abuse. In this cycle, lawless, ungoverned territories are taken over by armed and violent criminal and terrorist groups who strip Venezuelans, including many members of indigenous communities, of their land, their dignity, and often their lives, subjecting them to unsanitary conditions that have reversed decades of progress in combatting disease, poisoning their water supply with unsafe quantities of chemicals involved in the mining process, and destroying thousands of square kilometers of the Amazon.

Recognizing its incompetence in removing this threat, the Maduro dictatorship has begun to capitalize off of it, trading guns, cash, and control for loyalty to the regime.

Illicit mining is a therefore a perfect storm of criminality and corruption, and is a critical threat to the security, governance, cultural heritage, human rights, health, and ecology of Venezuela.

## WHAT IS THE MINING ARC?

Venezuela is a land blessed by immeasurable resources. Sitting on the world's largest known oil reserves, petroleum fueled Venezuela's rise. But Venezuela's riches extend far beyond oil.

Venezuela holds vast deposits of gold, diamonds and precious minerals, and resources like coltan, which is used in manufacturing batteries, cars, planes, and electronics. It is estimated that there are over 45 types of minerals, as well as one of the world's largest gold reserves in Venezuela's Mining Arc. This "Arco Minero," as it is called, is almost 112,000 square kilometers, making it 12 percent of Venezuela's entire landmass and larger than Cuba, Portugal, or Panama. But it is not just the size that matters—it is location. The territories with the largest reserves of these minerals are Zulia, Bolivar, and Amazonas, three states that are known not just for their mineral reserves but because of their high population of indigenous communities and because they are some of the most biologically diverse and ecologically significant lands in all of Venezuela. The resources in these states could greatly benefit the Venezuelan people, and highlight the beautiful cultural and biological diversity of the country. Instead, illicit extraction of these resources is generating profits that help prop up the illegitimate Maduro regime and leaves in its wake lawless, ungoverned territory managed by non-state armed groups, horrific human rights abuses, and vast ecological devastation.

## SECURITY: ARMED AND VIOLENT CRIMINAL AND TERRORIST GROUPS

I began noting threats posed by Venezuelan illicit mining. The first is the core of the problem: Security. Illicit mining makes up an estimated 91 percent of all mining coming out of Venezuela, and it provides a unique opportunity for illegal armed and violent criminal groups, including terrorist entities like the ELN and FARC, to cement their grip on power thanks to the profitability, permissive environment, and increasing government focus on mining as a substitute to oil profits. Prison gangs known as pranes, decentralized, pro-government gangs known as colectivos, and ELN members and FARC dissidents are all active in the mining arc. In many places, these individuals maintain power over the mines themselves, over the transit routes, or over the resources required to successfully mine, including mercury. This, along with their use of force, often gives these gangs broad power over the communities living near the mines, in many cases making entire communities dependent on the violent whims of these illegal groups for food, medicine, and a livelihood.

## GOVERNANCE: MADURO REGIME PATRONAGE NETWORK

This leads to another major threat: Governance. Illicit mining directly undermines our policy in Venezuela by enabling a patronage network that secures loyalty for the Maduro regime. The regime is determined to retain power, and it needs money to do so. This is a large reason why we have implemented sanctions—to cut off those sources of financial income and prevent the oil industry from being exploited for patronage. Since the regime lacks both the will and the capacity to stop people from exploiting mines, it facilitates its allies' access to mining revenue—and, in doing, reinforces the loyalty of those allies. In this way, the gangs, the military, and the gov-

ernment officials continue to receive largesse from the Maduro regime—a largesse that would otherwise have been successfully cut off via our petroleum and other sanctions.

#### HUMAN RIGHTS ABUSES: TRAFFICKING, TORTURE, AND INTIMIDATION

It is not these threat networks alone that are of concern. So, too, is the violence that stems from this system of corruption and patronage. As noted, these gangs have a monopoly on force in these regions, which are disproportionately populated by indigenous communities. According to the last census in Venezuela in 2011, only about 2.8 percent of the total population in Venezuela were from indigenous communities. In Zulia state, however—which is the capital of coal mining in Venezuela—indigenous communities like the Wayuu make up over 61 percent of the total population. Likewise, in Amazonas, there are over 20 ethnic groups, including the Yanonmami, and in Bolivar, communities like the Pemon, the Piaroa, and the Penare make up 7.5 percent of the total population.

Bolivar state is a devastating example of the human rights abuses committed in the wake of illicit mining. Like in many mining regions, human rights organizations cite a complete absence of government presence in Bolivar, leaving its residents subject to the order imposed under the non-state armed groups I've just described.

In the context of Venezuela's complex humanitarian emergency, people are lured to the mines out of desperation. Some arrive in search of anti-malarial medication, the distribution of which is controlled in large part by armed groups surrounding the mines. Others arrive seeking to pay for medical care or basic subsistence. Many are subsequently exploited in forced labor or sex trafficking, compelled through violence and fear by the group running the mine. There has been reporting that in some regions, the average age of those being sex trafficked is 13–14 years old.

Some victims have described facing a 2-day period of interrogation upon arrival and, if accepted to work the mines, are warned of consequences of not following the rules including gang rape, mutilation, and a slow, painful death. The Department of Labor's Findings on the Worst Forms of Child Labor reports that children are engaged in gold mining production.

Venezuelan NGO Centros Comunitarios de Aprendizaje (Cecodap) has reported that children travel with their parents to mining areas to perform activities related to gold mining.

Leocer José Lugo was a former member of the Venezuelan military, drawn to the Yin Yan mine in Bolivar for work. When the gang he was working for discovered he had once been a member of the armed forces, the 19-year-old was tortured and left for dead. They cut out his tongue and made him swallow it, amputated his hands, and gouged his eyes.

Bolivar is also, tragically, the home of countless mass graves for an unknown number of victims. Testimony from one victim states that when the non-state armed groups first arrived, individuals who had run afoul of the armed group were murdered in the jungle, never to be seen again. But in recent years, the tortures and mutilations are made public, like those of Leocer José Lugo, to serve as a warning to others. Those who stand witness to this criminal economy are silenced by the fear that they or their loved ones may end up harassed, tortured, or murdered. National Assembly Deputy Angel Medina noted just last week that there have been over 40 massacres in the state of Bolivar alone since 2016, and U.N. High Commissioner for Human Rights Michelle Bachelet noted the alarming scope of ecological devastation of illicit mining and the adverse effect on the lives of indigenous communities in her July report.

#### HEALTH: REVERSING DECADES OF PROGRESS

This leads to another victim of illicit mining: human health. Two of the most serious concerns are mercury poisoning and mosquito-borne diseases—particularly malaria. Because of the rapid expansion of mining in the region, we have reports of waterways like the Orinoco river, a main water source for many indigenous communities, contaminated with mercury, a powerful neurotoxin that is used to extract gold. Tests performed in mining communities across Bolivar state found that over 90 percent of people working in the mines showed unsafe concentration of mercury in their urine, with effects also reaching 87 percent of women and 68 percent of children.

Mercury is not the only health concern caused by illicit mining. Men, women, and children involved in gold mining are exposed to accidents and injuries as a result of this activity.

Trafficking in persons and sexual exploitation at mining camps has created spikes in HIV/AIDS as well as exponential increase of malaria, diphtheria, chikunguna,

yellow fever, and dengue fever cases due to the large amounts of standing water at illicit mining sites. This is especially poignant when you recall the incredible achievements Venezuela once had in confronting these diseases. Back in 1961, Venezuela was praised as the first country in Latin America to have eradicated malaria in the majority of its territory. Now, largely due to the collapsed public health system and the illicit mining industry, the WHO reported over 323,392 malaria cases in Venezuela between January and October of this year, 70 percent of which occurred in the heavily mined Bolivar and Amazonas states. This is the fourth highest rate in the entire world.

#### ECOLOGY: DEFORESTATION OF THE AMAZON

This poisoned water harms both humans and the earth, as does the immeasurable amount of drilling and deforestation these practices require. These practices have wrought vast ecological damage to the vital Amazonian landscape. The territory in the mining arc is home to over 9,400 flora, 2,100 of which are endemic. And yet, from 2011–2015, immediately following the nationalization of the mining sector, over 2,821 square kilometers were destroyed due to illicit mining. 50 percent of these territories were in supposedly “protected” areas. And it has only gotten worse, as the Amazon biome becomes yet another victim of the Maduro regime.

#### U.S. APPROACH

The crisis in Venezuela has led to the flight of over 4 million refugees, the collapse of a once prosperous country’s educational, economic, industrial, and healthcare systems, and the deprivation of fundamental freedoms from tens of millions. Illicit mining is a key part of this story, and one that needs to be better told. To do so is, however, challenging: We only know of these heinous acts because of members of Venezuela’s civil society who put themselves in harm’s way to research and document these horrors. They do so at great personal risk, and we are forever grateful for their service and sacrifices.

For our part, we will not stand idly by. We have responded to these concerns, primarily through executive authorities that allow us to sanction individuals, entities, and sectors in Venezuela. In March of this year, the Treasury Department announced specific sanctions designations against the Venezuelan state-owned gold sector company, MINERVEN and its president Adrian Antonio Mata. To date, we have sanctioned over 200 individuals and entities in Venezuela.

We are also focused on imposing costs on those foreign partners, including Russia, China, and Turkey, whose partnerships on illicit mining have enabled this horrific human and ecological devastation. And we stand in support of the National Assembly, Venezuela’s only remaining democratic institution, which has passed several resolutions related to the mining region, including one on November 12 prohibiting gold contracts, one on September 3 tying non-state actors to illegal mining, and one last month creating a committee to investigate the abuses and corruption of the mining region. We stand ready to receive the findings of this National Assembly committee once complete, and will take appropriate action to help bring this nefarious activity to an end.

Of course, our key focus is on uprooting the cause: the Maduro regime. A swift political transition is the single best and most effective way to reduce these and other abuses. And this remains the focus of the Department of State in our efforts on Venezuela.

Thank you for the opportunity to bring awareness of this important issue. I look forward to the Committee’s questions.

Senator RUBIO. Thank you.

Mr. Glenn.

#### **STATEMENT OF RICHARD H. GLENN, DEPUTY ASSISTANT SECRETARY, BUREAU OF INTERNATIONAL NARCOTICS AND LAW ENFORCEMENT AFFAIRS, U.S. DEPARTMENT OF STATE, WASHINGTON, DC**

Mr. GLENN. Chairman Rubio, Ranking Member Cardin, good morning and thank you for your interest in this vital issue. I’m here this morning to speak to you about our efforts at the State Department’s Bureau of International Narcotics and Law Enforcement Affairs to combat illicit mining in the Western Hemisphere.

It is a global concern that in our hemisphere it is most prevalent in Bolivia, Brazil, Colombia, Ecuador, Guyana, Mexico, Nicaragua, Peru, Suriname, and Venezuela. That's a good number of countries. Illegal mining fuels organized crime and narco-trafficking, corruption, trafficking in persons, violence, and environmental destruction.

Transnational criminal organizations, which I will refer to as TCOs, threaten the national security and prosperity of the United States by using gold, mostly mined illegally in remote areas in South America, to launder illicit profits through the U.S. financial system. For the purposes of this hearing I will focus most of my words on Peru since it is the largest producer of gold in Latin America and the sixth largest in the world.

Mr. Chairman, you and I were in Peru at the same time last year and got a brief from our embassy staff on the depth of destruction in the Amazon jungle due to illegal mining. Deforestation associated with illegal mining destroys rain forests or has destroyed rain forests equivalent to the size of 7 times the City of Miami in just the region of Madre de Dios. I brought in some pictures here that we will submit for the record. I think seeing such images helps us better understand the enormity of the challenge we face.

As our neighbors in the hemisphere cracked down on the narcotics industry, TCOs began to move into the under-regulated gold mining sector as it offers lucrative incentives. Experts believe that a third of the gold leaving Peru is illegally mined. In 2019, Peru's Financial Intelligence Unit found that illegal gold mining emerged as the largest source of money laundering, at more than double the amount of narcotics.

Once gold is mined, it is difficult to trace its origin. Criminals use cash or wire transfers to pay for gold, which makes transactions essentially anonymous. Lax registration procedures or falsified records allow criminal groups to set up companies to buy gold used to launder funds and enter the legitimate supply chain.

Like most criminals, illegal mining thrives where there is little state presence. Major drug production locales in the hemisphere overlap with illegal gold mining areas. The routes used to smuggle drugs and precursor chemicals are also used to smuggle gold, humans, supplies, and equipment used for illegal mining.

In addition to financing activities and controlling the labor, TCOs also buy illegal gold and launder their money through gold consolidators, defunct mines, semi-refiners, and shell companies. To combat this threat, the State Department helps partner nations disrupt criminal networks responsible for illegal mining and its associated crimes. We reinforce transparent and traceable supply chains for gold and eliminate the use of mercury. We recently signed an MOU with Peru just 2 years ago, in 2017, to combat illegal gold mining and its deleterious effects on the rule of law, of human rights, and the environment.

Since the MOU was signed, we have funded trainings for prosecutors to build complex environmental cases and to set up a forensic laboratory with advanced technology to detect mercury and map crime scenes. Our assistance is helping the government of Peru take action. In February of this year they launched Operation Mer-

cury to evict illegal miners from Madre de Dios. This operation has led to subsequent interdictions around the country, as well as a 92 percent reduction in rates of deforestation caused by illegal mining in the Madre de Dios area.

We recognize illegal mining is a threat and effective response requires strengthening law enforcement and regulatory capacity of partner nations and improving regional coordination. We recently established a project with the Organization of American States to strengthen the national and regional systems that combat illegal mining financial structures and enhance regional collaboration. Working with financial intelligence units and customs and immigration authorities, the project will increase investigations and convictions of crimes related to illegal mining.

While we have made progress, stronger action is needed to stop the trafficking of illegal gold through U.S. ports of entry and to target bad actors at home and abroad. We must continue to advance our shared interests through a coordinated interagency approach, with an eye toward developing greater cross-border collaboration.

Our hemispheric collaboration is essential to disrupting these criminal networks, reducing the demand for human trafficking, and preventing illegally mined gold from entering the U.S. and international markets.

Chairman Rubio, Ranking Member Cardin, thank you again for the opportunity to appear before you today. I look forward to your questions.

[The prepared statement of Mr. Glenn follows:]

PREPARED STATEMENT OF RICHARD H. GLENN

Chairman Rubio, Ranking Member Cardin, distinguished Members of the Subcommittee; thank you for the opportunity to appear before you today to discuss the work of the Bureau of International Narcotics & Law Enforcement Affairs (INL) at the U.S. Department of State to combat illicit mining. Mining in violation of the laws of the nation in which the activity occurs often takes place in remote areas, and is difficult to police, which leaves opportunities for organized criminal groups to carry out this activity. Transnational criminal organizations (TCOs), including drug trafficking organizations (DTOs), and insurgent groups use gold, mostly mined illegally in South America, to reap billions in illicit profits that further bolster their strength and long-term viability. They also use gold trafficking as a mechanism to launder profits from other illicit activities. Illicit mining threatens the national security and prosperity of the United States and our partners throughout Latin America by compromising the lawful gold supply chain and exploiting the U.S. financial system for illegal gain.

TCOs take advantage of a lack of state presence, corruption, and weak rule of law. They implement an efficient, low-risk business model that complements their traditional focus on narcotics production and trafficking. TCOs use illicitly mined gold to launder criminal proceeds by selling illegally mined gold to legal supply chains, which then exports it to refineries in the United States, China, India, the United Arab Emirates, Switzerland, and Italy. This scheme provides TCOs clean cash with high profits at low risk. In addition, illegal gold mining operations enable human trafficking; endangers public health; and destroys natural resources.

ILLEGAL GOLD LARGEST SOURCE OF MONEY LAUNDERING

In the last 10 to 15 years, some TCOs in the Western Hemisphere realized gold trafficking can provide them higher and easier returns than cocaine trafficking. Gold prices increased significantly between 2000 and 2012, reaching their peak at \$1,895 an ounce between 2011 and 2012. The heightened focus on counternarcotics operations increased the risks for these groups to produce and traffic narcotics and the move into the under-regulated gold mining sector offered lucrative incentives. One of the main incentives is that it is easy to import illegal gold into the United States. For example, although passengers must declare currency or monetary in-

struments such as gold coins, valued at \$10,000 or greater, non-monetized gold such as gold bars do not require the same reporting because it is not considered a monetary instrument. As a result, it is legal for a passenger to fly into the United States with, for example, 50 pounds of gold bullion, worth \$1 million at today's prices, without providing the same customs declaration information required when traveling with \$1 million in cash. Therefore, the individual passes through customs and does not automatically trigger secondary screening.

Peru is the top gold producer in Latin America and the sixth largest in the world. The Global Initiative Against Transnational Organized Crime, a network of over 430 independent and regional experts, estimates up to 28 percent of the gold leaving Peru is illegally mined.

According to a report released by Verite, a non-profit research organization, illegal gold mining generates an estimated \$3 billion annually in Peru. In 2019, Peru's Financial Intelligence Unit found that illegal gold mining emerged as the largest source of money laundering, at more than double the amount related to illicit narcotics profits.

Although cocaine production in Colombia has risen to record levels, Colombian DTOs, dissidents of the Fuerzas Armadas Revolucionarias de Colombia (FARC), and other criminal groups have nevertheless turned also to the illegal gold trade. They have made substantial revenue through illegally mined gold in recent years and often use it to also launder their revenue from drug trafficking. Colombia is the fourth largest gold producer in Latin American and 21st largest globally; the government estimates over 80 percent of gold mined in Colombia is mined illegally. This activity is widespread and coexists with cocaine trafficking in some areas controlled by FARC dissidents and other armed groups that operate in locations where there is little effective state presence, such as remote parts of Antioquia, Choco, Cauqueta, Nariño, and the Amazonas departments.

#### TCOS CONTROL MANY ASPECTS OF ILLEGAL MINING

Like most crimes, illegal mining thrives where the state is not present. Major drug production locales in the hemisphere overlap with major gold mining areas. The routes used to smuggle drugs and precursor chemicals are also used to smuggle gold, migrants, and controlled mining inputs such as mercury, petroleum, and dynamite. In Peru, family clans control these areas and direct illicit activities, such as drug production, illegal mining, illegal logging, and human and wildlife trafficking, which then feed into transnational criminal networks. With the opening of the Trans-Oceanic highway in 2011, illegal mining skyrocketed in Peru, particularly in the Amazonian region of Madre de Dios. The road has enabled illegal miners to bring heavy machinery, laborers, and inputs to set up gold mines there. Since illegal miners do not have access to capital through the formal banking sector, they often turn to TCOs and other criminal groups for financing. This gives TCOs another opportunity to launder drug money through the sale of heavy equipment, such as excavators and dredges.

Residents of mining regions in Peru refer to criminal groups operating locally as "assassins," as they are often equipped with satellite phones and automatic weapons. In 2017, police in Peru's Madre de Dios region uncovered a mass grave with 20 burned bodies thought to be the bodies of laborers from illegal mining camps. In addition to financing the activities and controlling the labor, TCOs are principal purchasers of illegal gold and launder their money through gold consolidators, semi-refiners, and shell companies. TCOs have also bought long-defunct gold mines to launder additional money by claiming the mines are back in production, while passing off purchases of dirty gold as their own.

In Colombia, criminal organizations frequently engage in both narco trafficking and illegal mining operations, as illegally mined gold is an efficient mechanism to launder profits from the drug trade. There is also a strong connection between illegal mining, forced labor, and trafficking-in-persons, which provide miners and sex workers for illegal mining camps. In addition, children are engaged in illegal mining operations as well as activities related to the supply chains of these operations.

#### MINED GOLD IS EASIER TO TRANSACT THAN DRUG CASH

Gold's origin is difficult to trace; once gold is melted down, it is almost impossible to trace. People often use cash to pay for gold, which makes transactions anonymous. Lax registration procedures allow criminal groups to set up companies to buy gold used to launder funds. Some licensed brokers also purchase illegally mined gold to pad their profits. Although gold exporters are required to provide documentation citing the gold's origin to ensure its legitimacy, these documents are easy to falsify

or obtain from corrupt officials and allow illegally mined gold to enter the legitimate supply chain.

#### ILLEGAL MINING FUELS HUMAN TRAFFICKING AND ENVIRONMENTAL DESTRUCTION

Illegal mining also promotes and is associated with other crimes, including sex and labor trafficking. The lucrative nature of illegal mining in Peru and Colombia has driven the demand for forced sex and labor trafficking, particularly in Peru's Madre de Dios, Puno, and Cusco regions. In the annual Trafficking of Person's Report for Peru, Embassy Lima reported that traffickers subjected victims to forced labor in artisanal gold mines and nearby makeshift camps that provide services to miners; traffickers compel victims through deceptive recruitment, debt-based coercion, restricted freedom of movement, withholding wages, and threats and use of physical violence. The International Labor Organization estimates that since 2010, 50,000 children have been forced to work in the illegal gold mines or subjected to sex trafficking in mining camps in the Madre de Dios and Puno regions. According to informal reports, mining workers have disappeared when attempting to denounce the inhumane working and living conditions. Workers have also reported that when trying to separate from their employer, they were forced to traffic drugs in order to receive their payment.

Illegal gold mining also has severe environmental consequences. In Colombia, gold mining operations frequently use mercury, a potent neurotoxin used to extract gold from the sediment, which results in severe and long-lasting soil, air, and water pollution. In Peru, illegal mining has destroyed a part of the Amazon rainforest equivalent to 7 times the size of Miami. The majority of this deforestation has taken place within the last 10 years and the pace of destruction is quickening. Miners have moved into some of the most biodiverse areas of the world, including the Tambopata National Reserve in Madre de Dios. The attached images, provided by the U.S. Embassy Lima, represent a glimpse of the devastation illicit mining poses on Peru's biodiversity. In Peru, Colombia, and other countries with illegal mining, mercury is poisoning the rivers and will impact public health for generations. In this process, mercury is also being released to the atmosphere where it can travel thousands of miles. An estimated 70 percent of mercury deposited in the United States comes from global sources. Each year, illegal miners in Peru release an estimated 40 metric tons of mercury into rivers, soils, and air, which allows it to enter the food chain. In 2012, researchers from Stanford University found that 60 percent of the fish species and 78 percent of adults in Madre de Dios had mercury contamination above EPA limits—in some cases, over 27 times the reference limit.

#### U.S. COLLABORATION ADDRESSES ILLEGAL MINING

The United States signed a Memorandum of Understanding (MOU) with the governments of Peru and Colombia, in 2017 and 2018 respectively, to expand bilateral cooperation to combat illegal mining and minimize its negative impacts. The Peru MOU supports over 40 activities that build the Peruvian government's capacity to fight TCOs, eradicate illegal mining from protected areas, support the development of transparent and traceable supply chains for small-scale gold, and eliminate the use of mercury from artisanal and small-scale gold mining. Support from INL aims to disrupt criminal networks that smuggle migrants, narcotics, illegal gold, and controlled chemicals, as well as to prevent illegally mined gold from entering the United States and the international market.

Within the framework of the MOU, INL works with other U.S. government agencies and the Government of Peru to train the police, prosecutors, judges, auditors, and others responsible for investigating these crimes and convicting perpetrators. INL provides capacity building and mentoring to Peru's Financial Intelligence Unit to identify money laundering risks in the mining sector and to take steps to raise scrutiny on suspicious transactions linked to illegal mining. INL also trains customs authorities at ports and airports on how to recognize fraudulent documents to increase seizures of illegal gold before it leaves Peru.

The U.S. Embassy in Lima issued a Commercial Advisory encouraging buyers, sellers, traders, and refiners of gold to conduct additional due diligence as part of their risk management regimes to account for the influx of illegally mined Peruvian gold into existing supply chains. It also alerted buyers that illegally mined gold from Peru is exported via neighboring countries to obscure its origin and illegality before it enters the international market.

In February 2019, the Government of Peru launched Operation Mercury, a whole-of-government operation to evict illegal miners from Madre de Dios, the illegal gold epicenter in Peru. The 2-year plan began with a 2-week operation, led by 1,200 Peruvian police, 300 soldiers, and 70 prosecutors, aimed at removing an estimated

6,000 illegal miners from the La Pampa area of Madre de Dios and establishing a semi-permanent government presence in the region to prevent their return. INL provided operational support to the Peruvian National Police efforts and supported the Attorney General's efforts to set up a forensics laboratory in Madre de Dios with advanced technology to detect mercury and map crime scenes. The successful operation has led to subsequent interdictions around the country, as well as a 92 percent reduction in rates of deforestation caused by illegal mining in the area. Through the illegal gold mining MOU, INL will increase support for Operation Mercury as it enters into a new phase where authorities will remain in the region for 2 years to consolidate gains.

The U.S.-Colombia MOU signed at the 2018 High-Level Dialogue has increased joint efforts to combat illegal mining, including detecting and eliminating mercury usage. INL provides training as well as field and laboratory equipment to Colombian law enforcement entities for detecting and supporting prosecution of illegal mining activities for environmental damage, including a \$1.5 million environmental chemical laboratory. INL helps Colombia build institutional capabilities in the police, armed forces, office of the attorney general, and judicial institutions to detect, investigate, and prosecute environmental crimes, as well as money laundering, narcotics trafficking, and other organized criminal activity. This year alone, INL's direct operational support and the crucial use of INL-supported helicopters have allowed the Colombian National Police to seize or destroy more than \$4 million worth of heavy machinery and other mining equipment belonging to TCOs. Through the U.S.-Colombia MOU, INL coordinates with USAID and the Oro Legal program, a USAID-funded initiative, which aims to formalize small-scale and medium-scale mining operations, reduce mercury use, and rehabilitate degraded lands. This coordinated inter-agency approach provides a comprehensive set of interventions to address the complex challenges associated with illegal gold mining in Colombia.

INL recognizes that illegal mining is an issue that extends beyond individual country borders and that tackling this issue head-on requires strong regional networks. In August 2019, INL established a 3-year project with the Organization of American States (OAS) to strengthen the national and regional systems that combat illegal mining financial structures and to enhance regional collaboration. Through training courses focused on financial intelligence units, customs and immigration authorities, and agencies responsible for the administration of seized and confiscated assets, we seek to enhance regional collaboration and to increase investigations and convictions of crimes related to illegal mining. We also seek to increase the quantity and value of seized and confiscated assets linked to TCOs.

While we have made progress, stronger regulation is needed to stop the trafficking of illegal gold through U.S. ports of entry and to target bad actors at home and abroad. I am glad to be joined by my colleagues who work on the domestic law enforcement aspect of this issue.

#### CONCLUSION

Illegal gold mining presents a direct threat to U.S. national security interests. TCOs use illegally mined gold to launder billions of dollars in revenue from other criminal activities through the United States, harming our legitimate businesses and exploiting our financial system for illicit gain. Illegal gold mining feeds corruption and insecurity, presenting serious governance challenges for our partners. Our collaboration with Peru and Colombia is essential to disrupting these criminal networks, reducing human trafficking, decreasing environmental and health impacts of illegal mining, and preventing illegally mined gold from entering the United States. We must continue to advance our shared interests through a coordinated inter-agency approach with an eye toward developing greater cross-border collaboration, given the regional nature of illegal gold mining and associated crimes. We must do more to identify financial and money-laundering networks, and the flow of controlled mining inputs and heavy equipment used in gold mining. Illuminating the methods and processes used to facilitate illegal mining and trafficking of illegally mined gold will help us intensify our efforts to combat this scourge.

#### ATTACHMENT: ENVIRONMENTAL DEVASTATION IN PERU

Illegal miners have moved into some of the most biodiverse areas of the world, including the Tambopata National Reserve in Madre de Dios along southeast Peru. Illegal mining is rapidly destroying parts of the Amazon rainforest and poisoning rivers with mercury causing severe environmental consequences. The below images, provided by the U.S. Embassy Lima, represent a glimpse of the devastation illicit mining poses on Peru's biodiversity.





Senator RUBIO. Thank you.  
Mr. Haeni.

**STATEMENT OF JEFFREY HAENI, ACTING DEPUTY ASSISTANT ADMINISTRATOR, BUREAU FOR ECONOMIC GROWTH, EDUCATION AND ENVIRONMENT, U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT, WASHINGTON, DC**

Mr. HAENI. Chairman Rubio, Ranking Member Cardin, thank you for the opportunity to testify about the important role the U.S. Agency for International Development, USAID, plays in addressing illegal and unregulated mining. Illegal and unregulated mining undermines U.S. interests around the globe, contributes to armed conflict and instability, provides funding to criminal networks, threatens our shared environmental goals, and menaces indigenous people(s).

The linkages between mineral wealth and development are complex and dynamic. Whether a country harnesses its mineral wealth for inclusive economic growth, or its mineral wealth leads to a downward spiral of corruption and violent conflict depends largely on a supportive policy framework and its enforcement, combined with citizen responsive governance, including transparency and accountability.

Within the minerals sector, artisanal and small-scale mining, ASM, is uniquely vulnerable to exploitation by corrupt officials, elites, and criminal groups. At least 40 million people in developing countries, most of them poor, work in the ASM sector, which is mostly informal in nature. Women and children are especially vulnerable to labor and sexual exploitation on illegal mining sites, especially in conflict or post-conflict environments.

Illegal ASM has helped finance prolonged and deadly conflicts throughout sub-Saharan Africa. In the Sahel, armed groups are increasingly seizing control of artisanal and small-scale gold mining sites in Mali, Burkina Faso, and Niger, which could further destabilize the region.

Artisanal and small-scale mining often occurs in and around protected areas of high biodiversity, which hampers efforts to protect critical ecosystems. In Colombia and Peru, artisanal and small-scale gold mining has deforested over 140,000 hectares of tropical forest.

Artisanal and small-scale gold mining is the largest source of mercury pollution on earth, as at least 10 million people use mercury to mine for gold in more than 70 countries, with severe effects on human health.

Unfortunately, we have no easy or quick solutions. Evidence suggests, however, that formalization of the sector is one effective step to break the link between minerals and armed conflict, mitigate environmental impacts, and minimize human rights abuses.

USAID has learned through experience that addressing illegal and unregulated mining requires a coordinated whole-of-government approach and long-term investments. We cannot solve this problem alone with development assistance. USAID invests in efforts to formalize and improve the ASM sector in partnership with national and local governments, civil society, and the private sector.

Over the last 5 years, USAID has awarded programs with an anticipated total value of \$125 million to address illegal and unregulated artisanal and small-scale mining in countries such as Afghanistan, the Central African Republic, Colombia, Cote d'Ivoire, Democratic Republic of the Congo, Peru, and Rwanda. On a recent trip to Colombia, USAID Administrator Mark Green commented that he was "shocked to see remnants of the illegal mining and the devastating consequences for the environment." But he was also heartened to witness firsthand the impact that USAID's programs have had to help support environmentally and socially responsible legal supply chains that "bring revenues into legal channels in a way that helps to support families and provides new revenues for the government."

In Latin America, USAID's programs in Peru and Colombia directly support bilateral MOUs between the United States and the aforementioned governments to counter illegal mining and related crimes. USAID recently launched a new 5-year \$23.9 million program in Peru to strengthen environmental justice institutions, reduce environmental crimes, and support civil society and the media to serve as effective watchdogs.

In Colombia, USAID funded programs to promote legal and responsible mineral supply chains in Antioquia and Choco. These programs have helped formalize 42 mining operations, eliminate nearly 40 tons of mercury from mining operations, assisted in generating \$110 million of legal gold sales, and rehabilitated 17,000 hectares of land affected by mining.

In Africa, USAID works closely with the government of the Central African Republic to improve compliance with the Kimberley Process and reduce the flow of conflict diamonds, and helps to establish legal, responsible mineral supply chains for tin, tantalum, tungsten, and gold in the Democratic Republic of the Congo.

In 2010, the United Nations reported that almost every mine site in eastern DRC was under the control of armed groups. Since that time, USAID has supported the validation of more than 600 mine sites as conflict free. In 2018, validated conflict-free supply chains in the DRC legally exported approximately 15,800 tons of minerals worth over \$285 million.

A comprehensive solution for illegal mining cannot succeed without also strengthening the governance of industrial mining. That is why USAID has invested more than \$19 million in 17 countries to advance the Extractive Industries Transparency Initiative, a voluntary global partnership between governments, extractive industry companies, and civil society to promote the transparency and accountable management of oil, gas, and mineral resources.

USAID's interest is and always will be to work with governments, civil society, and the private sector in countries on their journey to self-reliance. Part of this journey is the effective management of natural resources, including high-value minerals.

Thank you for your time, and I look forward to your questions.

[The prepared statement of Mr. Haeni follows:]

PREPARED STATEMENT OF JEFFREY HAENI

Chairman Rubio, Ranking Member Cardin, Distinguished Members of this Subcommittee: Thank you for the opportunity to testify about the important role the U.S. Agency for International Development (USAID) plays in addressing illegal and unregulated mining. It is an honor to be here with you today.

USAID is committed to working with governments, civil society, communities, and the private sector to reduce the impact of conflict; counteract the drivers of violence, instability, and transnational crime; address corruption; advance prosperity; protect human rights; improve human health; and prevent the loss of biodiversity. For all of these reasons, USAID is deeply concerned about illegal and unregulated mining. There is little doubt that illegal and unregulated mining, particularly artisanal and small-scale mining (ASM), undermines U.S. interests around the globe, contributes to armed conflict and instability, provides funding to criminal networks, threatens our shared environment, and menaces indigenous people.

The linkages between mineral wealth and development are complex and dynamic. Despite the potential for a country's mineral wealth to translate into prosperity and social development, we see far more examples in which discovery and exploitation of mineral wealth undermines development gains. Whether a country harnesses its mineral wealth for inclusive economic growth, or its mineral wealth leads to a downward spiral of corruption and violent conflict depends largely on a supportive policy framework and its enforcement, combined with citizen responsive governance, including transparency and accountability.

In many countries in which USAID works, governments, illegitimate regimes, and powerful non-state actors, including companies, elites, and criminal groups, use intimidation, violence, and corruption to acquire wealth and control over the minerals sector. In these cases, economic benefits concentrate within a small percentage of the population, while many more people bear the negative environmental, social, and economic impacts.

Within the minerals sector, ASM is uniquely vulnerable to exploitation by corrupt officials, elites and criminal groups. At least 40 million people in developing countries—most of them poor—work in the ASM sector, most of which is informal in nature. Women and children are especially vulnerable to labor and sexual exploitation on illegal mining sites, particularly in conflict or post conflict environments. Powerful actors who face little or no accountability for predatory behavior easily undermine local regulatory structures.

Mining in violation of the laws of the nation in which the activity occurs often takes place in remote areas that are difficult to police. In Latin America, illegal and unregulated ASGM generates billions of dollars in illicit revenue for transnational criminal organizations, some of which have close ties to high-ranking officials in government and state security forces. In 2016, the total value of illicit gold production in South America was estimated as at least \$7 billion, and by all accounts is increasing. In Venezuela, the former Maduro regime has increasingly turned towards illegal and unregulated gold mining to line its pockets and maintain its power, in cooperation with transnational groups.

In Africa, artisanal diamond, gold, coltan, and tungsten mining has helped finance prolonged and deadly conflicts in countries such as Angola, Central African Republic (CAR), the Democratic Republic of the Congo (DRC), Liberia, and Sierra Leone. In CAR and DRC, minerals have become synonymous with "conflict," which has resulted in temporary restrictions on their export. In the Sahel, armed groups are increasingly seizing control of ASGM sites in Mali, Burkina Faso, and Niger which could further destabilize the region. As in Latin America, high-ranking officials in government and state security forces often profit personally from these operations.

Throughout much of Africa, illegal and unregulated ASM supply chains have links to criminal networks and contribute to domestic and regional insecurity.

ASM often occurs in and around protected areas of high biodiversity, which hampers efforts to protect critical ecosystems. Indigenous people and other vulnerable groups inhabit some of these areas. Artisanal and small-scale gold mining (ASGM) is the largest source of mercury pollution on Earth as at least 10 million people use mercury to mine for gold in more than 70 countries—with severe effects on human health. Much of the mercury released goes into the atmosphere and travels thousands of miles. It is estimated that 70% of the mercury deposited in the United States comes from global sources. Alluvial gold mining—the extraction of gold from creeks, rivers and streams—has deforested over 62,500 hectares in the Amazon's uniquely biodiverse Madre de Dios region since 1999.

Unfortunately, we have no easy or quick solutions. Illegal and unregulated ASM mining is a complex problem that requires long-term investments and structural reforms. USAID aims to support our partners that show the resolve to address the pervasive problems that surround this sector. Over the last 5 years, USAID has awarded programs with an anticipated total value of \$125 million to address illegal and unregulated ASM in countries such as Afghanistan, CAR, Colombia, Côté d'Ivoire, DRC, Perú, and Rwanda. Our programs include rigorous, field-level monitoring, evaluation, and oversight which has generated the data needed to demonstrate impact and to ensure our programs constantly learn and adapt. On a recent trip to Colombia, USAID Administrator Mark Green commented that he was "shocked to see the remnants of the illegal mining and the devastating consequences for the environment," but he was also heartened to witness first-hand the impact of USAID's programs that have helped support environmentally and socially responsible licit supply-chains that "bring money revenues into legal channels in a way that helps to support families and provides new revenues for the government."

Evidence suggests that formalization and legalization of the sector is one effective step to break the link between the trade of artisanal minerals and armed conflicts. USAID has learned through experience that addressing illegal and unregulated mining requires a coordinated, whole-of-government approach and long-term investments. We cannot solve this problem through development assistance alone. At USAID headquarters and in our Missions in the countries in which we work, our decision to engage in the artisanal mining sector occurs on the ground as part of a comprehensive and cross-sectoral Country Development and Cooperation Strategy. We make our investments in efforts to formalize and improve the ASM sector in partnership with national and local governments, civil society, and the private sector, almost always coupled with closely coordinated interventions from other U.S. Government Departments and Agencies.

In Latin America, USAID's programs in Perú and Colombia directly support bilateral Memoranda of Understanding (MOU) between the United States and the aforementioned governments to counter illegal mining and related crimes. In Perú, USAID has built up the country's scientific and research capacity by establishing the first laboratory in Madre de Dios with the capacity to analyze environmental mercury contamination and supporting the publication of over 25 papers on remediation and management techniques. USAID recently launched a new 5-year,

Twenty-three and nine tenths million dollar program in Perú to strengthen environmental criminal justice institutions; reduce environmental crimes in key landscapes in and around protected areas and indigenous land; and support civil society and the media to serve as effective watchdogs. In Colombia, USAID-funded programs promote legal and responsible mineral supply-chains in Antioquia and Chocó. Our programs have helped formalize 42 mining operations, eliminated nearly 40 tons of mercury from mining production, and assisted in generating \$110 million dollars of legal gold sales, which mobilized \$8 million of domestic resources in the form of royalties and taxes. In addition, USAID rehabilitated 17,000 hectares of land affected by mining.

In Africa, USAID works closely with other U.S. Government Departments and Agencies in CAR and the DRC. In CAR, USAID helps reduce the flow of conflict diamonds by improving compliance with the international due-diligence process known as the Kimberley Process Certification Scheme. In 2013, CAR was temporarily suspended from the Kimberley Process because of its lack of compliance and concerns about conflict diamonds, which led to an embargo on diamonds from CAR. USAID worked closely with the government of CAR to improve compliance, which led to a partial lift on the embargo in 2015. USAID continues to support the Government of CAR to improve compliance and strengthen social cohesion in mining communities. In the DRC, USAID supports the establishment of legal, responsible mineral supply-chains for tin, tantalum, tungsten and gold. In 2010, the United Nations reported that almost every mine site in Eastern DRC was under the control of armed groups. Since that time, USAID has supported the validation of more than 600 ASM sites as conflict-free. By 2017, an estimated three out of four tin, tantalum, and tungsten sites were free of the control of armed groups. In addition to the security improvements, the conflict-free supply-chains have also generated a legal source of revenue. In 2018, validated conflict-free mine sites in the DRC legally exported approximately 15,800 tons of tin and tantalum worth over \$285 million. This year, USAID supported the very first export of conflict-free gold to the United States from Eastern DRC through private-sector-led gold supply-chain involving only U.S. companies. Furthermore, USAID, along with the State Department and Department of Labor, established the Public-Private Alliance for Responsible Minerals Trade (PPA), a multi-stakeholder initiative that promotes responsible sourcing of gold, tin, tantalum, and tungsten in the DRC and the Great Lakes Region.

In Afghanistan, where extractives are the second-largest source of revenue for the Taliban after narcotics, USAID has developed interagency agreements with the U.S. Department of Commerce and the U.S. Geological Survey (USGS) within the Department of Interior with an anticipated total value of \$38.2 million. This USAID funding supports the provision of targeted legal, regulatory, and policy advice as well as the analysis of geological data and management assistance to the Afghanistan Ministry of Mines and Petroleum and the Afghanistan Geological Survey.

But let me be clear, just because artisanal mining is legal and regulated, does not necessarily mean that it will propel a country towards self-reliance, nor can a comprehensive solution succeed without strengthening the governance of industrial mining. This is why USAID also funds the Extractive Industry Transparency Initiative (EITI), a voluntary, global partnership between governments, extractive-industry companies, and civil society to promote the transparent and accountable management of oil, gas, and mineral resources. Advancing the EITI Standard serves key U.S. national-security, economic, and foreign policy objectives, including fighting corruption, empowering communities affected by mining operations, leveling the playing field for U.S. companies overseas, and promoting good governance in the extractive sector worldwide. Since 2013, USAID has obligated more than \$19 million in funding through over 17 USAID Missions—including in both Colombia and Peru—for programs to support the EITI-related disclosure of data on government revenue, explorations and concessions in the extractives sector; to strengthen multi-stakeholder governance; and to promote beneficial-ownership processes to enhance transparency and minimize supply-chain risks to businesses, including money-laundering and terrorist-financing.

USAID's successes in the sector have been hard-won. Mining in violation of the laws of the nation in which the activity occurs is a complex development problem that must be addressed through carefully planned and sustained investments, a permissive operational environment, and close collaboration with other U.S. government departments and agencies. USAID will continue to participate in U.S. Government interagency efforts to combat illegal and unregulated mining of a country's natural resources; advance the formalization and regulation of the ASM sector; strengthen mineral ASM supply-chains to render them legal, transparent, and environmentally and socially responsible; combat related crimes such as sex and labor trafficking in mining regions; clarify land and resource rights; prevent encroachment into protected areas; promote the environmental rehabilitation of degraded lands and the elimination of mercury; protect the rights of indigenous peoples and other vulnerable populations; and support increased transparency and accountability in the minerals sector.

Our interest is, and always will be, to work with governments, civil society and the private sector in countries on their Journey to Self-Reliance. Part of this Journey is the effective management of natural resources, including high-value minerals. USAID will continue to join forces with partners that are committed to improving their regulation and management of the mining sector for the economic, social, and environmental benefit of their people.

Thank you for your time. I look forward to answering your questions.

Senator RUBIO. Thank you.

Mr. Lechleitner.

**STATEMENT OF PATRICK J. LECHLEITNER, ASSISTANT DIRECTOR FOR INTERNATIONAL OPERATIONS AND HOMELAND SECURITY INVESTIGATIONS, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, WASHINGTON, DC**

Mr. LECHLEITNER. Good morning, Chairman Rubio and Ranking Member Cardin. Thank you for the opportunity to appear before you today to discuss the illicit mining of gold and the threats this activity poses to U.S. national security, international law, and human rights.

As the largest investigative agency within the U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement Homeland Security Investigations investigates and enforces more than 400 federal criminal statutes. HSI utilizes its broad legal authorities to investigate immigration and customs violations, including those related to import/export control, human rights abuses,

narcotics, weapons and contraband smuggling, financial crime, cybercrime, human trafficking, smuggling, child exploitation, IP theft, transnational gangs, immigration document and benefit fraud, and worksite enforcement. We are grateful for the continued congressional support that allows ICE HSI to maintain critical operations at home and abroad and increase our efforts to target and combat dangerous transnational gangs and other criminal organizations.

ICE HSI has a global presence, with over 500 personnel, including special agents deployed to 78 offices in 52 countries who conduct criminal investigations against TCOs, terrorists, and other criminal organizations that threaten our national security. HSI leverages its international footprint and partnerships to disrupt and dismantle TCOs that seek to exploit America's legitimate trade, travel, and financial systems, and enforces U.S. Customs and Immigration laws at and beyond our nation's borders to prevent threats from entering the United States.

Today, I would like to highlight how HSI has investigated illicit actors whose activities touch our borders. Investigations spearheaded by HSI have ranged from blood diamonds mined in Africa to unregulated harvesting of timber in the Amazon to wildlife trafficking in Southeast Asia. HSI, in collaboration with Federal partners such as U.S. Customs and Border Protection, the U.S. Department of the Treasury, the Department of State, as well as partnering with INTERPOL to combat natural resources exploitation through the sharing of criminal intelligence and application of U.S. Customs and money laundering laws.

As you know, the U.S. has a long history of protecting our environment, wildlife, and natural resources through the promulgation and enforcement of statutes exemplified by the Lacey Act, the Clean Diamond Trade Act, the Trade Facilitation and Trade Enforcement Act, and many others. The activities of TCOs and other illicit actors are often diversified, regardless of whether calculated or opportunistic. At its core, HSI recognizes that the impetus of most criminal schemes is financial enhancement and, as such, financial investigations are the cornerstone of HSI investigations.

Financial irregularities are often the tip-off leading to an HSI criminal investigation. As an example, an HSI-led investigation resulted in the conviction of the director of operations, the executive sales director for Latin America, and others from the largest American-owned precious metals purchasing and refining company for conspiracy to produce over \$3 billion of criminally derived gold from Latin America, originating primarily from Peru and the Caribbean. These proceeds were gained from unlawful criminal activities, including mining, foreign bribery, smuggling, narcotics trafficking, and the entry of goods into the United States by false means and statements. They subsequently transmitted over \$3 billion of wire payments from the United States to Latin America and the Caribbean to promote the delivery of additional criminally derived gold.

The investigation further resulted in the indictment of four Peruvian nationals in November of 2017 who were charged in the Southern District of Florida for their alleged participation in this money laundering scheme. One of the suspects was arrested in

Peru by the Peruvian police on charges of illegal gold mining and laundering more than \$630 million worth of gold. The American-owned company was sentenced to forfeit \$15 million to the United States, develop and maintain an effective compliance and ethics program, and also received a 5-year term of probation that prohibits it from purchasing precious metals from outside the United States.

HSI continues to work with the Department of State and our international and U.S. law enforcement partners to address the challenges and threats posed by these illicit activities to the United States.

Thank you for the opportunity to appear before you today. I would be pleased to answer any questions you may have.

[The prepared statement of Mr. Lechleitner follows:]

PREPARED STATEMENT OF PATRICK J. LECHLEITNER

INTRODUCTION

Chairman Rubio, Ranking Member Cardin, and distinguished members of the Subcommittee:

On behalf of the Department of Homeland Security (DHS), thank you for the opportunity to testify before you today to discuss how U.S. Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI), the largest investigative DHS Component, works with its international law enforcement partners to investigate transnational criminal organizations (TCOs) and the criminal activities of these TCOs, including human trafficking and money laundering, among other things. HSI protects U.S. borders by conducting multi-faceted law enforcement operations, and by partnering with foreign and domestic counterparts to combat criminal organizations and prevent terrorist activities. As a Senior Executive of HSI, I serve as Assistant Director of HSI International Operations.

HSI International Operations has a network of over 400 personnel, including over 180 special agents deployed to 78 offices and eight Department of Defense Liaisons across 52 countries, who conduct investigations against TCOs, terrorists, and other criminal organizations threatening our national security. HSI leverages its international footprint and partnerships to disrupt and dismantle TCOs seeking to exploit America's legitimate trade, travel, and financial systems; and enforces U.S. customs and immigration laws at and as appropriate, beyond our Nation's borders to prevent threats from entering the United States.

COMBATING TRANSNATIONAL CRIMINAL ORGANIZATIONS

HSI utilizes its broad legal authorities to investigate immigration and customs violations, including those related to export control, human rights abuses, narcotics, weapons and contraband smuggling, financial crime, cybercrime, human trafficking, migrant smuggling, child exploitation, wildlife trafficking, intellectual property theft, transnational gangs, immigration document and benefit fraud, and worksite enforcement. We are grateful for the continued congressional support that allows HSI to maintain critical operations at home and abroad and increase our efforts to target and combat dangerous transnational gangs and other criminal organizations.

During Fiscal Year (FY) 2019, HSI investigations led to over 36,000 criminal arrests, including criminal arrests of over 3,800 transnational gang members. HSI also seized over 1.4 million pounds of narcotics, made over 2,500 seizures for violations of U.S. intellectual property and commercial fraud laws, and seized over \$620 million in currency and monetary instruments. Additionally, HSI identified and assisted over 1,400 victims of human trafficking and child exploitation.

During the last two decades, transnational crime has expanded dramatically in size, scope, and impact, posing a significant threat to national security. HSI takes this threat very seriously, and targets TCOs at every critical location in the cycle: internationally, in cooperation with foreign counterparts, where transnational criminal and terrorist organizations operate; at our Nation's physical border and ports of entry, in coordination with U.S. Customs and Border Protection (CBP), where illicit smuggling cells attempt to exploit America's legitimate trade, travel, and transportation systems; and in cities throughout the United States, where criminal organizations earn substantial profits off of their illicit activities.

As directed by the President's Executive Order 13773, Enforcing Federal Law with Respect to Transnational Criminal Organizations and Preventing International Trafficking, HSI will continue to place a high priority and devote sufficient resources to dismantling TCOs and subsidiary organizations. HSI will continue to focus on cooperative work with other federal agencies, as well as with foreign counterparts, by sharing criminal intelligence and law enforcement information when appropriate and permitted by law.

#### ILLEGAL GOLD MINING

Higher gold prices invigorate artisanal and small-scale gold mining (ASGM) throughout the world. Usually unregulated and outside the formal economic sector, ASGM and the gold it produces are a significant problem throughout Latin America, particularly in Venezuela, Suriname, Colombia, Ecuador, Bolivia and Peru. Consequences of ASGM include deforestation, environmental contamination, and loss of biodiversity. Mercury, a highly potent neurotoxin, is often used to extract gold, making ASGM the largest source of global mercury pollution and an important issue addressed in the Minamata Convention on Mercury. It is widely reported that mine workers face exploitation and forced labor, that child labor is not uncommon in the mines, that mining communities drive the demand for sex trafficking, and that health risks, due to exposure to mercury and other toxic chemicals, abound.

Gold mining in violation of the laws of the nation in which the activity occurs often takes place in remote areas, and is difficult to police, which leaves opportunities for organized criminal groups to carry out this activity. For example, HSI personnel stationed in Colombia and Peru work hand-in-hand with their law enforcement counterparts to investigate and dismantle TCOs involved in the illegal mining of gold.

The United States has a long history of protecting our environment and wildlife through the promulgation and enforcement of statutes exemplified by the Lacey Act, the Clean Diamond Trade Act, and the Trade Facilitation and Trade Enforcement Act, among many others. Since its inception, HSI has ardently investigated illicit actors, both individuals and businesses, whose activities lead them to our borders. Investigations spearheaded by HSI have ranged from "blood" diamonds mined in Africa, to unregulated harvesting of timber in the Amazon, to wildlife trafficking in Southeast Asia. HSI works in collaboration with federal partners such as CBP, U.S. Fish and Wildlife Service, U.S. Department of Agriculture's Office of Inspector General and Animal and Plant Health Inspection Service, and the U.S. Department of the Treasury Financial Crimes Enforcement Network and Office of Foreign Assets Control, as well as internationally with the International Criminal Police Organization (INTERPOL), to combat natural resources exploitation through the sharing of criminal intelligence and application, as appropriate, of U.S. customs and money laundering laws.

The activities of TCOs and other illicit actors are often diversified, regardless of whether calculated or opportunistic, touching on more than one type of crime. HSI recognizes the impetus of most criminal schemes is financial enhancement, and as such, financial investigations are the cornerstone of HSI investigations. Financial irregularities are often cited as the tip leading to an HSI criminal investigation.

#### PERUVIAN GOLD INVESTIGATION

HSI leads the multi-agency Operation Arch Stanton. This Organized Crime Drug Enforcement Task Force (OCDETF) investigation is a joint effort among U.S. Federal (HSI, DEA, FBI, CBP, DOJ—Office of International Affairs, and IRS—Criminal Investigations), state and local law enforcement agencies. Since January 2018, Operation Arch Stanton has resulted in the conviction of executives from one of the largest American-owned precious metals purchasing and refining companies, of conspiracy to purchase over three billion dollars of criminally derived gold from Latin America (originating primarily from Peru) and the Caribbean. These proceeds were gained from unlawful criminal activities (including mining, foreign bribery, foreign smuggling, foreign narcotics trafficking, and the entry of goods into the United States by false means and statements). They subsequently transmitted over \$3 billion of wire payments from the United States to Latin America and the Caribbean to promote the delivery of additional criminally derived gold.

Operation Arch Stanton has also resulted in further charges against one executive and the indictment of an additional four Peruvian nationals in November 2017, who were charged in the Southern District of Florida for their alleged participation in this gold money laundering scheme. One of the suspects was arrested in Peru by the Peruvian Police for charges of illegal gold mining under Peruvian law and laundering more than \$630 million worth of gold. Pursuant to the terms of the Plea &

Forfeiture Agreement filed with the court, the American-owned precious metals purchasing and refining company was sentenced to forfeit \$15 million to the United States, develop and maintain an effective compliance and ethics program, and be subject to a 5 year term of probation, during which time it will be prohibited from purchasing precious metals from outside the United States and required to comply with all further investigations.

Additionally, in October 2018, 10 members of a transnational criminal organization were arrested by Colombian authorities for violation of Colombian law concerning illegal gold mining, customs fraud, and money laundering. This organization used shell corporations to introduce illegally mined minerals into legitimate mineral trade sectors of the United States. The illegally mined gold was then paid for through a trade-based money laundering scheme.

#### ILLICIT FINANCE AND PROCEEDS OF CRIME UNIT

HSI's Illicit Trade, Travel and Finance Division, through its Illicit Finance and Proceeds of Crime Unit (IFPCU), develops investigative techniques and typologies to identify and eliminate vulnerabilities in U.S. financial systems and criminally pursue perpetrators of financial crimes. The IFPCU enhances cooperation and forges partnerships with domestic and foreign law enforcement, money service businesses (MSBs), regulatory agencies, and non-government institutions. The IFPCU then leverages these partnerships to enhance HSI's financial investigations and various anti-money laundering (AML) programs. The IFPCU works with other government entities to provide AML assessments, training, best practices, and lessons learned in the fight against global money laundering.

The IFPCU continues to expand its outreach work with the private industry. In May 2018, the IFPCU participated in a conference with national and international precious metal and gem dealers to develop industry contacts, discuss trends, and provide education on the applicability of the U.S. Bank Secrecy Act and AML compliance guidelines. Of particular note, in March 2018, a U.S. gold refinery pleaded guilty to failure to maintain an adequate AML program.

In FY 2019, HSI initiated over 3,500 new financial investigations operating under the scope of the IFPCU and made over 2,600 criminal arrests, over 1,600 indictments and over 1,100 convictions, as well as the seizure of over \$620 million in illicit currency and criminal proceeds.

As the only investigative law enforcement agency with direct access to trade data, HSI is uniquely positioned to provide analytical, strategic, and tactical support for complex long-term and high-profile investigations, including third-party money laundering and trade-based money laundering investigations, across multiple programmatic areas.

#### TRADE TRANSPARENCY UNIT

HSI's Trade Transparency Unit (TTU) was created in 2004 and establishes TTUs in partner countries to share trade data to detect trade-based money laundering and sanctions violations as well as commercial smuggling and other crimes that generate illicit proceeds. TTUs detect suspicious transaction and financial discrepancies and coordinate investigative and enforcement activities with domestic and international HSI offices and partners. HSI has TTU agreements with seventeen countries, including the Latin American countries of Argentina, Brazil, Colombia, Chile, Ecuador, Paraguay, Peru, and Uruguay. Formal information sharing agreements are used to exchange valuable trade data, providing visibility to both sides of trade transactions. As such, TTUs offer another means to link international customs and law enforcement agencies together in combating transnational crime.

#### NATIONAL TARGETING CENTER—INVESTIGATIONS

HSI's National Targeting Center—Investigations (NTC-I) was established in December 2013, in collaboration with CBP, to enhance our shared border security mission. As the investigative arm of DHS, HSI's increased manpower and concerted efforts at the NTC support the entire border security continuum, from CBP interdictions and HSI investigations, to the joint exploitation of intelligence. NTC-I serves as HSI's central targeting and coordination center and plays a critical role in promoting border security, public safety, and national security through the identification and investigation of TCOs, terrorists, and other criminal actors attempting to undermine DHS's border security efforts.

The NTC-I methodology involves identifying and cultivating the financial and trade aspects of each individual investigation, identifying, seizing, and forfeiting criminal assets, and disrupting and dismantling transnational criminal networks. The HSI NTC-I methodology also involves the coordination of efforts between mul-

tiple HSI, federal, state and international agencies to maximize resources and results to identify, disrupt, and dismantle criminal enterprises, while bolstering the U.S. Government's efforts to combat money laundering and the financing of terrorism.

#### LAW ENFORCEMENT INFORMATION SHARING EFFORTS

In addition to leveraging domestic assets, HSI International Operations Attaché personnel deployed to 78 offices in 52 countries are uniquely positioned to use established relationships with host country law enforcement, including the engagement of foreign partner Transnational Criminal Investigative Units (TCIUs). TCIUs are comprised of foreign law enforcement officials with DHS training who have the authority to investigate and enforce violations of law in their respective countries. Also, included in TCIUs are customs officers, immigration officers, and prosecutors who undergo a strict vetting process to ensure that shared information and operational activities are not compromised. Since our law enforcement officers working overseas do not possess general law enforcement or investigative authority in most host countries, partnering with these TCIUs enables HSI to promote direct action in its investigative leads while respecting the sovereignty of the host country and cultivating international partnerships.

HSI International Operations partners with TCIUs in 13 countries. TCIUs identify targets, collect evidence, share intelligence, and facilitate the prosecution of TCOs both in-country and through the U.S. judicial system. These efforts, often thousands of miles from the U.S.-Mexico border in countries like Colombia and Panama, essentially act as an extended outer layer of security for our Southwest Border.

#### CONCLUSION

Thank you again for the opportunity to appear before you today and for your continued support of DHS and our mission. HSI is committed to continuing its successful practice of sharing information with domestic and foreign partners and leveraging its resources around the world to stem cross-border criminal organizations and threats. I appreciate your interest in these important issues and the efforts I have discussed today.

I look forward to any questions you may have.

Senator RUBIO. Thank you.

Ms. Thompson.

#### **STATEMENT OF REGINA E. THOMPSON, DEPUTY ASSISTANT DIRECTOR, CRIMINAL INVESTIGATIVE DIVISION, FEDERAL BUREAU OF INVESTIGATION, WASHINGTON, DC**

Ms. THOMPSON. Good morning, Chairman Rubio, Ranking Member Cardin, and members of the subcommittee. I am pleased to appear before you to discuss the FBI's efforts to disrupt transnational organized crime, TCOs, and specifically their involvement in illegal mining.

The FBI has a long history of successfully combatting organized crime. And as illicit activity of these actors evolve and diversify, so have our strategies to combat them. The last decade in particular has seen a boom in illegal mining operations primarily due to financial instability and an increase in global demand for precious metals. It is well known that drug trafficking is a money-making cornerstone of TCOs in the Western Hemisphere. However, criminal endeavors such as illegal mining are also substantial generators of revenue.

The precious metals trade is a global industry with established value. Penetration of the industry by criminal organizations allows them to establish global networks for the sale of illegally mined metals and establish money laundering platforms. Illegal mining and the subsequent laundering of gold allows criminal organizations to easily commingle illicitly obtained commodities with the

legal market by using witting or unwitting businesses or smuggling techniques to introduce it into the domestic and global economy.

TCOs also leverage the gold industry as a money laundering platform which allows them to exchange large sums of illicitly gained cash for gold that can be easily transported, stored, and used in lieu of cash. These organizations purchase gold, much of which is illegally mined, then sell it into the legitimate market, where then clean money is returned.

We have seen well-known groups, including Sinaloa and FARC, and also smaller clan-based groups in the current administration in Venezuela, engaged in these types of criminal activities.

To effectively combat this threat, in October of 2015 the FBI established the Illegal Mining Initiative. This initiative is an intelligence-led effort to disrupt TCOs' involvement in the illicit trade and prosecute those involved. Through the initiative, the FBI engages with other Federal agencies and international law enforcement partners in complex, multi-jurisdictional investigations that span the globe.

A prime example of the initiative's success in the FBI's efforts to detect and disrupt this activity is Operation Diez Condores, which was initiated in January 2016 as a joint FBI and Chilean police investigation. This investigation disrupted a network responsible for importing \$80 million in illicit gold. Intelligence obtained during the investigation identified a link with an ongoing OCDETF case, Operation Arch Stanton, which ultimately led to the prosecution of a multi-billion-dollar money laundering scheme.

A spinoff investigation targeting a U.S. company, NTR Metals, was launched in conjunction with DEA Lima and HSI Miami. This investigation uncovered a conspiracy responsible for the importation of over \$3.6 billion of gold with ties to illicit activities.

The work of multiple U.S. federal and foreign law enforcement agencies ultimately resulted in convictions, restitution, a landmark guilty plea by the NTR Metals parent company, and the disruption of a major international gold smuggling and money laundering operation.

The FBI continues to identify and target networks worldwide that are exploiting illegal mining, and we provide information to law enforcement and private-sector partners related to this growing threat.

The FBI has collaborated extensively with the State Department to develop and implement national and international training, most recently providing training in Panama for law enforcement and prosecutors in October of this year.

TCOs will continue to pose a significant threat to national and international security as they continue to evolve and diversify their activities. Disrupting these activities will require enhanced domestic and international collaboration and education in both the government and private-sector arenas. This is key, as it increases reporting, which in turn enhances our intelligence base and leads to more investigations and prosecutions.

Thank you for the opportunity to appear today, and I look forward to your questions.

[The prepared statement of Ms. Thompson follows:]

## PREPARED STATEMENT OF REGINA E. THOMPSON

Good afternoon Chairman Rubio, Ranking Member Cardin, and Members of the Subcommittee. I am pleased to appear before you today to discuss the threat of illicit mining and the FBI's efforts to address it.

## THE THREAT: TCOS AND ILLICIT MINING

The last decade has seen a boom in illicit mining operations in the Western Hemisphere due to various factors affecting global markets such as financial instability and increased demand for precious metals. The fracturing of major transnational criminal organizations ("TCOs") in the hemisphere into smaller organizations due to the death or apprehension of key leadership, compounded with infighting for control, has forced TCOs to diversify their criminal activities in order to supplement their revenue. Illicit mining operations provide Western Hemisphere-based TCOs with a profitable source of income beyond traditional revenue streams, such as narcotics trafficking, and a reliable mechanism to launder illicit proceeds from those traditional activities. TCOs use traditional criminal infrastructure—to include established drug trafficking routes, control of corrupt officials, and proven smuggling techniques—to traffic illegally mined metals and minerals in the same manner as narcotics. In contrast to narcotics, however, illicit mining provides an avenue for TCOs to exploit a legal commodity. Illicit activity is easily commingled with legal trade obfuscating TCO involvement.

The precious metals trade is a global industry with longstanding value. Penetration of the industry by TCOs allows these criminal organizations to maintain global support networks and a global platform for money laundering, hindering law enforcement prosecution by co-opting a legitimate, high volume commodities industry. Currently there is no test to accurately determine where the gold was mined, and thus whether the metals or minerals have been mined illegally.

TCO involvement in illicit mining occurs through the taxation or extortion of both legal and illicit miners operating in the region under their control, as well as the direct control and operation of illicit mines. TCOs in Mexico, Colombia, Venezuela, Peru, Guyana and other South and Central American countries exploit valuable metals, minerals, and precious stones such as gold, silver, copper, coltan (colombite-tantalite), iron, coal, emeralds, and uranium. Neighboring countries and Caribbean islands serve as transshipments points, while North American countries are final destination markets.

The U.S. market plays a key role in the global exchange of precious metals. TCOs use often-witting U.S. businesses to exploit U.S. regulations and export illegally extracted gold to the United States to launder billions of dollars of illicit proceeds from criminal operations in Latin America. Because gold bullion is classified as a commodity rather than a monetary instrument, the imported gold is not subject to Treasury Department reporting requirements; nor is it subject to customs duties, which limits law enforcement visibility into this money laundering method and increases profitability for TCOs.

Large amounts of illegally mined gold and the few hurdles it currently faces to reach legal markets provides TCOs, especially those involved in drug-trafficking, with a reliable vector to exchange large sums of illicitly gained cash into a compact, manageable commodity that can be easily transported, stored, or used in lieu of cash for criminal transactions. Additionally, the gold itself can be laundered into the global markets via several methods: acquiring fake documents, through bribery or threats, opening front companies, selling the gold to dishonest brokers, smuggling the gold through countries with lax export laws, or simply by paying individuals with legitimate authorization to sell gold.

Governments in the Western Hemisphere face internal obstacles due to a lack of capacity to properly regulate the mining industry, issues with corruption, as well as inadequate laws that make combating illicit mining challenging. Mining operations often exist in remote areas with minimal government presence allowing illicit mining, other criminal activity and human rights abuses—including those involving forced labor, sex trafficking, child labor, and violence against native communities—to thrive.

TCOs' continuous involvement in illicit mining operations also negatively affects the environment and public health. TCOs facilitate the trafficking of mercury, currently used in illicit gold mining operations. Mercury is transported long distances through the atmosphere, and approximately 70 percent of the mercury deposited in the United States originates from global sources. Although international agreements, like the Minamata Convention, are designed to curtail the legal global commerce and availability of mercury, these restrictions combined with the current demand could further drive mercury commerce to illicit markets controlled by TCOs.

Illicit mining operations also have driven alarming rates of deforestation and loss of biodiversity in South America.

#### FBI INITIATIVE TO COMBAT ILLICIT MINING

In October 2015, the FBI established the Illegal Mining Initiative to disrupt TCO involvement in this illicit trade and to prosecute complicit companies. The initiative simultaneously addresses the FBI's strategic and tactical necessities, enhancing our understanding of the threat, and steering joint intelligence production and multi-agency operations. This work culminated in an international investigation comprised of multiple Federal and foreign law enforcement agencies, and resulted in the first prosecution of a multi-billion-dollar money laundering scheme involving illegally mined South American gold. The investigation uncovered a conspiracy responsible for the importation of over \$3.5 billion dollars of gold derived from numerous illicit activities, including narcotics trafficking, illegal gold mining, foreign bribery, foreign smuggling, and U.S. customs violations, on behalf of multiple TCOs.

Operation Diez Condores, initiated in January 2016 as a joint FBI and Investigations Police of Chile ("PDI") investigation, disrupted a Chilean TCO involved in smuggling illicit gold. The Chilean-based operation procured gold from various illicit sources and collected the metals at their headquarters in Santiago, Chile, where they conspired with disreputable businesses to generate fraudulent paperwork about the gold's true origin and composition. TCO couriers hand-carried the gold on commercial aircraft from Chile to the United States where they presented the fraudulent paperwork to U.S. customs officials in Miami, thereby circumventing regulations. The couriers would then deliver the gold to a U.S. refinery, NTR Metals Miami ("NTR"), which paid for the gold via wire transfer back to Chile.

In August 2016, the members of the TCO were arrested in Chile after the investigation documented \$80 million in gold shipments that moved through multiple shell companies established in Chile and Miami with the assistance of NTR. The TCO was charged with racketeering, smuggling, customs fraud, and money laundering in Chile. Intelligence obtained during debriefs of the Chilean TCO members by U.S. law enforcement helped to identify inconsistencies in NTR's practices and that the Miami executives were aware that the gold that they were purchasing involved TCOs in multiple Latin American countries linked to gold smuggling, illicit mining, and narcotics trafficking activities. This led to a spinoff investigation in conjunction with the Lima office of Drug Enforcement Administration and the Miami office of U.S. Immigration and Customs Enforcement Homeland Security Investigations ("HSI") that identified a link to an ongoing FBI/HSI Organized Crime Drug Enforcement Task Force investigation. Law enforcement efforts culminated in the successful prosecution of three NTR executives in March 2017 for their dealings with the Chilean TCO as well as others in Latin American.

The investigation ultimately resulted in the conviction of seven subjects, restitution of approximately \$16 million in the United States and \$25 million in Chile, and the disruption of a major international precious metals smuggling and money laundering operation. This investigation received national and international attention for highlighting the role of illicit gold as a profitable and preferred method for TCOs and other criminal organizations around the globe to launder illicit revenue and for being one of the largest money laundering cases prosecuted in the Southern District of Florida. In addition, in November 2017, four members of a Peruvian TCO linked to the investigation were indicted.

While the efforts of the United States Government have concentrated on targeting TCOs' drug trafficking operations, it is critical to examine other illegal income streams to achieve operational disruption.

#### CONCLUSION

Transnational organized crime continues to pose a significant threat to national and international security. The FBI remains dedicated to combating this threat. In the Western Hemisphere, efforts against illicit mining have emerged as a significant priority for governments in the region, and the FBI is committed to working with them to combat this threat.

Thank you again for the opportunity to appear today. I now look forward to any questions you might have.

Senator RUBIO. Thank you.

We'll start with the ranking member.

Senator CARDIN. I want to thank all of you for your efforts. You are involved in trying to, through enforcement, deal with these il-

licit activities. And here's the challenge, and there are a lot of similarities between the illicit activities with gold, with wildlife trafficking, and we've seen the same or similar type of circumstances where we could get to child labor products that violate international human rights with the same type of enforcement issues; or, for that matter, we have corrupt officials in the extractive industries in dealing with those activities.

So when you have the direct line between a company and illegal activities, then, yes, you can go after the enforcement. It's not easy, but you can draw those direct lines. The problem is that the reason these activities take place is that they're profitable, and they find ways to get into the supply chain, into legitimate companies who either don't know or don't care to know where the supply is coming from.

So we need to help you—and I mean that sincerely—and that's why to me transparency in the supply chain is critically important here. And it seems to me that we could do a better job in the legal requirements of legitimate companies with their requirements to dig in more into the supply chain before they purchase their products, and that is a political hurdle we have here because, obviously, companies don't like to have to go through that burden.

But with the size of this problem—if the numbers we have are correct—we are allowing a lot of illicit gold to come into America that we're not able to stop under today's enforcement rules.

So I guess my question to you is, I mentioned two examples of transparency initiatives, one the EITI, which is a global initiative; it's been around for a long time. And then I mentioned 1504, which has taken hold by other countries enforcing their disclosure laws on the stock exchanges. Wouldn't that help you if we had greater transparency, put more responsibility where the money is coming from, and that is the consumers of this country or the people who buy, believing they're buying legitimate product, but in reality they're buying illicit gold that's been melted down into a different look, and therefore it's difficult to find? Can't we develop a better way for transparency in the supply chain?

[No response.]

Senator CARDIN. Everybody is quiet? That's a question for an answer.

Yes?

Ms. THOMPSON. Yes, sir. I certainly agree. A lot of times when we're engaging in training, whether it be with foreign partners or in collaboration with domestic agencies or with the private sector, we speak a lot about anti-money laundering measures, and the measures can be taken, obviously, on a national level, but they can also be taken at a business level in terms of implementing these anti-money laundering measures so that we can really see the beneficial ownership information, meaning who is ultimately benefiting from the money of the sale of the illegal gold or where the payments are going.

Senator CARDIN. So, you have a company here who's buying, let's say, gold from a company in our hemisphere, a legitimate company that's operating three companies below with illegal activities. How do you operate here in America to require that supply chain information to be known so that the company here in the United States

cannot participate because they have not gotten the satisfaction that the gold being purchased here was not part of illicit activity? How do we do that?

Good, I found one volunteer. Yes?

Mr. HAENI. Senator, it can be quite difficult for gold, but I think we could use some other examples, particularly in tantalum, and tungsten and the success that we have had in the DRC. Establishing traceability is absolutely critical as we look to decouple the criminal activity from these local mining operations and allow the local population to profit from them. The progress to go in 2010 from almost total control of the mine sites in eastern DRC under criminal and armed group control to today down to 20 percent is quite remarkable, and I think that's an example of when traceability is in place where we can see progress.

As I mentioned, that is more difficult on the gold side because gold is more easily smuggled and more difficult to establish traceable supply chains, but we very recently have done the same thing for the first time in the DRC, establishing a fully traceable, conflict-free supply chain for the export of gold to the U.S. through an all-U.S. private sector supply chain.

Senator CARDIN. And, of course, 1502 of Dodd-Frank deals with that requirement.

Let me tell you the alternative. The alternative is that Congress passes a ban on these products coming into America, just an outright ban, because we can't with satisfaction determine that it is safe from contamination from illegal sources. That could violate some of our trade agreements. That could cause diplomatic and bilateral problems. And it presents an economic challenge for America.

So if we can't get this right, we will look for other ways to deal with this. And, quite frankly, I don't believe we have the cooperation of the commercial entities in this country. I don't think they share enough concern about where their revenues are going. They look more as to their own profitability rather than what they are contributing to, and that's why it requires us to give them guidance. If everyone has to comply with the same rules, no company is put at a disadvantage, and we need stronger national laws on this. That's why 1502 was adopted. That's why 1504 was passed. That's why we've worked on these issues that provide a common requirement so that everyone is under the same standards.

I can tell you 1502 wasn't easy to pass. There was a lot of opposition to 1502. So we need your help, because I can only imagine how difficult it is for the FBI or Homeland Security to try to put together one of these cases. It's not an easy thing to do because you can't connect all the dots under current laws, and there is virtually no way you can establish criminal responsibility at the end user level unless you can connect some dots on culpability. That's the challenge today.

So we've identified a problem. I'm not sure we've identified an answer that will be comprehensive enough. We certainly want to do everything we can at the source, working with the countries involved, good governance. You're right, get rid of Maduro, the best thing we could do for Venezuela, and so many other things come along with that, including illicit mining. We agree with that, and

we have to work in that regard. But I do think recognize it is the money from the consumers in this country that is fueling these operations, and we have to have a better way of identifying the source in order to stop the practice.

Thank you, Mr. Chairman.

Senator RUBIO. Thank you.

Let me begin with Ms. Thompson and Mr. Lechleitner. We've seen numerous cases where private planes are being used to transport illegal gold. How can we boost scrutiny of such flights at our nation's airports and encourage stronger customs enforcement in countries through which the illegal gold passes?

Mr. LECHLEITNER. Thank you, Mr. Chairman. That's a very difficult issue because of the way that gold is handled and that it's virtually impossible once it's melted and combined together to trace it. It's very difficult to tell if it's illicit or licit. The best solution, one of the best solutions, I believe, would be working with our foreign partners to determine where this gold is being sourced and potentially where these flights are coming from. Working with our partners in transnational criminal investigative units both domestically and abroad to determine where these flights are coming from and their source countries would be a way that we could potentially attack this issue.

It's not an easy issue. It's very easily hid, and it's very easily obscured. So only with the participation of our foreign partners, I think, can we really attack the issue to any measureable degree.

Senator RUBIO. Let me ask you both, maybe you guys can help us. Just logistically, if you could walk us through how, for example, illicitly mined gold in Peru, in Venezuela, wherever, winds up in our marketplace here, what are the steps. Obviously they illegally mine it, and then what happens? If you could just walk us through how it gets here, typically.

Ms. THOMPSON. Well, there are two main ways that it's going to enter our markets. One is through fraudulent documentation that is given at the border, and the other way is the smuggling. So to take a step back, as you said, the gold is obviously illegally mined, and then it will pass through a number of hands. Sometimes it's more direct. Sometimes it really is a number of hands to hide the original source of the gold. And then sometimes that involves shell companies. And then, as I said, it's the two primary ways that it enters the U.S.

Senator RUBIO. But physically, how does it get—does somebody have it on their person on a commercial flight? Do they send it via FedEx? I mean, how does it come in?

Ms. THOMPSON. Oh. Sorry, sir. Yes, both. So, for example, if it's crossing and declared when it's coming into the country, it can have fraudulent documentation with it. That's one way the illegal gold can come in. And then second is the smuggling route, which we have talked about a little bit earlier, where it's melted down into belt buckles, jewelry, purses, things like that, and that's a way to smuggle it in.

Senator RUBIO. So I arrive at Miami International Airport with gold bars in my suitcase. What are the declaration requirements when you land?

Mr. LECHLEITNER. If it's greater than \$10,000, you need to declare it, but there would be no way to determine if those gold bars are illicit or licit.

Senator RUBIO. Right. But if it's more than \$10,000, they're supposed to declare it. Obviously, it's the equivalent of cash in that case, right?

How many of the entry points do we think come in through just a regular commercial flight where people are going to carry gold in amounts of less than \$10,000 but with sufficient back-and-forth travel to get it into the country in numbers that make sense for them?

Mr. LECHLEITNER. I don't have a specific number. I can research that and get back to you on the specific numbers, if we could find that. We do know that the gold is coming in through various sources, both legitimate and illegitimate. What happens is that in the source countries it's being melted down and combined, and then it basically legitimizes it, launders the gold, and very often it's coming in and it's essentially a legitimate commodity at that point, and it's basically a—

Senator RUBIO. So one route is the way they clean it up, they launder it basically, and that is they take the gold and either pass it through various entities until the paper trail makes it look like it came from—no one knows where it came from; the other is it's melted down and mixed with other sources, again untraceable anyway, and then it comes in through the normal commercial transaction for importation.

The other is—and it was one of the cases that they were highlighting to us in the past—that somebody actually arrives at the airport in Miami, gets through Customs, and then drives down to some company who converts the gold into a cash transfer. So what has happened with that route in terms of bringing it in? Do companies now—if I show up with a bunch of gold at one of these exchanges and they wire cash to me in exchange for the gold, does that transaction, that wire, now have to be reported?

Ms. THOMPSON. It depends upon what you mean by being reported, because one thing with the reporting, and it's an issue, is gold is not considered a monetary instrument. It's considered a commodity. So the paper trail is very minimal with the gold. So there is no financial reporting to track. When it comes to the payments, that's what we have. Like in the case that you referenced, there were money wire transfers, and that's what we were able to track.

Senator RUBIO. Right, you were able to track the wire. But does it specify that this is turning a commodity into cash for the seller, and then that transaction is reported? Is that how that works?

Mr. LECHLEITNER. No, I don't believe so. I don't believe so. It's just a money transfer.

Senator RUBIO. Without knowing that the source of it was \$10,000 worth of gold sold in exchange for \$10,000 cash wire.

Mr. LECHLEITNER. Correct.

Senator RUBIO. So you have to know who to look for.

Mr. LECHLEITNER. Absolutely.

Senator RUBIO. Because if you're just scouring transactions, that alone is not going to tip you off.

Mr. LECHLEITNER. No, that's correct.

Senator RUBIO. And if the transactions are under \$10,000, there's no reporting; correct? On the wiring side.

Mr. LECHLEITNER. Well, with gold, as was stated, because it's a commodity, it's handled a little differently. But with transactions, if you do enough of them under the \$10,000 threshold, that's called—

Senator RUBIO. Under the banking system, right. If you go to a bank, I think the threshold is \$10,000 as well. Any transaction over \$10,000, there has to be a record made.

Mr. LECHLEITNER. Correct.

Senator RUBIO. So if you go to one of these exchange houses that buy gold from people, and you show up with \$9,999 worth of gold, and they give you cash for it, that's not reported anywhere; correct?

Mr. LECHLEITNER. I'll have to research that. I don't believe so.

Senator RUBIO. Right. Okay.

Mr. Glenn, let me ask you, what can we do to bolster the investigatory and enforcement capacity of the governments in the region to go after firms that are laundering? We just talked about how some of this stuff is taken, illegally mined and mixed in with other stuff, the other gold and so forth, and at that point they have laundered it, basically, for lack of a better term.

What's the best thing we can do? Obviously, in Venezuela, the government is actively participating in it. But in places like Peru and Colombia and El Salvador, others that want to be cooperative, what do they need? How can we help them to increase their capacity?

And that's for anybody who has an idea, by the way, whether it's Mr. Haeni or Ms. Filipetti. But I want to start with you, Mr. Glenn.

Mr. GLENN. Sure. Thank you for the question. It's an excellent question.

We've actually had, I would say, considerable success with Peru since they decided to attack this problem head-on. Political will from the president, President Vizcarra, and his decision to take this problem on, has been essential.

In terms of our assistance and what we've been able to do to help, and what we can do to help in other countries, I think is very good if we're able to model it upon what we've been able to do in Peru. So we focus on building the capacity of investigative agencies to be able to do the complex types of investigations. We do that through partnering with the FBI, with DHS, with other U.S. agencies that have the expertise. We can bring those experts down to Peru, to Colombia, to El Salvador, to whatever country, and share those best practices and expertise.

Another essential part is making sure that they have the laws that exist that give the governments the tools or the hammer or the stick that they need to do enforcement. So in many countries asset forfeiture laws do not exist, or they're weak, or they're unenforceable. So we work to help them reform those laws or to pass those laws in the first place, and then train investigators, prosecutors, and judges so that they then have the confidence and ability to enact those laws.

So going at it from a regulatory and a criminal regulatory perspective has been essential. It has proven successful in Peru. There has been a large uptick in the number of cases that they've been able to successfully prosecute. That's one of the many ways that we can go about it, but we know that that one is successful.

Senator RUBIO. Could you update us on the status of the 2017 Memorandum of Understanding with the Peruvians?

Mr. GLENN. Sure. The MOU with the Peruvians was essential, in large part to get the U.S. Government side talking to each other. It then helped the Peruvian side as well to get their side. Just like us, there are multiple agencies within the government of Peru that engage on this issue. That MOU that was signed under the time that Ambassador Nichols was there has been continued under Ambassador Urs. We used that MOU to model a similar MOU in Colombia, and those have been the documents that we've used to strategically focus our assistance, our law enforcement efforts, and to help our partners do their part.

But those MOUs are focused not just on law enforcement. They're focused on looking at alternatives to formalizing the mining sector, getting the mercury out, and it's a comprehensive approach.

Senator RUBIO. I'm sorry to go back to Mr. Lechleitner and Ms. Thompson for a second. I forgot to ask, what evidence do we have? Are we seeing the use of shell companies in the United States to help launder money associated with this?

Mr. LECHLEITNER. Yes, we are, quite a bit. We've seen quite a bit of shell companies. Specifically, I can address some that are in Florida, south Florida.

Senator RUBIO. Any in Maryland? No?

[Laughter.]

Senator RUBIO. All right.

Mr. LECHLEITNER. Very often they go back to a residence, and we've seen some commonalities with some B1/B2 holders as well. But shell companies are being utilized to launder the money.

Ms. THOMPSON. And to add to that, sometimes it's not as simple as just a shell company. They often engage in what's called layering, where there will be multiple shell companies, therefore making it even harder to track the documentation.

Senator RUBIO. Which is now a shameless plug for my bill with Senator Wyden to unmask some of these companies that are being used for these illicit purposes.

Mr. Haeni, let me ask how the USAID programs that are helping miners and targeting the artisanal miners, can you give us an update on those programs?

Mr. HAENI. Sure. As you noted, they're a critical component to the MOUs that were signed both in 2017 with Peru and in 2018 with Colombia. Peru's recent \$23.9 million program is in direct support of that MOU, as is the ongoing CINCIA project, which, as Mr. Glenn mentioned, helped to establish the first-ever mercury testing facility in Peru. It has also worked to promote innovative reforestation techniques. So we're really taking a holistic approach all the way from the formalization of the ASM sector, looking at the link to environmental degradation, including looking at alter-

native livelihood. So both in Peru and Colombia, we've had success through USAID's programming.

Senator RUBIO. Senator Cardin.

Senator CARDIN. I want to just follow-up on the conversation with our State Department people. I think there's a lesson to be learned in a positive way on how we have been able to go after trafficking in wildlife, particularly elephant tusks and rhino horns. We've had an all-out effort to deal with that issue, and we've gotten great cooperation from the countries involved; not all, but most have worked with us in order to really deal with these illegal takings. And Congress gave additional resources and tools, and it was a priority of the State Department, a priority in each of our missions in the countries involved, and it made a difference.

I think we could do the same in regards to this illicit mining, and I appreciate the fact that you've given us good examples of the relationship in Peru and what's been going on in Peru. But I think there needs to be stronger attention given within the State Department instructions to our different missions, and in the use of USAID's activities in these countries, to make it clear that this is something that you need to have a checklist on in order to be able to maintain a positive relationship with the United States.

I can tell you that it really was the interest in the State Department, the interest in Congress that made a difference on wildlife. I don't think we've had the same visibility on illicit mining, and it is perhaps a much larger dollar problem for us than the rhino horns and elephant tusks, although that's a huge business, don't get me wrong.

So what is the game plan here beyond just a one-country effort?

Mr. GLENN. Political will is essential. We can put in hundreds of millions of dollars to this effort and it will go nowhere unless political will exists. So the question really is how do we generate political will?

Senator CARDIN. That is exactly right. I agree with you, you need political will. But it's amazing how political will changes when the United States pays attention to a problem.

Mr. GLENN. Yes. What I don't want to encourage, though, is that money and assistance isn't necessarily going to generate that will. What we've been able to do in Peru—the Peruvians and their Operation Mercury, it's a \$300 million investment in the government of Peru. The investment on the U.S. side is remarkably small. It enables a lot of what they're able to do, but it is their investment that is making the difference there. We will see similar results as we are seeing in Peru in places like Colombia and some of the other Latin American countries when that political will gets generated.

How do we create that political will? Under Ambassador Nichols at the time in Peru, and continuing under Ambassador Urs, the constant attention from our embassy staff, these types of hearings where an expression is being made by the U.S. Government, my focus on it. I will be down in Peru and Colombia next week. In Colombia, we'll actually be specifically focused on criminal activity, much of it mining, that is being generated out of Venezuela and how can we as a region in the Western Hemisphere combat that illegal mining coming out of Venezuela.

So it's those kinds of engagements that help build that political will and gets countries to invest. I think a lot of it is convincing them of the profitability of a legal system, and a lot of that has to do with USAID's programming. So that's the key. Obviously, the resources from our end that we are able to invest in their capability and increase their capacity is key. But I think, again, the most important part is to get them to want to address this issue.

Senator CARDIN. And we have an opportunity. The President has nominated a new ambassador to Peru, and I believe she's from Florida, if I'm correct. I may be wrong about that, but she's not from Maryland. That I did notice. But we will make sure that that's an issue that we bring up as important, and I'm sure it will be on the administration's mind.

I agree with you, you've got to create the interest, and it's more than money. But a relationship with the United States is multifaceted, and if this issue isn't a top tier issue, then it's of less political will locally. I understand it can be generated locally, but normally international pressure can make a difference in political will locally.

Thank you, Mr. Chairman.

Senator RUBIO. And I have a couple of comments and maybe a question, and I want to focus specifically on Venezuela with you, Ms. Filipetti, and then the broader group if you have comments on it as well.

The interesting thing about illegal mining in Venezuela, the first thing is the ecological disaster. Irrespective of the political outcome there, the ecological disaster is extraordinary and some of it irreversible, and much of that, frankly, has been underreported because the political disaster and the economic disaster has been so extraordinary.

There are two things happening. One, frankly, is the regime has dipped heavily into their gold reserves just to sustain itself. The central bank puts out these numbers, but if you do the math they're lying, and they're probably under \$10 billion in reserves as is, and they will probably be lower here by the end of the year because one of the ways Maduro holds on to power is he does these Christmas bonuses, pork for Christmas and so forth. He won't even be able to meet the demand that exists, but he takes funds and sort of throws them into the street just to keep people calm over the holiday. So they'll have to use reserves to pay for that.

We've seen U.S.-origin gold bullion from the 1940s winding up in the global market. Stuff that was used during the Second World War to pay for oil, that's now winding up out there in the global marketplace. That's been openly reported in a number of sites.

But the second piece, the one that's leading to the degradation ecologically, is the illegal mining. Ms. Filipetti, it's my understanding that—and correct me if I'm wrong. What is the role of the ELN and the dissident FARC movements that are within Venezuela playing in the mining regions? Some report that they have almost complete control and operate with impunity. What's the assessment of the State Department as to the role they're playing in the illegal mining occurring in Venezuela?

Ms. FILIPETTI. Sure. Thank you very much, Senator. Well, it's clear that the ELN and the FARC are very present in the mining

arc. It really depends on what specific areas we're focusing on. It's essentially ungoverned, lawless territory. So it's common that terrorist entities like ELN and FARC will make themselves present there.

In some cases we are seeing them control the mines themselves. In other cases we're seeing them control transit routes. We're seeing them take advantage of refugees who are trying to flee and sort of forcing them to work in the mines and to stay. In other cases we're seeing them have control over some armed weapons which are enabling them to have control over medicinal supplies and things of that nature. So it really does depend.

But the truth is their presence in the region is one of the most dominant concerns of the State Department. We have seen also how—I spoke a little bit about the Maduro regime and its incompetence in gaining control over this problem. What it realized is once it was not able to effectively combat illicit mining, it decided to capitalize off of it in order to get more resources that it realized were being deprived of it, largely because of U.S. and international sanctions on the petroleum industry.

So we have now seen how there's a relationship between government officials. There's a relationship between the army and the national guard with some of these entities, whether it's the ELN and the FARC or whether it's the *pranes colectivos* who are also present in order to really trade weapons, control over some of the territories, or cash, for support from these territories.

Senator RUBIO. I think that's the key point, because we're not talking about criminal operations in a country that doesn't want them there. We have criminal operations like that in other countries like Peru or Colombia, but the governments by and large want them out. There may be some localized corruption, but the government wants them out. In this particular case they've basically been deputized and/or the industry has been outsourced to them by the regime in exchange for those groups' support and cooperation and a small fee or whatever that's generating income not just for the regime but for the individuals in the regime. This is one of the ways that Maduro keeps these people around and loyal, not to him but to that source of revenue of illicit gain. So this is with their cooperation.

Ms. FILIPETTI. That's right, Senator. In some cases they have tried to cut down on instances of illicit mining simply because they don't have the relationships with those gangs. So in that case they do try to stop it so that they can generate those relationships. But, absolutely.

You know, we've spoken a lot about how we need to generate political will. There are things we can still do even with a country that's under a regime that has no interest in working with us on combatting it. Venezuela is a really unique case because Maduro is part of the problem, and also because we sanctioned the entire gold sector for precisely the reasons that you've described, because it has enabled this patronage network that has kept him in power.

So that actually gives us a number of unique tools that we can use in order to combat illicit mining inside Venezuela. We've used some of them. Diplomatic engagement, as Senator Cardin mentioned, has been critical with some of our allies. We've seen how

the Bank of England has confiscated \$550 million worth of Venezuela-origin gold. We've also seen a decrease in the amount of gold flowing to Turkey thanks to our engagement with Turkey.

There are other things that we've been working on as well. Sanctions and imposing a cost for dealing with this sector has been effective as well. We continue to look at other companies that continue to operate with the Venezuelan mining sector. And, of course, looking at a transition scenario, this is where we can be most effective. This is when we can start to deploy some of the resources and tools that my colleagues spoke about that we're using in Peru and Colombia.

It's also an opportunity for us to consider how we might be able to encourage more legal forms of mining so that we can get rid of the illicit category within Venezuela. But, of course, that would require a lot of security assistance as well, and it would be something that we can only consider once we have a democratic government in place in Venezuela.

Senator RUBIO. My last question is what you've described and what I've talked about often is that you have a governmental agency, for lack of a better term, in the Maduro regime that basically cooperates with drug dealers for a fee. They have done drug seizures, but the drug seizures are on the people who haven't paid them. If you pay them, they might actually even fly the drugs for you or transport it for you. The same is true in the illicit mining. They may go after a group, but it's the group that isn't paying them. In essence, if you pay them, they let you operate.

How is that any different from how organized crime operates when it takes over a neighborhood and cracks down on loan sharking or gambling among those crews who are not paying the capo the kickback that he's asking for? What you're basically describing is an organized crime effort dressed up, that retains some elements of a nation-state government. But in essence, this is an organized crime ring that today doesn't govern but controls Venezuela.

Ms. FILIPETTI. Senator, that's how we would describe it. We don't refer to the Maduro regime as a government. It is a corrupt criminal network. It's corrupt and criminal both, as you described. It's involved in the drug trade. It's also corrupt and criminal in its involvement in the mining industry, and not just gold. Again, we're talking about a lot of illicit sources of coltan, of diamonds, of coal even. So I absolutely agree with your characterization of it as a criminal network.

Senator RUBIO. Senator Cruz.

Senator CRUZ. Thank you, Mr. Chairman.

Good morning. Welcome to each of the witnesses. Thank you for your testimony.

I've long worried that we're not paying nearly enough attention to the use of gold as a monetary instrument of illicit finance, so today's hearing is valuable in that regard. I appreciate Chairman Rubio convening this hearing.

Earlier this year I introduced a bill that would add trade in illicit precious metals as a class of transaction to be considered when making a Section 311 primary money laundering concern designation. This bill would allow the Treasury Department leverage when

determining whether a country or bank should be designated a jurisdiction of primary laundering concern, a label which has an obviously chilling effect. I continue to urge the administration to consider this and similar measures which would help address both the mining and the trade of illicit materials.

On that issue I'd like to ask each of you to talk a little bit about how illicit metals are being used by the Maduro regime and other anti-American regimes in South America specifically. The porous border between Venezuela and Colombia facilitates the smuggling of illegal gold with ties to guerilla groups like the ELN and the FARC. How widespread is this challenge, and how can we support Colombia in monitoring and halting smuggling across its borders?

Ms. FILIPETTI. Senator, thank you. I can speak very briefly to the Venezuela angle of it. In terms of how prevalent it is, unfortunately, because we don't have a relationship with the Maduro regime, it can be difficult for us to gain exact numbers. We do know that approximately 91 percent of all the mining in Venezuela is illicit, which is partially why our gold sanctions are so significant. It enables us to target the entire industry because either it is illicitly mined or it is in some way trying to be used by the Maduro regime in order to support itself by stealing from the natural resources of the Venezuelan people.

We know that the ELN and the FARC are present. We also know that there are a number of centralized gangs, colectivos, as you are aware, that are operating there, and it's really a vicious cycle because the presence of these ungoverned spaces means that these terrorist and criminal groups come in. They are the ones who have control over the weapons. They're often in indigenous communities. It's notable that the three highest mining instances are in Bolivar, Amazonas, and Zulia, which are, of course, also the most heavily and densely populated indigenous communities in all of Venezuela.

So their land is being stolen from them. They are being trafficked both into the sex trade as well as forced into labor. So it's a key problem, and it affects Colombia as well because, of course, as you noted, these are porous borders. The transit routes are often controlled by the ELN and the FARC and other gangs. So the health impacts and the poisoning of the water and so on does not stop at Venezuela's borders. Colombia had recently indicated that most of its—I think it was 95 percent of all of the new malaria cases in foreign-born individuals who were in Colombia came from Venezuela.

So we're seeing everything start to trickle out of Venezuela, and I think it's critical that we focus both on regional approaches, which my colleagues can discuss, in the surrounding countries where we have partnerships, but also some of the ideas that we posited on how do we address the problem inside Venezuela, even with a government that's not willing to cooperate with us.

Senator CRUZ. Let me follow up. How does the Maduro regime benefit from illegal mining carried out by groups like ELN and the FARC? And will disrupting the region's illegal mining networks undermine the stability of the Maduro regime? If so, how can we rally the region behind this goal?

Ms. FILIPETTI. The answer to if disrupting it will destabilize Maduro, I think the answer is a categorical yes. It's partially why

we have implemented the gold sanctions. He's going to keep looking at other sources of potential cash the more our sanctions take effect, particularly on the petroleum sector. So we have seen him turn even more towards gold. We've seen him make announcements in both 2018 and this year indicating that this Arco Minero is a central piece of his strategic developments. And, of course, there are billions and billions of dollars' worth of revenue that can be generated from the gold reserves inside Venezuela.

In terms of what we can do, again, we have very strong allies on the borders of Venezuela who have been working very closely with my colleagues and I and elsewhere in order to combat illicit mining. We have seen reports, though—of course, it's hard to determine the origin of some of the gold. So what comes out is Colombian gold, and they have actually been Venezuelan in origin.

A few things that we can look at in the near term. So, as I've pointed out, we have had some cooperation from our allies as we've come forward and indicated to them the sanctions risk of engaging with the Maduro regime. So we have seen a significant decrease. I think Turkey is an example of this. Between January and September of 2018, we saw Turkey purchase over \$900 million worth of Venezuelan gold. That's more than the total trade between the two countries in the previous 5 years combined. We engage with them very directly. Our embassy engaged with them very directly, and we are not seeing that kind of engagement with the Venezuelan gold industry to that extent. So that is something that we continue to engage with our partners on.

Another thing for us to potentially look at is mercury. Mercury is one of the key causes of the ecological devastation, which also affects the health of the indigenous communities that are present. If we can potentially consider ways to prevent or disrupt the amount of mercury that's going into Venezuela and being used by these small mining individuals, that I think could potentially prevent the production of that gold from ever making it out from Venezuela in the first place. So that's an area for us to look into as well.

Senator CRUZ. Let's shift for a minute from gold to uranium. In Latin America there are two converging developments on uranium. First, legal mining has been on the rise of uranium across Latin America, and illicit mining will undoubtedly increase alongside it. Second, as we have known for a decade now, Iran and Hezbollah are both engaged in efforts to mine strategic minerals for missile and nuclear programs across the region. A report recently published by Los Alamos National Laboratory about Hezbollah specifically called attention to the "global pandemic" of missing nuclear material and equipment.

A couple of questions. What is your assessment of the risk Hezbollah or affiliated extremist organizations are trying to, and can, acquire illicit precious metals for their ballistic missiles and nuclear programs, especially illicitly mined and traded uranium?

Ms. FILIPETTI. I can speak briefly to the Venezuela angle of this. We certainly know that there is an Iranian presence. The extent to which the Iranians are directly involved in mining, inside Venezuela at least, is still a little unclear to us. So we know that there

are Iranians; we just don't know the extent to which they're operational in the mining industry.

There are some deposits of thorium and uranium inside Venezuela, so it's something that we watch incredibly closely, and the minute we have further details we're happy to provide those to you.

Senator CRUZ. Very good. Thank you.

Senator RUBIO. Anything else? Thank you.

Thank you all for your time. We appreciate it very much. I think this has been a useful hearing for us. As you can see, there's interest in this topic, and it's important. It's not an easy one to address, but it's one we're trying to find ways to move forward that we can do both from a legislative perspective and also from a public awareness perspective about this need.

So again, I want to thank you all for being here.

The record will remain open for 48 hours.

And with that, this hearing is adjourned.

[Whereupon, at 11:29 a.m., the hearing was adjourned.]

---

#### ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

RESPONSES OF CARRIE FILIPETTI TO QUESTIONS  
SUBMITTED BY SENATOR BENJAMIN L. CARDIN

MINING SUPPORTING CRIMINALS IN VENEZUELA

Over the past 3 years, a boom in illegal mining in Venezuela has helped Nicolás Maduro's government retain power. In March 2019, the U.S. Treasury Department imposed sanctions on Venezuela's state-run gold mining company (Minerven) and its president for engaging in illicit transactions that have supported Maduro. Treasury accuses Minerven of buying gold from hundreds of thousands of ASM miners, exploiting a large military-controlled zone seized from indigenous groups.

*Question.* What role do you see illegal armed groups from Colombia playing in the control of the illicit gold mining industry in Venezuela?

*Answer.* In Bolivar State, a massive territory in the southeast of Venezuela, human rights organizations cite a complete absence of government presence, leaving its residents subject to the order imposed by armed, non-state groups. The increased presence of such groups has created heightened violence and insecurity in local communities. Some mines are run by Colombian armed groups—the Ejército de Liberación Nacional (ELN) and the Fuerzas Armadas Revolucionarias de Colombia (FARC) dissidents. Others are run by Venezuelan “sindicatos” and “pranes” or gangs. These non-state armed groups work in concert with members of the illegitimate Maduro regime and distribute profits as patronage.

*Question.* To what extent, if at all, do you see ties between criminal actors in the mining sector and the Maduro government?

*Answer.* While the precise extent of the current ties between criminal actors in the mining sector and the Maduro government are only partially understood, they are clearly strong. According to reports from well-respected think tanks and other independent experts, criminal actors operate in mining regions as intermediaries between local miners, the Venezuelan armed forces and government officials. In some cases, the Maduro regime has traded control over mines for political loyalty, establishing a criminal patronage network that empowers Maduro. At the very least, with the explicit acquiescence and support of the armed forces and the Maduro government, the criminal actors have a monopoly on the use of force in the mining regions, essentially placing miners, and many members of indigenous communities, under their control. In exchange for this so-called protection, miners are generally forced to pay a portion of the mined gold to criminal actors and sell mined gold to the criminal actors at prices set by the criminal actors. Much of the gold then flows from local criminal actors, through local military officials, to higher ranking military officers, and senior government officials, before being smuggled out of the country. At each step, participants in the scheme siphon off gold or share profits of the gold sales.

*Question.* How have U.S. sanctions imposed in March 2019 affected the Maduro government's ability to fund itself through illicit gold mining proceeds?

*Answer.* As a result of the designation, all property and interests in property of CVG Compania General de Minería de Venezuela CA (Minerven) and its President, Adrian Antonio Perdomo Mata, and of any entities that are owned, directly or indirectly, 50 percent or more by Minerven and Perdomo, that are in the United States or in the possession or control of U.S. persons are blocked. U.S. persons are generally prohibited from dealings with Minerven and Perdomo, and persons and entities transacting with Minerven and Perdomo risk exposing themselves to U.S. sanctions and losing access to the U.S. financial system. While difficult to quantify the effect, this designation has impinged Minerven and Perdomo's ability to continue normal operations.

*Question.* To what extent is forced labor, including child labor, present in the illegal mining sector in Venezuela?

*Answer.* The former Maduro regime makes no effort to prevent children from working in the gold mining industry, or to protect them once they are working. It is difficult to determine the exact extent to which forced labor is present in the illegal mining sector in Venezuela. While many miners are local indigenous people, some miners have also voluntarily migrated to the gold mining regions desperately in search of work that is otherwise so difficult to find under Maduro's rule. Virtually all miners must work under the direction of and under terms and conditions set by criminal groups. Many can only gain medical care through these entities, and often, women and girls as young as 14 are sexually trafficked. According to a report by the non-governmental organization Cecodap.Indigenous, up to 45 percent of those engaging in illegal gold mining are children or adolescents.

#### IMPACT ON HUMAN RIGHTS IN VENEZUELA

Over the past 3 years, the boom in illegal mining in Venezuela has also contributed to environmental degradation in indigenous areas, clashes between rival criminal gangs, violence against miners, and outbreaks of malaria and diphtheria (diseases that had been rare in those areas). According to numerous reports, the illegal mining industry also commits various human rights violations, reportedly including the forcible recruitment of child labor from the indigenous Yanomami tribe:

*Question.* What impact has a recent increase in illegal gold mining had on the health and human rights of indigenous groups residing in Venezuela's gold-producing regions?

*Answer.* The former Maduro regime has been developing and expanding illegal mining zones, particularly in the growing "Arco Minero," an area that extends between the states of Bolívar and Amazonas. It has been doing so without consulting those native to the region, putting indigenous communities at risk. Impacts of this illegal mining include environmental degradation, water contamination, child labor, forced labor, and the unprecedented influx of disease, drugs, and prostitution.

We understand there has also been an increase in the presence of armed groups, including Colombian guerrillas and former rebels in these areas, creating heightened violence and insecurity in local communities. Indigenous leaders have reported that various incidents, including the November killing of eight individuals from the indigenous community of Ikaburu, have led to the displacement of more than 1,300 members of the community.

*Question.* To what extent has the presence of sex trafficking in and around mines driven the recent sharp rise in HIV/AIDS cases and deaths in that region?

*Answer.* In the 2019 TIP Report, the Department documented the increase in sex trafficking in Venezuela's informal mining sector. Illegal mining operations exist in some of the region's most remote areas, which have a complete lack of rule of law. Such is the case of Bolívar state, which has become a hotspot for criminal activity, including the sex trafficking of girls, the forced recruitment of youth to join armed criminal groups, and the forced labor of young people to work in the mines under dangerous conditions.

These vulnerabilities and compounding factors, paired with the lack of access to decent Healthcare, create fertile ground for the spread of sexually transmitted diseases, such as HIV/AIDS. PEPFAR is working to provide HIV testing and treatment services to Venezuelan migrants sheltering in Colombia and to conduct an HIV disease surveillance activity in Colombia to produce better estimates of HIV prevalence in the Venezuelan migrant community and their distribution throughout the coun-

try, as a lack of good data on the HIV disease burden is one of the core challenges in Colombia.

---

RESPONSES OF CARRIE FILIPETTI AND RICHARD H. GLENN TO QUESTIONS  
SUBMITTED BY SENATOR BENJAMIN L. CARDIN

DISCLOSURE

One method to combat illicit mining is to increase disclosure in extractive industries, which may seek to cover the unethical or exploitative practices they use for acquiring minerals. To enhance transparency and good governance in state-run extractive industries, multiple countries, including the United States and European Union members, have laws requiring the public disclosure of EI firms' payments to governments.

In 2010, Congress passed Section 1504 of the Dodd-Frank Act, also known as the Cardin-Lugar provision. Section 1504 established a global standard to require companies to disclose payments made to the U.S. or foreign governments related to the development of oil, gas, or minerals. Since then, 30 countries have followed the U.S.' lead, including Canada, Norway, the U.K., and 27 other members of the European Union.

But in 2017, through the Congressional Review Act procedure, Congress voted to revoke the updated rule passed by the SEC that required public disclosure. That same year, the U.S. withdrew from the Extractive Industries Transparency Initiative (EITI):

*Question.* How can the U.S. lead by example when we withdraw from initiatives like the EITI and when Congress votes to invalidate rules that require transparency in critical sectors of the economy responsible for illicit activities?

*Answer.* Although the United States announced in 2017 it would no longer implement EITI domestically, it continued to support EITI. Department of State Bureau of Energy Resources (ENR) represents the Supporting Country constituency on the EITI Board of Directors and sits on multiple governance committees. USAID provides \$3 million per year to support the EITI Secretariat and the implementation of EITI in other countries.

ENR also supports transparency in the extractive resources sector through the Energy Resources Governance Initiative (ERGI). Through ERGI, ENR seeks to bring together countries that believe in the principles of sound governance to work together to share leading industry practices and encourage a level playing field for investment. The initiative will also encourage the creation and promotion of resilient, responsible, and integrated supply chains to avoid supply disruptions of key energy resource minerals.

*Question.* What role does transparency play in ensuring that mining is more fair and accountable? What are the U.S. government and U.S. companies doing to support transparency in the mining sector, including via the EITI?

*Answer.* Transparency enables the citizens of a country to understand how much money their country's natural resources are worth, who is paying for access to those resources, how much they are paying, and who is receiving those payments. Systematic disclosure of revenues from the extractive sector is at the heart of EITI's work. EITI uses a multi-stakeholder group (MSG) model that includes companies, governments, and civil society representatives. This diverse MSG works together to establish procedures for disclosing extractive resources revenue. EITI aims to enable all stakeholders to have equal access to the same information, which deters corrupt practices and helps identify improper use of revenues.

The State Department's Bureau of Energy Resources (ENR) represents the Supporting Country constituency on the EITI Board of Directors and helps govern the organization through its work on the Finance, Governance and Oversight, and Outreach and Candidature Committees. USAID provides \$3 million per year in funding for the implementation of EITI in other countries.

In 2019, the State Department, through ENR, launched the Energy Resources Governance Initiative (ERGI) to foster dialogue among producers of critical energy minerals on how to promote sound mining sector governance, create more resilient supply chains, and provide sufficient resources for the rapidly growing critical energy mineral market. Through ERGI, we are working together to share leading industry practices and encourage a level playing field for investment. The initiative will also encourage the creation and promotion of resilient, responsible, and integrated supply chains to avoid supply disruptions of key energy resource minerals.

*Question.* Which efforts are the most effective to reduce corruption and other illicit activity in the mining sector?

*Answer.* Bringing small-scale gold miners into the formal economy and increasing transparency within the illegal gold mining sector and in the international and domestic trade of mercury, a key chemical for illegal mining, are essential to reducing corrupt practices within the mining sector.

In Latin America, the United States signed Memorandums of Understanding (MOUs) with the governments of Peru and Colombia, in 2017 and 2018 respectively, to expand bilateral cooperation to combat illegal mining and minimize its negative criminal, health, and environmental impacts. The MOUs allow the U.S. government to advance our shared interests through a coordinated interagency approach with an eye toward developing greater cross-border collaboration, given the regional nature of illegal gold mining and associated crimes.

*Question.* Do you agree that initiatives like the EITI are effective means of collecting such data? Do you think the U.S. should rejoin the EITI? If not, why?

*Answer.* EITI is an effective means of collecting extractive sector data because it is based on input from all key stakeholders: governments, civil society organizations, and the private sector entities. Countries implementing the EITI Standard range from established democracies with strong governance traditions to those with minimal governance capacity. Well-governed countries need years to fully implement the EITI Standard. In countries with political turbulence, few sources of revenue, and limited histories of independent judicial systems, a free press, or open civil society space, even an imperfect implementation of EITI's recommendations can take many years. In cases where countries perform poorly at providing required or requested data, EITI enables citizens to realize what data is lacking and serves as a platform for public debate and future reforms.

The United States does not need to re-start implementing the EITI Standard. In 2017, the United States changed its status from its dual role as a Supporting Country and Implementing Country to Supporting Country. The U.S. government has continuously supported EITI with financial assistance through USAID and participated in its governance through its membership on the EITI Board of Directors since being a founding member of the Initiative in 2003. The tax reporting issues that led the U.S. government to stop implementing the EITI Standard have not changed. To resume implementing the EITI Standard in the United States would likely re-create the same debate and do nothing to improve extractives sector data reporting. The U.S. government can effectively improve extractives sector transparency by supporting EITI implementation in developing countries in which basic good governance, anti-corruption, and data reporting practices are nascent.

The United States, with its free press and reporting standards for publicly traded companies, and other legislation prohibiting corrupt practices at home or abroad, serves as a reliable model for countries implementing the EITI Standard.

*Question.* Please discuss the role of “responsible sourcing” (i.e., due diligence-based tracking of mined commodity supply chains) to prevent mining revenues from being used to abet illicit armed groups, criminal groups, corruption, or problems such as forced labor.

*Answer.* Responsible minerals sourcing means that private sector companies have in place procedures that respect human rights, avoid contributing to conflict through their mineral purchasing decisions and practices, and allow them to know each node of their supply chains, which reduces the risk of behavior like money laundering. Broad and consistent application of due diligence systems, particularly the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, increases the supply of responsibly sourced minerals over time.

*Question.* What lessons learned from this approach in Central Africa may be applicable to Latin America, especially with regard to countering drug cartels, and other armed or criminal groups' involvement in mining?

*Answer.* Supply chains for natural resources tend to follow similar paths and patterns. Bad actors tend to use similar smuggling paths for multiple items or commodities and follow the route of least resistance, often through under-governed spaces. The work in Central Africa has illuminated the difficulties and opportunities of responsible sourcing efforts and illustrated that with consistent effort and public advocacy it is possible to attract responsible actors to the supply chains of these materials.

*Question.* How might the EU's application of responsible sourcing to all “conflict-affected and high-risk areas” affect Latin America?

Answer. The EU regulation pertaining to conflict minerals relates to “conflict-affected and high-risk areas (CAHRA)” around the world, in contrast to Dodd-Frank 1502’s focus on the Democratic Republic of Congo and its neighbors. We believe that the EU is working closely with private sector and advocacy groups to be as clear as possible about what constitutes a CAHRA and may not ultimately list specific countries. EU disclosure requirements for companies will further expand the need for private sector companies to implement supply chain due diligence. For companies operating in Latin America and the Caribbean, the EU regulations may raise private sector and consumer awareness about mining in these regions.

Some indigenous people—such as the Yanomami in Venezuela, among other vulnerable populations—have been forced into slavery at some illegal mines. Indigenous populations also face threats from illegal miners operating near or within their lands. Indigenous groups often object to mining because it violates their ancestral land rights, pollution and destruction of their land damages their livelihoods, and they are often excluded from decision making regarding the disposition of mining proceeds.

*Question.* What is the U.S. doing to promote the protection of rights for indigenous communities exposed to the mining sector?

Answer. Through bilateral and multilateral diplomacy, programming, and reporting, the U.S. government works to promote and protect the rights of those who belong to marginalized communities, including members of ethnic minority groups and indigenous peoples. This includes prohibitions on slavery and forced or compulsory labor.

We work to promote an open environment for civil society to advocate governments to protect human rights and promote transparency, accountability, the rule of law, and anti-corruption efforts. This work is vital in protecting the human rights of members of vulnerable and marginalized populations. We also coordinate closely with the U.S. government interagency in support of policies and programs that seek to address labor and other human rights issues associated with the mining sector.

Executive Order 13850 authorizes the imposition of sanctions on persons determined to operate in the gold sector of the Venezuelan economy or in any other sector of the Venezuelan economy as may be determined by the Secretary of the Treasury, in consultation with the Secretary of State. The Department of Treasury has designated the Venezuelan state-run mining and gold processing company Minerven under this authority.

The State Department’s annual Country Reports on Human Rights Practices include a section on human rights concerns affecting indigenous peoples; these reports provide important information and draw attention to the impact of mining on indigenous peoples, where applicable. Further, the State Department chairs a U.S. government interagency working group (IAWG) to monitor violence against environmental defenders, many of whom are indigenous people. The IAWG seeks to strengthen access to environmental information and environmental impact reviews of extractive sector, energy, and infrastructure tenders and projects. It also seeks to promote transparency and access to justice, particularly in cases of violence.

*Question.* What are the primary export destinations for illicit gold coming from Africa? From Asia? From Latin America?

Answer. In Latin America, illicitly mined gold is primarily exported to refineries in the United States, China, India, the United Arab Emirates (UAE), Switzerland, and Italy. From Africa, a known and significant primary export destination and transit point for illicit gold is the UAE. China is reportedly a primary destination for illegally mined gold from the Philippines.

*Question.* What roles do regulatory and tax regimes play in incentivizing black market trade in the mining sector?

Answer. Trade routes quickly adjust when taxes are lowered or raised. Given the role low-level corruption can play in burdening exports from the source to the point of export, an unregulated business environment also can frustrate legitimate business and incentivize illegal or illicit trade.

*Question.* How do we address demand for illicitly mined products like gold and diamonds at the national level?

Answer. Supply chains for valuable, prolific, and easily smuggled commodities like gold and diamonds represent serious challenges for the public and private sectors. Governments can continue to encourage private sector actors to apply supply chain due diligence efforts to add transparency to their sourcing efforts. Consumer awareness of, and demand for, responsibly sourced minerals drives a great deal of the pri-

vate sector behavior as modern consumers want to know more about the means through which their purchases have been brought to market. Companies realize that to stay competitive they need to address these concerns. Advocacy groups have helped put pressure on private actors and governments to prioritize responsible sourcing as a means of minimizing conflict finance, stabilizing supply chains, and ensuring the highest sourcing standards. Education, consumer awareness, due diligence, transparency, and corporate decision making all will continue to play important roles in combatting demand for these illicitly mined products.

RESPONSES OF RICHARD H. GLENN TO QUESTIONS  
SUBMITTED BY SENATOR BENJAMIN L. CARDIN

*Question.* How effective have industry-led due diligence efforts been in preventing armed groups from profiting from ASM in eastern DRC?

*Answer.* ASM gold mining in eastern DRC is a serious concern for private sector supply chain actors and for the governments of the United States, the DRC, and international partners. The concept of responsible minerals sourcing means that private sector companies have in place procedures that respect human rights and avoid contributing to conflict through their mineral purchasing decisions and practices. Broad and consistent application of supply chain due diligence systems by private sector actors, particularly the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, increases the supply of responsibly sourced minerals over time. Most artisanal gold mines in eastern DRC, unfortunately, have not been validated as conflict-free, despite our efforts.

MINING SUPPORTING ARMED GROUPS IN AFRICA

Recent research in the Sahel by the International Crisis Group (ICG) indicates that an ASM gold mining boom in Mali, Burkina Faso, and Niger—yielding production between 40 and 95 tons per year worth between \$1.9 and \$4.5 billion—has provided “diverse armed groups... in some cases including jihadists, with a new source of funding and potentially even recruits.”

*Question.* To what extent might gold be funding terrorist groups in West Africa’s Sahel region? How large is the black market for gold across Africa more broadly?

*Answer.* Artisanal and small-scale gold mining is a major source of livelihood and revenue in West and Central Africa. Based on available data, the majority of all gold exports from these regions is illicit. The UAE is the primary export destination for illicit African gold, through which billions of dollars in gold are smuggled annually. Mining operations often lead to illicit behavior, including illegal trafficking of gold; human trafficking; labor and human rights abuses at mining sites; financial crimes; and supposed support to non-state armed and violent extremist groups. Across Africa, the illicit gold economy persists as a result of institutional challenges, including lack of law enforcement capacity, corruption, and insufficient political will. A lack of alternative sources of income for low-level actors further exacerbates these issues.

Researchers and practitioners in the region have identified an increasing link between the “black market gold” and terrorist/violent extremist organizations. The high value and ease with which gold can be smuggled and sold into formal supply chains makes it an attractive form of income for armed groups, including terrorist organizations. Further data would be necessary to understand the extent to which gold mining funds terrorist and violent extremist activity in West Africa’s Sahel region.

*Question.* What have been the main approaches, successes, and challenges of national-level efforts to counter ASM-related crime and tax evasion in Africa?

*Answer.* Across Africa, governments have implemented various measures to combat Artisanal and Small-Scale Mining (ASM)-related crime, including tax evasion, as a part of their commitment to the African Mining Vision—adopted in 2009 at the African Union Summit. Governments have introduced alternative livelihood programs to move miners away from ASM to other sectors, particularly agriculture. However, results have been low with many miners viewing agriculture as a less attractive alternative. National-level efforts, while helpful, could be better supported with local government buy-in, which has been absent in some of the efforts. Promising approaches to ASM factors the issues noted above and formalization of ASM miners. Formalization and regulation are key success indicators. In Ghana, ASM policies provide incentives and formalization to support miners in getting a fair price for the minerals they sell, purchasing equipment, and technical training. The

national government works with the local governments to regulate ASM policies in an effort to avoid child labor, tax evasion, and ban operators that violate ASM policies—those involved in criminal activity. In addition to Ghana’s policies on ASM, the African Mining Vision in 2016 launched the African Minerals Development Centre, which will support African government’s efforts to formalize and regulate their ASM sector.

---

RESPONSES OF JEFFREY HAENI TO QUESTIONS  
SUBMITTED BY SENATOR BENJAMIN L. CARDIN

One method to combat illicit mining is to increase disclosure in extractive industries, which may seek to cover the unethical or exploitative practices they use for acquiring minerals. To enhance transparency and good governance in state-run extractive industries, multiple countries, including the United States and European Union members, have laws requiring the public disclosure of EI firms’ payments to governments.

In 2010, Congress passed Section 1504 of the Dodd-Frank Act, also known as the Cardin-Lugar provision. Section 1504 established a global standard to require companies to disclose payments made to the U.S. or foreign governments related to the development of oil, gas, or minerals. Since then, 30 countries have followed the U.S.’ lead, including Canada, Norway, the U.K., and 27 other members of the European Union.

But in 2017, through the Congressional Review Act procedure, Congress voted to revoke the updated rule passed by the SEC that required public disclosure. That same year, the U.S. withdrew from the Extractive Industries Transparency Initiative (EITI).

*Question.* How can the U.S. lead by example when we withdraw from initiatives like the EITI and when Congress votes to invalidate rules that require transparency in critical sectors of the economy responsible for illicit activities?

*Answers.* At the outset, it is important to clarify that the United States has not withdrawn from EITI, but has reverted from a dual Supporting/Implementing Country status within the initiative to our long-time prior status as a Supporting Country. In fact, the United States maintains—and has since the initiative’s launch in 2003—continual and strong high-level support for EITI. This includes providing critical leadership within the multilateral and multi-stakeholder EITI initiative, as well as robust support for EITI implementation around the world.

The State Department has held the EITI Supporting Country Board seat for the United States since 2003, alongside U.S. company board EITI members such as ExxonMobil and Freeport McMoran, and provided critical American leadership on the governance, financial management, and strategic direction of the global initiative. This was particularly important during the first years of the initiative, where the United States served as both a founding member and a lead Supporting Country of EITI, helping to found, form, and stand-up the initiative, influencing the adoption of the EITI Standard on transparency and disclosure, and supporting new member outreach and engagement. As a Supporting Country Board member and Alternate, the United States has continued to play a key role in the governance and technical focus of EITI, including adoption of rules around beneficial ownership in the 2016 EITI Standard.

In addition, since FY 2006, the U.S. Agency for International Development (USAID) has robustly supported EITI implementation, peer exchange and research around the world, including providing \$13.5 million in support for a World Bank-managed EITI Single Donor Trust Fund, and approximately \$19 million in bilateral funding for activities that promote and support transparency and accountability of extractives expenditures and revenues around the world. In Nigeria, Senegal, Colombia, Peru, Indonesia, and at least 14 other countries, for example, USAID is supporting EITI-related disclosure of government revenue, exploration and concession data in the extractives sector, strengthening multi-stakeholder governance, and promoting beneficial ownership processes to enhance transparency and minimize supply chain risks to businesses, including money laundering and terrorist financing.

The United States is committed to this ongoing support because we know that engagement in EITI and support for the EITI Standard serves key U.S. national and foreign policy objectives, including fighting corruption, empowering citizens, leveling the playing field for U.S. companies overseas, and promoting good governance in the extractive sector worldwide.

For the first 10 years of the initiative—from 2003 to 2013—the United States served exclusively as an EITI Supporting Country. The United States began the process of joining EITI in 2012 as a Candidate Implementing Country as part of the first U.S. Open Government Partnership (OGP) National Action Plan. The EITI Board officially accepted the United States as a candidate for Implementing Country status in March 2014, and the United States Extractive Industries Transparency Initiative (USEITI) was established. The Secretary of the Interior led USEITI, with the Department of Interior’s (DOI) Office of Natural Resources Revenue (ONRR) serving as the institutional home for the USEITI Secretariat.

Over the course of 4 years as a Candidate Implementing Country, USEITI made impressive progress in implementation of the EITI Standard in the United States. Of note was the DOI-developed state-of-the-art, open source interactive data portal, which allows the American public to study the use of natural resources on federal lands and contains detailed information on taxes collected from the oil, gas, coal, wind and geothermal industries and how these revenues are put to use (see <https://revenue.data.doi.gov/>). Yet despite notable progress, and even within the U.S.’ highly transparent and efficient system that meets or exceeds many of the EITI’s benchmarks, implementation of some of EITI’s rules proved overly challenging and were ultimately deemed unfeasible for implementation within the United States, primarily due to our federal structure and tax disclosure system and framework. While USEITI was able to report, for example, on extractive revenues from federal lands, it was unable to report (or compel states to report) on revenues from state lands (where the majority of extractive activity occurs). Privacy and process challenges with both the IRS and the tax legal framework also impeded the disclosing of company tax information.

As a result, the United States decided to discontinue domestic implementation of the EITI Standard and its candidacy for Implementing Country status. Since then, the United States has continued to implement many best practices learned from the EITI process, including disclosing industry’s financial transactions to the U.S. Government and the national and state level distribution of those funds, including the revenues generated by royalties, rents, and bonuses. DOI has continued to provide enhanced and user-friendly access to reliable information that can be used to hold the government and industry to account. DOI has also engaged in public awareness and understanding of how extractive revenues are collected and disbursed, in order to promote accountability and facilitate the full and fair return to the American people for these resources.

The fact that, after a good faith effort, the United States acknowledged the infeasibility of implementing the Standard fully has not diminished the U.S.’ standing or leadership within EITI. Attempting to implement the EITI Standard in the United States had always been a highly ambitious experiment in mainstreaming EITI principles within an existing framework. This effort has not been undertaken by other Supporting Countries, all of which also already have legal frameworks for transparency and accountability in the sector. It is noteworthy that of the current 15 EITI Supporting Countries, 11 others, including Australia, Belgium, Canada, Denmark, Finland, France, Italy, Japan, Sweden and Switzerland are also not implementing EITI domestically. As a result, the United States’ ambitious attempt to undertake implementation, though ultimately unsuccessful, has not affected our standing on the EITI Board or our ability to exercise leadership within the initiative.

The decision to discontinue domestic implementation has also not diminished our ability to lead by example, either within EITI or in the broader sector of transparency and accountability. Instead, the U.S. decision underscores our leadership in this space. Rather than erode the EITI Standard by requesting deviations to accommodate the U.S.’ unique federal and legal structure, the United States elected instead to revert to Supporting Country status and to continue to support adoption and implementation of EITI. This decision demonstrates and sends a clear message about U.S. commitment to the integrity of the EITI Standard.

Lastly, the United States continues to exercise important leadership in implementation of robust country-level EITI programming through USAID. This country-level support—which exceeds that of any other bilateral donor—is making a real-life difference in countries around the world in everything from improving revenue recovery, ensuring better allocation of resources, enhancing foreign investment, improving the business environment, empowering citizens and communities, tackling corruption, and supporting self-reliance.

*Question.* What role does transparency play in ensuring that mining is more fair and accountable? What are the U.S. government and U.S. companies doing to support transparency in the mining sector, including via the EITI?

Answer. Transparency is a critical tool in the global fight against corruption and mismanagement of natural resources, which impedes economic growth and self-reliant country development, reduces opportunities for trade and investment, and fosters instability and conflict. Transparency empowers citizens, civil society and the private sector to hold governments to account for the equitable and responsible use of taxpayer and other public resources, as well as the provision of citizen-responsive public services. This is particularly important in the extractive sector; one which holds so much promise for countries' development—especially resource-rich but otherwise poor countries—and presents so much risk of misuse and exploitation (the so-called “resource curse”).

Global transparency norms and standards such as EITI were developed in recognition of the importance of transparency to ensuring democracy and equitable economic growth. At the core of EITI is the principle that the extractive resources of a country belong to its people, and that the people have the right to information about how these resources are governed; how extractive rights, permits and licenses are issued; how these resources and revenues (paid and received) are allocated and monetized; and how these resources benefit the citizens and the economy. Transparency is central to EITI, both for creating new institutional norms around openness, accountability and responsiveness, and for empowering citizens.

Measures to increase transparency also strengthen democracy by supporting extractive industry reforms that make governments more accountable, and addressing some of the pervasive corruption challenges within the extractives sector that continue to undermine development, feed human rights abuses, support international criminal networks, and degrade the environment. By requiring citizens and community involvement in understanding and monitoring extractive activity and revenues, EITI reforms help prevent corruption, build citizen trust, and ensure the benefits of natural resources go towards meeting the needs of citizens and communities.

Transparency also improves the financial and investment environment in the countries where we work and levels the playing field for U.S. and other businesses. By requiring revenue, concession, procurement and extraction data, EITI reforms help governments understand and quantify their revenue base from extractives. In Nigeria, for example, the government has been able to identify and recover some \$2.5 billion in back-owed revenue from extractive companies. For investors, EITI reforms ensure that concessions and extractive sector management is done transparently and effectively, easing the cost of doing business and minimizing insider deals and risk.

Perhaps most importantly, increased transparency contributes to a country's long-term development by increasing public-private sector cooperation on key development challenges, supporting an active and involved civil society, and enhancing the ability of governments to effectively utilize and bring to bear their own resources. In many of the countries where USAID works, effective and accountable management of natural resources has the potential to transform and drive economic growth, serving as own-source revenue and a driver of development. On the other hand, the failure to address systemic corruption, leakage and mismanagement of the extractives sector keeps countries under the “resource curse”; wealthy in resources and poor in the ability to effectively use them for their own development. In many countries the benefits of vast natural and mineral resources are subject to misuse and corruption, depriving the poor and marginalized of access to critical and life-saving services, while enriching bad actors and criminal networks.

For all of these reasons, the U.S. Government supports both EITI and other platforms to improve transparency—and ultimately drive accountability—in the mining sector. Since FY 2016, USAID has provided approximately \$19 million in bilateral support to complement country-led efforts to increase extractive industry transparency and expand the impact and reach of EITI. Activities in countries such as Indonesia, Nigeria, Mexico, Ukraine, the Philippines and Colombia have included support for multi-stakeholder group development; support to national EITI secretariats in conducting public outreach and citizen engagement; assistance to civil society organizations and the media in advocating for extractive industry transparency; support in passing transparency legal and regulatory reform in the extractives area; technical assistance in preparing countries to accede to EITI and pass validation; and interventions aimed at reducing conflict over extractives.

*Question.* Which efforts are the most effective to reduce corruption and other illicit activity in the mining sector?

Answer. As an Agency, we understand the difficulty of addressing systemic corruption, whether in the mining/extractive sector, or in the areas of health, education or infrastructure development. We also understand the importance of doing so; there is no doubt that corruption weakens democracy, sabotages development gains,

hinders economic growth, and perpetuates a cycle of dependence. Corruption also fundamentally undermines the ability of countries to implement their own national development priorities across all sectors, whether health, education, governance, or infrastructure.

USAID knows that the most effective measures to address corruption are ones driven by an understanding that corruption is both its own system of governance—one with drivers, incentives, value chains, and objectives—and a web of public and private behaviors that inform expectations about power, responsibility, and democracy. Understanding the problem in this way allows for more effective and comprehensive approaches to preventing and responding to corruption, including taking into account the norms and incentives that drive it.

USAID's approach to addressing systemic corruption, including in the natural resource and mining sector, is to build systemic accountability. This means taking a holistic view of the governance landscape in-country, and of the implications for building accountability and integrity throughout the governance system. It also involves recognizing that the system includes all branches and levels of government; oversight and audit institutions; law enforcement; public sector agencies; the private sector and civil society. All of these are critical players in building systemic accountability. This is particularly true in the mining sector, where issues of systemic corruption and opportunities for systemic accountability can be found throughout the governance value chain, from a Ministry of Mines to the State Audit office to municipal authorities using royalty funds to artisanal/illegal mining companies.

As with all anti-corruption programming, effective activities in the mining sector should aim to promote this systemic accountability by building country capacity and commitment to combat corruption. On the capacity side, activities should aim to build the systemic ability and resilience of public institutions to fight and prevent corruption. Using platforms such as EITI or the Open Government Partnership (OGP), programs of this kind might help build this systemic accountability by creating public disclosure and expenditure tracking systems at the national or municipal level; enhancing the governance of royalty or other mining revenue funds; building or strengthening the technical capacity of audit, enforcement and oversight bodies to "follow the money"; supporting reforms of mining registration and concession processes; and supporting the specific technical capacity and understanding of the judicial sector, and law enforcement to detect, investigate and prosecute corruption in the mining sector.

On the commitment side, effective activities should aim to support implementation of international transparency norms and standards—such as EITI and OGP—as tools to encourage countries to deepen reform. At their core, these norms are about building citizen-responsive governance, and transforming the way the public sector around the world serves and is accountable to their citizens. These platforms provide opportunities for inclusive design of transparency and accountability commitments in the natural resource governance sector, as well as a means to holding governments publicly to account. Effective activities provide support for new transparency and accountability measures aimed at empowering citizens and enhancing their ability to demand greater transparency and accountability of their governments, monitor compliance with commitments and obligations and actively be part of a new accountability culture. Examples include support for citizen observatories, participatory budgeting in the use of mining revenues, and direct support to civil society reformers and investigative journalists to help them drive increased commitment to reform.

Finally, effective anti-corruption activities in the mining sector should include a focus on promoting a culture of good governance and accountability, both in and between the public and private sectors and civil society. On the government side, examples include integrity and ethics training for public officials, transparency assessments and scorecards, and support for internal self-assessments and new working methods to promote a culture of institutional integrity and facilitate behavior change. On the private-sector side, examples include support for integrity dialogues and pacts, cooperation and disclosure.

*Question.* Do you agree that initiatives like the EITI are effective means of collecting such data? Do you think the U.S. should rejoin the EITI? If not, why?

*Answer.* EITI has been a highly effective platform for deepening transparency and combating corruption in the extractive sector around the world. Data collection is only one aspect of the initiative; in fact, EITI has evolved from its beginnings as a narrow set of rules focused on revenue collection into an international standard covering the wider governance of extractive resources. It now encompasses beneficial ownership disclosure, contract transparency, the integration of the EITI into government systems, and transparency in commodity trading. Likewise, the focus of EITI

Reports has moved from compiling data to building systems for open data and making recommendations for reforms to improve the extractive sector governance more generally.

This evolution beyond data collection has amplified the usefulness of EITI as a platform for driving change. In addition, connections between EITI and OGP—in particular the fact that many countries use their OGP National Action Plans to create commitments around mining and natural resource management that go beyond EITI—demonstrate the way in which good governance can benefit from and build on established platforms for dialogue and change. EITI and OGP together not only provide reformers with a roadmap for change, and an opportunity for multi-stakeholder input from the private sector and civil society, but they also increase cooperation and trust. This is particularly important in the extractive sector, where government, the private sector and civil society have traditionally been at odds with each other.

As noted above, the United States has not withdrawn from EITI, and remains an active and engaged member of EITI as both a Supporting Country and as a Board (and Alternate) Member. The United States also continues to provide robust support for EITI implementation around the world through USAID. USAID defers all questions regarding the future of domestic implementation of EITI in the United States to the State Department.

*Question.* U.S. and EU laws require disclosures by firms on their sourcing of “conflict minerals” (tin, tungsten, tantalum, and gold or their ores, known as “3TGs”). If a firm sources 3TGs from the DRC—or, in the case of the EU, from any conflict-affected or high risk areas globally—the firm must carry out and report on due diligence monitoring of its supply chains. The aim is to ensure that firms’ purchases do not abet illicit armed activity, corruption, or problems such as forced labor and child labor.

Please discuss the role of “responsible sourcing” (i.e., due diligence-based tracking of mined commodity supply chains) to prevent mining revenues from being used to abet illicit armed groups, criminal groups, corruption, or problems such as forced labor.

*Answer.* Responsible sourcing for minerals means that private sector companies have in place procedures that respect human rights and avoid contributing to conflict through their mineral purchasing decisions and practices. Broad and consistent application of due diligence systems, particularly the Organisation for Economic Co-operation and Development (OECD) Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, has the potential to increase the supply of responsibly sourced minerals over time. Consumer awareness of and demand for responsibly sourced minerals drives much private sector behavior in this regard as modern consumers want to know more about the means through which their purchases were brought to market. Some companies believe that in order to stay competitive, they need to address these concerns. In turn, advocacy groups have helped put pressure on private actors and governments to prioritize responsible sourcing as a means of minimizing conflict finance, stabilize supply chains, and ensure the highest sourcing standards. The Public-Private Alliance for Responsible Minerals Trade (PPA) was created to bring together each of these groups—private sector, governments, and advocacy or civil society groups—to support the creation of conflict-free supply chains for so-called conflict minerals (tin, tantalum, tungsten, and gold) coming out of the Democratic Republic of the Congo and Africa’s Great Lakes Region. This public-private partnership is valuable for its ability to bring together interested actors who are focused on achieving solutions to complicated supply chain dynamics. USAID works closely with the U.S. interagency on these issues, especially the Department of State’s Bureau of Economic and Business Affairs, which serves as the interagency lead on conflict minerals policy.

*Question.* What lessons learned from this approach in Central Africa may be applicable to Latin America, especially with regard to countering drug cartels, and other armed or criminal groups’ involvement in mining?

*Answer.* A critical lesson from Central Africa which is applicable to Latin America is that efforts to promote responsible minerals trade need to be part of and in support of a partner country government’s broader economic growth strategy. USAID engagement on mine site validation built the capacity of and supported the government-led process, resulting in the validation of more than 600 mine sites in eastern Democratic Republic of Congo (DRC) as conflict-free. In 2018, validated conflict-free mine sites in the DRC legally exported approximately 15,800 tons of tin and tantalum worth over \$285 million. Conflict-free supply chains contribute to security improvements and generate an important source of legal revenue.

*Question.* How might the EU's application of responsible sourcing to all "conflict-affected and high-risk areas" affect Latin America?

Answer. EU disclosure requirements for companies operating in Latin America and the Caribbean may raise private sector and consumer awareness about artisanal and small-scale gold mining (ASGM) and could complement USAID's efforts to create responsible ASGM supply chains in the region. The Department of State's Bureau of Economic and Business Affairs is the interagency lead on conflict minerals policy.

Some indigenous people—such as the Yanomami in Venezuela, among other vulnerable populations—have been forced into slavery at some illegal mines. Indigenous populations also face threats from illegal miners operating near or within their lands. Indigenous groups often object to mining because it violates their ancestral land rights, pollution and destruction of their land damages their livelihoods, and they are often excluded from decision making regarding the disposition of mining proceeds.

*Question.* What is the U.S. doing to promote the protection of rights for indigenous communities exposed to the mining sector?

Answer. USAID works to ensure that the rights of marginalized communities, including ethnic minorities and indigenous peoples, are protected. This includes their right to be free from slavery and trafficking, and to have statutory and customary rights to land and resources. USAID has a draft Policy on Promoting the Rights of Indigenous Peoples that is currently in the final stages of clearance. The Policy proposes adopting a process to assess the impact that an activity will have on Indigenous People, and identifies ways to strengthen engagement with Indigenous Peoples in order to support their development priorities and safeguard them against unintended harm. USAID also coordinates closely with the interagency on programs in the artisanal and small-scale mining sector. This includes coordination with the U.S. Department of Labor and the Department of State, both of which have programs addressing labor and human rights issues associated with the mining sector that complement USAID programming.

In Peru, the U.S. government is supporting the Government of Peru in its effort to address the impacts of illegal gold mining in the Amazon, such as deforestation, encroachment into protected areas and indigenous territories and mercury contamination impacts on the health of local populations. USAID provides technical support for reforestation and ecosystem remediation and has established the first mercury analysis laboratory in Madre de Dios in the Peruvian Amazon to collect, analyze and disseminate data on mercury contamination of rivers, wildlife and human communities. In addition, it is working in collaboration with the Madre de Dios Regional Educational Office to promote environmental education in schools to raise awareness of the health impacts of mercury in the local population.

In Colombia, USAID provides support to the Government of Colombia to build effective governance of artisanal small-scale gold mines, or if legal small-scale mining is not economically or environmentally feasible, to provide licit alternative livelihoods. This work includes a focus on working with Afro-Colombians, an ethnic minority, especially vulnerable to exploitation.

In September 2019, USAID launched the "Amazon Indigenous Rights and Resources" a regional activity to improve participation of indigenous people in the sustainable economic development of the Amazon. The activity is working (1) to incorporate indigenous rights and interests into private and public sector development planning, and (2) to equitably and sustainably scale up indigenous enterprises to regional and global markets. The activity will work with new and non-traditional partners, including indigenous peoples, their organizations, their enterprises, the private sector, civil society, government entities, and other key stakeholders of large-scale infrastructure and extractives projects in the Amazon region.

Smuggling of some mined commodities, notably gold, is common across sub-Saharan Africa, due to overly burdensome customs and business laws, as well as tax evasion. Smuggling from the DRC through neighboring countries and on to the Middle East is particularly notable for its scale.

*Question.* What are the primary export destinations for illicit gold coming from Africa? From Asia? From Latin America?

Answer. According to press reports, customs data indicate that the United Arab Emirates, China, and Switzerland are the largest importers of African gold. The recorded export data from African states is notably lower, which can be an indicator of smuggling. Illicit gold is often smuggled into neighboring countries before being exported to international destinations.

USAID does not have dedicated programming to specifically address illicit gold supply chains and therefore is not in a position to comment on the primary export destinations for gold originating from Asia.

The United States remains an important destination for illicit gold coming from Latin America. Last year, more gold arrived in Miami than any other U.S. customs district and Miami ranked third in outbound shipments of gold. The most common routes take gold from mines in Colombia, Mexico, Bolivia, and Peru and the gold trading center of Curacao, to Miami and then on to Switzerland, the United Arab Emirates and the Dominican Republic.

While it is difficult to estimate what percentage of that gold is illegal, the amounts are significant. For example, the Government of Colombia estimated that close to half of the total gold exported by Colombia in 2012 and 2013 could have been smuggled into the country from neighboring countries and that 15–30 percent of total production could be smuggled out of Colombia every year. Moreover, around 80 percent of domestic gold production is estimated to be illegal, the vast majority appears to be exported legally.

Countries in Latin America, including Colombia, serve as a pass through for illicit gold from Venezuela to Miami in order to give the appearance that the gold is originating from these countries instead of Venezuela. Profits from illicit mining help prop up the Maduro regime and criminal and armed groups.

*Question.* What roles do regulatory and tax regimes play in incentivizing black market trade in the mining sector?

*Answer.* Regulatory and tax regimes can impact—both positively and negatively—the illicit minerals trade. For example, national mining codes may not allow for artisanal or small-scale mining (ASM) operations. Or, a country's laws on mining may grant all subsurface rights to the state, without addressing how existing rights to land may be harmonized with the state's right to allocate mineral concessions. These types of regulatory regimes can push the ASM sector further into the shadows and encourage illicit supply chains. To help create a positive regulatory environment USAID's projects have conducted policy analyses and provided ASM-related recommendations for the mining codes in the Democratic Republic of the Congo (DRC), Côte d'Ivoire, Central African Republic, Afghanistan, and Colombia. In the DRC, for example, USAID contributed to the revision of the DRC's Mining Code which led to provisions in the Mining Code favorable to artisanal mining and the establishment of artisanal mining areas. USAID has also provided support to regional mechanisms such as the Regional Certification Mechanism of the International Conference of the Great Lakes, and input into international due diligence frameworks such as the Kimberley Process Certification Scheme (KPCS) for diamonds. Efforts to increase transparency in the ASM sector, including voluntary or mandatory disclosure requirements, may encourage positive reform.

High tax rates and disparities in regional tax regimes for minerals can encourage smuggling. There is a clear economic incentive to smuggle minerals from a producer country into a neighboring country with no taxes or lower tax rates for minerals. This is currently happening in Afghanistan where the lack of basic regulatory guidelines in the extractives sector, overall uncertainty in the implementation of a new Minerals Law, high mineral royalty rates and related fees combined with endemic corruption do not incentivize illegal mining operations to become part of the formal economy that would facilitate government revenue generation from legal exports.

*Question.* How do we address demand for illicitly mined products like gold and diamond at the national level?

*Answer.* To reduce demand for illicit minerals at the national level, it is important to understand ASM actors in the illicit supply chain as economic actors who undertake this activity for profit. Demand reduction can be achieved by increasing the risk of enforcement, decreasing impunity, and increasing the benefits of entering the licit supply chain, such that the cost-benefit analysis of illicit mineral production changes in favor of licit, traceable supply chains. In some cases, creating legal and responsible supply chains for minerals—including due diligence and traceability systems—may create a desirable alternative source of minerals for the private sector and reduce overall demand for illicit minerals. Measures to increase transparency and accountability in the minerals sector, including voluntary or mandatory disclosure requirements, may encourage positive reforms.

The Washington Declaration Diagnostic Framework, created in partnership between USAID, participants in the Kimberley Process, and others, specifically outlines policy goals for reducing the trade in illicit diamonds. To create a supportive policy environment, the Washington Declaration identified the following policy goals: lower fees and increase accessibility of mining licenses, enhance data collec-

tion and analysis, strengthen property rights, improve financial transparency and good governance, empower artisanal miners to engage with buyers and investors, expand access to mining inputs, support complementary livelihoods in diamond mining communities, improve working capital and organization in the artisanal diamond mining sector, and harmonize legal frameworks covering different land uses and natural resources (e.g. mining, forestry, water, land).

About 40 million people today worldwide are involved in so-called artisanal- and small-scale mining. Many of these small-scale miners work informally, meaning that their work is not registered or regulated by the government, leaving them un beholden to mandated practices for safe labor conditions, employee protections, and environmental standards. For example, mining deaths from cave-ins and other hazards are common in hand-dug ASM mines across Africa.

*Question.* What is meant by “formalization” of artisanal and small-scale mining (ASM)? What are the main challenges and main positive developments of this approach?

Answer. ASM formalization is the process of collaborative rule-setting and rule enforcement across supply-chain actors, governments, and communities with the aim of enabling ASM to contribute to local and national peace and prosperity, both now and for future generations. Formalization may include a range of interventions, namely: clarification of land and mineral rights, supportive laws and regulations, implementation of the legal and regulatory framework, mine site validation, traceability, due diligence, certification systems, establishment of mining cooperatives, and development of legal and responsible supply chains.

The goal of formalization is to ensure responsible artisanal mineral production and trade that contributes to a country’s development. A formalized and well-regulated ASM sector can be a powerful engine for economic growth for men and women and an important source of domestic resource mobilization. It can mitigate the environmental risks associated with ASM, reduce human rights abuses, and cut off an important source of financing for corrupt individuals and officials, armed groups, criminal networks, and terrorist organizations.

Formalization is challenging because it is a slow, often years long process that necessitates working alongside national and local government officials, and directly addressing organized criminal operations and corruption. Due-diligence and traceability systems are often put in place as part of the formalization process. These systems are costly and supply-chain actors, including companies and consumers, must be willing to pay for the cost of due-diligence and traceability in order for the systems to be economically viable. USAID works closely with the private sector when putting in place due diligence and traceability systems.

*Question.* What role does formalization play—and what can it further contribute—in curtailing illicit mining, alleviating poverty, and supporting sustainable development of the mining industry?

Answer. Formalization helps ensure ASM actors are part of the formal economy and subject to appropriate laws and regulations, including protection and safeguards for ASM actors and local communities. It can mitigate environmental and social risks associated with the sector, including the risk of conflict with surrounding mining operations and other land uses. Formalization helps ensure proper regulation and oversight of mining operations to reduce environmental damage. It can also help mining communities benefit from mining revenue, such that a percentage of the revenue stays within local communities. Under a well-regulated formal system, ASM actors are less vulnerable to predation by corrupt individuals, government officials, or criminal groups. Thus, formalization can result in progress in combating criminality and corruption, which in turn reduces smuggling.

*Question.* How might formalization methods and outcomes differ between Africa and Latin America?

Answer. Formalization methods and outcomes for artisanal and small-scale mining are context-specific. Each country requires a unique approach that takes into account issues such as the type of mineral being smuggled, national and local government regulations and capacities, political will, land and mineral rights, level of organization and mechanization in the ASM sector, interference in the supply chain by corrupt officials or armed groups, smuggling routes, and civil society and private sector actors.

Formalization of the ASM sector is a long-term process. USAID prioritizes interventions—and the part of the formalization process that we are supporting—based on the primary development challenge to be addressed. In some countries, such as the Central African Republic or the Democratic Republic of the Congo, priority has

been placed on breaking the link between ASM and conflict and improving compliance with specific conflict-minerals legislation or trade regimes. In Colombia, USAID has been working with the Government of Colombia to formalize small-scale mining operations, rehabilitate land degraded by mining, and—if legal small-scale mining is not economically or environmentally feasible—provide licit alternative livelihoods.

A major issue associated with mining is its negative environmental impacts that lead to public health concerns. Large-scale air and water mercury emissions directly expose many artisanal and small-scale miners and surrounding communities to high concentrations of mercury. This exposure is known to cause serious nervous system and internal organ disorders and birth defects. Cyanide, used to dissolve gold ores in slurries, also poses health and environmental risks, notably when it enters water streams.

*Question.* How, and to what extent, are mercury and cyanide used in illicit mining? What health and environmental risks do their uses pose?

*Answer.* Artisanal and small-scale mining (ASM) generates various types of pollution that can impact humans and wildlife and stress ecosystems. To ensure that USAID programs address and mitigate the environmental impacts of ASM in the design and implementation of programs in the artisanal mining sector, USAID developed Sector Environmental Guidelines on Artisanal and Small-Scale Mining. In 2019, in response to increasing concerns over the impact of ASM on biodiversity in Latin America, USAID produced a report entitled, *Small-Scale and Artisanal Mining Impacts on Biodiversity in Latin America*, to elucidate the links between ASM and biodiversity and inform USAID programming.

The most prevalent and widespread pollution includes sedimentation from alluvial mining, mercury contamination, and acid mine drainage and heavy metal leachates (including cyanide-related leaching). The use of mercury is very common in artisanal and small-scale mining of gold (ASGM) whereas the use of cyanide is not as widespread. The extent of mercury and cyanide use varies greatly by country. For example, USAID's experience on the ground suggests that mercury use is much more prevalent in the illicit gold supply chains in Peru and Colombia than in the Democratic Republic of the Congo.

Use of mercury in ASGM is a common practice globally because it is an inexpensive, simple, and rapid process to extract gold from ore. ASGM is the largest source of mercury emissions in the world. Recent studies estimate that up to 1,400 tons of mercury are released into the global environment annually from ASGM, representing approximately 37 percent of total global emissions. Approximately one-third is released into the atmosphere and two-thirds released into waterways and tailings piles.

Mercury is a potent neurotoxin that can cause physiological, neurological, behavioral, and reproductive harm to humans and wildlife. It is a persistent and powerful neurotoxin that bioaccumulates in the food chain. The most problematic form of mercury contamination is from organic mercury, which forms methylmercury. Consumption of mercury-contaminated fish, especially by top predators, is a leading source of methylmercury exposure for both humans and wildlife. Miners and communities near mine sites, including indigenous communities, are especially impacted by mercury contamination.

Cyanide effectively extracts gold and is used in most industrial gold processing world-wide. Cyanide is used to process gold-bearing ore and tailings and can be used to extract additional gold from ore that has already been treated with mercury. Cyanide itself is toxic, but it also releases mercury and other heavy metals from the ore and requires significant expertise and technological equipment to do properly. Although cyanide is not as commonly used by individual miners as mercury, some regional small-scale cyanide processing centers work with ASM miners in countries such as Peru and Ecuador. These centers will often reprocess ore and tailings that have already been processed with mercury once to extract the remaining 70–80 percent of the gold that the mercury did not extract.

*Question.* Please discuss the role of the Minamata Convention in reducing mercury emissions in small-scale mining, and any related implementation initiatives in Latin America.

*Answer.* The U.S. Department of State leads the U.S. Government's efforts pertaining to the Minamata Convention. The Minamata Convention is a global treaty to protect human health and the environment from the adverse effects of mercury. It concerns artisanal and small-scale gold mining (ASGM) as artisanal gold miners are currently the world's foremost users of mercury and release significant quantities of it into the environment. Developed in 2010 and adopted in 2013, the Con-

vention regulates the use of mercury in AGSM, and controls its release in air, land, and water. Article 7 of the Convention calls upon countries to develop ASGM National Action Plans (NAP) which articulate strategies to promote mercury-free gold extraction methods and address related environmental and health concerns.

USAID programs help advance the Minamata Convention by supporting the formalization of ASGM supply chains, addressing illegal mining in high priority protected areas, establishing and implementing due-diligence frameworks, and supporting research. For example, USAID supports efforts to reduce or eliminate mercury in gold supply chains in Colombia and Peru. In Peru, USAID has built up the country's scientific and research capacity by establishing the first laboratory in Madre de Dios with the capacity to analyze environmental mercury contamination and supporting the publication of over 25 papers on remediation and management techniques. In Colombia, USAID programs promote legal and responsible mineral supply chains in Antioquia and Chocó. Our programs have helped formalize 42 mining operations and eliminated nearly 40 tons of mercury from mining production.

*Question.* Apart from mercury and cyanide, what are the main threats to water resources and ecosystems arising from illicit mining in Latin America? How are governments seeking to prevent such pollution?

*Answer.* There are a number of impacts of mining on water and ecosystems in Latin America in addition to those from mercury and cyanide. The primary impacts of ASM in the ecosystems include deforestation and soil displacement, fragmentation of habitats, habitat loss, changes in hydrology, and pollution, including from sedimentation and mercury. Pollution from ASM can include spills of oil and gas from equipment, solid waste, sediment and acid mine drainage released into bodies of water, air pollution, and widespread mercury contamination.

Alluvial mining is widespread in South America and involves extracting minerals from alluvial deposits, usually in floodplains, terraces, or alluvial fans at the base of mountains ranges or hills. It has a wide impact on the landscape and results in most of the topsoil and organic matter washed away, causing downstream pollution and rendering the mined landscape infertile and devoid of soil or organic material which can take decades to revegetate.

Several countries in Latin America have put measures in place to address the environmental and social impacts of ASM including El Salvador, Peru, and Colombia. In 2017, El Salvador became the first country in the world to ban all metal mining to protect water quality. The ban was primarily in response to severe water scarcity generated by high rates of deforestation and environmental degradation; the ban affected hundreds of families that have practiced ASGM for generations, as well as industrial-scale mining.

USAID has been working in close collaboration with the Governments of Colombia and Peru who have been reliable partners committed to addressing illegal artisanal gold mining. In February 2017, the U.S. Government and the Government of Peru signed a memorandum of understanding (MOU) to increase cooperation on small-scale gold mining on critical areas such as reducing or eliminating the use of mercury and reducing encroachment of illegal mining on natural protected areas, indigenous peoples and archaeological zones. A year later, in March 2018, the U.S. Government also signed a bilateral MOU with the Government of Colombia on cooperation related to the prevention and control of illegal gold mining, which included efforts for regularization and formalization of small-scale mining; detection and elimination of mercury use in mining; and recuperation, restoration, and/or remediation of areas affected by illegal mining.

In February 2019, Peru launched Operation Mercury, a massive effort to permanently remove illegal gold miners from "La Pampa," Peru's epicenter of illegal gold mining in Madre de Dios. The initial militarized stages of the operation will be followed by a 2-year intensified effort to disable the criminal organizations driving illegal mining, transition miners to formal and licit livelihoods, and remediate decimated lands and waterways. USAID is providing the Government of Peru technical information and technology to facilitate the ecosystem recovery in La Pampa after removal of the illegal gold mining. For example, USAID provided information to help identify where the reforestation process needs to occur, appropriate tree species to plant, and methods to revitalize degraded soil using organic materials to produce biochar, a sediment that removes heavy metals, such as mercury, from the soil and increases water retention capacity and thus regeneration.

Deforestation linked to illicit gold mining is particularly extensive in the Amazon region, and has contributed to widespread desertification within tropical rainforests. Illegal gold mining in the Peruvian Amazon region, for example, from 2011–2016 was responsible for the loss of about 60,000 hectares of biodiverse rainforest.

*Question.* Is reducing deforestation from mining a priority for the Trump administration?

*Answer.* Combating deforestation is a high priority for USAID's global environment programs, including biodiversity conservation programming which takes a threats-based approach. Deforestation caused by illegal mining or other threats is addressed, as appropriate, in consultation with and in support of host country government efforts. Illegal gold mining may also occur in areas that have been illegally logged—and both of these illegal activities are included in the administration's priority initiative to combat conservation crimes. Since 2017, Congress has appropriated \$372 million in U.S. foreign assistance for sustainable landscapes work to preserve and restore forests and other lands. This funding supports enhanced forest monitoring, along with capacity building for forest management and conservation, which enables our partners to track and combat illegal deforestation, including from illicit gold mining.

In the Amazon Basin, USAID works to reduce deforestation and forest degradation; support an environmentally friendly economy; protect key landscapes and species; and secure the rights, resources, and health of forest dependent communities. Efforts include supporting regional deforestation monitoring using remote sensing to enable local communities and governments to respond as needed. In recent years, USAID has provided research support and technical assistance to the Government of Peru's forest management agencies to advance understanding of how illegal gold mining contributes to deforestation, and to inform emerging national reforestation guidelines. USAID also recently launched a new activity that focuses on combating environmental crimes in the Peruvian Amazon, including support to the Government of Peru to implement its artisanal and small-scale gold mining (ASGM) formalization process by incorporating social and environmental safeguards that will in turn help to reduce deforestation from illegal mining.

In Africa, USAID's Central Africa Regional Program for the Environment (CARPE) implementing partners engage with artisanal miners working illegally within protected areas as part of efforts to conserve the Congo Basin tropical rainforest and its threatened biodiversity. USAID is also supporting a monitoring platform with information on the location of illegal mining sites across Ghana and associated land degradation. It will provide the necessary spatial data to target areas for remediation and landscape restoration activities.

*Question.* Because the U.S. has withdrawn from the Paris Climate Accords, what leverage do we have when asking other nations to protect the environment even when doing so may mean less economic gain?

*Answer.* USAID coordinates closely with the interagency on climate change; the Department of State leads the United States Government's climate change negotiations. The United States has begun the process to withdraw from the Paris Agreement. Per the terms of the Agreement, the United States submitted formal notification of its withdrawal to the United Nations. The withdrawal will take effect on November 4, 2020, 1 year from delivery of the notification on November 4, 2019. Irrespective of our participation in the Paris Agreement, the United States continues to be a world leader in reducing emissions. U.S. net greenhouse gas emissions dropped 13 percent from 2005 to 2017, even as our economy grew more than 19 percent.

This achievement, which can serve as a model to other countries, flows from innovation, technology breakthroughs, and energy efficiency gains. The United States will continue to research, innovate, and grow our economy while reducing emissions and extending a helping hand to our friends and partners around the globe. We will continue to work with our global partners to enhance resilience to the impacts of climate change and prepare for and respond to natural disasters.

As stated in USAID's recently launched Environmental and Natural Resource Management Framework, sound management of environmental and natural resources is integral to a country's development, resilience, and self-reliance. USAID is committed to supporting governments, civil society, and the private sector in our partner countries on their Journey to Self-Reliance, including through strategic investments in environmental and natural-resource management and the robust integration of environmental protection into our programs. In this work, USAID is guided by countries' own development priorities, consistent with the growing international consensus around principles for effective development assistance.

An estimated 10 million people in at least 40 of 54 countries in sub-Saharan Africa make a direct living from the mining sector. A further 60 million people across the continent make an indirect living from the mining sector, which provides an important source of poverty alleviation, jobs, livelihoods, and wealth creation. A reli-

ance on mining across the sub-Saharan region means that this issue requires regional solutions.

*Question.* Please discuss the approach and relative success of African Union efforts, as envisioned in the “Africa Mining Vision” and through the activities of the African Minerals Development Centre, in helping to foster positive ASM-related development outcomes.

*Answer.* The African Minerals Development Center (AMDC), a specialized agency of the African Union (AU), aims to help African countries properly utilize their mining resources as a catalyst for sustainable development. The AMDC helps countries adjust to changing technologies and linkages between mining and other sectors of the economy, reform their fiscal and tax regimes, and improve governance. The center developed a mining guide for countries for domesticating the Africa Mining Vision and aligning it with other countries.

USAID does not currently support the implementation of AU mining efforts. USAID is not familiar enough with the AU’s efforts to provide comments on their relative effectiveness; however, our responsible minerals trade work is consistent with “Africa Mining Vision” of “transparent, equitable and optimal exploitation of mineral resources to underpin broad-based sustainable growth and socio-economic development” and the corresponding holistic approach to promoting a viable responsible minerals industry.

USAID has supported regional efforts to address artisanal and small scale mining (ASM) in Africa through the International Conference of the Great Lakes Region (IGCLR), including efforts to strengthen the strategic and financial management capacity of the ICGLR’s Regional Initiative against the Illegal Exploitation of Natural Resources (RINR). Additionally, USAID increased the ICGLR’s ability to monitor and audit regional supply chains by supporting the establishment of an Independent Mineral Chain Auditor within the ICGLR and financing several independent third party audits of mineral supply chains in the Great Lakes region.

---

RESPONSES OF PATRICK J. LECHLEITNER TO QUESTIONS  
SUBMITTED BY SENATOR BENJAMIN L. CARDIN

DISCLOSURE

One method to combat illicit mining is to increase disclosure in extractive industries, which may seek to cover the unethical or exploitative practices they use for acquiring minerals. To enhance transparency and good governance in state-run extractive industries, multiple countries, including the United States and European Union members, have laws requiring the public disclosure of EI firms’ payments to governments.

In 2010, Congress passed Section 1504 of the Dodd-Frank Act, also known as the Cardin-Lugar provision. Section 1504 established a global standard to require companies to disclose payments made to the U.S. or foreign governments related to the development of oil, gas, or minerals. Since then, 30 countries have followed the U.S.’ lead, including Canada, Norway, the U.K., and 27 other members of the European Union.

But in 2017, through the Congressional Review Act procedure, Congress voted to revoke the updated rule passed by the SEC that required public disclosure. That same year, the U.S. withdrew from the Extractive Industries Transparency Initiative (EITI).

*Question.* How can the U.S. lead by example when we withdraw from initiatives like the EITI and when Congress votes to invalidate rules that require transparency in critical sectors of the economy responsible for illicit activities?

*Answer.* There are several laws enforced by U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) that address exploitive practices associated with illicit mining. For example, the United States has very clear prohibitions restricting the importation of goods produced using forced labor. See 19 U.S.C. § 1307. Additionally, ICE HSI conducts investigations of violations of the Clean Diamond Trade Act, Pub. L. No. 108–19, 117 Stat. 631 (2003), and investigates criminal organizations who illegally import illicitly mined minerals into the United States, including through commercial fraud and third-party and trade-based money laundering. ICE is committed to addressing the exploitation of people and natural resources by criminal organizations, such as illicit mining, through its enforcement of existing laws.

*Question.* What role does transparency play in ensuring that mining is more fair and accountable? What are the U.S. government and U.S. companies doing to support transparency in the mining sector, including via the EITI?

*Answer.* (LES) Transparency plays an important role in ensuring the legal importation of mined minerals. To encourage this transparency and information sharing in the importation process with foreign government counterparts, ICE HSI established a headquarters-based unit dedicated to trade transparency (the Trade Transparency Unit [TTU]) in 2004. Since the unit's formation, ICE HSI has established TTUs in partner countries to share trade data to detect trade-based money laundering and sanctions violations as well as commercial smuggling and other crimes that generate illicit proceeds. TTUs detect suspicious transactions and financial discrepancies and coordinate investigative and enforcement activities with domestic and international ICE HSI offices and law enforcement partners. ICE HSI currently has TTU agreements with 17 countries, including the Latin American countries of Argentina, Brazil, Colombia, Chile, Ecuador, Paraguay, Peru, and Uruguay. Formal information sharing agreements are used to exchange valuable trade data, providing visibility to both sides of trade transactions. TTUs link international customs and law enforcement agencies together in combating transnational crime, including the trade in illegally mined materials. ICE HSI special agents also engage in outreach and training with industries and trade groups to provide information on the role of law enforcement in investigating crimes connected to illicit mining and the importance of knowing their supply chain.

*Question.* Which efforts are the most effective to reduce corruption and other illicit activity in the mining sector?

*Answer.* International cooperation is essential to address transnational criminal organizations that engage in illicit mining. ICE works closely with our international counterparts to investigate corruption, money laundering, and other illicit activity related to the mining sector to disrupt and dismantle criminal organizations who engage in illicit mining as well as identifying third parties who facilitate the laundering of such illicit funds. U.S. Government agencies continue to work together to increase enforcement, including use of the Tariff Act of 1930 and sanctions authorities based upon human rights violations, corruption, and national security.

*Question.* Do you agree that initiatives like the EITI are effective means of collecting such data? Do you think the U.S. should rejoin the EITI? If not, why?

*Answer.* Information sharing initiatives like the Extractive Industries Transparency Initiative (EITI) create and facilitate discussion and cooperation among parties that otherwise may not do so. The sharing of this information as well as the collaboration for potential solutions can create significant outcomes, result in the creation of partnerships, and demonstrate the commitment of the United States to issues such as illicit mining.

#### DUE DILIGENCE

U.S. and EU laws require disclosures by firms on their sourcing of “conflict minerals” (tin, tungsten, tantalum, and gold or their ores, known as 3TGs). If a firm sources 3TGs from the DRC—or, in the case of the EU, from any conflict-affected or high risk areas globally—the firm must carry out and report on due diligence monitoring of its supply chains. The aim is to ensure that firms' purchases do not abet illicit armed activity, corruption, or problems such as forced labor and child labor.

*Question.* Please discuss the role of “responsible sourcing” (i.e., due diligence-based tracking of mined commodity supply chains) to prevent mining revenues from being used to abet illicit armed groups, criminal groups, corruption, or problems such as forced labor.

*Answer.* Responsible sourcing for conflict minerals (tin, tungsten, tantalum, and gold or their ores) places a requirement on firms to gain greater awareness of their supply chain, while also providing consumers with access to information they need to make informed choices for their purchases. However, in industries that draw from fungible supplies, like gold mining, maintaining a transparent supply chain may be difficult. Gold is often smelted each time it changes hands and during that process illicit gold may be mixed with licit gold. During the mining and transportation process, bad actors have opportunities to forge or falsify documents representing illicitly mined gold as originating from legitimate mines. While laboratories often can provide a chemical breakdown of the gold bars, they cannot identify the specific country or region of origin for such gold. While “responsible sourcing” plays an important role, it must also be combined with a strong law enforcement component to address

criminal groups, corruption, and forced labor issues encountered in the illicit mining industry.

*Question.* What lessons learned from this approach in Central Africa may be applicable to Latin America, especially with regard to countering drug cartels, and other armed or criminal groups' involvement in mining?

How might the EU's application of responsible sourcing to all "conflict-affected and high-risk areas" affect Latin America?

Answer. Illicit minerals are trafficked throughout the world. Because of smuggling routes for these illicit minerals, it is not always easy for a legitimate business in the United States to know if the mineral is derived from a conflict-affected or high-risk area. When conflict areas are limited in scope, the culpability of these firms is even more difficult to prove. Laws requiring disclosures of minerals sourced from all conflict zones allow law enforcement to more effectively investigate all crimes associated with this illicit trade. ICE HSI coordinates with its partner agencies in the European Union (EU), and throughout the world, to pursue investigations involving illicit gold sourced from conflict zones.

#### INDIGENOUS RIGHTS

Some indigenous people—such as the Yanomami in Venezuela, among other vulnerable populations—have been forced into slavery at some illegal mines. Indigenous populations also face threats from illegal miners operating near or within their lands. Indigenous groups often object to mining because it violates their ancestral land rights, pollution and destruction of their land damages their livelihoods, and they are often excluded from decision making regarding the disposition of mining proceeds.

*Question.* What is the U.S. doing to promote the protection of rights for indigenous communities exposed to the mining sector?

Answer. ICE's mandate does not specifically reach into the protection of rights for foreign indigenous populations; as such, ICE's criminal investigations pursue matters impacting such populations when there is a U.S. investigatory nexus, such as commercial fraud, or forced labor in imported goods investigations.

#### CONSUMER DEMAND

Smuggling of some mined commodities, notably gold, is common across sub-Saharan Africa, due to overly burdensome customs and business laws, as well as tax evasion. Smuggling from the DRC through neighboring countries and on to the Middle East is particularly notable for its scale.

*Question.* What are the primary export destinations for illicit gold coming from Africa? From Asia? From Latin America?

Answer. (LES) Uganda is a significant destination for unrefined gold from Africa as it is home to gold refineries that are responsible for significant portions of the illicit gold trade. Some of these refineries operate outside of local law; however, they receive at least some degree of protection from law enforcement. These Ugandan gold refineries likely source their raw gold from conflict mines in the Democratic Republic of the Congo and South Sudan. Ugandan refineries are known to have imported at least seven tons of illicit Venezuelan gold for processing and refinement.

(LES) The United Arab Emirates (UAE) is also a primary destination for gold from Africa. According to the United Nations Comtrade database, the UAE reports a higher intake of gold arriving from Africa than African countries report exporting to the UAE. Additionally, the UAE reports imports from 46 African countries, while only 21 African countries report exporting to the UAE. The UAE trades heavily in gold, primarily through Dubai, and exports to numerous countries throughout the world, including the United States.

(LES) Reports by The Global Initiative Against Transnational Organized Crime indicate the primary market for illicit gold from Asia is from the Philippines to China via large gold markets in Hong Kong and Singapore. The same organization reports that the primary market for illicit gold from Mongolia is China as well, with smaller amounts of illicit Mongolian gold shipped to South Korea.

(LES) The primary export destinations for illicit gold from Latin America are the United States via Miami, Florida; and the Middle East, via the UAE.

*Question.* What roles do regulatory and tax regimes play in incentivizing black market trade in the mining sector?

Answer. The U.S. Government can help address demand for illegally mined products at the national level by raising awareness of the impact of illicit mining. As

a law enforcement agency, ICE continues to work closely with our law enforcement counterparts to investigate transnational criminal organizations (TCOs) that import illicit gold into the United States and launder the profits. These efforts make it more difficult for TCOs to profit from illicit mining.

*Question.* How do we address demand for illicitly mined products like gold and diamond at the national level?

Answer. Companies that can claim membership in product certification schemes have the ability to share that information with consumers as a way to incentivize informed consumer purchases. A public relations/advertising campaign to promote the purchase of ethically-sourced gold and diamonds, accompanied by a government information campaign on the potential consequences of purchasing non-ethically-sourced gold and diamonds (such as human exploitation and forced labor, harm to the environment, financing of terrorist organizations, and the spread of activities by TCOs in the illicit movement of goods and people connected with illegal mining) could increase demand for ethically-sourced goods.

#### RESPONSIBLE SUPPLY CHAINS

International mineral supply chains are increasingly complex and interconnected, which means companies could be vulnerable to legal, financial, and reputational harm if they are unknowingly or indirectly contributing to predatory armed groups, organized crime, terrorist networks and other corrupt and rights-abusing actors through their supply chains.

*Question.* How can U.S. companies that rely on certain minerals minimize their risk of buying minerals that have benefitted bad actors?

Answer. U.S. companies may determine that the risk of sourcing from a conflict area outweighs the financial benefits of doing so in the absence of clear data mapping a supply chain back to the raw materials, if they lack information on the identity of all participants in that supply chain, or if they are not able to freely access worksites, labor forces, or the business data needed to map a supply chain. U.S. companies should avail themselves of all sources of information when making sourcing decisions, such as U.S. Department of Labor reporting on international child labor and forced labor, the U.S. Department of Treasury's Office of Foreign Assets Control sanctions list, including the list of violations of the Global Magnitsky Human Rights Accountability Act, as well as reporting by academics, non-governmental organizations, media outlets, or other research to identify locations and supply chains of high risk. U.S. companies should also work with local authorities and civil society organizations to identify potential sources of minerals that operate without ties to problematic groups and without the use of prohibited forms of labor.

#### ILLCIT GOLD MINING

Gold, in particular, has a long history of being used as a vehicle for money laundering and is increasingly seen as a lucrative source of financing among armed groups and organized criminal networks.

Just last month, the International Crisis Group published a report which warned that "artisanal gold mining [in the Sahel] provides armed groups, in some cases including jihadists, with a new source of funding and potentially even new recruits." This report finds that "artisanal [gold] production now reportedly amounts to almost half the volume of industrially produced gold" in Niger, Burkina Faso and Mali, representing anywhere between \$1.9 and \$4.5 billion per year.

*Question.* What is the U.S. government doing to mitigate the risk of illicit gold mining and the trade in illicit gold?

Answer. ICE HSI works closely with our U.S. Government and international law enforcement partners to investigate the illegal importation of gold and associated crimes such as money laundering and forced labor. ICE HSI has established Transnational Criminal Investigative Units (TCIUs) comprised of foreign law enforcement officials who receive Department of Homeland Security training and who have sovereign authority to investigate and enforce violations of law in their respective countries. Through these TCIUs, ICE HSI has increased cooperation and information sharing with foreign law enforcement partners. ICE HSI also works to educate the private sector on our role in conducting these investigations and how we can work together to address this important issue.

THE COMMITTEE RECEIVED NO RESPONSES FROM MS. REGINA E. THOMPSON FOR THE FOLLOWING QUESTIONS SUBMITTED BY SENATOR BENJAMIN L. CARDIN

DISCLOSURE

One method to combat illicit mining is to increase disclosure in extractive industries, which may seek to cover the unethical or exploitative practices they use for acquiring minerals. To enhance transparency and good governance in state-run extractive industries, multiple countries, including the United States and European Union members, have laws requiring the public disclosure of EI firms' payments to governments.

In 2010, Congress passed Section 1504 of the Dodd-Frank Act, also known as the Cardin-Lugar provision. Section 1504 established a global standard to require companies to disclose payments made to the U.S. or foreign governments related to the development of oil, gas, or minerals. Since then, 30 countries have followed the U.S.' lead, including Canada, Norway, the U.K., and 27 other members of the European Union.

But in 2017, through the Congressional Review Act procedure, Congress voted to revoke the updated rule passed by the SEC that required public disclosure. That same year, the U.S. withdrew from the Extractive Industries Transparency Initiative (EITI).

*Question.* How can the U.S. lead by example when we withdraw from initiatives like the EITI and when Congress votes to invalidate rules that require transparency in critical sectors of the economy responsible for illicit activities?

[No Response Received]

*Question.* What role does transparency play in ensuring that mining is more fair and accountable? What are the U.S. government and U.S. companies doing to support transparency in the mining sector, including via the EITI?

[No Response Received]

*Question.* Which efforts are the most effective to reduce corruption and other illicit activity in the mining sector?

[No Response Received]

*Question.* Do you agree that initiatives like the EITI are effective means of collecting such data? Do you think the U.S. should rejoin the EITI? If not, why?

[No Response Received]

DUE DILIGENCE

U.S. and EU laws require disclosures by firms on their sourcing of "conflict minerals" (tin, tungsten, tantalum, and gold or their ores, known as 3TGs). If a firm sources 3TGs from the DRC—or, in the case of the EU, from any conflict-affected or high risk areas globally—the firm must carry out and report on due diligence monitoring of its supply chains. The aim is to ensure that firms' purchases do not abet illicit armed activity, corruption, or problems such as forced labor and child labor.

*Question.* Please discuss the role of "responsible sourcing" (i.e., due diligence-based tracking of mined commodity supply chains) to prevent mining revenues from being used to abet illicit armed groups, criminal groups, corruption, or problems such as forced labor.

[No Response Received]

*Question.* What lessons learned from this approach in Central Africa may be applicable to Latin America, especially with regard to countering drug cartels, and other armed or criminal groups' involvement in mining?

[No Response Received]

*Question.* How might the EU's application of responsible sourcing to all "conflict-affected and high-risk areas" affect Latin America?

[No Response Received]

INDIGENOUS RIGHTS

Some indigenous people—such as the Yanomami in Venezuela, among other vulnerable populations—have been forced into slavery at some illegal mines. Indigenous populations also face threats from illegal miners operating near or within their

lands. Indigenous groups often object to mining on the basis that it violates their ancestral land rights, as pollution and destruction of their land damages their livelihoods, and as they are often excluded from decision making regarding the disposition of mining proceeds.

*Question.* What is the U.S. doing to promote the protection of rights for indigenous communities exposed to the mining sector?

[No Response Received]

#### CONSUMER DEMAND

Smuggling of some mined commodities, notably gold, is common across sub-Saharan Africa, due to overly burdensome customs and business laws, as well as tax evasion. Smuggling from the DRC through neighboring countries and on to the Middle East is particularly notable for its scale.

*Question.* What are the primary export destinations for illicit gold coming from Africa? From Asia? From Latin America?

[No Response Received]

*Question.* What roles do regulatory and tax regimes play in incentivizing black market trade in the mining sector?

[No Response Received]

*Question.* How do we address demand for illicitly mined products like gold and diamond at the national level?

[No Response Received]

#### SANCTIONS

The U.S. Foreign Narcotics Kingpin Designation Act could play a role in curtailing links between the illicit gold-related commerce and illegal armed groups, organized crime cartels, and other criminal networks designated as narcotics traffickers by sanctioning those involved.

*Question.* What role does—or could—the U.S. Foreign Narcotics Kingpin Designation Act play in Latin America in curtailing the involvement in illicit mining and gold trading of drug cartels and armed groups, including Colombian guerrilla organizations designated under the Act?

[No Response Received]

*Question.* What would be the costs, challenges, and prospects for establishing a sanctions regime aimed specifically at curbing illegal mining?

[No Response Received]

---

MIAMI HERALD ARTICLE SUBMITTED BY  
SENATOR BENJAMIN L. CARDIN

HOW DRUG LORDS MAKE BILLIONS SMUGGLING GOLD TO MIAMI FOR YOUR JEWELRY AND  
PHONES<sup>1</sup>

BY JAY WEAVER, NICHOLAS NEHAMAS, AND KYRA GURNEY

*Miami Herald, January 16, 2018*

“I’m like Pablo coming . . . to get the coke,” he told two co-workers in a text message in 2014.

A 36-year-old Florida State University graduate who once sold subprime loans, Granda was no cartel kingpin. But his offhand comparison was apt: Gold has become the secret ingredient in the criminal alchemy of Latin American narco-traffickers who make billions turning cocaine into clean cash by exporting the metal to Miami.

The previous year, Granda’s employer, NTR Metals, a South Florida precious-metals trading company, had bought nearly \$1 billion worth of Peruvian gold supplied by narcos—and Granda and NTR needed more.

The United States depends on Latin American gold to feed ravenous demand from its jewelry, bullion, and electronics industries. The amount of gold going through Miami every year is equal to roughly 2 percent of the market value of the vast U.S. stockpile in Fort Knox.

But much of that gold comes from outlaw mines deep in the jungle where dangerous chemicals are poisoning rainforests and laborers who toil for scraps of metal, according to human rights watchdogs and industry executives. The environmental damage and human misery mirror the scale of Africa’s “blood diamonds,” experts say.

“A large part of the gold that’s commercialized in the world comes stained by blood and human rights abuses,” said Julián Bernardo González, vice president of sustainability for Continental Gold, a Canadian mining company with operations in Colombia that holds titles and pays taxes, unlike many smaller mining operations.

Pope Francis condemned the horrors of illegal mining during a visit to the Peruvian Amazon on Friday. The region’s gold boom, the pope said, has become a “false god that demands human sacrifice.”

In Latin America, criminals see mining and trading precious metals as a lucrative growth business, carefully hidden from U.S. consumers who flaunt gold around their necks and fingers but have no idea where it comes from—or who gets hurt. The narcos know their market is strong; America’s addiction to the metal burns as insatiably as its craving for cocaine. NTR, for instance, was the subsidiary of a major U.S. gold refinery that supplied Apple and 67 other Fortune 500 companies, as well as Tiffany & Co., according to a Miami Herald analysis of corporate disclosures.

Last March, federal prosecutors in Miami charged Granda, his boss, Samer Barge, and another NTR trader, Renato Rodriguez, with money laundering, saying the three men bought \$3.6 billion of illegal gold from criminal groups in Latin America. They claimed the gold traders, who eventually pleaded guilty, fueled “illegal gold mining, foreign bribery [and] narcotics trafficking.”

Now, those prosecutors are investigating other U.S. precious-metals dealers suspected of buying tainted gold from drug traffickers, law enforcement sources say. Their goal is not just to take out crooked gold firms like NTR—they also want to kneecap the drug cartels.

Here’s why: Over the past two decades, as the U.S. war on drugs undercut the cash flow of narco-traffickers, kingpins diversified into Latin America’s gold industry. By using drug profits to mine and sell gold to American and multinational companies, criminal organizations can launder “staggering amounts of money,” said John Cassara, a retired U.S. Treasury special agent. The end result: The gold in American jewelry, coins and smartphones is helping finance shipments of narcotics to the United States, as well as illegal mining in Latin America, current and former law enforcement officials say.

Mining regions in the rainforest have become epicenters of human trafficking, disease and environmental destruction, according to government officials and human rights investigators. Miners are forced into slavery. Prostitutes set up camps near the miners, fueling the spread of sexually transmitted infections. One human rights

<sup>1</sup>This article was transcribed by SFRC staff from an article in the January 16, 2018 edition of the Miami Herald..

group found that 2,000 sex workers, 60 percent of them children, were employed in a single mining area in Peru.

Meanwhile, strip mining and the indiscriminate use of mercury to ferret out gold are turning swaths of the world's most biodiverse ecosystems into a nightmarish moonscape. In 2016, Peru declared a temporary state of emergency over widespread mercury poisoning in Madre de Dios, a jungle province rife with illegal mining. Nearly four in five adults in the areas capital city tested positive for dangerous levels of mercury, according to the Carnegie Institution for Science in Washington, D.C.

Even criminal outfits from Russia and China are investing in gold mining, observers say, abandoning heavy machinery in the jungle once they've extracted the metal. Soaring prices over the last two decades have driven the modern-day gold rush. In January, gold traded at roughly \$1,300 per ounce on the open market, compared to less than \$300 in 2001.

The human rights abuses and deforestation are a "bleeding sore that affects millions of people and their future livelihoods," said Douglas Farah, a national security consultant and visiting fellow at the Pentagon-funded National Defense University in Washington, D.C.

It's become an enormously damaging industry that very few people are looking at seriously," Farah said. "Just as with 'blood diamonds,' the gold issue ... brings together money laundering, forced prostitution, drug traffickers, human trafficking and child slavery."

Until now, the international gold market's dark side has drawn little public attention in the United States.

The lack of scrutiny has allowed the trade in dirty gold to grow more profitable than cocaine, according to government estimates in Latin America.

"Criminal groups make so much more money from gold than coca, and it's so much easier," said Ivan Díaz Corzo, a former member of Colombia's anti-criminal-mining task force.

And just like cocaine, a market for illicit metal has blossomed in South Florida, where nearly a third of the nation's imported gold enters.

Over the past decade, Miami, a longtime point of entry into the United States for contraband, imported \$35 billion worth of gold via air, according to U.S. Customs records analyzed by WorldCity, a Coral Gables-based economic data firm. That was more than any other U.S. city.

Some of the metal shipped to Miami is refined locally. Other batches are sent across the country to be melted down and manufactured into jewelry and bullion. Central banks around the world are major buyers of gold. So is the U.S. Mint. And electronics companies use small amounts of gold in consumer products because it is an effective conductor and doesn't corrode.

One way or another, almost everyone has Miami gold in their pockets, portfolios or jewelry boxes.

Simple math shows it can't all be clean.

Take Colombia, a country with a substantial mining industry that exported 64 tons of gold in 2016, much of it to the United States, according to government statistics. That same year, Colombia's large-scale, legal mining operations produced only eight tons, according to the Colombian Mining

The big Colombian mines that "[legally] produce gold can be counted on one hand," said Jaime Pinilla, an engineer and legal gold mine owner in Colombia. "There's a huge difference in the amount that is produced and the amount that is exported."

And the discrepancy is not just happening in Colombia: Statistics from other Latin American gold producing nations show similar ratios between legal and illegal gold mining.

It's impossible to know where all the illegal gold is coming from—but it's clear where most of it ends up. Latin America accounts for nearly three-quarters of the gold imported into the United States, roughly 200 tons in 2015, according to Miami-based trade analytics firm Datamyne and the U.S. Geological Survey. That's not far off from the total amount of gold mined in the United States annually.

#### A CURRENCY OF PAIN

The parallels between gold and cocaine are striking.

Both the white powder and yellow metal are sold by Latin American cartels at huge costs to workers and the environment. Terrorists, including al-Qaida, use gold and cocaine to finance their plots. Officials say they are major threats to law and order.

One big difference between cocaine and gold? Cocaine is obviously illegal. With gold, it's hard to tell. Papers can be forged. The metal can be melted and remelted until its origin is impossible to pinpoint.

Another distinction? Profit.

In 2014, a kilo of gold was worth between \$30,000 and \$40,000 in Colombia, according to Colombian intelligence figures obtained by the Miami Herald. By comparison, a kilo of cocaine sold for roughly \$2,500. While drug trafficking in Colombia generated less than a billion dollars in total revenue in 2014, according to those same estimates, illegal mining produced roughly \$2.4 billion.

Gold's luster has exerted a powerful hold on humanity since ancient times.

Today, the metal appeals to the darkest corners of the financial system. It is a safe investment. It is rare and hard to trace. Best of all: Human beings covet it.

Those factors, coupled with industrial mining and heightened demand from investors and tech companies, have turned the precious-metals business into "the Rolls-Royce of money laundering," said Robert Mazur, a former federal agent who infiltrated drug cartels in the 1980s.

Those cartels are always looking for ways to hide how they make their money.

But banks can't accept big deposits of cash, let alone duffel bags of coke-dusted bills, without checking how the funds were made. One solution for criminals: investing in supposedly legitimate businesses.

Here's how gold fits in: Drug-cartel associates posing as precious-metals traders buy and mine gold in Latin America. Cocaine profits are their seed money. They sell the metal through front companies—hiding its criminal taint—to refineries in the United States and other major gold buying nations like Switzerland and the United Arab Emirates.

Once the deal is made, the cocaine kingpins have successfully turned their dirty gold into clean cash. To the outside world, they're not drug dealers anymore; they're gold traders. That's money laundering.

The U.S. government—laser-focused on traditional money laundering and terror financing through banks—has shied away from untangling the twisted tentacles of gold smuggling, which can be hard to follow across borders.

But that's starting to change—and it's happening in America's gold-import capital, Miami.

The criminal case against Granda—the self-styled Escobar—and his colleagues at NTR Metals is the largest money-laundering prosecution involving precious metals in U.S. history, authorities say.

"The scope of the conspiracy is enormous," federal prosecutor Francisco Maderal told a judge during a hearing in Miami last year.

So far, the scandal has not only shut down NTR and cost its Dallas-based parent company, Elemetal, the ability to trade gold on bullion and commodity exchanges. It's also put hundreds of employees at Elemetal's refinery in rural Ohio out of work. Elemetal and its executives have not been charged but remain under federal investigation, according to sources with knowledge of the probe. The company and its attorney, Trey Gum, did not respond to repeated requests for comment, although Elemetal has previously said it is cooperating with authorities.

The downfall of one of North America's biggest gold companies is shaking the entire industry, all the way up to the bankers whose lines of credit sustain dealers and refineries doing multimillion dollar deals.

"The case against [the NTR employees] is a big deal," said Jason Rubin, CEO of Republic Metals, based in Opa-locka, just north of Miami, and a major rival of Elemetal. "Financial institutions ... have rightfully and correctly increased their scrutiny of companies in the wake of the allegations."

Alejandro Esponda, a South Florida gold trader, said he fears NTR's misdeeds will unjustly tarnish the entire industry.

"Everybody is guilty by association," said Esponda, vice president of Universal Precious Metals, based in the Miami suburb Doralee.

Although Latin America's gold market is known for corruption and danger, precious metal there is plentiful and labor cheap.

In comparison, the U.S. gold supply, mostly mined in Nevada and Alaska, offers stiff competition and regulations. Big companies control the big mines. Smaller companies looking to deal in U.S. gold are restricted to buying recycled "scrap" gold from pawnshops and jewelry stores. To gain a competitive edge, many U.S. gold traders look south.

But because Latin America's gold market is so fragmented—with the metal sometimes changing hands among many small companies before it's exported—it's hard to guarantee that individual shipments imported to the United States are lawful, experts say.

And since gold's price is set on a worldwide basis and the vast majority of trades are financed on credit, the metal must move quickly between Latin America and the United States. If one importer can pay a supplier faster than a rival can, it wins the deal. Profit margins are surprisingly small, making gold a volume business. The need for speed and quantity means obeying anti-money laundering laws is a costly requirement for the industry.

The top three traders at NTR seemed to spend their days dreaming up ways to avoid those restrictions.

#### HEART OF DARKNESS

Juan Granda met Samer Barrage, 40, and Renato Rodriguez, 43, when they were hawking subprime loans at HSBC, according to federal court documents. Barrage and Granda later moved to work at Kaplan University, a for-profit school.

Barrage, a London-born U.S. citizen who traveled back and forth between an NTR office in Colombia and his wife and children in Miami, eventually recruited Granda and Rodriguez to work with him buying gold.

In 2012, the company did relatively little business in Latin America.

But the next year, NTR struck a rich vein, becoming the largest U.S. importer of Peruvian gold with \$980 million worth of deals, according to federal prosecutors. How did they do it?

With help from Peruvian businessman Pedro Pérez Miranda, who is suspected by authorities in Peru and the United States of laundering drug money through the gold trade.

Shell companies tied to Pérez, whose alias is Peter Ferrari, quickly became some of NTR's biggest suppliers. None of his firms had any track record selling gold. That raised suspicions back at the headquarters of NTR's parent company, Elemetal.

The firm's compliance officer repeatedly warned Barrage and at least four Elemetal executives that criminal gold mining and smuggling were serious problems in Peru—and that Ferrari seemed to be involved.

"We need to be extremely careful going forward," the compliance office, led by retired U.S. Customs Service agent Steve Crogan, told Barrage and his Elemetal bosses in an August 2012 email cited by federal prosecutors.

Ferrari even came to visit Elemetal's giant refinery in rural Jackson, Ohio, according to one employee who saw him at the plant.

"He was wearing blue jeans and a T-shirt," said the worker, who asked not to be named. "It didn't feel right. He wasn't dressed like a businessman. His appearance didn't match the amount of money he was supposed to represent."

The warnings were ignored.

For the three NTR traders—who declined to comment for this story through their lawyers—breaking the law meant big money: Elemetal "incentivized Barrage, Rodriguez and Granda to purchase as much gold as possible with volume-based commissions," court documents show.

In 2013, NTR went on to buy \$400 million in gold from Ferrari—whose birthday party in Lima early that year was attended by Granda, an avid watcher of the Netflix show "Narcos," and his two fellow traders. The trio flew in from Miami for the celebration.

The NTR traders hid the purchases from Elemetal's compliance office through front companies and false U.S. Customs declarations, and by arranging to bribe Peruvian customs officials, according to court documents.

The scheme didn't last long; NTR's Peruvian operations collapsed at the end of 2013 when local authorities raided a storage facility outside Lima holding gold that belonged to Ferrari and other traders. Agents seized \$18.8 million worth of gold bound not only for NTR Metals but three other Miami-based gold importers, as well as refineries in Switzerland and Italy, according to local media reports.

The year after the gold raid outside Lima, NTR's exports from Peru dropped 92 percent.

But the party wasn't over—it simply moved to neighboring countries.

In 2014, Granda and his colleagues began smuggling gold across the border to Ecuador and Bolivia to hide its origins, according to text messages and confidential informants interviewed by U.S. prosecutors. Soon, NTR's purchases in Ecuador and Bolivia soared by \$485 million. Some deals were disguised through the use of companies like furniture store in Coral Gables, prosecutors alleged.

In February 2015, Barrage laid out the plot in a text message obtained by the government: "We need more Peruvian gold from Bolivia and Ecuador," he told Granda. "Can u make it happen?"

Granda couldn't. Local governments in those countries had also begun cracking down.

The party moved again, this time to Colombia. In 2015, NTR's imports from Colombia soared to \$722 million, more than double the previous year's haul. That accounted for more than half of the country's gold exports to the United States. Barrage, who owns houses in Nicaragua and Spain, ran the show in Colombia, where he made \$2 million overseeing NTR's operations, prosecutors said.

The company often hid its dirty dealing by exporting gold from Colombia's free-trade zones, which are tax- and duty-free economic development areas where customs regulations are weaker.

But the smuggling ring finally came crashing down in 2016 after two gold brokers who collaborated with NTR became confidential informants for the U.S. government. One worked as a private customs broker in Peru and dealt directly with Granda, helping him smuggle gold out of the country. The other was a courier based in Chile who carried shipments of illicit gold on flights from South America to Miami. As NTR grew more and more desperate for gold, the courier told investigators that he was sent to Africa, a no-go zone for U.S. gold companies, to secure more metal.

Subpoenas flew, parent company Elemetal began an internal investigation, and Granda, Barrage and Rodriguez were arrested last spring.

Then, last week, federal prosecutors investigating NTR indicted Ferrari, his twin sons and another Peruvian man on a money-laundering charge filed in Miami.

Ferrari's lawyer in Peru, Benji Espinoza Ramos, said his client, who is in custody in his home country on domestic money-laundering charges, did not break the law. Espinoza said the gold operations were legitimate.

"We believe there is no proof of the existence of illegal gold," he said.

Granda, Barrage and Rodriguez pleaded guilty to a money-laundering conspiracy that carried a maximum of 10 years in prison. They are cooperating with federal prosecutors and providing information about foreign suppliers with narco ties, and about Elemetal. On Friday, Granda and Barrage were sentenced to six and nearly seven years in prison, respectively. Rodriguez will be sentenced later this month.

Will their case scare off other unscrupulous operators in the gold industry?

That's unlikely, experts say, as long as overwhelming demand from U.S. consumers and corporations fuels the market for narco gold.

"The cartels are so powerful," said Mazur, the former federal agent. "They buy banks. They buy refineries. The amount of money they have is ridiculous."

And the lure of gold's profit is too strong.

---

VENEZUELA, THE SMUGGLERS' PARADISE ARTICLE  
 SUBMITTED BY BENJAMIN L. CARDIN

ORGANIZED CRIME CONTROLS GOLD EXPLOITATION IN VENEZUELA

BY ALGIMIRO MONTIEL AND JORGE BENEZRA

*All ingredients for a conflict mineral can be found in southern Venezuela. A dangerous cocktail of multiple armed groups and corrupt officials control the extraction of the country's gold before taking it to the borders.*

The long road that starts in Ciudad Guayana, Bolívar state, and heads southward marks the route of illegal gold mining in Venezuela. Hundreds of people travel the route each day in search of El Dorado—riches that might allow them to flee from an unprecedented economic crisis in the South American country.

Food, medication, fuel, and cash have been scarce for years in the rest of the country, but along these roads in southeastern Venezuela they're available—as if the riches from gold mining have created a parallel world.

The most important stop is El Callao, a town also in Bolívar state clustered between mountains about 530 miles (850 kilometers) from Caracas. El Callao is known for its colorful carnival but has been rebranded as the region's mining capital.

The explosion of mining has turned the place into a nightmare. Its streets are crowded with cars, motorcycles, and vendors who mostly sleep in public plazas as the hotels are fully booked.

The once serene village had 20,000 inhabitants in 2011. It was a place where small businesses sold rudimentary gold jewelry and gold pebbles without fear of robberies. Now, some 100,000 people live in the area of El Callao and anywhere from 300,000 to 500,000 miners roam the numerous mines of southern Venezuela.

El Callao is part of the Orinoco Mining Arc, a government-sponsored mega project that covers 12 percent of Venezuela's surface.

Launched by President Nicolás Maduro in February 2016, the project is an attempt to find resources in the wake of the collapse of the oil industry, which sustained the South American nation for a century. As part of the plan, the government is trying to validate and certify gold reserves amounting to 9,810 tons (8,900 metric tons) by 2025. That would give Venezuela the world's second-largest gold deposits.

But it's not all is abundance and glamour. Gold mining in the area used to be run by transnational corporations. Now, criminal groups and armed gangs monopolize the business. And the people of El Callao, like many villages in the south, have learned to live with the terror spread by armed groups.

Local media has reported on the discovery of mass graves, but villagers say that many of the dead, victims of violence and disease, are never found and are hidden in the Venezuelan jungles.

According to the Venezuelan Observatory of Violence, El Callao was the most violent locality in Venezuela in 2018, with a homicide rate of 619.8 per 100,000 inhabitants.

An employee of the state-run Venezuela General Mining Company (Minerven), who wants to remain anonymous in fear of reprisals, explains that “irregular groups” are getting rich with the gold business. They force the miners and their families to live in hell, with practices that border on sadism, he describes.

Some witnesses, including miners who fled to Colombia, confirm these accusations and mention other abuses such as forced prostitution, torture, massacres and beheadings by armed groups that have control of the mines.

Currently, several criminal elements dominate El Callao and the rest of the Orinoco Mining Arc. According to NGO's, opposition legislators, and eyewitnesses, dissidents of the Revolutionary Armed Forces of Colombia (FARC) and members of Colombia's National Liberation Army (ELN) are present in the mines of Bolívar and neighboring Amazonas state.

Until recently, the FARC was the largest guerrilla group in Latin America. Based in Colombia and created in 1964 to fight for equal land distribution and the rural poor, it remained a guerrilla movement until it signed a peace deal in 2016. Now ELN is the biggest guerrilla group on the continent.

The two organizations share the territory with crime syndicates, or sindicatos, run by gang leaders known as pranes. There are also Committees for the Defense of the Revolution (CDR), which have started their own mining groups and are ideologically aligned with the Maduro government.

The gangs, which have been in the mining area since 2010, used to be the dominant players but have lost ground to the Colombian guerrillas in recent years, said a 25-year-old National Guard soldier.

He's still amazed when he remembers the first time he saw the ELN march through Bolívar state.

"We saw patrols of 200 armed men walking by our side identified as the ELN," he said. "What are we supposed to do? We just greeted them as if they were old friends."

Control of the area by armed groups and corrupt military units prevents miners from speaking openly.

"Here it is better not to comment if you want to be alive. There are a lot of mafias," said a local entrepreneur who asked to remain anonymous. "The military arrived to do business, not to protect the citizens. Every week there is a murder."

Miners complained that all the parties are extorting them, charging a "tax" to work or bring in equipment, but there are few other options.

"We go to the mine and work in groups to take care of each other," said an artisanal miner, who wears a shirt of the "Piar Mission," a government program designed to fight illegal mining. "[The armed groups] take away our cell phones and our belongings before entering the mines. We need the work, but if we complain they don't allow us to come back."

#### THE LABYRINTH OF GOLD AVOIDS THE CENTRAL BANK

Luis Rosales, a lawyer from the city of Valencia, about 78 miles (125 kilometers) from Caracas, arrived in the mining town 2 years ago, hoping to work in the goldfields. Now, he sells mining tools on the street.

"Families are sleeping everywhere, in the bus terminal and the square, trying to make a living, not only through gold but by selling whatever they can," he said. "You suffer, but manage to put some food on the table."

In and around El Callao, miners and their families live in shacks made of wooden poles and plastic bags for walls. Crime and disease are rampant.

The Venezuelan government has not released figures on malaria recently but the World Health Organization registered 411,586 new cases in 2017, an increase of 811 percent since 2010. And the mining area around Bolívar state has the highest concentration of cases, according to experts.

Without any sort of security measures, men, women and children dig with their hands or use rudimentary tools looking for gold. If they can find una grama, a gram of gold (.04 ounces), they can make 5 times the monthly minimum wage, which is currently about 7 U.S. dollars.

The promise of gold riches, as other sectors of the Venezuelan economy have collapsed, has triggered a mass migration to the south of the country.

Now, dredging machines, suction pumps, pickaxes and shovels, cyanide and mercury are increasingly present in southern Venezuela, threatening to contaminate the fish stock.

Miners are also inhaling the mercury vapor that comes from burning gold amalgam. The United Nations Environment Program (UNEP) says there's no cure for mercury intoxication, which can cause irreparable neurological damage.

To complicate matters, about 45 percent of the miners in the region are children or adolescents, according to a report by Cecodap, an NGO that looks after the rights of children and adolescents in Venezuela.

The Organization for Economic Cooperation and Development (OECD) and the European Union define "conflict minerals" as mining that contributes to forced labor, money laundering, child labor and human rights abuses. All these ingredients are present in Venezuela's conflict-ridden mines.

#### BOOMING DEMAND

The global demand for gold in 2018 reached 4,888 tons (4,435 metric tons), almost half of it coming from the jewelry sector.

Venezuela is currently the 32nd largest gold producer, according to the World Gold Council, with an output of 25.3 tons (23 metric tons) in 2018. Maduro's Mining Sector Plan sets production goals of 28 tons (25.4 metric tons) in 2019 and 87.5 tons (79.4 metric tons) by 2025.

To hit those targets, the government says it plans to "coordinate, organize and control small scale mining inside the Orinoco Mining Arc."

There are two large groups currently soaking up the gold produced by small, informal miners. One is a group of private investors; the other is Minerven.

The private operators buy gold from illegal miners and sell it to wholesalers who then "in theory" sell it on to the Central Bank, said one of the 570 local gold buyers in El Callao, who handles about 4.4 pounds (2 kilos) of gold per week.

“That hardly ever happens,” he explained. “[Wholesalers] make more money smuggling the [gold] out of the country and getting paid in dollars, and not the bolivares that the state is offering.”

Minerven is the main supplier of gold to the Central Bank, which in turn sells the gold to clients in countries such as Turkey and the United Arab Emirates.

Minerven also gets most of its gold from small miners and cooperatives, even though it’s aware that it’s coming from illegal mining, said a company representative who asked for anonymity.

Founded in 1970, Minerven has been overhauled at least 3 times in the last decade amid collapsing production. After hitting a production “milestone” of 13.48 tons (12.23 metric tons) in 2009, mining output collapsed from 2010–2015 as international mining companies pulled out of the country.

Even for the company employees, Minerven’s operations are shrouded in mystery as the government produces no information on gold purchases or sales.

“How much [gold] is Minerven producing? We don’t know that either, but they continue to produce,” one of its employees said. “We don’t know how much because it’s never made public and that’s worrying.”

When asked for a statement, none of the Venezuelan government agencies replied to our requests.

#### SMUGGLING ROUTES

The government considers El Callao a “special military zone” and keeps it heavily guarded. On any given day, groups of hooded military men with automatic weapons patrol the streets and escort government “high officials” who leave and enter the Minerven plants at all times.

But despite the military presence, the area is the starting point for smuggling routes that lead to neighboring Guyana, Brazil and Colombia. And criminal organizations use human “mules,” boats, armored cars and small planes to avoid scrutiny.

In the neighboring town of Guasipati, gold is flown out on private flights to Aruba, Curaçao, Dominica and Puerto Rico, an official said. But other trafficking routes exist, including from the industrial city of Ciudad Guayana to the Dominican Republic and Honduras, with the United States as the final destination.

#### GOLD MULES

To smuggle the illegal gold into neighboring Colombia, criminal organizations use a network of young carriers or “mules” for the job.

While drug mules often swallow their product to smuggle it across a border, gold mules take the ingots and grams of gold hidden under their clothes or inside their body cavities. Gold is considered a strategic asset by the Venezuelan government and smugglers, if they’re caught, can be severely punished. They’re also threatened by the criminal gangs and the soldiers who operate the mines and control the borders.

Ramón, one of the gold mules, was recruited in Caracas early this year.

Telling his story to *Clímax* magazine, Ramón, who used a fictitious name for security reasons, said he traveled by bus from Caracas to Upata, in Bolívar state. There he was picked up by people driving two white Toyota 4Runner.

They removed the SIM card and battery from his telephone, covered his head with a cloth bag and put headphones over his ears.

Hours later, when they removed the hood, he was in Las Claritas, a mining town near the Brazilian border. He spent 4 days incommunicado in a makeshift camp guarded by two hooded men with automatic weapons.

On the fourth day, Ramón left Las Claritas carrying 6.6 pounds (three kilos) of gold hidden in the soles of his shoes, in his jacket and in the seam of his trousers. Another 4.4 pounds (two kilos) of gold were divided between two fellow passengers.

They traveled by helicopter from Las Claritas to Ciudad Bolívar, about 302 miles (486 kilometers) away, where buses belonging to the Encava transportation company took them to a coastal town that “looked like Cumaná” in northern Venezuela. There, they were met by a soldier in uniform and put on a plane without having to show identification papers and flown to a private airport in Táchira state, along the border with Colombia.

A Ford Explorer took them to the border town of San Antonio, where they walked across the Simón Bolívar International Bridge that connects to Colombia.

Ramón panicked. He knew that if he was caught with contraband gold, he could take about 30 years in prison. But he followed the orders he was given and, using certain passwords to identify himself to the soldiers, he walked across the bridge unimpeded.

When he reached Colombia immigration he was received by a corpulent woman. After using her first name, as he'd been instructed, she told him to "go on" without checking his papers or identity documents. That's when Ramon realized that the smuggling scheme "also exists in Colombia."

In the Colombian border town of Cúcuta he waited for his two companions, who entered the country on informal trails, or trochas.

They called the buyer, a man from Ecuador, and agreed to handoff the gold at a fast-food chicken restaurant in the city center. When they walked into the establishment the doors were locked behind them and the employees disappeared.

The businessman pulled out a bag full of 100 U.S. dollars bills and a scale to weigh the gold. He paid and left. For transporting Venezuelan gold to Colombia, Ramon was paid 1,500 U.S. dollars.

#### ON THE BORDER

In Zulia state, in northwestern Venezuela, a long line of about 40 cheavy cargo trucks idle in the dark, waiting to cross the Paraguachón checkpoint into Colombia.

At about 11 p.m. the trucks turn on their engines and start honking their horns. Venezuela's National Guard wave them through without inspecting the cargo, and the trucks roll by Colombian migration unimpeded.

This border has been officially closed since Sept. 7, 2015, when Maduro shut it down to prevent the smuggling of food, fuel, and medicine. But that hasn't stopped it from becoming a thoroughfare for trucks hauling illicit goods, including smuggled gold.

The Troncal del Caribe, which connects Venezuela and Colombia, has at least 14 checkpoints run by the Venezulean National Guard, Army and regional police. But no one dares interrupt the flow of cargo trucks or inspect them, according to local officials.

Many of the trucks have special passes, salvoconductos, issued by the Zulia Defense Strategic Zone (ZODI), a military division that claims the trucks are carrying "export products," said an Army corporal with the 13th Infantry Brigade who asked not be identified.

"If we check these vehicles, we can get into trouble," he said. "It appears that the owners of the vehicles are influential people, who can put our obs at risk."

The official said the trucks are often carrying coltan, silver, gold and other items that shouldn't be exported.

"We know this because when we have checked some cars, we found everything from liquid cocaine to gold and other illegal products," said the 24-year-old soldier.

When asked for a statement, the Venezuelan Armed Forces and Ministry of Defense didn't reply to our requests.

In the town of Maicao, Colombia, just 8 miles from the Venezuelan border, shops buy the Venezuelan gold.

At a shop called Amiga, a merchant says he buys up to 5.3 ounces (150 grams) of Venezuelan gold, "which is brought from the south of the country; it comes directly from the mines because it is in grains."

He says the people selling the precious metal are not miners but military officials. "Rarely have I dealt with traders who are buying it there cheaply and selling it at another cost here," he said.

A Venezuela National Guardsman in Paraguachón, who insisted on anonymity, described how he stopped an official government vehicle in the town of Dabajuro in December, 2018, at about 2 a.m.

It was a Toyota Hilux with two women and a male driver. The passengers said they worked for the government and were coming from Caracas but they seemed nervous so the soldier and his partner conducted a search. They discovered the car was actually coming from the mining area of Tumeremo, in Bolivar state, and inside they found a cardboard box with 8.8 ounces (250 grams) of silver, 10.6 ounces (300 grams) of gold and 1,000 U.S. dollars in cash.

The panicked travelers exchanged their valuable cargo for their freedom.

"The arrest and confiscation were without effect," scrubbed from the record, the soldier said, "and we shared the profit."

## GLOBAL WITNESS STATEMENT SUBMITTED BY BENJAMIN L. CARDIN

## GLOBAL WITNESS STATEMENT FOR THE HEARING RECORD

*Hearing titled Illicit Mining: Implications for U.S. National Security and International Human Rights*

Dear Chairman Rubio, Ranking Member Cardin and Members of the Subcommittee:

Global Witness welcomes the opportunity to submit a statement for this important hearing.

We are an international non-governmental organization with offices in Washington, London and Brussels. For almost 25 years, Global Witness has investigated and uncovered corruption in fragile states, focusing on the role of natural resources in driving state corruption and conflict. We have exposed how timber, diamonds, minerals, oil and other natural resources have incentivized corruption, destabilized governments, fueled and financed violent conflict, organized crime and terrorist organizations.

This hearing is a powerful opportunity to examine these systemic issues and discuss tools that help broaden our understanding of their causes and consequences.

This statement will provide background and examples of how minerals fuel corruption, conflict and human rights abuses and, given the context of this hearing, the national security risks this poses for the U.S. We will discuss systemic reforms that are needed to address this problem, including the need for greater transparency in the mining sector and along mineral supply chains. We will examine enforcement of sanctions and visa bans for those responsible for human rights violations and corruption related to the mining sector and protecting human rights defenders who are at risk from exposing these problems.

## HOW MINERALS FUEL CORRUPTION, CONFLICT, HUMAN RIGHTS ABUSES AND THREATEN U.S. NATIONAL SECURITY

Around the world, the extraction and trade of minerals continues to provide lucrative funding to predatory armed groups, organized crime, terrorist networks and other corrupt and rights abusing actors. Serious human rights abuses have been documented across all types of mining operations, from informal small-scale artisanal mining to industrial, large-scale, mining projects. Trading routes have been subject to extortion and bribery, and minerals illegally smuggled across international borders deprive governments and communities of tax revenue and benefit sharing.

The links between mining, corruption and conflict are not limited by geography or type of mineral. Our research has shown that this is not a problem of a few corrupt politicians or companies acting in bad faith. Rather, these are symptoms of a broken system, perpetuated by greed and secrecy.

*Mining and the Trade in Valuable Minerals Finance Conflict, Instability and Fuel Corruption*

Last year, Global Witness exposed how the Islamic State in Afghanistan (ISKP) controls major mining sites in eastern Afghanistan and has a strategic interest in the country's rich mineral resources. Global Witness research also uncovered evidence that the Taliban are making millions a year from talc alone<sup>1</sup>—part of the \$200-\$300 million a year they are estimated to make from minerals across Afghanistan.<sup>2</sup> Although Afghanistan's mineral wealth could significantly grow its economy, mining has, instead, been a key driver of instability, providing significant revenue to key insurgents and illegal militias.<sup>3</sup>

We have seen a similar phenomenon in eastern Democratic Republic of Congo, where, for almost two decades, armed groups and members of the Congolese national army have used profits from the trade in tin, tantalum, tungsten and gold, to perpetuate violent conflict and abuses.<sup>4</sup>

Diamond revenues in Zimbabwe have provided millions in secret off-budget funding for state security forces, who have been consistently implicated in widespread human rights abuses and oppression.<sup>5</sup> Since 2010, the country has officially exported over \$2.5 billion in diamonds, although only a small percentage of this money can clearly be identified in the state budget.<sup>6</sup>

In some cases, corruption can stain a project before mining even begins. Between 2010 and 2012, Dan Gertler, a close friend of the then Joseph Kabila, the President of Democratic Republic of Congo (DRC), secretly purchased major mining concessions at a steep discount, using offshore companies to hide his identity. These assets were then sold to two major multinational companies. The Congolese state is estimated to have lost out on at least \$1.36 billion in the process—the equivalent of twice the country's health and education spending at the time combined.<sup>7</sup>

In Burma, the jade sector provides another example of how corrupt elites siphon off vast profits while the local population sees little benefit and suffers human rights abuses. In 2014 alone, we estimated the production of jade to be worth up to \$31 billion,<sup>8</sup> or nearly half of the country's GDP,<sup>9</sup> but the precise value is unknown. Industry sources estimate that between 50 percent and 80 percent of that production was smuggled to China, depriving the government of much needed revenues.

Global Witness investigations have exposed how the jade sector is controlled by a group of elites linked to the former military government, including the family of former dictator Than Shwe, crony businessmen, army companies, Chinese business interests, ethnic armed groups and U.S. sanctioned drug lords. Global Witness investigations have found that military-owned or affiliated companies profit from the most lucrative jade concessions.<sup>10</sup> Preliminary research also indicates that the military and corrupt elite control over jade may extend to the valuable ruby sector as well. These stones are being smuggled to neighboring countries, including Thailand, where they enter the global supply-chain with some likely ending up on the U.S. market.<sup>11</sup>

*Profits From the Extraction and Trade of Lucrative Minerals Benefit Criminals and Drug Traffickers*

Particularly in impoverished and fragile states, increases in metal price or the discovery of a new mine can incite mass migration of people seeking better economic opportunities. As the population increases, so does demand for goods and services, which often gives rise to illicit economies and organized crime.<sup>12</sup>

Gold mining in southeastern Peru has, for example, been accompanied by recent reports of human trafficking and forced labor.<sup>13</sup> In particular, the Madre de Dios region, where illegal mining is rampant, has become more dangerous and violent, as its population rises and miners fight for access to lucrative mining sites. In 2016, the region's homicide rate climbed to almost 4 times the national average.<sup>14</sup>

Gold, in particular, has also become a desirable vehicle for money laundering, given its high value relative to small volume, evident from recent cases linking the U.S. gold market to senior figures in international narcotics cartels, including the brutal Sinaloa cartel, and money laundering schemes.<sup>15</sup> In one case, three employees of the Miami-based company NTR Metals, have been sentenced to prison for their involvement in a multi-billion dollar gold money laundering scheme after an investigation by U.S. authorities into the company's suspicious import of over \$3 billion worth of gold from Latin America into the U.S.<sup>16</sup>

*Civil Society Fighting Corruption and Human Abuses in the Mining Sector are Under Threat*

Behind each of these case studies are dozens more that exploit the same systematic weaknesses and loopholes, just with different names and locations. In many of these examples, civil society leaders play an important role in documenting and drawing attention to corruption, human rights and environmental concerns associated with extractive projects across the globe. However, these defenders of human rights often come under attack and face grave risks for their efforts to expose these problems and hold governments to account. This is particularly the case in countries with autocratic regimes and weak rule of law, where civil society faces particular challenges in its ability to operate and speak out on these issues.

Our report, *Defenders of the Earth*, found that 2016 was the deadliest year on record for environmental and land defenders. Nearly four people were murdered every week in 2016 protecting their land and the natural world from industries like mining, logging and agribusiness, with killings across 24 countries.<sup>17</sup> As part of an ongoing trend, the number of defenders murdered rose in 2017; two hundred and seven activists were killed, leaving communities without their courageous spokespeople and champions.<sup>18</sup> More than 1,000 murders have been recorded by Global Witness since 2010.<sup>19</sup>

*Corruption and Conflict in the Extractives Sector Threaten U.S. National Security Interests*

As illustrated by the case studies above and in various academic studies, there is strong evidence that fragile states that are heavily reliant on natural resource

revenues are more likely to experience conflict than those countries without an abundance of these resources.<sup>20</sup> Secrecy in the extractives sector combined with weak rule of law enables corrupt government officials and their cronies to divert cash from minerals and other natural resources to terrorist organizations, insurgents, and militias. Strengthening transparency and accountability in the mining sectors of fragile states is in the interest of the United States because it decreases the likelihood and severity of conflicts and mitigates the threat of the resource curse.

*The Extraction and Trade in Minerals is not Inherently Problematic*

It is the systems that enable ill-gotten minerals to enter legitimate supply chains without scrutiny that must be addressed and reformed. Problems flow from unmanaged risks that are ignored and swept under the carpet by companies with a responsibility to ensure their business activities do not finance conflict or abuses. We need to move toward normalizing open, transparent, and honest conversation about the risks we know are out there, and what has been done—and is yet to be done—to manage them.

Identifying and analyzing these risks requires nuance. In carrying out risk assessments, it's easy to focus on binary terms like 'legal' and 'illegal,' 'licit' and 'illicit,' and 'formal' and 'informal.' It's easy to assume artisanal mining is bad and industrial mining is good, despite the many examples that prove otherwise. Instead of providing any real clarity, these terms only serve to muddy the waters to distract from efforts to identify and manage the underlying risks and harms that should be the focus of attention for all of us, and companies in particular.

*Going Beyond the "Governance Problem"*

To date, some efforts to address links between mining and conflict have tended to focus on the need for governance reform in producer countries. While poor governance is part of the problem, we cannot let it detract from the larger systemic issues that also demand our attention. Such reforms are critical to securing the conditions under which responsible trade can flourish to the benefit of producer communities.

We urge the U.S. government to use its diplomatic and development tools to support governance reform at all levels—from the national to the local. Smaller producers and the communities where valuable resources are found are too often left behind by a scramble for investment and industrialization. However, reforms that focus only on producers and suppliers in mining areas at the beginning of globalized supply chains will inevitably fall short if they are working against powerful economic forces. To bring about greater transparency and comprehensive reform, policy makers must enlist the demand side in the process of identifying and dealing with problems.

Greater contract transparency and payment disclosures can safeguard against corruption risks. Throughout supply chains, the very network of traders and suppliers that link U.S. companies and customers to conflict and rights abuses can be harnessed and leveraged to facilitate much needed reforms and improvements.

SYSTEMIC PROBLEMS REQUIRE SYSTEMIC REFORMS: ACTIONS THE U.S. GOVERNMENT SHOULD TAKE

Despite numerous exposes and widespread reporting on the many links between minerals, corruption and conflict, these abuses have long been viewed as isolated incidents—the misdeeds of a few bad apples within the global extractives industry. But when viewed together, we believe there is ample evidence of a broken system in need of reform. Without transparency and due diligence requirements in place and effectively implemented and enforced throughout the extractives sector, this is unlikely to change. Policymakers, companies and their stakeholders need more information to better understand why these problems persist and how to fully address them.

Left unchecked, this system continues to contribute to national security implications for the United States by exposing U.S. markets and companies to the very real risks of funding or fueling corruption, conflict and abuses at home and overseas. Our investigation exposed how an Islamic affiliate and the Taliban are fighting over talc mines in Afghanistan and how consumers and companies in the U.S. could, unknowingly, be funding the Afghan insurgency. The talc mined in Afghanistan is transported across the border into neighboring Pakistan where it is mixed with Pakistani mined talc before exported—some forty percent of talc exported from Pakistan goes to the U.S.<sup>21</sup>

Transparency is a critical first step toward creating extractive industries and mineral supply chains in which the people in the country benefit from the resources, responsible companies are rewarded, and the criminal and corrupt are held to account. To realize this goal, our statement provides three recommendations for what the U.S. government should do to increase transparency and accountability in the mining sector:

First, companies that trade and use minerals in their products must carry out robust due diligence in line with international standards on their supply chains, including publishing annual reports disclosing efforts to mitigate the risk of contributing or facilitating human rights abuses through their trade.

Companies rely on an array of minerals and metals for the production and function of a number of consumer and industrial products; they have unique visibility over their supply chains and are uniquely placed to leverage their market power to affect change. Through engaging with suppliers, carrying out checks on their supply chains and publicly sharing information on potential abuses, companies' supply chain due diligence can improve mineral sourcing practices, and support other policy interventions from sanctions enforcement to governance reform.

Based upon the U.N. Guiding Principles on Business and Human Rights, which establish that companies have a responsibility to ensure that they do not profit from serious harm to individuals, societies or the environment,<sup>22</sup> the Organization for Economic Cooperation and Development (OECD) developed the Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas in 2010. The OECD Guidance, which consists of a five step framework meant for companies all along the supply chain, is the international standard for due diligence on mineral supply chains.<sup>23</sup> The OECD Guidance makes clear that individual companies are responsible for the quality of their due diligence—this includes the supply chain checks undertaken by companies further up the supply chain.<sup>24</sup>

The risk of minerals fueling conflict or human rights abuses can occur in any type of mining operation and these types of supply chain risks are part of the reality of doing business in high-risk areas. The OECD Guidance does not encourage companies to stop sourcing minerals from conflict-affected and high-risk areas, or to stop sourcing specific minerals. Rather, companies that do source from these high-risk areas must demonstrate how they can do so responsibly. The primary question for a company's due diligence practices is how a material has been sourced and traded, not where.<sup>25</sup>

*The OECD Due Diligence Framework is now a Requirement for Many Major Companies Around the World*

In the U.S., Congress passed the conflict minerals provision in 2010, in an effort to break the link between minerals and the entrenched conflict in eastern Congo.<sup>26</sup> Section 1502 of the Dodd-Frank Act, which had its origins with a bill introduced by Senators Brownback, Feingold, and Durbin<sup>27</sup>, specifically requires U.S.-listed companies that manufacture products containing tin, tantalum, tungsten or gold to carry out checks in line with the OECD Guidance on minerals that may originate from Congo or its neighboring countries.<sup>28</sup> In the last year, several companies, including Tiffany & Co.,<sup>29</sup> Apple, Richline, and Intel,<sup>30</sup> have publicly emphasized the importance of supply chain due diligence. 129 Investors, representing over \$4.8 trillion in assets, wrote in a letter to the SEC, that the due diligence disclosures required by Section 1502 provide valuable information about how companies manage supply chain risks.<sup>31</sup>

Shortly after the law was passed, some companies stopped buying minerals from the Great Lakes region. Although the market has now readjusted, to some extent, the market response affected thousands of artisanal miners' livelihoods. Disengaging from specific regions at the first sign of risk, with no regard for the livelihood impact, is also a form of irresponsible sourcing.<sup>32</sup> These consequences speak to an urgent need to continue building on what has been achieved to date in an effort to develop and implement policies that serve also the most vulnerable members of global mineral supply chains. In addition to Section 1502, supply chain due diligence is also now law in DRC and Rwanda,<sup>33</sup> and there is voluntary guidance in China.<sup>34</sup> In 2017, the European Union finalized a supply chain due diligence regulation, covering minerals linked to human rights abuses around the world, which will come into full effect in 2021.<sup>35</sup> Risk-based due diligence is also central to modern slavery laws around the world, including the U.K. Modern Slavery Act,<sup>36</sup> and the French Corporate Duty of Vigilance Law.<sup>37</sup> Recognition of business responsibility for supply chains is growing and due diligence has become a global norm.

*Public, Annual Reporting on Risk Management is Critical to Demonstrate Responsible Sourcing Efforts*

Annual, public reporting—the fifth step of the OECD Guidance—serves several purposes: it demonstrates progress in managing risks over time, allows information to be scrutinized by the public, and provides companies the opportunity to share information about risks so that they can address them together, facilitating collaboration and collective action. These reports are crucial to turning transparency into impact, ensuring the collective resources of the entire supply chain are enlisted in the process of finding risks and doing something about them.

In its 2018 report to the SEC, Apple reported on seven distinct supply chain risks and the steps it takes to follow up on these risks.<sup>38</sup> In the previous year, Apple's report contained information on fifteen specific risks.<sup>39</sup> We recently did an analysis of 65 companies exporting tin, tungsten, tantalum and gold from Congo, Rwanda and Uganda and found that 45 percent of these companies had due diligence reports in 2015, and seven of these reports included detailed information about identified risks.<sup>40</sup> This is a significant increase from 2013, when there were no company reports on responsible sourcing, and demonstrates that public reporting on risks can be done, and marks an important first step towards doing something about the problems that have been found.

Public due diligence reports can also assist governments with sanctions enforcement. Over the last four years of conflict minerals disclosures to the SEC under section 1502, 43 different companies reported that Central Bank of North Korea<sup>41</sup> was a potential supplier of gold, a potential and clear violation of U.S. sanctions.<sup>42</sup> Additionally, it was reported by Reuters in 2016 that the United States Army, a group sanctioned for narco-trafficking, is operating in a tin mine in Burma, which has allegedly been supplying tin to one of the largest tin smelters in the world, Yunnan Tin Company Ltd.<sup>43</sup> It is because of supply chain due diligence regulations that companies have been able to better understand their supply chains and identify potentially problematic or risky suppliers.

*Failing to Conduct Robust Supply Chain Due Diligence can have Significant Consequences*

If a company ignores a risk it leaves itself and its investors vulnerable to financial, legal and reputational harm. By doing thorough assessments, and engaging with suppliers to better understand the circumstances of how minerals are mined and traded, supply chain due diligence protects against future liabilities and risks.

As an example, a 2016 report by the Global Initiative of Transnational Organized Crime, alleged that Miami-based NTR Metals, a major U.S. refiner and a subsidiary of Element LLC, engaged in criminal acts arising from the seizure of gold in Peru between 2013 and 2014 and laundering the proceeds of illegal mining.<sup>44</sup> The U.S. government investigated the suspicious import of over \$3 billion worth of illegally acquired and/or smuggled gold from Latin America to Miami between 2012 and 2015 by NTR Metals. The U.S. Department of Justice indicted three former NTR Metals employees for their alleged involvement in a multi-billion dollar gold money laundering scheme.<sup>45</sup> All three former employees have pleaded guilty to a money laundering conspiracy, and reportedly all three have been sentenced to between six and seven and a half years in prison.<sup>46</sup>

*Industry Schemes are not a Replacement for Individual Due Diligence*

In parallel to existing laws and emerging legislation, major industry bodies have developed responsible sourcing audit frameworks and certification schemes.<sup>47</sup> These aim to facilitate implementation of the OECD Guidance and encourage industry collaboration. While these can provide helpful tools for companies to better understand their supply chains and identify possible risks of contributing to harms, in many cases, these programs are built on weak systems that rely too heavily on third-party audits and binary certification schemes.

As an example, when the Global Initiative's 2016 report was published, Element Refining LLC, a gold refiner in Jackson, Ohio was certified by the LBMA and the Conflict Free Smelter Initiative (CFSI).<sup>48</sup>

However, it was not until a year later, in March 2017, when Bloomberg published investigators' findings in relation to NTR Metals that the LBMA de-listed Element Refining LLC.<sup>49</sup> It is unclear what the industry schemes were doing in the interim to assess and manage the risks associated with the allegations linked to NTR Metals.

The OECD recently concluded a study evaluating five major industry schemes to see how closely they aligned with the OECD Guidance. The report found that even though many of the schemes appeared to align with the due diligence guidance on paper, these schemes lack the ability to assess whether companies are actually im-

plementing them in practice.<sup>50</sup> Ultimately, the ability of these schemes to affect real changes in the way minerals are sourced and traded pales in comparison to the collective impact of individual companies working to responsibly address risks in mineral supply chains.

Enforcement by governments is critical to ensure that companies are undertaking robust checks on their supply chains; without proper enforcement these laws mean little. Though Section 1502 only covers minerals from the Great Lakes region of Africa, this important due diligence requirement has redefined how companies look at risk in their supply chains and must be fully enforced. However, in April 2017, the then-acting chair of the SEC announced that the agency no longer recommends enforcement of the bulk of the conflict minerals provision, including the supply chain due diligence requirement despite the statutory mandate.<sup>51</sup> This decision not only creates uncertainty in the minerals market, it sends a dangerous signal that there is wavering support for these important supply-chain checks.

Second, extractive companies must publish what they pay to governments for natural resource extraction on a project-by-project basis and governments must publish the revenues they receive to increase accountability for how natural resource wealth is used.

Beyond the occurrence of human rights abuses along mineral supply chains and the potential for and reality of conflict and terrorist financing, the corruption risk in major mining deals is another significant problem that cannot be overstated. For too long, many of these deals have been negotiated behind closed doors and the terms of these deals kept out of public view, keeping poor countries poor, propping up dirty and rogue regimes and posing significant risks for investors.

A stark example of this is the involvement of Glencore in secretive deals to purchase major mining concessions in the DRC part of a series of opaque transactions that led to the Congolese state losing out on an estimated \$1.36 billion in potential revenues.<sup>52</sup> On July 3, 2018 Glencore Ltd, a subsidiary of Glencore Plc, the world's largest commodities trader, received a subpoena from the U.S. Department of Justice related to U.S. overseas corruption laws focused on operations in Democratic Republic of Congo, Nigeria and Venezuela. The company's troubles seem to largely stem from its deals in DRC with Dan Gertler, a close friend and associate of DRC's former President Joseph Kabila.<sup>53</sup>

Extractive industry payment transparency is an important tool to better understand the deals corrupt and repressive regimes make with companies for lucrative mining concessions. In order to hold governments and companies accountable, payments for natural resources must be made public so that citizens, journalists and civil society groups know how much money is being paid to their governments, and can hold their governments to account for how it has been spent.

#### *Section 1504 of the Dodd-Frank Act Catalyzed Global Action*

In 2010, Section 1504 of the Dodd-Frank Act, known as the Cardin-Lugar provision, was passed by Congress, establishing a global standard requiring oil, gas and mining companies to disclose project-level payments to governments. Thirty other major economies around the world followed suit, including Canada, Norway, the U.K. and the other twenty-seven members of the European Union.<sup>54</sup>

As these laws have been implemented, citizens and watchdogs in resource-rich countries can now see what their governments are being paid from individual resource projects and demand that those who pay or receive bribes are held to account. As transparency becomes the norm, companies will cease being able to operate in secrecy and will be deterred from bribery in the future.

Unfortunately, in early 2017, Congress voted to vacate the SEC rule implementing this law. Nevertheless, many American, and even Russian and Chinese companies are already complying with similar laws, without any business disadvantage, according to a study by the U.K. Government.<sup>55</sup> There is therefore no reason for the U.S. companies to be left out of this global transparency standard. The SEC is currently working on a new rule to implement Section 1504, which should be aligned with similar laws in other countries. We hope that the U.S. reclaims its position as a leader on this issue.

#### *The Extractive Industries Transparency Initiative*

In addition to these payment disclosure laws, the Extractive Industries Transparency Initiative (EITI) is a voluntary, multi-stakeholder initiative comprised of governments, companies and civil society organizations to promote transparency in oil, gas and mining sectors. The EITI publishes country-specific reports including data on payments by mining companies to governments and revenues received by governments. The EITI Standard also requires countries to publish timely and accurate information on key aspects of their natural resource management, including

how licenses are allocated, how much tax and social contributions companies are paying and where this money ends up in the government at the national and regional levels.<sup>56</sup>

EITI's disclosures have made it possible to compare company payments with revenues received by governments. This helps to identify places where money may have been mismanaged or siphoned off for private gain. For example, in the DRC, our analysis of EITI data shows that over \$750 million of mining sector revenues from copper and cobalt that flowed into DRC's national tax agencies and state mining companies between 2013 and 2015 did not reach the national treasury. Although there is no clarity on where these missing millions ended up, our research indicates that at least some of the funds were distributed among corrupt networks linked to former President Joseph Kabila's regime.<sup>57</sup>

*Beneficial Ownership Disclosure Helps Identify the True Owners of Extractive Companies*

In 2013, EITI agreed to make beneficial ownership disclosure a criterion for compliance from 2016 onwards.<sup>58</sup> This new provision recommended that countries maintain a publicly available register of the beneficial owners of companies that bid for, operate and invest in the extractive industries.

This type of transparency is important in countries like Burma, where many of the companies operating in its jade, ruby and gemstone sector are secretly controlled by networks of military elites, drug lords and crony companies associated with the darkest days of junta rule. Through analyzing company licenses and using open data sources, we have been able to piece together how the families of notorious figures including former dictator Than Shwe and former ruling party officials are major players in the jade trade. We have also identified how U.S.-sanctioned drug lord Wei Hsueh Kang, a major figure in the Wa ethnic armed group, plays a dominant role through a web of front companies. In addition, we have uncovered more information on the way Burma's army is helping itself to a gigantic slice of the pie via its own conglomerates that control some mines and operate others in joint ventures with these and other companies whose beneficial ownership remains hidden.<sup>59</sup> The situation in Burma is a problem found in many other countries where information about the true owners of companies is not publicly available or accessible.

Third, the U.S. government must hold corrupt officials and human rights violators to account and protect human rights defenders who come under attack for exposing these problems.

The U.S. government can exert significant leverage in holding human rights violators and the corrupt to account through the use of targeted sanctions, including visa bans and asset freezes. The Global Magnitsky Act, which was passed in 2016 with bi-partisan support, is chief among these tools. This law allows the U.S. government to sanction individuals and companies implicated in serious human rights abuses and/or guilty of significant corruption so that their visas are denied and assets frozen, crippling them of the many privileges of the American banking system. The U.S. government should effectively implement and promote this provision and also rigorously enforce the Foreign Corrupt Practices Act.

As Global Witness has found through its research, human rights defenders face a high level of risk across the globe. The U.S. government must promote an enabling for civil society and support and protect human rights defenders who come under attack for exposing these problems.

CONCLUSION

Transparency won't end conflict or resolve insecurity, but it is an important step towards disrupting an economic landscape that too often incentivizes continued instability over peace. It is only through increased access to information about supply chains that we can discern where the loopholes and weaknesses exist that enable conflict financing and corruption. Furthermore, increasing transparency and accountability over management of natural resources will promote greater stability and economic development in Latin America and countries across the globe, help protect U.S. national security interests and promote a more stable operating environment for American companies.

RECOMMENDATIONS:

*The U.S. government should:*

- Recognize good governance of natural resources as a national security priority and promote natural resource governance as a core part of its assistance to resource-rich countries, as well as key trading and processing hubs.

- Promote implementation of the OECD due diligence guidance by U.S. firms sourcing and trading minerals from all conflict-affected and high-risk areas, and ensure that the conflict minerals provision, Section 1502, is fully enforced.
- Support anti-corruption tools like the Cardin-Lugar extractive transparency provision, Section 1504, to improve governance in the mining sector and minimize risk of allowing corrupt deals to go forward; issue a strong 1504 rule requiring U.S.-listed oil, gas and mining companies to publicly report payments to governments on a project-by-project basis, with no exemptions.
- Strongly enforce the Global Magnitsky Act.
- Support and protect human rights defenders at risk by strengthening and implementing the pre-existing State Department guidelines, in close collaboration with local civil society, and ensuring training in their implementation for all embassy staff.

*Companies should:*

- Carry out comprehensive supply chain checks in line with the OECD Guidance and publish detailed reports listing steps taken to address their specific supply chain risks.
- Publish their natural resource payments to governments in all countries of operations and take additional steps to increase transparency, including through publication of contracts.
- Speak out to condemn threats and attacks against human rights defenders wherever they occur and guarantee that no business project goes ahead without the free, prior and informed consent of affected communities at every stage of the project cycle.

*Trade associations should:*

- Take steps to ensure members are robustly implementing supply chain due diligence and payment transparency and are taking responsibility for their own individual efforts.

---

Notes

<sup>1</sup> Global Witness, 'At Any Price We Will Take the Mines,' May 2018, pg. 34.

<sup>2</sup> Matt DuPée, 'The Taliban Stones Commission and the insurgent windfall from illegal mining', Combatting Terrorism Center, March 10, 2017.

<sup>3</sup> Global Witness, 'At Any Price We Will Take the Mines,' May 2018, pg. 4.

<sup>4</sup> See Global Witness reports: 'Under-Mining Peace,' 2005; 'Faced with a Gun, What Can You Do? War and Militarization of Mining in Eastern Congo,' 2009; 'The Hill Belongs to Them, The need for international action on Congo's conflict minerals trade,' 2010; 'River of Gold,' 2015.

<sup>5</sup> Global Witness, 'An Inside Job,' September 11, 2017, pgs. 8, 20.

<sup>6</sup> Kimberley Process Certification Scheme, Public Statistics Area; see also Global Witness, 'An Inside Job,' September 11, 2017, pg. 6.

<sup>7</sup> Global Witness, 'Secret Sales,' May 13, 2014.

<sup>8</sup> Global Witness, 'Jade: Myanmar's "Big State Secret",' October 2015, pg. 26.

<sup>9</sup> World Bank, 'Myanmar profile.'

<sup>10</sup> Global Witness, 'Jade: Myanmar's "Big State Secret",' pgs. 10-12, 37.

<sup>11</sup> Natural Resource Governance Institute, 'Multifaceted: Governance and Conflict Risks in Myanmar's Ruby Industry,' March 2018, pgs. 5, 7.

<sup>12</sup> Olaya, Angela, 'GameChangers 2016: Illegal Mining and Continuing Criminal Diversification,' Insight Crime, January 11, 2017; see also Global Initiative against Transnational Organized Crime, 'Case study: illicit gold mining in Peru,' November 2017, pg. 2.

<sup>13</sup> Weaver, Jay and Nicholas Nehamas, 'How drug lords make billions smuggling gold to Miami for your jewelry and phone', January 16, 2018, Miami Herald.

<sup>14</sup> Clavel, Tristan, 'Illegal gold Mining Fueling Crime, Violence in Peru,' October 10, 2016, InSight Crime.

<sup>15</sup> Weaver, Jay and Nicholas Nehamas, 'He sold antiques in Florida. Then he helped 'El Chapo' launder \$100M of dirty gold,' January 16, 2018, Miami Herald.; see other articles in the Miami Herald 'Cash, Dirty Gold' series, January 2018.

<sup>16</sup> Weaver, Jay, 'Illegal gold dealer weeps as he's sent to prison for money laundering', January 31, 2018, Miami Herald.

<sup>17</sup> Global Witness, 'Defenders of the Earth,' July 2016, pg. 5.

<sup>18</sup> Global Witness, 'At what cost? Irresponsible business and the murder of land and environmental defenders in 2017,' July 2018, pg. 7.

<sup>19</sup> Global Witness, 'Defenders of the Earth,' July 2016, pg. 8.

<sup>20</sup> Natural Resource Governance Institute, 'The Resource Curse—The Political and Economic Challenges of Natural Resource Wealth.'

<sup>21</sup> Global Witness, 'At Any Price We Will Take the Mines', May 2018, pgs. 4, 41.

<sup>22</sup> U.N. Human Rights Office of the High Commissioner, “U.N. Guiding Principles on Business and Human Rights”, 2011.

<sup>23</sup> OECD, “Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas”, 2016, see annex II for more detail.

<sup>24</sup> *Ibid.*, pg. 41.

<sup>25</sup> *Ibid.*, see annex I for more detail.

<sup>26</sup> United States Congress, 111th Congress, Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111–203, passed July 2010; see also Securities and Exchange Commission, “Conflict Minerals; Disclosure of Payments by Resource Extraction Issuers; Final Rules,” 17 CFR Parts 240 and 249b, September 12, 2012.

<sup>27</sup> United States Senate, 111th Congress, bill S. 891: Congo Conflict Minerals Act of 2009, introduced, but did not pass.

<sup>28</sup> In 2015 Global Witness and Amnesty International analyzed 100 reports filed by companies with the Securities and Exchange Commission (SEC) under Section 1502 of the Dodd-Frank Act. For more information, see Global Witness and Amnesty International, ‘Digging for Transparency,’ April 2015.

<sup>29</sup> Tiffany & Co. statement supporting diligence, transparency in addressing conflict minerals, February 2017.

<sup>30</sup> “Why Apple and Intel don’t want to see the conflict minerals rule rolled back,” Washington Post, February 23, 2017.

<sup>31</sup> Boston Common Asset Management et al, Comments on Reconsideration of Conflict Minerals Rule Implementation—Supplemental Submission to February 17, 2017, March 7, 2017.

<sup>32</sup> Disengagement should only be considered in cases where risk mitigation has proven to be infeasible.

<sup>33</sup> See ‘Arrêté ministériel no. 0057 CAB.MIN/MINES/01/2012 du 29 février 2012’ in Congo, and ‘Ministerial Regulations No. 002/2012/ MINIRENA of 28/03/2012 on the Regional Certification Mechanism for Minerals’ in Rwanda.

<sup>34</sup> China Chamber of Commerce of Metals, Minerals and Chemicals Importers & Exporters (CCCMC), ‘Guidelines for Social Responsibility in Outbound Mining Investments’, 2015.

<sup>35</sup> The EU Regulation applies to companies whose imports of ores or metals containing tin, tantalum, tungsten or gold into the EU exceed certain specified annual thresholds. The law will require companies to conduct due diligence on their supply chains broadly in line with the OECD Guidance. Unlike the EU’s Regulation, the OECD Guidance applies to all mineral resources and to the entire supply chain, including companies that buy or trade products containing the four minerals. The final text of the EU Regulation is available here: <http://ec.europa.eu/trade/policy/in-focus/conflict-minerals-regulation/legal-texts-and-documents/>

<sup>36</sup> U.K. Parliament, Modern Slavery Act 2015, March 26, 2015.

<sup>37</sup> Assemblée Nationale, Loi n° 2017–399 du 27 mars 2017 relative au devoir de vigilance des sociétés mères et des entreprises donneuses d’ordre.

<sup>38</sup> Apple, Conflict Minerals Report, March 7, 2018, pg. 9.

<sup>39</sup> Apple, Conflict Minerals Report, May 5, 2017, pg. 4. For more information, see Global Witness, ‘Why it’s a good thing that Apple isn’t declaring its products “conflict-free”’, April 2016.

<sup>40</sup> Global Witness, ‘Time to Dig Deeper,’ August 30, 2017, pg. 3.

<sup>41</sup> Global Witness search, using advanced search function, search term “Central Bank of DPR Korea” of SD forms between 01/01/2015–07/24/2018.

<sup>42</sup> Schectman, Joel, ‘North Korea Gold Taints U.S. Firms: Country Was Source of Metal Used in Variety of Products,’ Wall Street Journal, June 4, 2014.

<sup>43</sup> Lee, Yimou and Joel Schectman, “For Apple and others, tin supply chain has ties to rebel-held Myanmar mine,” Reuters, November 28, 2016.

<sup>44</sup> Global Initiative Against Transnational Organized Crime, ‘Organized Crime and Illegally Mined Gold in Latin America’, April 2016, pg. 18. See also Weaver, Jay, ‘Illegal gold dealer weeps as he’s sent to prison for money laundering’, Miami Herald, January 31, 2018.

<sup>45</sup> Department of Justice, Southern District of Florida, ‘Four Peruvian Members of Multi-Billion Dollar, International Gold Money Laundering Scheme Indicted’, January 9, 2018.

<sup>46</sup> Elemetal and its subsidiary NTR reportedly pleaded guilty on March 16, 2018, to one count of failure to maintain an adequate anti-money laundering program. Elemetal agreed to a fine of \$15 million as part of a plea agreement with federal prosecutors. See Weaver, Jay, ‘Firm behind gold-fueled Miami-based money laundering racket fined \$15 million,’ March 16, 2018, Miami Herald.

<sup>47</sup> Industry associations that have developed certification schemes to facilitate due diligence include the London Bullion Market Association (LBMA), Dubai Multi-Commodities Center (DMCC), the Responsible Minerals Initiative (RMI—formerly known as the Conflict Free Sourcing Initiative or CFSI), Responsible Jewelry Council (RJC) among others.

<sup>48</sup> See Bloomberg Business Week, ‘How to become an International gold smuggler’, 9 March 2017; LBMA, List of LBMA refiners on the former Good Delivery list; see also Elemetal Refining LLC’s Conflict Free Policy stating CFSI certification, dated June 2015.

<sup>49</sup> LBMA, List of LBMA refiners on the former Good Delivery list. Elemetal Refining, LLC is no longer listed as a conformant gold refiner by the Responsible Minerals Initiative (previously CFSI), see also Elemetal Refining LLC’s Conflict Free Policy stating CFSI certification, dated June 2015.

<sup>50</sup> OECD, ‘Alignment assessment of industry programmes with the OECD minerals guidance,’ April 17, 2018, pg.11.

<sup>51</sup> SEC, Division of Corporation Finance, ‘Updated Statement on the Effect of the Court of Appeals Decision on the Conflict Minerals Rule,’ April 7, 2017.

<sup>52</sup>Global Witness, 'Glencore and the Gatekeeper,' May 2014.

<sup>53</sup>Global Witness press statement, 'A bad year for Glencore,' July 3, 2018.

<sup>54</sup>Global Witness, Revenue disclosure laws—Cardin-Lugar and the Global Transparency Standard, January 30, 2017.

<sup>55</sup>U.K. Government, Department for Business, Energy and Industrial Strategy, Post Implementation Review of Reports on Payments to Governments Regulations.

<sup>56</sup>Extractive Industries Transparency Initiative (EITI).

<sup>57</sup>Global Witness, 'Regime-Cash Machine,' July 2017.

<sup>58</sup>EITI, Beneficial Ownership.

<sup>59</sup>Global Witness, 'Jade: Myanmar's Big State Secret,' October 2015.

