



SOCIETY FOR
THREATENED
PEOPLES

STP-Report>>>

Switzerland - a Hub for Risky Gold?

CASE STUDIES FROM THE UNITED ARAB EMIRATES, SUDAN, THE DEMOCRATIC
REPUBLIC OF CONGO, LIBERIA AND PERU

NOTE

The following text is the English version of the original STP report “Drehscheibe Schweiz für risikobehaftetes Gold? Fallstudien aus den Vereinigten Arabischen Emiraten, dem Sudan, der Demokratischen Republik Kongo, Liberia und Peru” (published in German).¹

With regard to the methodology, the sources, the footnotes and detailed information about the research, STP refers to the original version in German.

¹ German STP report. “Drehscheibe Schweiz für risikobehaftetes Gold? Fallstudien aus den Vereinigten Arabischen Emiraten, dem Sudan, der Demokratischen Republik Kongo, Liberia und Peru”.

Second, revised version

The first version was revised after Peruvian authorities on 27 March 2018 confiscated almost 100 kg of gold shortly after the publication of the first version. They thus give more weight to the demands of the Society for Threatened Peoples. The reaction of two refineries have also been integrated into the report.

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Cover Photo: La Rinconada: The road to the mine pits, Maria Eugenia Robles Mengoa, author of the study “Violencia de género y masculinidades en La Rinconada”

Photography: Maria Eugenia Robles Mengoa, Daniel Schweizer, shutterstock.com

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ABBREVIATIONS

AMSAC Activos Mineros S.A.C.

ASFCMP Association Suisse des Fabricants et Commerçants de Métaux Précieux
(English: Swiss Association of Manufacturers and Traders in Precious Metals)

ASM artisanal and small-scale mining

CCaSS Climate Change and Sustainability Services

CSR corporate social responsibility

DMCC Dubai Multi Commodities Centre

DRC Democratic Republic of Congo

EY Ernst & Young

KYC Know Your Client

LBMA London Bullion Market Association

MEM Ministerio de Energía y Minas (English: Ministry of Energy and Mining)

OECD Organization for Economic Development and Cooperation

OFAC (US) Office of Foreign Assets Control

RENIEC Registro Nacional de Identificación y Estado Civil (English: National Civil Register in Peru)

RJC Responsible Jewellery Council

SERFOR Servicio Nacional Forestal y de Fauna Silvestre (National Forest Department and Wild Fauna)

SBGI Swiss Better Gold Initiative

STP Society for Threatened Peoples

SUNARP Superintendencia Nacional de Registros Públicos (English: National Supervision of Civil Registers)

SUNAT Superintendencia Nacional de Aduanas y Administración Tributaria
(English: National Customs and Tax Inspectorate)

UNGP UN Guiding Principles on Business and Human Rights

UN United Nations

UNSC United Nations Security Council

USGS United States Geological Survey

UAE United Arab Emirates

SUMMARY

Representatives of the Swiss gold industry have repeatedly pointed out that the gold marketplace is exemplary in many respects.¹ Based on gold flows from Peru and the United Arab Emirates (UAE) to Switzerland, this report makes clear that the international gold business - and thus some of the Swiss refineries - is repeatedly and at various levels in conflict with human rights, environmental protection and transparency, and only insufficiently disposes of suitable verification systems.

For some years now, the Peruvian gold business from informal and illegal small-scale mining (*see Box 2*) has been making headlines in Switzerland and Peru.^{2,3,4,5} In 2015, the STP disclosed the path of this gold, which is partly associated with environmental destruction, human trafficking, money laundering, smuggling or tax evasion (*see also 2.1 Background*).⁶

This report presents the latest findings, which suggest that gold from Madre de Dios (Amazon region) and La Rinconada (Peruvian highlands) is still reaching Switzerland today.

The first part of the report (*see Chapter 2 Gold from Peru: Metalor Technologies and its supplier Minerales del Sur*) examines the long-standing relationship between the Swiss refinery Metalor - one of the largest in the world - and its Peruvian main supplier Minerales del Sur, which has supplied 47 tonnes of gold to Metalor in the last five years. Minerales del Sur and its owner, Francisco Quintano Méndez, were investigated with regard to gold smuggling and tax evasion by the Peruvian National Customs and Tax Inspectorate (Superintendencia Nacional de Aduanas y de Administración Tributaria, SUNAT) at the turn of the millennium. As the report now reveals, Francisco Quintano Méndez changed his identity in 2000 and continued to be involved in the gold business. Minerales del Sur buys gold through its

1 ASFCMP (without year.): *Gesetzliche Rahmenbedingungen*. Website consulted on 01.29.2018.

2 Maurisse, M. (10.26.2014): *Schweizer Geschäfte mit dem Gold der Drogenbosse*. In: *Sonntagszeitung*.

3 Büttler, D. (06.15.2015): *Gold ist Schweigen. Nirgendwo wird so viel reines Gold produziert wie in der Schweiz. Fragen zur Herkunft beantwortet man aber ungern*. In: *Beobachter*.

4 Castilla, O. (07.31.2012): *Exportadoras de oro a Suiza financiaron a clanes de minería ilegal en Madre de Dios*. In: *El Comercio*.

5 Brocard, M. and Maurisse M. (09.23.2012): *La Suisse raffine l'or illégal de Madre de Dios*. In: *Le Matin Dimanche*.

6 Society for Threatened Peoples (2016): *Dealings in illegal gold: Swiss, US and Italian refineries under suspicion*. (Original in German published in 2015).

only branches in Puno (e.g., in La Rinconada) and Madre de Dios (Huepetuhe), which are the regions of Peru known as the largest hotspots of illegal gold mining in South America. In addition, the concessions of the owner of this exporter, Minerales del Sur, partly overlap the buffer zones of protected areas and are all located in the heart of Huepetuhe, an area heavily damaged by illegal gold mining. Francisco Quintano Méndez and Minerales del Sur operate as informal miners because three out of four concessions do not meet the necessary environmental protection requirements.

The events of 27 March 2018 have made this report particularly explosive: Only a few days after the publication of the first version, SUNAT confiscated 100 kg of gold from Minerales del Sur. The confiscated gold was intended to be delivered to Metalor. SUNAT has not yet officially informed about the exact background prior to the publication of this report.

In addition to the focus on Peru, the report examines the question: From where do the UAE import the large quantities of precious metal (*see Chapter 3 Gold from the United Arab Emirates - origin with risks*)? The UAE do not produce gold themselves, but are one of the most important gold suppliers of Switzerland. Data analyses from 2012 to 2017 reveal that some companies in Dubai were and very probably still are major destinations for gold flows from the civil war countries of Sudan and the Democratic Republic of Congo (DRC). The Kaloti Refinery - the world's largest – has taken hundreds of kilogrammes of non-officially declared gold from the economically troubled Liberia at least in 2012 and has thus deprived the state of urgently needed income. Imports of conflict and smuggled gold to Dubai are facilitated, as the state only superficially controls imports.

As the report further reveals, half of of Kaloti's transactions with customers have been carried out in cash. In addition, the 2013 audit report described Kaloti's serious violations of standards applicable to gold sourcing and refining from high-risk and conflict areas, misclassification of gold from mines as scrap gold, and failure to exercise due diligence.

As early as 2014, it became public knowledge that one of the world's largest accountants, Ernst & Young (EY), overlooked the fact that Dubai's gold regulator, the DMCC (Dubai Multi Commodities Centre), adapted its guidelines instead of disclosing the serious shortcomings of the emirate's largest refinery, namely, Kaloti.⁷

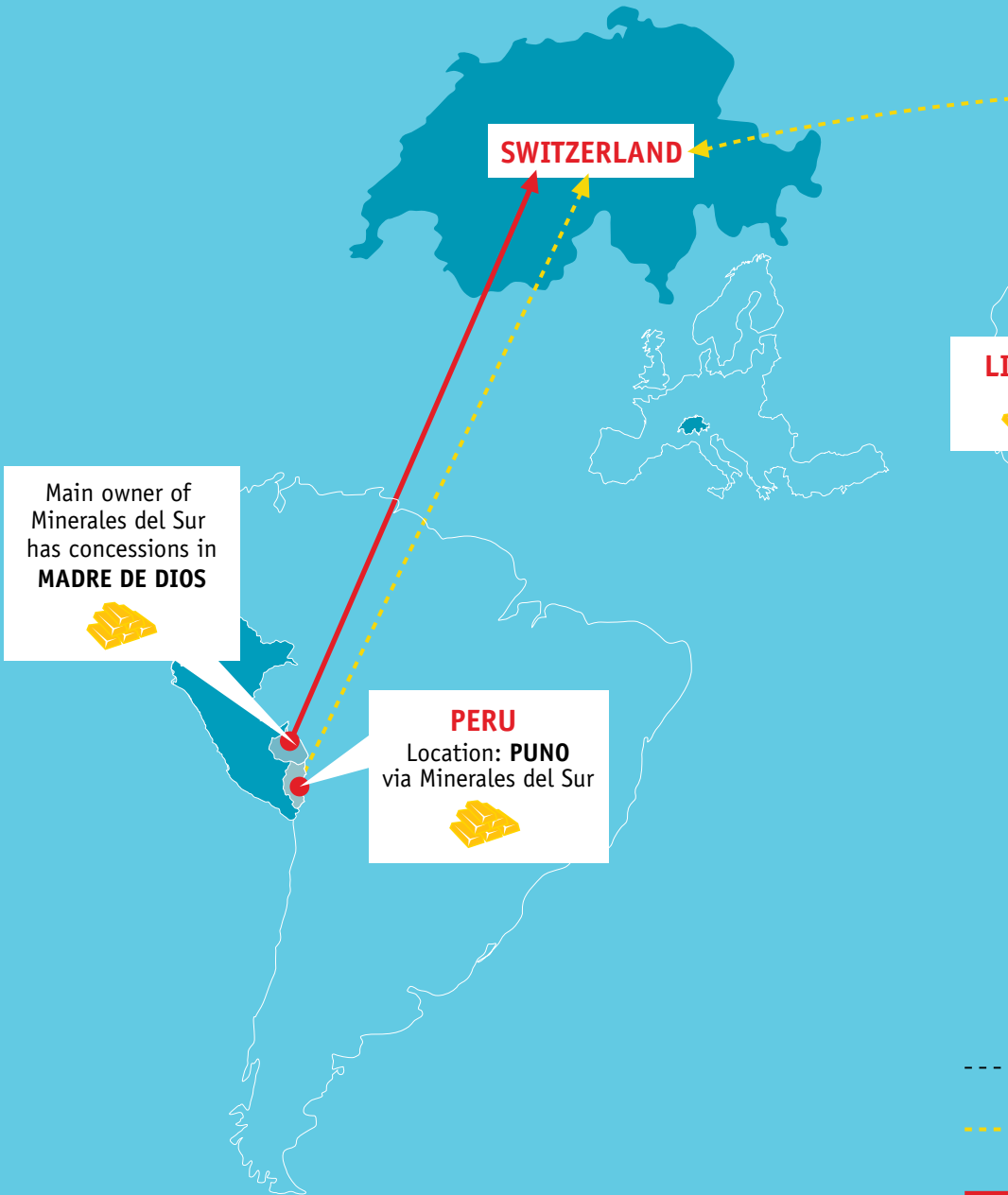
Besides, in 2013, the authors of this report received alarming information about the audits of the Swiss refinery PAMP SA, as well as Kaloti and Al Etihad, by the same auditor and accountant, Ernst & Young. The report shows that the results and findings of the audits in Dubai were suppressed and that the audit of PAMP, performed by Ernst and Young, was carried out incorrectly revealing violations of international standards on conflict and high-risk gold.⁸

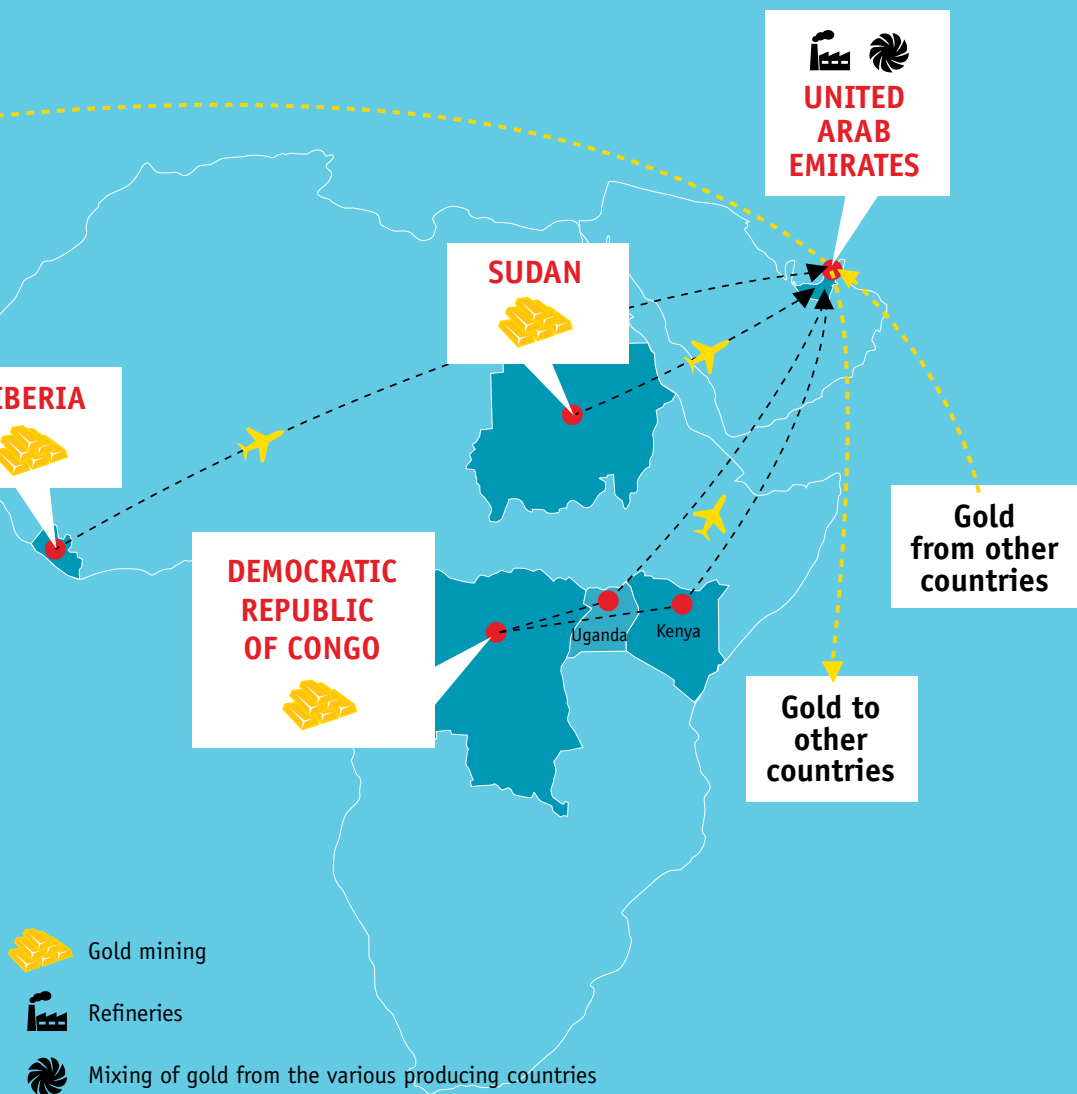
Considering Metalor's long-standing business relationship with Minerales del Sur, whose employees have been repeatedly associated with illegal activities, or the tonnes of gold imported to Switzerland from the UAE, where companies time and time again have been recipients of high-risk and conflict gold, whose biggest player, Kaloti, has repeatedly proven to be in breach of international standards: From the point of view of STP, Switzerland's credibility and reputation as a global trading and processing platform is at least challenged by the inadequate due diligence of some of its representatives. The report therefore concludes with requests to the industry, the federal government and regulatory authorities. Particular urgency is given to the call for in-depth and legally liable due diligence by refineries (as for example provided for by the Swiss Responsible Business Initiative) and transparency on the detailed gold flows from various players.

⁷ Global Witness (2014): *City of Gold. Why Dubai's first conflict gold audit never saw the light of day.*

⁸ In this regard, PAMP communicated to STP by email: "PAMP categorically denies the assertion and confirms that the audit undertaken was performed in full compliance with LBMA responsible gold guidance".

Flow of Gold to Switzerland





---▶ Supply chain of gold until at least 2012

...▶ Supply chain of gold until today

→ Is gold coming to Switzerland from here?

INTRODUCTION

Uncontrolled extraction of raw materials can exacerbate conflicts and lead to ecological catastrophes and massive human rights violations. The control of the gold mines in Congo, for example, has enabled the conflicting parties, for about 20 years now, to quickly obtain substantial financial resources to finance their bloody conflict.^{9,10} Alarmed by the millions of deaths, injured and displaced persons, the OECD has drawn up guidelines for a responsible supply chain of minerals from conflict regions.¹¹ The US enacted the Dodd-Frank Act, which, under Section 1502, requires US stock market-coded companies to disclose, whether any conflict minerals originated in the Democratic Republic of Congo or an adjoining country and, if so, to provide, inter alia, a report describing the measures taken to exercise due diligence.^{12,13} The EU also followed suit.¹⁴ Many end users, such as the computer and mobile phone industries, as well as the jewelry and watchmaking industries, distanced themselves from conflict gold (*see Box 8*) and referred to the due diligence they use. Under the pressure of this development, at least in their communication, the gold refineries, including those in Switzerland, are giving high priority to meticulous due diligence and transparency.^{15,16,17,18,19} They are the central players in the gold processing and trading business.

9 UNSC (2016): *Letter dated 22 September from the Chair of the Security Council Committee established pursuant to Resolution 1591 (2005) concerning the Sudan addressed to the President of the Security Council.*

10 UNSC (2017): *Letter dated 4 August 2017 from the Group of Experts extended pursuant to Security Council Resolution 2293 (2016) addressed to the President of the Security Council.*

11 OECD (2013): *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas. Supplement on Gold.*

12 Federal Association of German Industry et al. (2013): *Merkblatt. Dodd-Frank Act und "Konfliktmineralien". Umgang mit Offenlegungspflichten entlang der Lieferkette.*

13 *Background on the specialized corporate disclosure of the U.S. Securities and Exchange Commission.*

14 European Commission (2017): *The EU's new Conflict Minerals Regulation. A quick guide if you're involved in the trade in tin, tungsten, tantalum or gold.*

15 ASFCMP (o.J.): *Verantwortung und Nachhaltigkeit.* Website consulted on 01.29.2018.

16 Letter from Valcambi SA to Society for Threatened Peoples, dated 01.15.2018.

17 Letter from PAMP to Society for Threatened Peoples, dated 01.17.2018.

18 Metalor (2015): *Supply Chain Due Diligence Policy.* Website consulted on 01.29.2018.

19 Argor Heraeus (2017): *Responsibility.* Website consulted on 01.29.2018.

Around 70 percent of the world's gold is refined in Switzerland.^{20,21} Since 2012, the STP has been observing Switzerland's role as a gold processing and gold trading platform from a human rights perspective. So far, the STP has concentrated mainly on the mining conditions in Peru as well as on the situation of the indigenous peoples there. Recent developments, such as the significant imports of gold from the UAE, which do not mine any gold themselves, have also prompted research into this area. This report therefore tracks gold flows from the Andean country and the UAE to Switzerland.

1.1 METHODOLOGY: REFERENCE TO THE RESEARCH AND SOURCES

The research for Metalor and Minerales del Sur (*see Chapter 2 Gold from Peru: Metalor Technologies and its supplier Minerales del Sur*) was carried out by the Peruvian journalist Oscar Castilla Contreras and based on information provided by the SUNAT, the Peruvian Ministry of Justice's Prosecutor's Office for Money Laundering and the Peruvian Police Department for Money Laundering, as well as reports from the US District Court for the Southern District of Florida, Peruvian foreign trade statistics, data from the Ministry of Energy and Mining and visits to the area. The original text was written in Spanish. The STP has access to all sources.

The research on the gold flow from the UAE to Switzerland (*see Chapter 3 Gold from the United Arab Emirates - origin with risks*) is based on unpublished and public data from 2012 to 2017 in connection with gold from Sudan, the Democratic Republic of Congo (DRC) and Liberia. Gold trading patterns between the UAE and international markets such as Switzerland were also included. The confidential sources are not specified in detail, but the STP has access to all documents. Publicly available sources are listed in the report.

20 Mariani, D. (10.12.2012): *Switzerland: the world's gold hub*. Online at: Swissinfo.ch.

21 Swiss Academies of Arts and Sciences (2016): *Switzerland and the Commodities trade. Taking Stock and Looking Ahead*.

GOLD FROM PERU: METALOR TECHNOLOGIES AND ITS SUPPLIER MINERALES DEL SUR

2.1 BACKGROUND

Peru is the largest producer of gold in Latin America and currently ranks sixth worldwide, behind China, Australia, Russia, the USA and Canada²². Switzerland imports around 140.69 tonnes of gold a year from the Andean country (the average for 2013 to October 2017) (*see Annex 1*).²³ For more than two decades, illegal small-scale mining has been expanding rapidly and uncontrolledly in some regions of Peru due to the rise in the price of gold.^{24,25} The consequences are mercury pollution and deforestation, miners' precarious working conditions, human trafficking and illegal gold trading. The two hotspots of illegal and informal gold mining (*see Boxes 1 and 2*), Puno and Madre de Dios, are at the heart of this report. La Rinconada in the province of Puno in the highlands and Huepetuhe in Madre de Dios in the Amazon are areas in the south of Peru that have been significantly damaged by illegal gold mining. These mining areas are lawless spaces, where miners, under inhuman conditions, extract every ounce of gold from the ground and mountain, where girls and women become victims of human trafficking and prostitution, and where criminal activities, such as drug trafficking, money laundering and gold smuggling, flourish (*see Box 1*). Tonnes of precious metals are exported from these regions to the USA, Switzerland, and other European and Asian countries.

According to the Peruvian Ministry of Environment, virtually all gold mining in Madre de Dios is illegal.²⁶ None of the miners working there has completed the formalization process.²⁷

22 Gold Investing News (2017): *10 largest producers of gold by country*.

23 Federal Customs Administration (2018): *Aussenhandelsstatistik der Schweiz*.

24 Ministerio del Ambiente (2015): *Por la Ratificación del Convenio de Minamata. Por un uso responsable del mercurio*.

25 Mosquera et al. (2009): *Estudio diagnóstico de la actividad minera artesanal en Madre de Dios*.

26 Ministerio del Ambiente Perú (2011): *Minería aurífera en Madre de Dios y contaminación con mercurio. Una bomba de tiempo*.

27 The Global Initiative against Transnational Organized Crime (2017): *Case Study: Illicit Gold Mining in Peru*.



● La Rinconada: Miners on their way to work, ©Maria Eugenia Robles Mengoa

BOX 1:

ILLEGAL GOLD MINING IN LA RINCONADA: FROM THE LIFE OF AN AFFECTED PERSON

According to the Peruvian judiciary and police, the province of Puno on the Bolivian border is one of the largest centres of organised crime in the country. It is a place where buyers of illegal gold encounter smugglers from La Paz, drug traffickers who deliver their goods by plane to Brazil, money launderers and human traffickers, the victims of whom are mainly women and underage girls.

Juliaca, just a few hours from La Paz, is the capital and commercial centre of the province of Puno and a stronghold of human trafficking in the southern Andes. It is home to the mining camp of La Rinconada, situated at an altitude of over 5 000 metres above sea level.¹ The region's most powerful gold exporters operate in the heart of Juliaca. These shops buy gold, export it and often run illegal exchange offices. The area is also home to companies offering work in the largest gold mining areas of southern Peru, such as Ananea and Tambopata, both located on the Interoceánica road to Brazil.

The Peruvian authorities assume that the trafficking mafia forces hundreds of women into this unfriendly and freezing cold area to work as prostitutes in discotheques and nightclubs for the pleasure of mineworkers.

Young M. B. L.², who came to La Rinconada in 2016 after being recruited in Juliaca, suffered this fate. When she arrived in La Rinconada, she found herself surrounded by miles of rubbish dumps, wild animals, large areas of bare soil, enormous water hoses, craters filled with muddy water, heavy machinery and an unspeakably disfigured landscape caused by the gold rush. Here, the lagoons and local fauna of the Altiplano are a thing of the past.

At the end of her first day, M. B. L. was taken to one of the shabby rooms where the girls serving in the discotheques of the mining town are housed. The young woman's dream of working as a waitress or cook in a restaurant came to an abrupt end. M. B. L. was forced to hand over her identity documents to the person who recruited her in Juliaca and was not allowed to leave the mining zone. In the eighteen months that M. B. L. worked as a prostitute in La Rinconada, she saw and experienced a series of horrors: aggression, rape and terrible acts by miners. A miner blew up a bar with dynamite in a fit of jealousy over a female acquaintance, for instance.³ This is par for the course in La Rinconada, the last leg of illegal gold mining in the Andean border zone with Bolivia. M. B. L. is one of the many victims who are directly affected by the consequences of illegal gold mining.

1 Capital Humana y Social et al. (2017): *Trata de Personas en el Perú*.

2 Interview with the person with the initials M. B. L., who wishes to remain anonymous.

3 Correo (14.09.2015): *Puno: Varón activó dinamita para explotar junto a su amante en La Rinconada*.

Against this background, the Peruvian authorities were forced to take measures to combat illegal gold mining. In 2010, the government took massive action against illegal gold laundering, provoking protests by the miners. The authorities introduced regulations to formalize small-scale mining, and in 2012, the Peruvian president issued a decree classifying the illegal extraction of raw materials and its financing as organized crime and making these punishable. This not only banned – at least in theory - the production, but also the trade and export of illegal gold.²⁸

As early as 2012, at the time when journalist and researcher Oscar Castilla Contreras first identified a group of international refineries as receivers of suspected gold from Madre de Dios,²⁹ the Peruvian state concluded that illegal gold mining (*as defined in Box 2*) had become the country's second-largest criminal business after drug trafficking.³⁰ As a result, Peru confiscated gold of unknown origin, including 10.56 kg of gold destined for the Metalor Refinery in January 2014,³¹ investigated buyers and exporters on suspicion of money laundering,³² and asked for legal assistance from the home states of some of the customers abroad.³³ Regarding the 10.56 kg of confiscated gold, the Peruvian Public Prosecutor concluded that there is no reason to take legal action in this case and closed the case in May 2017.³⁴

Among the companies accused of money laundering and trading in gold of illegal origin were Metalor's suppliers, namely exporters such as Sociedad Minera La Rinconada, Titán Contratistas Generales (Puno), AS Perú & CÍA and E&M Company (Madre de Dios).³⁵ Some companies stopped their exports of gold after investigations and seizures began. Between 2013 and 2014, Metalor stopped its business relations with the four companies mentioned above.^{36,37,38} Shortly before, their connections to illegal gold mining in Madre de Dios and Puno had been made public.

28 Ministerio de Energía y Minas (2012): *Decreto Legislativo N° 1102*.

29 Castilla, O. (07.31.2012): *Exportadoras de oro a Suiza financiaron a clanes de minería ilegal en Madre de Dios*. In: El Comercio.

30 Unidad de Inteligencia Financiera del Perú (2017): *Información Estadística*.

31 Society for Threatened Peoples is in possession of the documentation.

32 Castilla, O. (01.08.2014): *Aduanas incautó media tonelada de oro ilegal por US18 millones*. In: El Comercio.

33 La República (08.08.2015): *Fiscalía identificó a refineries suizas que recibieron oro de Madre de Dios*.

34 Ministerio Público Fiscalía de la Nación (2017): *Investigación N° 55-2014*.

35 Investigations of the Secretariat for Money Laundering of the Ministry of Justice (Procuraduría Pública de Lavado de Activos del Ministerio de Justicia).

36 SUNAT database, consulted on 08.15.2015.

37 El Comercio (8.10.2013): *Habla Goya Casas, acusada de ser la principal productora de oro ilegal*.

38 Castilla O. (2015): *Minería ilegal: el millonario rastro de las refineries suizas*. In: Ojo Público.

BOX 2:

INFORMAL AND ILLEGAL GOLD MINING IN PERU

Around 20 percent of the world's gold is mined in the artisanal and small-scale mines (ASM). The ASM industry employs about 90 percent of miners, which account for about 15 million workers in more than 70 countries.¹ Small-scale mining is therefore an important source of income, especially in poorer countries.

The OECD² defines artisanal and small-scale mining (ASM) as mining operated with very simple extraction, processing and transport methods but with an even greater workforce. The miners work alone or in groups.

It is difficult to make a clear distinction between informal and illegal small-scale mining. Generally speaking, miners are engaged in informal mining when they have started the formalisation process, but do not yet meet all legal requirements.³ Illegal mining however violates environmental, tax and labour laws, uses prohibited equipment and/or is carried out in protected areas. It is often accompanied by organised crime, human trafficking, money laundering and corrupt authorities.⁴

In Peru, there are instances of both informal and illegal ASM in all 26 provinces, employing between 100 000 and 150 000 workers directly, depending on estimates.⁵ Between 50 000-70 000 informal/illegal miners are active in Madre de Dios alone.⁶ The Peruvian Ministry of Environment has observed that many medium and large companies claim to be artisanal and small. It describes practically all gold mining in Madre de Dios as illegal.⁷

The OECD emphasises: *[In either case], artisanal and small-scale mining, as with all mining, cannot be considered legitimate when it contributes to conflict and serious abuses associated with the extraction, transport or trade of minerals [as defined in Annex II of the Guidance]*.^{8,9}

1 Statements by Kevin Telmer, Artisanal Gold Council at the Minamata Conference, 26.09.2017.

2 OECD (2013): *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas. Supplement on Gold*, p. 65.

3 The Global Initiative Against Transnational Organized Crime (2017): *Case Study: Illicit Gold Mining in Peru*, p. 1.

4 *Ibid.*, p. 2.

5 Defensoría del Pueblo (2014): *Balance de la gestión estatal frente a la minería informal e ilegal en el Perú. 2012 - 2014 Supervisión a las entidades de alcance nacional y regional. Informe No 167*.

6 Global Initiative Against Transnational Organized Crime (2016): *Organized Crime and Illegally Mined Gold in Latin America*, p. 9.

7 Ministerio del Ambiente Perú (2011): *Minería aurífera en Madre de Dios y contaminación con mercurio. Una bomba de tiempo*, pp. 25; 28.

8 *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas. Supplement on Gold*, p. 65. Appendix II of the OECD Guidance: "While sourcing from, or operating in, conflict-affected and high-risk areas, we will neither tolerate nor by any means profit from, contribute to, assist with or facilitate the commission by any part of: i) any forms of torture, cruel, inhumane and degrading treatment; ii) any forms of forced or compulsory labour [...]; iii) the worst forms of child labour; iv) other gross human rights violations and abuses such as widespread sexual violence; v) war crimes or other serious violations of international humanitarian law, crimes against humanity or genocide."

9 OECD (2013): *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas. Supplement on Gold*, p. 69.

In 2015, Peru's Public Prosecutor's Office submitted a request for mutual legal assistance to Switzerland. The object of the request was the confiscation of gold from the Famy Group and E&M and their business relationships with Metalor. Metalor also reported its suspicions to the Swiss Money Laundering Reporting Office, which in turn informed Metalor in May 2015 that the case will not be submitted to the Swiss Public Prosecutor's Office.³⁹

Despite the revelations and Metalor's welcome move to terminate the relationship with four of its suppliers, the intense business relationship between Metalor (*see Box 3*) and Minerales del Sur continues. This even though already in 2000, the SUNAT and the Finance Court investigated against Minerales del Sur (*see Boxes 4 and 5*) and its employees for promoting and trading in illegal gold and tax evasion.⁴⁰

Meanwhile, Minerales del Sur exports significantly more gold than it did before 2014,⁴¹ exclusively to Metalor, the company's only customer. Minerales del Sur has since become Metalor's largest supplier of gold from Peru.⁴²

As early as 2015, the STP pointed out to Metalor the questionable machinations of its Peruvian main supplier, Minerales del Sur.⁴³ Metalor then defended this supplier in a press release as being a formal company, which had had a contract with Activos Mineros since 2014, allowing it to purchase gold from the Puno region.⁴⁴ Activos Mineros is a private law firm with a government mandate. However, it is strongly criticized by some voices in the SUNAT⁴⁵ for having awarded a public contract to Minerales del Sur, whose owner, Francisco Quintano Méndez, is associated with gold smuggling. In October 2015, Metalor stressed that it had not received any gold from Madre de Dios since 2013.⁴⁶ Metalor also wrote that, after publication of the report, it immediately carried out another thorough due diligence review with the aim of verifying every step of the gold export process, emphasizing that Minerales del Sur, in common with all Metalor customers, had to go through a detailed KYC process before Metalor entered into a business relationship with them. Metalor "[...] reconfirms that the gold mineral supplied by

39 Letters between Metalor and the Swiss Money Laundering Reporting Office (21./26. 5. 2015).

40 Documents of the SUNAT and the Public Prosecutor's Office against Engelhard and the network in Peru until 1999.

41 Av Comercio Internacional S.A.C. Exportaciones peruanas de oro.

42 *ibid.*

43 Society for Threatened Peoples (2016): *Dealings in illegal gold: Swiss, US and Italian refineries under suspicion*. (Original in German published in 2015).

44 Message from Metalor (10.19.2015): *Follow up on the Metalor response to the report published by the association SPM*.

45 SUNAT. The persons concerned would like to remain anonymous.

46 Message from Metalor (10.07.2015): *Metalor response to the report published by the association SPM on the gold imported by Metalor from Peru*.

BOX 3:

METALOR TECHNOLOGIES SA

Metalor Technologies SA is one of the world's largest precious metal processing companies.¹ The refinery Metalor, with headquarters in Neuchâtel, was founded in Switzerland at the end of the 19th century and taken over by the Japanese Tanaka-Kikinzoku Group in 2016.² Today, Metalor has offices in more than 17 countries,³ including one in Lima since 2001, operating under the name Metalor Technologies Perú. The Peruvian Customs and Tax Inspectorate (SUNAT) and the Public Prosecutor's Office (Ministerio Público) indicate that, since the turn of the millennium, Metalor has been sourcing several hundreds of tonnes of gold from the Andean country, including from companies operating in Puno and Madre de Dios: both areas damaged by illegal gold mining.⁴

1 Bullion Star (08.19.2016): *The World's largest Precious Metals Refineries.*

2 NZZ (07.13.2016): *Metalor wird japanisch.*

3 www.metalor.com/de/

4 SUNAT and Public Prosecutor's Office.

Minerales del Sur SRL, as well as from any other supplier in Peru is sourced from neither illegal mining nor the Madre de Dios region [...]".⁴⁷ In a letter to STP dated March 2016, Metalor denied that proceedings against current suppliers were pending, and stressed that its due diligence process complied with the requirements of Swiss money laundering and precious metal regulations, as well as OECD guidelines and LBMA and RJC standards.⁴⁸

On 27 March 2018, SUNAT confiscated almost 100 kg of gold from Minerales del Sur destined for Metalor. The STP will inform on its homepage about the further development.

A milestone in the fight against illegal gold mining was set last year by the District Court in South Florida, with its precedent ruling against some exponents of the US refinery, NTR 2017, which indicated that money laundering exponents could be found guilty of receiving gold from problematic regions.^{49,50}

47 Message from Metalor (10.07.2015): *Metalor Response to the Report Published by the Association SPM on the Gold Imported by Metalor from Peru.*

48 Answer from Metalor to a message from SPM, dated 03.29.2016.

49 US District Court of the Southern District of Florida (2017): *Case 1:17-cr-20215.* Based on an investigation by the FBI, which in turn used publications published by the author of this report.

50 Weaver, J. (01.19.18): *Once at center of 'sprawling' money-laundering scheme, Miami gold dealers headed to prison.* In: Miami Herald.



● Gold mining in the region Madre de Dios, ©Daniel Schweizer

2.2 WHERE METALOR OBTAINS ITS PERUVIAN GOLD

The Swiss refinery Metalor Technologies (*see Box 3*) is currently one of the most important customers of Peruvian gold. Between 2012 and 2017, Metalor received more than 255 tonnes of gold worth USD 5.7 billion⁵¹ from Peruvian gold exporters. Over the past five years, Metalor has purchased more gold from the Andean region than its competitors, such as Valcambi, MKS Finance and S&P Trading (Switzerland), Kaloti Metals, NTR Metals, Republic Metals Corporation (USA) and Italtrepreziosi (Italy), on an individual basis.

SUNAT and the Peruvian Federal Prosecutor's Office (Ministerio Público) have found that Metalor purchased 60 tonnes of Peruvian gold from companies in Puno and Madre de Dios between 2012 and 2017.⁵²

51 Av Comercio Internacional S.A.C. Exportaciones peruanas de oro.

52 SUNAT and Federal Prosecutor.

MINERALES DEL SUR AND FRANCISCO QUINTANO MÉNDEZ: A CHRONOLOGY

2000: The Peruvian Customs and Tax Inspectorate SUNAT accuses a group of gold traders who exported tons of illegal gold to the US company Engelhard. Among the suppliers of these companies was also Minerales del Sur, headed by Francisco Quispe Mamani.

2000: Francisco Quispe Mamani changes his identity to Francisco Quintano Méndez.

2003: The SUNAT identifies Francisco Quispe Mamani, brother of the founders of Minerales del Sur, as one of the suppliers of suspicious gold delivered to Engelhard.

2006: Francisco Quintano Méndez, an allegedly completely unknown person in the gold business, becomes the main shareholder of Minerales del Del Sur.

2008-2010: Francisco Quintano Méndez becomes the owner of four concessions in Huepetuhe (Madre de Dios), a zone marked by deforestation and pollution due to uncontrolled gold mining. One of these concessions even crosses the buffer zone of the Reserva Comunal AmaraKaeri nature reserve.

2012: In response to the severe pollution and deforestation in Madre de Dios, a new regulation on the extraction of raw materials is being adopted. Illegal extraction of raw materials and trading in illegally mined gold are punished.

2013: As of December 2013, the SUNAT confiscates several gold deliveries, including one destined for Metalor. Investigations are then initiated by the Public Prosecutor's Office for Money Laundering.

● **2015:** Metalor comments on a report published by GfbV in October as follows: „The company is well aware of the situation in the Madre de Dios region and precisely because of that Metalor took the decision already in 2013 to stop any further sourcing of gold from that area.”¹

● **2015:** The Peruvian Public Prosecutor's Office initiates an international request for legal assistance to Switzerland and the USA. As part of the investigation against a group of Peruvian exporters for suspected money laundering from illegal gold production, they want to determine the receivers of gold of dubious origin.

● **2016:** The SERFOR rejects an application for a new mine concession from Quintano Méndez because it did not meet the necessary conditions for obtaining an environmental certificate.

● **2018:** Peru's Customs and Tax Inspectorate SUNAT confiscates almost 100 kg of gold from Minerales del Sur destined for Metalor.

¹ Extraction from a press release from Metalor (7.10.2015): *Metalor Response to the Report Published by the Association SPM on the GOLD imported by Metalor from Peru.*

BOX 4:

MINERALES DEL SUR (MINERSUR)

The Peruvian gold trading and export company was founded in 1997 in Juliaca, where it is still based. It also has five branches so called *agencias de acopio* in the province of Puno, one of them in La Rinconada, and another in the region of Madre de Dios (Huepetuhe). In these branches, Minerales del Sur purchases gold. Minerales del Sur exports roughly the same amount of gold as industrial mining transnational companies such as Yanacocha or Barrick¹ every year, making it one of the most powerful gold exporters in Peru. In 2016, the company Minerales del Sur delivered over 15 tonnes to Switzerland.² It is owned by the Peruvian Francisco Quintano Méndez, who runs four concessions in Huepetuhe, the zone known as hotspot of illegal gold mining³, in his name or the name of his company Fominco. Minerales del Sur only supplies gold to the Swiss refinery Metalor.

1 SUNAT.

2 Av Comercio Interancional S.A.C. Exportaciones peruanas de oro, consulted on 11.01.2018.

3 Geocatmin of the Ministry of Energy and Mining (2018).

The main supplier of Peruvian gold for Metalor has been the exporting company Minerales del Sur (Minersur) (*see Box 4*), which supplied more than 47 tonnes of the precious metal to the Swiss refinery between 2012 and 2017.⁵³ Minerales del Sur, whose main shareholder is Francisco Quintano Méndez,⁵⁴ exports almost as much gold as each of the transnational companies, Yanacocha, Barrick and Buenaventura. However, while these companies are active in industrial gold mining, Minerales del Sur buys the gold from many different prospectors.⁵⁵ In addition, as owner, Francisco Quintano Méndez holds four concessions in Huepetuhe (Madre de Dios), with gold mined in at least one of them. In the following, these concessions, located at the center of one of the largest areas of illegal gold mining in South America (*see Boxes 1 and 2*), will be discussed in more detail.

53 *ibid.*

54 Document 05010243 of the register of legal entities of the National Inspectorate for Civil Registration (SUNARP, Superintendencia Nacional de Registros Públicos) in Puno for the name Minerales del Sur Sociedad Comercial de Responsabilidad Limitada.

55 SUNAT.

2.3 GOLD FROM THE BIGGEST REGIONS OF ILLEGAL MINING IN SOUTH AMERICA: THE CONCESSIONS OF FRANCISCO QUINTANO MÉNDEZ

Minerales del Sur does not produce gold, it mainly buys gold. It has six branches that serve as buying locations: five in the province of Puno, one of which is located in La Rinconada, and one in Huepetuhe (region of Madre de Dios).⁵⁶ Both areas are severely damaged by the illegal mining of gold (*see Boxes 1 and 2*). Through the state-run environmental rehabilitation company, Activos Mineros S. A. (AMSAC), Minerales del Sur has received an official license to purchase gold only in Puno (*see 2.1 Background*).

Since Minerales del Sur does not have any registered branches in other parts of the country, except in Huepetuhe and Puno⁵⁷, it would appear that the 47 tonnes delivered by Minerales del Sur to Metalor, as mentioned in the previous chapter, were purchased in the two regions of Puno and Madre de Dios. The quantity is significant, especially since the Ministry of Energy and Mining (MEM, Ministerio de Energía y Minas) estimates that the official⁵⁸ production of gold for these regions in 2012-2017 was 100 tonnes.⁵⁹ Minerales del Sur thus bought up almost half of the gold produced in the region.

It is also striking that, since 2014 (when the AMSAC licence was issued), Minerales del Sur has been exporting more gold to Metalor each year than is officially produced in Puno. In 2016, the quantity of gold exported by Minerales del Sur exceeded the province's official gold production by 3 550 kg⁶⁰ (some 3.5 tonnes; *see Annex 2*). The MEM defines "officially produced quantity of gold" as the amount of gold that the license holders (with formal status or in the formalization process) declare to the authorities themselves. Where does this difference come from, if Minerales del Sur is only allowed to buy gold in Puno? An obvious assumption is that the difference is made of gold bought in Madre de Dios, in its branch in Huepetuhe.

⁵⁶ SUNAT.

⁵⁷ SUNAT.

⁵⁸ The MEM defines "officially produced quantity of gold" as the amount of gold that the licence holders (with formal status or in the formalisation process) declare to the authorities themselves.

⁵⁹ Ministerio de Energía y Minas (Ministry of Energy and Mining).

⁶⁰ MEM and Av Comercio Internacional S.A.C. Exportaciones peruanas de oro.

From Metalor's point of view, the difference comes from the fact that informal miners in the process of formalisation are not forced to declare their gold to authorities.⁶¹

Minerales del Sur not only purchases and exports gold. The owner, Francisco Quintano Méndez, became the holder of four concessions between 2008 and 2010 and mines gold in at least one of them. The gold concessions are located in Huepetuhe (Madre de Dios), where the illegal gold mining has destroyed forests and left behind a lunar landscape with mercury-contaminated waters (see Box 2). Three of the concessions are in his name (Francisco Quintano Méndez) and one is in the name of his second company, Forestación y Minería Constructores (Fominco). They are called: Emaqusa 1 (1 000 hectares), one of the largest in Huepetuhe; Productores I (100 hectares); Jeanne Linda XI (200 hectares); and Cesaria II (100 hectares) (see Annexes 3 and 4).⁶²

The satellite photographs and documents of the Sistema Geológico y Catastral Minero del Perú (Geocatmin), which indicate that the total area of these concessions amounts to 1 400 hectares⁶³, highlight the destruction and plundering of the forest in the areas of the four concessions held by Francisco Quintano Méndez as mentioned above.

It is particularly alarming that Francisco Quintano Méndez's concessions are only a few kilometers away from the indigenous protected area of the Reserva Comunal Amarakaeri⁶⁴ and its buffer zone.⁶⁵ The Cesaria II concession (Code no. 070024406) even overlaps with the buffer zone of the Reserva Comunal Amarakaeri, which is one of the country's most protected areas because of its diverse ecosystem and withdrawal function for the rich flora and fauna⁶⁶ (see Annex 5). In 2016, the Peruvian government declared an environmental emergency throughout the region of Madre de Dios due to the high levels of mercury contamination caused by illegal gold mining (see Box 2).

61 Metalor (22.3.2018): Metalor fully denies the allegations of the NGO STP it its report Switzerland - a Hub for Risky Gold? http://www.metalor.com/de/node_59/Nachrichten/Metalor-fully-denies-the-allegations-of-the-NGO-STP-it-its-report-Switzerland.

62 Sistema Geológico y Catastral Minero del Perú (Geocatmin) of the MEM (2018).

63 Ibid.

64 SERNANP (o.J.): *Reserva Comunal Amarakaeri*.

65 Sistema Geológico y Catastral Minero del Perú (Geocatmin) of the MEM (2018).

66 SERNANP (o.J.): *Reserva Comunal Amarakaeri*. See also: Sistema Geológico y Catastral Minero del Perú (Geocatmin) of the MEM (2018).

In this province, about 40 tonnes of this heavy metal are released into the environment every year,⁶⁷ given that 1.8-2 kg of mercury are needed to extract 1 kg of gold.⁶⁸

In 2013, Francisco Quintano Méndez asked the SERFOR (Servicio Nacional Forestal y de Fauna Silvestre) for permission to clear 53 hectares within the Emaqusa 1 concession (Huepetuhe) in order to extract gold at a later date. In 2016, the SERFOR refused to grant the owner of Minerales del Sur this authorization on the grounds that the environmental protection requirements had not been met.⁶⁹ According to the MEM, Minerales del Sur and its owner still hold the status of informal miners today,⁷⁰ as three concessions in Huepetuhe do not meet the national environmental requirements for gold mining. Nevertheless, Francisco Quintano Méndez mines gold in the fourth concession of Jeanne Linda XI, Huepetuhe. According to the Ministry of Energy and Mining, this concession produced 21 kg of gold in 2016 and 73 kg in 2017.⁷¹ While it is not known where this total of 94 kg was shipped to, Quintano Méndez is believed to have shipped them abroad, along with the much larger quantity purchased by his only customer, Metalor.

Of the three other informal concessions (Emaqusa 1, Productores I, Cesaria II), the Ministry of Energy and Mining (MEM) has not yet been officially notified of any gold mining. Whether or not this is actually true is still open to debate. In the areas around Huepetuhe, various cases are known in which concession holders indicate a different quantity of mined gold than is actually put on the market.⁷² Satellite photographs (*see Annex 4*) show that work has been carried out on the concessions in question; it is not clear, however, whether and when gold was mined.

67 La República (03.21.2015): *Mineros arrojan 40 toneladas de mercurio a ríos de Madre de Dios.*

68 Mosquera, Cesar et al. (2009): *Estudio diagnóstico de la actividad minera artesanal en Madre de Dios*, p. 52.

69 Resolution 045-2016 of the Head Office for Sustainability and Forest Protection of the SERFOR regarding Francisco Quintano Méndez as owner of concession Emaqusa 1 in Huepetuhe.

70 MEM database of formalized mines (Registro Integral de Formalización Minera).

71 MEM (2016): *Reporte estadístico de producción de oro del 2016.*

72 Castilla O. (12.04.2013): *Investigan a ruso por lavar dinero de la extracción ilegal de oro en Tambopata.* In: El Comercio.

2.4 THE OWNER OF METALOR'S MAIN SUPPLIER IN PERU CHANGES IDENTITY

In 2000, shortly after the fall of the authoritarian government of Alberto Fujimori, the National Customs and Tax Inspectorate (SUNAT) accused to the Attorney General's Office a group of local companies in Puno and Madre de Dios of being involved in the mining of illegal gold, which they bought up, sold and exported by the tonne, together with smuggled gold.⁷³

The SUNAT's investigations in 1998 and 1999 were later confirmed by the Peruvian Federal Prosecutor's Office and revealed that the Engelhard Corporation in the USA purchased tonnes of gold from a network of Peruvian buying and exporting companies.⁷⁴ Among them were young companies with remarkably little capital, which were hardly known and mainly active in areas of illegal and informal mining, such as Puno or Madre de Dios.⁷⁵

It is noteworthy that, in the lawsuit of the SUNAT, the name of today's main supplier of Metalor Technologies appears: that is, *Minerales del Sur*.⁷⁶ The company and its former owners were listed as suspects in this network of illegal gold traders.

In this file, the SUNAT investigated not only *Minerales del Sur* and its then owner, but also other persons connected with the illegal gold trade. The investigations focused on the following: Jorge Zavaleta Vargas, then an exporter of gold to Switzerland, who was later sentenced to four years' imprisonment for selling illegal gold⁷⁷; the purchasers of Gregoria Casas (Goya, in short), who are subject to legal action for the destruction of the forest around Huepetuhe⁷⁸; Arturo Ortiz, owner of Oro Fino, a company that buys gold in Tambopata; and Pedro Pérez Miranda⁷⁹, also known as "Peter Ferrari", who has a history of drug trafficking and is in prison for money laundering. Indeed, the US government regards him as one of Peru's most important drug traffickers and has therefore taken legal action against him.

73 Documentation of the SUNAT and the Public Prosecutor's Office against Engelhard and the whole network in Peru until 1999.

74 *ibid.*

75 *ibid.*

76 *ibid.*

77 Castilla, O. (04.15.2016): *Las islas vírgenes de la minería ilegal. Mossack Fonseca operó offshore de financistas que enviaron toneladas de oro a EE.UU. y Suiza.* In: Ojo Público.

78 Castilla O. (10.08.2013): *Habla Goya Casas, acusada de ser la principal productora de oro ilegal.* In: El Comercio.

79 Romero C. (03.22.2015): *"Peter Ferrari" exportó oro de minería ilegal por 637 millones de dólares.* In: La República.



● Gold from the region Madre de Dios, ©Daniel Schweizer

The 400-page bill of indictment sent to the Public Prosecutor's Office in 2000 states that:

[The SUNAT established that all] the defendants [...formerly mentioned...] have created a complex structure of [mineral] trading, forming groups of companies to make purchases from certain suppliers and obtain [tax profits]. [The SUNAT] also verified that the gold, which was traded in these fictitious purchase and sale transactions, comes from informal production or smuggling [and delivered to Engelhard Corporation].⁸⁰

In pursuing its action, the SUNAT suspected Minerale del Sur to be involved to evade taxes and smuggle gold, involved in a wider network of gold traders who exported gold to the Engelhard Corporation in the US. It also discovered that the then insignificant Minerale del Sur was founded in 1997 by two siblings, Simiona and Urbano Quispe Mamani, from Puno,

⁸⁰ Documentation of the SUNAT and the Public Prosecutor's Office against Engelhard and the whole network in Peru until 1999. Original in Spanish: "[La SUNAT estableció que todos] los denunciados [antes mencionados] han creado una compleja estructura de comercialización [de mineral], conformando grupos de empresas para realizar compras a supuestos proveedores y obtener [beneficios tributarios]. También verificó que el oro, materia de dichas operaciones ficticias de compra y venta, procede de la producción informal o de contrabando [que acababa en la empresa Engelhard Corporation]."

among others.⁸¹ The action also concluded that the Quispe Mamani siblings were only used as a façade by Minerale del Sur, as they neither knew the business nor the suppliers. The real owner, who was to be hidden from the authorities by this trick, was identified by the SUNAT in 2003 in another investigation as Francisco Quispe Mamani, the older brother of the Quispe Mamani and one of the various suppliers of suspect gold to the Engelhard Corporation. This information was taken from one of the cases put before the Finance Court of the Ministry of Economy and Finance (Tribunal Fiscal del Ministerio de Economía y Finanzas).⁸²

When a SUNAT Special Forces unit investigated the origin of the precious metal in connection with Francisco Quispe Mamani in 2003, it concluded that the gold was mined by informal workers and supplied to the Engelhard Corporation through buyers. The buying companies received cash or deposits into their bank accounts.⁸³

Minerale del Sur and its main shareholders, Urbano and Simiona Quispe Mamani, managing directors Néstor Yanapa Condori and Francisco Quispe Mamani, are, according to the SUNAT and the Public Prosecutors' Office, the most serious players in Peru's history to date when it comes to tax evasion and gold smuggling.

In 2006, only three years after these facts were discovered, Metalor's supplier experienced a transformation: Francisco Quintano Méndez, an unknown player in the Peruvian mining business, became the new owner. Who was this person?

Searches in the civil registers of Lima and Puno in 2017 revealed the following: Francisco Quispe Mamani, brother of the formal founders of Minerale del Sur, Urbano and Simiona, who is accused by the SUNAT of having been involved in smuggling activities in the 1990s, and Francisco Quintano Méndez, current owner and principal shareholder of the export company

81 SUNARP.

82 Resolution of the Fiscal Court of the Ministry of Economy and Finance from 2003 in Document no. 04708-5-2003.

83 Ibid.. Original in Spanish: "[El] oro fue extraído de los lavaderos por [...] trabajadores informales que vendían el [producto] a los acopiadores [de las empresas que después despachaban el mineral a Engelhard], quienes a su vez recibían el dinero a través de depósitos bancarios o entregas de dinero en efectivo."

Minerales del Sur, are one and the same person. What Peruvian journalist Oscar Castilla Contreras has found out also coincides with the archives of the civil registries in Juliaca and the statements of a well-informed source, who buys gold in this city but wants to remain anonymous.⁸⁴

Shortly before this report was finalized, the Journalist Oscar Castilla Contreras asked the National Civil Register (RENEC) about the change in identity of the owner of Minerales del Sur. The RENEIC, which is the only authority in Peru with the competence to identify nationals, confirmed that a person born under the name of Francisco Quispe Mamani carried out the formalities for a change of identity in 2000 in Puno.⁸⁵ At that time, Francisco Quispe Mamani and other persons associated with Minerales del Sur were suspected by the SUNAT and the Federal Prosecutor's Office of tax evasion and gold smuggling.⁸⁶

The then 40-year-old Francisco Quispe Mamani returned to the gold business in Juliaca, with his last name changed from Quispe Mamani to Quintano Méndez (with unchanged initials and the same first name). This explains his sudden, alleged disappearance from the public stage.⁸⁷

In 2006, Francisco Quintano Méndez became the majority shareholder of Minerales del Sur⁸⁸ under this new name, and since then he has been responsible for the gold deliveries to Switzerland that had begun years earlier. The question arises as to how it is possible for a man like Francisco Quintano Méndez to become the owner of one of Peru's largest export companies and a supplier to one of the world's most important refineries, even though he is involved in a major case of gold smuggling and tax evasion.

Today, the Peruvian Federal Prosecutor's Office is investigating one of Francisco Quintano Méndez's confidants on suspicion of money laundering in the illegal gold business: Wilfredo Choque Arapa, the former managing director of Fominco, Francisco Quintano Méndez's company, to which a concession is registered in Huetupehu.⁸⁹

84 Information given by the RENEIC concerning this research.

85 *ibid.*

86 Resolution of the Fiscal Court of the Ministry of Economy and Finance from 2003 in Document no. 04708-5-2003.

87 Interview in a shop in Juliaca, which buys informal gold.

88 Page 3 of the electronic document 05010243 of the SUNARP in Puno on the name of Minerales del Sur.

89 Interview with high-level official of the Federal Prosecutor's Office.

BOX 5:

SUMMARY OF FINDINGS REGARDING MINERALES DEL SUR

- Metalor's main supplier in Peru, Minerales del Sur, supplies only Metalor
- Since 2014, Minerales del Sur has only been officially entitled to purchase gold in Puno. However, beside branches in Puno (among others in La Rinconada) it also has one in Huepetuhe, Madre de Dios. Both regions are hotspots of illegal mining, human trafficking and environmental destruction.
- Since 2014, Minerales del Sur has exported more gold than is officially¹ produced in Puno. In 2016, the difference was 3.55 tonnes.²
- The SUNAT investigated the activities of Minerales del Sur and its owner, Francisco Quintano Méndez, on suspicion of gold smuggling at the turn of the millennium.
- In 2000, the main owner of Minerales del Sur changed his two last names from Francisco Quispe Mamani to Francisco Quintano Méndez. Under his new name, he returned to the gold industry and became owner of Minerales del Sur.
- Francisco Quintano Méndez now owns four concessions in Huepetuhe and gold is mined in at least one of them. However, Francisco Quintano Méndez and Minerales del Sur are registered as informal miners with the Ministry of Energy and Mining, as the three other concessions do not meet the necessary environmental standards.
- One of the concessions overlaps with the buffer zone of the protected area Amaraeri.
- On March 27, 2018, SUNAT confiscated almost 100 kg of gold from Minerales del Sur destined for Metalor.

1 The MEM defines "officially produced quantity of gold" as the amount of gold that the licence holders (with formal status or in the formalisation process) declare to the authorities themselves.

2 Ministry of Energy and Mining and Av Comercio Internacional S.A.C. Exportaciones peruanas de oro. From Metalor's point of view, the difference comes from the fact that informal miners in the process of formalisation are not forced to declare their gold to authorities.

As mentioned at the beginning, the STP explicitly informed Metalor about some of these accusations in 2015. However, Metalor denied these and referred to control mechanisms in Peru, which must at least be questioned. Officially, Minerales del Sur is only authorized to buy gold in Puno (*2.1 Background*), but it also has a branch in Madre de Dios and owns four concessions in this region through its owner Francisco Quintano Méndez. How can Metalor, against this backdrop, safely exclude the possibility of obtaining gold from Madre de Dios to the fullest extent?⁹⁰

Does Metalor exercise its duty of care sufficiently? This question arises in particular because Metalor is the only Swiss refinery to have its own subsidiary in Peru, which would be the prerequisite for carrying out a serious process of due diligence. Metalor should have noticed that Minerales del Sur and Francisco Quintano Méndez (formerly Quispe Mamani) have been involved in the illegal gold business for years, and long since Metalor should have reached the conclusion that it needed to break off relations, even though Minerales del Sur is an important trading partner in Peru.

⁹⁰ Statement from Metalor (10.07.2015): *Metalor response to the report published by the association SPM on the gold imported by Metalor from Peru.*

GOLD FROM THE UNITED ARAB EMIRATES - ORIGIN WITH RISKS

3.1 INTRODUCTION

Dubai is one of the world's largest gold trading and processing hubs. About 20-25 percent of gold traded worldwide passes through the UAE.⁹¹ On the basis of the three gold-producing countries of Sudan, the Democratic Republic of Congo and Liberia (*see Box 6 for further examples from African countries*), the following report is an exemplary illustration of how some companies in Dubai were and most likely still are a trans-shipment center for smuggled precious metals and gold from conflict areas (see Box 8). The question as to how likely it was, or still is, that illegal or risky gold reached, or is reaching, the international markets, particularly Switzerland, via companies in Dubai will be examined.

Unless otherwise stated in the text, the sources of this chapter are unpublished data to which the STP has access. Publicly accessible sources are indicated with a footnote.

3.2 GOLD FROM SUDAN

The armed conflict that broke out in Sudan in 2003 has claimed hundreds of thousands of victims, including many children and women. Hundreds of thousands of people have been displaced. While many people in Darfur depend on food supplies, countless others have fled from the region. The conflict is one of the bloodiest in recent history, in which even children and very young women were not spared the most brutal violations of human rights and war crimes. The President-in-Office of the Sudanese Government,

⁹¹ Regal Assets (without year).

BOX 6:

GOLD MINING IN OTHER AFRICAN COUNTRIES: EXAMPLES OF HUMAN RIGHTS VIOLATIONS, POLLUTION AND SMUGGLING

Sudan, the Democratic Republic of Congo and Liberia are not the only countries in Africa where gold is mined under adverse conditions. The gold trade in West Africa is extremely convoluted and marked by illegal networks and structures and players from civil wars in the region. In two of the continent's largest gold-producing countries, Ghana¹ and Mali,² thousands of children are employed in gold mines, as reported by Human Rights Watch. Some of them suffer permanent damage to their health as a result of heavy physical work and the use of mercury without any protective measures. The largely informally mined gold from Mali is transported to refineries located chiefly in the United Arab Emirates or Switzerland in hand luggage.^{3,4}

Dubai's imports from Mali are well above the official figures for production in the country.⁵ Mali is an important trading centre for gold from other countries in the region. In particular, gold arrives in Mali from Côte d'Ivoire and Burkina Faso to be exported from there. Networks created during the civil war in Côte d'Ivoire benefit from smuggling and a parallel tax system in the gold sector.⁶ In 2017, over 12 tonnes of gold were exported from Mali to Switzerland until November, with over 47 tonnes exported from Ghana.⁷

In Burkina Faso, too, some gold is mined by children. Part of this gold from Burkina Faso reached Switzerland via Togo until at least May 2015, as a report from Swiss NGO Public Eye 2015 revealed.⁸ Also in Switzerland, gold was refined from the Bisha mine in Eritrea, as was revealed in 2017. 40 percent of the mine belongs to the Eritrean state, accused by the UN of human rights abuses.⁹ Here, workers were forced to mine gold in the searing heat of the mine. 22 tonnes of gold worth almost 400 million Swiss francs was exported from the Bisha mine to Switzerland between 2011 and 2013.¹⁰

1 Human Rights Watch (06.10.2015): *Precious Metal, Cheap Labor. Child Labor and Corporate Responsibility in Ghana's Artisanal Gold Mines.*

2 Human Rights Watch (2013): *A Poisonous Mix. Child Labor, Mercury, and Artisanal Gold Mining in Mali.*

3 Anti Corruption Resource Centre (2017): *Shadow value Chains: Tracing the link between corruption, illicit activity and lootable natural resources from West Africa.*

4 Human Rights Watch (2011): *Mali: Artisanal Mines Produce Gold With Child Labor. Hazardous Work, Mercury Poisoning, and Disease.*

5 Anti Corruption Resource Centre (2017): *Shadow value Chains: Tracing the link between corruption, illicit activity and lootable natural resources from West Africa.*

6 Partnership Africa Canada (2017): *The West African El Dorado: Mapping the Illicit Trade of Gold in Côte d'Ivoire, Mali and Burkina Faso.*

7 Swiss Federal Customs Administration (2018). *Aussenhandelsstatistik der Schweiz.*

8 Declaration of Bern (now Public Eye) (2015): *Ein Goldenes Geschäft. Die wahre Geschichte hinter den Schweizer Importen von "Togolesischem" Gold.*

9 UN News (06.15.2017): *UN expert urges "bold action" to address raft of human rights abuses in Eritrea.*

10 Rundschau (08.30.2017): *Gold-Deal mit Eritrea.*

Omar Al Bashir, is the only incumbent president in the world sought by the International Criminal Court in The Hague on suspicion of war crimes, crimes against humanity and genocide.⁹²

The western region of Darfur is rich in minerals. But gold mining is blamed, at least in part, for fueling and financing the conflict. More than 50 percent of Sudanese gold is mined in Darfur. In its report on Sudan in 2016, the UN Panel of Experts left no doubt that the gold mined in small-scale mines (ASGM) in Jebel Amer is conflict gold (*see Box 8*). The panel described Jebel Amer, which is the largest gold mining region in Darfur, as an “easy and substantial supply of finance currently available to the armed groups in Darfur”.⁹³ They also pointed out that it is likely that a certain armed group controls Jebel Amer mines by imposing illegal levies on gold mining activities. These taxes generate approximately USD 54 million in revenue for the rebels each year.

The report continues:

*[...] The Panel is certain that the artisanal gold mined at Jebel Amer is, by definition, conflict affected, owing to the presence of private security forces, the illegal levies on prospectors, the illegal extortion of minerals and the illegal taxation of intermediaries and merchants [...] and that [...], given that gold is being mined at many other major artisanal mining sites in Darfur under the control of armed groups, that gold too is conflict affected [...].*⁹⁴

Another report, published by Reuters on October 8, 2013, stated that:

*[Fighting] between rival tribes over the Jebel Amer gold mine that stretches for some 10 km (six miles) beneath the sandy hills of North Darfur has killed more than 800 people and displaced some 150 000 others since January. Arab tribes, once heavily armed by the government to suppress insurgents, have turned their guns on each other to get their hands on the mines. Rebel groups that oppose the government also want the metal. [...] The gold mine death toll is more than double the number of all people killed by fighting between the army, rebels and rival tribes in Darfur in 2012, according to U.N. Secretary General Ban Ki-moon’s quarterly reports to the Security Council.*⁹⁵

92 International Criminal Court (2018): Al Bashir case.

93 UNSC (2016): Letter dated 22 September from the Chair of the Security Council Committee established pursuant to Resolution 1591 (2005) concerning the Sudan addressed to the President of the Security Council, p. 5.

94 *ibid.*, p. 41, 45.

95 Laessing, U. (10.08.2013): *Special Report: The Darfur conflict’s deadly gold rush*. In: Reuters.

According to the Sudanese Ministry of Mining, traditional mining represents 90 percent of gold production in the country. The Sudanese Minister of Minerals, Ahmed Mohammed Sadiq al Karuri, told parliament that the government has almost no control over gold mined by traditional miners. He added that a substantial portion of the precious metal is smuggled abroad.⁹⁶ Recent reports from 2017 indicate that gold smuggling from Sudan is still ongoing.⁹⁷

The analysis of thousands of Sudanese gold transactions allows a clear conclusion to be drawn: Some companies in Dubai were a major destination of Sudanese gold in 2012. Our research has identified 18 suppliers who exported a total of 50 084 kg of gold from Sudan to Dubai in 2012. The names of the suppliers and the quantities of gold delivered are shown in the table below. The buyer of this gold was Dubai's largest refinery, Kaloti Jewellery International respectively Kaloti Jewellers Factory (*both hereinafter referred to as Kaloti, see Box 7*). The analysis of unpublished data from Kaloti's "Know Your Client" (KYC) report, which has been made available to the STP, revealed that all 18 suppliers were registered in Sudan and had declared it as the country of origin of their received gold.

In addition to the Sudanese suppliers, our research identified a further five suppliers registered in the UAE, which imported a total of 7 151 kg (7.15 tonnes) of Sudanese gold to Dubai in 2012. The names of the suppliers and the imported quantities are listed in the table below. Kaloti was the recipient of this gold. Kaloti's KYC data reveal that these five suppliers have indicated Sudan as the country of origin of their traded gold.

⁹⁶ *ibid.*

⁹⁷ Sudan Tribune (07.27.2016): *Sudan to produce 100 tonnes of gold by end of 2016.*

Name	gross quantity (gram)
Sudan Financial Services Co. Ltd.	44 047 130.700
Hwazen Jewellery Co.Ltd.	194 851.900
Switch Company for Trading & Engineering	7 190.500
Rida Engineering	79 753.100
Ganadel Company Gold	72 784.200
Madadland Enterprises	120 316.000
Mangosh Trading	30 911.700
Mahd Aldahab Jew.	65 388.000
Muatasim M Saleh Trading Enterprises	17 627.000
Omer Bakhit Ahmed El Abbas	506 296.600
Abo Digana El Abbasa	58 654.000
Aiman Mohamed Khogali Ahmed	12 694.200
Hammam Mohammed	12 924.000
Hasabelrasoul Hassan Mohamed	56 638.100
Hilal El Dien Abd El Hilal Jewellery	685 716.000
Sawra International	464 920.400
Al Walid Abdulla Al Amin	3 154 017.800
Al Walid Ehmer Trading a/c No. 02	496 224.400
Total	50 084 038.600
	More than 50 084 kg

18 Sudanese gold suppliers and the quantity delivered in 2012

Name	gross quantity (gram)
Al Shehab Commercial Broker LLC	649 201.200
Al Banash Ishaq	2 102 334.400
Al Muiz General Trading	2 950 225.930
Yasko Gold & Jewellery Trading F.Z.E	861 507.500
Anjali Jewelelry & G.S. Llc	587 723.740
Total	7 150 992.770
	around 7 151 kg

The total amount of gold that Kaloti received from Sudan in 2012, through the above 23 suppliers, was over 57.235 tonnes. In our research, we also identified five other suppliers whose gold is suspected to come from Sudan and which was sold in Dubai in 2012. If these quantities are also taken into account, the total quantity of Sudanese gold delivered to Kaloti would have been approximately 60 tonnes in 2012. However, this report only focuses on the 57 235 kg (57.23 tonnes) confirmed to have originated from Sudan.

This is significantly higher than the 46 133 kg (46.133 tonnes) of officially declared amount of gold in Sudan in 2012.⁹⁸ Hence, it is evident that the difference of 11 102 kg (11.102 tonnes) was smuggled out of Sudan. The UNSC Group of Experts also speaks of “smuggled” gold in connection with this difference in 2012.⁹⁹

Two of the above-mentioned suppliers of Kaloti were sanctioned by the US Office of Foreign Assets Control OFAC at the time when trading took place. The OFAC issues US economic and trade sanctions against regimes and organizations suspected of terrorism, drug trafficking or human rights violations. One of the two entities is Sudan Financial Services, which is owned by the Sudanese Central Bank. Sudan Financial Services purchases gold produced in Sudan, including that from Darfur. The second company is Hwazen Jewellery. Kaloti’s transactions in 2012 with Sudan Financial Services were over 44 tonnes of gold, while its transactions with Hwazen Jewellery were over 194 kg of gold.

98 USGS (2012): *2012 Minerals Year Book. Sudan*, p. 2.

99 UNSC (2016): *Letter dated 22 September from the Chair of the Security Council Committee established pursuant to Resolution 1591 (2005) concerning the Sudan addressed to the President of the Security Council*, p. 42, paragraph 143.

KALOTI

Founded in Dubai in 1988, Kaloti Jewellery International and Kaloti Jewellers Factory (both hereinafter referred to as Kaloti) started life as a jeweller's wholesaler to trade gold bars, beginning in 2000, and subsequently expanded rapidly into countries such as Singapore.¹ Today, with a market share of around 50 percent, Kaloti is Dubai's largest gold refinery and retailer and also one of the most important in the world.² After failing to meet international standards for the procurement of conflict-free gold, Kaloti's DMCC membership was revoked in 2015.³

1 Gulf Times (12.23.2017): *Gold firm whistle-blower who fled Dubai sues Ernst & Young.*

2 Torchia, Andrew (5.5.2014): *Gold industry shifts east as Dubai plans huge refinery, spot contract.* In: Reuters.

3 Gulf Times (12.23.2017): *Gold firm whistle-blower who fled Dubai sues Ernst & Young.*

Unpublished Ernst & Young audit reports from 2013 show that Kaloti committed serious noncompliances with LBMA and DMCC standards. According to these reports, Kaloti's overall risk rating was assessed as a "Breach of Review Protocol and Zero Tolerance". In addition to various examples of high-risk noncompliance with standards that apply to sourcing and/or refining gold from high-risk areas, the audit report revealed that Kaloti had failed to carry out appropriate due diligence (*see Box 8*) towards high-risk suppliers in 2012. Although Kaloti's own assessment system categorized the majority of its Sudanese suppliers as high-risks, the refiner Kaloti did not conduct due diligence in accordance with the requirements of international standards such as those of the OECD, LBMA and DMCC.

With the exception of Sudan Financial Services, all gold suppliers were primarily operating on a hand-carried gold and cash payment basis. Kaloti's cash transactions for Sudanese gold in 2012 totaled at least USD 511 219 735.19, while its total cash transactions overall amounted to more than USD 5.2 billion. Cash transactions are hardly used in the economy any more as they increase the risk of money laundering and terrorist financing. These risks are particularly high in the gold industry, as the Financial Action Task Force points out in its report, *Money Laundering/Terrorist Financing Risks and Vulnerabilities Associated with Gold*: [...] *Cash-for-gold business have the potential to provide criminal groups with a continuous supply of untraceable gold commodities from various sources [...]*.¹⁰⁰ The OECD also clearly advises against cash purchases.¹⁰¹




100 Financial Action Task Force (2015): *Money Laundering/Terrorist Financing Risks and Vulnerabilities Associated with Gold*, p. 8.
101 "Make and receive payments for gold through official banking channels where they are reasonably available. Avoid cash purchases where possible, and ensure that all unavoidable cash purchases are supported by verifiable documentation": OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas. Supplement on Gold, p. 73.

Gold from Sudan in 2012

SUDAN
 Official gold production 
46 tonnes

23 Gold dealers
 supply Kaloti

Location: **DUBAI (UAE)**
 United Arab Emirates

Kaloti 
57 tonnes imported  



The table below presents a summary of Kaloti's cash transactions for Sudanese gold in 2012.

Name	Cash transactions USD
Hwazen Jewellery Co.Ltd.	2 268 327.64
Ganadel Company Gold	32 762.77
Madadland Enterprises	1 700 032.70
Mangosh Trading	49 310.90
Mahd Aldahab Jew.	1 128 887.19
Muatasim M Saleh Trading Enterprises	825 903.27
Omer Bakhit Ahmed El Abbas	22 720 070.11
Abo Digana El Abbasa	2 664 126.27
Aïman Mohamed Khogali Ahmed	497 384.12
Hammam Mohammed	631 370.57
Hilal El Dien Abd El Hilal Jewellery	30 920 525.90
Sawra International	15 573 501.86
Al Walid Abdulla Al Amin	136 833 021.74
Al Walid Ehmer Trading a/c No. 02	24 263 632.16
Al Shehab Commercial Broker LLC	29 093 138.99
Al Banash Ishaq	55 752 861
Al Muiz General Trading	136 469 465.71
Yasko Gold & Jewellery Trading F.Z.E	20 583 879.52
Anjali Jewelelry & G.S. Llc	9 398 536.89
Ishaq Osman (a beneficiary of Yasko and Al Banash)	19 812 995.88
Total	511 219 735.19



● *Dubai is an important hub in the international gold trade, ©Shutterstock*

Other irregularities in connection with gold transactions with Sudan include paperwork and record keeping. While some irregularities were noted in transactions with the Sudan Financial Service, most of the paperwork irregularities were related to other Sudanese suppliers. Examples of such common irregularities are expired licenses, missing invoices, missing airway bills and/or expired passport copies.

Kaloti has also failed to allocate the appropriate classification of gold. As a regular and common practice, the majority of gold received from Sudan was classified by Kaloti as “scrap gold”, notwithstanding the fact that this gold should have been clearly designated as “mined gold” due to its purity and origin. Mined gold requires stricter due diligence with regard to the Dodd-Frank Act and OECD guidelines. As the origin of gold can be concealed by falsifying the correct classification of gold, this act constitutes a serious violation of OECD guidelines.¹⁰²

102 OECD (2013): *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas. Supplement on Gold*, p. 54.

Unpublished data from 2015, which have been submitted to the STP, confirm that Kaloti continued trading gold with Sudan at least in 2013 and 2014, including with the above-mentioned companies sanctioned by the OFAC. As mentioned at the beginning of this chapter, in 2016, the UNSC continued to note that conflict gold was being mined in Jebel Amer and the other major Darfur mines remained under the control of armed groups (*see Box 8*).¹⁰³

The UN database, which tracks the trade data of almost every country in the world, lists the United Arab Emirates as a buyer of 94 percent of the total exported gold from Sudan (17.193 out of 18.261 tonnes) for 2015.¹⁰⁴ For gold imports into the UAE, the same database shows approximately twice the amount from Sudan as the country of origin.¹⁰⁵

The indications presented clearly show that some companies in Dubai were and, very probably, still are important trading partners for conflict gold from Sudan, whether smuggled or exported. The facts also prove that Dubai's largest refinery, Kaloti (*see Box 7*), seriously violated international standards for gold from high-risk regions, such as those of the OECD, LBMA and DMCC, in connection with Sudanese gold: business relations with companies sanctioned by the OFAC, trading in excessive amounts of cash for gold, false declarations of mined gold as scrap gold, and major documentation irregularities.

3.3 GOLD FROM THE DEMOCRATIC REPUBLIC OF CONGO

Mineral extraction continues to fuel the relentless conflict in the DRC, in which millions of people have fallen victim or been displaced. The report published by the UNSC Group of Experts on the DRC in August 2017 is clear:

*[...]the gold sector in the DRC continues to suffer from the lack of a traceability system and consequently, artisanally mined gold from conflict-affected areas can still be exported to international markets through smuggling, involving illicit financial flows.*¹⁰⁶

103 UNSC (2016): *Letter dated 22 September from the Chair of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan addressed to the President of the Security Council*, p. 45.

104 UN Comtrade (2016): *Gold exports from Sudan 2015*.

105 UN Comtrade (2016): *Gold imports from UAE 2015*.

106 UNSC (2017): *Letter dated 4 August 2017 from the Group of Experts extended pursuant to Security Council Resolution 2293 (2016) addressed to the President of the Security Council*, p. 2.

Today, there is hardly any report on the subject of conflict or high-risk gold (see Box 8) in which the destination “Dubai/UAE” is not found. The above-mentioned report from August 2017 by the UNSC Group of Experts confirms what the UNSC has repeatedly emphasized, that: [...Dubai is] the main destination market for gold traded from the Democratic Republic of the Congo and the Great Lakes region.¹⁰⁷ The UN Comtrade database confirms that, in 2016, the DRC officially delivered 620 kg, Kenya 1.013 tonnes, Rwanda 4.4882 tonnes and Uganda 9.994 tonnes of gold to the UAE¹⁰⁸, although according to the USGS, the United States Geological Survey, with the exception of the DRC, these countries produce hardly any gold themselves.¹⁰⁹

It seems astonishingly easy to transport conflict gold (see Box 8) from the DRC to the UAE, with commercial airlines playing a central role here. As a first step, smugglers bring the gold from the DRC to a neighboring country, for example, Uganda or Kenya. From there, the precious metal is transported by plane to Dubai. It appears to be common practice among the smugglers to buy additional seats in order to be able to smuggle a higher quantity of gold per flight.¹¹⁰

According to the various reports^{111,112} from the Group of Experts, the declaration of smuggled gold at Dubai Customs is as follows: Once the smugglers’ hand-carried gold arrives at Dubai Customs, it is declared. Given that there is no import duty on gold in Dubai, there is no incentive to avoid declaring the gold to Dubai Customs, whose process lacks the necessary scrutiny. As soon as the declaration is made, customs officially check the country of origin against the boarding pass even if the gold was imported from a country that has no gold production at all. Customs officials in the UAE do not require or ask for any documentation confirming the legality of the gold, such as a certificate issued by the International Conference of the Great Lakes Region. Export licenses or other relevant official documentation from the country of origin confirming that the precious metal is not of illegal origin or smuggled do not have to be presented.

107 Ibid., p. 18.

108 UN Comtrade (2016): *Gold imports to UAE*.

109 USGS (2015): *Gold. World mine production per country*.

110 UNSC (2017): *Letter dated 4 August 2017 from the Group of Experts extended pursuant to Security Council Resolution 2293 (2016) addressed to the President of the Security Council*.

111 Ibid., p. 24

112 UNSC (2016): *Letter dated 22 September from the Chair of the Security Council Committee established pursuant to Resolution 1591 (2005) concerning the Sudan addressed to the President of the Security Council*.

Once this “verification” has been carried out by the customs officials, they take custody of the gold at the airport and issue a receipt to the passenger i.e. the gold supplier. If the buyer of the gold has not yet been determined (e.g., a refinery), the gold supplier looks for a buyer at Dubai’s gold souk, a traditional market in Deira. The gold souk consists of over 300 retailers, most of whom are jewelers and gold traders. As soon as a buyer is found, the gold, which is in the custody of Dubai Customs, is sent to the buyer, after which it is passed onto a laboratory to be tested for its purity before the sale transaction is concluded. A passport copy and a receipt of the customs clearance are sufficient to complete the purchase.¹¹³ The UNSC’s Group of Experts said in 2017 that: “It is the Group’s understanding that United Arab Emirates law does not consider smuggling activity to be a crime”.¹¹⁴

Unpublished documents submitted to the STP reveal links between some business units in Dubai and gold from the DRC. Yogesh Jewellery in Dubai is such a company. According to a UNSC report from November 2012 on the DRC¹¹⁵, Yogesh Jewellery is the official trading partner of Silver Minerals, which sells and exports gold from mines in the DRC controlled by armed rebels. According to the same report, however, Yogesh Jewellery is in effect only responsible for testing the purity of gold; the actual destination for gold from Silver Minerals is Kanz Jewellery, another company in Dubai. Gold smugglers have presented this information to the UNSC Group of Experts.

If we are talking about business units in Dubai involved in gold trading with the Congo, Viren Jewellery Limited must also be mentioned. This gold dealer is a customer of Yogesh Jewellery; in addition, an analysis of official Congolese export data for the Eastern Congolese province of Kivu in September 2013 showed that Viren Jewellery purchased gold directly from a

113 *ibid.*

114 UNSC (2017): *Letter dated 4 August 2017 from the Group of Experts extended pursuant to Security Council Resolution 2293 (2016) addressed to the President of the Security Council*, p. 27.

115 UNSC (2012): *Letter dated 12 November 2012 from the Chair of the Security Council Committee established pursuant to Resolution 1533 (2004) concerning the Democratic Republic of the Congo addressed to the President of the Security Council*, p. 45f.



● *Treasure box at the gold souk in Dubai, ©Shutterstock*

Congolese exporter in South Kivu. In this province, a considerable proportion of the gold mines are controlled by armed groups.¹¹⁶ This means that there was direct and indirect gold trading between companies in Dubai and the DRC:

1. Both Kanz Jewellery and Yogesh Jewellery received gold from Silver Minerals, a company that sold and exported DRC gold from mines controlled by armed groups.
2. Viren Jewellery Limited received gold through Yogesh Jewellery and directly from the DRC.

Unpublished data submitted to the STP reveal that Kaloti received at least 92.272 kg of gold from Kanz Jewellery in 2012. The same documents also reveal that Kaloti received more than 12 752.7 kg of gold (more than 12.752 tonnes) from Viren Jewellery in 2012. The cash transactions from Kaloti to this gold trader amounted to USD 451 418 410.85 in 2012, with Viren Jewellery continuing to be one of Kaloti's major cash suppliers in 2013.

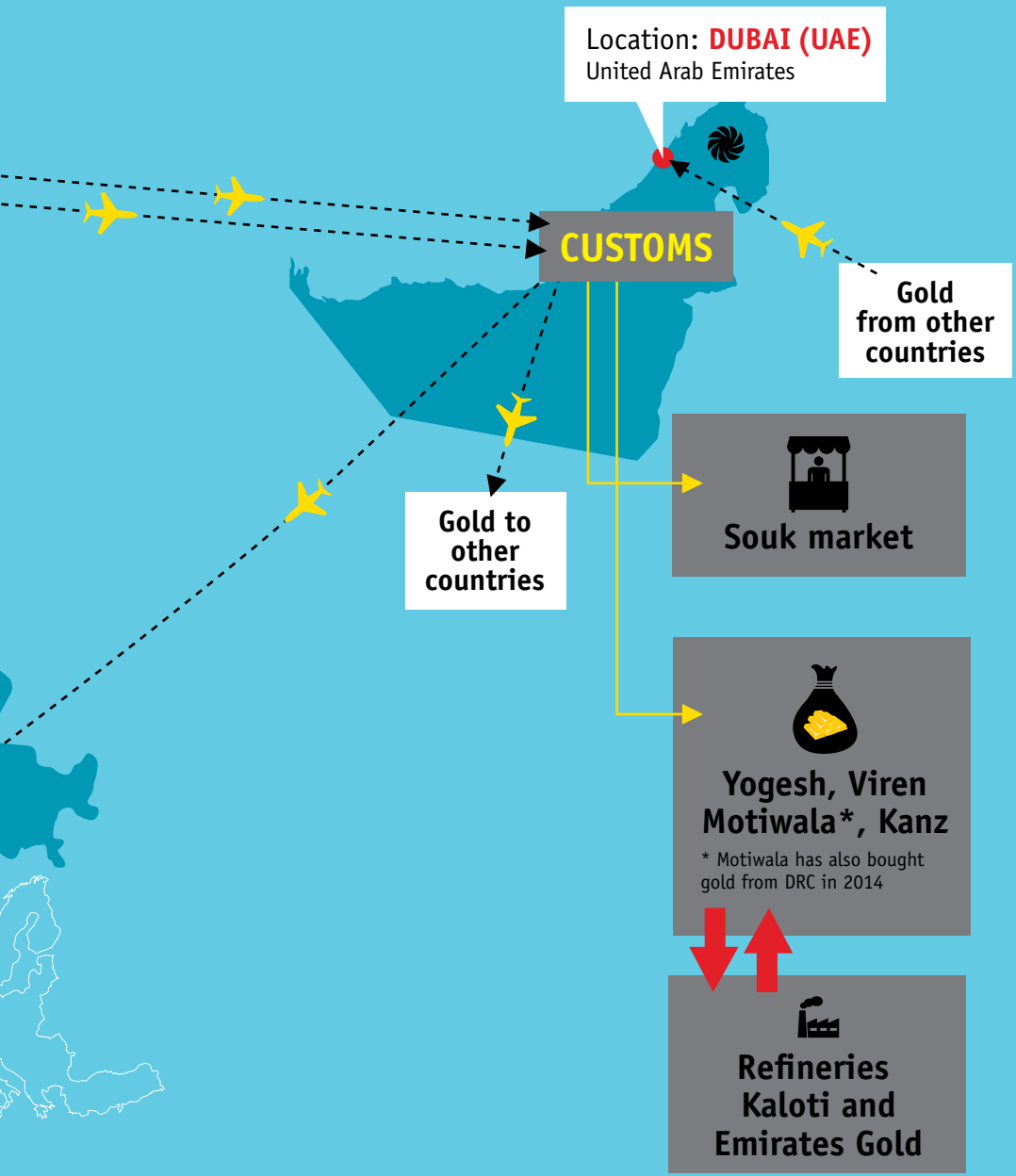
¹¹⁶ Global Witness (2014): *City of Gold. Why Dubai's first conflict gold audit never saw the light of day*, p. 7.

Gold from Democratic Republic of Congo (DRC) in



1 The UAE remains a major destination for gold from the DRC

n 2012/2013¹



The irregularities in transactions between Kaloti and Viren Jewellery are similar to those noted with Sudanese suppliers. This includes, among other things, the incorrect declaration of “mined gold” as “scrap gold” and irregularities in the paperwork.

In addition to Kaloti, the Emirates Gold Refinery must also be mentioned, which has refined at least 12.997 kg of gold received from Viren Jewellery on March 4, 2012. In January 2012, Emirates Gold also received at least 32.854 kg of gold in four transactions from Kanz Jewellery. It is not clear whether Emirates Gold, in addition to these quantities, refined further gold from Viren Jewellery and Kanz Jewellery.

Another key player in the Dubai gold business is Motiwala Jewellers. Unpublished data submitted to the STP reveal that Motiwala Jewellers received gold from the DRC in November 2014. Kaloti received more than 10 478.5 kg (more than 10.478 tonnes) of gold from Motiwala Jewellers in 2012. Similar to Viren Jewellery, Motiwala is one of Kaloti’s most important cash suppliers, with cash transactions from Kaloti to Motiwala in 2012 amounting to USD 527 337 847.51. This large sum underlines the close business relationship between the companies.

The above-mentioned companies in Dubai - Kanz Jewellery¹¹⁷, Viren Jewellery Limited¹¹⁸, Motiwala Jewellers¹¹⁹, Kaloti¹²⁰ and Emirates Gold¹²¹ - continue to operate in Dubai. The report from August 2017¹²² by the UNSC Group of Experts stated that several exporters and intermediaries implicated in the gold trade in the DRC and Uganda told them that they regularly traveled with known smugglers to Dubai in order to sell gold. During its visit to Dubai’s gold souks in April 2017, the UNSC Group of Experts also observed that gold trading patterns described in previous reports still exist in Dubai. According to the Group of Experts it must be assumed that conflict gold (see *Box 8*) is still transported from the Congo to Dubai.¹²³

117 Kanz Jewellers (2015): Website consulted on 01.23.2018.

118 Viren Jewellers (2016): Website consulted on 01.23.2018.

119 Motiwala Jewellers (2018): Facebook consulted on 01.23.2018.

120 Kaloti Precious Metals (2018): Website consulted on 01.23.2018.

121 Emirates Gold (2018): Website consulted on 01.23.2018.

122 UNSC (2017): *Letter dated 4 August 2017 from the Group of Experts extended pursuant to Security Council Resolution 2293 (2016) addressed to the President of the Security Council.*

123 UNSC (2017): *Letter dated 4 August 2017 from the Group of Experts extended pursuant to Security Council Resolution 2293 (2016) addressed to the President of the Security Council*, pp. 2, 18.

3.4 GOLD FROM LIBERIA

The gold mining context in Liberia is different to that of Sudan and the DRC, where the illegal gold trade co-finances armed groups and fuels deadly conflicts. Liberia is one of the poorest countries in the world, whose economy was largely destroyed in the Liberian civil war and has hardly recovered. Even today, it still depends heavily on foreign support.^{124,125} Gold production therefore offers Liberia the hope of economic growth, which would increase government revenue and create jobs.¹²⁶

The analysis of unpublished data available to the STP shows that Kaloti received at least 1 826.59 kg of gold from four suppliers in 2012. According to Kaloti’s KYC documents, the following four suppliers have listed Liberia as the country of origin for gold and/or are registered as companies in Liberia. The names of the suppliers and their quantities of gold shipped to Kaloti in 2012 are listed in the following table:

Name	gross quantity (gram)	cash transaction USD
Golden Mass Trading	574 940.000	1 223 563.37
Golden Vision Trading	445 766.100	2 300 319.87
Royal Company	582 144.500	336 719.62
Nyah Bartee Corporation	223 739.500	11 763 382.62
Total	1 826 590.100	15 623 985.48
	over 1 826.59 kg	

124 Wikipedia (2017): Economy of Liberia.

125 Front Page Africa Online (2018): *International Monetary Fund says Liberia's economy 'still not recovering'*.

126 GlobalSecurity.org (2017): *Liberian Economy*.

As in the cases involving Congolese and Sudanese suppliers, the transactions between Kaloti and the four above-mentioned companies also reveal questionable procedures, such as hand-carried gold, cash transactions and paperwork irregularities, for example, missing receipts, invoices and airway bills.

According to the USGS, Liberia produced only 641 kg of gold in 2012.¹²⁷ The quantity received by Kaloti in the same year from the four suppliers mentioned above (1 826.59 kg) is therefore almost three times as high as the declared gold production of Liberia.

A detailed analysis of the unpublished figures revealed that, in 2012, 738.882 kg of the total delivery by Liberian suppliers to Kaloti transited through other African countries before arriving in Dubai: 683.772 kg came via Accra, about 52.145 kg via Nairobi and about 2.965 kg via Addis Ababa. Based on Kaloti's KYC data relating to these business partners, there is nothing to suggest that the 738.882 kg of gold did not originate from Liberia. Even if these 738.882 kg were not expected to come from Liberia, and should therefore be deducted from the total quantity (1 826.590 kg) of gold delivered by the four companies to Kaloti in 2012, the amounts received by Kaloti from Liberia in 2012 would still be 1 087.708 kg (1.087 tonnes), which is still substantially higher, by 446.708 kg, than the official total gold production of Liberia in 2012.

Whether it was 1 185,59 kg or 446,708 kg of gold, such amounts would have contributed significantly to Liberia's devastated economy and its government's revenue.

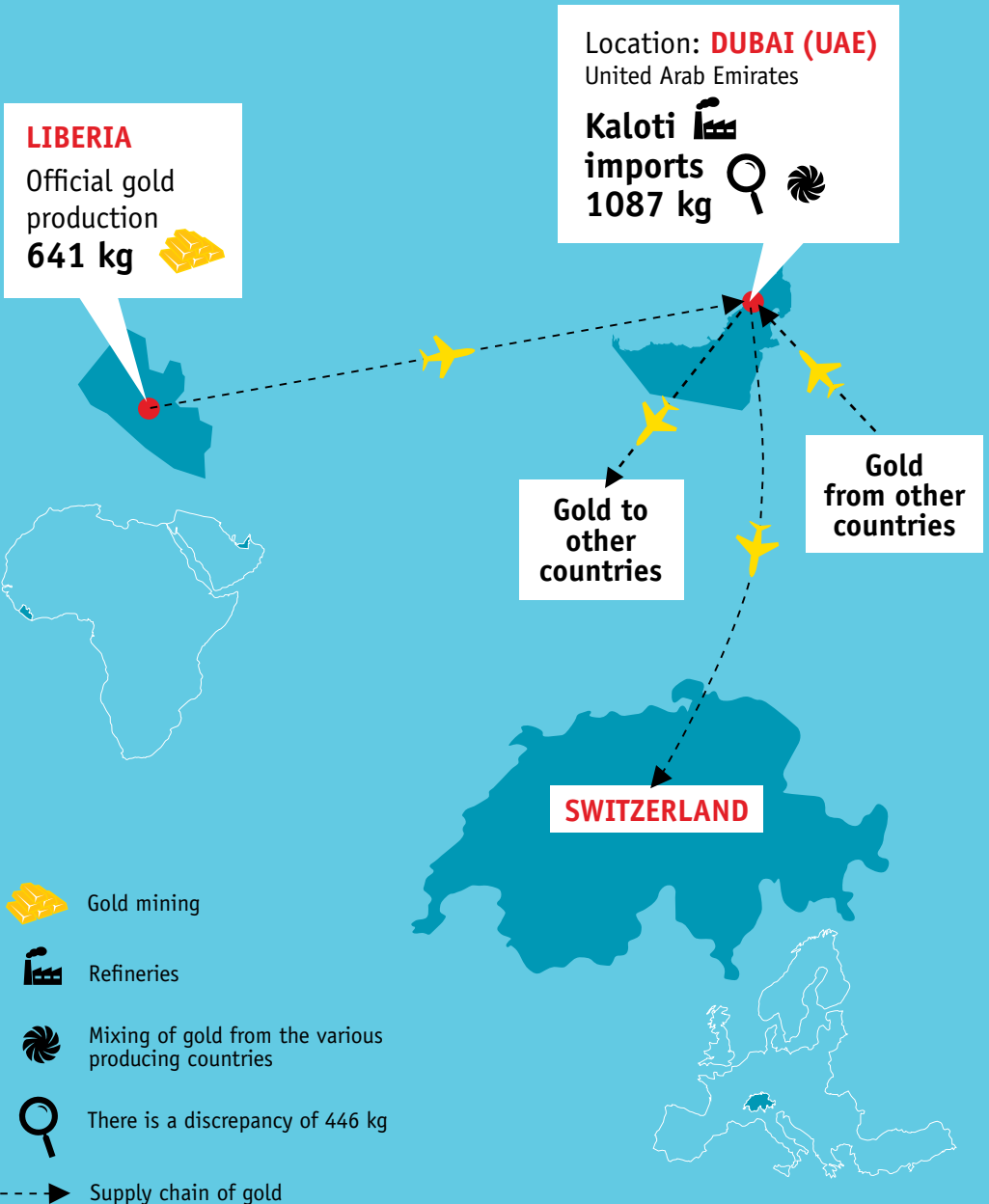
According to the UN database Comtrade, the UAE imported 3.2 tonnes from Liberia in 2015¹²⁸, although, according to the USGS, Liberia did not even produce a tonne that year.¹²⁹

127 USGS (2015): 2012 Minerals Yearbook. Liberia, p. 2.

128 UN Comtrade (2016): *Gold imports to UAE*.

129 USGS (2015): *Gold. World mine production per country*.

Gold from Liberia in 2012



3.5 ROLE OF THE SWISS GOLD INDUSTRY

In the preceding chapters, data from 2012 to 2017 were presented, which show that gold from conflict-affected and high-risk areas is transported to the UAE, especially to companies in Dubai. Companies in Dubai were and very probably still are the main destination for Sudanese gold, which was partially smuggled out of the country at least in 2012. In the same year, Kaloti received gold from Liberia that was not officially declared in the country of origin, thus depriving the country of origin of significant tax revenues. Meanwhile, in relation to the DRC, the report from August 2017 by the UNSC Group of Experts emphasized that Dubai is “the main destination market for gold traded from the Democratic Republic of the Congo and the Great Lakes region”.¹³⁰

There is no doubt that Swiss companies are among the most important receivers of gold processed or traded by companies in Dubai. The following tables present the gold imports from the UAE to Switzerland between 2012 and 2017.¹³¹ Never before has the volume of imports been as high as in 2016, when, according to Swiss foreign trade statistics, Switzerland received more gold from the UAE than from any other country. According to OECD guidelines, however, receivers of gold from the UAE should examine their supply chain very critically, especially given that some companies in Dubai are a main destination for conflict and high-risk gold (*see Box 8*).

Year	Swiss Gold Imports from UAE (kg)
2010	101 575
2011	82 286
2012	303 658
2013	52 128
2014	63 996
2015	76 996
2016	373 112
Until Sept 2017	141 122

130 UNSC (2017): Letter dated 4 August 2017 from the Group of Experts extended pursuant to Security Council Resolution 2293 (2016) addressed to the President of the Security, p. 18.

131 Swiss Customs Authority (2018). *Swiss foreign trade statistics*.

THE OECD DUE DILIGENCE GUIDELINES FOR RESPONSIBLE SUPPLY CHAINS OF MINERALS FROM CONFLICT-AFFECTED AND HIGH-RISK AREAS (SUPPLEMENT ON GOLD):

In order to obtain the necessary purity and to be used in the form of bars, in jewelry or in electronic devices, such as cell phones or laptops, gold must be refined. Gold refineries are required by the OECD guidelines to conduct a full and thorough due diligence review when gold comes from high-risk areas in order to verify its origin and ensure that it is conflict-free and not illegal. Regarding the 5 step due diligence management system of a refinery, Step 2 (Section II) of the *Supplement on Gold of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-affected and High-risk Areas* is decisive. Also the standards of LBMA¹ and DMCC² are based on the OECD guidelines. In short, this guidance requires refiners to determine the origin of gold: "The assessment of risk in a supply chain begins with the origin of gold supply".³ Gold refineries are also required to undergo rigorous third-party verification audits to demonstrate their due diligence processes and compliance with relevant standards to the public.

Definition of conflict-affected and high-risk areas according to the OECD

*Areas identified by the presence of armed conflict, widespread violence, including violence generated by criminal networks, or other risks of serious and widespread harm to people. Armed conflict may take a variety of forms, such as a conflict of international or non-international character, which may involve two or more states, or may consist of wars of liberation, or insurgencies, civil wars. High-risk areas are those where there is a high risk of conflict or of widespread or serious abuses as defined in paragraph 1 of Annex II of the Guidance. Such areas are often characterised by political instability or repression, institutional weakness, insecurity, collapse of civil infrastructure, widespread violence and violations of national or international law.*⁴

1 LBMA (2015): *Responsible Gold Guidance*.

2 DMCC (2017): *Responsible Sourcing*.

3 OECD (2013): *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas. Supplement on Gold*, p. 25.

4 *Ibid.*, p. 66.

What is considered high-risk or conflict gold?

The *OECD Due Diligence Guidelines for Responsible Supply Chain of Minerals from Conflict-affected and High-risk Areas (Supplement on Gold)* are clear regarding whether the origin or transit region of gold is critical or “red-flagged”:

*[Gold is flagged if it] originates from or has been transported through a conflict affected or high-risk area. [And:] The gold is claimed to originate from a country that has limited known reserves or stocks, likely resources or expected production levels of gold [...or...] through which gold from conflict-affected and high-risk areas is known or reasonably suspected to transit.*⁵

In addition, the OECD classifies suppliers and upstream companies as critical if they are themselves active in a location assessed as critical or have a relationship with a supplier in a conflict and high-risk area via shares or other interests. The OECD guidelines also stipulate that the risk in critically classified areas of origin or transit is increased if, among others, cash is used generously. In the case of critically classified regions or suppliers, companies are required to carry out in-depth due diligence according to the OECD guidelines.⁶

⁵ *ibid.*, p. 79.

⁶ *ibid.*, p. 80.

In principle, refineries should carry out their due diligence audits in relation to possible risk in accordance with the OECD guidelines, as well as LBMA¹³² and DMCC¹³³ standards, which are based on them. As the incidents described above show, we cannot currently assume that all Swiss business partners of gold processing and trading companies in Dubai have carried out an in-depth due diligence review to the extent that excludes conflict or high-risk gold.

¹³² LBMA (2015): *Responsible Gold Guidance*.

¹³³ DMCC (2017): *Responsible sourcing*.

3.5.1 An audit by Ernst & Young of PAMP SA with consequences

In 2013, the auditing firm Ernst & Young (EY) conducted an audit of the Swiss refinery PAMP SA in order to assess compliance with the LBMA's Responsible Gold Programme. PAMP SA is one of the world's largest refineries. Only very rarely do outsiders gain a detailed insight into its internal processes. The documents, which the STP was able to view, are concerning. They reveal that the Ernst & Young team that carried out the audit was actually the wrong team - a team specialized in tax matters rather than the team specialized in conflict minerals and the underlying legislation. Against this backdrop, despite not being authorized to do so, this team gave PAMP SA a clean bill of health, such that it received the LBMA rating of "fully compliant". Alongside these audits in Switzerland, the Ernst & Young department in Dubai conducted audits of the three largest refineries in the emirate regarding their compliance with LBMA and DMCC standards. As these audits identified serious noncompliance of DMCC and LBMA standards, the emirate refineries claimed that the evaluations of Ernst & Young Dubai and Ernst & Young Switzerland were not consistent. As some refineries in Dubai explained to the auditors in Dubai, they were suppliers of PAMP SA. The matter was escalated within Ernst & Young given its knowledge of Dubai's refiners violations which meant that the clean bill of health issued to PAMP SA was flawed since the Swiss refiner PAMP SA should have carried out an accurate due diligence process according to international standards (*see Box 8*).

In this regard, PAMP states: "PAMP categorically denies this assertion and confirms that it has never had any commercial relationship with neither of the Dubai refineries Kaloti nor Al Etihad Gold".¹³⁴

A senior manager from Ernst & Young UK in the UK (name known to the editors), who participated in the audits in Dubai, wrote in an email dated May 2, 2013, that Ernst & Young Switzerland shouldn't have done this engagement, and that this audit caused "not a good situation" for Ernst & Young.¹³⁵

¹³⁴ Email traffic between PAMP SA and STP.

¹³⁵ Original wording: "[Ernst & Young Switzerland] shouldn't have done this engagement and what they've done is probably not of the quality/depth that we would expect. Not a good situation for Ernst & Young."

A partner of Ernst & Young, who was involved in investigating the issues related to the audit of PAMP SA, sent an email on June 10, 2013, to the Ernst & Young Global Leader of CCaSS and a partner at Ernst & Young France (names known to the editors). The email summarizes the facts surrounding the audit as follows:

- A)** the wrong and an unqualified team carried out the audits in Switzerland;
- B)** the results of the audits were inaccurate;
- C)** this process led to problems for the Dubai team, as the refineries complained.¹³⁶

On May 24, 2013, the same person emailed the following to a partner at Ernst & Young Switzerland:

*The Swiss Tax Practice [the wrong team which carried out the PAMP audits] delivered an engagement recently to provide a 'Reasonable Assurance' over a gold smelter with respect to Conflict Minerals. This came up when one of my colleagues was on an expert panel at a recent OECD conference. The client in question [the gold smelter] mentioned it and also mentioned that they spent most of their time 'educating' the auditor. With other clients like Siemens in the audience, this was a tricky situation to handle. The main point is that our tax practice should not be doing this work and certainly not be doing it under a reasonable assurance basis when they don't understand the underlying legislation.*¹³⁷

Despite the evidence and serious questions surrounding Ernst & Young's audit of PAMP SA in 2013, the audits were neither withdrawn nor reissued. To the best of our knowledge, the statements in the audit have also not yet been corrected.

In this regard, PAMP communicated to STP: "PAMP categorically denies this assertion and confirms it has selected an independent and approved auditor by the LBMA to perform the LBMA Responsible Gold audit".¹³⁸

¹³⁶ Extract of the email: "Unqualified and inappropriately experienced teams in Switzerland doing this sort of work [...] Issuance of an opinion that is likely flawed and a misinterpretation of the facts [...] Market issues in MENA [Middle East and North Africa] because we have issued a clean opinion for a Swiss Gold business [...] Wider reputational issues stemming from having this sort of opinion in the public domain - it looks odd."

¹³⁷ The STP has the full exchange of Emails in its documentation.

¹³⁸ Email traffic between PAMP SA and STP.

The two Dubai refineries mentioned above in connection with the audit of PAMP SA are Kaloti and Al Etihad Gold. According to the audit reports officially submitted by Ernst & Young to the refineries and the DMCC in September 2013, Kaloti was rated as being in “Breach of Review Protocol and Zero Tolerance”. Al Etihad Gold was rated as “non-compliant - high risk”. However, the findings and assessments of these audit reports of Kaloti and Al Etihad Gold from September 2013 were never published. Two months later, in November 2013, both Kaloti and Al Etihad Gold were mysteriously declared “fully compliant”, contrary to the September audit report, with the Ernst & Young Assurance Reports endorsing the fully compliant statement.¹³⁹

3.5.2 The role of banks and regulators

Besides PAMP SA,¹⁴⁰ Kaloti also supplied the Swiss refineries Valcambi, Argor-Heraeus and Credit Suisse. Kaloti and Al Bahrain Jewellers¹⁴¹, the main owner of Al Etihad Gold, were associate members of the London Bullion Market Association (LBMA). Any candidate for LBMA membership must be sponsored by three LBMA members. According to the LBMA, the sponsor is a company:

*[...] with which the applicant has had a bullion based trading relationship for at least one year. Each sponsor will be asked by the Association to supply a letter of recommendation confirming its belief that the applicant is a suitable candidate for the category of Membership for which it has applied and describing the scope and duration of the bullion-based relationship between the two companies.*¹⁴²

Kaloti was sponsored by Standard Bank, Scotia Bank and Brinks. Al Bahrain Jewellers was sponsored by Standard Bank, Scotia Bank and MKS, the parent company of PAMP SA, which also has an offshoot for trading and distribution in Dubai.¹⁴³ Emirates Gold, another gold refinery (see 3.3 *Gold from the Democratic Republic of Congo*) was also an associate member of the LBMA and sponsored by Standard Bank and Scotia Bank. Sponsorship is often a sign of trust and confidence, based on strong relationships.

139 Bowers, S. and Garside, J. (02.26.2014): *Conflict papers raise fears over conflict gold*. In: *The Guardian*.

140 Regarding Kaloti, PAMP communicated to STP in a email: “PAMP categorically denies this assertion and confirms that it has never had any commercial relationship with neither of the Dubai refineries Kaloti nor Al Etihad Gold”.

141 Al Bahrain Jewellers (2013): Website consulted on 01.23.2018.

142 LBMA (2017): Website accessed on 01.23.2018.

143 MKS PAMP (2015): Website accessed on 01.23.2018.

In addition to the above-mentioned multinational companies, there were even more prominent names that received gold from companies in Dubai or maintained economic relations with Dubai's refineries, such as Kaloti. In a press interview in April 2014, the chairman of the Kaloti Group, Mr. Munir Ragheb Al-Kaloti, said:

The group trades and hedges hundreds of tonnes of bullion a year via international and local exchanges and some of the world's largest bullion banks such as the UK's Standard Bank and HSBC, Canada-based Bank of Nova Scotia and Switzerland's Credit Suisse.¹⁴⁴

In addition, the RJC, established by the jewelry industry, reached a mutual recognition agreement with the DMCC. Under this agreement, refineries that wish to maintain RJC membership and have already successfully passed the DMCC Responsible Sourcing Audit will no longer have to endure the RJC Chain of Custody Audit. Such agreements are highly risky, especially as rigorous scrutiny and strict criteria could be urgently needed to minimize the risks of gold from conflict-affected and high-risk areas entering the international market via companies in Dubai. While audits by the DMCC, LBMA or RCJ improve access to the international market for companies in the gold sector, the same audits have not reduced the risk of conflict gold (see Box 8) coming onto the market to the desired extent.

3.6 INTERROGATION OF THE KEY PLAYERS

In January 2018, the STP asked in writing to the largest Swiss refineries and CS and UBS whether they had received gold from Dubai, especially Kaloti. STP also asked Emirates Gold, Al Etihad and Kaloti if they had customers in Switzerland.

Metalor stated that it was not importing any gold that had passed through UAE customs, adding:

In fact, as per Metalor's internal policy, Dubai is included in our list of countries with which Metalor is banned to do business with.¹⁴⁵

¹⁴⁴ Mirza, A (04.12-04.18. 2014): *Kaloti Jewellery Group. The Dubai based refiner's expansion plans reflect faith in gold's long-term prospects.* In: Middle Eastern Business Intelligence.

¹⁴⁵ Email from Metalor Technologies, dated 01.12.2018 to STP.

PAMP SA, which received precious metal from Dubai from Kaloti and Al Etihad (Kaloti and Al Etihad revealed their supply to PAMP SA in the 2013 Ernst & Young audit), claimed

*[We are] happy to inform you that we do not have any business relationship with any refineries located in the UAE.*¹⁴⁶

PAMP SA does not specify when relations with refineries in Dubai were terminated, although it does not exclude to trade LBMA Good Delivery bars from Dubai with financial institutions. PAMP SA wrote:

Consequently, and as part of our internal procedures to mitigate the risks, we will only accept LBMA Good Delivery bars, should we receive any gold bars coming from Dubai from a counterpart having passed our enhanced due diligence assessment.

Further PAMP claims:

*We have initiated and led the drafting of London Bullion Market Association (LBMA) Responsible Gold Guidance (RGG) – [...] based on our own procedure.*¹⁴⁷

Argor-Heraeus, which claims to have complied with the OECD Guidelines for Conflict Minerals (see Box 8), wrote that, for

several years now we have accepted gold only if sent by international banks with the necessary accreditations or DMCC-accredited customers who send refined gold and/or transformed into good delivery or good delivery-like bars. In any case, metal which has always been subject to all controls by the relevant certification authority.

Argor disclosed the quantities of gold received from Dubai in 2016 and 2017, but asked for confidentiality.¹⁴⁸

UBS asserted that it adheres to the highest social and environmental standards and only sells physical gold received from LBMA-certified refineries and made clear:

*[P]lease note that UBS does not work with refiners from the Middle East.*¹⁴⁹

¹⁴⁶ Briefing from PAMP to STP, dated 01.17.2018.

¹⁴⁷ *ibid.*

¹⁴⁸ Letter from Argor-Heraeus to STP, dated 02.01.2018.

¹⁴⁹ Email from UBS to STP, dated 01.24.2018.

Credit Suisse explained their due diligence procedure and specified:

*Counterparties from which Credit Suisse accepts gold are LBMA-accredited refiners, reputable private or corporate clients, commercial banks, central banks and multilateral financial institutions such as the ECB or the World Bank. Secondly, Credit Suisse only accepts LBMA Good Delivery gold bars. (...). If they meet the above criteria, Credit Suisse also accepts LBMA Good Delivery gold bars that are sent out of Dubai by approved counterparties. In terms of magnitude, based on the volumes of gold you cite as having entered Switzerland from Dubai in 2016 and 2017, over these two years Credit Suisse has received appr. 2% of that total figure. Please note that there is currently no LBMA Good Delivery accredited refiner based in Dubai, which means that Credit Suisse does not accept gold bars carrying the stamp of any Dubai refiner.*¹⁵⁰

Valcambi reported:

*In response to your questions, we confirm that we receive gold from Dubai.*¹⁵¹

Arguing with confidentiality reasons, Valcambi did not communicate in its letter the identity of its business partners.

A google research showed that at the end of 2013, the CEO of Valcambi enthused in a newspaper report in Dubai after Kaloti was given Good Delivery Status by the DMCC:

*We have a business relationship with Kaloti since 2002; we started with 30 kg scrap deliveries a week from them which gradually increased beyond expectation. Today, it is fair to say that Kaloti is one of the key players in the scrap market. They were bold enough to identify and pursue market opportunities and made a strong effort to understand their competitors and clients. I would like to congratulate the Kaloti Jewellery Group on their achievements and look forward to a long term mutually beneficial relationship.*¹⁵²

¹⁵⁰ Letter from Credit Suisse to STP, dated 02.15.2018.

¹⁵¹ Letter from Valcambi SA to STP, dated 01.15.2018.

¹⁵² UAE Today (01.30.2018): *Kaloti Jewellery International DMCC obtains Dubai Good Delivery Status and centralises its global bullion operations from Almas Tower.*

Kaloti lost the above-mentioned Good Delivery Status from the DMCC as early as April 2015.

Kaloti Precious Metals described all the measures they are taking within the Compliance Systems and Controls. On the gold trade they stated:

*Kaloti does physical gold trading with clients and counterparties hailing from across the globe including Switzerland. Our confidentiality commitments do not permit sharing of client and counterparty information along with volumes traded.*¹⁵³

In a very short response, **Emirates Gold** deferred only to its website that does not provide any answers to our demands¹⁵⁴ and did not respond to a second letter.

A response from **Al Etihad** is still outstanding at the time of the finalization of the report.

¹⁵³ Letter from Kaloti Precious Metals to SPM, dated 01.21.2018.

¹⁵⁴ Emirates Gold (2018): *Responsible gold*.

CONCLUDING REMARKS

The presented research is clear on one specific point: some Swiss gold importers fail to take their duty of care seriously enough when it comes to trading gold from the UAE and Peru.

How else could it be explained that Metalor has been doing business for years with Minerales del Sur, its major supplier in Peru, which has been in the focus of the authorities due to connections with trading illegal gold, money laundering or tax evasion? Isn't it at all concerning that the main owner of the same trading partner owns concessions in one of the biggest environmentally destructive and human rights infringing illegal gold mining areas, which also partly overlaps with the buffer zones of a protected area? The fact that the main owner, Francisco Quintano Méndez, changed his identity in 2000, after having had problems with the authorities and the judiciary, should sound the alarm bells at the Swiss refinery, Metalor.

The question then is: how does Metalor justify its position in terms of not obtaining gold from illegal mining and/or Madre de Dios¹⁵⁵, even though indications are quite clear that its main supplier buys gold from precisely such sources and exclusively delivers to Metalor? And what about Metalor after the confiscation of almost 100 kg of gold of its supplier Minerales del Sur?

155 Message from Metalor (10.19.2015): *Follow up on the Metalor response to the report published by the association SPM.*

Regarding gold imports from the United Arab Emirates:

There is no doubt that Swiss companies are among the most important receivers of gold processed or traded by companies in Dubai. Similarly, it was clearly stated in the preceding chapters that some companies in Dubai were and very probably still are a major destination for high-risk and conflict gold (*see Box 8*), which is smuggled or exported from Sudan and the DRC. The companies in Dubai mentioned in this report, which were involved in trading in high-risk and conflict gold from the DRC, continue to operate. In 2012, Dubai's largest refinery, Kaloti, received gold worth millions of dollars from Liberia that was not officially declared in Liberia. According to recent UN reports, some gold companies in Dubai have received gold from conflict and high-risk areas such as DRC and Sudan and processed it in such a way that it can be resold as normal gold bars.

A lack of transparency, inadequate or absent due diligence, and incorrect or incomplete audits support the assumption that conflict and illegal gold continues to enter the world market through the gold hub of Dubai. This alarming situation is also illustrated by suppressing Kaloti's and Al Etihad Gold's violations of international standards, as dealt with in the report, as well as the unreliable audit by Ernst & Young Switzerland of the Swiss refinery PAMP SA back in 2013.

In a communication to STP, PAMP wrote: "PAMP categorically denies this assertion and confirms that the audit undertaken was performed in full compliance with the LBMA responsible gold guidance".¹⁵⁶

Due to the high risk of smuggled or conflict gold entering Switzerland via Dubai, Swiss companies should carry out a much more detailed and strict due diligence process when purchasing gold from companies in the UAE, and disclose the results transparently in order to minimize the risk as much as possible.

STP believes that Swiss receivers of gold produced, processed or traded by companies in Dubai or elsewhere must ensure that no high-risk, conflict, illegal or smuggled gold is accepted in order to avoid a contribution to ongoing conflicts, human rights violations and environmental destruction.

¹⁵⁶ Email traffic between PAMP SA and STP.



● La Rinconada: Greed for Oro (gold), ©Maria Eugenia Robles Mengoa

RECOMMENDATIONS AND REQUESTS

Based on the findings, the STP draws up the following list of requirements that are addressed to the Swiss refineries, the Swiss government and policy-makers, regulatory bodies and the OECD.

To Swiss gold refineries and traders:

- **Due diligence:** Meticulous reviews of all clients/suppliers in accordance with the *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-affected and High-risk Areas* combined with third-party audits by independent, reliable and specialized audit firms.
- **Transparency:** Annual publication of risk management results, the name of the producer and the origin of the gold.
- **Business relations:** Immediate cessation of business relationships that are considered problematic in due diligence reviews or continuation with clear requirements leading to the solution of the problems.

To the Swiss government and policy makers:

- **Increased transparency:** Breakdown of annual Swiss foreign trade statistics by country of origin. Disclosure of both supplier and recipient companies with corresponding gross/net quantities.
- **National supervision:** Establishment of a national central office for monitoring gold trade flows and licensing of Swiss gold refineries and traders. The license may be exclusively granted to companies who can demonstrate transparent, systematic and in-depth due diligence and who comply with the OECD guidelines.

- **Legal liability:** Introduction of a statutory obligation to exercise due diligence with an appropriate catalogue of sanctions for non-compliance as well as an effective, internationally applicable liability mechanism. The Swiss Responsible Business Initiative along the lines of the UNGP is a step in the right direction.
- **Extension of the SBGI:** Identify other areas of application with a high degree of urgency and provide additional financial resources for the expansion of the SBGI. In particular, support should be given to ASM during their formalization process.
- **Congruent foreign policy:** Development and implementation of measures to prevent the undermining of development policy commitments through economic interests and actions (explicitly: reception and trade of gold, of which the procurement has contributed to pollution, tax evasion, conflicts and human rights violations). Adapting the inclusion of the countries and regions affected by risky gold mining in the strategic direction of Swiss development cooperation.

To the Swiss Association of Manufacturers and Traders in Precious Metals (ASFCMP)

- **Commitment and public statement:** Commitment to the OECD guidelines and public statement on the development of individual association members with regard to these guidelines.
- **CSR:** Promoting binding CSR based on the OECD guidelines for members. Provide training and support.
- **Admission and exclusion criteria and measures:** Transparent communication of admission/exclusion criteria and their fulfilment/failure by members. Infringements shall lead to corrective actions and multiply erroneous members shall be excluded.

To regulators and auditors:

- **Transparency:** The gold suppliers of the refineries with the Good Delivery Award of the London Bullion Market Association (LBMA) shall be disclosed to the public.
- **Independency:** The simultaneous function of the LBMA and the DMCC as regulators and promoters of the industry should be abolished. The body that monitors compliance with international standards on the responsible procurement of gold should be independent of the industry.
- **Award of the LBMA Good Delivery Seal of Approval:** Establishment of a rigorous control system at the LBMA in order to avoid incorrect awarding of the Good Delivery Seal of Approval.
- **Auditing:** Guarantee of independence, specialist knowledge and reliability on the part of the auditing companies.

To the OECD:

- **Compliance with due diligence guidelines:** Member states are requested to incorporate the guidelines into binding national regulations and sanction companies that violate them.

ANNEX

Annex 1: Gold imports from Peru to Switzerland

Year	Quantity in kg	Value in CHF
2013	134 262	3 026 402 129.00
2014	131 469	2 551 332 830.00
2015	151 772	2 868 841 071.00
2016	161 270	2 836 628 041.00
2017 (Jan- Oct)	124 709	1 997 814 581.00
Total	703 482	13 281 018 652.00

Source: Swiss Customs Authority (2018): *Aussenhandelsstatistik der Schweiz (Swiss foreign trade statistics)*

Annex 2: Gold production in Puno and export by Minerals del Sur

Año	Producción de oro formal declarada en Puno (gr)**	Producción artesanal informal en Puno** (gr)	Total
2014*	5'022'183.00	0	5'022'183.00
2015	4'834'483.00	0	4'834'483.00
2016	4'612'512.00	5'710'996.00	10'325'524.00
2017	3'612'898.00	5'944'215.00	9'557'113.00
* En mayo del 2014 se firmó el convenio entre Activos Mineros y Minerales del Sur para que esta última comprara oro en la zona altiplánica.			
**Producción de informales en Puno.			
Año	Exportación de Minerales del Sur a Suiza (gr)***	Producción de oro de Puno (formal y artesanal informal)**	Procedencia desconocida según cálculo entre Minem y Vernal
2014*	6'830'330.00	5'022'183.00	1'808'147.00
2015	15'656'891.00	4'834'483.00	10'822'408.00
2016	13'875'520.00	10'325'524.00	3'549'996.00
2017		NO DATA	
* En mayo del 2014 se firmó el convenio entre Activos Mineros y Minerales del Sur para que esta última comprara oro en la zona altiplánica.			
** Ministerio de Energía y Minas.			
*** Base de datos Vernal (Resultado de filtrar base de datos de Vernal en campo "Mes de Embarque")			

Source: Ministry of Energy and Mining Peru and Av Comercio Interanacional S.A.C. Exportaciones peruanas de oro

Annex 3: Overview of Concessions

Nombre de la concesión	Titular	Hectáreas	Distrito	Provincia	Región	Código
Emausa-1	Francisco Quintano Méndez	1000	Huepetuhe	Manu	Madre de Dios	10290394
Jeanne Linda	Francisco Quintano Méndez	200	Huepetuhe	Manu	Madre de Dios	40011104
Cesaría II	Francisco Quintano Méndez	100	Huepetuhe	Manu	Madre de Dios	70024406
Productores I	Forestación y Minería Constructores-Fominco	100	Huepetuhe	Manu	Madre de Dios	80003608
Fuente: Ministerio de Energía y Minas						
Nota 1: Minerales del Sur no tiene concesiones a su nombre						
Nota 2: Forestación y Minería Constructores-Fominco tiene como uno de los directores a Francisco Quintano Méndez y su gerente general en sus inicios						

Source: Sistema Geológico y Catastral Minero del Perú (Geocatmin) of the Ministry of Energy and Mining (2018)

Annex 4

In the following 4 satellite images the concessions of Francisco Quintano Méndez are coloured reddish and show damages.

Satellite images 1



Source: Sistema Geológico y Catastral Minero del Perú (Geocatmin) of the Ministry of Energy and Mining (2018). Emausa-1 (Code Nr. 10290394), GEOCATMIN 2018 <http://geocatmin.ingemmet.gob.pe/geocatmin/>

Satellite images 2



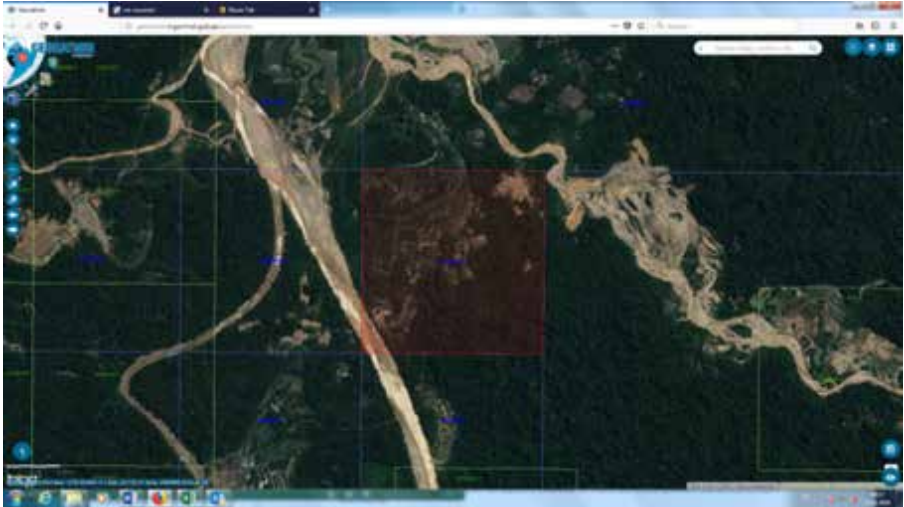
Source: Sistema Geológico y Catastral Minero del Perú (Geocatmin) of the Ministry of Energy and Mining (2018). Jeanne Linda XI (Code Nr. 040011104), GEOCATMIN 2018 <http://geocatmin.ingemmet.gob.pe/geocatmin/>

Satellite images 3



Source: Sistema Geológico y Catastral Minero del Perú (Geocatmin) of the Ministry of Energy and Mining (2018). Cesaria II (Code Nr. 070024406), GEOCATMIN 2018, <http://geocatmin.ingemmet.gob.pe/geocatmin/>

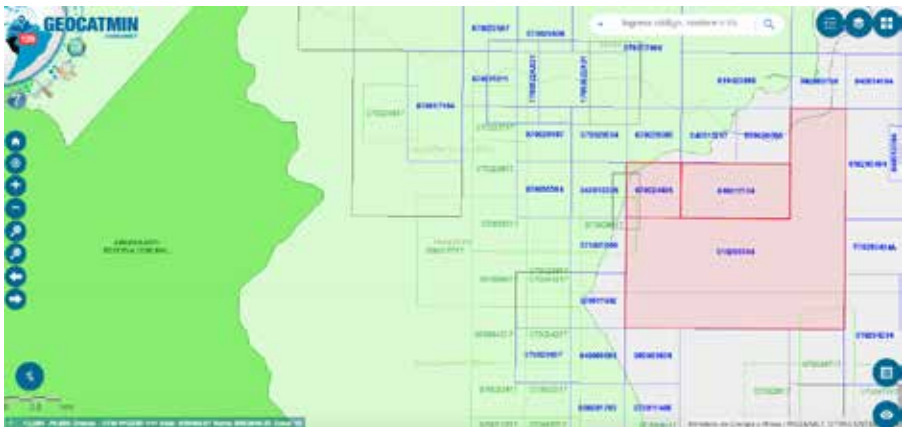
Satellite images 4



Source: Sistema Geológico y Catastral Minero del Perú (Geocatmin) of the Ministry of Energy and Mining (2018). Productores I (Code Nr. 080003608), GEOCATMIN 2018, <http://geocatmin.ingemmet.gob.pe/geocatmin/>

Annex 5

Overview of the concessions belonging to the owner of Minerales del Sur, Francisco Quintano Méndez in Madre de Dios.



Source: Sistema Geológico y Catastral Minero del Perú (Geocatmin) Overview of the concessions belonging to the owner of Minerales del Sur(2018)

WITH THE STP FOR HUMAN RIGHTS

The Society of Threatened Peoples (STP) is an international human rights organisation that supports minorities and indigenous peoples. It documents human rights abuses, informs and sensitises the public, and represents the interests of victims against authorities and decision makers. It supports local efforts to improve the human rights situation for minorities and indigenous peoples, and works together, both nationally and internationally, with organisations and people that are pursuing similar goals. The STP has advisory status both at the Economic and Social Council (ECOSOC) of the UN and at the Council of Europe.



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