

4-27-2012

## Peruvian government targets informal mining

Elsa Chanduví Jaña

Follow this and additional works at: [https://digitalrepository.unm.edu/la\\_energy\\_notien](https://digitalrepository.unm.edu/la_energy_notien)

---

### Recommended Citation

Chanduví Jaña, Elsa. "Peruvian government targets informal mining." (2012). [https://digitalrepository.unm.edu/la\\_energy\\_notien/106](https://digitalrepository.unm.edu/la_energy_notien/106)

This Article is brought to you for free and open access by the Latin American Energy Policy, Regulation and Dialogue at UNM Digital Repository. It has been accepted for inclusion in NotiEn: An Analytical Digest About Energy Issues in Latin America by an authorized administrator of UNM Digital Repository. For more information, please contact [disc@unm.edu](mailto:disc@unm.edu).

# Peruvian Government Targets Informal Mining

---

By Elsa Chanduví Jaña

The rescue of nine Peruvian miners who were trapped underground for seven days in a horizontal shaft at La Cortada copper mine in the Cabeza de Negro area of the coastal department of Ica, 300 km south of Lima, shone the spotlight once again on informal and illegal mining, undertaken without security measures and outside the law. President Ollanta Humala has decided to stop such activities.

The miners were rescued on April 11. They had gone on their own into the mine, which was closed two years ago because of instability of the land and a collapse inside the mine. President Humala personally received the miners, who were rescued unharmed. "Mining must be incorporated into the formal sector; these informal mining jobs put miners' lives and their families' stability at risk. We need to formalize them, and they need to understand the risks of continuing to do this work informally," said the president.

The Ica Dirección Regional de Energía y Minas estimates that about 30 informal mines are operating in the region. After the rescue, a registration process was begun for miners to formalize their work.

In late February and early March, the executive approved five legislative decrees (Decreto Legislativo, DL), which made illegal mining a crime and incorporated it into the penal code, approved strengthening environmental oversight as a mechanism for combating illegal mining, and established measures to control and oversee the distribution, transportation, and marketing of chemical inputs used in illegal mining.

"The package of laws aims to combat illegal mining, which destroys nature, contaminates rivers, uses dredgers and other equipment, exploits minors, and even launders assets. This cannot go on and the government's position is very firm on this matter," said Minister of Energy and Mines Jorge Merino Tafur.

Gabriel Quijandría, vice minister of natural resource strategic development at the Ministerio del Ambiente, said that informal or illegal mining takes place in 21 of Peru's 25 departments and that those involved in this activity use artisanal methods.

The departments with the highest incidence of informal or illegal mining are La Libertad and Piura in the north, Puno in the southern Andean region, and Madre de Dios, the leader, in the jungle.

These departments together with Arequipa in the highlands account for 75% of illegal mining. Official estimates indicate that more than 100,000 people work directly in informal mining.

### ***Informal miners protest government actions***

The informal miners considered that the government decrees were aimed at getting rid of artisanal mining, and in protest they began an indefinite strike on March 5 in five regions of the country to demand that the government rescind the decrees. The largest demonstrations were in Madre de Dios, where 30,000 people are estimated to work in informal mining.

Three days later, the Piura, La Libertad, Ayacucho, and Apurímac artisanal miners suspended the strike with the aim of facilitating a dialogue with the government, but miners in Madre de Dios—where illegal mining has deforested a large area in La Pampa, adjacent to the Reserva Nacional de Tambopata—continued their action. "The central government has put us at the level of criminals," said Luis Otzuka Salazar, president of the Federación Minera (FEDEMIN) of Madre de Dios.

On March 9, the Madre de Dios informal miners suspended the strike when leaders and the government agreed that a high-level commission would come to the area to continue the dialogue. The effort was unsuccessful, and on March 13 the miners resumed the indefinite strike—joined by informal and illegal miners from other areas—but the following day clashes between demonstrators and the police resulted in three deaths and 40 persons injured. Mining leaders announced that they were calling a truce so the government could engage in dialogue, and they went to Lima.

Meanwhile, in mid-March a supreme decree (Decreto Supremo 006-2012-EM) was published in the official newspaper El Peruano, establishing complementary measures for formalizing mining activity and distinguishing between illegal and informal mining.

The decree says that illegal mining is that which is carried out in unauthorized areas and does not meet the respective administrative, technical, social, and environmental legal requirements. Informal mining shares characteristics with illegal mining but is carried out in areas authorized for mining by persons who have begun a formalization process within the legally established time frame and in the required manner.

"Illegal [mining] is what is destroying nature, polluting it, generating corruption, prostitution, human trafficking, exploitation. That is the mining that is going to be combated with the full weight of the law," said Merino Tafur.

Changes in the penal code sanction illegal mining crimes with penalties of up to 10 years in prison, according to DL 1102. Those who carry out exploration, extraction, exploitation, and

similar activities with metal and nonmetal mineral resources, without concern for administrative authorization or environmental damage, will face a sentence of not less than four years and not more than eight. But if the mining activity is carried out in areas where such activity is banned, if it uses dredges or contaminates irrigation systems or waters intended for human consumption, the sentence will be not less than eight and not more than 10 years.

In this context, on March 19, Madre de Dios mining leaders and government representatives agreed to simplify and accelerate the formalization process (which implies access to a concession title) for artisanal miners who carry out extractive activities in the "mining corridor" established by emergency decree in 2010. They also agreed that miners within the mining corridor would be considered informal and not be subject to interdiction actions or other measures aimed at illegal miners.

"The principal agreement is to begin formalization, the time frame is one year, and we consider that it can be extended," said Otzuka Salazar, who added that it is not possible to complete a formalization process in a year because environmental-impact studies, which are still underway, will take approximately three years and are indispensable for formalization.

Artisanal miners from other regions also began a formalization process. On March 26, representatives of 20,000 Arequipa artisanal miners signed a document creating a task force to formalize their activities with officials from the Ministerios de Ambiente and Energía y Minas.

### ***Formal businesses involved***

The mining minister said that laws enacted by the government to combat illegal mining aim to punish not only those who pollute the environment and operate in reserved areas but also those who process the minerals to sell them abroad. He said that some seven businesses have been identified, mostly in Chala, Arequipa, that process the ore extracted irregularly in various areas of the country. He said that these intermediaries "take the bulk of the riches obtained illegally."

The Sociedad Nacional de Minería, Petróleo y Energía says that illegal mineral extraction involves close to US\$2 billion a year and estimates that the unpaid taxes on this activity amount to some US\$600 million.

Merino Tafur added that these large fortunes form part of an illegal supply chain, "a vicious circle" that also destroys the environment, dumps some 170 tons of mercury (dangerous to health) a year in Madre de Dios, where some six formal businesses are involved in buying and selling gold obtained from illegal mining.

Peru sells about US\$10 billion a year in gold, 20% of which is produced by illegal mining, said Ignacio Bustamante, president of Hochschild Mining, which has three underground mines in Peru. Peru is the largest gold producer in the region, with some 4.8 million ounces in 2011, more than Brazil or Chile.

In late March, a story in the daily *El Comercio* revealed the secret businesses of people in the initial chain of marketing gold from illegal extraction: the family group headed by Cecilio Baca Fernández, his wife Gregoria Casas Huamanhuilca, and his children Pedro, Marco, José Luis, Yonny, Maruja, Cecilio, and Violeta, who have businesses in Madre de Dios and in Cusco. On March 30, the Procuraduría de Lavado de Activos of the Ministerio del Interior filed a complaint with the attorney general against the family for money laundering.

The investigations now promise to spread to other levels of the illegal-mining chain. Luis Zavaleta Vargas, director general of hydrocarbons at the Ministerio de Energía y Minas, was forced to resign in 2011 when *El Comercio* revealed that he owns Universal Metal Trading, a leading gold exporter. The company operates in Madre de Dios, where 99% of the gold is extracted through informal mining. In 2011, it exported 19.2 tons of gold valued at US\$901 million, according to the Superintendencia Nacional de Aduanas y Administración Tributaria (SUNAT).

What happened to Zavaleta reminded many of the case of Susana Vilca, former vice minister of mines, who in November 2011 was questioned when the ministry found that she had three mining concessions—information that she did not include in her sworn declaration submitted when she took the ministry post. Then minister Carlos Herrera Descalz supported Vilca, of the Partido Nacionalista Peruano (PNP), saying she was "a qualified professional."

In January, the government appointed her to head the Instituto Geológico, Minero, y Metalúrgico (Ingeemmet), an agency in charge of issuing mining concessions.

Since illegal and informal mining is a multisectoral problem, organizations such as Red Muqui—a network of national and local institutions that try to promote sustainable development—urge an integral strategy to stop it.

"It is necessary to attack the problem from a multisectoral perspective and not in a fragmented way as the government is doing. Sectors such as the Ministerios de la Mujer y Poblaciones Vulnerables, Desarrollo e Inclusión Social, Transporte, and Producción as well as the various regional and mining actors must participate. And not just the Ministerios de Energía y Minas and Ambiente," Nury García, of Red Muqui's working group on artisanal mining, told the daily *La Primera*. "First it is fundamental to carry out territorial reorganization, review existing concessions mechanisms, control the traffic of inputs, and introduce a seal of environmental quality so that the ore produced informally does not enter legal marketing circuits."