Response Framework on Illegal Mining and the Illicit Trafficking in Precious Metals
INTRODUCTION

The objective of this framework is to (i) briefly outline the global challenges related to illegal mining and trafficking in precious metals, as well as to (ii) provide an overview of UNODC’s role and response. In the context of this framework, UNODC puts particular focus on the linkages to transnational organized crime and other forms of crime; the scope of applicability is limited to precious metals rather than a broader set of minerals and stones.

KEY CONCEPTS

Illegal mining of precious metals

The illegal mining of precious metals refers to prospecting and extraction of metals with high economic value (mainly gold, silver, platinum, palladium and iridium), undertaken without appropriate land rights, exploration and mining licenses or mineral transportation and other permits. Illegal mining can be linked to trespassing on active or decommissioned mining sites and it can apply to mining in protected areas.

 Illegal mining is increasingly referred to as mining activities conducted by organized criminal groups, spearheaded by illegal mining syndicates, and is often associated with other criminal activities such as trafficking in firearms and explosives, money laundering, forced labour, human trafficking, financing of terrorism, corruption, the use of violence, extortion and threat, often fuelling armed conflict and/or resulting in heavy damage to the environment, usually in areas not under full control by the state.

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1 See ECOSOC E/RES/2019/23 Combating transnational organized crime and its links to illicit trafficking in precious metals and illegal mining, including by enhancing the security of supply chains of precious metals.
2 Precious Metals are rare, naturally occurring metallic elements considered precious based upon their scarcity, usefulness in industry, or history as an investment commodity. Precious metals are traded as commodities on various security exchanges, and generally maintain relatively high prices. (https://www.thoughtco.com/list-of-precious-metals-608467) Another definition is also provided by Investopedia: https://www.investopedia.com/terms/p/preciousmetal.asp
Illegal mining should not be equated to informal mining; nor to artisanal and small-scale mining (ASM), in which minerals are extracted as a craft, without using advanced machinery or technology, and often in rather precarious conditions; this is often poorly regulated or conducted on the margins of state control. Particularly for ASM, central authorities often delegate powers to local governments to grant licenses and regulate the sector. This high degree of decentralization often opens further venues for corruption occurring at a local level. The lack of coordination between the central and local authorities often results in overlap or divergence in legislative provisions on ASM. The numerous, and reportedly uncertain, legal provisions enacted to regulate the mining sector and the consequent difficulty in navigating them, coupled with the resulting heavy bureaucratic processes involved in requesting and granting permits, can result in artisanal and small-scale miners operating outside the law. Illegal mining can also occur in these informal and small-scale artisanal mining settings, in particular when organized criminal groups take control of the mining businesses. When illegal ASM sites are located and dismantled, a lack of viable economic alternatives often prompts artisanal and small-scale miners to resort to illegal mining again, requiring a response that takes into consideration sustainable alternative livelihoods.

**Trafficking in precious metals**

The illicit trafficking in precious metals entails organized criminal groups exploiting loopholes in national and international legislation, as well as gaps and vulnerabilities in the supply chain and trade monitoring procedures. Given that precious metals are, in most instances, transported in an unrefined or semirefined state across the globe to international refiners, organized criminal groups can easily move the illicit commodity across regional and international borders without being detected. The trafficking can include mis-declaring the origin or true value of the goods, disguising the nature of the metal to circumvent regulatory frameworks, operating through false-front suppliers that at times misuse the identity of registered small-scale miners to forge paperwork, corrupting officials to issue certification, circumventing due diligence procedures by international intermediary companies and buyers, and is often linked to the laundering of the proceeds from the illicit trade through the national and international banking system.

**Impact of illegal mining and trafficking in precious metals**

Illegal mining and trafficking in precious metals has an impact on various issues falling under UNODC’s mandates that are crucial in the current world context, as they negatively impact peace, stability, security, development, governance, the rule of law - including justice and legal frameworks, the environment, and the economy. These impacts include the diversion of resources, such as tax revenue, from possible use for sustainable development. Furthermore, illegal mining of precious metals is often accompanied by serious human rights abuses and it often has severe environmental impacts, including through deforestation, land degradation and pollution. Several economic crimes can be linked to illegal mining and trafficking in precious metals; for instance, forging licenses, permits and inspections, tax evasion, fraud, as well as corruption. Further, due to the high yielding returns of these natural resource commodities and associated money laundering, there have been documented incidents of illegal activities funding other types of organized crime and linkages to the financing of terrorism.

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4 Informal Mining describes the locally based, labour-intensive exploration and extraction of precious metals by individuals, groups and cooperatives that is carried out without formal restraints and sometimes even illegally in this way; ‘informal mining’ is distinguished from ‘formal’ capital-intensive mining carried out by large state or transnational mining companies.

5 Artisanal and Small-Scale Mining (ASM) is a complex and diversified sector that includes poor informal individual miners seeking to eke out or supplement a subsistence livelihood, to small-scale formal commercial mining activities that can produce minerals in a responsible way respecting local laws (IGF). ASM is a significant source of mineral resources production in the world. It is largely informal, and associated with low levels of safety measures, health care or environmental protection (OECD).

6 http://f3magazine.unicri.it/?p=598#text=The%20illicit%20trafficking%20in%20precious%20metals%20and%20registered%20entities%3B%20false-front%20company

7 TRACIT: Mapping the Impact of Illicit Trade on the Sustainable Development Goals. The Transnational Alliance to Combat Illicit Trade, 2019


9 For example, see UNODC. Organized crime and instability in central Africa: A threat assessment. October 2011.
UNODC RESPONSE FRAMEWORK ON ILLEGAL MINING AND THE ILLICIT TRAFFICKING IN PRECIOUS METALS

UNODC’S POLICY GUIDANCE: Conventions and Resolutions

United Nations Convention against Transnational Organized Crime (UNTLOC) and the Protocols thereto

The United Nations Convention against Transnational Organized Crime is the main international instrument in the fight against transnational organized crime. The Convention - which promotes cooperation to prevent and combat organized crime - requires States parties to commit themselves to a series of measures against transnational organized crime, including the establishment of criminal offences (such as participation in an organized criminal group, money laundering, corruption and obstruction of justice).

Due to the often transnational nature of the trafficking in precious metals, the frequent involvement of organized criminal groups and the commission of numerous serious crimes as defined by Article 2 of the UNTOC, illegal mining and trafficking in precious metals falls within the Convention’s broad scope of application.

United Nations Convention against Corruption (UNCAC)

The United Nations Convention against Corruption is the only legally binding universal anti-corruption instrument. It covers five main areas: preventive measures, criminalization and law enforcement, international cooperation, asset recovery and technical assistance and information exchange.

Corruption can be considered a key facilitator of illegality, including in the extractive sector. Types of corruption include bribery, embezzlement, trading in influence, abuse of functions or money laundering. Specific measures in line with the provisions of the Convention enable States to prevent, deter and, where necessary, prosecute corruption.

Conference of the Parties to UNTOC Resolution 10/6 (2020)

Calls for Member States to prevent and combat crimes that affect the environment falling within the scope of the UNTOC.

Conference of the States Parties to UNCAC Resolution 8/12 (2019)

Calls for Member States to prevent and combat corruption as it relates to crimes that have an impact on the environment.

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UNODC RESPONSE FRAMEWORK ON ILLEGAL MINING AND THE ILLICIT TRAFFICKING IN PRECIOUS METALS

UN Member States have made repeated references in both United Nations General Assembly and ECOSOC resolutions to the issue of trafficking in precious metals and its use as a source of funding for organized crime. Member States have expressed concern at the involvement of organized criminal groups, as well as the substantial increase in the volume, rate of transnational occurrence and range of criminal offences related to trafficking in precious metals, stones and other minerals in some parts of the world, and the potential use of trafficking in precious metals, stones and other minerals as a source of funding for organized crime, other relevant criminal activities and terrorism.

Recent resolutions encourage Member States to address these crimes by applying the UNTOC and UNCAC to strengthen international cooperation in preventing and combating illegal mining and trafficking in precious metals. Furthermore, they invite UNODC to provide, upon request, technical assistance to Member States, and encourage UNODC, UNICRI and other relevant international and regional organizations to closely coordinate their activities and enhance their cooperation in supporting Member States in their efforts to combat trafficking in precious metals and illegal mining.

General Assembly Omnibus Crime Resolution (2020)
Calls upon Member States to take appropriate and effective measures to prevent and combat trafficking in precious metals by organized criminal groups, including by adopting necessary legislation.

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ECOSOC Resolution 2019/23 (2019)
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Technical Assistance and Capacity Building

In line with its mission to support Member States to confront the threats and challenges posed by crime, drugs, corruption and terrorism, by providing effective and comprehensive responses that meet their needs, UNODC offers capacity building for Members States to prevent, detect, investigate and prosecute organized crime. Capacity building is based on a sound, multi-faceted analysis of the situation on the ground and is delivered with a continuum of technical assistance. Policy guidance is suggested based on the broader criminal justice and political environment, with full adherence to human rights. Technical assistance is provided to help authorities develop legislation and implement strategies on crime prevention and corruption risk mitigation, build capacity for detection, investigation and prosecution, including training law enforcement, customs and border agencies, prosecutorial offices, the judiciary, and financial intelligence units.

UNODC also promotes and strengthens international cooperation among law enforcement and judicial practitioners through regional and global networks and through anti-organized crime units and has developed software tools and databases to facilitate information-sharing. UNODC provides research and analysis at global, regional and country levels on specific types of crime including the monitoring of illegal activities, vulnerabilities in supply chains and analyses of transnational organized crime threats.

The next graphic provides an overview of technical assistance that UNODC can offer to Member States. Concrete examples of UNODC’s support include, but are not limited to:

- **Data Collection, Research and Analysis:** Identification and mapping of illegal mining activities using remote sensing, geospatial analysis and geographic system (GIS) technologies combined with Artificial Intelligence and Machine Learning algorithms. Conducting field-based assessments on illegal mining and illicit trafficking in precious metals.

- **Legislative Development and Policy Support:** Generation and collection of best practices, guidelines and relevant legislation for the SHERLOC portal, development of a guide on drafting legislation on illegal mining and trafficking in precious metals and assistance in conducting legal assessments, including pertaining to the regulation and use of explosives for mining.

- **Regional and International Cooperation:** Creation of opportunities for networking and sharing of best practices through various fora, including the Commission on Crime Prevention and Criminal Justice as well as informal networks such as the OECD, WCO and UNODC co-chaired Informal Law Enforcement Network Meeting on Minerals Related Crimes.

- **Criminal Justice Responses:** Identification of vulnerabilities in the minerals supply chain prone to crime and corruption, promotion of capacity building to increase prevention and interdiction of illicit trafficking in precious metals, improving investigations enhancing application of forensic techniques, and strengthening prosecution of organized crime in precious metals supply chains.

- **Financial Sector Responses:** Inclusion of illegal mining and trafficking in precious metals in national and sectoral Anti-Money Laundering and Countering the Financing of Terrorism Risk Assessments and introduction of financial investigations.

- **Crime Prevention and Sustainable Livelihoods:** Provision of alternative, sustainable livelihoods, including through sustainable natural resource management and commercialization to prevent involvement of organized criminal groups.

- **Addressing Interlinkages with Other Criminal Activities:** Addressing enabling, accompanying or consequential crimes associated with illegal mining and trafficking in precious metals, such as corruption and other economic crimes, firearms and explosives trafficking, armed violence, trafficking in persons and crimes that affect the environment.
Interlinkages with other criminal activities
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