

## Fact sheet

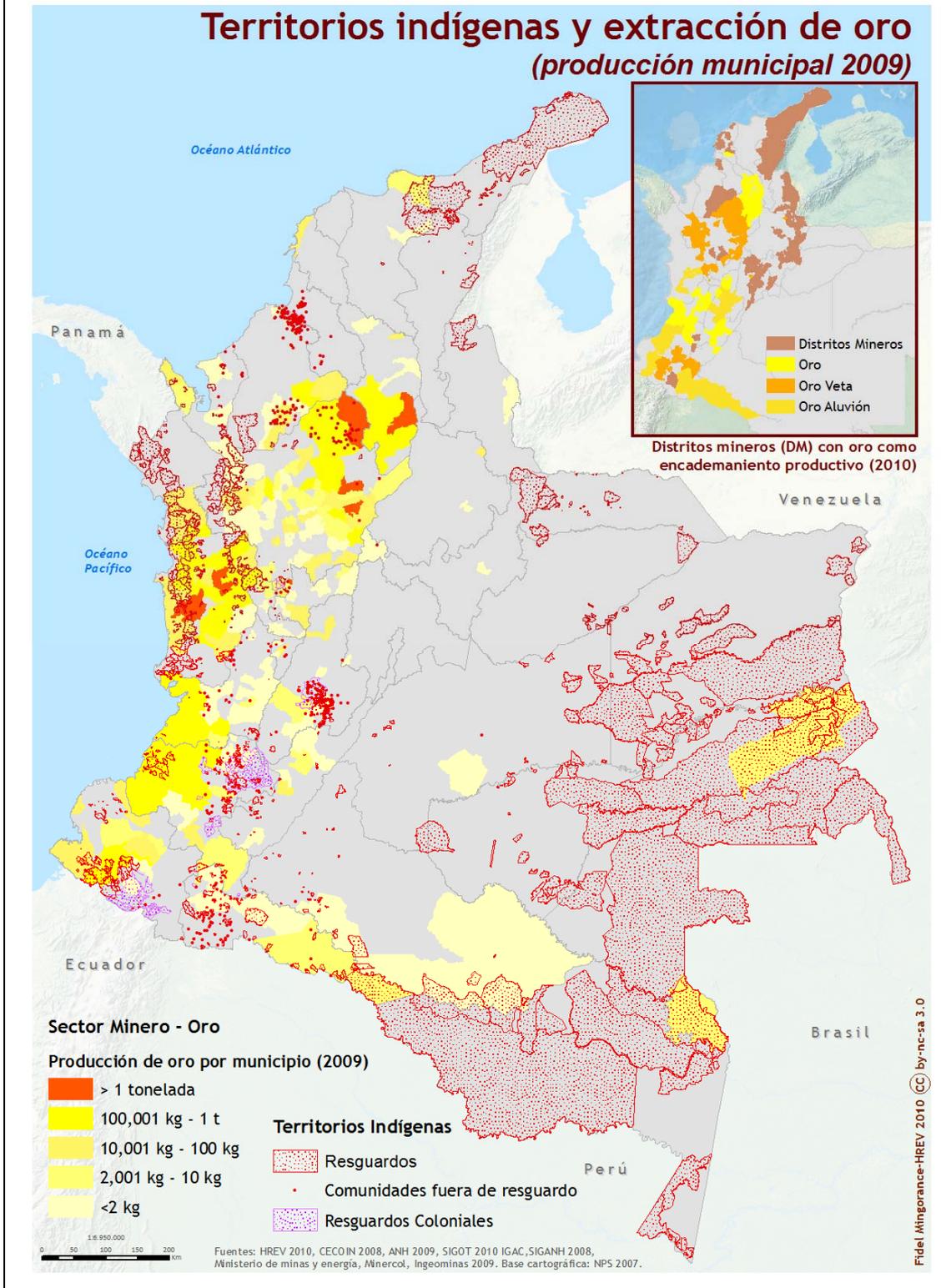
### Small scale gold mining in Colombia

<b>General information</b>	
Population Size/density	45.857.194 inhabitants (DANE Projections 2010); Area: 1.138.338 km <sup>2</sup> ; Density: 39 people per Km <sup>2</sup>
GNP per capita	\$1,898.58 per person (2010 source?)
% of population below poverty line	45,5% (2010 source?)
Child Mortality	According to this year's report (2011), child mortality in Colombia is 19,9 for each 1000, and in Chocó it is 54 for each 1000 <sup>1</sup> .
Legal minimum wage	532.500 pesos/month. Declared in Decree 4834 by the Ministry of Social Protection

<b>History of small scale gold mining</b>
<p>Small-scale mining has been an ongoing activity since pre-Columbian times although it only gained strength as an economic activity in the 1500s during the colonization period. The Spanish came to the Americas for its gold and silver. Initially they used Indigenous peoples as labor, and later African Slaves (Poveda, 2002). After independence, mining continued to be important to the economy. Mineral resources were identified as a key element to the "prosperity" of the Nation. In fact, the first formal regulation stating that mineral resources belonged to the Nation is dated back from 1829. This first rule, made a direct link between the development of the mining industry and the development of the nation (Bolivar, 1829).</p> <p>After the 1829 rule, foreign investors from England and Germany were brought to Colombia and all through the ninetieth century, gold, silver and platinum became the main export products. With the foreign capital came technology and employment and enterprises that created a boom and very much excitement. Consequently, in 1886 with the first Constitution also came the first mining statute with National reach (Sarmiento 2010). During the C19th Colombia was the largest world producer of gold. The mining industry expanded to other non-precious materials in the 1910s. Minerals such as petroleum, sulfur, clay, limestone, began to be extracted and by the 1940s the production of gold reach its peak and the decline of the mineral sectors began. After this time, the manufacturing, agriculture and livestock industry gained greater participation in Colombia's national economy. Since the 1950s mining has not represented more than 5% in terms of the Gross Domestic Product (Poveda, 2002).</p> <p>Traditionally, the majority of the production was located in the department of Antioquia. Other departments such as Santander, Nariño and Chocó also have a long mining history as well. Today, Antioquia Department continues to be the leading producer followed by Chocó Department, which together accounted for about 80% of the gold production (Wacaster 2010).</p> <p>Studies suggest that the technologies used for mineral extraction have remained the same since the colonization by the Spaniards (Escalante).</p>

<sup>1</sup> [http://www.larepublica.com.co/archivos/OPINION/2011-02-17/choco-es-el-departamento-mas-rico-de-colombia\\_121897.php](http://www.larepublica.com.co/archivos/OPINION/2011-02-17/choco-es-el-departamento-mas-rico-de-colombia_121897.php)

Map of locations where gold mining takes place



## Socio-economic aspects of small scale gold mining

<p>(Estimated) number of persons involved in ssm</p>	<p style="text-align: center;"><b>Tabla. Población Ocupada en Minería</b> Miles de Habitantes</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th>AÑO</th> <th>HOMBRE</th> <th>MUJERES</th> <th>TOTAL</th> </tr> </thead> <tbody> <tr> <td>2004</td> <td>601</td> <td>196</td> <td>797</td> </tr> <tr> <td>2005</td> <td>594</td> <td>149</td> <td>743</td> </tr> <tr> <td>2006</td> <td>692</td> <td>140</td> <td>832</td> </tr> <tr> <td>2007</td> <td>ND</td> <td>ND</td> <td>722</td> </tr> <tr> <td>2008*</td> <td>ND</td> <td>ND</td> <td>182</td> </tr> </tbody> </table> <p style="font-size: small;">Fuente: DANE. * Información primer trimestre de 2008</p> <p>Total mining population 2.200.000; Women approximately 20% (2010 DANE)</p> <p>There is currently no data that specifies the number of people in small-scale mining. Only coarse numbers for the total population working in mining are available.</p>	AÑO	HOMBRE	MUJERES	TOTAL	2004	601	196	797	2005	594	149	743	2006	692	140	832	2007	ND	ND	722	2008*	ND	ND	182
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<p>Number ssm miners/Number of people involved through secondary activities related to gold mining</p>	<p>No data</p>																								
<p>Number of medium/large mining companies (registered and unregistered)</p>	<p><b>Around 40</b></p> <p><b>Main:</b> Anglogold Ashanti, New Global Ventures, Xstrata Ventana Gold, Greystar Resources, Medoro Resources, Muriel Mining Corporation, B2gold Aga, Colombian Goldfields, Mineros S.A., Medoro Resources, Gran Colombia Gold, Bullet, Cvs Exploration, Barrick Gold Corp, Cambridge Mineral Resources, De Beira Goldfields, Antofagasta, Portland Mining Ltda, Cia Minera De Caldas, Cerro Matoso, Dimaco Resources C.I., Avasca Ventures Ltda, Corona Goldfields S.A., Sector Resorces Ltda, T.V.X. Minería, Gold Plata Company, Corona Platinum Ltda, VentanaGold Corp. Anglo American Colombia Exploration S.A., Condoto Platinum, Extracon Ltda, Aluviones de Colombia, Rio Tinti Mining And Exploration Colombia, Carla Resources, Condoto Platinum Limited Sucursal Colombia, Muriel Mining Corporation, Capricornio S.O.M., Vikingo S.O.M.</p> <p>According to the national mining registry in Chocó until 2010, 138 mining titles have been authorized. These titles cover approximately 250,000 hectares, of these titles 76 correspond to Multinationals (51 of Anglo Gold Ashanti), 8 to Community Councils of Afro communities, and the rest to individuals.</p>																								
<p>Civil society actors involved in ssm</p>	<p>At national level there are two main organizations that support small-scale mining. One of them is the National Federation of Colombian Miners-FENAMICOL; and the other is the Miners Association<sup>2</sup> that resides inside the National Industrial Association (ANDI) Within this association small, medium, and large mining companies participate. In the last decade, several networks of social, ethnic and environmental organizations have formed in order to advocate for the protection of human, ethnic, and land rights in relation to the allocation of mining concessions, and the development of an inclusive public policy that takes into account small, medium, and large mining companies as well as local communities. One network that stands out is the “Colombian Network Against Large Transnational Mining”.</p> <p>Furthermore, since 2010 inter-institutional and community networks have been established for the management of mining conflicts in the Pacific region and the</p>																								

<sup>2</sup> Also known as the Colombian Mining Chamber

	<p>department of Chocó. These networks have advocated for reforms in mining public policy as well as the promotion of mining operations that have greater community involvement and are focused on social, economic and environmental responsibility. Some of these networks are: The Permanent Board for Responsible Mining in the Colombian Pacific (office in Quibdó, and its technical secretariat does the IIAP), the Inter-institutional committee for the promotion of Responsible Mining in Biogeographic Chocó, under coordination of the Friends of Chocó Foundation), and the Renacer Negro Campaign (led by the ASOMANOSNEGRAS organization of Guapi).</p>
% ssm migrant miners	<p>There is no statistical data regarding the migratory processes around small-scale gold mining. Nevertheless there is evidence that migration of small and artisanal miners respond to high gold prices or the occasional discovery of deposits that are easy to access. For example, in the 70s and 80s there was a large mobilization of Afro-Colombian miners of the Pacific to the Bajo Cauca of Antioquia (Segovia, Cauca, El Bagre, Zaragoza among others); since the mid 80s informal mining businessmen from Antioquia, Córdoba, Bolívar, Tolima, Valle del Cauca, and Cundinamarca (more than 200 mining ventures) who introduced heavy machinery (retro-excavators) have moved to the department of Chocó for exploitation in alluvial floodplains of the San Juan, Condoto, Tamaná, and Atrato basins; during 2009 and 2010, there was a significant migration of small scale miners to the Dagua river near Buenaventura in Valle del Cauca. Local and regional government agencies estimated that in April of 2010 there were more than 7,000 miners from different regions of the country, 236 bulldozers and loaders, and 100 “Brazilian” dredges in a range of 30 km. There have also been migratory processes in departments as Tolima, and the South Bolívar as a result of “gold rushes” that have occurred in these sectors during the last three decades.</p>
% ssm miners who are women	<p>Rate of participation of women in Colombia: 55,6 %? (Economic Study of Latin America and the Caribbean, CEPAL 2000-2001)</p>
% ssm miners who are children under the age of 16	<p>According to household surveys, it is estimated that between 200,000 and 400,000 children work in small-scale mining. These children are typically involved in coal, emeralds, gold, and construction material (Defensoria del Pueblo 2011)</p> <p>Many children will begin to work when they are three years old washing gold. Around 6, they start breaking rocks and washing them, and after they turn 9, many of them will perform the same activities that adults. Half of the children who extract gold receive cash payments but almost 86% of the children who receive cash payment report maximum monthly incomes of \$20.000 pesos or US\$10.</p> <p>For the case of artisanal mining in indigenous and afrocolombian communities, the participation of children in the gold mining activity is part of the practices and traditional formative activities (Comité Interinstitucional para la Erradicación del Trabajo Infantil y la Protección del Trabajo Juvenil: 2010).</p> <p>It has been documented that after the age of 14 more than 70% of the children are hired as direct employees, and do not attend school. This is in part because many of the regions where small scale mining predominates there is no secondary schooling. (Comité Interinstitucional para la Erradicación del Trabajo Infantil y la Protección del Trabajo Juvenil: 2010: 4)</p>
Annual gold production total	<p>The official estimates of gold production are presented below.</p>

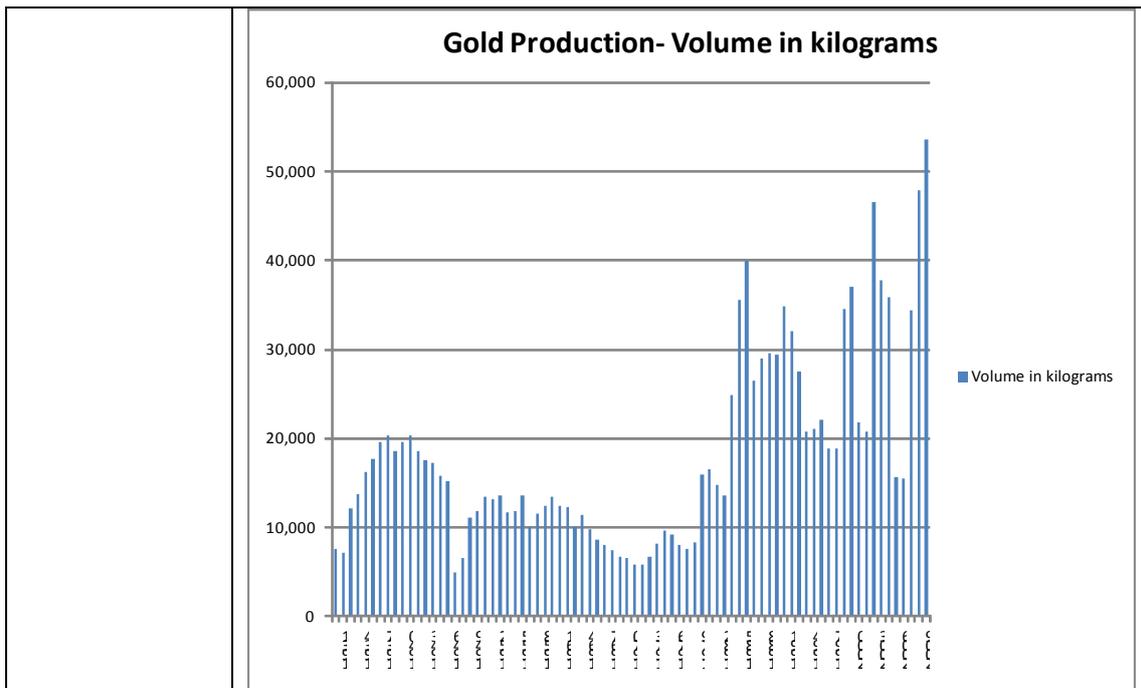


Figure 1 Gold production in Colombia in Kilograms (UPME 2011).

Annual gold production large scale mining (LSM)	In 2009, Colombia produced 47,837 kilograms of gold and in 2010 approximately 53,000 kilograms were produced (UPME 2011). It is estimated that between 70% and 80% of this amount comes from large-scale mining.
Annual gold production small-scale mining	Colombia produces approximately between 20 and 30 % of its total gold production through small-scale mining.
Proportion gold mining revenues in GNP / export	In 2010, Colombia produced 1,6 million troy ounces of gold approximately 53.605 kg, valued in US\$ <b>2.400</b> million. The GNP (Gross National Product): US\$ <b>104.52</b> billion dollars

**Are certain ethnic groups more than others involved in small scale mining?**

Traditionally, many indigenous and black communities have been involved in artisanal mining. This is in part because many of their territories are wealthy in mineral resources and therefore mining is an income generating activity in areas that are deprived from most government services and physical infrastructure.

Some indigenous and afro-colombian communities have made official their mining activities and have created special mining areas within their territories.

**Tabla. Zonas Mineras Indígenas Delimitadas**

MUNICIPIO	DEPARTAMENTO	RESGUARDO	ETNIA	RESOLUCIÓN	ÁREA (HA)
Buenos Aires	Cauca	Las Delicias-Canoas	Paeces	801703 del 29 jul 1996	18,079
Totoró	Cauca	Pandara	Nasa	83563 del 19 dic 1997	266
Silvia	Cauca	Pitayó	Nasa	60469 del 14 sep 1993	51,537
Páez	Cauca	Togoima, Viloncú y Toez	Nasa	600787 del 25 nov 1993	11,541
Páez	Cauca	Mosocó y San José	Nasa	700083 de 30 ene 1998	18,033
Inírida	Guainía	Remanso-Chorrobocón	Puinaves y Curripacos	32634 de 17 dic 1992	47,769
Bagadó	Chocó	Alto Andágueda	Embera-Katíos	8-1704 del 29 sep 1996	6,535
Puracé	Cauca	Puracé y Paletará	Coconucos	600788 del 25 nov 1993	20,783
Puracé	Cauca	Puracé	Coconucos	180560 del 12 may 2006	114
Manauare	Guajira	Manauare	Wayuu	181087 del 21 oct 2002	4,572
Uribí	Guajira	Yolmuji	Wayuu	180521 de 10 may 2004	823
Uribí	Guajira	Kaiwá	Wayuu	181515 del 10 sep 2008	1,518
Uribí	Guajira	Parashi	Wayuu	181795 del 14 dic 2006	7,346,70
Uribí	Guajira	Cardón	Wayuu	181451 del 1 sep 2008	385
Valparaiso	Antioquia	La María	Embera Chamí	181296 28 ago 2007	103,2
Mitú	Vaupés	Vaupés	Puinaves - Curripacos	181529 de 11 sep 2008	6,909

Fuente: Ministerio de Minas y Energía

**Tabla. Zonas Mineras Comunidades Negras Delimitadas**

CONSEJO COMUNITARIO	DEPARTAMENTO	RESOLUCIÓN	ÁREA
Paimadó	Chocó	181450 del 1 de sep de 2008	17,022,30
Vilacondo	Chocó	181481 del 5 de sep de 2008	25,229,10
Cantón de San Pablo	Chocó	181482 del 5 de sep de 2008	33,569,40
Cugucho	Chocó	181791 de 14 dic 2006	8,264,50
Asocasan	Chocó	181792 de 14 dic 2006	34,929,60
Condoto	Chocó	181794 del 14 dic 2006	72,206,70
Cocomaupa	Chocó	181793 del 14 dic 2006	13,724,50
Calle Larga	Valle del cauca	181512 del 10 de sep de 2008	1,547,00
Llano Bajo	Valle del cauca	181514 del 10 de sep de 2008	4,945,00
Campo Hermoso	Valle del cauca	181516 del 10 de sep de 2008	977,5
Citronela	Valle del cauca	181517 del 10 de sep de 2008	1,290,30
Limonas	Valle del cauca	181511 del 10 de sep de 2008	1,276,70
Guaimia	Valle del cauca	181527 del 11 de sep de 2008	1,404,20
Zacarias	Valle del cauca	181530 del 11 de sep de 2008	1,393,70
Agua Clara	Valle del cauca	181513 del 10 de sep de 2008	12,616,70
Alto Mira	Nariño	181628 del 26 de sep de 2008	18,557,00
Nóvita	Choco	181916 de 7 de noviembre de 2008	105,974

Fuente: Ministerio de Minas y Energía

### Gold market chain: where is small scale mined gold traded?

Regarding the Pacific region the chain of gold produced in small-scale mining has several intermediation levels. The first one consists of local purchasers in the areas, who exchange for domestic products or pay money for the small amounts of gold gathered. These purchasers keep the obtained gold for weeks or months and then sell it in the urban centers to metal shops, which have greater purchasing capital. Regularly, these shops are connected to larger commercial companies located in Medellín, Cali and Pereira, which are in charge of processing and manufacturing the metals and exporting the resource to USA and Europe. But there are differences in the exchange rates due to the monetary composition of the payment. This could be a stimulus or discouragement for the return

of money to the bank or its direct sales. This is what regulated the gold trade. The Bank of the Republic is the only one in Colombia who can legalize gold. This means that it registers all the gold production obtained in the country for exportation effects. The bank registers the refined gold volumes and orders the payment of royalties to INGEOMINAS (*Colombian Institute of Geology and Mining*). The foundries are in charge of refining all the gold taken to the bank, being destined to different purposes: the main one is to become an asset of national reserve where an important part of the metal is kept in the bulges of the Bank of the Republic and a small part in banks abroad.

Given the double character as an industrial supply and monetary asset, the determination of the price of gold is based on the production costs and market conditions just the same as with other assets. On the other hand, it depends on decisions of monetary authorities, which at the same time depend on factors such as the behavior of other assets at an international level.

### **Environmental aspects of small scale gold mining**

Annual area deforested due to small-scale and large-scale gold mining	<p>There is currently no national data on the effects of small-scale mining on deforestation. Currently the Ministry of Environment and the Ministry of Mines, with support from the World Bank are beginning to address this issue.</p> <p>Studies suggest that in the Chocó region alone 360 hectares per year are degraded and deforested as a result of mining (IIAPP, 2001 in (Ramírez-Moreno and Ledezma-Rentería 2007)).</p> <p>Regardless, the recent spike in gold prices has resulted in an expansion of small-scale illegal mining. Armed groups often fuel this type of mining. Today 17 of 33 department in Colombia have illegal mining operations (Presidencia 2010). This is particularly relevant for deforestation levels given that many of these mining operations are itinerant and do not have adequate environmental practices.</p> <p>Note: In Colombia, during 1994-2001 the deforestation was of approximately 100.000 hectares per year (Food and Agriculture Organization 2010).</p>
Annual import of mercury for mining and other purposes	<p>Colombia is one of the greatest mercury polluters in the world, with an average between 50 and 100 tons per year. This happens during the gold mining process in times when the high prices drive the miners to accelerate their activity.</p> <p>Antioquia is the most polluted department. The reports show that the mercury levels are 1.000 times higher than those accepted by the WHO (World Health Organization). (Veiga, M. 2010)</p> <p>According to CODECHOCÓ reports about the mining situation in the Chocó department, in 2010 each mining settlement consumed 30Kg/year of mercury. It must be said that environmental authorities detected the presence of 70 illegal mechanic settlements with backhoes. (37 of them in San Juan) (CODECHOCÓ, 2010)</p>
Annual mercury use	Colombia is one of the greatest mercury polluters of the world with an average of 50 to 100 tons per year (Veiga, M. 2010)
% of mercury recovery	Little recovery. Losses during the gold extraction process is higher than 80%.

### **Effects of gold mining on the watershed(s) and its resources**

Water pollution from mercury and cyanide, sedimentation of water bodies. All of this affects aquatic habitat and poses human health problems as a result of water pollution and also mercury concentrations in fish. Studies directed by the government of Antioquia in Chocó and Antioquia, found a mercury concentration of approximately 340 µg/m<sup>3</sup> in the air (300 times higher than the

standard of the World Health Organization for maximum public exposure to mercury vapor). Approximately 26 to 6,118 ppm of Hg is poured in rivers and water sources by the miners of the region. Cyanide is also used and poured in water systems after being used in gold benefit processes.

### **How is mining titling arranged?**

The authorized entity to issue mining titles is INGEOMINAS.

The mining title is a right granted by the Colombian state to explore and exploit mines of state property, through a mining concession contract granted and registered in the National Mining Registry. A mining title does not transfer the property granted in a concession. It only assigns the right to temporarily and exclusively exploit the existence of minerals in usable quantities and quality, to extract the mineral, and to charge the land of third parties with the necessary servitudes for the efficient exercise of such activities.” (Report by Fedesarrollo 2008)

Some of the steps for obtaining a grant contract (Act 2345 2008) are:

1º. Acquire a PIN number in order to locate the grant contract proposal, for which the person interested must deposit a valid legal minimum month salary plus taxes (IVA) in the corresponding bank account. The deposit number will be the PIN number.

2º. Fill in the collection form from INGEOMINAS’ Catastro Minero Colombiano (CMC)

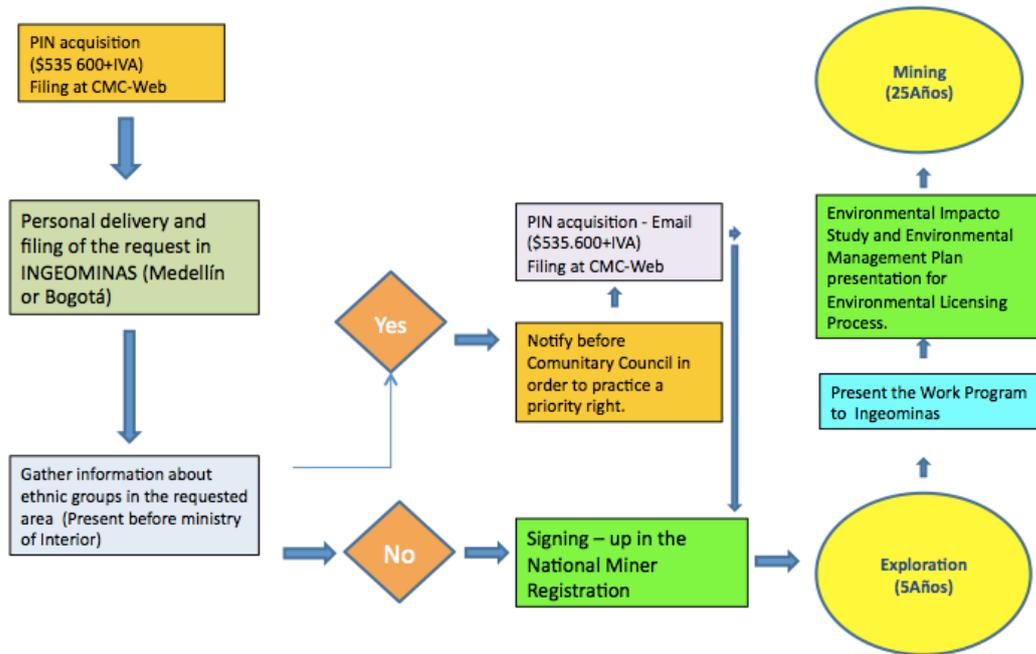
- Enter INGEOMINAS web page ([www.INGEOMINAS.gov.co](http://www.INGEOMINAS.gov.co)) and click on the link Catastro Minero Colombiano (CMC). Select the option Radicación Propuestas ‘Contrato Concesión’ and fill in the form, which must be registered according to the article 271 of the 285 2001 law:
- ID of the person interested
- Environmental authority located in the requested area
- Area description
- Indicate mineral or minerals in the contract
- Indicate ethnic groups in the requested area or path, if there are any
- Complete or partial location of the project in indigenous, afro or both mining zones
- Other authorities’ concepts about restricted zones for mining exploitation

3º. After filling in the form, the web page must generate a filing confirmation that can be printed. The person interested has 3 business days to present himself before the mining authorities in the miner attention area for the document filing.

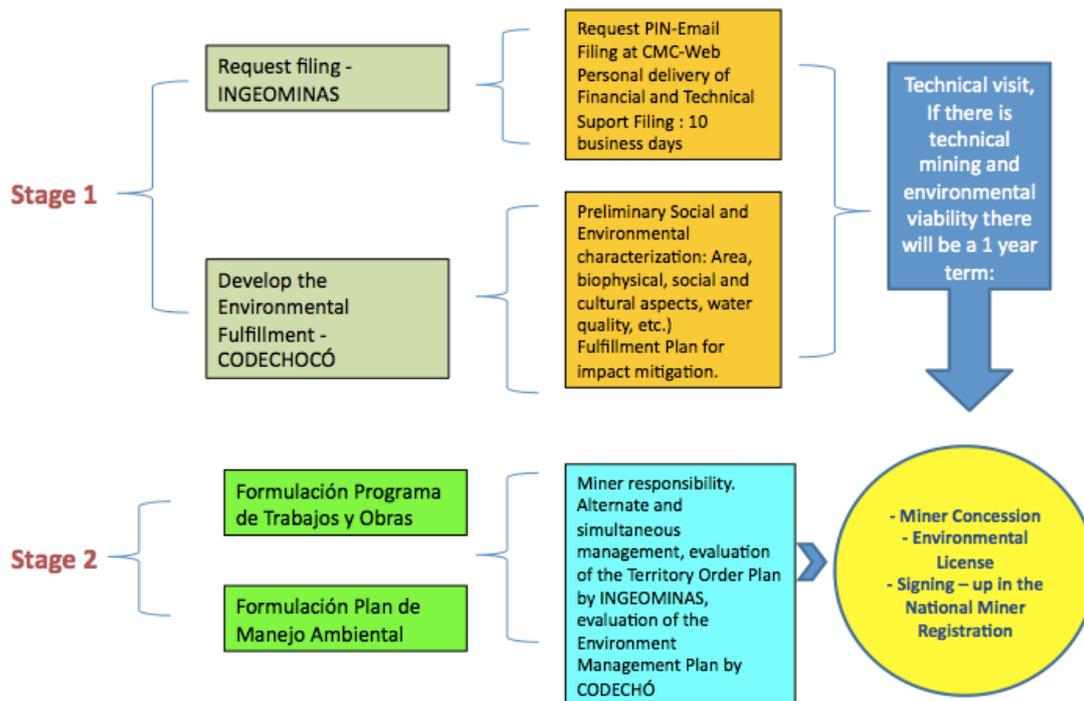
4º. As the mining grant contract proposal with the attached documents arrives, the mining authority carries out the technical and legal studies and decides to:

- Accept the proposal, subscribe with the solicitant the mining contract, which must be registered in the Registro Minero Nacional
- Require that the proposal is completed
- Reject the proposal, in which case de solicitant can interpose a rerun resource in which he asks for revision
- Causes for rejecting a proposal: (article 20, CM):
- The area requested is located in excluded mining zones and the concepts and authorizations were not obtained
- The area overlaps completely previous proposals or contracts
- Does not meet with the established requirements in article 271 of Miner Code (Código Minero)
- Does not meet the corrective requirements for the proposal
- The first year title tax payment is not credited

### Mining titling process Chocó (Law 1382 from 2010)



### Scenarios of the Traditional Minery Legalization Process (Law 1382 from 2010)



#### Who has access to mining lands?

Any person can have access to a mining title. However it must comply with a series of requirements established by the mining authority (Ministry of Mines and INGEOMINAS). The mining code distinguishes two mining categories: the one that does not require a title, which applies to the use of artisanal mining (mining without equipment exclusively); and the mining that does require a title that

corresponds to any mining venture supported by conventional mechanical equipment, without applying any type of differentiation regarding economic capacity, size of the mining area, human resource, or technology level.

This condition creates an equity problem, and it leads to the marginalization of small scale miners as well as an absence of government control in areas where artisanal and small scale mining predominate.

### **National environmental legislation, particularly with regard to gold mining**

There is no specific legislation related to gold mining. The laws and their regulations are generic for mining. Below are the main laws and regulations that relate to environmental protection and mining:

- Environmental Regulation
- The main environmental statute that regulated mining operations is Law 99 from 1993. Within this
  - Law 99, License decree, Forest reservations
  - Decree – Law 2811 from 1974: Renewable Natural Resources Code and Environment Protection Code.
  - Law 9 from 1979: Health measures
  - Decree 1594 from 1984: Water use and liquid waste
  - Decree 475 from 1998: Technical regulations regarding the quality of potable water
  - Law 99 from 1993: The Ministry of Environment is created. There is a redistribution of responsibilities regarding environmental management and conservation of the environment and renewable natural resources within the Public Sector. The (SINA) National Environmental System is established.
  - Decree 1220 from 2005: Environmental licensing.
  - Resolution 2309 from 1983: Regulates the classification, management, transportation, treatment and disposal of special solid waste. It also regulates de records and sanitary authorizations for the activities and plans proposed.
  - Decree 605 from 1996: Domiciliary cleaning public service. (Prohibitions and sanctions).
  - Decree 1713 from 2002: Domiciliary cleaning public service and Solid Waste Integrate Management.
  - Resolution 541 from 1984: Regulation of loading and downloading, transportation, storage and final disposition of waste materials from construction, demolition, organic layer, soil and subsoil from excavations.
  - Decree 4741 from 2005: Partial regulation of prevention and handling of hazardous wastes.
  - Resolution 601 from 2006: Air Quality Norm.
  - Resolution 627 from 2006: National regulation on noise emissions.

### **National policy regarding gold mining, small scale and large scale**

Mining regulations in Colombia follow the principle that all mineral deposits are property of the state. The main mining regulation is the Mining Code of 2001. However there were some reforms in 2010. The most important aspects of the Mining Code and its reform are explained below.

Mineral deposits may only be exploited with the permission of mining authority. This is by INGEOMINAS or the regional governments designated by law.

According to Colombian regulations, any person and public or private entity that expressly includes in its object mining exploration and exploitation may apply for a mining title. Nevertheless, municipal or regional governments, companies or contractors which are involved in the construction, repair, maintenance or improvement of public roads or infrastructure project of national interest subject to the environmental regulation and temporary authorization.

The Colombia Mining Code of 2001 (Law 685) established that, from that date, the rights to explore and exploit mining reserves are only granted through a mining concession agreement (the 2001 Concession Agreement).

The 2001 Concession Agreement includes the exploration, construction, exploitation and mine closure phases and are granted for periods of up to 30 years. This term may be extended upon request by the titleholder for an additional 30 year term.

According to the Mining Code, the terms of the contract are divided into three different phases:

Exploration

During the first three years of the concession agreement, the titleholder will have to perform the technical exploration of the concession area, this term may be extended for two additional years upon request from the title holder.

#### Construction

Once the exploration term lapses the titleholder may begin the construction of the necessary infrastructure to perform exploitation and related activities. This phase has an initial three-year term that may be extended for one additional year.

#### Exploitation

During the remainder of the initial term minus the two previous phases, the titleholder will be entitled to perform exploitation activities.

Law 1382 of 2010 modified different articles of the Mining Code and established that the new concession agreements that were granted after 9 February 2010, would have the same initial term (30 years) but would only be subject to an extension of up to 20 years provided that it is evidenced that the extension benefits national interests. Additionally it established that the exploration phase could be extended for a total of 11 years, granting the titleholders up to six years more to perform exploration activities.

With respect to the minerals included in a mining title, it is important to note that mining rights are usually granted for specific minerals within the concession area; however if the titleholder finds other minerals within the granted area, it may request the mining authorities to extend the object of the agreement to include them.

In relation to the environmental requirements, Colombian laws have distinguished between the environmental requirements for exploration activities, and those that have to be fulfilled for construction and exploitation works. During the exploration phase, the title holder does not require a specific environmental permit or license (unless it plans to use natural resources during this phase, case in which the respective permit will have to be obtained with the relevant environmental authority); however, it will have to comply with the mining and environmental guides issued by the Mines and Energy Ministry and the Environmental Ministry.

In order to begin and perform construction and exploitation operations, the titleholder must obtain an environmental license. Environmental licenses may include all the necessary permits, authorizations and concessions for the use of natural renewable resources in the development and/or operation of the mining project, construction or activity.

In order to obtain an environmental license, the applicant must file an environmental impact assessment which includes amongst others; a description of the project, the natural renewable resources to be used and a report of the possible environmental impacts and the measures that are going to be taken to prevent, mitigate, correct or compensate them. Depending on the size of the mining project, the relevant authority to issue the environmental license may be the Environmental Ministry or the Regional Environmental Authority (CAR).

Despite the mining code reform, the Constitutional Court declared it unconstitutional through Decision C-366-11 because proper consultations with ethnic communities were not performed. This decision is based on article 6th of Agreement 169 of the IWO, article 93 of the Political Constitution, also in the paragraph of article 330 which consecrates the extraction of resources without consideration of the cultural, social and economic integrity of native communities; and Sentence C-175/09, which states the procedures for the performance of the previous consultation.

Despite this decision, law 1382 is still applicable since the court gave a two-year term for the consultation with indigenous groups to take place. The court considered that law 1382 was an important step towards sustainable development in comparison with the previous legislation of 2001. This is mostly because law 1382 is focused in the protection of water excluding certain areas of the country from mining.

### **Legal and institutional organization of gold mining industry (formal)**

"Today there is a whole organizational framework created to support the mining institution. It is comprised of 36 mining planning districts throughout the country, 3 national agencies, 7 national mining associations, 6 departmental administrators, 22 foreign mining companies, hundreds of small scale mining operations, 9 university programs, etc. (Ministerio de Minas y Energía 2009, Section 6). Additionally, in the last 20 years, there a repertoire of regulation related to mining was developed including 3 national mining policies, 5 laws, 38 Decrees, and 36 Resolutions (IMCPortal 2011). At the

same time, the mining institutions have successfully promoted Colombia's mineral resources and attracted foreign direct investment into the sector (Sarmiento 2010, 13)."

In the mining community, the policymakers are the Mining Authorities who are interested in the promotion of the mineral extraction industry. This group includes the Ministry of Mines, INGEOMINAS, and six departmental administrators. The Ministry is primarily focused on the consolidation of the mining sector by promoting de mineral extraction, developing policies and regulation, and enforcement (Ministerio de Minas y Energía 2010). INGEOMINAS, with national and regional offices, is focused on generating knowledge about the geological processes in Colombia and promoting and administrating mineral resources by issuing mining titles, and enforcing mining regulations (INGEOMINAS 2011). The six departmental administrators are also involved in managing mineral resources by issuing mining titles and enforcing mining regulations.

Within the policy-making agencies in the community, there is also the Unit for Planning of Minerals and Mining (UPME). This agency is involved in planning of the mining and energy sectors as well as consolidating and disseminating information (UPME 2009). The UPME plays a strategic role in the promotion of Colombia as a mineral rich country (Sarmiento 2010, 23).

Regarding the aspects of government control on activities related to gold and precious metals in general, the entity in charge is the ***Superintendence of change control***. Its functions are:

- To control the fulfillment of the dispositions and to regulate the control of international changes of gold and platinum, and impose fines for the violation of the existing norms.
- To establish the requirements for the registration and authorization for gold industrials and merchants.

### **Actual organization of gold mining industry**

ASOMINEROS chambers

ANDI is the national businessmen association of Colombia, founded on September 11, 1944. It groups more than 1.000 companies of the Colombian private sector who are producers of assets and services.

ASOMINEROS was founded in 1932 with the purpose of representing organized mining in the country. It gathers 32 companies.

The ASOMINEROS chamber of ANDI was born in May 2003 from the alliance between both organizations to optimize the growth of the Colombian mining sector.

### **Existence and severity of gold mining related conflicts**

The expansion of the gold mining industry has resulted in significant conflicts in part because government agencies have little control in areas where mineral resources are concentrated. Additionally there are limited human and financial resources within the agencies that manage mineral resources.

Some of the conflicts consist of armed groups becoming involved in the gold mining business. In the areas where this is the case there are permanent human rights violations. These are typically areas that have very high poverty rates.

The result of this policy is that 88% of the violations to human rights happen in 34% of the Colombian municipalities with mining-energy industry. 87 of each 100 forced displacements come from these zones. 89 of each 100 Afro-Colombians are murdered in these municipalities. 82 of every 100 union activists are murdered in these regions.(the average is one union activist murdered every 5 days). Poverty in the gold mining departments increased with 67%, in the urban centers it grew 64%, 23.4% of the population are homeless. There are more than 3 million people unemployed. Around 4 million

forced displacements occur. 85% of the youth does not have the right to university education.

Other conflicts consist of overlapping land use regulations and poorly administered mining titles. The most salient example of overlapping land use regulations is the ongoing controversy regarding a vast gold mining project by the South African Company Anglo Gold Ashanti in the Department of Tolima. In this situation, there was an official authorization to do mineral exploration that overlapped with a land use regulation, issued by the Ministry of Environment that declared this area as a national forest reserve. Additionally, the regional environmental authority had recently completed a watershed management plan that resulted in another land use regulation that designated the same place where the mining project was proposed as a water conservation area because the area hosts many headwaters that supply water for downstream users; particularly the city of Ibagué, home to 500,000 people and large rice production activities. Today this conflict remains unresolved although the company continues to perform exploratory activities (Sarmiento 2011).

Other examples of conflict surrounding gold mining exist areas that are of ecological importance but that have traditionally supported gold mining activities. This situation has created conflict between different types of communities. This is because even though local communities are generally interested in self-preservation and they seek to protect their rights to a healthy environment, employment, development and education. For this reason, although many communities advocate for mining as a source in employment, they also advocate for a clean and healthy environment. Many communities are likely to adopt the "Not-In-My-Back-Yard" (NIMBY) attitude and object to a proposed new development (Azapagic, 2004).

Finally there is another condition that further aggravates conflict and the ability of government agencies to enforce regulations accordingly. For example, the board of directors within regional environmental authorities often times includes representatives of local and regional governments that directly benefit from mining operations. A similar situation exists at the national level. This creates a conflict of interests that affects strict enforcement of environmental regulations because at all levels of government there is an interest in providing income generating activities, employment opportunities and social stability (Sarmiento 2011).

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