

## ZMWG MERCURY TREATY THOUGHT STARTER – ARTISANAL AND SMALL-SCALE GOLD MINING (ASGM)

June 2010

### **Controlling Mercury Uses and Releases in Artisanal and Small-Scale Gold Mining (ASGM)**

*Purpose: This set of ideas is intended to stimulate discussions and subsequent proposals regarding how, in addition to global mercury supply and trade control measures, mercury uses and releases in ASGM can best be addressed in the context of the mercury treaty. This Thought Starter does not discuss how these proposed measures may be incorporated into treaty text, nor which aspects may be left for the COP to develop and implement. We anticipate that these process issues can be further considered once there is more clarity about potential treaty-related ASGM activities and outcomes.*

1. As part of treaty implementation, in addition to restricting the global supply and trade of elemental mercury, significant efforts will be devoted to addressing mercury demand in ASGM. To facilitate discussions in this Thought Starter, we refer to these efforts collectively as the ASGM Mercury Minimization and Elimination Initiative. The objective of the ASGM Mercury Minimization and Elimination Initiative is to minimize, and eliminate where feasible, mercury use and releases in ASGM, and mercury exposure of affected populations.<sup>1</sup>

2. Addressing mercury use in ASGM is a complex issue. This complexity stems from a variety of factors, including the size and remoteness of the activity, the site-specific differences in physical settings, practices and potential solutions, and the uncertain and varying legal contexts in which miners operate. Based upon the experience gathered in the field to date, the technical, legal, and policy tools needed to be successful in reducing mercury in ASGM will vary considerably across countries or even sometimes within countries. Therefore, the need for flexibility in implementation to achieve meaningful results is a fundamental underpinning of this Thought Starter.

3. The ASGM Mercury Minimization and Elimination Initiative will require each relevant Party (countries where mercury is used in ASGM) to develop and implement an action plan to reduce and where feasible eliminate mercury use in ASGM. It is anticipated the

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<sup>1</sup> If language to this effect becomes the overall objective of the treaty, then no specific objective would be required for ASGM. The purpose of including the objective language here is to emphasize that miners will be encouraged to adopt mercury free processing methods where it is possible to do so, but that may not be possible immediately in every circumstance.

Plans (Mercury Minimization and Elimination Plans) submitted will include a mix of legal and non-legal activities, optimized to meet the conditions in the particular country, and will be based in large part on demonstrated success stories from field projects conducted to date. As discussed below, guidance on Plan development and implementation, as well as financial and technical assistance, will be provided.

4. Mercury Minimization and Elimination Plans will begin with an initial assessment of the country situation and will elaborate the measures to be undertaken in the immediate term (eg next five years) to eliminate the worst three practices involving mercury in ASGM:

- The use of mercury in whole ore amalgamation;
- The open burning of amalgam without use of a retort or other mercury vapor capture system; and
- The use of cyanide after mercury amalgamation, or for processing mercury-rich tailings without first removing mercury.

In addition, Parties will identify other priority measures that may be taken during the initial Plan implementation, consistent with the overall Initiative objectives. The plans will identify specific mercury reduction and/or elimination goals associated with all planned activities and timeframes for achieving these goals, commensurate with the mercury reductions to be achieved by the measures contemplated.

As part of the initial plan, countries will also establish a timeline for review and reporting of initial plan results, and for updating of the plan; and will identify longer term mercury use and exposure reduction activities to be undertaken in a subsequent phase of activities. It is anticipated that the subsequent phase of activities, when implemented, would result in the elimination of mercury use in ASGM where it is feasible to do so. The timing and trigger for the Phase 2 activities will be determined at a later time, in part based upon the progress and lessons learned in Phase 1.

5. The Plans will identify the technical and financial assistance required to perform the measures specified therein, the resources currently available through ongoing or planned programs regardless of whether they are treaty-related, the opportunities for coordination with non-treaty efforts and other potential programs, proposed milestones for achieving the program objectives, and mechanisms for measuring and reporting progress during Plan implementation.

6. A Plan review and approval process of some kind is anticipated. To obtain approval, the Parties would be required to (i) demonstrate that the programs they will undertake over the immediate term are intended to eliminate the three worst practices, and their longer term proposed measures will eliminate mercury use in ASGM, where feasible to do so, in a timely manner and (ii) include a clear method of measuring and communicating progress until these goals are achieved.

7. The ASGM Mercury Minimization and Elimination Plans will be used as a platform and basis for financial and technical assistance provided under the treaty mechanism. Financial and technical assistance would be available to Parties for Plan development, commensurate with the nature of the ASGM activities and available development assistance in the country. Financial and technical assistance will also be available for Plan Implementation, consistent with the needs identified in the Plan and the resources available from other sources. The goal here is not only Plan development, but Plan implementation. A seamless process by which governments move quickly from approved Plan development to implementation is foreseen.

8. We anticipate some kind of subsidiary body will need to be created to coordinate and provide guidance to the overall ASGM effort. For the purposes of this Thought Starter, we refer to this subsidiary body as the ASGM Committee.<sup>2</sup> This subsidiary body or ASGM Committee should consist of Parties, and experts/stakeholders (including NGOs and Indigenous Peoples), and operate in an open and transparent manner. It would have the following responsibilities:

- Developing or making available education materials and guidance as may be needed to implement the ASGM Mercury Minimization and Elimination Plans;
- Identifying and integrating treaty implementation activities with non-treaty related activities and organizations (i.e., development organizations), including but not limited to activities that may be transferred from the ASGM partnership;
- Providing input to the appropriate treaty mechanisms regarding project proposals for technical or financial assistance related to ASGM;
- Providing input to the Secretariat regarding overall technical and financial assistance related to ASGM;
- Assisting the Secretariat in performing its clearinghouse functions related to ASGM; and
- Preparing periodic reports to the COP regarding the effectiveness of the ASGM financial and technical assistance provided under the treaty.

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<sup>2</sup> To the extent the INC recognizes the need for other technical panels (i.e., BAT/BEP for air emission controls), the ASGM Committee could become a subset of a broader Technical and Economic Assessment Panel.

9. As part of its initial responsibilities, the ASGM Committee would prepare guidance to the Parties on the development and implementation of ASGM Mercury Minimization and Elimination Plans. The initial guidance would be completed within one year of the entry into force of the treaty, would reflect the knowledge gained from successful efforts conducted to date, and may be revised from time to time thereafter.