

LEGAL AND INSTITUTIONAL MINING REGULATORY FRAMEWORK

Conducted as part of the WWF/ARM Feasibility Assessment for a Project to support Mercury phase out in the Artisanal and Small-scale Gold Mining Sector, Suriname and Guyana



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ABBREVIATIONS AND FOREIGN WORDS

ABS	General Bureau of Statistics (<i>Algemeen Bureau voor de Statistiek</i>)
ADEK	Anton de Kom (University of Suriname)
ASGM	Artisanal and Small-Scale Gold Miners/Mining
BOG	Bureau Public Health care (<i>Bureau Openbare Gezondheidszorg</i>)
GMD	Geology and Mining Department (<i>Geologisch Mijnbouwkundige Dienst</i>)
GNI	Gross National Income
GoS	Government of Suriname
GRASSALCO	Grasshopper Aluminium Company
Hg	Mercury (Chemical annotation)
IUD	Import, Export and Currency Control (<i>Invoer, Uitvoer en Deviezencontrole</i>)
NIMOS	National Institute for Environment and Development in Suriname (<i>Nationaal Instituut voor Milieu en Ontwikkeling in Suriname</i>)
NH	Natural resources (Natuurlijke Hulpbronnen), Ministry of
OGS	Regulation of the Gold Sector (<i>Ordering Goudsector</i>)
S.B.	State decree (<i>Staatsbesluit</i>)
SEMIF	Suriname Environmental and Mining Foundation
SGMR	Foundation Mining Title Holders (<i>Stichting Houders Mijnbouw Rechten</i>)
UNASAT	University of Applied Science and Technology
UNDP	United Nations Development Program
WWF	World Wide Fund for Nature

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1 INTRODUCTION

1.1 GENERAL

This report describes the legal and institutional mining regulatory framework, with a special focus on artisanal and small-scale gold mining (ASGM), in Suriname. This report is part of a more general feasibility assessment, which is conducted in preparation of a project by World Wide Fund For Nature (WWF)-Guianas in collaboration with the Alliance for Responsible mining (ARM). The objective of this project is to reduce mercury contamination in the Guianas by phasing out mercury use in the gold mining sector and contributing to reduce mercury emissions from mining deforestation by 2025. The said project will have a duration of 3 years, until May 2023.

1.2 BACKGROUND

The Minamata Convention, which entered into force in August 2017, aims to protect human health and the environment from the emissions and anthropogenic releases of mercury. The ASGM sector is responsible for 37% of global emissions (AMAP-UNEP, 2018). Gold mining is therefore a major challenge for the effective implementation of the Minamata Convention.

Also in the Guianas, gold mining leads to significant releases of mercury, both direct (from metal mercury-intensive amalgamation techniques) and indirect (related to deforestation, which promotes recirculation of mercury naturally present in the soils). Elevated mercury levels have been found in fish and humans, particularly in indigenous communities. The Guiana Shield, which has so far been spared by the widespread deforestation, is of major importance for conservation of the Amazon. At the same time, ASGM is a major source of income for both migrant miners and inhabitants of interior –mostly Maroon- communities in this region. This is a major challenge for the effective implementation of the Minamata Convention.

1.3 OBJECTIVE

The main objective of the broader consultancy is to support WWF and ARM to 1) analyze the barriers and opportunities to the operation of a legal and mercury-free ASGM supply chain in Suriname; and (2) conduct a multi-criteria analysis to select the region and identify potential pilot sites.

The objective of this **analysis of the legal and institutional mining regulatory framework** is to review Suriname's mining legal and policy frameworks regarding 5 thematic areas: formalization process, environmental management, mercury use, health and safety, and commercialization. Based in this review, the more specific goals of this report are to:

- a) Map mining sector policies, regulations, legislation, plans and programs and prioritize those related to ASGM,
- b) Map the relevant institutions based on their responsibility and according to the 5 themes mentioned above, and
- c) Identify the main barriers and opportunities to the operation of a legal and mercury-free ASGM supply chain.

1.4 METHODOLOGY

This analysis of the mining legal and regulatory framework is primarily based on desk review. Suriname laws were obtained from the Suriname government National Assembly website (<http://www.dna.sr/wetgeving/>). Background information and analysis of developments in the ASGM sector were mostly obtained from existing consultancy reports and government reports. Government reports were in part obtained from the National institute for Environment and development in Suriname (Nationaal Instituut NIMOS). We relied on media reporting to obtain information about recent developments in the ASGM sector, particularly about conflicts.

A selected number of stakeholders was consulted to provide expert input (Annex I). This study was conducted at the time of the Covid-19 pandemic in Suriname. Therefore, consultations were only held virtually.

1.5 OUTLINE

The remainder of this report proceeds as follows.

Chapter 2 outlines the legal framework. It discusses the mining legislation, as well as other laws that are relevant for understanding the legal context of the mining sector in Suriname. Given this projects specific interest in eliminating mercury from the ASGM process, this chapter also discusses laws related to the trade and use of mercury.

Chapter 3 on the institutional framework lists government departments, private sector groups, civil society organizations, and educational institutes with a specific role and/or interest in the Suriname mining sector.

Chapter 4 builds on Chapters 2 and 3 to summarize barriers and opportunities for the operation of a legal and mercury-free ASGM supply chain.

2 LEGAL FRAMEWORK

Suriname national legislation applicable to gold mining and its environmental and social management is spread out over several laws and regulations. In reviewing mining legislation, it is important to realize that **there is no legislation that was specifically developed for the ASGM sector**. The current mining Decree of 1986 was developed prior to the boom in ASGM activity, which was not anticipated. Hence existing rules and regulations apply poorly to the way that the ASM sector has self-organized -largely modeled after the ASGM sector in Brazil- in terms of methods used, organization of work and workers, and health and environmental impacts.

Key legislation is briefly discussed below. We distinguish (1) the Mining Decree, (2) laws related to the environmental and health impacts of mining, and (3) the legal framework specifically related to mercury. We start with the domain principle, which serves as the legal basis for entitlement to mineral resources. Table 1 summarizes the main laws and regulations.

2.1 THE CONSTITUTION

The constitution of 1987 was written by the military government (S.B. 1987 no. 116), and modified with return to democracy in 1992 (S.B. 1992 no. 38). The domain principle in the current constitution declares all natural resources property of the state (Dutch: *domeinbeginsel*; Latin; *dominium eminens*):

Natural wealth and resources are property of the nation and need to be devoted to economic, social, and cultural development. The nation has the inalienable right to fully take possession of the natural resources as to use these for the benefit of economic, social, and cultural development of Suriname (Art. 41). (Heemskerk, 2005)

In Article 6.g., the constitution obliges the state to take good care of the natural environment, in stipulating that the social objectives of the State shall aim at “creating and improving the necessary conditions for the protection of nature and for the preservation of the ecological balance”.

2.2 THE MINING DECREE¹

2.2.1 General

The main legislation governing the exploration and exploitation of mineral resources is the Mining Decree² of 1986, which authorizes the Geological and Mining Department (GMD) to grant mining rights and to regulate, inspect, and monitor the mining sector. The GMD is a department of the Ministry of Natural Resources (NH). The Mining Decree departs from the principle that ownership of the subsurface is distinct from ownership of the surface and that all minerals within Suriname’s territories are owned by the State (art. 2). It is forbidden to undertake any activities pertaining to mining without a permit granted by the Government (art. 2.6); a so-called mining right.

¹ Analysis of the Mining Decree is adopted from Plantprop, 2003.

² DECRET van 8 mei 1986, houdende algemene regelen omtrent de opsporing en ontginning van delfstoffen (Decreet Mijnbouw) (S.B. 1986 no. 28), S.B. 1997 no. 44.

Under the Mining Decree, minerals are classified into five categories: bauxite; radioactive minerals; hydrocarbons; other minerals, excluding building materials, and building materials. Gold is categorized under the category “other minerals.” The Mining Decree regulates the procedures for granting mining rights, and their scope and duration. All mining rights pertaining to gold mining are granted by Ministerial Order, issued by the Minister of Natural Resources (art. 6.3).

The mining law distinguishes rights of reconnaissance (max. 200,000 ha), exploration (max.40,000 ha.), and exploitation (max.10,000 ha) (Table 2). For large-scale gold mining, these different rights have to be applied for separately. The maximum duration for these rights is, respectively, 2, 3³, and 25 years, with the option to renew. A fourth mining title recognized by the mining law is a small-scale mining right (*kleinschalige mijnbouw*). The small-scale mining title includes rights of reconnaissance, exploration, and exploitation in one title (art. 39.1). The Mining Decree defines small-scale gold mining as “the reconnaissance, exploration, and exploitation of a mineral deposit whose nature, mode of occurrence, and quantity allows for economical mining by simple means and techniques” (Art. 1.g.). When allocating a small-scale mining right, the Minister is authorized to include preconditions with regard to the mining methods that may be used. To date, there has not been a single Minister who has placed additional conditions on the extension of a small-scale mining right⁴.

Small-scale mining may only be exercised in areas designated by Ministerial order, which decision will be published in the Official Gazette (Art. 36.3). By law, there are no limits on the amount of mineral that may be extracted with a small-scale mining right. A small-scale mining right is only granted for a contiguous area no larger than 200 hectares (Art. 36.6), and has a validity of two years. This period may be renewed, each time for a period of two years (Art. 38.1). Small-scale mining rights are not transferable and cannot be surrendered for rent or use (art. 11.1). In practice, violations of these regulations are not sanctioned.

Table 1. Suriname mining titles relevant to gold mining

Title	Max. area	Validity	Options for extension
Reconnaissance (<i>Verkenning</i>)	200,000 ha	Max. 2 years	One extension, for a period of 1 year
Exploration (<i>Exploratie</i>)	40,000 ha	Max. 3 years	Two extensions, for 2-year periods
Exploitation (<i>Exploitatie</i>)	10,000 ha	Max. 25 years	Unspecified, needs to be requested 2 years prior to expiration
Small-scale mining (<i>Kleinmijnbouw</i>)	200 ha	Max 2 years	Unlimited extensions, for 2-year periods

Source: 1986 Mining Decree

By law, in order to be eligible for extension of a right, the concession title holder needs to comply with a number of administrative and reporting requirements. In practice, the government primarily looks at whether the concession title holder has fulfilled his or her payment conditions. If the fees have been paid, the concession is typically extended⁵.

³ The first period can be extended twice for a period of 2 years at a time, if the holder of the granted rights has carried out his activities to the satisfaction of the minister

⁴ B. Paansa, former Chief Exploration and Geology at the Geology and Mining Department, pers. com., 28/07/2020.

⁵ Ibid.

Multinational mining firms apply for a regular concession title under the mining law, i.e. reconnaissance, exploration, and subsequently exploitation. Their rights and obligations are further specified through contracts with the government, which have the form of laws. At present, mining rights of the multinational mining firms have been specified in the Gross Rosebel Act (between IAMGOLD/RGM operations and the Government of Suriname) and the Mineral Agreement between the Government of Suriname and Newmont/Surgold.

Of particular relevance for this study is that the rights of reconnaissance are not transferable and cannot be surrendered for rent or use (Art. 11.1). Exploration and exploitation rights may be entirely or partly transferred, or rendered for use or rent to a third party only after written permission from the authority that is authorized to grant the right (Art. 11.2). The consequence of this Article 11 is that subletting of a mining concession to small-scale miners, which is the most common working arrangement in Suriname ASGM areas, is illegal. This practice is tolerated by the government, and punitive sanctions towards the concession title holder have not been recorded.

The allocation of mining rights has been a source of much discussion and discontent among both citizens and small-scale gold miners (Heemskerk et al. 2015). A general perception is that nepotism dictates who obtains concession titles and who do not. Such ideas are confirmed by observations that the grand majority of concession lands has been allocated to political figureheads, their allies, and their close family members (Trommelen, 2013).

Local gold miners who filed an application for a mining title with the GMD, often waited many years to no avail (Heemskerk et al, 2015). Indeed, for several decades, the concession application process was not only opaque, it also was unclear what areas had been allocated in concession and what areas were still available. About five years ago, the GMD started a process to enhance transparency. An overview maps of allocated concessions is now available online and the concession application process now occurs online, whereby the status of the application can be monitored by the applicant (see also section 3.4).

In Suriname, small-scale gold miners typically work without a formal mining title. There are several reasons for this:

- The primary reason is that virtually the entire greenstone belt area of Suriname, where most gold deposits are located, has been allocated in concession. Hence the places where the miner would like to work have already been allocated in concession to someone else.
- The mine operator has tried to obtain title by filing an application with the GMD but his/her request was never honored.
- Local Maroon gold miners may be working on lands that they consider part of their customary tribal lands, so they do not need to get permission from the Central Government to work in that location.
- The mine operator does not bother with a concession application; he/she acknowledges that someone else has the title and the operator is willing to pay the fee to “rent” a piece of land.

For Brazilian ASM Mineral Producers, the latter is typically the case. They are used to this same system in Brazil, where small-scale miners, *garimpeiros*, pay a fee to a larger concessionary in exchange for the “right” to work on the land. In Suriname, Brazilians accept –and even appreciate- this system because it provides them with a sense of legitimacy and protection from intruders; both other gold miners and criminals.

For concession title holders, allowing small-scale gold miners to work on their concession is profitable because each operation has to pay this title holder a share of earnings, usually 10 to 12.5 percent of

extracted gold. Typically, the concession title holders are urban residents who obtained their concession through political alliances, but who do not necessarily have the capacity or wish to work the huge areas they have received in title. In return for payment, the concession title holder ensures that the mining team is not bothered by other mining operations, and often provides some form of security (e.g. armed guards) on the concession. More active title holders may also provide basic infrastructure and maintain roads.

2.2.2 Mining and Environment

In the Mining Decree, the section on small-scale mining (Ch. VII) does not specify any regulations with regard to environmental and human health. For the mining sector in general, the Decree stipulates that mining must be carried out with “consideration for valid norms in terms of safety and health of employees specifically and of the community in general, as well as norms for the protection of ecosystems” but it does not define these norms. The 1986 Mining Decree also stipulates in Article 16.1 that upon terminating a mining right, “the right holder shall, to the approval of the Minister, execute all necessary measures in the interest of public safety [...] and protection of the environment”.

When the right holder fails to execute such measures, the State has the right to execute such measures on the cost of the right holder. However, in general, these stipulations are not complied with nor enforced. Mining multinationals, Rosebel Gold Mines and Newmont Suriname, have a detailed rehabilitation and exit plan. Most other (ASGM) Mineral producers do not have such plans, and are not sanctioned for failure to recover the area upon leaving. In this sense, there is no difference between title holders with a small-scale mining rights, and those with an exploration or exploitation right.

2.2.3 Occupational Safety and Health.

Article 4.1 of the Mining Decree stipulates that “all mining activities ...should take into account prevailing norms concerning safety and health of workers”. This general statement applies to all forms of mining, including small-scale mining (the law does not distinguish ASGM). The Mining Decree does not get more specific with regard to health and safety regulations. In the ASGM sector “prevailing norms” are not complied with nor enforced.

2.2.4 Indigenous peoples and Maroons.

The Mining Code pays little attention to the customary rights and living territories of Indigenous Peoples and Maroons. The only clause that considers people living in tribal communities is Article 25, which states that applications for exploitation licenses must include a list of all tribal villages located in or near the requested concession (subsection 1)⁶. The mining decree does not specify why such information must be given or what is done with that information (VIDS, 2012).

The listed clause does not provide legal protection. In fact, the inhabitants of the mentioned villages are “obliged to allow the holder of [a mining] right to carry out mining operations ... on land owned or occupied by them: (a) provided that they have been notified on time ... (b) and have been compensated in advance or been given assurance for such compensation.” (Art. 47). It is not required that affected communities are consulted about, participate in, or consent to the allocation of the concession in question. Even these

⁶ Article 46 provides definitions of, among others, private land, rightful claimant (*rechthebbende*), and third interested party (*derde-belanghebbende*). None of these definitions applies to the customary rights of Indigenous Peoples and Maroons. In their legal analysis, Kambel & Mackay (1999) argue that it could be argued that indigenous peoples and Maroons do have some protection as “third parties entitled to land”. Nevertheless, this would still mean that they would have to accept mining on their lands.

minimal provisions are often ignored; mining concessions are frequently granted on tribal lands without prior “notification”. Compensation is insufficient or non-existent. This omission of consultation and consent is in conflict with the customary rights of indigenous peoples and Maroons as defined by international law⁷.

In several cases, failure to recognize tribal territorial claims has caused conflict between customary land owners—mostly Maroons, and often also gold miners- and either urban Surinamese concession title holders or multinational mining firms. The case that has been most prominently in the news is the case of the Ndyuka Maroon community of Nieuw Koffiekamp, which is situated within the Rosebel concession of the Canadian mining firm IAMGOLD (Box 1, adapted from Social Solutions, 2015). Also at Newmont Suriname, the other mining multinational in Suriname, there have been conflicts with ASGM miners, with the primary grievance being the company’s encroachment on customary lands (Box 2).

Figure 1. Local protests against large-scale mining interests and the eviction of local miners from customary lands; at Koffiekamp (L) and the road to Langa Tabiki, Merian concession (R).



In 2017, a new law for the protection of the living and user areas of indigenous and tribal peoples was adopted. This new law will be discussed in the next session.

2.2.5 Regulation on co-existence

Neither the 1986 Mining decree, nor any other legal instruments, provide regulations for legal coexistence between large-scale mining (e.g. by multinationals) and ASGM. In fact, existing mining laws complicate such co-existence by making the multinational firms liable for environmental damage produced by ASGM on their concession.

The mining multinationals themselves do have company policies specific to their Suriname operations, that promote peaceful co-existence with artisanal gold producers from local communities that are active in their concession or area of influence.

⁷ See, among others, rulings in the the Inter-American Court of Human Rights cases of the Saramaka People vs. Suriname (2007) and the Kaliña and Lokono Peoples v. Suriname (2015).

Box 1. IAMGOLD and Nieuw Koffiekamp

In 1992, the Suriname state granted the Canadian exploration firm Golden Star Resources (GSR), exclusive rights to the 17,000 ha Rosebel gold concession in Brokopondo district, 85 km south of Paramaribo. The Ndyuka Maroon community of Nieuw Koffiekamp and the lands used by villages for subsistence activities were situated within this concession. The villagers were never consulted and only informed after the fact.

Complicating the matter was that small-scale gold miners were already active in the area, many of whom from Nieuw Koffiekamp. After the Rosebel concession was granted to GSR, even more small-scale miners moved to the area. GSR threatened to abandon the project if the miners were not removed and in response, the Minister of Justice and Police threatened with violence if the miners would not immediately vacate the area. The company had the legal right to send the miners away, and even to mine underneath the village. However, to avoid humanitarian problems, the government and the company tried to negotiate. According to human rights organization Moiwana '86, at least eight violations of the American Convention on Human Rights were committed due to company action and government inaction.

In 2001, the Canadian mining company Cambior acquired the Rosebel gold mine and in 2006, IAMGOLD took over Cambior and thereby became the owner of Rosebel Gold Mines N.V. Since the commencement of negotiations between the multinational mining companies, the Suriname government and the community, periods of relative calm have alternated with fierce protests, roadblocks and violent outbursts by community members -typically small-scale gold miners- against Rosebel Gold Mines N.V.. The presence of ASGM-miners near IAMGOLD's active pit is very dangerous; especially when miners run into the pit after blasting to collect rock material. They pose a risk for themselves, and for the IAMGOLD operators who work with excavators and other large mining equipment in the pit.

In late 2014, in an effort to resolve the situation, the Commission for Regulation of the Gold Sector (OGS), localized an alternative mining area (known as Km 14) for Koffiekamp miners. However, after initial prospecting, Koffiekamp gold miners were convinced that the area does not have economically viable gold deposits, and only a few gold miners moved to the new location. At the same time, in order to prevent social unrest just prior to the elections (May 2015), sitting President Bouterse promised the miners that they could continue to work for the time being. The miners themselves reported that they would fight violently if they would be forced to move.

In 2019, during removal of small-scale gold miners from the Rosebel mining pit a young man from the nearby community of Brownsweg was shot and killed by a "taskforce", consisting of members of the Police Corps Suriname (KPS), the Suriname National Army (NL), members of OGS, and guards from IAMGOLD. In response, a group of over a hundred small-scale gold miners rioted; they burned company machinery and vehicles, including an excavator. After the incident, IAMGOLD stopped production for a little over a week. After the riots, opposition party politicians asked the government about structural measures to prevent these incidences. They also accused the sitting political party of providing mining permissions for allies, while the needs of others are not considered.

In January 2020, IAMGOLD, the government, and mining entrepreneurs from Nieuw Koffiekamp associated in Makambo, signed an agreement, allowing the latter to work with 250 persons in an area within the Rosebel concession, named KampMining. A considerable group of Koffiekamp gold miners is working there now. Yet others continue to seek their luck –illicitly- in other locations on the concession. Meanwhile inhabitants of the village continue to experience nuisance and damage as a result of the company's activities, including dynamite blasting, ever closer to the village.

Box 2. Newmont and the Pamaka ASM community

In 2007, the mining multinational Newmont-Suriname – then operating under the name Surgold - applied for a Right of Exploitation for the development and mining of Gowtu Bergi within its Right of Merian Exploration concession. The concession lands partly overlap with lands that the Pamaka Maroons consider their customary land area. The Pamaka intensively used this area for ASGM activities. The ASGM miners who worked the rich deposits of Gowtu Bergi were partly local Pamaka Maroons, but primarily Brazilians and miners from other parts of Suriname and surrounding countries. Mine operators who were not local Pamaka paid concession fees to the Pamaka clan heads who claimed specific parts of the mining lands. Village women earned money as traditional land owners, by selling food, and by running bars, hostels, and brothels for gold miners. In fact, the villages closest to the concession, and particularly Langatabiki, economically entirely depended on, and were thriving because of, ASGM –related incomes. Because the earnings were so good, many ASGM operators in the area invested in heavy equipment such as excavators, which allowed them to mine deeper. This equipment was often bought on credit, and many miners were heavily indebted – with the expectation that they would repay easily with their gold proceeds.

In 2011, the GOS evicted several hundreds of ASGM miners from Gowtu Bergi, as part of its obligations under the Mineral Agreement with Newmont Suriname. The miners were assisted with the removal of their equipment, but since they had no other place to go, mills and excavators were often left idle along the side of the road. The eviction had a huge impact on the incomes of the Pamaka land bosses, gold miners, and mining service providers. Gold miners who were indebted lost their equipment, and sometimes also other possession they had placed as collateral, such as houses. In 2012, in an effort to compensate the gold miners, a small-scale gold mining reserve (5667 ha) -bordering the Project area- was established a Presidential Decree. The gold miners who went to prospect the area reported that there was not sufficient gold there to work, and after some initial efforts, no-one worked in the area anymore.

In 2013, Surgold (Newmont-Suriname) and the Pamaka community signed an MOU, wherein Surgold declared to support Pamaka ASGM to obtain formal mining rights and adopt safer and environmentally friendlier mining methods on land allocated by the GoS. In addition, the MOU establishes that Pamaka will be preferentially hired for jobs at Newmont. In the first quarter of 2020, 264 Pamaka were employed by Newmont. Several dozens more have earned money as contractors or vendors. Yet many of those employed were Pamaka living in Paramaribo, and not necessarily those who had lost mining incomes. Also, incomes paid by the firm cannot compete with the –remembered- ASGM incomes people used to earn at Gowtu Bergi. The promised alternative ASGM working area has not yet been realized.

In April 2015, Pamaka Maroon small-scale gold miners and villagers barricaded the entry road to the Newmont Suriname, and construction works at the plant had to be stopped. The protest lasted four days and was sparked by Pamaka grievances concerning land dispossession, the loss of livelihood due to eviction from the Gowtu Bergi mining area, and the unresolved issue of an alternative mining location (Anaya et al., 2017). The roadblock was lifted when the company agreed to make the country manager available for talks with the Pamaka Negotiating Committee.

Today, many Pamaka continue to be discontent about the limited income earning opportunities and lack of compensation for lost incomes (Social Solutions, 2020). If the project impacts are not managed well, it is not unlikely that these sentiments of being robbed of tribal property, being treated unfairly and “not being heard” may motivate actions of protest.

Conflicts between title holders and ASGM groups are not limited to multinational companies, though those cases are most extensively covered in news reporting. In March 2020, Suriname newspapers reported about a conflict between a concession title owner and the Maroon village of Balengsula (Brokopondo district)⁸. This concession title holder operated a small-scale mining operation (though with an exploitation title) under the name Boss Enterprises, on the customary lands of Balengsula. A large share of the men from this village are working as small-scale gold miners as well, and they demanded permission to work on part of the concession. In early March, villagers barricaded the entry road to the company. Later that same day, they entered the company premises, destroyed company property, and assaulted and threatened employees. In the media, the title holder expressed his discontent with the fact that even though that he has held a concession title for this area for many years, the police cannot guarantee his safety. According to the District Commissioner of Brokopondo, the local population was not consulted when the concession was awarded, and hence the title holder should be lenient and reject part of his concession so that local gold miners have a place to work. This conflict has been slumbering for many years, and surfaces every so many months.

2.2.6 New draft mining law

For many years, the government has expressed its intention to revise the Mining Decree. A draft Mining Act was presented to parliament in 2004 but not adopted. In 2016, the government established a multistakeholder commission to revise this draft (IGF, 2017). This commission consisted of representatives of: state mining form N.V. Grassalco, the Ministry of Natural Resources (*Natuurlijke Hulpbronnen* – NH), the Geology and mining Department (GMD; a department of NH), the Ministry of Regional Development (*Regionale Ontwikkeling* - RO), the Bauxite institute Suriname (BIS), the National institute for Environment and Development (*Nationaal Instituut voor Milieu en Ontwikkeling Suriname* – NIMOS), and the Foundation of Mining Title holders (*Stichting Houders Mijnbouwrechten*). The commission did not include representatives of the ASGM community, possibly in part because this industry sector is poorly organized. There is not one organization representing ASGM miners on the national or district level.

The Commission held hearings and completed a revised draft Mining Act. The Commission has now been dismantled. It was planned that the revised draft Mining Act would be presented in an extensive stakeholder meeting, to ensure that all affected parties are heard. Due to Covid-19, this stakeholder meeting has not yet taken place⁹.

⁸ <http://www.dwtonline.com/laatste-nieuws/2020/03/06/aangevallen-goudbedrijf-lijdt-dagelijks-rond-10000-us-dollar-verlies/>

⁹ C. Griffith, Project Manager at Minerals Institute of Suriname, pers. com. 19/06/2020

2.3 LAWS RELATED TO THE GOLD MARKETING CHAIN

2.3.1 State decree on royalty payment in small-scale gold mining¹⁰

The in 2015 (published January 2016) promulgated Presidential decree on payment of royalty in small-scale gold mining and the exploitation of building materials dictates regulations for the State's collection of royalty from the ASGM sector. In Art. 1, the Decree stipulates that royalty of 2.75 percent of the value of gold must be paid at the moment of sale to the gold buyer (Art. 1.3). That is, when the ASGM miners comes to the gold buyer, the gold is cleaned and weighted. When the gold miner is paid, 2.75 percent will be subtracted from the value to cover the royalty payment.

The gold buyer brings his gold to the Kaloti Mint House C.V. (Kaloti), where it is purified (removal of mercury), weighted, and calibrated. The royalty that the gold buyer subsequently pays to the government will be calculated by Kaloti, over the established value of the gold (Art. 1.1). This value will be linked to the gold price published by the Central Bank of Suriname, with the London metal Exchange (LME) as a reference (Art. 1.2). Kaloti will provide a royalty letter, which states the value of the gold, and the amount of royalty that must be paid. This amount must be deposited on the account of the Central bank of Suriname prior to export (Art. 1.4).

The Memorandum of Explanation states that the Central Bank of Suriname (CBvS), which before was responsible for calculation of the royalty, will no longer perform this task. The only role of the CBvS will be determination of the gold price and the royalty due. The Minister of Finance is authorized to promulgate additional regulations with regard to determination of the value of gold, calculation of royalty, and the way in which royalty will be obtained by the gold buyers (Art. 1.8).

Regulations about royalty payments in the ASGM sector differ from those for multinational firms with large-scale gold exploitation rights, i.e. Rosebel Gold Mines N.V. (IAMGOLD) and Newmont Suriname. For the latter, royalty payments are determined on a case to case basis through their specific agreement with the Republic of Suriname.

For example, IAMGOLD pays royalty to the Suriname government via the CBvS. 2.25 Percent of exported gold is placed at the disposal of the Suriname state after refining in the Royal Canadian Mint. In other words; the royalty payments of IAMGOLD are based on the pure gold value of the export, are paid in 24K gold and are stored in Canada. The state can access this gold any time, or ask the Royal Canadian Mint to sell it for them. When the price of gold rises to more than USD 425,= /ounce, IAM Gold pays "Extraordinary Royalties" (Buitengewone Royalty) of 6,5% in money over the amount above this price¹¹. Hence, now the gold price has risen to 1938.10 USD/ounce (6 month price on July 27, 2020, LME), lam Gold pays additional royalties of USD 98.35/ounce (6.5 %*USD 1513.10).

¹⁰ Presidential Decree of 29 December, 2015, on payment of royalty in small-scale gold mining and the exploitation of building materials (Presidentieel Staatsbesluit van 29 december 2015, houdende andere wijziging van het Besluit Royalty Kleinmijnbouw terzaken van Goud en Exploitatie bouwmaterialen (S.B. 1989 no 40, zoals laatstelijk gewijzigd bij S.B. 2015 no 51.)

¹¹ Government of Suriname, 2003. Overeenkomst inzake wijziging en aanvulling van de delfstoffen overeenkomst van 2 april 1994

2.3.2 Currency Regulation

As defined by the Currency Regulation (*Deviezenregeling*)¹² of 1947, the task of the Currency Committee (*Deviezencommissie*) is to implement and control currency traffic under auspices of the President of Suriname, who is responsible for the national currency policy. The Currency Regulation stipulates, in Art. 11, that a license is required to process gold in such a way that its own nature is partly or entirely lost. A license also is required to buy gold (Art. 14.1), to receive gold in the interior (Art. 14.2), or to import or export gold (resp. Art. 15, Art. 17).

As an instrument of the government this Committee extends permits for the use and possession of, amongst others, foreign currency and gold in Suriname (art. 11). The import and export of gold is prohibited other than with a permit of the Currency Committee (art. 17).

2.3.3 The Bank Act

The Bank law (Bank Wet, 1956)¹³ defines as the main task of the Central Bank of Suriname (CBvS) to safeguard the stability of the value of the Surinamese currency (Art. 9a). With regard to gold, the CBvS manages and administers the national gold supply (Art 20.5). Furthermore, the CBvS has a license to trade in precious metals (such as gold), convert gold into coins and to test and refine gold (Art. 16.1.h).

As stated in § 2.3.1, another responsibility of the CBvS is to collect royalty payments from gold exporters who purchase from the ASGM sector. The CBvS does not weigh or calibrate the gold though; it only collects the payment based on calculations from Kaloti, which are documented in a letter.

2.4 LAW FOR THE PROTECTION OF LIVING AND USER AREAS

In 2017, a concept law for the protection of living and user areas (*Wet Bescherming Woon- en Leefgebieden*¹⁴) of indigenous and Tribal peoples was approved by parliament, and sent to the President for approval, where it has since been stalled. In this concept law, it is stipulated that areas around the communities of Indigenous Peoples and other tribal populations in Suriname (i.e. Maroons) will be protected. These areas will be depicted as “indicative circles” around communities that are registered on list of the Ministry of Regional Development, and shown on a map in an annex to the law (Art. II.3). The Memorandum of Explanation adds that these indicative circles will have a diameter of about 10 Km.

Art. II.5 of the concept law states that starting from the date that this law takes effect, land within the protected areas around the communities will not be allocated to third parties, regardless of type of title, and no new mining or other rights will be approved in these areas. An exception to this regulation concerns economic activities by, and for the benefit of, the community in question, whereto the community has decided by means of Free Prior and Informed Consent procedures.

¹² WET van 8 September 1947, tot vaststelling van een hernieuwde regeling van het deviezenverkeer in Suriname (G.B. 1947 no. 136), gelijk zij luidt na de daarin aangebrachte wijzigingen bij G.B. 1947 no. 187, S.B. 1980 no. 116, S.B. 1984 no. 104.

¹³ WET van 10 oktober 1956, tot regeling van het Centrale Bankwezen in Suriname, gelijk zij luidt na de daarin aangebrachte wijzigingen bij G.B. 1963 No. 137, G.B. 1968 No. 63, G.B. 1973 No. 26, S.B. 1981 No. 121, S.B. 1983 No. 94.

¹⁴ Wet van houdende nadere wijziging van het Decreet Beginselen Grondbeleid (S.B. 1982 no. 10, zoals laatstelijk gewijzigd bij S.B. 2003 no. 8)

The Memorandum of Explanation to the concept law reveals that an objective of this law is that the inhabitants of the interior no longer run the risk that the government extends more rights in their living and user territories, while the process to realize land rights is in process. Practically, this means that no new rights will be extended in these so-called protected areas; and that non-active concession rights or other rights in or overlapping with these areas and that violate the licensing conditions, will be terminated by law. For other existing rights, there will be a transition phase.

2.5 ENVIRONMENTAL AND HEALTH LEGISLATION RELATED TO MINING

2.5.1 Environmental Framework law

In May 2020, the Suriname parliament approved an Environmental Framework law¹⁵. The Environmental Framework law serves as a general framework for more specific Implementation Decrees, which still need to be developed and/or approved. This law foresees in the establishment of a National Environmental Authority¹⁶ (*Nationale Milieu Autoriteit – NMA*), which will be in charge of, among others, planning, formulation, evaluation and monitoring of control on the execution of environmental policy. As explained in its Memorandum of Understanding, the main principles of the Environmental Framework law are:

- Publicity, participation and legal protection
- Prevention as a basis
- The polluter pays
- Environment and planning
- Environmental Impact Analysis
- Environmental Crimes

The Environmental Framework law does not contain Articles that explicitly address mining-related contamination¹⁷. Nevertheless, Art 35 discusses dangerous substances, which are defined as “any substance for which, given its chemical or physical characteristics, and on the basis of technical, scientific and medical proof, is determined that its use or release is harmful for people and the environment” (Art. 1.i). Art. 27 stipulates that the –still to be established- NMA will determine what substances are considered contaminants. Mercury, cyanide and asbestos are named as examples. Once a NMA has been established, this institute will determine the legal cut-off values of concentrations of these chemicals. The NMA will also establish norms concerning the production or release of contaminants into the environment by equipment and machinery.

Art. 35 further stipulates that each person or legal person who is executing an activity or process involving such dangerous substances is obliged to request a license from the NMA. Furthermore, in line with the Treaty of Basel, the Suriname state will also have to comply with international commitments related to the import and export of these dangerous substances.

¹⁵ Milieu Raamwet S.B. 2020, No. 197. Law of 07 May 2020 containing legislation for sustainable environmental management.

¹⁶ The NMA will function as an independent governing body, with a legal personality, and hold office in Paramaribo. The present-day office Coordination Environment within the Cabinet of the President will be renamed NMA, and the NIMOS will become part of this entity (Environmental Framework Law, Memorandum of Understanding).

¹⁷ Because this is a framework law, it is not very explicit about, for example, how to deal with mining tailings, restoration of mined out sites, use and storage of chemicals, etc. That will probably be covered in the new mining law.

Chapter V of the Environmental Framework law outlines general regulations with regard to Environmental and Social Impact Assessments (ESIAs), among others in the context of mining projects. The Environmental Framework Law does not specifically discuss ESIA's in the context of gold mining activities. It poses that Implementation Decrees (*Staatsbeluizen*) will be drafted to provide more detail on:

- The criteria and procedures to determine if an ESIA is required for certain activities or projects.
- Procedures to define the area of impact for execution of an ESIA.
- Minimal requirements that the ESIA must comply with.
- Requirements of professionals executing the ESIA, in terms of education, skills, experience, etc.
- Procedures for public participation in the ESIA process.
- Measures for mitigating, preventing, minimizing and monitoring negative project impacts.
- Expenses that the project proponent should be willing to pay for performing an ESIA.

Several Implementation Decrees with more detailed regulations in terms of the criteria, procedures, and requirements of ESIA's already have been drafted. These draft Implementation Decrees are modeled after the Environmental Assessment Guidelines of the National Institute for Environment and Development (NIMOS, 2005, updated 2009 and 2017).

Until the passing of the Environmental Framework Law in March 2020, the performance of ESIA studies was not a legal requirement. The multinational gold mining firms, IIRAMGOLD and Newmont, performed such studies mostly because of their own company standards. National mining title holders, however, typically do not perform ESIA studies.

2.5.2 Nature Protection Act

In accordance with the Nature Protection Act (GB 1954, no.64), the President may establish nature reserves on domain land. The Act contains regulations on the use of these protected areas, and stipulates that mining activities are prohibited. It is explicitly forbidden to afflict damage either on purpose or as a result of carelessness to the soil, natural beauty, fauna and flora of the nature reserve (Art.5.a.).

The Brownsberg Nature Park (BNP), located in the Greenstone Belt, was not established under the Nature Protection Act. In 1970, the Park was acquired in leasehold by the Foundation for Nature Conservation in Suriname (STINASU), for the development of recreational and educational purposes. Despite its protected status, small-scale gold mining has been ongoing in the park for many years. In 2015, Social Solutions estimated that 35 to 40 active mining operations worked within the BNP boundaries. Also counting individuals working with metal detectors (*piewiew*) and gold pans (*baté*), approximately 300 persons were mining for gold within the BNP boundaries in that year.

According to media reporting, ASGM activities in the Brownsberg Nature Park have continued unencumbered in 2018, 2019 and 2020¹⁸.

2.5.3 Occupational Safety and Health Regulations

Workers in ASGM are typically not protected under general occupational safety and health regulations because they work informally and do not have a contract with their employer. They may be considered independent contractors in an operation; without contractual obligations towards their employer or

¹⁸ See, for example: <http://dwtonline.com/laatste-nieuws/2020/02/28/goudwinning-brownsberg-natuurpark-mogelijk-geen-belemmering-voor-investeerders/>; <https://www.dbsuriname.com/2019/01/08/rgb-vergadert-over-illegale-goudwinning-en-houtkap-in-brownsberg-natuurpark/>; and

workers' rights. Also for those that do work under an employment contract, occupational and health regulations are not inspected. The ASGM areas are often in far-away, difficult to access locations that are not frequented by public workers.

2.6 LAWS AND REGULATIONS RELATED TO MERCURY¹⁹

A recent GoS inventory report of mercury releases stated that: "In Suriname, ... current legislation regarding use, import, export and handling of mercury is non-existent and a comprehensive law needs to be developed to address this" (Office of the President of the Republic of Suriname, Coordination Environment, 2016). The NIMOS Minamata Advisory Document (2014) provides a full overview of Suriname legal instruments related to mercury import, export, and use, as well as production processes where mercury may be released (e.g. gold buying houses). These laws and regulations are summarized below.

2.6.1 Legal instruments related to mercury import, trade, and transport

In Suriname, few legal instruments explicitly apply to the export, trade and use of mercury, but there is a restriction on its import. In January 2003, the Ministry of Trade and Industry (the current Ministry of Trade, Industry and Tourism) placed mercury on the list of items for which a special license is required in case of import (Decree Negative List 2003), as part of the law on the transportation of goods (*Wet Goederenverkeer; S.B. 2003 no. 58*)²⁰. Since that date, no licenses for mercury import have been issued (Heemskerk and Duijves, 2014). A representative from the Ministry of HI&T confirmed that according to their customs system no mercury has been imported in the period 2004-2018 and that they had not received reports on the import of mercury²¹. This implies that all mercury entering Suriname from abroad enters the country illegally²².

Other than the *Besluit Negatieve Lijst*, there are no legal instruments that specifically mention mercury. For example, the Suriname legal framework contains no regulations about the sale of mercury. The criminal code dictates that it is punishable to "sell, offer for sale, deliver or hand out goods, knowing that these goods are harmful to life or health, while omitting to mention their harmful character..." (*Wetboek van Strafrecht, Art. 226*). The criminal code also stipulates that it is unlawful to be responsible for "the sale, delivery or handing out of goods that are harmful for life or health, without the buyer or recipient being aware of the harmful character ..." (*Wetboek van Strafrecht, Art. 227*). From the above it appears that someone who transports or carries with him behaves within the boundaries of the law²³. However, trading mercury within Suriname is only allowed if this mercury entered the country legally (i.e. the chain of custody is clear). Given that no mercury entered the country legally in the past decade, trading mercury within Suriname is illegal²⁴.

¹⁹ Information in this section is adapted from IUCN, 2019

²⁰ *Besluit Negatieve Lijst* (S.B. 1999 no. 34, z.l.g. bij S.B.2006 no. 20); see also *Wet Goederenverkeer* (S.B. 2003 no. 58 z.l.g. bij S.B. 2004 no. 121).

²¹ G. Griffith, legal officer, NIMOS. Pers. com., 13 March 2019.

²² J. Renfurm, Project Manager Ministry of Trade, Industry and Tourism. Pers. com., 17 March 2019

²³ G. Griffith, legal advisor, Office of Environmental Legal Services, NIMOS. Pers. com. 25 March 2019 (per e-mail).

²⁴ *Ibid.*

2.6.2 Laws and regulations on exposure of workers to mercury

The Nuisance Law²⁵ stipulates that a license is required for the establishment of a gold or silver shop. In most cases, the National Institute for Environment and Development (NIMOS) is asked for environmental-technical advice (NIMOS, 2014). NIMOS developed guidelines for gold and silver smiths, which are part of the advice provide to the District Commissioner's (DC) office. These guidelines specify that gold-mercury amalgam may not be used to fabricate jewellery. Because of this stipulation, mercury is not further mentioned in the guidelines for gold and silver smiths. These guidelines do provides standard for the storage and use of other chemicals, including kalium-cyanide and acids.

In the "Minimal requirements for gold buying shops", (V 1.0), mercury features prominently. The introduction to these requirements states that mercury poses a risk to human health, and may damage the health of future generation. Gold shops need to have a monitoring plan to minimize the concentration of mercury in the working spaces and around the filter system,. The mercury concentration in these areas may not exceed 0.05 mg/m³ (NIOSH REL). Measurements must be organized by the firm, and NIMOS will be involved. The guidelines also state that chemicals must be treated and stored according to the guidelines in the *Material Safety Data Sheet*. Mercury and mercury waste may not be released into the environment, but must be stored in containers specifically designed for that purpose. Employees of gold buying shops must receive Personal Protective Equipment (PPE). In addition, the requirements for gold buying shops provide details on the fume hood, including the chimney. The chimney must be equipped with a filter system, whereby the mercury concentration in the exhaust pipe may never exceed 0.05 mg/m³ (NIOSH REL).

The DC advises the government on whether or not establishment of this type of business is appropriate or acceptable at the proposed location. This advice is required for obtaining the license. In august 2020, 18 companies had a gold buying license²⁶, but that does not say anything about the number of gold shops, as one company may operate multiple gold buying shops.

Within the domain of labour laws, rhe Safety Law²⁷ states that employees may not be exposed to "harmful gasses and fumes" (Art. 3). Article 12 of the Labour Inspection Decree stipulates²⁸ that work that endanger the health or safety of employees must be terminated immediately. The Occupational Accidents Regulation of 1947 (*Ongevallenregeling*)²⁹ names in Art. 24-25 under illnesses: "diseases caused by mercury or substances containing mercury, when these reveal themselves in employees in firms working with mercury or substances containing mercury". In the case of such illness the employee must be compensated, unless this illness can be blamed on his or her misconduct. There are no cases of employees that have brought a case to Suriname court because of mercury-induced health risks, nor of any cases where (an) employee(s)

²⁵ Hinderwet (G.B.1930 no. 64, laatstelijk gewijzigd bij S.B. 2001 no. 63)

²⁶ Deviezencommissie, unpublished data, obtained August 17, 2020

²⁷ Veiligheidswet (G.B. 1947 no. 142)

²⁸ Decreet Arbeidsinspectie (E35) (S.B. 1983 no.42);

²⁹ Ongevallenregeling. G.B. 1947 no. 45. WET van 10 September 1947, houdende vaststelling van de verplichting van de werkgever tot en van de aanspraken van de in bepaalde bedrijven door enig ongeval of enige beroepsziekte getroffen werknemer op schadeloosstelling (G.B. 1947 no. 45), gelijk zij luidt na de daarin aangebrachte wijzigingen bij G.B. 1949 no. 90, G.B. 1950 no. 62, S.B. 1975 no. 164d, S.B. 1980 no. 116, S.B. 1983 no. 8, S.B. 2001 no. 66.

had been compensated for illness caused by working with mercury³⁰. The lack of such cases may partly be related to employees not being aware of their labour rights³¹.

2.6.3 Status of the Minamata Convention

In 2013, the National Institute for Environment and Development in Suriname (NIMOS) started a process to advise the government with regard to signature and ratification of the Minamata Convention on Mercury. This process included stakeholder consultations and resulted in an advisory document and a roadmap with activities for the gradual elimination of mercury from Suriname. In the advisory document³², NIMOS identified limitations to human and financial resources as main challenges in efforts to regulate, and gradually phase out, the use of mercury in the ASGM sector.

On 30, May 2016, the legislative proposal to become a member of the Minamata Convention was approved by the council of Ministers. In that same year, in preparation for ratification of the Minamata Convention, the Government of Suriname produced a report titled “Mercury release inventory, waste storage and disposal in the republic of Suriname” (Inventory Level I) (Van Ravenswaay/Office of the President of the Republic of Suriname-Coordination Environment, 2016). In 2018, a follow-up study, the National Inventory of Mercury Releases in the Republic of Suriname (Quik and Sabajo, 2018) was produced (Inventory Level II). This latter report used UNEP’s Toolkit for identification and quantification of mercury releases. Based on this methodology, it was estimated that 97 percent of the estimated total mercury release in the Republic of Suriname are the result of primary (virgin) metal production.

On March 8, 2018 the legislative proposal concerning accession to Minamata was also approved by Parliament³³. On October 31st, 2018, the convention entered into force for Suriname, and the country thereby became the 95th Party to the Minamata Convention. National Focal Point for the Minamata Convention is the Ambassador at Large in charge of Environment at the Coordination Environment office within the Cabinet of the President. The Focal Point for exchange under article 17, paragraph 4, is the Acting General Director of NIMOS.

The Roadmap for Implementation of the Minamata Convention in Suriname is presented as Annex III in the GoS (2020) Minamata Initial Assessment (MIA). The Roadmap identifies several policy areas that will be addressed in order to meet the Minamata Convention criteria, namely:

- 1 *Legal and Institutional Framework*. Objective: To have an integral national policy and adequate legislation available to prevent mercury pollution.
- 2 *Data and Research*. Objective: Have a database and research system for sustainable management of mercury, mercury added products and mercury compounds.
- 3 *Phasing out mercury*. Objective: Establish a phasing out agenda and emissions targets for mercury and mercury compounds.
- 4 *Waste management & Contaminated areas*. Objective: There is a sustainable system for the management of mercury and contaminated areas.

³⁰ Mr. J. Courtar, former Inspector General of the Medical Bureau (on leave), pers. com. 15/05/2019. Cited in IUCN, 2019.

³¹ Ibid.

³² Advies document betreffende het Minamata verdrag (NIMOS, 2014)

³³ Wet van 16 maart 2018, houdende ratificatie van het verdrag “Minamata Convention on Mercury”, Staatsblad van de Republiek Suriname, No 2018/30

- 5 *Artisanal and small-scale gold mining (ASGM)*. Objective: Policies have been developed to reduce, and where feasible, eliminate the use of mercury and mercury compounds, and the emissions and releases upon the extraction and processing of gold.
- 6 *Education, awareness and public information about health and environmental impacts*. Objective: Develop a strategy and implementation plan for public information, education and awareness about health and environmental consequences of mercury and mercury compounds.
- 7 *Financial mechanism is established*. Objective: There is a fund to allocate adequate financial means for the successful implementation off the policy document and the roadmap.

Most relevant to the present project are Policy areas 2, 5 and 6. Under policy area 2, Sub-goal 2.2 proposes that “2.2 Mercury-free methods have been investigated and are available”. The present project supports this sub-goal by investigating what mercury-free methods will be suitable to mine the deposits on a to-be-selected mining site. The project will also test and evaluate these methods.

Under policy area 5, Sub-goal 5.2 is that “5.2 the use of mercury and mercury compounds and the emission by ASGM is less and where possible prohibited”. One of the proposed actions to achieve this goal is to “develop strategies for ... promoting the reduction of mercury emissions and promote mercury-free methods”. In addition, sub-goal 5.3 “Mercury-free alternatives are being implemented” will be pursued by “promot[ing] the knowledge, best practices in environment, and alternative technologies that are environmentally friendly, technically, socially and economically viable”. Again, by working with a group of ASGM mineral producers on de development of environmentally and socially more responsible ASGM methods will directly benefit this policy area.

Finally, policy area 6, sub-goal 6.2 reads: “[T]here is an exchange of scientific, technical, economic, legal, health and environmental information about mercury. By closely working with ASGM producers on alternative, mercury-free methodologies, there will be ample opportunity to develop a mercury awareness message that appeals to the target population.

The ratification of the Minamata Convention, has not had immediate consequences for the Suriname mercury market. At this moment, Suriname is completing all required instruments to start the process of phasing out mercury from its various applications. The country has achieved and validated the Mercury Inventory level I (2016) and II (2018), as well as the Minamata Initial Assessment (MIA, 2000). NIMOS now is working to prepare the National Action Plan (NAP). As the implementing partner, NIMOS will establish the Suriname NAP Working Group (SNWG) to guide this process in Suriname. The purpose of the SNWG is to assist NIMOS as Implementing Partner of the NAP project in Suriname in the development of Suriname’s first NAP under the Minamata Convention in accordance with article 7 and Annex C of the Convention³⁴. Once these documents are approved, it will become clearer when, how, and by whom the various elements of the roadmap will be implemented.

³⁴ F. Hausil, pers. com. (e-mail), 23/07/20

Figure 2. Laws and regulation dictating organization of the mining sector, with particular emphasis on ASGM. It is necessary to reinforce the description of the requirements demanded of small mining in technical, occupational health and safety, and environmental matters, as well as to access the formal exercise of mining activity.

Law	Article	Wording	Implications for a legal and Hg-free ASGM supply chain
Constitution of the Republic of Suriname (<i>Grondwet van de Republiek Suriname</i>) S.B. 1987 no.116 last amended by S.B. 1992 no.38.	41	The nation has the inalienable right to fully take possession of the natural resources as to use these for the benefit of economic, social, and cultural development of Suriname	Indigenous and Maroon communities cannot legally claim sub-surface rights to mineral resources within their customary living and user areas.
Mining Decree (<i>Decreet Mijnbouw</i>), SB 1986 no. 28 (S.B. 1997 no. 44)	2.6	It is forbidden to undertake any activities pertaining to mining without a permit granted by the Government	Any project with an ASGM operation that does not have a mining title risks to be considered “illegal mining”.
	11	Rights of reconnaissance and small-scale mining are not transferable and cannot be surrendered for rent or use. Exploration and exploitation rights may be entirely or partly transferred, or rendered for use or rent to a third party only after written permission from the authority that is authorized to grant the right.	Reconnaissance and Small-scale mining right: ASGM operations that operate on the concession of a third party are not operating legally. Same applies to Exploration and Exploitation rights, unless the Minister of Natural resources has issued permission.
	16, 17	Minimal provisions with regard to environmental protection and rehabilitation	No consequence for Hg-free mining project.
	47; 48	[E]ntitled parties and interested third parties of plots” (i.e. Indigenous Peoples and Maroons) must allow the concession holder to execute his activities on the designated areas.	National law offers minimal protection to the customary rights of Indigenous peoples and Maroons. These tribal groups, however, do claim exclusive and inalienable rights to the lands they live on and use for their livelihoods. The possible tensions that this situation creates in certain areas must be taken into account in selecting a Project area.
	36.3	Small-scale mining may only be exercised in areas designated by Ministerial order.	Very few of such areas have been designated, and existing ASGM “reserves” are not favoured by ASGM. This means that virtually any ASGM Project will, in contradiction to the law, take place outside of areas endorsed by the GOS.

Mining Decree (<i>Decreet Mijnbouw</i>), SB 1986 no. 28 (S.B. 1997 no. 44)	36.6	A small-scale mining right is only granted for a contiguous area no larger than 200 hectares.	Most concession titleholders have opted for much larger concession areas, i.e., other titles. <u>Hence there are very few areas with a small-scale mining title, and the Project will possibly have to be executed on an area that formally has been granted as a reconnaissance or exploration concession.</u>
Environmental Framework law. <i>Milieu Raamwet</i> S.B. 2020, No. 197.	27, 35	The NMA will establish norms concerning the production or release of contaminants into the environment by equipment and machinery. Each person or legal person that is executing an activity or process involving such dangerous substances is obliged to request a license from the NMA.	This new law reinforces the importance of working without mercury. If enforced, ASGM operations would be required to request a license to use mercury, which is unlikely to be obtained.
	Ch. V	Regulations with regard to Environmental and Social Impact Assessments	Project executing party must establish with NIMOS whether a (limited) ESIA study is required prior to execution of the project.
Nature Protection Act. <i>Natuurbeschermingswet</i> , (GB 1954, no.64)	5.a.	It is explicitly forbidden to afflict damage either on purpose or as a result of carelessness to the soil, natural beauty, fauna and flora of the nature reserve	The project may not be executed in an area that is a Nature Reserve.
Decree Negative List. <i>Besluit Negatieve Lijst</i> (S.B. 1999 no. 34, z.l.g. bij S.B.2006 no. 20)	NA	A special license is required in case of import of mercury	This law reinforces the importance of working without mercury. If enforced, using mercury would become illegal because it cannot be obtained from a legal supplier.
Hindrance Law. <i>Hinderwet</i> (G.B.1930 no. 64, last amended by S.B. 2001 no. 63)	1-1; 2.IX	A license is required for the establishment of a gold or silver shop. NIMOS developed guidelines aimed at protecting the health of workers.	This law reinforces the importance of working without mercury, from the side of the gold buyer.
Various labour laws: Safety Law (G.B. 1947 no. 142) Labour Inspection Decree (S.B. 1983 no.42), Occupational Accidents Regulation (G.B. 1947 no. 45)	Various	Activities That pose a threat to the safety or the health of the employees have to be abandoned. Employers may not expose their employees to harmful fumes of mercury	These labour laws reinforce the importance of working without mercury, as exposure of one's workers to mercury fumes is punishable under law.

Minamata Convention (Party since 2018)	7	Countries with artisanal gold mining that uses mercury will take steps to “reduce and, where feasible, eliminate the use of mercury” and mercury compounds in the process. These countries must develop and undertake a national action plan (NAP) no later than three (3) years after convention ratification.
	Annex C	Contains guidelines for preparation of the National Action Plan (NAP) as it related to phasing out mercury from ASGM. It specifies that listed worst practices must be eliminated including: whole ore amalgamation; open burning of amalgam; burning of amalgam in residential areas; and cyanide leaching in sediment, ore or tailing contaminated with mercury
Extractive Industries Transparency Initiative (EITI)		In 2017, Suriname joined the EITI, the global standard to promote the open and accountable management of extractive resources. The EITI Standard requires the disclosure of information along the extractive industry value chain from the point of extraction, to how revenues make their way through the government, and how they benefit the public

3 INSTITUTIONAL FRAMEWORK

3.1 GENERAL

The main institution responsible for gold mining in Suriname is the Ministry of Natural Resources, and its working arm, the Geology and Mining Department (*Geologisch Mijnbouwkundige Dienst*, GMD). The GMD has formally among its tasks geological mapping, inventory of Suriname's mineral reserves, advising the Minister of NH about mining rights, and the control thereof. The GMD also advises third parties about mining concession applications. Nowadays, in practice, tasks of the GMD with regard to gold mining are mostly the control and preparation of concession applications for the Ministry of Natural Resources. The GMD is severely understaffed and underfunded, and hence does not have the resources for undertaking actual field missions, maintaining field offices, or geological surveying.

Residing within the Cabinet of the President, the Commission for Regulation of the Gold Sector (*Ordering Goud Sector*, OGS) is specifically concerned with ASGM. OGS was installed in January 2011, with a mandate to reestablish government authority in ASGM areas in Suriname. Offices of both the GMD and OGS are located in Paramaribo. In addition, the OGS has detachments on 7 locations in the interior, namely:

- Iam Gold (Rosebel Gold Mines)
- Merian (Newmont)
- Sabajo Hill (Newmont)
- Weg naar Atjoni, km 14
- Weg naar Atjoni, km 58
- Lely Mountains
- Brokopondo Lake, at Alcatraz (near mouth of Saracreek)

Initially, it was foreseen that the Commission would provide support and services to ASGM miners through Mining Service Centers, where ASGM miners could go for technical advice, geological information, health services, citizen's registration, and so forth. In its initial years, the OGS was, among others, involved in registration of gold miners, and demonstrations of Hg-free gold mining equipment in different ASGM (service) areas (Snesi Kondre, White House, and Road to Atjoni Km 14). Due to budget cuts, these support activities have stopped, and the mining equipment that was used for demonstrations of hg-free mining was transferred to the School of Mines³⁵.

Nowadays, the function of OGS is mostly maintaining law and order in ASGM areas. Also, when there are conflicts, particularly between ASGM miners and mining title holders, the OGS steps in. In collaboration with the National Army and the Police Corps Suriname (KPS), OGS also evicts ASGM miners from areas where they are not allowed to work³⁶. Earlier research suggests that many ASGM miners distrust the OGS, and associate this organization with taxation, nepotism, and evictions (Heemskerk et al., 2014).

At present, the GoS, with financial and capacity support from the World Bank, is planning to merge the GMD and the Bauxite institute into a Minerals Institute Suriname (*Delfstoffen Instituut Suriname* – DIS). The objective is to create a financially and statutory independent institute (i.e. not residing under the Ministry

³⁵ Mr. J. Johan, Mine inspector and chef research and development at OGS, pers. com. 17/06/200

³⁶ Ibid.

of Natural Resources), which will be responsible for mining-related research; management and control of the mining sector; allocation and monitoring of mining rights; and providing advice to the Minister of natural Resources. A draft law *Instituut Verordening Delfstoffen* (Institute Regulation Minerals) has been submitted to Parliament, but due to the Covid-19 situation everything has been delayed³⁷.

3.2 ENVIRONMENTAL STRUCTURE

The main institutions involved in environmental regulation and control are the office Coordination Environment (*Coördinatie Milieu*) at the Cabinet of the President and the National Institute for Environment and Development Suriname (*Nationaal Instituut voor Milieu en Ontwikkeling Suriname* – NIMOS). As stipulated in the new Environmental Framework Law, these offices will be joined in a National Environmental Authority (*Nationale Milieuthoriteit* - NMA).

With regard to the mining sector, NIMOS oversees Environmental and Social Impact Assessment processes for the large-scale mining sector. In addition, NIMOS has been instrumental in moving Suriname towards ratification of the Minamata Convention, composed the Minamata Initial Assessment (MIA), and is the lead agency responsible for development of Suriname's National Action Plan (NAP) in the context of the Minamata Convention.

NIMOS also is, together with the Ministry of Natural Resources, the executing party for the project “Improving Environmental Management in the Mining Sector of Suriname, with Emphasis on Artisanal and Small-Scale Gold Mining” (EMSAGS). The EMSAGS project is a 7-year project that is primarily financed by the Global Environment Facility (GEF), through UNDP, for an amount of US\$ 7,589,041³⁸. The aim of the EMSAGS project is to improve environmental management of the ASGM sector, among others by fostering cooperation between the Surinamese government and small-scale miners. The four main activities are:

- Institutional strengthening, improved coordination and availability of funds for environmental management of ASGM;
- Improvement of policy for management and control of environmental impacts of ASGM;
- Enhance access to more environmentally responsible mining methods and techniques for gold miners;
- Knowledge and information exchange on the local, national and international levels.

(GCF nieuws, undated, see footnote 30).

3.3 INSTITUTIONS INVOLVED IN REGULATION OF MERCURY TRADE AND USE

There is no single one institution with a mandate to regulate and control the import and use of mercury; these responsibilities are spread out over a variety of government departments. As discussed in Chapter 2, the Suriname legal framework prohibits the import of mercury, but says little explicit on its use. Hence a key organization in terms of regulating mercury trade and use may be the customs department. In addition, with the new environmental framework law adopted, NIMOS and the office Coordination Environment at the Cabinet of the President have an important role to play with regard to the development of by-laws for the Environmental Framework law, and monitoring compliance with regulations.

³⁷ C. Griffith, Project Manager at Minerals Institute of Suriname, pers. com. 19/06/2020

³⁸ <https://www.gfcnieuws.com/project-voor-verbetering-milieubeheer-in-mijnbouwsector-suriname/>

3.4 EITI PROCESS

Suriname joined the Extractive Industries Transparency Initiative (EITI) in 2017. The Ministry of Natural Resources is focal point to implement the EITI; Already before 2017, the GMD started with making mining-related data more publicly available. For example, a map with the location of all concession titles was placed online.

By the end of 2019, the GoS made a significant step in terms of transparency of licenses in the mining sector, by launching an online system for its allocations. Previously, licensing in Suriname was handled through paper forms, but the portal launched by the government has allowed to mainstream the process by requiring applications to be submitted digitally. The applications can be tracked live throughout all the process, allowing anyone to consult this information. Consequently, the portal has improved the cadaster management and has made the data more easily accessible to the public³⁹.

Applicants can submit their materials via a portal, which allows them to see where the application is (what department). When documents are incomplete or not completed correctly, the applicant receives an e-mail notification. Because it is realized that not everyone has e-mail, the next step will be to develop a system to send out an SMS trigger. Hence, while the process towards more transparency was already underway, joining EITI has been useful particularly in securing government long term commitment to this process⁴⁰. For now, ASGM has not been considered in measures related to EITI⁴¹. The Minerals Institute is currently working on mapping this sector, with the intention to eventually bring the largest share of ASGM miners into the formal sector.

Table 2 presents a list of most relevant institutions and organizations, with their tasks and responsibilities related to ASGM.

³⁹ See EITI website for Suriname: eiti.org/Suriname

⁴⁰ R. Mahabier, GMD, and PIU for the transition from GMD to a Minerals Institute, pers. com. 09/06/20.

⁴¹ C. Griffith, Project Manager Mineral Institute, pers. com. 28/09/20.

Table 2. Regulatory framework: Institutions with their responsibilities⁴²

Name	Dutch name and abbreviation	Tasks and responsibilities
National Government		
Ministry of Natural Resources	Ministrie van Natuurlijke Hulpbronnen (NH)	Development and control of mining policies and regulations; granting reconnaissance, exploration, exploitation or small-scale mining rights to both small- and large-scale mining firms; Development, signing, and implementation of mineral agreements (<i>delfstoffenovereenkomst</i>) with the multinational mining companies.
Geology and Mining Department	Geologische Mijnbouwkundige Dienst (GMD)	The GMD falls under the Ministry of NH. Tasks of the GMD with regard to gold mining are currently mostly the control and preparation of concession applications for the Ministry of Natural Resources.
Bauxite Institute Suriname	Bauxiet Instituut Suriname (BIS)	Governs the country's bauxite sector.
Staatsolie	Staatsolie	The state oil and gas company
Commission Regulation of the Gold Sector	Comissie Ordening Goudsector (OGS)	Maintaining law and order, and law enforcement in ASGM areas, including evictions of ASGM; Conflict resolution in ASGM areas, incl. conflicts between ASGM miners and mining title holders.
Central Bank of Suriname	Centrale Bank van Suriname, CBvS	The CBvS registers gold that is legally exported from Suriname. Royalty on gold (2.75%) is paid by gold exporters to the CBvS.
Ministry of Labour	Ministerie van Arbeid	The Ministry of Labour maintains a database with all gold buying shops and executes control.
Medical Bureau of the Dept. of Labour Inspection, Ministry of Labour	Medisch Bureau, Arbeidsinspectie, Ministerie van Arbeid	As part of its task to safeguard safety, wellbeing and health on the work spot, the Medical Bureau is responsible for controlling gold buying agents on compliance with legal requirements with regard to Hg exposure at work. Up to 2016, the Medical Bureau has been taking sample measurements inside the shops, with the measurement instruments calibrated to reflect the work location norm. Due to a lack of resources, however, this program has been discontinued ⁴³ . In 2020, it was reported that this Bureau does not have an instrument to measure mercury vapours (GOS, 2020).

⁴² Adapted from Heemskerk, Negulic and Duijves, 2016

⁴³ Ibid.

Name	Dutch name and abbreviation	Tasks and responsibilities
The Central Lab of the Bureau Public Health care, Ministry of Health	Centraal Lab (CL), Bureau Openbare Gezondheidszorg, BOG	The BOG Central Lab measures the presence of mercury various kinds of samples, including water, fish, and sediments. Its focus, however, is on human exposure; hair, blood, urine. The lab is ISO certified and in the process of accreditation for medical analysis.
Coordination Environment, Cabinet of the President	<i>Coördinatie Milieu, Kabinet van de President</i>	The office for Coordination Environmental within the Cabinet of the President is the national coordination point for environmental issues in Suriname. Environmental policy is developed by the Environmental Office in close collaboration with NIMOS (see below)
National Institute for Environment and Development in Suriname.	<i>Nationaal Instituut voor Milieu en Ontwikkeling in Suriname, NIMOS</i>	NIMOS is an advisory body under the office of the President, and nationally accepted as a relevant and experienced institution. NIMOS serves as the practical working arm for the Environmental Office (i.e. performing field inspections) and has been instrumental in preparing Suriname for ratification of the Minamata Convention. Despite its lack of enforcement power, NIMOS is perceived as the national authority for ESIA processes, and it developed and administers the Environmental Assessment Guidelines Volume II – Mining (2005).
Currency Commission	<i>Deviezen-commissie</i>	This office has as its task to implement and control currency traffic regulations ⁴⁴ under auspices of the President of Suriname, who is responsible for the national currency policy. The Currency Committee also allocates permits for the use and possession of foreign currency and gold in Suriname, and extends licenses to gold buyers and exporters.
Ministry of Trade and Industry Economic Control Service	<i>Economische Controle Dienst, ECD</i>	The ECD executes field inspections when the Ministry receives a complaint about unlicensed gold buying. The ECD is legally authorized to undertake action, in collaboration with the police
The Department of Import/Export and Currency control, at the Ministry of Trade, Industry and Tourism	<i>Import/Export en deviezencontrole, IUD. Min. Handel en Industrie</i>	Controls and extends the gold export license on the basis of a delegated responsibility. The IUD also is responsible for providing the certificate for mercury import.

⁴⁴ The Currency Regulation (*Deviezenregeling*).

Name	Dutch name and abbreviation	Tasks and responsibilities
the Suriname Police Corps	<i>Korps Politie Suriname</i> – KPS	Control on compliance with the laws in general. The KPS works with the OGS during large evictions of ASGM miners from areas where they are not supposed to work. The KPS also operates at control posts/checkpoints on main access roads to ASGM areas, to control documents (insurance, drivers' license, nationality and residency status) and prevent smuggle and transport of illegal goods, including gold and mercury.
National Army	<i>Nationaal Leger</i>	Works with OGS during large evictions of ASGM miners. Has control posts in/near ASGM (service) areas along the Suriname-French Guiana border, notably in Tabiki a/d Lawa and Antonio do Brinco.
Suriname Customs department, within the Active Tax Division of the Ministry of Finance	<i>Douane Suriname, van de Actieve Dienst der Belastingen van het ministerie van Financiën</i>	The Customs Department is responsible for checking the correct levying of duties on import, export, and transit of goods in Suriname. Customs is active at border posts and at other inspection points where people and entities are checked on the possession and transport of illegal goods and substances, including mercury and gold.
District Government		
District government, headed by the District Commissioner	Districtsbestuur, geleid door de District Commissaris (DC)	The DC is the representative of the national government in the districts. In addition to the DC, the district government consists of District Secretaries and resort ⁴⁵ supervisors named Bestuursopzichter (BO) . The DC and his staff constitute the practical working arm of the Ministry of Regional Development (Regionale Ontwikkeling) in the interior districts. By law, the Ministry of NH has to ask for the DC's advice with regard to the extension of concession applications in his/her region. In practice, the DC is often not consulted.

⁴⁵ A resort is an administrative subdivision of a district

Name	Dutch name and abbreviation	Tasks and responsibilities
Gold mining title holders		
International firms; lam Gold and Newmont	Resp. Rosebel Gold Mines N.v. (RGM) and Surgold	Canadian mining firm IAMGOLD operates the RGM project in Brokopondo district. The Suriname government has a 5 percent stake in the Rosebel joint-venture. The Suriname Gold Company LLC (“Surgold”) ⁴⁶ mine at Merian is scheduled to go in production in August 2016. The State of Suriname, represented by Staatsolie Maatschappij Suriname N.V. (“Staatsolie”), has a fully-funded, 25 percent equity ownership stake in the Merian Gold Project. The locations of these multinational firms are indicated in Figure 21.
State mining company Grassalco N.V.	Grassalco	Grassalco is a Suriname state-owned mining company, established in 1971. Initially, Grassalco focused on bauxite mining, but nowadays, Grassalco primarily mines construction materials. In November 2014, Grassalco took a medium-scale gold mining plant in production at its gold mining concession at Maripaston, where it is processing the mine tailings (bakasanti) from ASGM operations that previously worked on the concession. In the meantime, Grassalco searches for unexploited ore deposits for a second stage. Grassalco works with gravimetric ore concentration without the use of mercury. The chemical borax is used in the final refining stage.
Foundation Mining Title Holders	Stichting Houders Mijnbouw Rechten (SHMR)	Organization representing the interests of a group of mining title holders
Other mining title holders	Est. 30-40 gold mining rights owners	Various, mostly urban Suriname residents, possess exploration, exploitation and small-scale gold mining rights. A copy of the map with mining titles could not be obtained. In theory, it is possible to view the concession map at the Ministry of NH, but to this date permission has not been granted to the consultant.
Traditional rights holders	Maroon and Indigenous comm. Members	Different Indigenous and Maroon tribal groups, clans, and extended families claim specified areas of the interior as their ancestral lands. When ASGM takes place on their lands, a (formal or self-appointed) representative of the land claim holder will request concession fee payment from the gold miners. These payments may also take place in kind, for example, fuel for the community generator.

⁴⁶ Surgold is a limited liability company fully owned by Newmont Mining Corporation.

Name	Dutch name and abbreviation	Tasks and responsibilities
Education institutes		
University of Suriname; Technical college	<i>Anton de Kom (ADEK) Universiteit van Suriname; Natuurtechnisch Instituut (NATIN)</i>	Both ADEK and NATIN offer a study in mining (respectively BSc or non-degree mining diploma). At the ADEK department of Physics, Mr. Wip has a special interest in the measurement of atmospheric mercury, as well as measurement of mercury in plants and food crops. Among others, he has alerted policy makers and the national public to the high atmospheric Hg levels around gold buying houses in residential neighbourhoods.
School of Geology and Mining Technology	SGMT, at the University of Applied Sciences and Technology (UNASAT)	Since 2015, the SGMT at UNASAT offers 6-month bachelor level courses on mercury-free gold mining technologies for graduates of the secondary technical school NATIN and bachelor students of mining. The course teaches competencies to work Hg-free in exploration, concentration and purification phases of gold mining.
Civil Society organizations		
Gold miners' association of Nieuw Koffiekamp	Makambo	Small-scale gold miners' interest group from the Ndyuka Maroon village of Nieuw Koffiekamp. Members do not work together cooperatively, but they do negotiate as a group about working conditions and rights with Rosebel Gold mines (Iam Gold).
Federation of small-scale gold miners in Suriname	Federatie van Kleinschalige Gouddelvers in Suriname	Loosely organized group of ASGM gold miners, which is mostly inactive.
<i>Suriname Environmental and Mining Foundation</i>	<i>Stichting Suriname Environmental and Mining Foundation (SEMIF)</i>	Founded in 2008 by financing from Rosebel Gold Mines, SEMIF finances projects that aim to sustainable development and innovation in the mining sector. RGM has committed to a contribution of 0.25% of its gold production to SEMIF.
Players in the gold marketing chain		
Gold Buyers	Goudkopers	Nine firms received a gold buying license. Virtually all gold buying offices are located in Paramaribo, with the exception of offices in Albina and Antonio do Brinco. Gold offered for sale to the buyer is burned to remove impurities (mostly residual mercury) and to determine fineness. Buyers pay the world market price of gold, minus 6-7 percent for royalty (2.75%) and overhead costs.
Gold exporters	Goud Exporteurs	Since 2002, the CBvS has delegated its task as gold exporter to private companies. Of the nine firms with a gold buying license, six also have an export license. The other three firms sell the

		gold they purchase to one of the legal exporters. One of the exporters does not have any buying houses, but has an agreement with one of the gold buyers to buy all its gold.
Kaloti Suriname Mint House		Gold exporters are obliged to clean and calibrate gold at the Kaloti Suriname Mint House prior to export ⁴⁷ . Based on the results, Kaloti provides a proof of purity and royalty, which is used by the exporter to pay tax. One exporter does not work with Kaloti but has its gold calibrated by the CBvS to determine the amount of royalty payment.
Active Projects		
Improving Environmental Management in the Mining Sector of Suriname, with emphasis on Gold Mining	EMSAGS	7-year Global Environmental Facility (GEF)-funded project, which will be executed by the Ministry of Natural resources and NIMOS. Its objective is to improve environmental management in the mining sector, specifically in small-scale gold mining. Its four main activities are: <ul style="list-style-type: none"> ▪ Institutional strengthening, improved coordination and availability of funds for environmental management of independent and small-scale gold mining ▪ Strengthening of policies for management and control of environmental impacts of independent and small-scale gold mining; ▪ Introduction and use of environmentally responsible mining practices and technologies; ▪ Exchange of knowledge and information on local, and national and international levels.
Artisanal Gold Council	AGC	A United States Department of State (US-DOS)-funded project that is currently being executed by the Artisanal Gold Council. This project aims to assist small-scale miners in adopting more profitable and environmentally friendly mercury-free processing techniques that will serve as a demonstration for other small-scale miners, and contribute to more trustful interactions within the community. The proposed project aims to introduce mercury-free processing and mercury remediation technologies and methods to Suriname via the construction and deployment of a mobile mercury-free processing system that will be capable of being relocated to remote ASGM locations.

⁴⁷ Presidential Decree of 29 December, 2015, on payment of royalty in small-scale gold mining and the exploitation of building materials (*Presidentieel Staatsbesluit van 29 december 2015, houdende andere wijziging van het Besluit Royalty Kleinmijnbouw terzaken van Goud en Exploitatie bouwmaterialen (S.B. 1989 no 40, zoals laatstelijk gewijzigd bij S.B. 2015 no 51.)*)

4 BARRIERS AND OPPORTUNITIES FOR THE OPERATION OF A LEGAL AND MERCURY-FREE ASGM SUPPLY CHAIN

This section describes the barriers and opportunities that the Suriname legal and regulatory framework creates for the operation of a legal and mercury free ASGM supply chain. Opportunities are mostly related to the increasing national government interest in promoting mercury-free ASGM, as recently exemplified by signing of the Minamata Convention. Barriers mainly relate to the lack of an adequate legal and institutional framework for ASGM, which facilitates nepotism and corruption in this sector.

4.1 BARRIERS

4.1.1 Finding a legal ASGM site or operation

ASGM operations in Suriname By far, the largest share of ASGM in Suriname takes place in mining areas that have been allocated under large-scale mining titles (reconnaissance, exploration, or exploitation). ASGM miners who work in these areas typically pay a fee to the legal or de facto landowner for the right to mine in that specific location. The same occurs with the few areas that have been allocated as small-scale mining areas; gold miners other than the title holder are usually “leasing” an area to mine. This practice is not legal under the Suriname mining law, unless with specific permission from the minister of Natural Resources – which typically is not requested. As a result, it will be challenging to find an active ASGM operation that is 100% legal. This has obvious consequences for the marketing of “responsible” gold.

Possible ways to overcome barriers

- Work with a titleholder who has obtained government permission to have ASGM working on their concession area, for example, Newmont Suriname.
- Obtain, as a project, explicit government (Min. Natural Resources) permission to execute this project with ASGM workers in a specific area.
- Work with an ASGM operation that has obtained legal title, e.g. Nana Resources.

4.1.2 Informality of the ASGM sector

ASGM is not addressed in the Mining Decree, and legislative action is slow. As a result, The ASGM sector remains largely informal, a major impediment to environmental and social protection and a source of significant lost revenues.

4.1.3 Lack of mining title inhibits motivation to invest in long-term mine planning

Moreover, ASGM miners’ lack of title not only may inhibits possible certification of ASGM gold, it also limits motivation to invest in long-term mine planning. Reducing environmental impacts of mining requires proper prospecting, improved buildup of the mine, and tailings management. Time and financial investment in these features only make sense if the miners have the confidence that he can continue to work in an area in the next couple of years. Without the mining title, the time someone will be able to work in a location remains uncertain.

4.1.4 Limited number of suitable areas that have been designated small-scale mining areas by the GoS.

By law, small-scale mining may only be exercised in areas designated by Ministerial order. In practice, very few areas have been reserved for ASGM (Approx. 4⁴⁸). Moreover, some of the areas that were designated as “small-scale mining reserve” do not hold gold deposits that can be viably mined by artisanal mineral producers. In fact, most ASGM miners are not even informed about these reserve areas, and those that do know about them, typically have no desire to move there.

4.1.5 Lack of local, successful, long-term programs aimed at transforming the ASGM sector into a completely legal and responsible mining sector.

Training, education and awareness raising campaigns on understanding and reducing the negative social and environmental impacts of ASGM have been mostly short-lived and largely ineffective. There are no mechanisms in place to improve the savings of artisanal miners. Currently, there are no efforts in place to encourage initiatives for fair trade or conflict-free certification of minerals.

4.1.6 No legal prohibitions on the use of mercury in ASGM, including whole ore amalgamation and open air burning.

The current mining law is extremely limited in environmental regulations. It does not contain regulations with regard to the use of mercury. The new Environmental Framework law will have more options for enforcement of environmental protection, but the specific bylaws regarding mercury use in ASGM have not yet been defined. Hence at this moment, worst practices such as whole ore amalgamation and open-air burning of mercury are not however, legally prohibited.

4.1.7 No legal requirements with regard to basic rules of health and safety at work, and use of personal protective equipment at work.

The current mining law does not contain specified regulations with regard to health and safety, and the use of Personal Protective Equipment (PPE). While ASGM miners often use some form of protection, such as rubber boots and long sleeves and pants, neither the mine boss nor the government enforce safety standards in ASGM areas. In order to be considered for CRAFT certification, mines must apply basic health and safety regulations.

4.1.8 Limited presence of enforcement officers in ASGM areas

Neither OGS, nor the GMD or other government agencies⁴⁹ have long-term, consistent presence in the ASGM areas. As a result, the enforcement of regulations in ASGM areas is at best haphazard, and often non-existent. Also, there are no government workers in the ASGM areas who provide support to mining communities, such as advice on geological or technical issues. This situation makes it difficult to enforce and monitor best practices systematically.

4.1.9 Limited trust of ASGM miners in government departments responsible for regulation in ASGM areas.

For reasons of sustainability, it would be useful if, eventually, monitoring and elaboration of the Hg-free mining project could be transferred to a government department. The government department for the

⁴⁸ Two areas are located along the road to Atjoni, Brokopondo district, one is located bordering the Newmont concession in Sipaliwini.

⁴⁹ An exception is the Suriname Ministry of Health Malaria Program, which has worked with ASM communities for the past 10 years, and is

regulation of the gold sector (OGS), however, is distrusted by many ASGM miners (Heemskerk et al., 2014). Therefore, collaboration with this entity is not a preferred option.

4.2 OPPORTUNITIES

4.2.1 Working towards an Hg-free ASGM sector is formally a policy objective

In Suriname, the Multi-Annual Development Plan is an official document required by Parliament to approve annual budgets. The 2017 – 2021 Plan (“OP 2017 – 2021”) explicitly states among its policy objectives: “Minimizing the environmental impact of mining activities, for example through the encouragement of mercury-free mining”. This context enhances the probability that the GoS is interested in, and will support –most likely in kind- the planned WWF/ARM Hg-free mining project.

4.2.2 Accession to the Minamata convention

Recent signing of the Minamata convention and current related efforts to develop a National Action Plan motivate the Government of Suriname (GoS) to plan for phasing out mercury from the ASGM sector. This context enhances the probability that the GoS is interested in, and will support –most likely in kind- the planned WWF/ARM Hg-free mining project.

4.2.3 Suriname became an Extractive Industries Transparency Initiative (EITI) implementing country

As an EITI implementing country, data about the Suriname gold mining sector – particularly with regard to concession allocation- has become more readily accessible. For planning purposes, this will make it easier to detect what areas have been given out in concession, and the exact concession boundaries. In addition, being party to the EITI will provide guarantees for participation and/or endorsement by the GoS. The International EITI Secretariat has raised the importance of directing efforts to reduce corruption and open data of its priorities.

4.2.4 Environmental Framework law

While the Environmental Framework Law needs to be further implemented by formulating specific implementation regulations , it already provides sufficient legal context for regulating or prohibiting the use of mercury in ASGM. The development of a more specific implementation law will be a matter of time. Such developments in the legal framework may, if accompanied by actual enforcement, motivate gold miners to more proactively seek out ways to reduce or eliminate mercury use in their operations.

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