

DEVELOPMENT OF NATIONAL ACTION PLAN FOR ARTISANAL AND SMALL-SCALE GOLD MINING (ASGM) IN THE CO-OPERATIVE REPUBLIC OF GUYANA

TERMS OF REFERENCE

LEGAL AND INSTITUTIONAL CAPACITY EXPERT

REF. NO: #BCRC_10153_2021_001

BACKGROUND

The Minamata Convention on Mercury was adopted in October 2013 and entered into force on August 16, 2017. To date, there are one hundred and twenty-seven (127) countries as Parties to the Convention, including Guyana. One of the major highlights of the Convention includes the international regulation of the artisanal and small-scale gold mining (ASGM) sector. According to Article 7 of the Minamata Convention, a Party that has ASGM and processing within its territory shall take steps to reduce, and where feasible, eliminate, the use of mercury and mercury compounds in its processes as well as its emissions and releases to the environment. Guyana has notified the Minamata Secretariat that “artisanal and small-scale gold mining and processing in its territory is more than insignificant”.

In 2016, the Government of Guyana completed the Minamata Initial Assessment (MIA) which highlighted the ASGM sector as the sector that uses the largest quantity of mercury and several priorities were outlined for action to implement the Minamata Convention’s obligations for this sector. In the drafting of its first draft National Action Plan (now unofficially referred to as the national implementation plan) in December 2017, a ten (10) year phased reduction of the use of mercury in the ASGM to support the sound management of mercury from all major sources in Guyana. Within the plan, the goal of a phased reduction in the use of mercury in artisanal, small and medium-scale gold mines to 75% of baseline consumption by 2027 was identified.

The Global Environment Facility (GEF) funded and UNEP implemented project, the “Development of the National Action Plan for ASGM in the Co-operative Republic of Guyana” (NAP Guyana) which was developed to assist Guyana to determine a strategy for the reduction, and where feasible, elimination of the use of mercury and mercury compounds, and the emissions and releases to the environment of mercury from ASGM activities in the country.

This will include activities to raise national awareness on the use of mercury in artisanal and small-scale gold mining and build national capacity for the implementation of the National Action Plan for the ASGM sector and the Minamata Convention in alignment with the country's proposed 10-year phased reduction plan.

The National Action Plan shall be developed in accordance with Annex C of the Minamata Convention and Guyana shall submit its Plan to the Secretariat of the Minamata Convention by August 2021.

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COMPONENTS AND ACTIVITIES OF THE PROJECT

The overall project components and their related activities are:

1. *Global Technical Support for National Action Plan Development*

- 1.1 Training and guidance provided to relevant national stakeholders in Guyana to develop and implement a NAP as per Annex C of the Minamata Convention

2. *National Action Plan Development*

- 2.1 National Action Plan developed as per Annex C of the Minamata Convention

3. *Monitoring and Evaluation*

- 3.1 Status of project implementation and probity of use of funds accessed on a regular basis and communicated to the GEF;
- 3.2 Independent terminal review developed and made publicly available.

The project began in August 2019 followed by the National Inception Workshop and Training of national consultants held in November 2019. The national consultants¹ are tasked with establishing a national overview of the ASGM sector and proposing relevant strategies for its management in order to assist the Government of Guyana to develop the NAP in compliance with the Minamata Convention. The consultants consist of:

- ASGM Inventory Consultant
- Legal and Institutional Capacity Consultant
- Socio-economic Consultant
- Public Health Consultant

Preliminary stakeholder engagement and data collection commenced in January 2020; however, activities slowed during the months of March to August 2020 due to the onset of the pandemic and political situation in Guyana. To date, the consultants have developed their Literature Reviews and are currently in the process of conducting field research/ data collection.

DESCRIPTION OF REQUIRED SERVICES FOR THIS CONSULTANCY

The Basel Convention Regional Centre-Caribbean (BCRC- Caribbean) in collaboration with the Ministry of Natural Resources (MNR), is seeking to recruit a suitably qualified **Legal and Institutional Capacity Consultant(s)** to continue the assessment on the current legal and regulatory status of the ASGM sector nationally. Please note that the first Legal and Institutional Capacity Consultant hired in November 2019 had to withdraw from the project. However, the preliminary data collected, draft literature review, draft assessment report and national working group meeting notes will be made available for the continuation of the scope of works required under this consultancy. This will include:

1. A literature review to cover the relevant documentation including but not limited to, existing policy document, reports of previous relevant studies and laws and regulations that govern ASGM. The Consultant will be expected to review the data gaps of the previously

¹ Terms of Reference for all national consultants are available at: [Guyana-based Consultancy Notice](#)

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developed draft Literature Review and incorporate feedback from national stakeholders for finalisation of a completed Literature Review document;

2. The review and update, where necessary, of the legislative and institutional assessment of the ASGM sector conducted previously under the 2016 MIA Project and proposed phased reduction plan; and
3. The development of a strategy document inclusive of steps to facilitate the legislative and institutional formalisation or regulation of the ASGM sector in accordance with the relevant obligations outlined in the Minamata Convention. This strategy document should include a draft regulatory framework and accompanying briefing/explanatory memo.

The national consultants will be expected to collaborate or coordinate activities including the development of strategies in accordance with Annex C of the Minamata Convention in order to ensure the efficient execution of the project.

For the review and development of the strategy document, the Legal and Institutional Capacity Consultant, under the guidance of the BCRC-Caribbean and the MNR, **is expected to:**

- (a) Examine the existing related structures, institutions, policies and regulations in the ASGM sector;
- (b) Review the existing legislation and identify gaps for meeting the relevant Minamata Convention requirements and provide initial technical recommendations on proposed amendments, inclusive of a probable timeframe. This should also include the review of the relevant outputs of the Minamata Initial Assessment project and the first draft National Action developed;
- (c) Critically review the roles of institutions, including but not limited to, ministries, agencies and key stakeholder sector organisations in the ASGM landscape of Guyana. Stakeholder engagement meetings should be conducted by the Consultant(s) to aid in this process;
- (d) Identify existing capacity gaps and provide recommendations for comprehensive management of mercury issues in the ASGM sector at each identified organisation and identify a probable timeframe for the identified organisations to implement the measures recommended;
- (e) Identify legislative and institutional barriers to the reduction, and where feasible, elimination of the use of mercury and mercury compounds in the ASGM sector and provide concomitant recommendations for the removal of such barriers, inclusive of a probable timeframe for the Government of Guyana to put measures in place to remove the barriers identified;
- (f) Highlight the positive and negative implications of any recommendations detailed in (d) and (e) above.
- (g) Prepare a legislative and regulatory strategy document inclusive of a draft regulatory framework and briefing/explanatory memo that can be used to inform Government decisions for implementation of the Minamata Convention, with particular regards to the obligations under Article 7.

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(h) Provide input on the development of related formalisation strategies for the ASGM sector in accordance with Annex C of the Minamata Convention led by other national consultants in the consortium.

NOTE: *Cognizant of the ongoing Covid-19 pandemic, the Consultant(s)/Consulting Firm will be expected to follow all necessary protocols to ensure their own health and safety throughout the period of engagement.*

OUTPUTS AND DELIVERABLES

The Consultant(s) under the guidance of, and reporting directly to the BCRC-Caribbean and the MNR, is expected to:

1. Develop a work plan outlining the work and indicators for the development of the listed required services of the consultancy;
2. Develop a literature review to cover the relevant documentation including but not limited to, existing policy documents, reports of previous relevant studies and laws and regulations that govern ASGM. The Consultant will be expected to review the data gaps of the previously developed draft Literature Review and incorporate feedback from national stakeholders for finalisation of a completed Literature Review document;
3. Conduct a review of the legislative and institutional assessment of the ASGM sector conducted previously under the 2016 MIA Project and proposed phased reduction plan;
4. Consult with the National Working Group, and relevant stakeholders on relevant existing structures, institutions, policies and regulations to further inform related recommendations for the ASGM sector²;
5. Submit monthly progress reports based on initial assessments and inclusive of any amendments to the work-plan if deemed necessary;
6. Provide draft reports, as deemed necessary, for review by the National Working Group and make amendments based on their feedback;
7. Submit a strategy report for the policy, legal and regulatory framework which will assist in formulating a formalisation strategy for the ASGM sector and should include:
 - A review and analysis of the existing mining and mercury policies, laws and regulations that govern ASGM, as well as the level of institutional support available for implementation and enforcement;
 - Identification and analysis of national needs and gaps for the implementation of ASGM management as stipulated under the Minamata Convention;
 - Development of a mainstreaming strategy of the national mercury priority interventions in national policies and plans,
 - Development of recommendations detailed in an Action Plan towards eventual mercury phase-out in the ASGM sector.

² During the field work conducted by the other national consultants, technical, social and economic barriers may also be identified that could impact the legislative and institutional recommendations. Collaboration and coordination for information sharing is therefore expected in order to enhance the overall level of work.

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8. Prepare a draft regulatory framework and briefing/explanatory memorandum.
9. Collaborate with the national consultants to propose a formalisation strategy for the ASGM sector in accordance with the NAP guidance provided.
10. Participate in meetings and national project workshops as deemed necessary by the BCRC-Caribbean and the MNR.

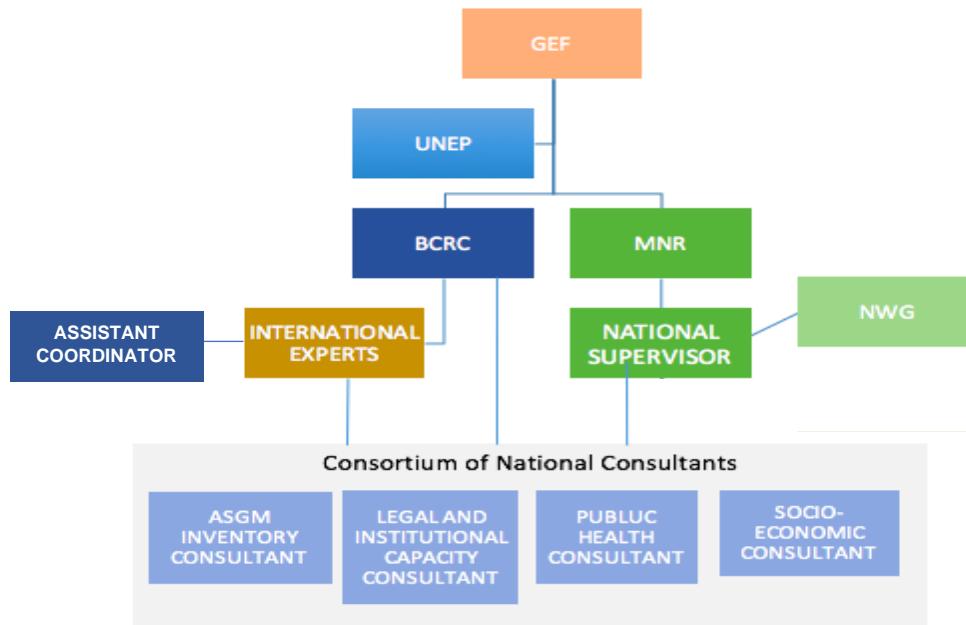
The tentative project schedule and anticipated consultancy activities are as follows:

Key Consultancy Participation Activities and Outputs	Tentative 2021 Timeline (subject to revision)
Expected start date	February 22
Planning of tasks and revision of Workplan (originally submitted in Technical Proposal) if needed	February 22 – 26
Introductory meeting to project team inclusive of national and international consultants	February 24 – March 3
Submission of draft Literature Review (<i>to be reviewed and validated by stakeholders and revised by Consultancy if needed.</i>)	March 10
Participation at National Working Group meeting to present findings to key stakeholders	March 11
Submission of Analysis Report as outlined in item #3 above (<i>to be reviewed and validated by stakeholders and revised by Consultancy if needed.</i>)	April 7
Participation in National Working Group meeting to update on progress of consultancy	April 14
Submission of draft strategies for the legal component of the National Action Plan as outlined in item #7	April 30 – May 10
Submission of final strategies for the legal component of the National Action Plan as outlined in item #7 and draft regulatory framework and briefing document as outlined in item #8	May 21 – May 31

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PROJECT ORGANISATIONAL STRUCTURE



QUALIFICATIONS, EXPERIENCE AND SKILLS

Functional competencies:

- Strong interpersonal skills, communication and diplomatic skills, ability to work in a team;
- Capacity building skills;
- Excellent writing and reporting skills;
- Good presentation skills; and
- Ability to work under pressure and stressful situations and meet tight deadlines.

Education and Experience:

- Bachelor's Degree in Law (Master's Degree in Environmental Law, Environmental Governance, Public Policy, or related fields would be an asset);
- Minimum 10 years' professional experience in the area of Environmental Governance, National Environmental Policy and Regulatory Frameworks, or related fields;
- Demonstrated experience in Legislative Drafting;
- Demonstrated experience in mainstreaming strategies, policy review and recommendations;
- Demonstrated experience in institutional capacity building and strengthening in multi-stakeholder setting;
- Demonstrated experience in environmental policy reviews is an asset;
- Demonstrated experience working with the local and/or regional governments, research institutes and diverse stakeholder groups for a minimum of 5 years;
- Good understanding of the Minamata Convention on Mercury;

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- Experience with Multilateral Environmental Agreements (e.g. Basel, Rotterdam and/or Stockholm Conventions) is an asset;
- Experience in working with international organisations is an asset; and
- Proficiency in the use of Microsoft Office

DURATION OF THE CONSULTANCY

The duration of the consultancy is approximately five (5) months. The successful candidate will be expected to start work as of **February 22, 2021**.

PAYMENT

Payment shall be made in instalments based on key deliverables identified within the contract. The anticipated consultancy fees shall not exceed a sum total of **USD \$20,000.00** inclusive of operational expenses.

DOCUMENTS TO BE INCLUDED WHEN SUBMITTING THE PROPOSAL

1. Technical Proposal describing how one will approach and complete the assignment. This should include the Consultant's methodology and work implementation plan, qualifications and experience of personnel, and non-financial resources to be assigned;
2. Curriculum Vitae (CV) inclusive of the contact information for at least three (3) references for previous relevant project/work experience;
3. Financial Proposal, which is to be separated into the Consultant's fees and expenses in United States (US) Dollars, matched up against key milestones and deliverables;

QUERIES

Interested bidders may submit all queries via email to:

Ms. Laura Teixeira Project Execution Officer BCRC-Caribbean Email: laura.teixeira@bcrc-caribbean.org Phone: (868) 628-3829 / 9372	Ms. Mariscia Charles Policy Analyst, Ministry of Natural Resources Email: mcharles@nre.gov.gy Phone: (592) 231-2519 ext. 252
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BID SUBMISSION

Interested bidders are invited to apply by submitting a detailed proposal *via email* to:

Ms. Jewel Batchasingh

Director (Ag.)
Basel Convention Regional Centre for Training and
Technology Transfer for the Caribbean
#8 Alexandra Street, St. Clair,
Port-of-Spain,
Trinidad and Tobago.
Email: jewel.batchasingh@bcrc-caribbean.org

and CC. laura.teixeira@bcrc-caribbean.org and mcharles@nre.gov.gy

Parties consenting to be served by the Centre:

The deadline for the submission of proposals is **11:59 pm (GMT -4) on February 16th, 2021.**

NOTES:

- *The working language of the BCRC-Caribbean is English.*
- *When submitting bids, bidders must ensure that all documents are labelled clearly.*
- *Bid documents shall remain the property of the BCRC-Caribbean.*
- *The BCRC-Caribbean reserves the right to reject any application if any information provided is found to be a misrepresentation, exaggeration or complete falsification and to cancel the bidding process and reject all bids, at any time prior to the award of Contract, without thereby incurring any liability to the affected bidder.*
- *The successful bidder will be notified in writing of the award of contract and provided with an authorization to proceed. The successful bidder shall be required to enter into an appropriate Contract on the basis of the tender documents and incorporating any other appropriate provisions within that period of time.*

USEFUL LINK: [Guidance Document](#)

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