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MINISTRY
OF MINING



ARTISANAL AND SMALL-SCALE MINING ORGANIZATION IN MONGOLIA

(Conventional Handout)

Sustainable Artisanal Mining Project
2016



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To: Artisanal and Small-Scale Miners

When people engaged in gold mining were asked if they were able to extract gold in the areas in which they worked, some said: *"Yes, we can, but it's hard because we're often evicted from these areas"*; others said: *"These people are really disturbing the land"*. Those engaged in artisanal and small-scale mining (ASM) are used to working in informal groups, such as "Dorj's Brigade" and "The Tosons of Zavkhan", staying close to their relatives and others from their hometowns. Based on their explanations and interpretations of the recently approved law, it's evident that the employment and environmental issues related to **artisanal and small-scale mining** have been neglected and that inclusive legal and regulatory frameworks are still required.

However, occupational health and safety requirements, and compliance with those requirements, has improved and the legal environment for environmental restoration and protection has been established with the adoption of such legislative and regulatory acts as the revised Minerals Law (July 1, 2010), the Regulation for Minerals Extraction by Artisanal and Small-Scale Mining (Government Resolution No. 308, December 1, 2010), and the General Rules for Occupational Safety in Artisanal and Small-Scale Mines (Mineral Resources Authority of Mongolia, April 2010).

In accordance with these provisions, artisanal and small-scale miners are required to be organised into **unregistered partnerships**, as well as be covered by social and health insurance, pay personal income tax, comply with occupational health and safety standards, and perform environmental rehabilitation of the areas they have mined. These requirements are focused on protecting the lives and health of artisanal and small-scale miners and improving their access to social services. These responsibilities also serve to mitigate negative public perceptions of ASM. In terms



of livelihoods, people who are unemployed are now able to legally earn an income from ASM operations.

One of key objectives of the Sustainable Artisanal Mining (SAM) Project, funded by the Swiss Agency for Development and Co-operation (SDC), is to facilitate and support formal organisation among artisanal and small-scale miners who are engaged in the extraction of gold, fluorspar and coal without any form of organisation or operational rules and regulations.

This booklet provides information on the rights and responsibilities of artisanal and small-scale miners who are willing to legally engage in ASM operations.



Unregistered Partnerships of Artisanal and Small-Scale Miners

1. Organisational Form and Structure of Partnerships What is artisanal and small-scale mining (ASM)?

Anyone engaged in, or willing to engage in, ASM should be aware of the legal definition and interpretation of ASM.

Article 4.1.23 of Mongolia's Law on Minerals states: *"Artisanal and small-scale mining" shall mean the activities of individuals undertaken by an unregistered partnership established as stated in Article 481.1 of the Mongolian Civil Code for the purpose of extracting minerals from the deposits of non-commercial and non-economic value and artificial deposits formed by extraction and technological waste and areas of mineral occurrence, allocated for the purposes stated in Article 16.1.11 of the Mongolian Law on Land.*

As stated, artisanal and small-scale miners should be organised into unregistered partnerships in order to legally engage in the extraction of minerals.

Establishing a partnership

People who are either engaged in or willing to engage in ASM for the extraction of gold, fluorspar, coal and precious stones are responsible for being organised under the revised Minerals Law (July 1, 2010) and the Regulation for Minerals Extraction by Artisanal and Small-Scale Mining (Approved by the Government Resolution No. 308).

Clause 481.1 of Article 481 of the Civil Code states: "Several persons may run an operation being organised into a form of association and partnership on a contract for cooperation. This form of organisation shall not be a subject to state registration and its members shall agree on and define its organisational structure

and form.”

The following are requirements for membership in a partnership:

- To be a citizen of Mongolia
- To be a minimum of 18 years of age
- To be a resident of the area or be registered as a resident of the area in which extraction is to take place
- To agree to the partnership’s rules and contracts for cooperation and sign a contract
- To pay tax and insurance

Written cooperation agreements among members of a partnership

People have the right to extract minerals by ASM when they are organised into partnerships and have signed written cooperation agreements among themselves and contracts for the extraction of mineral resources with their local governments. Cooperation agreements are signed by each person joining a partnership, and a copy of the agreement should be kept by each signatory. The agreements regulate operations and the retaining of investments by combining a portion of their assets and labour contributions in order to make a profit, as well as administering profit expenditures and distributions. Agreements must include the following:

1. The names and addresses of the parties who are signatories to the agreement (full names, addresses and copies of identification cards to be attached).
2. The overall directions and objectives of the cooperation (type(s) of mineral to be extracted by ASM and options to increase income, engage in land restoration and comply with occupational health and safety regulations).
3. The rights and responsibilities of the parties (the responsibilities of members, the authority to oversee, liabilities, and tax and insurance payments).

4. Management structure, power and responsibilities (members' meetings, attendance, the selection of partnership leaders and representatives authorised to spend mutual funds, and the monitoring and oversight processes).
5. Procedures for benefits and loss distributions (membership fees, contributions, the distribution of benefits, the distribution of profits against contributions or the distribution of profits via negotiation, and the distribution of losses incurred).
6. Procedures for terminating, expelling or leaving the agreement (a party asks to leave; a party is expelled for breaching the agreement; distributing portions of mutual funds when a party leaves the agreement; and regulatory actions for a party's non-compliance).
7. The duration of the agreement (the date the agreement was concluded/issued, the effective duration of the agreement, and the location of the agreement signing).
8. Justification(s) for the termination of the agreement and the procedure for the distribution of mutual funds (the final date of the agreement, the decision of the parties convened, a statement on the allocation of mutual funds to cover bankruptcy payments or death, the registration and distribution of the remaining funds, and the allocation and performance of expected or unfulfilled obligations by parties when the agreement comes to an end).

People wanting to establish a partnership can voluntarily join and enter into an agreement without being compelled or forced by others. A party can exercise a preferential right against his/her contribution which should be reflected in the agreement.

Approving a partnership's bylaws (statutes)

In addition to a cooperation agreement, partnership members must agree on and approve the bylaws (statutes) to be observed for its operations. Those bylaws (statutes) must stipulate that all

partnership members are required to comply with the General Rules for Occupational Safety in Artisanal and Small-Scale Mines (approved by Mineral Resources Authority of Mongolia Chairperson's Order No. 153 in 2011) and the Instructions for Technical and Biological Rehabilitation in Those Areas Affected by ASM Operations.

The bylaws should also stipulate the obligations and responsibilities of partnership members, including working hours, the requirements to be met in daily operations, when and how tax and insurance are paid, and the keeping of records on the saving and spending of mutual funds. The bylaws should contain provisions on the interrelationships and communications between partnership members and associated management and supervisory tasks, including how to convene members' meetings and how to select and rotate partnership leaders and representatives in charge of maintaining mutual fund records.

The bylaws should detail requirements for both the work and the residential zones, such as no alcohol permitted in either zone, work is not permitted when drunk, non-partnership members are prohibited from working on site, who is responsible for maintaining and servicing equipment, tools and other machinery, a ban on chemicals and hazardous substances in ASM operations, and instructions on blasting.

Paying insurance and tax

Because, in accordance with legislation, partnership members pay for social and health insurance, they are able to access pensions and health-care services. They are also able to receive allowances in the event of occupational accidents and disability.

One of the responsibilities of artisanal and small-scale miners - a requirement for a partnership when it enters into a tripartite agreement and is granted land for mining - is the payment of income tax and insurance. Once it has been established, a part-

nership then applies for “land” on which to conduct its ASM operations. With this application, the partnership must include copies of its members’ income tax and social and health insurance books. Failure to do so, or the submission of incomplete documentation, will result in a denial by the soum governor or the other party to the tripartite agreement.

Compulsory insurance and tax include:

- Social insurance
- Health insurance
- Personal income tax

Social insurance coverage: On meeting with the soum social insurance inspector, the person being insured enters into a contract for voluntary insurance coverage. A payment schedule (monthly, quarterly or annually) should be agreed upon and reflected in the contract. The following documents must be presented:

- Identification card
- A 3x4 sized photo
- A social insurance book (if the person already has one)
- A new social insurance book: If the person is receiving one for the first time, a copy of the bank slip showing the amount (MNT 1000) paid to the soum’s social insurance fund
- A copy of the bank slip showing payment of the first month’s premium to the soum’s insurance fund based on the following calculation:

For social insurance coverage: The applicant must state his/her monthly income; 12 percent of that sum will cover the following insurance:

1. Pension insurance (10 percent): A person with this insurance has access to:

- A pension allowance
- A disability allowance
- A loss-of-breadwinner allowance



2. Allowance/benefit insurance (1 percent): A person with this insurance has access to:

- A temporary disability allowance
- A funeral allowance
- Pre and post-natal maternity benefits

3. Insurance against occupational injury and diseases (1 percent): A person with this insurance has access to:

- A disability allowance
- A loss-of-breadwinner allowance
- A temporary disability allowance
- Compensation for rehabilitation services to restore working abilities

People who are voluntarily insured can set their income as the minimum salary amount: MNT 140,400 or the minimum income rate (Decision No. 1 of the tripartite committee meeting under Labour and Social Negotiation, 5 April, 2011). The maximum amount is 10 times more than the minimum amount. If the person insured has a minimum amount of income (MNT 140,400 a month), the insurance payment is MNT 16,848 per month.

Health insurance coverage: All citizens of Mongolia, **irrespective of employment status**, must have **health insurance as legally required**. Those who are insured have the right to access health-care services valued at a maximum of MNT 1.112 billion per year. When health insurance premiums are paid on time, those who are insured are able to access health-care services at soum/khoroо health-care centres financed through public spending. If those who are insured avail of health-care services at aimag/district and public (state) clinics and hospitals, they must pay 10 percent and 15 percent respectively of the total costs. People with no health insurance must bear all the costs of health treatment.

If people have previously paid health insurance premiums, they can continue payments by taking their health insurance book to



the soum's social insurance inspector. If they do not have their health insurance book, the following documents will need to be presented:

- Identification card
- A 3x4 sized photo
- A new health insurance book: If the person is receiving one for the first time, a copy of the bank slip showing the amount (MNT 500) paid to the soum's health insurance fund. If a person has lost their health insurance book, they need to issue a public statement saying the book has been lost in order to make it invalid then pay MNT 3000 for a new book.
- A copy of the bank slip showing the annual insurance premium paid to the soum's health insurance fund.

Partnership members must have health insurance. They need to be insured for 1 percent of their total income. If they have an income of MNT 140,400, those insured should pay MNT 1404 per month and MNT 16,848 per year.

2. Mining techniques and technologies of ASM partnerships

Permitted equipment and tools

The equipment and tools used in ASM operations are those listed in the General Rules for Occupational Health and Safety in Artisanal and Small-Scale Mines and they must have safety locks, barriers and protective covers. For example, manually operated hoists should have safety locks and barriers to prevent accidental falls and releases.

All tools and equipment must be reliable and functional. This includes manually operated winches or hoists, compressors, water pumps, hammer drills, ventilators and lighting equipment. Hand tools such as metal poles and mattocks should be complete and damage-free, and ropes and cords should be strong and free

from fraying or wear.

In ASM operations, the capacity of internal combustion engines is limited to 500cm³; the use of equipment with a higher capacity is prohibited.



1. Manual hoist and its rope safety-check training Jargalant, Bayankhongor 2010

The use of more powerful machinery and equipment to increase the level of extraction requires more responsibility and skills, and artisanal and small-scale miners must establish companies and have special licenses for their operations as stipulated by law. Establishing and running small and medium-sized mining companies with special licenses is, however, possible for artisanal and small-scale miners.

In ensuring occupational safety on mine sites, artisanal and small-scale miners working in underground mines must take preventive measures and use personal protective equipment (PPE) to prevent exposure to toxic and flammable gases. The use of internal combustion engines is banned in underground mines to prevent explosions and carbon monoxide poisoning. Cables for electric tools and other equipment must have protective covers to prevent sparks from igniting gases.



2. Water pump

Mechanical equipment and internal combustion engines with a capacity of up to 500cm³ include compressors, electric motors and water pumps, and are suitable for use in ASM, particularly those made in China given their capacity and affordability.

Use of chemicals and explosives

As mentioned previously, the use of chemicals and hazardous substances in ASM is strictly prohibited, as is the use of explosives for blasting by artisanal and small-scale miners, which can only be handled by certified professionals (professional entities and companies).

3. Air compressor

Processing and concentration technologies in ASM

Processing and concentration technologies are primarily used in gold mining. Gold-bearing material extracted from open pit mines is processed using both wet and dry technologies; however, priority should be placed on possible environmental impacts. In this regard, the Instructions for Technical and Biological Rehabilitation in Those Areas Affected by ASM Operations are important for artisanal and small-scale miners. When using wet technology or a gravitational method, miners should refrain from using running surface water; instead they should collect discharged waste water or polluted water in a separate pond for refining and then release that into a nearby body of water. They should also gather up all



4. Miners are using dry technology for processing. Bumbugur, Bayankhongor aimag, 2009

non-gold-bearing material, tailings and washed earth and place them in designated areas as part of the initial processing phase.

Sluices with barriers are widely used in the wet processing of material extracted from alluvial deposits. When using sluices, it is important for miners to precisely set the slope degree and the ratios of water and solid material, which depends on the characteristics of the ore and the grade of the gold.



5. Wet technology is being used. Jargalant, Bayankhongor, 2009

When dry processing, it is important for miners to accurately set the blowing speeds, and operators must wear dust masks, safety goggles and other PPE. Non-gold-bearing material, including rocks and waste discharged from processing, should be stockpiled at least 5m from the mine site; the stockpiled material should then be reused in accordance with the instructions for technical and biological land rehabilitation. The capacity of the blowing motors used in dry processing should not exceed 500cm³. Overall, dry processing has less of an environmental impact.

Gold-bearing ore extracted from underground mines should be processed at a processing plant. At present, there is a mercury-free ore-processing plant in Bornuur soum, Tuvaimag, that is used by artisanal and small-scale miners from both the aimag and from other areas. The construction of similar processing plants is taking place in Mandal soum, Selenge aimag, and Bayan-Ovoo soum, Bayankhongor aimag.

The use of mercury in gold extraction is strictly prohibited in ASM as it evaporates easily at low temperatures and emits toxic mercury monoxide, which has serious health ramifications when inhaled, including nervous disorders, chronic diseases and genetic effects that can be passed from generation to generation.



6. Bornuur processing plant



3. Partnership Agreements for the Extraction of Minerals by Artisanal and Small-Scale Miners

Conclusion of agreements with soum governors

After a partnership is formally established and the requisite documents are filed, the partnership delineates land for ASM within the soum's territory. Partnerships are allowed to apply for the following areas within the soum territory: 1) Artificial (technogenic) deposits resulting from former mining operations and technological waste, or areas that were formerly mined and were abandoned by companies; and 2) Deposits of non-commercial and non-economic value or with small reserves that are not viable for mining companies to extract.



7. Partnerships of Jargalant, Bayankhongor are signing on the agreement with local governments, 2009

After an area of land for ASM has been selected, a partnership can get an application form approved by the Mineral Resources Authority of Mongolia from the soum governor's office and submit the following documents with the application:

- Copies of partnership members' identification cards
- Copies of partnership members' social and health insur-

ance books

- A copy of the taxpayer's certificate
- A map/drawing of the area for selected for mining

If the Mineral Resources Authority of Mongolia has already granted the soum approval for the land to be used for ASM, the partnership will be notified of a decision **within two weeks** of the submission of the application.

If the soum has not received approval from the Mineral Resources Authority of Mongolia, it can take **from six to eight weeks** from the submission of the application for the relevant soum authority to make a decision.

After an application has been received, the soum governor must issue a response, be it positive or negative.

In the event of a negative response, the soum governor must elaborate on the justification for that decision.

In the event of a positive response, the soum governor then enters into an agreement with the partnership in accordance with the approved contract. Prior to entering into the agreement, the partnership, in collaboration with the soum's environmental inspector, must develop an environmental protection plan for the designated mining area. That plan should include proposed actions for the establishment of a mutual fund and the land rehabilitation work to be undertaken. Upon the signing of the agreement by the soum governor and the leader of the partnership, the partnership is officially authorised to engage in ASM in the area permitted

Tripartite and multipartite agreements

In the event that land is not available or not designated for ASM in the soum, or if artisanal and small-scale miners have agreed to engage in extraction on a company's licensed area, the soum governor, the license-holding company and the partnership can enter into a tripartite agreement.

Tripartite agreements are highly effective if consensus can be



reached between the three parties. An effective approach is for a partnership to negotiate the agreement through a representative non-governmental organization (NGO). Because there are often many partnerships competing to secure mining rights in licensed areas, license-holders are generally unwilling to conclude contracts with just one. Therefore it is beneficial for partnerships to cooperate and work together for their common interests.

Because license-holding companies share the same responsibilities as partnerships in terms of land rehabilitation and occupational safety, they are only willing to enter into agreements with responsible partnerships. Working through a legally recognised NGO helps to increase a partnership's credibility and accountability.

The Mineral Resources Authority of Mongolia has approved a sample format for tripartite agreements. When concluding a tripartite agreement in accordance with this sample format, the partnership should attach all requested documents.

The soum governor is authorised to oversee compliance with the agreement once it has been signed.

4. Compliance with Occupational Safety Rules

Artisanal and small-scale miners are required to have an understanding about and knowledge of occupational health and safety standards and appropriate workplace practices given the high level of risk associated with ASM. Partnerships must comply with the General Rules for Occupational Health and Safety approved by the Mineral Resources Authority of Mongolia. Partnerships must also comply with the Occupational Safety Rule for Open Pit Mines, the Occupational Safety Rule for Ore and Alluvial Deposits with Underground Mining Techniques, and the Occupational Safety Rule for Underground Coal Mines. Copies of these rules and regulations can be obtained through the Mineral Resources Authority of Mongolia, at aimag and soum governors'

administration offices, and through the SAM Project.

Instructions for operational safety

All partnership members must read the safety rules and regulations, and regular safety instructions and guidance must be provided to partnership members. Before the start of work each day, partnership leaders are responsible for providing general instructions for operational safety to all miners and specific instructions to individual miners on the particular tasks they will be undertaking. The delivery of basic operational safety instructions and guidance to partnership members on a quarterly basis also provides an opportunity for the updating or revision of instructions in relation to the progress of their extraction work. Partnership members are not allowed to work on their own without permission and without instructions from their leader. An initial step towards compliance is a daily check by the partnership leader of the miners' health, sobriety and PPE. It is the responsibility of partnership leaders to ensure safe mining operations and work performances.

As stated previously, partnership members are required to have knowledge about operational safety. Each member should ask themselves the following five questions:

1. Did I examine the actual workplace conditions?
2. Is the workplace safe enough and are the tools and equipment to be used complete?
3. Can I work in accordance with occupational safety requirements?
4. Have I taken action to ensure operational safety?
5. Am I able to continue to work in accordance occupational health and safety requirements?

If one of the questions is problematic or can't be answered, partnership members should together seek out a viable way to resolve the problem.

Ventilation is a priority in quarries and underground mines where toxic gases are often emitted and there is insufficient air.

Fencing and halts, including livestock and wildlife barriers, should be erected around the edges of holes and openings to stop people and animals from falling into shafts. Fulfilling such requirements helps to prevent injuries and deaths in ASM. It also provides the basis for legally and sustainably operating into the future.

Establishing internal mining rescue teams

Local governments and the Mining Rescue Service have supported an initiative to establish voluntary internal rescue teams comprised of partnership members. These teams are able to provide immediate emergency and rescue services when accidents happen on site or for other partnerships in the vicinity. The Mining Rescue Service periodically organises trainings on emergency and rescue services with support and involvement from local governments. In those areas where ASM NGOs are already established, collaborative support (the organisation of trainings and the supply of materials) is provided by the NGO, the local government and the Mining Rescue Service.

Members of rescue teams need to be robust and healthy, have knowledge of and experience working in ASM, have been trained in occupational health and safety, and be available on the ASM



8. Mine Rescue Teams comprised of partnership members of Mandal soum of Selenge aimag and Bumbugur soum of Bayankhongor aimag, 2009



site. It is also important that they are responsible and abstain from alcohol. The incentives offered to rescue teams should be subject to negotiation between partnership leaders. Monthly rewards for team members also help to ensure that occupational health and safety standards are complied with.

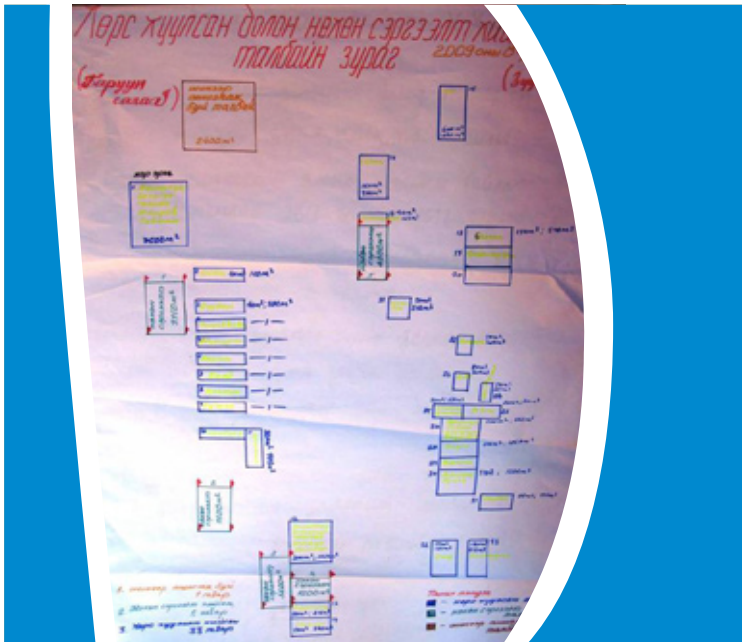
5. Environmental Rehabilitation

Through agreements with soum governors, partnerships assume responsibility for land rehabilitation in their mining areas. In tri-partite agreements, parties must comprehensively define their responsibilities and the manner in which tasks will be undertaken. Funding for rehabilitation is retained in partnerships' mutual funds prior to and during mining operations. Land rehabilitation must be undertaken in accordance with the Instructions for Technical and Biological Rehabilitation in Those Areas Affected by ASM Operations, which details the technical and biological rehabilitation work that must be conducted in the following areas:

1. Artificial deposits formed during previous mining operations and technological waste.
2. Deposits and occurrences with non-commercial and non-economic value in areas where ASM has taken place.

Establishing a mutual fund for rehabilitation

When agreements are made with soum governors or tripartite agreements are entered into with soum governors and license-holders, partnerships are responsible for complying with occupational health and safety regulations and for conducting land rehabilitation during and after their mining operations. The funds required for rehabilitation are retained in mutual funds; neither partnerships nor governors are authorised to independently spend those funds. Partnerships conduct rehabilitation according to a schedule. The total costs to be incurred are jointly estimated by the partnership and other parties to the agreement. Within two weeks of an agreement being signed, a mutual fund must be established into which 10 percent of the total funding required for



9. Rehabilitation plan. Jargalant soum, Bayankhongor Province 2009

rehabilitation is deposited. Artisanal and small-scale miners are responsible for rehabilitating the land in their mining areas and have the right to be reimbursed for the funds spent from the mutual fund on rehabilitation when they hand over the area to the local government. The rehabilitated area is examined by the soum environmental inspector and the soum governor and, if approved, the funds spent are reimbursed in accordance with the environmental protection plan.

The rehabilitation fund is to be maintained in a beneficiary account or escrow account at a commercial bank. The first and second signatory parties are the soum governor and the partnership leader. Funds cannot be released with only one signature. Depending on the regulation applicable at the local level, an authorised person from the soum governor's administration office may be appointed first signatory.

Partnerships, in consultation with their NGOs, define the manner in which their mutual funds will be administered and appoint the bank account signatory when agreements are negotiated.

Rehabilitation of artificial deposits formed during previous mining operations and technological waste (previously exploited land)

In areas that have been mined by companies or individuals, partnerships that have entered into agreements are not exempt from responsibility to rehabilitate the land. They must consult with local governments and environmental inspectors about the level of rehabilitation to be undertaken and how technical and biological restoration will be conducted. Rehabilitation work must be carried out in accordance with the purpose(s) for which the rehabilitated areas are to be used. In performing technical rehabilitation, mined areas are refilled with waste rocks and earth removed during mining operations and then covered with topsoil and levelled, allowing natural restoration and regeneration to take place. Re-



10. Technically rehabilitated land area in Bumbergour soum of Bayankhongor province, 2009

habilitation work should be undertaken in accordance with the Instructions for Technical and Biological Rehabilitation in Those Areas Affected by ASM Operations and other relevant standards.

Biological restoration is conducted in spring, from May to June. If a partnership agreement comes to an end before this period or the local government recommends undertaking integrated rehabilitation in the area, the funding allocated for biological restoration will be transferred to local authorities. Otherwise the partnership will conduct biological restoration and have the land assessed by the soum environmental inspector before handing over the area to the soum governor. The partnership agreement is concluded when the land is handed over. Under tripartite agreements, partnerships retain funding in their mutual funds in accordance with their environmental protection plans. Tripartite agreements should clearly state how rehabilitation work is to be undertaken.

Rehabilitation of deposits and occurrences with non-commercial and non-economic value (undisturbed land)

When an ASM agreement for this type of land is entered into, there are additional requirements for overburdening. Topsoil must



be stockpiled at least 5m from the mining site and be protected from rain, water and wind. Other material produced during overburdening - bottom soil rocks and infertile earth - should be separately sorted and stockpiled. This material will later be used to refill mined areas as part of rehabilitation work.

In agreements with soum governors and tripartite agreements, partnerships are responsible **for technical and biological rehabilitation and overburdening** in accordance with the requirements listed above. Biological restoration is mandatory. The parties involved must negotiate who will perform the rehabilitation work, and that consensus should be reflected in tripartite agreements. Legally, the overall responsibility for rehabilitation lies with the license-holders.

2. Non-Governmental Organisations in ASM

Objectives of NGOs

In ASM, an NGO is a legal entity voluntarily joined by artisanal and small-scale miners and their partnerships to protect their common interests and to collaboratively resolve socio-economic, environmental and other issues. Unlike companies, NGOs are non-profit organisations.

The main objectives of NGOs are to serve their members, to protect their interests, to represent their members' voices to central and local governmental organisations, and to build cooperation and understanding among stakeholders.

The importance of joining NGOs for artisanal and small-scale miners

Not all issues and challenges facing ASM communities can be resolved by forming partnerships, including issues related to health, education, occupational safety, the adoption of efficient techniques and technologies, human rights, access to social and resource benefits, the environment, land rehabilitation, trade contracts and processing.



11. Technically rehabilitated land area in Bayankhongor province, 2010



Artisanal and small-scale miners establish and join NGOs in order to resolve those issues, to achieve better outcomes through collaboration, and to unite to develop their local areas. NGOs should focus on supporting their members with regard to the following:

1. Compliance with occupational health and safety regulations
2. Compliance with ASM-related standards
3. The provision of equipment and requirements for equipment use
4. Access to financial assistance and loans
5. Contracts with processing plants and service providers
6. Contracts with health and social insurance providers
7. Contracts with equipment and tool suppliers (professionals certified for blasting)
8. Environmental rehabilitation
9. **Fundraising**

In order to operate effectively, NGOs should have good governance and management and be democratic and financially sustainable.

And in order to have their members' voices heard by society and be recognised, ASM NGOs need to effectively represent and protect their members' interests, and have sound legal knowledge.

Common responsibilities of ASM NGOs

The common responsibilities of ASM NGOs are to serve their members, organise capacity building activities for members, provide members with relevant information, provide organisational assistance to miners, ensure members' voices are heard by central and local governmental organisations, and build cooperation among stakeholders.

As part of these obligations, NGOs are responsible for improving miners' capacities, disseminating information and updates

about their activities, decision-making, raising public awareness, and organising members' meetings in accordance with their plans and schedules.

Organising activities focused on improving operational safety among ASM communities:

NGOs are responsible for improving their members' understanding and knowledge of, and compliance with, occupational health and safety rules and the use of PPE through trainings and other awareness-raising activities in cooperation with relevant organisations, as well as oversee implementation.

Strengthening cooperation and partnerships at the local level:

Because artisanal and small-scale miners operate in rural areas, it is important for ASM NGOs to strengthen cooperation and build mutual understanding and confidence among administrative bodies at the local level.

Responsibilities of NGOs

ASM NGOs are responsible for implementing the activities detailed in their plans and ensuring outputs and results are achieved.

Governing bodies of NGOs

- The governing body of a membership NGO is the all-members meeting
- An NGO's organisational structure and operating arrangements are regulated by the Law on Non-Governmental Organisations (1997)
- The governing and decision-making authority of a membership NGO is with members through all-members meetings; between meetings, it is with the Governing Board
- The Governing Board of an NGO is an elected authority

For a membership NGO, authority is delegated to the Governing Board - a system that allows for prompt decision-making on issues.



Regular meetings of the Governing Board

The powers of Governing Board members are exercised through regular board meetings. It is hence important that the issues subject to discussion are clearly formulated. This is done through:

1. Plans for Governing Board meetings
 - Analysis of policy implementation based on members' evaluations
 - Strategic planning for further development based on members' feedback
2. The announcement of regular meetings that allow for the full participation of board members (times, venues, issues to be discussed and supporting documents and draft material for voting)

Minutes of meetings must be recorded, including the issues discussed and the decisions made, approvals, secret ballots and the number of votes, the names of those who took part in open votes, details about conflicts of interest, and the opinions of members on the decisions made.

Requirements of NGO members

- To pay membership fees
- To be aware of the NGO's objectives and to build cohesion
- To be honest and transparent in the achievement of objectives
- To actively take part in NGO activities
- To comply with and fulfil the NGO's requirements

Responsibilities of the Governing Board

- ⇒ To define the organisation's overall goal and objectives
- ⇒ To implement strategic objectives
- ⇒ To provide the organisation with leadership
- ⇒ To appoint, evaluate and release the Executive Director
- ⇒ To support the management and initiatives of the Executive Director
- ⇒ To develop financial policy
- ⇒ To oversee the organisation's activities
- ⇒ To connect the organisation with the public and the government
- ⇒ To manage fundraising activities

The Governing Board shall exercise the following rights in accordance with the Law on Non-Governmental Organisations

- ⇒ To revise and amend the organisation's bylaws
- ⇒ To approve the organisation's annual budget
- ⇒ To elect/appoint the Executive Director
- ⇒ To define the powers of the Executive Director in relation to administering and spending the organisation's assets and funds
- ⇒ To approve the structure and arrangement of the NGO's office
- ⇒ To exercise other powers as specified in the bylaws

Financing

NGO funds are derived from the following sources, with funds spent only on activities aimed at achieving the NGO's objectives:

Membership fees

NGOs generally charge a membership fee of MNT 1000 per month; however, this is too low a figure. Membership fees should be determined after the development of the proposal and reflect the planned activities for the year, the funding required and the percentage that needs to be covered by the fees. The amount to be charged must be approved by NGO members at a members' meeting.

Donations by individuals and economic entities

NGOs can accept donations from members. For example, partnerships of the "Khuviaraa Ashigt Maltmal Olborlogchdiig Demjikh Kholboo" ASM NGO in Bayan-Ovoo soum, Bayankhongor aimag, gave donations to support the NGO's operations, and the Ekh Oron Khamtiin Khuch NGO in Airag soum, Dornogovi, aimag, receives MNT 50,000 in donations when partnerships join the NGO.

Income from activities implemented as part of the bylaw objectives

There are a number of ways for NGOs to earn extra income to fund their activities. For example, the "Bichil Uurkhai Erkhlegchdiin Kholboo" ASM NGO receives support through its cooperation with the "HAMO" company, which operates an ore-processing plant in Bornuur soum, Tuvaimag. ASM NGOs in Jargalant and Bumbugur soums in Bayankhongor aimag earn additional income renting out the tractors they use for land rehabilitation to others for overburdening. The NGO in Bayan-Ovoo soum, Bayankhongor aimag, is planning on opening a quarry and spending 50 percent of the income it earns on its operational costs, while the NGO in Bumbugur soum has established a vegetable plot.

Funding from public spending for the purposes of accessing loans and project implementation

The scope of support and assistance from local stakeholders is dependent on the level of local communication and liaison NGOs are able to engage in. In this regard, NGO authorities and management teams should take into consideration the following:

1. Are there any constraints or challenges hindering the NGO's operations? If there are, what can be done to resolve them? If methods of resolution cannot be determined, it's important to identify the causes. In so doing, it is possible to determine who should be approached for assistance and what form of assistance is required.
2. Assistance and support is not necessarily monetary; depending on the NGO's needs, it can take the form of resources (such as equipment and tools), services, capacity building, and permission to mine land.
3. NGO's project proposals must adhere to specific themes; proposals will then become formal documents that gain the confidence of potential donors and are more likely to be supported.

Specifics of membership-based ASM NGOs

The requirements and conditions for membership should be clearly stipulated in the NGO's bylaws, and should require members to accept and uphold the organisation's mission and values. Types of membership should also be outlined, including honourable and ordinary memberships, the distinctions between them, how to apply for membership, members' rights and responsibilities, membership fees and forms of payment, decision-making processes, and involvement in the daily operations of the NGO.

Cooperation

The success of an organisation is dependent on cooperation, transparency and confidence among its members, employees and authorities. In terms of the latter, the opinions of members should

be reflected in the NGO's action plan. This will in turn help to ensure that the plan is successfully implemented. Members also need to be informed about the activities to be undertaken, why those activities have been included and what results are expected.

Open and transparent operations

NGOs should develop detailed action plans and have them approved at members' meetings. The action plans should be elaborated with feedback and comments from members. NGOs should also ensure that members have a thorough understanding of the action plans by clearly explaining to them what activities are included, for what reasons, and what outputs are expected.

A participatory approach to operations

As many members as possible should be involved in the planning and implementation of activities. In order to do this, the NGO's Governing Board, sub-councils and leaders must consult with members and plan their activities accordingly, taking into consideration the best approaches to be adopted and the best ways to maximise efficiency.

Transparency

NGOs should hold members' meetings at least once a year, during which key activities and spheres of operation should be discussed, including financial issues, the retaining and spending of membership fees and donations, and organisational achievements. NGO accountants or financial officers should report on fundraising efforts, expenditures, and the remaining funds. The minutes of the meeting must be signed and archived.

Experiences and lessons learned

Experience: In 2005, artisanal and small-scale miners in Jar-galant soum, Bayankhongor aimag, routinely faced a number of serious challenges, including being arrested and beaten, and having to work secretly on licensed areas at night to avoid persecution and hide in holes during the day to avoid detection. Relations be-

tween the miners and the local community were hostile and guns were regularly trained on them.

In 2008, they joined the Baidragiin Khugjil ASM NGO and were able to enter into a contract with a company to mine on a 1.2 ha tract of licensed land, enabling them to legally extract 13kg of gold in 2009 and 20kg of gold in 2010. The company assisted the NGO and its members in a range of ways, including providing them with equipment for overburdening and land rehabilitation.

Experience: Artisanal and small-scale miners in Bornuur soum, Tuvaimag, established the Bornuuriin Bichil Uurkhai Erkhlegchdiin Kholboo NGO in 2008, which paved the way for the introduction of mercury-free ore-processing technology - a priority for ASM communities engaged in gold mining at hard rock deposits at that time. With support from the government and SDC, they were subsequently able to open a mercury-free ore-processing plant in the soum.



12. Mercury free ore-processing plant in Bornuur soum

The NGO was also able to secure the right to use a tract of land for gold mining after negotiating a five-party agreement with the central government, the local government, SDC and the Boroo Gold Company.

Experience: Members of the “Bat Saikhan Setgel” NGO in Galuut soum, Bayankhongor aimag, established a mutual development fund into which each member donates MNT 60,000 per year. The funds are invested into generating new jobs, with members who make donations given the first opportunity to take up those jobs.

Experience: The “Baidragiin Khugjil” NGO, in cooperation with the soum governor’s administration office, holds its annual members’ meetings in March. At the meetings, identification cards are issued to new members, providing them with a guarantee that they will be able to extract minerals for the coming year.

Experience: The “Duush Mandal Khairkhan Kholboo” NGO in Mandal soum, Selenge aimag, has a member-based rescue team that it provides with training. The rescue team in turn gives NGO members instructions on operational safety and conducts inspections on a monthly basis. The team took part in a national competition for rescue service providers in 2010. The NGO also set up a noticeboard featuring on-site occupational safety regulations for miners working in the Tunkhel area.



13. Mine rescue team in Duush Mandal Khairkhan

Tunkhel mining area

Experience: From 2009-2010, ASM NGOs in Bumbugur and Jargalant soums, Bayankhongor aimag, rehabilitated 10.1 ha of

land. Artisanal and small-scale miners in Mandal soum, Selenge aimag, planted 180 seedlings for reforestation on rehabilitated mining land.

Experience: ASM NGOs in Selenge, Bayankhongor and Tuv aimags have entered into contracts for the provision of social services to artisanal and small-scale miners, and are cooperating with local police, environmental and social insurance divisions, and kindergartens. For example, they cooperate with police in maintaining social order, preventing outsiders from working on site, and curbing alcohol consumption. They cooperate with soum kindergartens in operating ger-kindergartens for the children of artisanal and small-scale miners in summer in order to keep them away from the mine site and prevent possible accidents, as well as hold a range of educational activities. The costs incurred are equally shared between the NGO and the partner organisation or agency. The miners must be organised and be members of the NGO to access these services.

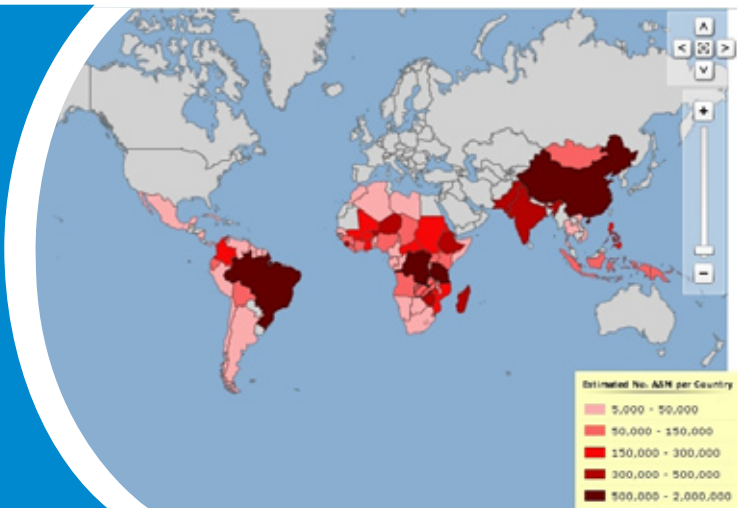
Lessons learned: The “Bayan Bumbugur” NGO in Bumbugur soum, Bayankhongor aimag, has 128 members. However, a review of the participants at six trainings jointly organised by the NGO and the SAM Project found that only 20 people had attended. And recently, just 20 people have been attending the NGO’s members’ meetings. This demonstrates that the NGO has not effectively engaged with all its members and that its authorities have exercised poor management.

Lessons learned: Members of the “Baidragiin Khugjil” NGO lodged a complaint with police over the NGO’s failure to report on its spending to members. The NGO was placed under investigation for a period of three months.

3. ASM Partnerships and NGOs and Future Trends

International practices

According to Communities, Artisanal and Small-Scale Mining (CASM) figures from 2010, more than 100 million people from 70 countries throughout the world are engaged in ASM. Artisanal and small-scale miners in those countries become organised when their numbers exceed tens of thousands.



14. ASM existing countries with estimated number of ASM per country (CASM website, 2011)

1. National-level organisation to protect the interests of artisanal and small-scale miners

The need to establish national organisations is often prompted by the challenges facing ASM communities, including being few in number, being unable to protect their interests, a lack of knowledge and skills, a precarious financial situation, and being unable to have their concerns heard by the public and decision-makers. In most countries, artisanal and small-scale miners are organised into

the following:

1. Mining trade unions
2. National and regional associations and societies
3. Large mining companies and councils
4. NGOs

These organisations represent artisanal and small-scale miners' partnerships and local NGOs at the national and international levels and work to protect their interests. The type of organisation established is dependent on a country's social structure and legal system, the types of minerals extracted and the prevailing market conditions. Because of the political situation in some African and South American countries, information and data is not publicly disclosed, there are no established legal or regulatory environments, and artisanal and small-scale miners often join under the names of mining companies. Because it is difficult for them to establish and join NGOs and associations, they often join already established organisations or trade unions.

Mongolia is a democratic country with a flourishing market economy and conditions that are conducive for artisanal and small-scale miners to establish and join organisations, and are hence able to have their interests represented at all levels.

2. Fair Trade and Fair Mined (FTFM)

The "fair trade" movement emerged globally in the 1960s, and in the intervening years the trademark has been increasingly supported by buyers from developed countries, despite some products with the trademark having a higher end price.



15. Banana with FT trademark (CASM website, 2011)

Fair trade enables low-income communities and producers to be paid higher prices for their products by directly selling their goods through the international fair trade organisation without any middlemen. This improves communities' livelihoods and standards of living.

Fair trade is also employed in the sale of precious and valuable minerals. In relation to gold, the organisation directly buys gold from local ASM partnerships and their representatives at



16. The number of FTFM trademarked Gold Jewelry is increasing

a price equivalent to 95 percent of the selling price on the London Stock Exchange.

In addition, the organisation pays an additional 10 percent of the gold sold to ASM communities to improve operations and social conditions. If a community organisation extracts



gold without using toxic substances, it can access an additional five percent in funding of the gold sold. Buyers in developed countries prefer to buy jewellery made of fair trade gold and contribute to better livelihoods for local communities.

If artisanal and small-scale miners in Mongolia, particularly gold miners, are able to become organised and comply with national legislation, the Fair Trade Labelling Organization and the Alliance for Responsible Mining will operate in the country. It is hence imperative that artisanal and small-scale miners and their NGOs work responsibly and sustainably to avail of this opportunity.



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