



**Conference of the Parties to the
Minamata Convention on Mercury
Fifth meeting**

Geneva, 30 October–3 November 2023

Item 4 (c) of the provisional agenda*

**Matters for consideration or action by the Conference
of the Parties: artisanal and small-scale gold mining****Implementation of article 7 of the Minamata Convention on
Mercury: artisanal and small-scale gold mining****Note by the secretariat****I. Introduction**

1. Artisanal and small-scale gold mining continues to be the sector responsible for the largest use, emissions and releases of mercury globally, with significant impacts to human health, land, ecosystems and biodiversity.
2. Article 7 of the Minamata Convention on Mercury applies to artisanal and small-scale gold mining and processing in which mercury amalgamation is used to extract gold from ore. Paragraph 3 of article 7 of the Convention states that a party that determines that artisanal and small-scale gold mining and processing using mercury amalgamation is more than insignificant in its territory shall: (a) notify the secretariat of the determination; (b) develop and implement a national action plan in accordance with annex C to the Convention; (c) submit its national action plan to the secretariat no later than three years after the entry into force of the Convention for it or three years after the notification to the secretariat, whichever is later; and (d) thereafter, provide a review every three years of the progress made in meeting its obligations under article 7 and include such reviews in its reports submitted pursuant to article 21 of the Convention.
3. The present note provides information on the status of implementation of paragraph 3 of article 7 and is to be read in conjunction with document UNEP/MC/COP.5/INF/6, which provides data, lessons learned and implementation updates on national action plans, and document UNEP/MC/COP.5/INF/7, which provides lessons learned from technology transfer activities in the initial eight countries participating in the Global Environment Facility (GEF) planetGOLD programme.
4. The note also provides information on work undertaken pursuant to decision MC-4/4, paragraph 2, which calls upon parties to engage Indigenous peoples, local communities and other relevant stakeholders in the development and implementation of national action plans, and paragraph 3, which requests the secretariat to compile views on the needs and priorities of Indigenous peoples and local communities with regard to the use of mercury in artisanal and small-scale gold mining.

* UNEP/MC/COP.5/1.

II. Notifications pursuant to paragraph 3 of article 7 of the Convention and submission of national action plans on artisanal and small-scale gold mining

5. Details regarding party notifications and submissions are provided in document UNEP/MC/COP.5/INF/2. As at 1 August 2023, 43 parties had notified the secretariat that artisanal and small-scale gold mining and processing using mercury amalgamation was more than insignificant in their territories. Notifications are posted to the Minamata Convention website under the “parties” tab. In addition, seven non-parties had provided such notifications, which are required in the case of signatories seeking enabling activity funding from GEF. These are posted together with party notifications on the website.

6. The date of notification is the date from which the national action plan submission deadline is calculated. For any party or non-party that notifies the secretariat pursuant to paragraph 3 of article 7 of the Convention, the national action plan is to be submitted three years after the date of notification, or three years after entry into force of the Convention for that party, whichever is later.

7. Most parties and non-parties that have notified the secretariat pursuant to paragraph 3 of article 7 have accessed enabling activity support from GEF to develop their national action plans.¹ GEF has funded 48 national action plan projects and a national action plan global component for knowledge management. One party has developed, but not yet submitted, its national action plan without GEF support.

8. As at 1 August 2023, 27 parties had submitted their national action plans to the secretariat. These plans are published on the Minamata Convention website under the “parties” tab. In addition, three non-parties had submitted their national action plans. As at 1 August 2023, 10 parties that had notified the secretariat pursuant to paragraph 3 of article 7, and whose respective submission deadlines fell between 2020 and 2022, had not submitted their national action plans to the secretariat.

9. The Executive Secretary sent a letter to all national focal points and Permanent Missions on 9 December 2022 reiterating the importance of the procedures established under article 7. At that time, she also sent letters to several parties whose submission deadlines had passed. The secretariat has conducted additional outreach to encourage timely submissions. Furthermore, through this outreach, the secretariat has learned that several of those parties have completed and in some cases are already implementing national action plans while awaiting formal validation or submission by national authorities. The Implementation and Compliance Committee, at its fifth meeting, noted the fact that some national action plan submissions were late, reminded those parties of their obligation to submit their plans, and requested them to inform the secretariat as soon as possible of the expected date of completion and to submit them by 31 December 2023.

10. Furthermore, as part of her efforts to raise awareness regarding the importance of action to address mercury use in artisanal small-scale gold mining and of national action plan development and implementation, the Executive Secretary participated in the fifty-first session of the Human Rights Council on 20 September 2022 as that body discussed the report on the use of mercury in artisanal and small-scale gold mining and its impact on human rights of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes. Over 40 interventions by Member States provided strong evidence of substantive knowledge of Minamata Convention requirements with respect to artisanal and small-scale gold mining. The Executive Secretary also shared the report with national focal points and Permanent Missions for their information.

III. Implementation and review of article 7 and national action plans on artisanal and small-scale gold mining

11. Article 7 of the Convention requires parties that develop national action plans to also implement those plans. The financial mechanism of the Convention is an important source of support, not only for development of national action plans but also for their implementation. To date, 22 parties have been involved in the GEF-funded planetGOLD programme (plus one non-party). The components of planetGOLD projects were designed to match key elements that are required to be included in national action plans, as per annex C to the Convention. The components are: introducing mercury-free gold extraction methods, advancing formalization, removing the barriers to formal

¹ See the report of Council of the Global Environment Facility to the Conference of the Parties to the Minamata Convention on Mercury (UNEP/MC/COP.5/INF/14).

financing and creating access to formal supply chains. Outreach, knowledge management, communication and gender are also critical components that underpin all aspects of the programme.

12. Eligible parties can request support from GEF to undertake action to implement article 7. In addition to enabling activity support to develop national action plans, parties that have notified the secretariat pursuant to paragraph 3 of article 7 can seek funding for medium-sized or full-sized implementation projects within the chemicals and waste focal area strategy, such as under the planetGOLD umbrella. Programming under the biodiversity focal area and other focal areas as well as multi-focal area and integrated programmes could also be a source of support for activities to reduce and eliminate mercury use in artisanal and small-scale gold mining, particularly in areas where the activity threatens biodiversity.

13. Parties may also seek support through the Specific International Programme to Support Capacity-Building and Technical Assistance for specific national action plan implementation needs. One completed Specific International Programme project built capacity among rural health workers to address mercury risks in artisanal and small-scale gold mining communities.

14. The Implementation and Compliance Committee, at its fifth meeting, called on parties to continue cooperating to provide support in capacity-building, financial and technical assistance and technology transfer, in the development of and access to sustainable mercury-free alternative technologies for artisanal and small-scale gold mining, recognizing the measures taken by parties to reduce and where feasible eliminate the use of mercury and mercury compounds in artisanal and small-scale gold mining. This recommendation is reflected in the draft decision text on capacity-building, technical assistance and technology transfer (UNEP/MC/COP.5/13).

15. Parties that submit national action plans are to provide a review every three years, following submission of the national action plan, of the progress made in meeting their obligations under article 7 and include such reviews in national reports submitted pursuant to article 21. According to paragraph 3 (c) of article 7, the scope of the review is progress in meeting obligations under article 7 as a whole, not limited to implementation of the national action plan. No reviews had been submitted to the secretariat at the time of submission of full national reports due 31 December 2021. Of the 24 parties that have submitted their national action plans, 8 should undertake their reviews by the end of 2023, and submit them with their national reports. The next national short reports are due to be submitted by 31 December 2023.

16. Article 7 does not specify required elements of reviews. Reviews provide an opportunity for the party to assess its progress in implementing article 7. The party could also use the opportunity to update mercury use baselines, assess progress towards reduction targets and elimination of worst practices listed in annex C, provide information on the engagement of Indigenous peoples, local communities and stakeholders in implementation, assess progress on the gender focus of strategies and project activities and, if the party has made limited progress, highlight implementation challenges.

17. The guidance document on developing a national action plan to reduce and, where feasible, eliminate mercury use in artisanal and small-scale gold mining,² in its section 4.5 (on developing an evaluation process for the national action plan), contains a description of the process that parties could undertake to meet this obligation. The guidance recommends a combination of several different approaches, including an internal review by each ministry or other entity involved in national action plan implementation, with attention to the progress made against expected results in the agreed workplan for that entity; external evaluation by independent evaluators not involved with the implementation of the national action plan; and ongoing evaluation of individual projects. The guidance goes on to provide sample metrics that may be used to evaluate progress towards each objective of the national action plan as well as methods for data and information collection.

18. The secretariat has been made aware that some parties are unsure of how to undertake their reviews. Furthermore, analysis of national reporting for article 7³ indicates a lack of awareness of what the review is or should include. The Implementation and Compliance Committee, at its fifth meeting, discussed this aspect and recognized that many parties would be undertaking reviews of the progress made in meeting their obligations under article 7 starting in 2023, as set out in paragraph 3 (c) of

² In decision MC-1/13, the Conference of the Parties to the Minamata Convention agreed to the use of the guidance on the preparation of national action plans as set out in annex II to document UNEP/MC/COP.1/17. In decision MC-4/4, the Conference of the Parties adopted the updated guidance, including new chapters on public health strategies and preventing exposure of vulnerable populations, as prepared by the World Health Organization, and on tailings management, as prepared by the Global Mercury Partnership in cooperation with the secretariat, as amended and set out in annexes I and II to document UNEP/MC/COP.4/29.

³ See UNEP/MC/COP.5/INF/20.

article 7. The Committee found that it might be useful for parties to have available, for use in undertaking their reviews, practical, user-friendly guidance to help relevant parties prepare and complete reviews, drawing on parties' experiences and challenges in the development and evaluation of national action plans according to the guidance document on developing a national action plan to reduce and, where feasible, eliminate mercury use in artisanal and small-scale gold mining, the use of alternative technologies, and their practical experiences with respect to national action plans.

19. Through the enabling activity funding envelope under the eighth replenishment of the GEF trust fund, it would be possible to provide assistance to parties in undertaking their reviews, such as through the development and piloting of draft supplemental guidance and the development of an online tool for parties to upload the results of their reviews, which could include updated data and progress towards reduction targets. Such a tool could build upon and be complementary to work undertaken through the GEF-funded national action plan global component, for which a dashboard has been developed showing baseline data, reduction targets, presence of practices to be eliminated as per annex C to the Convention and strategies of submitted national action plans.

IV. Needs and priorities of Indigenous peoples and local communities

20. Paragraph 2 of decision MC-4/4 calls upon parties to engage Indigenous peoples, local communities and other relevant stakeholders in the development and implementation of national action plans. Paragraph 3 requests the secretariat to compile views on the needs and priorities of Indigenous peoples and local communities with regard to the use of mercury in artisanal and small-scale gold mining.

21. Pursuant to the decision, the secretariat engaged a consultant to undertake a study to understand the needs and priorities of Indigenous peoples and local communities that are affected by mercury pollution originating from artisanal and small-scale gold mining.

22. The study described the factors that make Indigenous peoples and/or local communities⁴ particularly vulnerable to mercury pollution, including historic, spiritual and cultural connections to the land on which they live and related food and water resources. The study reflects the complexity of varying needs and priorities, particularly given that some Indigenous peoples and/or local communities themselves engage in artisanal and small-scale gold mining, while others do not engage in but are negatively impacted by artisanal and small-scale gold mining taking place on their territories, including those happening in the absence of their consent and in an illegal manner as per national legislation. Other Indigenous peoples, such as those in the Arctic, are impacted by artisanal and small-scale gold mining taking place far away due to the long-range transport of mercury and its bioaccumulation, impacting fish and other food sources.

23. The study noted that the guidance document on developing a national action plan to reduce and, where feasible, eliminate mercury use in artisanal and small-scale gold mining, as updated and adopted in decision MC-4/4, includes a provision to ensure the engagement of Indigenous populations, including from territories in conflict, in the decision-making process for sound tailings management aimed at protecting human health and the environment, and highlighted the need for additional guidance, based on best practices tailored to different needs and priorities, to support parties to engage Indigenous peoples, local communities and other relevant stakeholders in the development and implementation of national action plans, as per paragraph 2 of decision MC-4/4.

24. Furthermore, the study highlighted the need for free, prior and informed consent of Indigenous peoples and local communities in relation to artisanal and small-scale gold mining activities that are intended to be carried out on their territories; raising awareness of the risks of exposure to mercury and promoting practices to mitigate the risks; enhancing multilateral cooperation with regard to the enforcement of national laws pertaining to the international trade of mercury, including to reduce the flow of mercury to artisanal and small-scale gold mining activities that are deemed illegal or unauthorized in accordance with national legislation; ensuring that the participation of Indigenous peoples or local communities in health and environmental monitoring programmes is voluntary and that the programmes are conducted in a culturally appropriate manner; and health services for early diagnosis of mercury-related health issues in a manner that is culturally appropriate, reliable and easily accessible to those Indigenous peoples and/or local communities who are at high risk of exposure to mercury used in artisanal and small-scale gold mining.

⁴ The study uses the term "local communities" to refer to non-Indigenous communities with historical linkages to places and livelihoods characterized by long-term relationships with the natural environment, often over generations, as per the use of the term by the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services.

25. The report of the study will be available to the Conference of the Parties at its fifth meeting as document UNEP/MC/COP.5/INF/8.
26. Furthermore, a technical document on in-situ monitoring of mercury and mercury compounds in and around artisanal and small-scale gold mining sites will be available as document UNEP/MC/COP.5/INF/9. It will provide a step-by-step approach to measuring mercury pollution impacting wildlife, water and sediments which in turn impact Indigenous peoples and local communities in and around artisanal and small-scale gold mining sites.

V. Suggested action by the Conference of the Parties

27. The Conference of the Parties may wish to take note of the information set out in the present note and in related information documents, and adopt a decision along the lines of the draft decision set out in the annex to the present note.

Annex

Draft decision MC-5/[--]: Artisanal and small-scale gold mining

The Conference of the Parties,

Noting the critical importance of full implementation of article 7 of the Minamata Convention on mercury on artisanal and small-scale gold mining to achieving the objective of the Convention and to contributing to the goals and targets of the Kunming-Montreal Global Biodiversity Framework,

Recalling decision MC-4/4, which calls upon parties to engage Indigenous peoples, local communities and other relevant stakeholders in the development and implementation of national action plans,

Recognizing that national action plans on artisanal and small-scale gold mining are central to the achievement of obligations under article 7 and also recognizing the efforts by many parties to develop and submit such plans,

1. *Calls upon* all parties that have notified the secretariat pursuant to paragraph 3 of article 7, and in particular those parties that have received support from the Global Environment Facility to develop their national action plans but have not yet submitted their plans, to submit the final plans to the secretariat as soon as possible, taking into consideration the deadline set out in paragraph 3 (b) of article 7;

2. *Encourages* all parties that have submitted their national action plans to provide a review of the progress made in meeting obligations under article 7 and include the review in their reports to be submitted pursuant to article 21, as set out in paragraph 3 (c) of article 7;

3. *Requests* the Global Environment Facility to include support to parties undertaking their first such review as part of enabling activity support available to parties, and within that activity, to support the development and piloting of review guidance, supplementing the information in the guidance document on developing a national action plan to reduce and, where feasible, eliminate mercury use in artisanal and small-scale gold mining,⁵ and an online tool for parties to use when undertaking their reviews;

4. *Calls upon* parties and the Global Environment Facility to redouble efforts to seek opportunities to advance implementation of article 7 in the context of projects on biodiversity, land degradation, international waters, and trade, and to continue to advance implementation of national action plans through projects and programmes;

5. *Encourages* parties and other relevant stakeholders to:

(a) Put in place the appropriate steps for obtaining the free, prior and informed consent of Indigenous peoples and local communities to artisanal and small-scale gold mining activities in their territories;

(b) Develop and promote alternative sustainable economic activities and livelihoods for Indigenous peoples and local communities;

(c) Improve multilateral cooperative efforts to enforce national laws pertaining to the international trade of mercury;

6. *Requests* the secretariat to prepare a supplemental section of the guidance document on developing a national action plan to reduce and, where feasible, eliminate mercury use in artisanal and small-scale gold mining, on the effective engagement and participation of Indigenous peoples, local communities and other stakeholders in the development and implementation of national action plans;

7. *Also requests* the secretariat to continue engaging with Indigenous peoples and local communities with regard to their needs and priorities in relation to the use of mercury in artisanal and small-scale gold mining and to support efforts to raise awareness among Indigenous peoples and local communities of the risks associated with mercury use in artisanal and small-scale gold mining;

⁵ “Guidance Document: Developing a National Action Plan to Reduce and, Where Feasible, Eliminate Mercury Use in Artisanal and Small-Scale Gold Mining” as adopted in decision MC-4/4 and updated in document UNEP/MC/COP.4/29.

8. *Further requests* the secretariat to update the Conference of the Parties at its sixth meeting on the progress made with respect to notifications, submissions and reviews pursuant to article 7, and to provide the supplemental guidance sections referred to in paragraphs 3 and 6 of the present decision for consideration by the Conference of the Parties at its sixth meeting.
