



United States Department of State  
*Bureau of Oceans and International  
Environmental and Scientific Affairs*

**Post-INC7 Submission from the United States: Article 7 - Artisanal and small-scale gold mining, ASGM NAP Guidance Comments**

**Summary of Interim Secretariat's Request**

*The Interim Secretariat invited Governments and others to submit comments to improve the “draft guidance on developing a national action plan to reduce and, where feasible, eliminate mercury use in artisanal and small-scale gold mining” as contained in document UNEP(DTIE)/Hg/INC.7/17 and available at: [www.mercuryconvention.org/Negotiations/INC7/tabid/4506/Default.aspx](http://www.mercuryconvention.org/Negotiations/INC7/tabid/4506/Default.aspx).*

The United States believes that the draft guidance set out in INC.7/17 will be very useful to countries as they seek to develop and implement strong and effective ASGM National Action Plans. We commend the drafters and the UNEP Global Mercury Partnership for their excellent work on this document. We support the use of draft ASGM NAP Guidance in the interim period, and we look forward to approval of a final guidance document at COP1. We have some targeted comments, as follows:

1. The second paragraph of the Forward should be revised to accurately reflect the nature of the guidance:

“This document represents an expansion of the UNEP’s *Guidance Document: Developing a National Strategic Plan to Reduce Mercury Use in Artisanal and Small Scale Gold Mining* (UNEP 2011), and is intended to reflect ~~Convention obligation and other~~ advances in understanding of the ASGM sector. Although this document is not-legally binding and is not to be construed as a further elaboration or official interpretation of the Minamata Convention, it is intended to provide guidance to countries in formulating NAPs ~~that are compliant~~ consistent with the requirements of the Minamata Convention, and provide\* technical, legal and policy information on issues related to ASGM, which ~~can~~ may be useful when preparing and implementing the NAP. Although the use of this guidance is not a requirement under the Minamata Convention, this guidance is intended to assist countries with the preparation of their NAPs.”

2. Section 4.5 -- The description of effectiveness evaluation requirements should be revised to reflect the actual language of Article 22 as follows:

“In particular, Paragraph 2 of Article 22 ~~states that the COP shall initiate the establishment of~~ ~~requires Parties to establish~~ arrangements ~~for providing itself with comparable~~ ~~to collect~~ monitoring data on the ~~presence and~~ movement of mercury ~~and mercury compounds~~ in the environment as well as trends ~~of in~~ levels of mercury ~~and mercury compounds observed in biotic media~~ ~~in biota~~ and vulnerable populations.”

3. Section 5.6 – The third paragraph of Section 5.6 (a) should be revised to accurately reflect the allowed use requirements of the Convention. Because NAPs themselves are not legally binding, we cannot guarantee that NAPs themselves would be fully consistent with the Convention. The paragraph should continue to reflect the important role of the ASGM NAP and its impact on reducing the importation of mercury, with edits as follows:

“Moreover, mercury use that is inconsistent with a Party’s National Action Plan (if it is required to develop one) ~~would not be consistent~~ with ~~that Party’s implementation of Article 7 and Annex C of the~~ Convention. ~~In that case, the Party may consider such use not to be~~ a “use allowed” ~~for that Party for the purposes of Article 3.~~ Therefore, ~~a Party may want to ensure that its~~ mercury imports ~~must be~~ ~~are~~ consistent with the measures and reduction targets specified in the NAP to be considered a ‘use allowed’ ~~for that Party.~~”

4. Section 5.6 (b) – The second bullet should be revised to accurately reflect the INC-agreed trade procedures, as follows:

“When countries are developing their trade strategies, they may wish to consider the following questions: ...~~What information should~~ ~~Has~~ the exporter ~~indicated~~ ~~provide~~ to the country of import; ~~to verify~~ that the mercury is not from a prohibited source?”

5. Section 5.6 (b) -- The bullet regarding COMTRADE would benefit from the following edit:

“.....For a particular country it may be useful to compare the COMTRADE data listing that country as a ‘destination’ for mercury against the official domestic import data (customs) for that country. If the former data volumes exceed the latter there is a ~~significant~~ possibility that the balance has been imported illegally, ~~recognizing that~~ ~~COMTRADE data can have discrepancies and reporting errors.~~”

#### Minor Editorial Comments on other sections

- Section 2.2 – Step 4 should be revised to reflect the significant health protections that can arise from proper operation and maintenance of a mercury capture device:

*“These systems typically capture 75 to 95% of the mercury in the amalgam and reduce ~~some~~ exposure if properly used (UNEP 2012a). “*

- Section 4 – the following bullet should be deleted, since there is not a required mercury inventory activity under Article 7. Alternatively it could be edited as follows:

*2. “Developing a national overview of the ASGM sector, including baseline estimates of mercury use and practices developed as part of the mercury inventory activity which could be developed as part of other mercury inventory activities or developed specifically for the NAP.”*

- Section 4.3 – The bullet in section beginning: “When establishing goals and objectives...” has typographical errors at “mining” and “use.”
- Section 4.5 -- The description of effectiveness evaluation requirements is misstated and should be revised to reflect the actual language of Article 22 as follows:

*“In particular, Paragraph 2 of Article 22 states that the COP shall initiate the establishment of ~~requires Parties to establish~~ arrangements for providing itself with comparable to collect monitoring data on the presence and movement of mercury and mercury compounds in the environment as well as trends ~~of in~~ levels of mercury and mercury compounds observed in biotic media ~~in biota~~ and vulnerable populations.”*

- Section 5.3 – Second paragraph

*“For the ~~purposed~~ purposes of this guidance document...”*

- Section 5.5 – Because emissions reductions do not require any baseline estimation and should be commenced immediately, we suggest the deletion of this statement:

*“These should be based on the sound baseline estimations (see Chapter 5.4) and can include immediate and long-term strategies.”*

- Section 5.5 – The paragraph on mercury storage should reference the Minamata Convention storage guidelines under development and note that this document will be updated to provide a link to those when available. This approach works well in the contaminated sites paragraph that follows.
- Section 5.6 (b) – The last bulleted paragraph conveys an action that we do not consider to be a good use of time, energy and resources to address the issue, so we suggest deletion:

*“Extension of the mercury inventory report and database to include a mass balance of mercury within the country covering all mercury sources.”*

- Section 5.8 – “Other Resources” text box, which states “*The NAP guidelines will be updated when the WHO recommendations are released,*” should be updated to convey current state of the WHO recommendations and to indicate that the WHO recommendations will be available for review and comment.
- Section 5.9 – we find the following statement to be somewhat confusing, though we acknowledge that it is useful to include those ministries in the NAP implementation, so we suggest editing as appropriate the following sentence:

*“The ministries of education and family are made aware of the need to early childhood institutions in ASGM areas.”*

- Section 5.10 – we suggest rewording the following paragraph:

*“Names, locations, and contact address of the doctors and hospitals that can provide adequate diagnosis and treatment to those who are already affected by the toxicity of mercury is also important information for victims of the mercury poisoning.”*

to:

*“Countries may wish to include contact information for qualified health care providers in their NAP and provide that information to communities that may be impacted by mercury.”*