

PROVISIONAL GUIDE ON THE EFFECTIVE ENGAGEMENT AND PARTICIPATION

of Indigenous Peoples and of local
communities in the development,
implementation and review of
ASGM national action plans



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**MINAMATA
CONVENTION
ON MERCURY**

Provisional guide on the effective engagement and participation

of Indigenous Peoples and of local
communities in the development,
implementation and review of ASGM
national action plans

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This provisional guide, which has not been formally edited, is based on a desk review of similar engagement protocols and its aim is to reflect the existing best practices for engagement of Indigenous Peoples and for engagement of local communities in response to **decision MC-5/7 paragraph 7**. The draft was posted on the Convention website on 26 March 2025 until 30 April 2025 for inputs from Parties and other stakeholders. The Secretariat gratefully acknowledges the financial support of the **Governments of Australia and Norway**, which enabled the preparation of the provisional guide.

Produced by:

Secretariat of the Minamata Convention on Mercury

International Environment House
11-13, Chemin des Anémones
CH-1219 Châtelaine, Geneva, Switzerland

E-mail: mea-minamatasecretariat@un.org

Website: www.minamataconvention.org

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Table of contents

| | | |
|-------------|--|-----------|
| I. | Introduction | 2 |
| II. | Setting the scene for consultations with Indigenous Peoples and local communities | 4 |
| | A. Consultation principles | 4 |
| | B. Establishing governance systems for consultations with Indigenous Peoples and with local communities | 5 |
| III. | Preparing for Indigenous Peoples and local communities consultations | 6 |
| | A. Acknowledging the context | 6 |
| | B. Creating consultation foundations..... | 7 |
| | C. Indigenous Peoples and local communities’ consultation plans..... | 8 |
| | D. Who to consult and who facilitates? | 9 |
| | E. Where to consult | 11 |
| | F. When to consult..... | 11 |
| | G. Institutionalization of the participation process | 12 |
| IV. | Implementation of the consultation process | 14 |
| | A. General consultation structure | 14 |
| | B. Consultation tools | 16 |
| V. | Implementation of NAP and the roles of Indigenous Peoples and local communities .. | 17 |
| | A. Ensuring effective implementation of NAPs with Indigenous Peoples and local communities | 17 |
| | B. The involvement of Indigenous Peoples and local communities in NAPs implementation..... | 17 |
| VI. | Review of the implementation of Article 7 | 20 |

I. Introduction

The Minamata Convention on Mercury (hereafter referred to as the Convention) aims to “*protect human health and the environment from anthropogenic emissions and releases of mercury and mercury compounds.*”¹ The largest source of emissions of mercury globally is from its deliberate use in artisanal and small-scale gold mining and processing (ASGM).² ASGM is defined under the Convention as gold mining conducted by individual miners or small enterprises with limited capital investment and production. While the term refers to artisanal and small-scale, the scale of operations on the ground at times are not small. ASGM is conducted in many countries, across national and sub-national jurisdictions, by thousands of people spread over vast areas, which are often also remote. These operations are often informal, and depending on national law definitions may be considered illegal. ASGM is also a critical source of income for many communities which, lacking awareness or feasible alternatives, rely on mercury.

Mercury has been commonly used to extract gold from ore because of its availability and ease of use. ASGM miners with little capital can process ore using mercury with very minimal equipment. With little equipment and mercury, miners can work in locales that are not easily accessible, and it affords them mobility to move from one mining spot to another. The Convention requires Parties to take steps to reduce, and where feasible, eliminate the use of mercury in ASGM³. Countries with “more than insignificant” ASGM are required to develop and implement a comprehensive national action plan, including national objectives and reduction targets, actions to eliminate the worst practices, and various strategies to reduce the use and impacts of mercury.

Many of the people who are most affected by mercury pollution belong to Indigenous Peoples⁴, or are from local communities,⁵ including women and girls among them. Parties to the Convention, in decision MC-5/1, noted with concern that Indigenous Peoples, as well as local communities, are particularly vulnerable to mercury exposure and are among the first to face the serious health and environmental effects resulting from mercury pollution owing to their close relationship with the environment and its resources, and welcomed the role of Indigenous Peoples, as well as local communities, and particularly the engagement of women and girls, who have faced the effects of mercury with resilience, in achieving the objective of the Minamata Convention and the targets and goals of the 2030 Agenda for Sustainable Development. In the same decision, Parties noted the importance of broadening participation of Indigenous Peoples, as well as local communities, in the implementation of projects and programmes undertaken under the Minamata Convention.

As many Indigenous Peoples and local communities rely on ASGM as their main or sole source of income but are also negatively and disproportionately impacted by ASGM, effective engagement and participation of Indigenous Peoples and of local communities in the implementation of the Convention is essential, especially related to the development and implementation of national action plans pursuant to Article 7 and Annex C of the Convention (NAP).

To this end, the fifth meeting of the Conference of the Parties, in its [decision MC-5/7](#), requested 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. This document has been prepared in response to the request under decision MC-5/7 (hereafter referred to as the “provisional guide”).

¹ Article 1, Minamata Convention on Mercury (hereinafter the Convention).

² Depending on the circumstances, the abbreviation ASGM is used as a noun that refers to the activity and as a verb which refers to people engaged in the activity (i.e. Artisanal and Small-Scale Gold Miners).

³ Article 7, paragraph 2 of the Convention.

⁴ In their statement from July 2023 ([https://social.desa.un.org/sites/default/files/Statement-Three%20Mechanisms%20\(002\).pdf](https://social.desa.un.org/sites/default/files/Statement-Three%20Mechanisms%20(002).pdf)), the UN Permanent Forum on Indigenous Issues, Special Rapporteur on the Rights of Indigenous Peoples and the UN Expert Mechanisms on the Rights of Indigenous Peoples, requested the term Indigenous Peoples should not be used alongside or associated with local communities as the origin of the rights of Indigenous Peoples are different from other groups

⁵ For the purpose of this technical information, the term “local communities” is being used to refer to non-Indigenous communities that embody traditional lifestyles but do not self-identify as Indigenous Peoples. Similarly, according to the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES), “‘local communities’ refers to non-indigenous communities with historical linkages to places and livelihoods characterized by long-term relationships with the natural environment, often over generations” (source: IPBES glossary <https://www.ipbes.net/node/41450>).

The purpose of this document is to provide information on how to establish, build and maintain partnerships with Indigenous Peoples and with local communities, who may find themselves across a range of relationships with and/or impacted by ASGM, for the development, implementation, and review of an inclusive NAP.

According to a previous report by the Secretariat,⁶ there are five categories describing the relationships between Indigenous Peoples, local communities, and ASGM. These categories are based on scenarios of interaction, varying by factors such as mining location, the actors involved, and the level of community consent. Some Indigenous Peoples or local communities may belong to multiple categories or none at all. The categories (shown as groups A – E) are as follows:

- **Group A:** ASGM is conducted on Indigenous Peoples' lands and territories by Indigenous Peoples or in local communities' lands by their members, with community-based consent.
- **Group B:** ASGM is conducted on Indigenous Peoples' lands and territories or in local communities' lands by external miners, with community-based consent.
- **Group C:** ASGM is conducted on Indigenous Peoples' lands and territories or in local communities' lands by external miners, without community-based consent.
- **Group D:** ASGM occurs near Indigenous Peoples' lands and territories or local communities' lands, resulting in mercury contamination impacts.
- **Group E:** ASGM occurs far from Indigenous Peoples' lands and territories or local communities' lands, but Indigenous Peoples and communities are exposed to mercury through long-range transport.

Depending on the local context, the national action plans developed by Parties pursuant to Article 7 of the Convention may be most relevant to groups A – D above, where the degree of importance assigned to different strategies, including those listed in Annex C, will vary among the groups. As such, before starting to develop their NAP or reviewing the progress made in meeting its obligations under Article 7 of the Convention, Parties may need to adapt their stakeholder engagement approach to their particular social, political, legal and cultural circumstances, as well as to the needs and priorities of the affected Indigenous Peoples and of the affected local communities with regard to the effects of mercury on their health, livelihoods, culture and knowledge. Variation between Parties in topics that may affect the engagement with Indigenous Peoples and with local communities may include: existing legislation pertaining to the need for consultation and consent, including the right of Indigenous Peoples to provide or withhold their free, prior and informed consent⁷; previous government experience in consultations with right holders and stakeholders, Indigenous Peoples' traditional and customary consultation approaches, existing Indigenous Peoples' and local communities' representative bodies and organizations at different jurisdictions and the level of acceptance or marginalization of Indigenous Peoples and of local communities in society. Parties should also refer to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the relationship between Indigenous Peoples and their territories⁸. Related to local communities, the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas recognizes peasants and other people working in rural areas right to land.

This provisional guide provides useful information for use by Parties and other governments. Given the impact that ASGM has on Indigenous Peoples and on local communities, as well as the important roles they play in the sector, the degree of success in addressing challenges related to ASGM may well be hinged on how effectively Indigenous Peoples and local communities can participate during the development and implementation of NAPs.

The information contained in this document offers an opportunity to enhance the engagement of Indigenous Peoples and local communities, that can lead to improving governance and driving positive change towards achieving the objective of the Convention and Sustainable Development Goals (de Haan, Jorden et.al, 2020). Importantly, the provisional guide lays out how Indigenous Peoples' and local communities' engagement and participation is iterative and evolving and highlights that without their active and voluntary support, and full partnership in the process, the complete benefits of the Convention will be difficult to reach.

⁶ UNEP/MC/COP.5/INF/8 Needs and priorities of Indigenous Peoples and local communities with regard to the use of mercury in artisanal and small-scale gold mining.

⁷ In accordance with the [UN Declaration on the Rights of Indigenous Peoples](#), art 10, 11.1, 19, 28, 29, and 32.

⁸ [UN Declaration on the Rights of Indigenous Peoples](#), art 8, 10, 25, 26, 27, 28, 29 and 32

The provisional guide is structured into the following main sections:

1. **Setting the scene:** lays out the main topics and principles for successful consultations with Indigenous Peoples and with local communities in the context of the Minamata Convention and NAP.
2. **Preparing for consultations:** looks at the general steps in a stakeholder engagement plan and then more specifically in the context of ASGM the who, when and where of consultations.
3. **Consultation process:** considers the 'how' of the engagement and consultation process.
4. **Implementing the NAP and the roles of Indigenous Peoples and local communities:** focuses on the different roles of Indigenous Peoples and of local communities and provides options for actions for how Indigenous Peoples and/or local communities can be involved in the actual implementation of NAPs and how their participation can contribute to the NAP's effectiveness.
5. **Review of implementation:** focuses on the roles of Indigenous Peoples and local communities in reviewing the progress in implementing Article 7 of the Convention.

II. Setting the scene for consultations with Indigenous Peoples and local communities

A. Consultation principles

In most contexts, the development of an inclusive and practical NAP and, ultimately, the successful implementation of Article 7 of the Convention, will depend on the active and meaningful participation of Indigenous Peoples as well as local communities. The foundation for this is for Parties, and other involved organizations, to embrace certain principles in their approach to engagement. Building on these principles allows for genuine shared decision-making and mutual understanding.

Recognition that, in some contexts, ASGM plays a critical role in the livelihoods of Indigenous Peoples and of local communities while, in other contexts, ASGM is a vehicle for human rights violations of the rights of Indigenous Peoples and of local communities.

Respect for the essential role that Indigenous Peoples, as well as local communities, play in achieving the Convention's objective.

Partnership in co-creation of inclusive and realistically achievable NAPs that are tailored to the specific contexts and upholds the rights of Indigenous Peoples and of local communities.

Commitment to culturally and linguistically appropriate engagement that is focused on mutually agreed terms.

Women's participation as key contributors and holders of Indigenous knowledge and local knowledge valuable in the planning and implementation of NAPs.

Support for transitioning to safer mining practices or alternative livelihoods in a manner that is aligned with the priorities of Indigenous Peoples and of local communities.

Safeguards for conducting social and environmental impact assessments, with the participation of Indigenous Peoples and local communities, to uphold their human rights and respect their knowledge, culture and traditions.

Institutionalization of Indigenous Peoples' and local communities' perspectives and inputs into NAP via formal governance structures.

CARE Principles for Indigenous Data Governance for asserting greater control over the application and use of Indigenous Peoples' data and knowledge for collective benefits.

B. Establishing governance systems for consultations with Indigenous Peoples and with local communities

In addition to adopting the above principles, one of the most enabling actions a government can take and one that is a general prerequisite for effective participation, is institutionalization of the consultation process. This refers to the establishment of bodies (e.g. committees, groups, teams) with a specific mandate for governing and/or facilitating the consultation process, that includes representation from the relevant Indigenous Peoples and/or local communities, for a specific time frame (temporary and permanent). The purpose of such bodies is to ensure the effective integration of the consultation outcomes into an overall process and into the goal (i.e. NAP).

Following the proposed steps for the development of a NAP in the *NAP Guidance*, it is recommended that a “national ASGM overview” be conducted (see below). Since the national ASGM overview sets the baseline estimates for the extent of ASGM and mercury use in a country and is also the basis for deciding what actions can be taken to reduce or eliminate mercury, the inputs of Indigenous Peoples and local communities into the national ASGM overview are very relevant. This is especially true for understanding how ASGM is interwoven with Indigenous Peoples and local communities’ livelihoods and how changes in the ways they conduct mining can impact them or how economic alternatives to ASGM can benefit them. To ensure this information is included in the national ASGM overview, the *NAP Guidance* recommends (in Chapter 4) the establishment of two governing bodies:

- i.) NAP development working group (hereafter “NDWG”) and
- ii.) Stakeholder advisory group (hereafter “SAG”).

Figure 1. Recommended steps in the process of developing a National Action Plan



(source: NAP Guidance)

When establishing the NDWG and/or SAG, governments should aim to set criterion for representation of Indigenous Peoples and local communities engaged in or affected by ASGM and the use of mercury.⁹ Examples of where these representatives could come from include Indigenous Peoples and local communities ASGM associations through representatives chosen by themselves in accordance with their own procedures and decision-making institutions, and local civil society organizations. It is important that Indigenous Peoples and local communities consider the representatives as legitimately having a position

⁹Other representatives on the SAG could come from different levels and jurisdictions of government, gold processors, community leaders, environmental and human health organizations, academic and research organizations, ASGM associations, representatives from large scale mining and other relevant groups.

on these governing bodies and that there is acceptance of traditional governance and decision-making structures. Where Indigenous Peoples are living in voluntary isolation and are impacted by mercury, they can be represented by a mandated Indigenous Peoples organizations or government agency working outside of these communities. Representation of Indigenous Peoples and local communities by these groups needs to be documented (e.g. Terms of Reference) and include their roles and responsibilities related to communications with consultation facilitation teams and consultation results, reporting and monitoring.

The SAG is best established before the start of the national ASGM overview or this can be done, along with Indigenous Peoples' and local communities' representation, respectively, when it is in progress or when a NAP is under review. Although the NDWG consists mainly of government agencies there is space for "Miners associations, unions, organizations, and representatives" this could include Indigenous Peoples and local communities' representatives. In the countries where these representatives exist and they are qualified to join, governments may consider reserving space on the NDWG for them. The below diagram shows Indigenous Peoples and local communities' involvement and perspectives in these groups.

Figure 2. Representation of Indigenous Peoples and of local communities in the NAP development working group, the stakeholder advisory group and the national ASGM overview leading up to the development of an including ASGM National Action Plan.



III. Preparing for Indigenous Peoples and local communities consultations

A. Acknowledging the context

Governments and/or other facilitators need to appreciate that they are reaching out to engage with communities and requesting them to contribute and possibly make changes to their livelihoods and environment. And that when they are contacted, there will be wide differences between communities and government about why contact is occurring. This places the responsibility on governments – directly or through other facilitators – to fully inform communities about the purpose for the consultations and the possible effects of the NAP on their livelihoods. The most effective approach for doing this is to apply the principles of Free Prior and Informed Consent (FPIC). Only after the purpose of the consultations is understood by communities and with their willingness (consent for Indigenous communities) to engage further made clear, should facilitators begin to work more closely with communities to understand each other's perspectives and goals related to ASGM and what this means to the NAP.

The government's invitation to engage will likely result in various levels of interest from different communities depending how the ASGM benefits and negatively impacts them. There may also be variation in interest within communities among sub-groups such as those benefiting from the use of mercury and those negatively impacted. Such cases need to be carefully managed so as not to create conflict between groups. Some people may even feel internally conflicted as they and their families could both benefit from ASGM and therefore want no change but also incurring negative impacts and want change. Facilitators need to appreciate the complexities they may encounter at the community level and be prepared to navigate through these.

One aspect to consider when preparing for community consultations is the different categories (Groups A – E above) that describe the relationship of Indigenous Peoples and local communities with ASGM and link these to the contents of Annex C of the Convention and other relevant documents. An example of this is Convention Annex C, Section 1, point c: “Steps to facilitate the formalization or regulation of the artisanal and small-scale gold mining sector” which would only be relevant to Indigenous Peoples or local communities engaged in mining on their lands with or without the use of mercury or when non-community members (i.e. outsiders) are mining on Indigenous Peoples’ lands and territories or in local communities with their consent (Group A and B). Consultation facilitators will need to review the categories or group of the communities they will engage with to determine the relevancy of the consultation topics as included in Annex C and other Convention provisions.

B. Creating consultation foundations

Due to each country’s unique legal, cultural and historical contexts, the actual consultation steps applied at the community level will vary widely from country to country and even within a country. The consultations process needs to be based on some initial actions and approaches as follows. Documenting these (written as terms of reference or wide agreement verbally) early on can help make them be a touchstone for the consultations.

- **Mutually, acknowledge that it is the responsibility of the State to consult.** All stakeholder groups need understand that the State, as the signatory to the Convention, is ultimately responsible for ensuring consultations.
- **Define the problems and challenges together.** All groups need to state what they think the problem is for them and what their expectations of the consultations and of each other are. If possible, agree on a common goal, or respectfully acknowledge that there are different goals.
- **Open and transparent dialogues:** No hidden agendas. Candid conversation and clear expectations. Commitment to sharing information.
- **Free, Prior and Informed Consent:** Accept that the principle of free, prior and informed consent applies under some circumstances when conducting a consultation process. FPIC is required prior to initiation or expansion of activities that may impinge on the rights, lands, resources, territories, livelihoods, or food security of Indigenous Peoples¹⁰. FPIC is enshrined under international human rights law for Indigenous Peoples and can be used as a best practice for meaningfully engagements. (see the below box for additional details). Local communities have the right to active and free participation and should be consulted in good faith in any initiative that may affect their lives, land and livelihoods¹¹.
- **Defined roles:** Clearly define who is responsible for what and avoid ambiguity or false expectations that can lead to misunderstandings. Facilitators must explain their roles (facilitate, inform, collect, transmit) and their duties (balanced, unbiased, fair). They need to assist communities define their roles but also let them question, contemplate and define their own roles.
- **Build accountability:** Make sure both sides are accountable for performing their roles and their contributions to the engagement process. Noting that the end goal of accountability is not punishment but to make improvements and positive change. Use tools or agreed-upon methods for the consultations and tracking progress.
- **Be willing to compromise:** Be open to alternative solutions and flexible approaches.

¹⁰ [Free, prior and informed consent: a human rights-based approach](#), Study of the Expert Mechanism on the Rights of Indigenous Peoples (2020).

¹¹ United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas. Art 5 &10.

Free, Prior and Informed Consent in the development of a National Action Plan

In the context of the NAPs, consent relates to Indigenous People's decision on whether or not to engage in the development of a NAP, to grant or withhold permission for mining activities on their lands and territories, and for some aspects of the implementation of NAPs, such as monitoring of mercury levels in their members or their lands, conducting awareness raising activities, combating illegal trade of mercury into their lands, and the use of Indigenous knowledge. The right of Indigenous Peoples to provide or withhold their free, prior and informed consent (FPIC) is enshrined in the United Nation Declaration on the Rights of Indigenous People (UNDRIP) and ILO 169¹². How Indigenous Peoples reach a decision on consent will depend on their own context and priorities and many have developed their own FPIC protocols. If Indigenous Peoples do not consent to engagement or other actions, either during the development or implementation of NAPs, this needs to be recorded, and alternatives sought. In cases where Indigenous Peoples choose not to engage it may indicate distrust in the consultation process. Realistically, the meaningful and willing participation of Indigenous Peoples can only happen when there is genuine interest and mutual respect. Other than consent, the remaining principles of FPIC (free, prior and informed) are also essential for meaningful engagement with Indigenous Peoples. The planetGOLD¹³ Guyana "Guideline for Follow FPIC for Indigenous Peoples – An approach for use under the Eldorado Gold Responsible Mining Initiative" is a useful document that provides details on implementing FPIC in the context of ASGM.

C. Indigenous Peoples and local communities' consultation plans

As early as possible, the consultation facilitators should coordinate with the SAG and/or the NDWG regarding all aspects of the consultation and with their input, draft an Indigenous Peoples and local communities' consultation plan.

Many Indigenous Peoples and an increasing number of local communities have developed their own consultation protocols, and, in such autonomous cases, these protocols should also be followed in the context of NAPs.

In the absence of an existing consultation protocol, the general steps shown below can guide the consultations and may be adapted to specific needs and context when creating country specific plans.

1. Identify relevant rightsholders and stakeholders
2. Define the objectives and interests of rightsholders and stakeholders
3. Establish engagement goals
4. Agree on engagement methods and frequency
5. Develop communication strategies
6. Assign roles and responsibilities
7. Create an engagement schedule
8. Establish feedback mechanisms
9. Monitor and adjust engagement
10. Document and report engagement outcomes

¹² International Labour Organization Convention. Articles 1, 6, and 19

¹³ The planetGOLD programme (planetGOLD) works in partnership with governments, the private sector, and ASGM communities to significantly improve the production practices and work environment of artisanal and small-scale miners. planetGOLD supports the commitments under the Minamata Convention on Mercury, and is supported by the Global Environment Facility, and led by the United Nations Environment Programme and implemented in partnership with the United Nations Industrial Development Organization, United Nations Development Programme, and Conservation International. It has projects in 23 countries.

What are consultation protocols?*

Consultation protocols create a process for Indigenous Peoples and governments to follow when addressing the duty to consult on potential impacts that may affect Indigenous Peoples. They may also be used to facilitate engagement on other matters of interest and concern to communities. Protocols promote relationship building and clarify the roles and responsibilities between governments and Indigenous communities.

There are several consultation protocols already in place across different countries. For example, Australia¹⁴ and Canada¹⁵ have official consultation protocols that were co-developed by their Indigenous Peoples. In the USA, many federal agencies have developed their own consultation policies tailored to their missions.

In some countries, Indigenous Peoples and/or local communities have developed their own consultation protocols. The purpose of these protocols is to facilitate and ensure the effective participation of Indigenous Peoples in the government's decision-making processes related to policies and initiatives that directly or indirectly affect them. The protocols reflect each Indigenous People's unique forms of social organization and establish the rules by which they are to be consulted.

Consultation protocols developed by Indigenous Peoples vary depending on their unique cultures, traditions, and governance systems, but they often follow a set of common steps designed to ensure meaningful and effective participation. These steps may include:

- Background on the Indigenous People and the context in which the protocols were developed.
- Introductory sections that provide some historical context.
- Process through which the protocols were created and the scope.
- People's expectations for the protocols and consultation.
- Those that have the right to be consulted.
- How Indigenous Peoples should be consulted, normally including FPIC.
- A framework for decision-making.
- Feedback and monitoring mechanism.

D. Who to consult and who facilitates?

Prior to starting community level consultations with Indigenous Peoples and with local communities, governments and/or the SAG, need to accurately identify who in their national boundaries needs or has the right to be consulted. At the broadest scope, all Indigenous Peoples as well as local communities that are engaged in or affected by ASGM – including those who are involved in the mining or processing of gold and those who are impacted by the use/emissions of mercury from mining and processing – need to have their voices heard and acted upon.

Government agencies involved in the development and implementation of NAPs may already understand which of these groups that are practicing ASGM or may be impacted by ASGM. The SAG, with Indigenous Peoples' and local communities' representation and their local knowledge, can also help identify which Indigenous Peoples' groups and local communities to include. This can be done as part of preparations for the national ASGM overview that starts with a **mapping exercise** aimed at identifying Indigenous Peoples and local communities, as well as local civil society organizations, international non-government organizations and recognized individual experts working with them. Facilitation of the mapping exercise is best led by a team of Indigenous Peoples or local communities from the areas where ASGM is done. To expand and refine the group of relevant Indigenous Peoples and local communities, mapping should be an iterative process with those identified assisting to further identify additional Indigenous Peoples as well as local communities and community level sub-groups. Several groups that will likely be identified are:

¹⁴ Principles for Engagement prepared by the Australian Institute of Aboriginal and Torres Strait Islander Studies: <https://aiatsis.gov.au/publication/94687>

¹⁵ [UN Declaration on the Rights of Indigenous Peoples](#). Article 8, 11, 32 and 40.

- Indigenous Peoples and local communities conducting ASGM using mercury.
- Indigenous Peoples and local communities affected by others conducting ASGM using mercury.
- Indigenous Peoples and local communities affected by secondary economy (i.e. communities that rely on the buying and selling of mercury located at different locations other than where mining or processing occurs).

The case for engaging Indigenous women and women of local communities

Mercury has been shown to have specific and cumulative negative impacts on pregnant women, their children and pre-natal infant health. Even just living in ASGM communities is associated with higher blood total mercury levels in pregnant women which could be associated with increased reproductive risk in the women and poorer neurodevelopmental outcomes in children that has negative impacts on their ability to listen/concentrate, read, and write. As exposure increases through working with mercury or consumption of food (e.g. fish) contaminated by it, mercury levels increase causing even great irregular fetus development damage or results in spontaneous miscarriage, premature birth and congenital disability. Indigenous women, who are often responsible for feeding their families through collection of aquatic resources (i.e. fish) and rely on these as an important source of nutrition during pregnancy, are at particular risk.

Noting these heightened risks and their threats to health and life, justifies specific efforts and actions on the part of government and consultation facilitators to create the space for consultations dedicated to women, particularly those who are pregnant or of child-bearing age, as well as of women elders given their role in advising members of the community as knowledge bearers. Doing so creates the opportunity for them to more freely express themselves by removing any cultural barriers they may face. Inputs specifically from women and especially those with children, will help design and support NAP implementation actions that directly reduce these risks and protect the health of women and children.

Who facilitates community level consultations should be collectively decided by the members of the NDWG and/or the SAG including their Indigenous Peoples' and local communities' representatives. There are options for who facilitates which will depend on each country's political system, civil society freedoms and existing Indigenous People organizations. Options for facilitators include:

- Government is solely responsible;
 - A government agency (national, regional, district) responsible for facilitating and authoring the NAP.
 - A government agency responsible for indigenous affairs, rural development or related topics but not authoring the NAP.
- A non-government formal or informal organization (local civil society, associations, Indigenous People's networks) is delegated by the government.
- There is co-facilitation between government and non-government organizations.

There are pros and cons to government and non-government facilitation. Government facilitators will likely be better positioned to communicate consultation results to NAP authors than non-government organizations. They may have district/regional offices but still be distant from communities or lack local experience. In some countries, non-government organizations will have grassroots networks in Indigenous communities with established and trusted relations. However, these organizations may struggle to effectively communicate communities' inputs to the central level government agency writing the NAP, they may not have direct access to funding or may not be known nationally by all Indigenous Peoples and local communities involved or impacted by ASGM

The most effective approach leading consultations could be to have qualified Indigenous Peoples formal or informal organizations from or working in ASGM areas that were identified during stakeholder mapping. Governments' input could be included when needed. These organizations would add value through their experience in how local customs, behavior and actions relate to consultations with outsiders and how local norms (e.g. ceremony, symbolism, gifts, gender) apply to consultations. Crucially, they may have the

ability to communicate (verbal and written) in local languages which is highly beneficial to facilitate and communicate effectively. Government involvement in the partnership would indicate the formal status of the consultations and signal the importance of the Indigenous Peoples and local communities' inputs into the NAP. In some countries, communities involved in ASGM may have organized themselves into formal or informal association which have already taken on a representative role in consultations with outside groups. Examples include groups organized specifically around ASGM such as the "Ghana National Association of Small-Scale Miners" or in the Philippines the "Banao Bodong Association" a tribal group involved in ASGM.

Regardless of what group or groups facilitate the consultation process, women facilitators need to be included. The reason for this is that within ASGM communities, women likely have specific gender segregated roles and work and therefore experience the negative and positive impacts of mercury use differently than men. Expressing themselves directly to male facilitators from outside the community may be difficult due to cultural barriers. Women facilitators – especially if they are indigenous and can speak the community's language – can help ease these barriers clearing a path for women's participation.

E. Where to consult

Consultations can be organized at a variety of locations, but it is important that organizers recognize that the onus and responsibility is theirs for collecting the perspectives of Indigenous Peoples and local communities. Therefore, consultations should occur where the greatest number of people are able to attend regardless of the difficulties (i.e. bad road conditions, weather, distance) in doing so. Below are the main locations where consultations should be held.

1. As the stakeholders to be consulted are Indigenous Peoples and local communities involved in ASGM that reside in their communities which are largely located in rural areas, consultations need to be organized at the community level.
2. Noting that many Indigenous Peoples or members of local communities may work for extended periods at ASGM sites, consultations may need to be organized at that those sites, even if they are difficult to reach.
3. As a gender division of labour in Indigenous Peoples and local communities may result in women residing or working in different locations than men, specific attention needs to be given to organizing consultations at the locations where women are. As part of the consultation organizing process with communities, facilitators need to learn where women will be during the consultation period and organize accordingly.
4. Under certain conditions, another option is a centralized approach that involves bringing community leaders/representatives to consultation meetings at a specific village, district capital or hub of some type. To be effective, the validity of the attending representatives at accurately and genuinely representing their communities needs to be researched and ensured.

F. When to consult

When actual community level consultations are best done will depend on local conditions such as accessibility (e.g. the rainy and dry seasons) and people's annual calendar (e.g. agriculture season, holidays) and when most people are available. The specifics can be understood and agreed through initial consultations with communities.

In the context of NAP development, the inputs of Indigenous People and local communities is most effective when planning the NAP process as it builds trust and respect. Community level consultations should only begin when the planning and preparations noted in this document are complete. Depending on a country's NAP progress, below are possible times when consultation results can be included in NAPs.

1. For greatest effectiveness, consultations with Indigenous People and local communities should start during the NAP planning stage. As part of the "Establishing a coordinating mechanism and organization process" step above, the responsible government bodies should immediately establish the SAG and begin the stakeholder mapping activities. With consultation results regularly being transmitted from consultation facilitators to the SAG and authors of the NAP.

2. When a NAP is initially written and has been submitted but before a formal review process, consultations can be done with the results included as an annex to the main document.
3. When planning a NAP or implementation of Article 7 review process is also a good time to initiate a consultation process with establishment of a SAG and stakeholder mapping with a focus on Indigenous Peoples and local communities.
4. Less preferred is when drafting of the NAP has already started and is on-going. In these cases, pausing the NAP development process to organize the SAG and include consultation can be done.
5. Even after completion of the NAP, Indigenous Peoples and local communities' consultation should be continued to monitor community level progress and inform communities about policy related progress. The below section on monitoring provides more details on this.

G. Institutionalization of the participation process

The effectiveness of a stakeholder process, as part of a larger process and goal, is greater than ad hoc consultations when it is institutionalized as part of that process. Institutionalization of consultation processes are essential for ensuring that diverse perspectives are continuously included in decision-making, particularly in policy development. More specifically, as part of the Convention's Annex C Paragraph 1 (c), it is required that each NAP must include "steps to facilitate the formalization or regulation" of the ASGM sector. However, formalization or regulation will not be relevant where ASGM is done on the territories of Indigenous Peoples or lands of local communities without their consent or where the mining activities are against existing government laws and/or regulations. As discussed above, the establishment of a NDWG and particularly the SAG, are two highly recommended steps toward institutionalization that go hand in hand with formalization. Additional steps for institutionalizing and embedding the stakeholder process and Indigenous Peoples and local communities' inputs in a NAP are described below.

1. **Secure support for stakeholder/rightsholders consultations from NAP development leadership**
 - Work with the leaders responsible for overseeing NAP development so that they understand and value the stakeholder process and are committed to full and long-term support (e.g. from stakeholder mapping to monitoring stakeholder inputs).
 - Make stakeholder inputs a core value in the NAP process and a prerequisite for successful implementation of the Convention.
2. **Commit financing and resources for a multi-year consultation plan**
 - Include a "Indigenous Peoples and local communities' consultations" budget line in larger budgets, create and fund a full-time facilitators team or hire external consultants to ensure that the stakeholder process progresses and is sustainable.
 - Allocate multi-year funding to Indigenous Peoples and local communities' consultations that include NAP implementation monitoring.
 - Always include stakeholder planning as part of NAP strategic planning.
 - Select participation approaches: With Indigenous Peoples and local communities' representatives, the SAG, experts and the communities decide what methods will be used to collect inputs (meetings/workshops, surveys, specific focus-group interviews with women, people living with a disability, role or job in ASGM process).
 - Invest in appropriate technology when it adds value such as stakeholder management apps and software, online open-source platforms, and consultations tools and equipment (microphone and speakers, projectors and screens, electrical generators).
3. **Commit to supporting Indigenous Peoples and local communities in transitioning away from mercury use in ASGM by fostering more sustainable practices and in developing alternative or complementary economic activities**
 - Build on the outcomes of the national ASGM overview and community consultation results with the formulation of a "community livelihoods transition roadmap and strategy" that is endorsed by the Chair of the NDWG and included in the NAP.

- Support Indigenous Peoples' traditional knowledge of sustainable land and resource management to mercury reduction strategies, and low-impact mining techniques that can lead by example in transitioning to mercury-free methods.
 - Support Indigenous community-driven projects to transition away from mercury, such as cooperative mining initiatives, alternative livelihoods, and environmental restoration.
 - Cooperate with Indigenous Peoples on capacity-building including programs for mercury-free mining that respect their cultural values and livelihoods,
 - Ensure access to funding, technology, and capacity-building programs tailored to indigenous contexts.
 - Commit to sustained funding for mercury-free initiatives that are co-designed with Indigenous Peoples, as well as local communities.
- 4. Define roles and responsibilities within the governance structures**
- Within the SAG structure, create positions and assign clear roles for managing internal and external stakeholder relations, managing community level facilitators, communications and record-keepers, decision-making and monitoring.
 - Ensure linkages between the SAG and NDWG by making a member from each of these responsible for communications and reporting between the two groups.
- 5. Formalize stakeholder approaches with documented procedures**
- Ensure the consultations process aligns with existing government policy on stakeholder engagement (sometimes included as mandatory steps in environmental impact assessment legislation).
 - Have government agencies issued specific instructions, directives or other legislation recognizing the NAP development process or stakeholder engagement and consultations with Indigenous Peoples and local communities (examples from consultations by countries' engagement in the Convention on Biological Diversity or climate initiative such as REDD+). If so, disseminate these within the SAG and NDWG.
 - Adopt supporting policies or protocols on how stakeholder engagement should be conducted (anti-discrimination policies, rules on transparency, confidentiality, ethical standards). Consider a "Indigenous Peoples and local communities ASGM Consultation Guideline"
 - Communications Design and Management: Define communication protocols and establish two-way communication channels for feedback and information sharing that are transparent (e.g. meeting minutes that are reviewed, signed and circulated) two-way communication channels (i.e. who to contact and how) for continuous dialogue. Agree upon common languages for communications or provide translation.
- 6. Monitor and evaluate the stakeholder engagement process**
- Recognize and make Indigenous Peoples and local communities' active partners in the front line of monitoring for changes to their livelihoods and their voluntary transition away from mercury.
 - The importance given to Indigenous Peoples and local communities consultations is reflected in how governing bodies accept and prioritize their inputs which is an indicator of effectiveness.
 - Consultation effectiveness can be monitored by tracking key Indigenous Peoples and local communities' recommendations into the SAG, NDWG and their consideration and inclusion in the NAP.
 - Establish monitoring metrics (e.g. key performance indicators) for evaluating the effectiveness of stakeholder engagement, such as the number and diversity of stakeholders involved and women's participation and inputs.
 - Create feedback loops that regularly assess the process through surveys, focus groups, or evaluations, and adjust based on stakeholder feedback.

IV. Implementation of the consultation process

A. General consultation structure

The consultation stages included in the below table begin after stakeholder mapping and research has accurately identified the Indigenous Peoples and local communities to be consulted and what organizations will facilitate the consultation process. They are supported by the above protocols, follow the general approach of a FPIC process and are open for adaptation to local contexts. It is important that the facilitators identify consultation sub-groups (e.g. women) and adapt the content of stages to collect their input. Additionally, it is critical that decisions regarding the structure and implementation of the consultation processes involves Indigenous Peoples, as well as local communities, in the discussions.

A critical aspect of the consultation process is agreement on how grievances encountered between Indigenous Peoples and local communities and the State of other parties at any stage of the consultation will be resolved. Grievance resolution mechanisms need to be in place prior to starting consultation and have the support of Indigenous Peoples and local communities but also be accepted by other stakeholders to be effective. They need to be culturally sensitive aligning with customs and traditions, address collective and individual rights and be accessible (e.g. indigenous languages)¹⁶.

| Stage | Purpose | Outcomes |
|---|---|--|
| 1. <i>Initial contact</i> Done via phone or other long-distance communications. Or in remote areas, using local mail or informal channels. | To ask community representative/ leaders for permission for the facilitation team to visit and meet them. To provide general information about the purpose of the visit (#2). | Community leaders/representative understand the purpose of the requested meeting and respond. If a visit is agreed to, move to Stage 2. |
| 2. <i>Village representatives meeting</i> Depending on distance and travel times, facilitation teams and community representatives may agree to combine Stage 2 and 3. | Inform community representative/ leaders about the NAP and the roles of their community. Confirm interest and willingness to consult. Seek consent where needed. Record consent or agreement to proceed. Consensus on how consultations can be done, when and organized. If rejected by Indigenous People, negotiate to reach agreement. To resolve potential grievances that arise during negotiations. Discuss and agree on communications strategy (e.g. documentation, languages, sharing). Example: Leaders or facilitator introduce to all community members. | Decision (who, when, where) reached on next steps for wider community consultation. People express their interest and concern to representatives. Representatives communicate meeting results to facilitators. |

¹⁶[UN Declaration on the Rights of Indigenous Peoples](#). Article 8, 11, 32 and 40.

| Stage | Purpose | Outcomes |
|---|--|--|
| 3. <i>Initial community wide consultations</i> | <p>To open dialogue and introduce the purpose of the consultations.</p> <p>To create understanding and mutual trust between facilitators and communities.</p> <p>To facilitate a community decision or consensus on how/if they would like to proceed.</p> <p>To open engagement/consult with all community members regarding how future consultation can be done.</p> <p>Set a timeframe for: the consultations process and community inputs and NAP completion.</p> <p>To refine (if needed) community consultation sub-groups (women, ethnic minorities, ASGM workers).</p> | <p>Agree to a consultation roadmap that includes (examples):</p> <ul style="list-style-type: none"> - Overall goal - Expectations - Roles and responsibilities (facilitators, leaders, community members) - Long and short-term outcomes embedded in overall time frame - How to communicate (verbal, written) - Management of communications (who records, sharing, verification) - Agreement on grievance resolution mechanism. - Monitoring and feedback on community inputs. <p>Stakeholder Advisory Group (if established) review roadmap and provides suggestions.</p> |
| 4. <i>Select people from Indigenous and local communities to become designated "community educators" or "community monitors". (optional stage)</i> | <p>To provide focused in-depth training to people (women and men) to become effective community educators.</p> <p>Specifically related to paragraph 8 of MC-5/7: Artisanal and small-scale gold mining</p> <p>For community educators to prepare communities members for engagement in NAP preparation and implementation.</p> | <p>Community educators that are formally recognized by government and their community as knowledge two-way communicators.</p> <p>Community members understand the intentions of NAP, how they are involved and what actions they can take to fully engage and maintain or improve their livelihoods.</p> |
| 5. <i>Continued consultations (sub-group specific if needed).</i> Note: As an iterative process, the number of community level consultations is not limited. | <p>Conduct iterative consultation process based on the context of the communities (sub-groups present, complexity of issues).</p> <p>Planning (time and topic) with communities and sub-groups on next round of consultations.</p> <p>Summary presentations of consultations and community endorsement.</p> | <p>Community level inputs and concerns are being communicated to the Stakeholder Advisory Group and review and organizing.</p> <p>Planning for continued consultation (time and topic).</p> <p>Verified community inputs are communicated to SAG and/or NDWG and into the NAP.</p> |

| Stage | Purpose | Outcomes |
|--|---|---|
| 6. <i>Monitoring and feedback of the consultation process.</i> | To determine if: <ol style="list-style-type: none"> i. community inputs are being communicated; ii. if inputs are being considered and included in the NAP and iii. identify any issue or problems with the consultation and/or monitoring process. To document when comments are included and when they are not and why? Justification for decision made and actions taken. | Communities understand how their inputs are being used and valued. Disagreements (e.g. livelihood changes) are discussed and resolved. Effectiveness of the consultation process is improved. |
| 7. <i>Grievance resolution mechanism.</i> | To resolve grievances as identified by those engaged in the consultation process. | The engaged groups are satisfied to the extent that consultation process can continue. |

B. Consultation tools

With consultation foundations and a general structure reached via consensus in place, more specific approaches, protocols and tools can be used for guiding consultations. A decision on what approaches will be used also must involve reaching consensus with Indigenous Peoples and/or their mandated representative. These tools are essential for gathering feedback from people and making inclusive decisions. There is a wide variety of participatory consultations tools available with some listed here. Due to diversity in local cultures, facilitators will need to assess and decide which tools are best suited for their context. Important to keep in mind is that the effectiveness of tools largely depends on the ability of the facilitators to use them. Facilitators starting and maintaining a positive and respectful attitude towards the people they are consulting with and a belief in the value of their opinions is essential.

Consultation tools/methods

- Public meetings and town halls (opening consultations)
- Surveys and questionnaires (house to house private, open public voting)
- Workshops (focused or more public)
- Focus groups (semi-private: women, miners, suffering health issues)
- Key informant (very private and focused: e.g. pregnant women)
- Community advisory committees (public sanctioned representation)
- Community walks and site visits (public, to confirm inputs, verification)
- Gender sensitive livelihoods assessment tools.
- Social Impact Assessments¹⁷ and Rapid Health Assessment¹⁸
- Local media outreach: (use local newspapers, radio, or TV to communicate with a broader audience).

To increase the effectiveness and accuracy of the consultations another important consideration for facilitators is what consultations mean in local contexts and how they are normally conducted. Within communities, different people and groups (leaders, elders, wealthy, less wealthy, men, women) have different amounts of power and control or influence over decision-making. These differences may affect people's comfort and willingness to engage publicly depending on which tools are used. To address

¹⁷ <https://www.usaid.gov/sites/default/files/2022-05/USAID-Social-Impact-Assessment-508.pdf>

¹⁸ <https://www.afro.who.int/publications/rapid-health-situation-assessment-report-mozambique>

this, the “creation of space” for these groups when using consultation tools and methods needs to be considered. Facilitators need to decide, in their context, which tools will be most effective at attracting people’s participation, overcoming barriers to their participation and putting them at ease for expressing themselves.

An example of differing opinions between group that often arises at the community level is that of women and men. In the context of ASGM this could be even more pronounced as women and their unborn infant’s health are at higher risk from the effects of mercury. Providing women with the option of women only focus groups, workshops or committees needs to be promoted by the facilitation team.

The Global Environmental Facility (GEF) has a full complement of consultation and safeguard tools that can help prepare for and conduct consultations. This provisional guide is not directly based on these but touches on many of the same topics, facilitators are encouraged to explore these if they feel additional information is needed.

- Policy on Stakeholder Engagement (GEF/C.53/05/Rev.01)
- Stakeholder Engagement Guidelines (SD/GN/01)
- Environmental and Social Safeguards (SD/PL/03)
- Application of Environmental and Social Safeguard Standards (SD/GN/03)
- Gender Equality Policy (SD/PL/02)
- Gender Equality Guidelines (SD/GN/02)
- Principles and Guidelines for Engagement with Indigenous Peoples

V. Implementation of NAP and the roles of Indigenous Peoples and local communities

A. Ensuring effective implementation of NAPs with Indigenous Peoples and local communities

The above sections described how to effectively engage with Indigenous Peoples and local communities for creating countries’ NAP. Another aspect that is equally important is how they can be actively involved in the actual implementation of NAPs such as through direct participation in various activities and in assessing the progress in implementation. Important to implementation is, depending on the context of a country’s NAP, who from those engaged in ASGM or affected by it, should be involved. Through stakeholder and rightsholder mapping, Parties will need to consider what groups (A – E) of Indigenous Peoples and local communities involved in ASGM are most relevant and legitimate for actualizing their NAP. Regardless of what stakeholder groups are involved in implementation, it is important for Parties to acknowledge that Indigenous Peoples and local communities often have limited access to clear, accessible, and culturally-appropriate information about the risks of mercury exposure or that roles they can have in the implementation of their country’s NAP. Therefore, before they can have active and meaningful involvement in the implementation of NAPs, there is a need of education and awareness programs that are tailored specifically to their languages, cultures, and circumstances. With the onus on Parties, this is meant to be achieved through an iterative FPIC process, as described above, that thoroughly informs and prepares communities for NAP implementation.

B. The involvement of Indigenous Peoples and local communities in NAPs implementation

Support for what implementation can include is based on the linkages between various key Convention related documents. Below are examples of activities taken from Convention’s related documents that provide ways in which Indigenous Peoples as well as local communities can have active roles in implementing their countries’ NAP. What activities are included and how exactly these are implemented

with Indigenous Peoples and local communities will depend on each country's national ASGM overview and approach to NAP implementation.

Article 7 of the Convention – “Artisanal and small-scale gold mining” – calls for development of strategies to prevent the use of mercury in ASGM, education, outreach and capacity building, promotion of alternative non-mercury practices and forming partnership to assist in the implementation of their commitments under this Article. Annex C is more specific Section 1 (g) and states that NAPs should include “Strategies for involving stakeholders in the implementation and continuing development of the national action plan” and Section 1 (k) requires “a schedule for the implementation of the national action plan that could specifically and formally include when and on what Indigenous people and local communities are involved.”

Paragraph 6 of decision MC-5/7, paragraph 6 offers actions which Parties can take to include Indigenous and local communities in NAP implementation, particularly:

- Engage with Indigenous Peoples and local communities in decision-making processes regarding artisanal and small-scale gold mining;
- Protect and strengthen traditional livelihoods and cultural practices of Indigenous Peoples and local communities and, where appropriate, develop and promote alternative, sustainable economic activities;
- Promote appropriate health-care services for prevention, treatment and care for Indigenous Peoples and local communities affected by exposure to mercury from artisanal and small-scale gold mining;
- Work with Indigenous Peoples and local communities on possible solutions to their needs and priorities in relation to the use of mercury in artisanal and small-scale gold mining,

Another critical topic which Indigenous Peoples and local communities may have a role in is in the implementation of participatory environmental monitoring and environmental impact assessments programs aimed at detecting changes in the use of mercury and in local terrestrial and aquatic environments. However, the access of Indigenous Peoples and local communities to resources and knowledge necessary for monitoring of mercury exposure, mitigating risks, accessing healthcare, local capacity to manage mercury contamination is typically very low across all geographic regions. But since the main group involved in ASGM are the miners themselves, having them involved in mercury research and monitoring, based on an agreed cooperation protocol, can better inform the design and execution of the program. An example of this is training Indigenous or local community miners or others affected by mercury to support technical staff involved in the design of monitoring activities, sample collection and ASGM site restoration.

The technical background document, UNEP/MC/COP.5/INF/9, “Monitoring of mercury and mercury compounds in and around artisanal and small-scale gold mining sites”, (INF/9) details how to involve communities. Chapter 3 “A framework for developing in situ monitoring plans for mercury in and around ASGM sites” includes a 9-phase monitoring framework for which participatory monitoring can be integrated. This approach meshes well and can be boosted through the involvement of the “community educators” (or community monitors) described in stage 4 of the FPIC process. An added benefit of closely involving Indigenous Peoples and local communities in implementation of monitoring is that it can build mercury exposure risk awareness in miner populations and even initiate behavioral changes on mercury handling and use.

INF/9 is aimed at technical practitioners working to monitor mercury in and around ASGM in soils, surface sediments, surface water and biota. In addition to supporting countries to develop mercury monitoring programs, the technical document also provides useful insight to support implementation of national policies and strategies, including the implementation and review of their National Action Plans under Article 7. An example of participatory community monitoring comes from a post-ASGM landscape of the “La Pampa” mining zone, Madre de Dios, in the Peruvian Amazon.¹⁹ By providing training on mercury monitoring techniques and including Indigenous Peoples and local communities, researchers were able to access more areas and open communications channels for exchange on mercury use and local livelihoods. It was confirmed that working with local people, communities and organizations is a critical success factor for executing a long-term monitoring program.

¹⁹ Centro de Innovación Científica Amazonica (CINCIA) is a Peruvian non-for-profit scientific research centre that conducts applied research on the dynamics and impacts of ASGM on terrestrial and aquatic landscapes in the Peruvian Amazon.

The Guidance Document: Developing a National Action Plan to Reduce and, Where Feasible, Eliminate Mercury Use in Artisanal and Small-Scale Gold Mining, as updated and adopted by the Minamata Convention in decision MC-4/4 (NAP Guidance) offer several options for including Indigenous Peoples as well as local communities specifically on the management of tailings and ecological restoration in NAP implementation:

- Engage all relevant actors and affected communities in the planning and execution of mercury-contaminated tailings management (ensuring a participatory process).
- Design and conduct educational programmes, facilitating ASGM miners' opportunities to present ideas and models for the implementation of acceptable tailings management practices by their organizations.
- Consult with the ASGM community and apply knowledge and local experiences to succeed in the restoration approach. The most sustainable approach will be the one that best serves the needs of the local community.
- Stimulate ASGM community commitment to restoration plans by engaging them actively in the restoration activities (ideally community engagement should be already taking place during operation of the ASGM site) and organizing educational sessions focused on the benefits of restoration and future restored land use possibilities.

Sections of UNEP/MC/COP.5/INF/8 – “Needs and priorities of Indigenous Peoples and local communities with regard to the use of mercury in artisanal and small-scale gold mining” offers insights on participation on implementation of NAPs. These are grouped as broad categories of interventions aimed at reducing and eliminating exposure of Indigenous Peoples and local communities to mercury used in ASGM. They include actions to address their immediate needs and priorities, as well as to develop long-lasting solutions that needs to occur during implementation of NAPs.

Diversified sustainable and voluntary adoption of alternative livelihoods

- Consultations with Indigenous Peoples and local communities and assessment of feasible options for alternative economic livelihoods, which are sustainable, accessible and profitable;
- Demonstration of linkages with climate change and biodiversity to advance projects and programmes that promote complementary solutions and generate co-benefits;
- Partnership with multilateral development banks and investors for alternative economic activities around local owned small and medium enterprises. Additional full cycle support – financial management, marketing, quality control, inventory, etc. – with a focus on support for women to open and manage businesses.

Protection of human health

- Information sharing, public awareness and education on the risk of exposure to mercury and impacts to affected communities;
- Healthcare services that are culturally appropriate, affordable, reliable, and easily accessible, including regular community monitoring, in particular of children and women in child-bearing age;
- Training of health service providers to monitor, recognize, prevent, diagnose and treat mercury-related ailments with respect to cultural diversity and traditional medicine;
- Food security of Indigenous Peoples and local communities impacted by ASGM.

Rights-based approaches to Indigenous Peoples & land rights

- Legal recognition of land tenure – individual and communal – by Indigenous Peoples and local communities;
- Respect of traditional Indigenous Peoples and local communities' treaties and protocols and implementation of the UN Declaration on the Rights of Indigenous Peoples.

Inclusive planning and implementation

- Full and effective engagement of Indigenous Peoples and local communities in planning and implementation of ASGM NAPs, with translation of materials into local language and capacity building on mercury-free ASGM;
- Implementation of the NAP through partnerships with civil society organizations, especially ones that are founded and managed by Indigenous people and local communities.

Mercury-free mining and processing

- Formalization of miners and mining cooperatives and associations;
- Adoption of alternative mercury-free solutions, with financial support for the appropriate mining and processing equipment;
- Access to credit and other financing tools and incentives by the miners and their mining cooperatives.

Policy and regulation

- Preparatory consultations with Indigenous Peoples and local communities regarding legislation that may impact their livelihoods, rights and natural environment;
- Participatory policy impact analysis with Indigenous Peoples and local communities before legislation is passed.

Law enforcement

- Communities ceasing to engage in and helping to curtail the illegal trade of mercury into ASGM as include in the NAP or new legislation;
- Preventing illegal activities commonly associated with mercury use and mining: arms trafficking, drug trafficking, child labour, slavery and human trafficking, illegal deforestation, etc.

VI. Review of the implementation of Article 7

Article 7 of the Minamata Convention sets out that each Party, who determines that ASGM in its territory is more than insignificant, shall provide a review every three years of the progress made in meeting its obligations under the Article and include such reviews in its national reports under Article 21. Annex C of the Minamata Convention requires Parties, who are subject to the review process, to include a list of objectives, reduction targets, actions, and strategies in their national action plans.

In their review of their Article 7 implementation, as required under paragraph 3(c) of the same Article, it is important that Indigenous Peoples and/or local communities who are affected by ASGM are also included in the review. The Global Environment Facility, in its *“Guidelines for the Preparation of Reviews of the Implementation of Article 7 of the Minamata Convention”*, recommends that Parties, in reviewing the implementation of Article 7, prepare a progress report on the implementation of the national action plans, including gaps, challenges faced, and solutions identified or undertaken. According to the GEF guidance (paragraph 13), the progress report on the implementation of the national action plans should contain separate sections with respect to engagement of:

- (a) Indigenous Peoples
- (b) Local communities

Ideally, Indigenous Peoples and/or local communities affected by ASGM would have already been engaged in the development and implementation of NAPs and their engagement would have been properly documented so that it could serve as a basis for reviewing progress in the implementation of the NAP towards its objectives and targets. However, it may be that many of the existing NAPs have been developed without effective participation of the relevant Indigenous Peoples or local communities. In such cases, progress reports, leading up to reviews should explicitly indicate Indigenous Peoples and/or local communities were not consulted during the NAP planning, development and implementation phases. Progress reports can make recommendations, based on this supplemental note, about how to update NAP and include full and effective consultation with Indigenous Peoples and local communities. It is then

important that the review process start by following the steps described above for “Setting the scene”, “Preparing for consultations” and “Implementing the consultation process”.

INF/9 , under phase 3 “Development of a stakeholder engagement plan with relevant local communities and indigenous peoples to create effective communications channels”, contains useful insights on the challenges related to the review phase of a community-based project by noting that: *“Common reasons frequently cited for not completing this crucial phase include: a lack of time, funds, or spending authority in final project stages, a perception that local actors may not be interested in the findings, or concerns that certain stakeholders will be displeased by findings, among others. Most, if not all, of these concerns can be preemptively mitigated through sufficient planning, and a firm commitment to interactive and iterative communication with local stakeholders”*.

In addition to the initial steps mentioned above, the following steps can help ensure meaningful engagement of Indigenous Peoples and local communities:

- Conduct impact assessments with Indigenous Peoples’ participation: environmental, social, and cultural impact assessments that involve Indigenous Peoples concerned. Use the findings to identify concerns, risks, and opportunities for Indigenous communities.
- Amend NAP based on Indigenous Peoples’ input: incorporate feedback and concerns from Indigenous communities into revisions of the NAP and ensure that any changes reflect their priorities, such as environmental protection, health impacts, and economic opportunities and/or alternatives.
- Grievance mechanism (established under initial phase of consultation): for Indigenous Peoples to provide feedback and address grievances during the review of the NAP. Ensure the process is transparent, accessible, and culturally appropriate.

Engaging Indigenous Peoples and local communities affected by ASGM in the review of existing NAPs is critical to ensuring their rights, knowledge, and concerns are considered. This is likewise important to establish long-term relationships that fosters trust and collaboration, ensuring that Indigenous Peoples, as well as local communities, are fully engaged in reviewing and implementing NAPs in a way that respects their rights and priorities, enhances their well-being.

Provisional guide on the effective engagement and participation of Indigenous Peoples and of local communities in the development, implementation and review of ASGM national action plans
www.minamataconvention.org