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date: 19 January 2022

A/TO: National Human Rights Institutions

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PAGES: 6

objet/subject: **ca|| for inputs - Special Rapporteur on toxics and human rights - Questionnaire: Mercury, artisanal and small-scale gold mining and human rights**

Please find attached a call for input from the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes.



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**SPECIAL RAPPORTEURS, INDEPENDENT EXPERTS & WORKING GROUPS**

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**Mandate of the Special Rapporteur on the implications for human rights of the environmentally
sound management and disposal of hazardous substances and wastes**

19 January 2022

Dear Sirs, Dear Mesdames,

I have the honour to address you in my capacity as Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes (also referred to as Special Rapporteur on toxics and human rights), pursuant Human Rights Council resolution 45/17 of 2020. According to this resolution, the Human Rights Council invites the mandate “to report to the Human Rights Council in accordance with its programme of work and annually to the General Assembly” and “to continue to provide detailed, up-to-date information on the adverse consequences for the full enjoyment of human rights of managing and disposing of hazardous substances and wastes, in an unlawful manner”.

In preparation of my upcoming thematic report focusing on mercury, artisanal and small-scale gold mining and human rights, I would like to invite your institution to submit any relevant information through the questionnaire annexed to this letter. The report will be presented at the 51st session of the Human Rights Council in September 2022. I would be grateful if this letter and the accompanying questionnaire could be transmitted to relevant officials, inviting all submissions by **no later than 7 March 2022**.

I kindly request that written contributions be sent in Word format to ohchr- srtoxicshr@un.org. Please indicate **“SR Toxics/Mercury”** in the email subject line; limit your contributions to a maximum of 2,500 words and if necessary, provide links to relevant documents or attach annexes. Responses to the questionnaire can also be addressed to:

UN Special Rapporteur on toxics and human rights

Special Procedures Branch

UNOG-OHCHR

CH-1211 Geneva 10,

Switzerland

Fax: +41 22 917 9006

**Unless otherwise requested, all submissions will be posted on the webpage of my mandate. Should you not wish to have your response published, please clearly indicate it in your response.**

In particular, I would appreciate receiving inputs regarding the work your institution is carrying out regarding the measures to eliminate mercury from the artisanal

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and small-scale gold mining sectors and ensure respect for the human rights of the most vulnerable people in their communities, especially indigenous peoples. This includes further information on import and distribution of mercury, as well as the effectiveness of control and enforcement.

Should you have any questions, please do not hesitate to contact Mr. Gotzon Onandia, Human Rights Officer, supporting my mandate at the Office of the High Commissioner for Human Rights (gotzon. onandi azarrab e@un.org).

Yours Sincerely,

Marcos A. Orellana

Special Rapporteur on the implications for human rights of the environmentally sound
management and disposal of hazardous substances and wastes

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Call for contributions for

National Human Rights Institutions

Mandate of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes

“Mercury, artisanal and small-scale gold mining and human rights”

Introduction

Scientific evidence on the dangers for human health of mercury exposure has mounted for decades and is compelling. Artisanal and small-scale gold mining (ASGM), a method used to separate gold from soil and sediments, is the largest source of mercury emissions to the atmosphere. It is responsible for about 38%, followed by stationary combustion of coal (about 21%), according to the United Nations Environment Program (UNEP)'s 2018 Global Mercury Assessment. UNEP's Assessment further estimates that combined mercury releases from ASGM to water and land in 2015 were about 1220 tonnes, more than twice the estimated releases to water from other sectors.

In addition to its outsized contribution of mercury emissions to the environment, ASGM is responsible for serious environmental injustices. The impacts of mercury exposure on the workers and their families who extract gold from rivers and jungles offend basic notions of human dignity. Equally troubling are the findings of mercury contamination in members of indigenous peoples in tropical rainforests that do not practice mining. The fish upon which these communities rely for sustenance are now poisoned with mercury. UNEP estimates there are about 10-15 million ASGM workers globally, including 4-5 million women and children, that produce about 12-15% of the world's gold.

To protect human health and the environment from anthropogenic emissions of mercury, in 2013 the international community adopted the Minamata Convention on Mercury. The Minamata Convention's approach to ASGM is to “formalize” the sector to control and reduce mercury emissions. These emissions negatively impact the planet and humanity, including future generations, and they particularly affect indigenous peoples that rely on their lands and natural resources to reproduce their identities and for subsistence economies.

The Minamata Convention allows trade in mercury for ASGM, while disallowing it for other activities. As most industrial and medical uses of mercury are phased out, most mercury suppliers focus on ASGM. However, the lack of chain of custody for mercury makes it impossible to trace or distinguish legal and illegal mercury trade and end uses of mercury.

The Minamata Convention requires Parties with significant ASGM to elaborate national action plans (NAPs) detailing how they will minimise or eliminate the use of mercury in ASGM.

The following questionnaire seeks information about measures countries are taking to reduce or eliminate mercury from their ASGM sectors and ensure respect for the human rights of the most vulnerable people in their communities, especially indigenous peoples. This includes further information on import and distribution of mercury, as well as the effectiveness of controls and enforcement.

Questionnaire

*You can choose to answer all or some of the questions below*

Controls on Mercury

1. Has your country prohibited the a) import or b) export of elemental mercury?
2. Has your country prohibited mercury use in artisanal or small-scale gold mining (ASGM) by law or regulation?
3. What enforcement action and penalties apply to gold miners who use mercury, or to traders who supply mercury for this use, if such use is prohibited? Please share statistics on such actions.
4. If your country allows import of mercury but prohibits its use in ASGM, how do customs officers determine the end use of mercury at the point of import to ensure it is not directed to ASGM?
5. Are there tracking or certification processes to ensure that imported mercury is used according to its claimed purpose?
6. Are mercury importers registered on a government database and their activities periodically audited including the end use of the mercury they import? Are postal imports of mercury banned?
7. What remedies are available to persons in your country for pollution damages related to mercury exposure from ASGM activities?

**Response:**

While drafting the response, we got in touch with the relevant departments at mining engineering schools in BiH and it was pointed out to us that there were no alluvial (or any other) goldfields in BiH and consequently no gold mining exploitation in any form.

Mining is developed in BiH but it is mostly coal and metal (iron ore) mining. Please note, though, that these are major mining pits and that in general there is no artisanal or medium-scale mining in BiH.

As for the use of mercury in mining, there are no explicit regulations prohibiting it, and the people we talked to pointed out that since there was no exploitation, consequently there was no need to regulate this issue.

On the other hand, in communication with the competent mining inspections, our attention was drawn to the fact that the regulations governing occupational safety and health prohibited the use of harmful substances, and that mercury fell within this category.

It should be noted that in relation to the use of mercury, BiH keeps up with European Union regulations and EU mercury regulations are vastly implemented in BiH. Thus, the level of its use is the same as in the EU.

Illegal Traffic

1. What actions has your country taken to prevent the illegal importation, smuggling and distribution of mercury to ASGM activities?
2. What are the greatest challenges your country faces in preventing illegal mercury imports and smuggling?
3. Has your country established cooperative arrangements with bordering countries or at a regional level to combat illegal transboundary movement of mercury destined for ASGM activity?
4. Are there instances of corruption among police, military or other officials involving the facilitation of mercury distribution in your country? What measures have been taken to address it?
5. Is there any information to suggest local or regional organised crime syndicates are distributing mercury to facilitate gold smuggling in your country?

Minamata Convention

1. Has your country ratified the Minamata Convention on Mercury and if yes, what measures have been taken to eliminate mercury from ASGM, including its diversion to ASGM?

**Response:**BiH has not ratified the Convention.

1. How could access to capacity building or technology transfer under the Minamata Convention Specific International Programme help your country to eliminate mercury pollution from ASGM?

Protections for Indigenous Peoples

1. What specific actions has your country taken to directly protect the health of indigenous peoples from mercury contamination related to ASGM?
2. Has any government or public forum for consultation with indigenous peoples about mercury pollution from ASGM been established?
3. Have any mercury related health assessments or studies been conducted in your country that relate directly to the exposure of indigenous peoples to mercury pollution from ASGM activities and associated mercury pollution? Please describe or share.
4. What health services and advice does your country provide to indigenous peoples to either treat high mercury levels or to minimise their exposure to mercury through diet (e.g. fish), or direct exposure via ASGM activity?
5. What constitutional or legal rights do indigenous peoples have to prohibit mercury based ASGM in their traditional lands and territories?

**Response:** As for the questions pertaining to the rights of indigenous peoples, we have to stress that the constitutional system in BiH does not recognise the category as it is regulated in certain international conventions and documents. Also, we would like to stress that there are no groups in BiH which could fall within the category.

General

1. Please provide any further information that you consider relevant for the purposes of this questionnaire.

**Additional information:** There are indications that BiH might start with the exploitation of precious metals (gold and silver), but in the sense of obtaining them in the process of exploiting zinc or other metals. These are still speculations and no such projects have been implemented yet.

Number: Oi – K – SA – 44/22

Date: 17th February 2022

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