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Conference of the Parties to the Minamata Convention on Mercury First meeting

Geneva, 24–29 September 2017

Item 5 (a) (iv) of the provisional agenda*

**Matters for action by the Conference of the Parties at its
first meeting: matters stipulated under the Convention:
the measures to give effect to the arrangements for the
financial mechanism referred to in article 13**

Location options within the United Nations Environment Programme, governance arrangements and duration of the specific international programme to support capacity-building and technical assistance

Note by the secretariat

I. Context

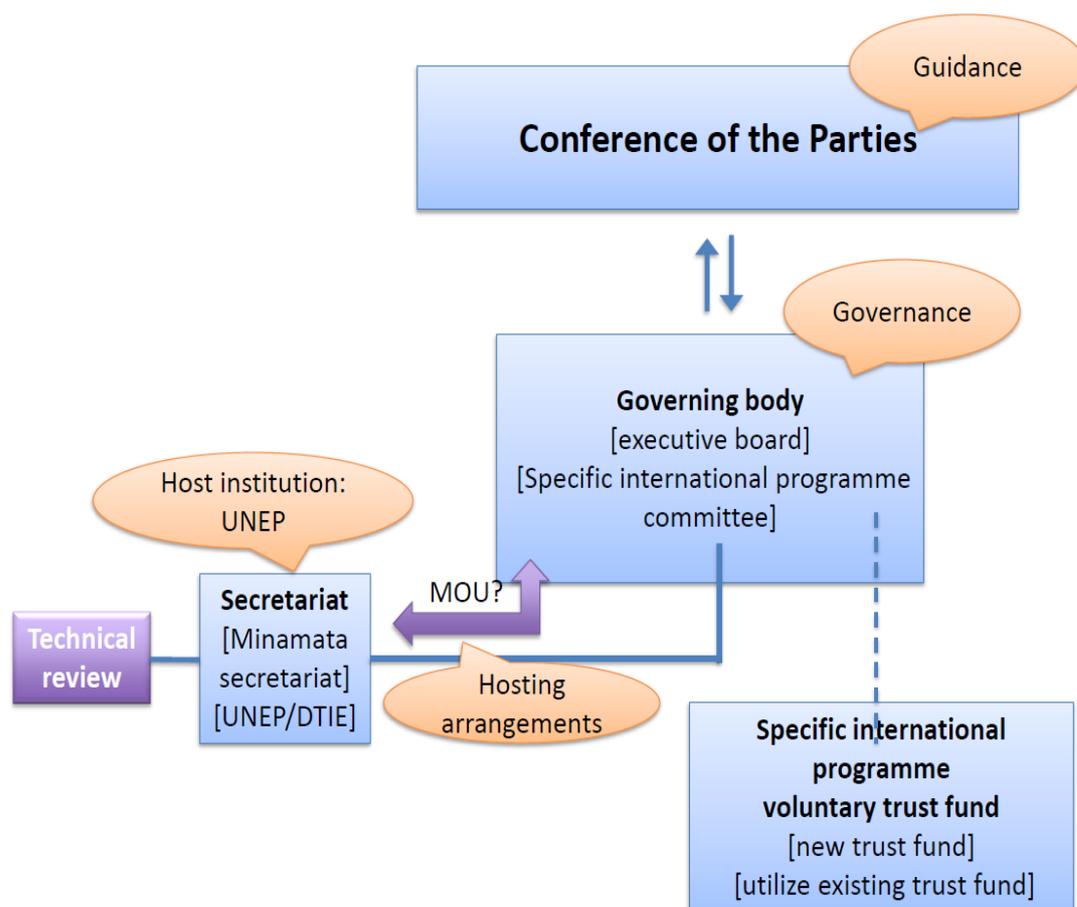
1. At its seventh session, held in March 2016, the intergovernmental negotiating committee to prepare a global legally binding instrument on mercury considered the report by the co-chairs of the ad hoc working group of experts on financing established at the sixth session of the committee (UNEP(DTIE)/Hg/INC.7/9). The report provided input for the committee to develop a proposal for the hosting institution of the specific international programme to support capacity-building and technical assistance, including necessary arrangements within the hosting institution, and guidance on the operation and duration of the programme. In addition, the committee had before it an information document prepared by the Executive Director of the United Nations Environment Programme (UNEP) on options and related governance arrangements under UNEP as the host institution of the programme (UNEP(DTIE)/Hg/INC.7/INF/6).

2. Following deliberations, the committee decided to designate, for adoption by the Conference of the Parties at its first meeting, UNEP as the host institution for the specific international programme. The committee also set out some details of the hosting arrangement, along with guidance on eligibility for and the scope, operations, resources and duration of the programme.¹ Some of the text developed was not finalized and remained in square brackets pending the decision of the Conference at its first meeting. This includes which part of UNEP would perform the host function, the duration of the programme and the type of governing body that the programme would have. The figure below, developed by the committee at its seventh session, gives an overview of the discussions on the location within UNEP and the areas of agreement as at the conclusion of that session.

* UNEP/MC/COP.1/1.

¹ See document UNEP/MC/COP.1/9, in particular appendix II, for the text developed at the seventh session of the committee.

Governance options for each possible location of the specific international programme within the United Nations Environment Programme and appended to UNEP(DTIE)/Hg/INC.7/22/Rev.1, as prepared at the seventh meeting of the intergovernmental negotiating committee



Source: UNEP(DTIE)/Hg/INC.7/22/Rev.1, annex VI.

3. To assist the Conference of the Parties to finalize its consideration of the specific international programme, the committee requested the interim secretariat of the Minamata Convention on Mercury to provide additional information on the location options put forward within UNEP, the governance arrangements, where the technical review function should be located, the financial implications, the legal implications, including the possible development of a memorandum of understanding between UNEP as the hosting institution and the Conference, and the time implications.

4. The present note provides the additional information requested.

II. Location options within the United Nations Environment Programme

5. Within UNEP, the specific international programme can be hosted in the Chemicals and Health Branch, based in Geneva and located in the Economy Division,² or in the secretariat of the Minamata Convention. Both locations are under the authority of the Executive Director.

6. Depending on the decision by the Conference of the Parties, a secretariat will be established to manage the specific international programme, and that secretariat may have its own staff funded from extrabudgetary resources whether those staff are located in the Chemicals and Health Branch or in the secretariat of the Convention.

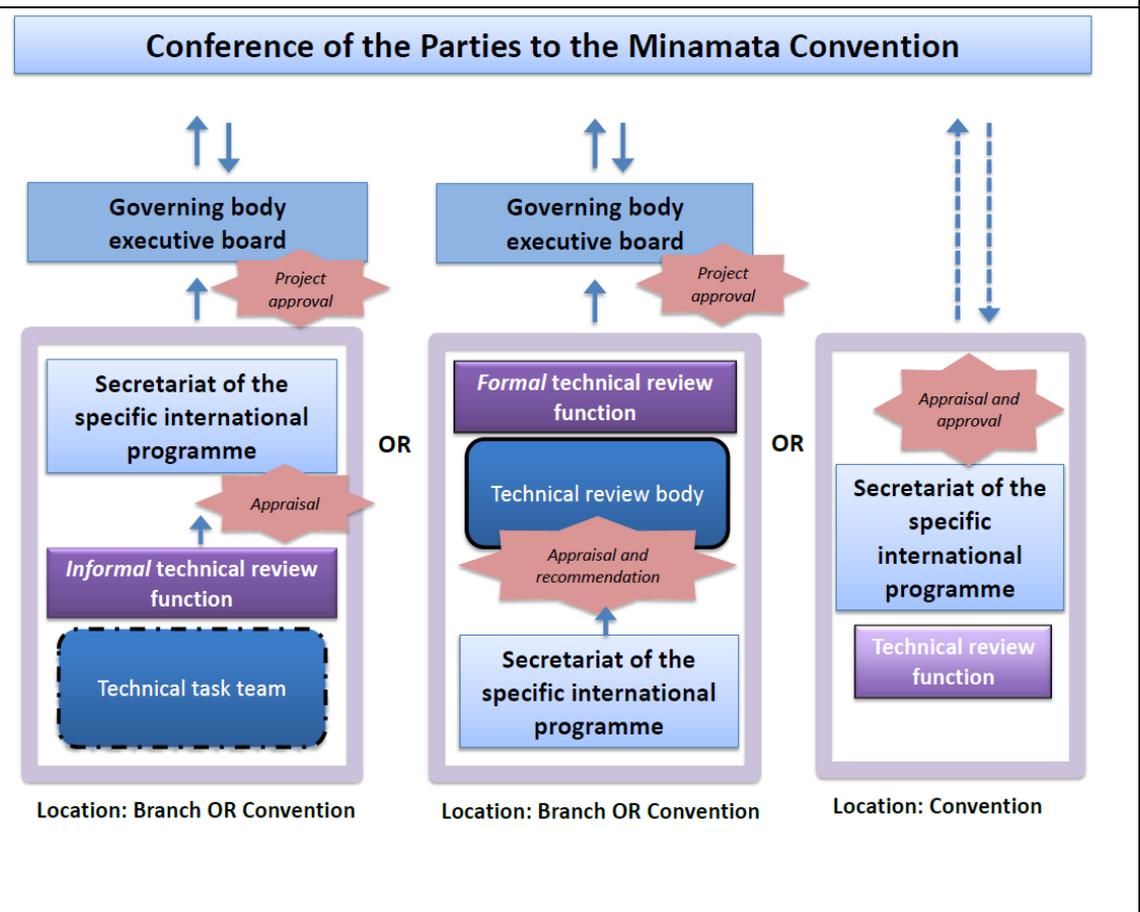
² In 2017, the Chemicals and Waste Branch was renamed the Chemicals and Health Branch, while the Division of Technology, Industry and Economics was renamed the Economy Division.

7. Set out below is additional information on the two possible locations.

1. Location within the United Nations Environment Programme	
<p>The specific international programme secretariat can be located in the Chemicals and Health Branch of the Economy Division or in the secretariat of the Minamata Convention.</p>	
<i>Branch</i>	<i>Convention secretariat</i>
<p>The Branch offers a comprehensive approach to addressing global mercury pollution. In addition to implementing a large part of the UNEP subprogramme on chemicals, waste and air quality, it hosts a range of international programmes, secretariats, initiatives and partnerships that conduct work relating to chemicals, health and waste, including the OzonAction initiative, the International Environmental Technology Centre (based in Osaka, Japan), the Strategic Approach to International Chemicals Management and the newly formed unit concentrating on health and pollution.</p> <p>The Branch has led specific work on mercury for some years, notably hosting the UNEP Global Mercury Partnership. It hosts the secretariat that serviced the negotiating process for the Minamata Convention, which is now the interim secretariat of the Convention. The Branch leads the Global Mercury Assessment and the Global Chemicals Outlook processes and hosts the Global Alliance to Eliminate Lead Paint. The Economy Division leads related work streams on resource efficiency, energy and the circular economy.</p> <p>The Branch has extensive experience in managing programmes and mobilizing resources to support capacity-building, technical assistance and institutional strengthening. UNEP, through the Branch, provides the secretariat of the Strategic Approach to International Chemicals Management, which manages the Quick Start Programme. UNEP, through the Branch, also provides the secretariat of the Special Programme to support institutional strengthening at the national level for implementation of the Basel, Rotterdam and Stockholm conventions, the Minamata Convention and the Strategic Approach to International Chemicals Management.</p>	<p>Locating the secretariat of the specific international programme in the permanent Convention secretariat will offer a concentrated focus on mercury. It will also offer direct proximity to the Convention and the Parties thereto. In hosting the specific international programme secretariat, the Convention secretariat would build on the relevant experience of the interim secretariat. The Convention secretariat is expected to have scientific and technical staff as part of its future staffing structure.</p> <p>Furthermore, as set out in article 24 of the Convention, the Convention secretariat is tasked with facilitating assistance, on request, and coordinating activities with the secretariats of relevant international bodies.</p> <p>It should be noted that it has not yet been decided how the Executive Director will perform the functions of the permanent secretariat.</p>

2. Governing body
<p>While the secretariat of the specific international programme will operate under the guidance of and be accountable to the Conference of the Parties and will be directly responsible for the operation and administration of the programme, the Conference may delegate oversight and implementation of its guidance, including decision-making on projects and project management, to another body – a governing body – located between the Conference and the secretariat.</p>
<p>Considerations</p> <p>Regardless of the location of the secretariat of the specific international programme, the Conference of the parties may wish to establish a governing body for the programme that will provide oversight of the implementation of the guidance given by the Conference of the Parties. It will report to the Conference and be serviced by the secretariat of the programme.</p> <p>Regardless of the location of the secretariat, the governing body will be composed of a specified set of members, with balanced representation of United Nations regions and donor and recipient countries. The members can be appointed by the Conference of the Parties or through the Bureau.</p> <p>According to the draft decision on the specific international programme approved by the seventh session of the intergovernmental negotiating committee for consideration and adoption by the Conference of the Parties at its first meeting (see UNEP (DTIE)/Hg/INC.7.22/Rev.1, annex VI), the governance arrangements for the programme are as follows: “The Conference of the Parties will establish [an executive board] [a specific international programme committee], which will oversee and implement its guidance, including decision-making on projects and project management.” In both the Special Programme to support institutional strengthening at the national level and the Quick Start Programme, the governing body is an executive board. The Executive Board of the Special Programme is invited to report to the United Nations Environment Assembly and the executive board of the Quick Start Programme reports to the International Conference on Chemicals Management.</p> <p>The Conference of the Parties may wish to request the governing body of the specific international programme to develop its own rules of procedure.</p> <p>In addition to the two options presented above, another model to consider that does not include a separate governing body is the administration of the Trust Fund to Assist Developing and Other Countries in Need of</p>

Technical Assistance in the Implementation that was set up originally under the Basel Convention. Should the Conference of the Parties to the Minamata Convention wish to consider adapting this model for use in connection with the specific international programme, it would make the specific international programme an integral part of the Convention secretariat falling directly under the oversight of the Conference of the Parties.



3. Technical review

The purpose of the specific international programme is to support capacity-building and technical assistance to assist developing country Parties, in particular those that are least developed countries or small island developing States, and Parties with economies in transition in implementing their obligations under the Convention.

While the secretariat of the programme will arrange and manage calls for applications and the application process, there are three possible models indicated here for consideration in terms of how the technical review of the applications will be arranged and where the review function will be located.

For the two models with distinct governing bodies, the location of the review function in the flow of work and decisions from application review to project appraisal to project approval is independent of the location of the secretariat of the programme. In the third model, the one without a distinct governing body, the programme secretariat and the technical review function should be housed in the Minamata Convention secretariat.

Informal technical review function: technical task team

The Conference of the Parties may wish to consider the model of the Special Programme to support institutional strengthening at the national level, whereby the secretariat undertakes an initial review of applications for eligibility and completeness, followed by an appraisal in consultation with the informal task team, which is composed of representatives of the secretariats of the four conventions that it services, the Strategic Approach and the Global Environment Facility. This appraisal includes a qualitative analysis of the project and a technical review of the activities to be carried out. The outcome is presented by the secretariat of the Special Programme to the Executive Board, its governing body, for discussion and decision, on the basis of the guidance and terms of reference set by the United Nations Environment Assembly.

The Conference of the Parties may wish to consider establishing a technical task team for the specific international programme, which would be tasked with undertaking an informal technical review. Such a team could be composed of representatives with experience and expertise in mercury, capacity-building and technical assistance and implementation. Representatives could include the Convention secretariat, the Global Mercury Partnership secretariat, the Basel, Rotterdam and Stockholm conventions secretariat, the Chemicals and Health Branch and the Global Environment Facility. Following its initial review of the applications, the programme secretariat would appraise the applications with the technical task team for technical soundness and relevance. It would then forward the appraisal to the governing body or executive board for assessment, decision-making and project approval.

Formal technical review function: technical review body

The Conference of the Parties may wish to consider the model of the Quick Start Programme, whereby the secretariat undertakes an initial review of applications, after which the Trust Fund Implementation Committee undertakes an in-depth review of the proposed projects. The Implementation Committee is composed of representatives of the Inter-Organization Programme for the Sound Management of Chemicals, in which the following nine organizations participate: Food and Agriculture Organization of the United Nations, International Labour Organization, United Nations Development Programme, UNEP, United Nations Industrial Development Organization, United Nations Institute for Training and Research, World Health Organization, World Bank and Organization for Economic Cooperation and Development. The Implementation Committee assesses and approves the projects proposed, which are then passed to the Executive Board, its governing body, which oversees the process.

The Conference of the Parties may wish to consider establishing a technical review body for the specific international programme that is composed of, but not limited to, representatives of the organizations participating in the Inter-Organization Programme for the Sound Management of Chemicals and a representative of the Convention secretariat, the Global Mercury partnership secretariat, the Basel, Rotterdam and Stockholm conventions secretariat and the Global Environmental Facility. This body would assess and appraise the projects proposed and make recommendations for approval to the governing body or executive board, which would approve the successful projects.

Internal technical review function: Convention secretariat review

The Conference of the Parties may wish to consider the model that was used initially by the Basel Convention to support technical assistance. If this model were adapted for use in connection with the specific international programme for the Minamata Convention, the secretariat of the specific international programme would be housed within the secretariat of the Minamata Convention and, drawing on relevant staff from the broader convention secretariat, would itself be responsible for all technical review functions, from application review to project appraisal to project approval. It would do so directly for the Conference of Parties, as its governing body.

4. Financial considerations and implications

According to the above-mentioned draft decision on the specific international programme, the “Executive Director of UNEP will deliver administrative support to the programme, through the allocation of human and other resources”.

Regardless of the location of the secretariat, the programme support costs generated by the specific international programme, and other funds raised as necessary or appropriate, would contribute to funding the administrative costs of the programme pursuant to existing arrangements. The United Nations fee charged to host and administer trust funds is 13 per cent of the expenditure of the trust fund.

The staffing complement for the secretariat if it were located in the Branch is likely to be similar to that required were the secretariat located in the Convention secretariat. It is expected that, regardless of location, two full-time programme officers would be required, along with 50 per cent of the time of a fund management officer and 50 per cent of the time of a support staff member.

<i>Branch</i>	<i>Convention secretariat</i>
<p>The Branch has accumulated experience through the Quick Start Programme and the Special Programme to support institutional strengthening in providing secretariat services to a trust fund akin to that needed for the specific international programme. Both the Quick Start Programme and the Special Programme fund activities to support and strengthen country-level implementation, in a vein similar to that envisaged for the specific international programme. The Branch therefore has the managerial, financial, administrative and resource mobilization experience required to administer the relevant trust fund. It currently employs a full-time fund management officer and, from late 2017, a fund management officer at 50 per cent and has access to backup through the Economy Division, including support from a senior fund management officer in the Office of the Director of the Division.</p>	<p>Upon establishment, the Convention secretariat will employ an administrative and fund management officer to cover the daily work under the Convention, who will also be able to support fund management for the specific international programme secretariat.</p> <p>Additional adjacent fund and administrative expertise and support will depend in part on how the Executive Director performs the functions of the permanent secretariat, but, regardless of the arrangement, it is expected to be at a level that will support the specific international programme.</p>

5. Legal considerations and implications

Regardless of its location, the secretariat of the specific international programme will ultimately operate within the overall institutional structure of UNEP, including the related financial, accounting and human resources rules and regulations, and the United Nations accountability frameworks, reporting requirements, monitoring and evaluation obligations and audit cycles. It should be noted that the financial rules of the Convention will apply also to the specific international programme.

Moreover, regardless of its location, the secretariat will operate under the guidance of and be accountable to the Conference of the Parties.	
<i>Branch</i>	<i>Convention secretariat</i>
A memorandum of understanding may be developed between the Conference of the Parties and the Executive Director to define, among other things, roles and responsibilities, administrative charges, the accountability framework and reporting requirements and, in particular, to stipulate that the secretariat will operate under the guidance of and be accountable to the Conference of the Parties.	No memorandum of understanding is required, given that the Convention secretariat operates directly under the guidance of and is accountable to the Conference of the Parties. It is also understood that under this scenario the specific international programme is an integral part of the Convention secretariat and the Executive Secretary will be accountable to the Conference of the Parties for the programme.
6. Administrative considerations	
To collect and manage the contributions to the specific international programme a trust fund will need to be established.	
<i>Branch</i>	<i>Convention secretariat</i>
A new voluntary trust fund would need to be established with the Controller in New York through the Corporate Services Division of UNEP in Nairobi. Its establishment would entail no direct costs. The trust fund would be administered through the Branch, in much the same way as the Quick Start Programme and the Special Programme trust funds are managed and administered.	Two scenarios are possible: (a) Following the first meeting of the Conference of the Parties, the Convention secretariat, through the Corporate Services Division in Nairobi, establishes a voluntary trust fund for the Convention with the Controller in New York. The specific international programme could be included as a separate window within that trust fund; (b) The voluntary trust fund is set up under the Convention and the Convention secretariat submits a second application to create a separate trust fund dedicated to the specific international programme.

III. Duration of the specific international programme

8. At the conclusion of the seventh session of the intergovernmental negotiating committee, the duration of the specific international programme was left in square brackets to show three options. The programme could be open to receive voluntary contributions and applications for support for:

- (a) A fixed period;
- (b) An unlimited period;
- (c) A period determined as part of the review of the financial mechanism in accordance with paragraph 11 of article 13 of the Convention.

9. The ad hoc working group of experts on financing, which met in São Paulo, Brazil, from 26 to 29 October 2015, considered it premature to discuss the duration of the specific international programme. The committee also did not delve deeper into this question at its seventh session. It is noteworthy that the ad hoc working group reached a common understanding that the programme should consider adopting a programme for its implementation, which could be revised as necessary, and would indicate areas of the Convention on which to focus during a specific period. Some obligations under some articles of the Convention are time-bound and their duration is limited. Accordingly, a programmatic approach, informed by phase-down periods set out in the time-bound articles of the Convention could be a way to identify duration parameters appropriate for the implementation of the Convention through capacity-building and technical assistance funded under the specific international programme.³

³ A programmatic approach informs, for example, the trust fund for the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services.

10. The following table provides an overview of phase-out dates and time-bound articles.

Table

Phase-out dates and time-bound articles

<i>Date</i>	<i>Article of and annex to the Convention</i>	<i>Description</i>
2018	5 (2) and annex B	Acetaldehyde production in which mercury or mercury compounds are used as a catalyst
2020	4 (1) and annex A	Manufacture, import or export of various mercury-added products shall not be allowed (including of batteries, switches and relays, compact and linear fluorescent lamps, high pressure mercury vapour lamps, cold cathode fluorescent lamps and external electrode fluorescent lamps for electronic displays, cosmetics, pesticides, biocides and topical antiseptics, as well as barometers, hygrometers, manometers, thermometers and sphygmomanometers)
	5 (3) and annex B	In vinyl chloride monomer production, reduce the use of mercury in terms of per unit production by 50 per cent by 2020 against 2010 use For sodium or potassium methylate or ethylate, reduce emissions and releases in terms of per unit production by 50 per cent by 2020 compared with 2010
2025	5 (2) and annex B	Chlor-alkali production
2027	5 (3) and annex B	For sodium or potassium methylate or ethylate, reduce the use of mercury aiming at phasing out such use as swiftly as possible and within 10 years of the entry into force of the Convention

11. Obligations for reporting under article 21 have not been included in the tables because the Conference of the Parties has not yet agreed on the timing or frequency of reporting.

IV. Suggested action by the Conference of the Parties

12. The Conference of the Parties may wish to consider the present note in relation to the information set out in document UNEP/MC/COP.1/9, in particular appendix II, to finalize its consideration of the establishment of the specific international programme as part of the overall decision to give effect to the financial mechanism of the Convention.