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**United Nations
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**Conference of the Parties to the
Minamata Convention on Mercury
Third meeting**

Geneva, 25–29 November 2019

Item 5 (g) of the provisional agenda*

**Matters for consideration or action by the
Conference of the Parties: Implementation
and Compliance Committee**

**Report on the work of the Implementation and Compliance
Committee of the Minamata Convention on Mercury**

Note by the secretariat

1. Article 15 of the Minamata Convention on Mercury, on the Implementation and Compliance Committee, establishes a mechanism, including a Committee as a subsidiary body of the Conference of the Parties, to promote implementation of, and review compliance with, all the provisions of the Convention. In accordance with paragraph 3 of article 15, by its decision MC-1/7, the Conference of the Parties at its first meeting elected the first 15 members of the Committee. Pursuant to the rules of procedure elaborated by the Committee and approved by the Conference of the Parties at its second meeting, in its decision MC-2/4, the first 15 members of the Committee are to serve from the end of the first ordinary meeting of the Conference of the Parties until the end of the third ordinary meeting of the Conference of the Parties. At its third meeting, the Conference of the Parties is to re-elect 10 members from among the first members of the Committee for one term and 5 new members for two terms. In the period between the second and the third meetings of the Conference of the Parties, the Committee met once, in Geneva, on 3 and 4 June 2019.
2. The secretariat has the honour to provide, in the annex to the present note, the report on the second meeting of the Implementation and Compliance Committee. Appendix I to the report sets out the draft terms of reference for the Committee, as finalized by the Committee, for consideration and possible adoption by the Conference of the Parties at its third meeting. Appendix II sets out a draft decision prepared by the Committee for consideration by the Conference of the Parties should it decide to adopt the proposed terms of reference. Appendix III provides a draft template, agreed upon by the Committee, for written submissions by parties with respect to their own compliance pursuant to paragraph 4 (a) of article 15 of the Convention, for consideration and possible approval by the Conference of the Parties at its third meeting. The draft decision contained in appendix II makes reference to the approval of the template.

Suggested action by the Conference of the Parties

3. The Conference of the Parties may wish to consider the report on the second meeting of the Committee and its appendices, adopt the terms of reference for the Implementation and Compliance Committee and approve the template for written submissions from parties with respect to their own compliance through the adoption of a decision on the matter.

* UNEP/MC/COP.3/1.

Annex

Report on the second meeting of the Implementation and Compliance Committee of the Minamata Convention on Mercury, held in Geneva on 3 and 4 June 2019

Item 1

Opening of the meeting

1. The second meeting of the Implementation and Compliance Committee of the Minamata Convention on Mercury (hereinafter referred to as “the Committee”) was held at International Environment House I, Geneva, on 3 and 4 June 2019.
2. Ms. Claudia Sorina Dumitru (Romania), Vice-Chair of the Committee, opened the meeting at 9 a.m. on Monday 3 June 2019. She welcomed Committee members and observers, on behalf of the Committee, thanking them for their interest in the work of the Committee, and noted that she looked forward to productive discussions. She welcomed the following new members of the Committee: Ms. Ana Corallo (Argentina), Ms. Haijun Chen (China), Mr. José Antonio Piedra Montoya (Ecuador), Ms. Silvija Nora Kalniņš (Latvia), Ms. Svetlana Bolocan (Republic of Moldova), and Mr. Gene Smilansky (United States of America).
3. In her opening remarks, Ms. Rossana Silva Repetto, Executive Secretary of the Minamata Convention, welcomed members of the Committee to the second meeting and thanked observers for their attendance, recognizing the wealth of their knowledge and experience, which would undoubtedly contribute to the success of the meeting. She congratulated members on their hard work in developing the rules of procedure at their first meeting, which had enabled the successful approval of the rules by the Conference of the Parties at its second meeting, as provided in the Convention.
4. With respect to the terms of reference for the Committee, which, in accordance with the Convention, the Conference of the Parties might adopt, Ms. Silva Repetto noted the work carried out by the Committee intersessionally and said that she looked forward to fruitful discussions on the matter. She highlighted elements of processes and procedures that could be of use to ensure that the Committee was fully operational and offered clear guidance and predictability to stakeholders with regard to its functioning, including guidance to parties on how to provide to the Committee written submissions on their own compliance or awareness-raising on the role and functioning of the Committee as well as the ways in which issues could be referred to it. She highlighted the need for the Committee to consider at the present meeting a number of issues that were strongly intertwined with other processes under the Convention, including reporting by parties pursuant to article 21, the programme of work and budget for the biennium 2020–2021 and the effectiveness evaluation pursuant to article 22. She invited the Committee to consider the issue of notifications submitted by parties pursuant to paragraph 9 of article 3 relating to trade with exporting non-parties. She expressed the view that the current meeting was key to consolidating the solid and operational foundation of the Committee, and providing a framework that would enable the Committee to gain the trust of parties and all stakeholders and ensure that the Committee would be as efficient as possible in supporting countries and the successful and effective implementation of the Convention. She concluded by reiterating the readiness of the secretariat to support the Committee in its work.
5. Following the opening statement and introductory remarks by Committee members, Ms. Silva Repetto noted that one member of the Committee, Mr. Diego Henrique Costa Pereira (Brazil), was unable to attend the meeting.
6. The following members were present at the second meeting:
From the African States:
 - Ms. Bianca Hlob’sile Dlamini (Eswatini)
 - Ms. Hanitriniaina Liliane Randrianomenjanahary (Madagascar)
 - Mr. Mohamed Abdulai Kamara (Sierra Leone)

From the Asia-Pacific States:

Ms. Haijun Chen (China), designated to replace Ms. Wang Qian (China) for the remainder of her term

Mr. Heidar Ali Balouji (Islamic Republic of Iran)

Mr. Waduawatte Lekamalage Sumathipala (Sri Lanka), designated to replace Mr. S. M. D. P. Anura Jayatilake (Sri Lanka)

From the Central and Eastern European States:

Ms. Silvija Nora Kalniņš (Latvia), designated to replace Mr. Boyko Malinov (Bulgaria) for the remainder of his term

Ms. Svetlana Bolocan (Republic of Moldova), designated to replace Ms. Inga Podoroghin (Republic of Moldova) for the remainder of her term

Ms. Claudia Sorina Dumitru (Romania)

From the Latin American and Caribbean States:

Ms. Ana Corallo (Argentina), designated to replace Ms. Alejandra Acosta (Argentina) for the remainder of her term

Mr. José Antonio Piedra Montoya (Ecuador)

From the Western European and other States:

Ms. Janine van Aalst (Netherlands)

Mr. Mark Govoni (Switzerland)

Mr. Gene Smilansky (United States of America), designated to replace Ms. Jennifer Landsidle (United States of America) for the remainder of her term.

7. Three observers, Ms. Juliette Voinov Kohler, from the Secretariat of the Basel, Rotterdam, and Stockholm Conventions, Mr. Fengqiao Mei, from the College of Environmental Science and Engineering, Peking University, and Ms. Margherita Tolotto, from the European Environmental Bureau Zero Mercury Working Group had been invited by the Committee to participate in the entire meeting. Mr. Fengqiao Mei was unable to attend. Ms. Katerina Sebkova, in her capacity as co-chair of the ad hoc technical expert group on effectiveness evaluation established by the Conference of the Parties at its first meeting to consider the effectiveness evaluation framework and global monitoring arrangements, was invited by the Committee to participate in the discussions under agenda item 7.

Item 2

Organizational matters

(a) Adoption of the agenda

8. The Committee adopted the agenda on the basis of the provisional agenda (UNEP/MC/ICC.2/1):

1. Opening of the meeting.
2. Organizational matters:
 - (a) Adoption of the agenda;
 - (b) Election of officers;
 - (c) Organization of work.
3. Terms of reference for the Implementation and Compliance Committee.
4. Guidance in relation to written submission from a party with respect to its own compliance.
5. Update on national reporting pursuant to article 21.
6. Notifications submitted by parties pursuant to paragraph 9 of article 3.
7. Information and recommendations provided pursuant to article 15 that may be used for the conduct of the effectiveness evaluation pursuant to article 22.
8. Work programme of the Implementation and Compliance Committee.

9. Venue and date of the third meeting of the Implementation and Compliance Committee.
10. Other matters.
11. Adoption of the report.
12. Closure of the meeting.

(b) Election of officers

9. The Committee elected Ms. Claudia Sorina Dumitru (Romania) as Chair and Mr. Mohamed Abdulai Kamara (Sierra Leone) as Vice-Chair and Rapporteur to serve for the period commencing at the closure of the second meeting until the closure of the third meeting. Pursuant to the Committee's rules of procedure, it was noted that the Conference of the Parties at its third meeting would re-elect 10 members from among the first members of the Committee for one term and 5 new members for two terms. The Chair and the Vice-Chair thanked the members of the Committee for the trust they had placed in them since the first meeting of the Committee.

(c) Organization of work

10. The Committee agreed on the organization of work for its second meeting as set out in the annotations to the provisional agenda.

Item 3

Terms of reference for the Implementation and Compliance Committee

11. The Committee turned to the consideration of possible further terms of reference for possible adoption by the Conference of the Parties pursuant to paragraph 5 of article 15 of the Convention.

12. Introducing the item, the representative of the secretariat drew attention to a document entitled "Proposals for terms of reference for the Implementation and Compliance Committee", prepared in response to a request made by the Committee at its first meeting. The proposals had been developed on the basis of the list of possible elements discussed by the Committee at its first meeting and the comments received from members during the intersessional period. The proposals, which included explanatory notes as background information, as well as options in certain cases, were developed in the light of the provisions of article 15 and the rules of procedure for the Committee. The procedures of the implementation and/or compliance committees of other multilateral environmental agreements, including the terms of reference of the Committee Administering the Mechanism for Promoting Implementation and Compliance with the Basel Convention, had also been considered. Following the presentation on the structure and overall approach of the proposals, the Committee agreed to use them as the basis for its work.

13. The Committee discussed proposals for the terms of reference, covering, in particular, the scope and objective of the Committee; its functions; the additional information, expertise or consultations that it could draw on; the types of recommendations that it might consider in order to promote implementation and review compliance with all the provisions of the Convention; the functions of the secretariat; the relationship with the settlement of disputes under article 25 of the Convention and, lastly, the protection of confidentiality.

14. The Committee developed draft terms of reference to be submitted for consideration by the Conference of the Parties at its third meeting, entrusting the secretariat with undertaking any adjustments that might be necessary to ensure proper cross-referencing between sections thereof. The draft terms of reference are set out in appendix I to the present report. The Committee also developed a draft decision for consideration by the Conference of the Parties should it wish to adopt further terms of reference for the Committee at its third meeting. The draft decision is set out in appendix II to the present report.

Item 4**Guidance in relation to written submissions from a party with respect to its own compliance**

15. The Committee discussed the issue of guidance in relation to written submissions from parties with respect to their own compliance, which, at its first meeting, it had agreed to consider at its second meeting.

16. At the invitation of the Chair, the representative of the secretariat introduced possible elements of such guidance, also described in paragraphs 14 and 15 of the annotations to the provisional agenda. She noted that the Committee had discussed many of the elements quite extensively under item 3 of the agenda when discussing possible further terms of reference. She also said that the Committee might wish to make available to parties a standard format or template to facilitate the process of written submissions by parties.

17. In the exchange of views that followed, the Committee noted that such guidance should be fully aligned with the relevant section of the terms of reference that the Conference of the Parties might decide to adopt. It further agreed to make available to parties a template that they could use when preparing their written submissions and that such a template should be approved by the Conference of the Parties. It therefore requested the secretariat to prepare a draft template and make it available for the Committee's consideration by electronic means. The draft template, as reviewed by the Committee, is contained in appendix III to the present report. The draft decision described in paragraph 14 above makes reference to the approval of the template should the Conference of the Parties so decide.

Item 5**Update on national reporting pursuant to article 21**

18. Introducing the item, the representative of the secretariat provided an update on national reporting in accordance with article 21, recalling that the Conference of the Parties had adopted a timing and format for national reporting by the parties at its first meeting in decision MC-1/8. National reports were one of the three types of information on the basis of which the Committee could consider issues pursuant to paragraph 4 of article 15. Such reports could highlight individual and systemic issues relevant both to implementation and to compliance. In accordance with the adopted time frame, each party was to submit its first biennial short report, on the basis of the available information, by 31 December 2019, and its first full report by 31 December 2021.

19. The representative of the secretariat said that a communication had been sent to all Governments, drawing their attention to the first reporting deadline at the end of 2019 and encouraging parties that had not yet done so to proceed with the designation of their national focal point as required under paragraph 4 of article 17. She also noted that the secretariat was in the process of establishing an online reporting system that would allow parties to submit electronic versions of their first biennial short national reports.

20. The representative of the secretariat invited the Committee when discussing its work programme and the dates of its subsequent meeting to take into account the short reports to be submitted by 31 December 2019, noting that the Committee had discussed under item 3 how it would consider issues on the basis of national reports in accordance with article 21.

Item 6**Notifications submitted by parties pursuant to paragraph 9 of article 3**

21. The Committee then turned to the consideration of notifications pursuant to paragraph 9 of article 3, which were to be provided by parties that had submitted a general notification of consent under certain conditions under paragraph 7 of article 3 and had decided not to apply paragraph 8 of article 3 in their import from non-parties. It was noted that paragraph 9 of article 3 provided that the Committee was to review and evaluate any such notifications and supporting information in accordance with article 15 and that it could make recommendations, as appropriate, to the Conference of the Parties.

22. The representative of the secretariat introduced the note on the matter, presenting the procedure established under paragraph 9 of article 3, as well as the required supporting information, which was required to describe the party's export restrictions and domestic regulatory measures, as well as information on the quantities and countries of origin of mercury imported from non-parties. She indicated that the procedure was available until the conclusion of the second meeting of the Conference of the Parties, as described in paragraph 10 of article 3, and that three parties, namely

Canada, Thailand and the United States of America, had notified the secretariat of their decision to make use of the procedure within the set time frame.

23. The Committee considered the notifications and supporting information. In the ensuing discussion, the Committee requested the secretariat to request the national focal point of Thailand to clarify its notification with respect to information on the quantities and countries of origin of mercury imported from non-Parties.

Item 7

Information and recommendations provided pursuant to article 15 that may be used for the conduct of the effectiveness evaluation pursuant to article 22

24. The Committee considered the issue of the effectiveness evaluation of the Convention pursuant to article 22, which was to be conducted on the basis of available scientific, environmental, technical, financial and economic information, including information and recommendations provided pursuant to article 15, as well as the reports submitted pursuant to article 21.

25. Ms. Katerina Sebkova, co-chair of the ad hoc technical expert group on effectiveness evaluation, established by the Conference of the Parties at its first meeting to develop monitoring arrangements and elements of an effectiveness evaluation framework, provided an overview of the group's work, in particular the work carried out at its recent meeting, held in Geneva from 8 to 12 April 2019, and in the preparation of the group's report to the Conference of the Parties at its third meeting on the arrangements to be put in place for the periodic effectiveness evaluation of the Minamata Convention. The group was in the process of finalizing proposed indicators for its report and, through the co-chair, was seeking the perspectives of the Committee members on how to phrase a possible indicator on the effectiveness of the Committee. She said that the group also wanted to understand better the information that the Committee could contribute to the overall effectiveness evaluation process.

26. Following an exchange of views, the Committee agreed to share its draft terms of reference with the group's co-chair in order to clarify the Committee's perspective. The Committee also noted that should an indicator be required, it should assess the ability of the Committee to resolve issues, rather than representing the number of cases submitted to the Committee. This recommendation was indicated as a preliminary one, as the Committee has only just begun its work, and as yet had not received any cases.

Item 8

Work programme of the Implementation and Compliance Committee

27. The Committee then turned to its future work programme, covering in particular the period between the third and the fourth meetings of the Conference of the Parties, as well as the financial implications of the Committee's work. Upon the invitation of the Chair, the representative of the secretariat introduced the document it had prepared to support discussions on the issue.

28. The Committee agreed that in the upcoming period, it would consider the first biennial short national reports submitted by parties pursuant to article 21. In the light of its functions and the type of information that it might use as a basis for its work in accordance with paragraph 4 of article 15, it could also consider any request emanating from the third meeting of the Conference of the Parties and any submission from a party with respect to its own compliance.

29. In the ensuing discussion on the number of Committee meetings that might be warranted between the third and fourth meetings of the Conference of the Parties, as well as their duration, as that would have an impact on costs, the Committee estimated in view of the anticipated workload that it would require a 3-day face-to-face meeting during the intersessional period. Should it be deemed necessary, the Committee noted the possibility of holding meetings by electronic means, although that option was not the preference of all members.

30. In discussing the financial implications of its work, the Committee agreed on the need for a budget sufficient to cover the cost of its 3-day meeting and of any specific work that it might need to undertake in order to fulfil its mandate, including translation or interpretation, as needed. The Committee also agreed that the budget should be allocated by the Conference of the Parties.

Item 9**Venue and date of the third meeting of the Implementation and Compliance Committee**

31. The Committee decided that its third meeting would be a 3-day face-to-face meeting in the first quarter of 2021, with the exact timing to be determined taking into consideration possible opportunities for back-to-back meetings, including with those of the conferences of the parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, and the Stockholm Convention on Persistent Organic Pollutants. The meeting would be held in Geneva, unless an offer was received from one of the members to host the meeting.

Item 10**Other matters**

32. At its first meeting, the Committee requested the secretariat to prepare, for its consideration at its second meeting, a draft presentation on the role and functioning of the Committee as well as the ways in which issues might be referred to it. After reviewing the presentation prepared by the secretariat in response to that request, the Committee requested the secretariat to provide an update on the matter taking into account the discussion at the current meeting.

Item 11**Adoption of the report**

33. The Committee agreed to adopt its report by electronic means, on the basis of a draft prepared by the Rapporteur with the support of the secretariat. The report, including annexes setting out the draft terms of reference, as developed by the Committee, and the draft template for written submissions from parties with respect to their own compliance, as reviewed by the Committee, as well as the relevant draft decision, would be submitted to the Conference of the Parties for its consideration at its third meeting.

Item 12**Closure of the meeting**

34. Following closing remarks by the Chair, the Vice-Chair and the Executive Secretary, the Chair thanked the members of the Committee and the secretariat for their work and declared the meeting closed at 6.50 p.m. on Tuesday 4 June 2019.

Appendix I

Draft terms of reference for the Implementation and Compliance Committee of the Minamata Convention on Mercury

I. Preamble

1. The terms of reference of the Implementation and Compliance Committee of the Minamata Convention on Mercury shall be read in conjunction with the provisions of the Convention as well as the rules of procedure for the Committee. In the event of any conflict between any provision of the present terms of reference and any provision of the Convention, the Convention shall prevail.
2. Any recommendation of the Committee is subject to consideration by the party concerned or the Conference of the Parties, as appropriate.
3. The members of the Committee shall serve objectively and in the best interests of the Convention.

II. Scope and objective

4. The objective of the Committee is to promote the implementation of, and review compliance with, all the provisions of the Convention.
5. The Committee shall be facilitative in nature and pay particular attention to the respective national capabilities and circumstances of parties.
6. The Committee shall examine both individual and systemic issues of implementation and compliance and make recommendations, as appropriate, to the Conference of the Parties.

III. Functions of the Committee

A. Consider any written submission from a party with respect to its own compliance as per paragraph 4 (a) of article 15

7. The Committee shall consider any written submission from any party with respect to its own compliance pursuant to paragraph 4 (a) of article 15 with a view to evaluating the facts and root causes of the matter of concern and assisting in its resolution in a facilitative manner and paying particular attention to the respective national capabilities and circumstances of the said party. Written submissions by any party with respect to its own compliance shall be addressed to the Committee, through the secretariat, in one of the six official languages of the United Nations, preferably be sent by electronic means, and shall set out:

- (a) The name and contact details of the national focal point or other relevant authority of the party transmitting the submission with respect to the party's own compliance;
- (b) Background information and description of the matter of concern and the party's national capabilities and circumstances;
- (c) The relevant provision(s) of the Convention;
- (d) Information on any efforts undertaken or under way to address the matter of concern;
- (e) Any particular request pertaining to confidential or protected information.

8. Written submissions shall not exceed five pages. Supplementary information may be requested by the Committee, if necessary. The party concerned may submit, through the secretariat, any such supplementary information for the Committee's attention within two weeks following receipt of the Committee's request. In the case where supplementary information is submitted in one of the United Nations official languages other than English and cannot be translated prior to the meeting at which it is to be considered, the information can be presented at the meeting, in which case the information may be interpreted into English in accordance with rule 39 of the rules of procedure of the Committee.

9. The party concerned may also submit additional relevant information at its own initiative at least five weeks prior to the opening of the meeting at which its submission is to be considered. Any

such additional information should include a summary in English of a maximum of two pages in length.

10. The Committee may decide not to proceed with a submission which it considers de minimis or manifestly ill-founded.

11. The Committee may provide to the party concerned, after consultation with that party, the outcome of its consideration, recommendations and additional relevant information relating to the matter under review with respect to:

- (a) Establishing and/or strengthening its domestic or regional regulatory regimes;
- (b) Providing assistance, in particular to developing country parties and parties with economies in transition, relating to how to access financial and technical support, as well as technology transfer and capacity-building;
- (c) Elaborating, as appropriate and in consultation with the party concerned, a strategy for achieving compliance, associated with a proposed time schedule, and reporting on the implementation of that strategy to the Committee;
- (d) Any follow-up arrangements for reporting on progress to the Committee.

12. If, after undertaking the procedure above and taking into account the cause, type, degree and frequency of compliance difficulties, as well as the capacity of the party, the Committee considers it necessary, it shall make recommendations, as appropriate, to the Conference of the Parties as per section V of the present terms of reference.

B. Consider issues on the basis of national reports in accordance with article 21 as per paragraph 4 (b) of article 15 as well as requests from the Conference of the Parties as per paragraph 4 (c) of article 15

13. In examining individual and systemic issues of implementation and compliance on the basis of national reports in accordance with article 21 and paragraph 4 (b) of article 15 and of requests from the Conference of the Parties pursuant to paragraph 4 (c) of article 15, the Committee shall aim to promote the implementation of, and review compliance with, all the provisions of the Convention, in a facilitative manner and paying particular attention to the respective national capabilities and circumstances of parties.

14. The secretariat shall distribute to the Committee for its consideration the national reports submitted pursuant to article 21 in accordance with rule 40 of the rules of procedure, as well as its reports prepared in accordance with paragraphs 26 (b) and 26 (c) under section VI of the present terms of reference.

15. The secretariat shall distribute to the Committee any request made by the Conference of the Parties pursuant to paragraph 4 (c) of article 15 within two months of the conclusion of the meeting of the Conference of the Parties at which the request was made. Any such request shall be considered by the Committee at its subsequent meeting.

16. In order to support its work, the Committee may draw on additional information, expertise or consultations as per section IV of the present terms of reference.

17. The Committee may provide to a party or several parties, after consultation with the party or parties concerned, the outcome of its consideration, recommendations and additional relevant information relating to the matter under its consideration, and shall make recommendations, as appropriate, to the Conference of the Parties, as per section V of the present terms of reference.

C. Consider systemic issues of implementation and compliance

18. The Committee may identify and consider systemic issues of implementation and compliance further to its consideration of written submissions from parties with respect to their own compliance or of national reports pursuant to article 21 or to a request by the Conference of the Parties.

19. In order to address any such systemic issues, the Committee may make recommendations to the Conference of the Parties.

D. Report to the Conference of the Parties

20. The Committee shall report to each ordinary meeting of the Conference of the Parties to the Minamata Convention on the work it has carried out to fulfil its functions, as set out in the

Convention, the Committee's rules of procedure and the present terms of reference. Such reporting may include recommendations for the consideration of the Conference of the Parties.

21. The Committee shall submit its report to the secretariat no later than 12 weeks before the opening of the meeting of the Conference of the Parties at which it is to be considered.

IV. Additional information, expertise or consultations that the Committee may draw on

22. In carrying out its functions, the Committee may, inter alia:

(a) Draw on the reports, decisions and recommendations of the Conference of the Parties and subsidiary bodies of the Convention, including with respect to the effectiveness evaluation pursuant to article 22;

(b) Request further information, through the secretariat, from a party that has made a written submission with respect to its own compliance and from all parties on systemic issues of implementation and compliance under its consideration;

(c) Consult with other subsidiary bodies of the Convention;

(d) In the case of systemic issues of implementation and compliance, request further information in addition to that provided pursuant to subparagraphs (a) to (c), and draw upon outside expertise, as it considers necessary and appropriate, through the secretariat;

(e) In the case of individual issues of implementation and compliance considered on the basis of written submissions from parties with respect to their own compliance, request further information in addition to that provided pursuant to subparagraphs (a) to (c), and draw upon outside expertise, as it considers necessary and appropriate, through the secretariat, with the prior consent of the party concerned;

(f) In the case of individual issues of implementation and compliance considered on the basis of a request by the Conference of the Parties, request further information in addition to that provided pursuant to subparagraphs (a) to (c), and draw upon outside expertise, as it considers necessary and appropriate, through the secretariat, with the prior consent of the party concerned or as directed by the Conference of the Parties;

(g) Facilitate, upon invitation by the party concerned, information gathering in the territory of that party for the purpose of fulfilling the functions of the Committee;

(h) Consult with the secretariat and draw upon its experience and knowledge developed pursuant to article 24 of the Convention and request information from the secretariat, where appropriate, in the form of a report, on matters under the Committee's consideration.

V. Types of recommendations to the Conference of the Parties that the Committee may consider in order to promote implementation and review compliance with all the provisions of the Convention

23. Recommendations from the Committee to the Conference of the Parties shall aim at promoting implementation and reviewing compliance with the provisions of the Convention. They shall be facilitative in nature and pay particular attention to the respective national capabilities and circumstances of parties.

24. Recommendations relating to individual and systemic issues of implementation and compliance may include, but not be limited to:

(a) Steps to support the party or parties in implementing the provisions of the Convention, including with respect to legislative, procedural or institutional arrangements that may be required;

(b) The need for the concerned party or parties to develop and submit to the Committee a strategy to achieve implementation and compliance, associated with a proposed time schedule, and to report on the implementation of the said strategy;

(c) Expert assistance, including on legal, institutional or technical matters;

(d) Targeted capacity-building, financial and technical assistance as well as technology transfer.

25. When there is a need for it and as a last resort, the Committee may recommend to the Conference of the Parties that it issues a statement regarding compliance and provides advice in order to help the concerned party or parties implement the provisions of the Convention and to promote cooperation between all the parties.

VI. Functions of the secretariat

26. Consistent with the functions specified in article 24 of the Convention and in the Committee's rules of procedure, the secretariat shall, in addition to the functions specified elsewhere in the present terms of reference:

(a) Collect written submissions from parties with respect to their own compliance pursuant to paragraph 4 (a) of article 15, make arrangements for their translation into English and distribute them to the Committee, in accordance with rule 23 of the rules of procedure, as well as any additional information provided by the party. Submissions in English shall be distributed to the Committee within two weeks of receipt and the translation into English of submissions in one of the official languages of the United Nations other than English shall be distributed to the Committee within four weeks of receipt;

(b) Collect national reports submitted in accordance with article 21, and when issues are to be considered by the Committee on their basis in accordance with paragraph 4 (b) of article 15, prepare the relevant reports for the consideration of the Committee. These reports shall include but not be limited to information about parties' reporting performances and the identification of particular issues that may emerge from the reports and may be of interest to the Committee;

(c) Make arrangements for the translation into English and distribution of national reports, or sections thereof, in accordance with rule 40 of the rules of procedure;

(d) Forward to the Committee any request made by the Conference of the Parties within two months after the conclusion of the meeting of the Conference of the Parties at which the request was made;

(e) As requested by the Committee in order to facilitate the conduct of its work, seek and collect further information from parties and other sources and prepare any report or supporting document;

(f) Perform any other functions assigned to it by the Committee or the Conference of the Parties with respect to the work of the Committee.

VII. Relationship with the settlement of disputes under article 25 of the Convention

27. The operation of the implementation and compliance mechanism and the work of the Committee shall be distinct and without prejudice to the provisions of article 25 of the Convention on settlement of disputes.

VIII. Protection of confidentiality

28. As a general rule, reports and recommendations from the Committee shall not be treated confidentially. However, information provided to the Committee in confidence, including by a party with respect to its own compliance, shall be treated confidentially.

Appendix II

Draft decision MC-3/[--]: Terms of reference for the Implementation and Compliance Committee of the Minamata Convention on Mercury

The Conference of the Parties,

Recalling paragraph 5 of article 15 of the Minamata Convention on Mercury,

Having considered the report on the work of the Implementation and Compliance Committee of the Convention,¹

Noting with appreciation the work undertaken by the Implementation and Compliance Committee,

Decides to adopt the terms of reference for the Implementation and Compliance Committee set out in annex I to the present decision, and to approve the template for written submissions from parties with respect to their own compliance set out in annex II to the present decision.

¹ UNEP/MC/COP.3/13.

Appendix III

Draft template for written submissions from parties with respect to their own compliance (article 15, paragraph 4 (a))

NOTES:

Written submissions made by a party with respect to its own compliance pursuant to paragraph 4 (a) of article 15 of the Minamata Convention shall be addressed to the Implementation and Compliance Committee, through the secretariat at:

Secretariat of the Minamata Convention on Mercury
United Nations Environment Programme
Postal address: Avenue de la Paix 8-14, 1211 Geneva 10, Switzerland
E-mail: mea-minamatasecretariat@un.org

Written submissions shall be made in one of the six official languages of the United Nations, preferably by electronic means, and contain the elements set out in the annexed template.

They shall not exceed five pages.

In order to be included in the agenda of the Committee's subsequent meeting, the submission should reach the secretariat at least eight weeks before the first day of that meeting.

When the Committee is considering an issue on the basis of a specific submission relating to the compliance of an individual party, that party shall be invited to participate in the consideration of the issue by the Committee. Such sessions shall not be open to observers, unless otherwise agreed by the Committee and the party concerned. Deliberations to prepare recommendations or voting on recommendations shall be closed to all observers.

Supplementary information may be requested by the Committee, if necessary. The party concerned may submit, through the secretariat, any such relevant supplementary information for the Committee's attention within two weeks of receiving the request from the Committee.

In the case where supplementary information is submitted in one of the official languages of the United Nations other than English and cannot be translated before the meeting at which it is to be considered, the information can be presented at the meeting, in which case the information may be interpreted into English in accordance with rule 39 of the rules of procedure.

The party concerned may also submit additional relevant information at its own initiative, at least five weeks before the opening of a meeting at which its submission is to be considered. Any such additional information should include a summary in English of a maximum of two pages in length.

For further information about the consideration by the Committee of written submissions from a party with respect to its own compliance, please refer to the rules of procedure and the terms of reference for the Committee, available at: www.mercuryconvention.org.

I. Party concerned and contact information

[Indicate below the name of the party concerned as well as the name and contact details of the national focal point or other relevant authority of the party transmitting the submission with respect to the party's own compliance.]

PARTY:		<i>[indicate the name of the party concerned by the submission]</i>			
CONTACT DETAILS OF MINAMATA CONVENTION NATIONAL FOCAL POINT OR OTHER RELEVANT AUTHORITY OF THE PARTY TRANSMITTING THE SUBMISSION					
First name/Last name					
Functional title:					
Section/Department:					
Organization/Institution					
Address:					
Post code:		City:		Country:	
Telephone (include country and city code):		Fax (include country and city code):		E-mail address:	

II. Matter of concern

[Provide background information and describe the matter of concern, i.e., the compliance issue being presented. Indicate your party's national capabilities and circumstances as they relate to that matter]

III. Relevant provision(s) of the Convention

[Indicate the relevant provision(s) of the Convention to which the compliance issue relates. Specify corresponding article(s), paragraph(s), subparagraph(s), annex(es) as appropriate.]

IV. Efforts to address the matter of concern

[Provide information on any efforts undertaken or under way to address the matter of concern or, if none, explain why.]

V. Confidential or protected information

[Information provided to the Committee in confidence, including by a party with respect to its own compliance, will be treated confidentially. However, specify below any particular request pertaining to confidential or protected information, for instance information that should not be disclosed in the reports and recommendations of the Committee.]

VI. Signature

[The submission shall be signed by the Minamata Convention national focal point or, if transmitted by another relevant authority of the party, by a person authorized to sign on its behalf.]
