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**Intergovernmental negotiating committee
to prepare a global legally binding instrument
on mercury
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Item 3 (b) of the provisional agenda*

**Work to prepare for the entry into force of the Minamata
Convention on Mercury and for the first meeting of the
Conference of the Parties: matters required by the
Convention to be decided upon by the Conference of the
Parties at its first meeting**

**Required content for certification to be provided for import by
a non-party**

Note by the Secretariat

1. In article 3, paragraph 12, the Minamata Convention on Mercury stipulates that the Conference of the Parties “shall at its first meeting provide further guidance in regard to this Article, particularly in regard to paragraphs 5 (a), 6 and 8, and shall develop and adopt the required content of the certification referred to in paragraphs 6 (b) and 8”. Paragraph 6 (b) of the article states that each party shall not allow the export of mercury to a non-party except:

To a non-Party that has provided the exporting Party with its written consent, including certification demonstrating that:

- (i) The non-Party has measures in place to ensure the protection of human health and the environment and to ensure its compliance with the provisions of Articles 10 and 11; and
- (ii) Such mercury will be used only for a use allowed to a Party under this Convention or for environmentally sound interim storage as set out in Article 10.

2. Paragraph 8 of article 3 of the Convention stipulates that “[e]ach party shall not allow the import of mercury from a non-Party to whom it will provide its written consent unless the non-Party has provided certification that the mercury is not from sources identified as not allowed under paragraph 3 or paragraph 5 (b)”.

3. The secretariat has developed proposed content for the certification to be provided by a non-party for the export of mercury to a party and for the import of mercury from a party (see annex).

* UNEP(DTIE)/Hg/INC.6/1.

4. In paragraph 6 of its resolution 1, on arrangements in the interim period, the Conference of Plenipotentiaries on the Minamata Convention requested the intergovernmental negotiating committee to focus its efforts on those matters required by the Convention to be decided upon by the Conference of the Parties at its first meeting. Included in those matters is the required content for certification to be provided by a non-party for the import and export of mercury.
5. Although the Convention requires the Conference of the Parties to provide guidance on this issue at its first meeting, there is also a need for guidance to be provided to parties on the required content for certification for any import or export in the period between the entry into force of the Convention and the first meeting of the Conference of the Parties. Consequently, the secretariat suggests that the committee consider the draft proposal set out in the annex and adopt it on a provisional basis pending formal adoption by the Conference of the Parties at its first meeting.

Annex

Content of certification to be provided by a non-party

A. Certification to be provided by a non-party to permit export of mercury from a party

1. Parties may export mercury to a non-party that consents to import it following receipt of certification from the competent authority within that country demonstrating that the non-party has measures in place to ensure the protection of human health and the environment, to ensure its compliance with the provisions of articles 10 and 11 of the Minamata Convention on Mercury and to ensure that such mercury will be used only for a use permitted to a party under the Convention or for environmentally sound interim storage as set out in article 10.

2. Information to confirm that the non-party has measures in place to ensure the protection of human health and the environment may include:

(a) Evidence of appropriate controls to ensure the safe handling, transport and use of mercury. Such evidence may include information on the processes, regulation, legislation or other controls that have been developed and agreed nationally; and on the quantity of mercury handled, transported and used throughout the previous calendar year. Reports of any accidents, incidents or identified issues should be submitted to provide tangible evidence of the effectiveness of the controls;

(b) Evidence of appropriate controls to ensure the protection of workers using or exposed to mercury, whether through the use of mercury in artisanal and small-scale gold mining, through the manufacture of mercury-added products, or through the use of mercury in processes which use mercury. The evidence should include information on the processes, regulation, legislation and other controls which have been developed and agreed nationally. Information on incidents and accidents involving workers using mercury, including the extent of any injuries, quantities of mercury released or spilt and any additional revisions of controls which may have been required should be submitted as documentation supporting the adequacy of controls;

(c) Evidence of appropriate controls to ensure that the mercury will be managed in an environmentally sound manner when it becomes mercury waste, and will not be recovered, reclaimed, recycled or reused except for a use allowed under the Convention. The evidence should include information on the waste management laws or regulations at a national level; the waste management facilities present in the country; and the uses to which the recovered mercury will be put, or evidence of the final disposal facility to which the mercury will be consigned.

3. The non-party is also required to provide certification that the mercury will be used only for a use allowed under the Convention or for environmentally sound interim storage. This certification should include a statement of the intended use or uses for the mercury, including the quantities intended for each stated purpose, and evidence of the controls to prevent the diversion of mercury from the intended purpose.

4. Should the non-party not opt to use the provision set out in paragraph 7 of article 3 allowing a general notification to the secretariat to be provided, a certificate must be provided to each party planning to export mercury to that non-party.

B. Certification to be provided by a non-party to permit the export of mercury to a party

5. In order to import mercury from a non-party, a party must receive certification from the competent authority within that country that the mercury is not from sources identified as not allowed under paragraph 3 or paragraph 5 (b) of article 3. These sources are primary mercury mining and decommissioned chlor-alkali plants. The certification from the non-party shall include information on the source of the mercury to be exported, including, if the mercury is produced by recycling activities, evidence that the mercury was not sourced from the decommissioning of chlor-alkali plants. Such evidence may include information on any chlor-alkali plants previously existing at the national level, and also evidence of the disposal of mercury from such plants if they have been decommissioned.