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**United Nations
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**Preparatory meeting for the
Conference of Plenipotentiaries
on the Minamata Convention on Mercury**
Kumamoto, Japan, 7 and 8 October 2013
Item 3 of the provisional agenda*

**Preparation of resolutions for the Conference of
Plenipotentiaries**

**Options for the provision of the secretariat during the period
before entry into force of the Convention**

Note by the secretariat

I. Introduction

1. In section III of decision 27/12, the Governing Council of the United Nations Environment Programme (UNEP) welcomed the completion of the negotiation of a global legally binding instrument on mercury and recognized that the decision on secretariat arrangements for the Minamata Convention on Mercury during the period before entry into force of the Convention (the “interim period”) would be taken by the Conference of Plenipotentiaries and that it was for the Conference of the Parties to the Minamata Convention on Mercury to decide on secretariat arrangements once the Convention entered into force.

2. In the same decision, the Governing Council requested the Executive Director to inform the diplomatic conference of the Minamata Convention on Mercury about possible options available for the secretariat for the interim period. The present note responds to that request from the Governing Council. It presents information about the context and the work that is expected to be carried out in the interim period, and sets out options for the Executive Director of UNEP to provide secretariat arrangements in the interim period.

II. Context

3. Secretariat arrangements in the interim period are required to support the intergovernmental negotiating committee and the implementation of the resolutions of the Conference of Plenipotentiaries during the period before the entry into force of the Convention. After its entry into force, paragraph 3 of article 24 of the Convention will take effect, namely that the secretariat functions for this Convention shall be performed by the Executive Director of UNEP. The Conference of the Parties may decide on secretariat arrangements to support it and parties to the Convention, including the budgetary implications of those arrangements. Nevertheless, the earliest opportunity for the adoption of such a decision would be the first meeting of the Conference of the Parties, which will be held within one year of the entry into force of the Convention. Consequently, the secretariat arrangements for the interim period will have to provide support from the moment of the adoption of

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the Convention through the first meeting of the Conference of the Parties and until the permanent secretariat is established. Subject to the resolutions of the Conference of Plenipotentiaries and in accordance with Governing Council decision 27/12, the secretariat for the interim period could be expected to support the intergovernmental negotiating committee in the implementation of relevant resolutions of the Conference of Plenipotentiaries and in delivering a work programme aimed at preparing the essential operational elements of the Convention, facilitating the necessary capacity-building and financing, and ensuring its rapid entry into force and effective implementation thereafter.

4. In deciding on the arrangement for providing the secretariat for the interim period, the Conference of Plenipotentiaries may wish to consider Governing Council decisions on enhancing cooperation and coordination within the chemicals and wastes cluster, and the importance of the co-location of the secretariat for the interim period with the key elements of that cluster. In decision 26/12, the Governing Council welcomed the progress achieved in enhancing cooperation and coordination within the chemicals and wastes cluster and identified further actions, while recognizing that the future process was intended to be broader and longer-term.

III. Programme of work before the entry into force of the Minamata Convention

5. The resolutions of the Conference of Plenipotentiaries will provide the broad strategic direction for the programme of work during the interim period. In general terms, the programme bridges the negotiation of the text of the Convention and the implementation of the Convention by focusing on preparations for the entry into force of the Convention, actions to support early ratification and implementation of the Convention, and preparations for the first meeting of the Conference of the Parties.

6. The work to be carried out in the interim period can be grouped into the following four categories:

(a) Items that are necessary upon entry into force, such as the register of consent to import mercury or mercury compounds; the format for registering for an exemption, the information to be provided and the register of exemptions to be maintained by the secretariat; and the arrangement for receiving and distributing information that may be provided upon ratification on measures to be taken by a party in implementing the Convention;

(b) Issues for decision by the Conference of the Parties at its first meeting, including guidance for identifying stocks of mercury; procedures for the export and import of mercury, including the required content for certification; guidance on best available techniques and best environmental practices for controlling emissions and on supporting parties in determining goals and emission limit values; arrangements for the operation of the financial mechanism; the timing and format of reporting; arrangements for providing the conference of the parties with comparable monitoring data for the evaluation of the effectiveness of the Convention; and the rules of procedure and financial rules for the conference of the parties;

(c) Items that are either identified in text for action by the Conference of the Parties, but not specifically at its first meeting, or that will facilitate rapid implementation, or that would enable more effective use of resources, such as guidance and assistance to countries with artisanal and small-scale gold mining in developing their national action plans; guidance on identifying sources of releases and developing inventories of releases; guidelines on environmentally sound interim storage of mercury; thresholds for identifying mercury waste; guidance on managing contaminated sites; and the rules of procedure for the Implementation and Compliance Committee;

(d) Actions that are cross-cutting and aimed at assisting countries in preparing for ratification and immediate effective participation in the Convention. Those actions would also facilitate voluntary implementation of the Convention and its early entry into force, and would include raising awareness in relation to the provisions of the Convention and other enabling activities.

IV. Options for the provision of secretariat arrangements for the interim period

7. In developing proposals for the consideration of the intergovernmental negotiating committee, it will be important for the secretariat to explore the issues objectively in each case, identifying what is needed for effective implementation of the Convention in accordance with its objective. Conflicts of interest should be avoided, especially when the issue under consideration is the development of

agreements and arrangements with other bodies. Options for cooperation and collaboration should be explored, but from the perspective of securing the optimal outcome for the Minamata Convention. The intergovernmental negotiating committee will provide its recommendations to the Conference of the Parties, drawing on proposals developed by the secretariat for the interim period and any other considerations, as it sees fit.

8. The secretariat for the interim period should be technically and administratively competent and should undertake its work in a cost-effective manner that is free of conflicts of interest and that does not pre-empt the decision of the Conference of the Parties on the permanent secretariat arrangements.

9. The present note presents, for the consideration of the Conference of Plenipotentiaries, four options for secretariat arrangements for the Minamata Convention for the interim period. In considering those options, the Conference may wish to take into consideration their potential to provide the necessary policy, technical and administrative support, and whether they are consistent with the provisions of Governing Council decision 26/12 on strengthening the coherence and focus for chemicals and wastes issues. Information on each of the four options follows.

A. Chemicals Branch of the Division of Technology, Industry and Economics, based in Geneva

10. The Chemicals Branch of the Division of Technology, Industry and Economics, based in Geneva:

- (a) Has led policy and technical work on the mercury issue since 2000;
- (b) Has the technical, policy and, administrative capability and arrangements to perform the function;
- (c) Has the mandate for policy and strategic development as part of the UNEP programme;
- (d) Has a proven record in successfully organizing and supporting the consultations of the ad hoc open-ended working group on mercury and the negotiating sessions and inter-sessional meetings of the intergovernmental negotiating committee;
- (e) Has developed and is responsible for the UNEP Global Mercury Partnership;
- (f) Has demonstrated a successful relationship with the Global Environment Facility at the policy and project levels for mercury and broader chemicals issues;
- (g) Has a neutral position in developing arrangements with the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal and other bodies;
- (h) Has experience in developing arrangements with, and working with, the World Health Organization (WHO), the International Labour Organization (ILO) and other intergovernmental organizations, as well as with industry and civil society;
- (i) Would represent a continuation of the existing arrangement, and would not pre-empt any decision by the Conference of the Parties on permanent secretariat arrangements;
- (j) Would enable the intergovernmental negotiating committee to review the experience of the enhanced cooperation and coordination process among the Basel Convention, 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 and, taking that into account, to make a recommendation to the Conference of the Parties on final secretariat arrangements;
- (k) Would be consistent with previous practice related to the other multilateral environmental agreements in the chemicals and wastes cluster;
- (l) Is located in Geneva as an integral element of the chemicals and wastes cluster.

B. Secretariat of the Basel, Rotterdam and Stockholm conventions, based in Geneva

11. The Secretariat of the Basel, Rotterdam and Stockholm conventions, based in Geneva:

- (a) Has already serviced the Basel, Rotterdam and Stockholm conventions;

- (b) Has demonstrated experience and competence in organizing conferences of the parties and related subsidiary bodies;
- (c) Would need to modify its procedural and administrative structures to support the Minamata Convention on Mercury in the interim period, subject to approval by the respective conferences of the parties;
- (d) Has demonstrated a successful relationship with the Global Environment Facility as the principal entity on an interim basis of the Financial Mechanism for the Stockholm Convention;
- (e) Has limited direct experience with the mercury issue beyond providing staff assistance to the intergovernmental negotiating committee;
- (f) May need to outsource technical assistance and policy development;
- (g) Has experience in developing arrangements with, and working with, WHO, ILO and other intergovernmental organizations, as well as with industry and civil society;
- (h) Is located in Geneva as an integral element of the chemicals and wastes cluster.

C. International Environmental Technology Centre, based in Osaka, Japan

12. The International Environmental Technology Centre, based in Osaka, Japan:
- (a) Is the focus for the UNEP waste management programme;
 - (b) Has no experience (other than through the current Director) or capacity for supporting the intergovernmental negotiating committee or undertaking the work programme;
 - (c) Is not directly linked to the mercury programme;
 - (d) Is isolated from the chemicals and waste cluster in Geneva.

D. Division of Environmental Law and Conventions, based in Nairobi

13. The Division of Environmental Law and Conventions, based in Nairobi:
- (a) Is a UNEP division responsible for supporting conventions;
 - (b) Has the capacity to undertake much of the work in developing agreements;
 - (c) Lacks relevant technical capacity;
 - (d) Has no background in the mercury issue beyond supporting the negotiations.

V. Final considerations

14. The issue for consideration is whether there is sufficient advantage in moving away from the current arrangements, whereby secretariat support for the intergovernmental negotiating committee has been provided by the Chemicals Branch of the Division of Technology, Industry and Economics, and whether that advantage is sufficient to outweigh the possible perception of pre-empting the decision of the Conference of the Parties on secretariat arrangements. Regardless of the option chosen for providing the interim secretariat, the intergovernmental negotiating committee will be able to make its recommendation to the Conference of the Parties based on a review of its experience, and of the experience of other multilateral environmental agreements, in particular the Basel, Rotterdam and Stockholm conventions.
