

**UNITED
NATIONS****MC**

UNEP/MC/COP.3/Dec.9



Distr.: General

7 January 2020

Original: English

**United Nations
Environment
Programme**

**Conference of the Parties to the
Minamata Convention on Mercury
Third meeting**
Geneva, 25–29 November 2019

Decision adopted by the third Conference of the Parties to the Minamata Convention on Mercury

MC-3/9: Implementation and Compliance Committee: terms of reference and template for written submissions from parties with respect to their own compliance

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.

Annex I to decision MC-3/9

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 25 (b) and 25 (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 first meeting after the receipt of the request.

16. 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

17. 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.

18. 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

19. 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.

20. 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

21. In carrying out its functions, the Committee may, in accordance with the programme of work and budget, inter alia:

(a) Draw on the reports, decisions and recommendations of the Conference of the Parties, as well as reports and recommendations of 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

22. 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.

23. 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.

24. When there is a need for it and as a last resort, the Committee may recommend to the Conference of the Parties that the Conference of the Parties issue a statement regarding compliance and provide 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

25. Consistent with the functions specified in article 24 of the Convention and in the Committee's rules of procedure, and in accordance with the programme of work and budget, 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

26. 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

27. 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.

Annex II to decision MC-3/9

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 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.]