

Concerning Minamata Disease Countermeasures

(December 15, 1995)
(Cabinet understanding)

Parties directly affected by Minamata disease have come up with solutions to the Minamata disease problem as outlined in the attached Agreement. However, the national government proposes the following immediate measures in order to reach a final and complete settlement of the issue.

1. Recommence accepting applications for the Comprehensive Minamata Disease Medical Care Project.

The national government will take the necessary steps to ensure that Kumamoto, Kagoshima and Niigata Prefectures are able to resume the Comprehensive Minamata Disease Medical Care Project.

2. Support measures to assist Chisso Corporation with lump-sum payments, and other regional regeneration and promotion activities.

(a) Support measures to assist Chisso Corporation with lump-sum payments.

i. In order to regenerate and promote the Minamata and Ashikita Region, the national government will provide required funding for a foundation set up by Kumamoto Prefecture (hereafter known as the Foundation), which will loan funds to Chisso Corporation to cover lump-sum payments.

ii. Whilst adhering to the 'polluter pays principle', by maintaining and strengthening Chisso Corporation's management base, the national government will be mindful of the need to ensure that there is no disruption to the compensation payments for Minamata disease victims. In addition, in order to encourage the economic and social stability of the region, the Ministry of the Environment will regularly review and respond to the financial state of Chisso Corporation.

(b) Other regional regeneration and promotion activities.

i. Along with (a)(i) above, the national government will provide required funding to Kumamoto Prefecture in order that the Foundation may assist with activities to restore ties within the community and eliminate health fears in the Minamata and Ashikita Region. Regional bonds issued to cities and towns from this funding will be managed by the national government's Trust Fund Department.

ii. The national government will continue to support the National Institute for Minamata Disease in their work to develop research methods peculiar to the Minamata disease area, and to improve health and welfare measures in the Minamata Ashikita region in order to lighten consistent neurological symptoms.

(Attachment)

Agreement by the Parties Concerned on a Solution to the Minamata Disease Issue

I Kumamoto and Kagoshima Prefectures

1. Basic philosophy

(a) The following framework outlines a final and complete solution to the many differences regarding Minamata disease.

- i. According to point 2 below, Chisso will pay a lump-sum amount to those seeking assistance, who fit certain specific criteria.
- ii. The national government and Kumamoto Prefecture will responsibly commit to an expression of regret as part of the final and complete solution to the Minamata disease issue.
- iii. Persons who agree with this settlement and accept financial assistance will withdraw from disputes listed under the Note at '4. Conclusion of conflicts'.

(b) The national and prefectural governments will endeavour to end the conflict by recommencing the Comprehensive Medical Care Project, assisting Chisso and take measures to regenerate and promote the region.

In addition, persons and Chisso seeking financial assistance must actively engage with the community in the rejuvenation and development of the region by participating in 'Moyainaoshi' activities to restore the community's social bonds.

2. Lump-sum payments

(a) Eligibility for lump-sum payments

The company will pay a lump-sum settlement to those claimants who fit the following criteria:

- i. Eligible to participate in the Comprehensive Minamata Disease Medical Care Project (payment will be made to the family of those eligible persons already deceased).
- ii. Those who have been deemed eligible by the Governor of Kumamoto or Kagoshima Prefecture following deliberation by the Assessment Committee (payment will be made to family of deceased claimants other than those mentioned in (i) only when a subcommittee made up of Assessment Committee members agree on the person's eligibility for the Comprehensive Minamata Disease Medical Care Project).

(b) Amount of lump-sum payments

i. The amount of lump-sum payments will be calculated as follows:

A. Persons who meet the criteria outlined in (a) above will receive JPY 2,600,000 each.

B. Persons who meet the criteria outlined in (a) above and are members of the following groups will receive an additional amount, calculated per group as follows:

- Minamata Disease Victims/Defence Group Association (excluding Niigata Prefecture) JPY 3,800,000,000
- Minamata Disease Patients Association JPY 700,000,000
- Minamata Disease Peace Association JPY 320,000,000
- Modo Minamata Disease Patients Fellowship JPY 60,000,000
- Minamata Fishermen's Unaided Patients Association JPY 60,000,000

ii. Group lump-sum payments

A. In the case of groups whose members include those who are eligible for lump-sum payments under the criteria outlined in (a) above, the group's representative shall, with the permission of members of the group, accept the offer of a lump-sum payment on

behalf of members of the group who are eligible for lump-sum payments under the criteria outlined in (b)(i)(A) above.

B. In the case of additional lump-sum payments under (b)(i)(B) above, the payment will be made on the condition that the group agrees to end conflicts.

C. Groups that receive lump-sum payments under A or B above shall distribute the lump-sum payment to each member. This distribution shall take place as per judicial settlement discussions or by each group's own judgment (where persons within a group are ranked, the payment shall be distributed according to that ranking).

(c) Period of application for lump-sum payment

The company will make payment within three months of the following dates:

- i. Persons who were originally eligible for the Comprehensive Minamata Disease Medical Care Project (including family of deceased eligible persons): this date will be set when the company has completed preparations for lump-sum payment).
- ii. Persons deemed eligible for the Comprehensive Minamata Disease Medical Care Project following reopening of applications (including eligible family members of deceased eligible persons): the date they are deemed eligible.

3. National and Prefectural government policies for an immediate resolution to conflicts

(a) Reopening of applications for the Comprehensive Medical Care Project

- i. Applications for the Comprehensive Medical Care Project will be reopened for persons who have peripheral paresthesia due to past exposure to above-normal levels of methyl mercury. Following a preparation period, applications will be reopened for approximately 5 months. The national and prefectural governments will advertise this fact during the entire period (preparation and reopening).
- ii. Residency and symptom requirements for new applicants for the Comprehensive Medical Care Project will be equal to the original requirements. Eligibility of new applicants for the Comprehensive Minamata Disease Medical Care Project will be decided by the Assessment Committee upon examination of the Screening Committee for Minamata Disease Patients papers (those without will provide a medical certificate from a prefecture-appointed public hospital, known hereafter as public documents) and a further medical certificate to be submitted stating that the applicant meets the Comprehensive Medical Care Project criteria (known hereafter as further medical certificate).

In cases where the applicant wishes to be assessed without a further medical certificate, the committee will make a decision on the basis of the applicant's public documents only. This will also occur when an applicant fails to submit a further medical certificate within 30 days of application.

In addition, from June 21, 1995, in cases where the applicant has no history of application for Minamata disease certification or participation in the Comprehensive Medical Care Project and is not a claimant in a damages lawsuit, the committee will make their assessment on the public documents only.

- iii. After reopening of applications for the Comprehensive Medical Care Project, applicants who have been certified under the Law Concerning Pollution-Related Health Damage Compensation and other Measures (hereafter referred to as the Pollution Compensation Law) or who have been awarded damages in certain court decisions will not be eligible. Only persons who have not sought damages in the above manners will be eligible. However, persons who were previously ineligible for these reasons but are found to be eligible when applications reopen will, as an interim measure, receive benefits until the expiry of their recuperation notebook.

Applicants who applied for certification under the Pollution Compensation Law and other Measures before March 31, 1995 will not be eligible for the Comprehensive Medical Care Project without applying for such.

(b) Support for Chisso

The national and prefectural governments will, according to the agreement at 1(a)(i), enact appropriate measures to ensure lump-

sum payments are made by Chisso.

(c) Regional rejuvenation and development

The national and prefectural governments will pursue the following topics of investigation:

i. Of those persons who lodge an application for the Comprehensive Medical Care Project within the application period but are found not to be eligible, those who meet the residency requirements and are found to have neurological symptoms other than peripheral paresthesia will be provided with assistance to cover acupuncture, moxibustion and hot spring recuperation expenses (including medical treatment to alleviate neurological symptoms), as a part of the region's health and welfare policy (the monthly amount will be within the range of the current Comprehensive Medical Care Project acupuncture and moxibustion recuperation expenses).

Note: Applicants who have been certified under the Pollution Compensation Law or who have fought for damages will be treated pursuant to (a)(iii) above.

ii. Development of infrastructure with the aim of improving the health of the region and of residents, enriching healthcare systems, developing Minamata disease-related research systems and assisting the community in general.

4. Conclusion of conflicts

Those persons or groups who have been awarded a lump-sum payment under 2(a)(ii) above will, as a condition of receiving the payment, end all current disputes and make no further compensation claims in court or by negotiation, or claims for compensation payment under the Pollution Compensation Law. In this case, the individual must decide whether to accept assistance under these terms or continue litigation. However, payment will only be made for applications accepted within the application period listed in 2(c) above.

In addition, conclusion of conflict between applicants and the company will be by a uniform agreement. In that case, persons seeking Minamata disease certification through the Pollution Compensation Law despite the uniform agreement are ultimately making a type of civil compensation claim against Chisso, so the issue will be terminated.

Note: Mode of termination of conflicts:

- a. Lawsuits claiming compensation from the state (excluding the lawsuit claiming breach of law by omission in Minamata disease certification procedures): abandonment of demands or withdrawal of claim by return of provisional execution moneys.
- b. Lawsuits claiming compensation from Chisso: amicable settlement or withdrawal of claims by return of provisional execution moneys.
- c. Claimants of negotiated compensation payments from Chisso: Finalisation by agreement.
- d. Lawsuits or administrative review claims for certification under the Pollution Compensation Law: withdrawal of applications.

Appendix 1

Definition of eligibility for assistance, and the nature of the Chisso lump-sum payments.

(1) Definition of eligibility for assistance

Among those persons who have peripheral paresthesia due to past exposure to above-normal levels of methyl mercury, there are those who have been certified as Minamata disease sufferers under the Pollution Compensation Law, and others whose applications for certification were dismissed.

Diagnosis of Minamata disease is a syndromic diagnosis based on a combination of symptoms, with the assumption that the person

had exposure to methyl mercury. Persons to be found eligible for assistance in this round are those who were previously refused certification, however the assessment will take into account that Minamata disease diagnosis is based on the balance of probability, and that rejection of an application for certification does not mean that the applicant has not been affected by methyl mercury, and may therefore be entitled to financial assistance.

(2) The nature of the lump-sum payments

Having accepted responsibility for causing Minamata disease by disposing of methyl mercury, Chisso will acknowledge its social obligations as the cause of this problem and make lump-sum payments to persons meeting the requirements in (1) above, in accordance with the polluter-pays principle, and without relying on court decisions or other such means of determining a definite causal link between methyl mercury and individuals' health problems.

Appendix 2

Requirements for prefecture-appointed public hospitals and doctors issuing public documents.

(1) Requirements for prefecture-appointed public hospitals

- a. Kumamoto Prefecture will take regional characteristics into consideration, and select hospitals with a neurology department that employ doctors that meet the following criteria.
- b. Doctors must meet one of the following criteria:
 - i. Must be currently employed by a medical institution that supports a neurological or psychiatric department.
 - ii. Must have at least three years' experience at a facility that meets certain standards, and have at least one year's experience practicing clinical neurology.

(2) Doctors issuing public documents must meet the requirements at (1)(a) above.

Appendix 3

Prefectural Assessment Committee's method of reaching its synthetic judgment

The Prefectural Assessment Committee will reach a synthetic judgment based upon the following:

When conclusions in public documents and further medical certificates are consistent, the assessment will be based on this conclusion, however in cases where only one of these certificates shows peripheral paresthesia:

- a. Patients whose medical certificate not diagnosing peripheral paresthesia shows that the patient has comparable sensory impairment or divergent peripheral paresthesia in the entire body, will, upon presentation of the second document, be accepted as meeting the requirements.
- b. In cases where patients do not meet the requirements at (a) above and are not diagnosed with peripheral paresthesia, but whose previous public document or medical certificate diagnoses peripheral paresthesia, comparable sensory impairment or divergent peripheral paresthesia in the entire body, it is nevertheless possible to make a combined assessment of all documents and find that the person meets the requirements.