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**United Nations
Environment
Programme**

**Intergovernmental negotiating committee
to prepare a global legally binding
instrument on mercury**

First session

Stockholm, 7–11 June 2010

Item 4 of the provisional agenda*

**Preparation of a global legally binding
instrument on mercury**

**Relevant issues being considered in international forums and
their possible impact on the mercury negotiation process**

Note by the secretariat

Introduction

1. At its meeting in Bangkok from 19 to 23 October 2009, the ad hoc open-ended working group to prepare for the intergovernmental negotiating committee on mercury agreed on a list of information that the secretariat would provide to the committee at its first session to facilitate its work. Among other things, the secretariat was requested to provide an update of the note prepared for the ad hoc open-ended working group on relevant issues being considered in international forums and their possible impact on the mercury negotiation process (UNEP(DTIE)/Hg/WG.Prep/1/7). The present note responds to that request. It discusses work of relevance to the mercury negotiations under way in a number of international forums as at the end of March 2010.

2. In paragraph 28 of its decision 25/5, the Governing Council of the United Nations Environment Programme provided that the intergovernmental negotiating committee should consider a number of issues relevant to the mercury instrument to be negotiated, including the need to achieve cooperation and coordination and to avoid the unnecessary duplication of provisions of other international agreements and processes; possible co-benefits of conventional pollutant control measures and other environmental benefits; and efficient organization and streamlined secretariat arrangements.

3. A number of existing multilateral environmental agreements deal with issues related to mercury, including the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade. In addition, discussions are under way in international forums of potential relevance to the mercury negotiations in respect of both institutional

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

and substantive issues, including efforts to enhance synergies among the Basel Convention, the Rotterdam Convention and the Stockholm Convention on Persistent Organic Pollutants, negotiations on the fifth replenishment of the Global Environment Facility (GEF) and negotiations on the international response to climate change.

A. Developments in relation to existing multilateral environmental agreements

4. The Secretariat of the Basel Convention has developed draft technical guidelines on the environmentally sound management of mercury wastes. The guidelines, to be considered further by the Convention's Open-ended Working Group at its seventh session, in May 2010, set out comprehensive information on mercury wastes, including on the chemistry and toxicology of mercury, sources of mercury and mercury wastes, existing expertise on the environmentally sound management of mercury wastes and provisions on mercury wastes under international legal instruments. Paragraph 27 of decision 25/5 provides that the comprehensive and suitable approach to mercury to be developed by the intergovernmental negotiating committee should include a number of provisions, including, as stated in subparagraph (f), a provision to address mercury-containing wastes and remediation of contaminated sites. In considering such a provision the committee may wish to take into account the provisions of, and activities taking place under, the Basel Convention, including any implications that they may have for avoiding unnecessary duplication of effort.

5. The Rotterdam Convention contains provisions relating to mercury compounds used as pesticides, including inorganic mercury compounds, alkyl mercury compounds and alkyloxyalkyl and aryl mercury compounds. Those compounds are included in Annex III to the Convention, which lists chemicals that are subject to the prior informed consent procedure. Mercury used in products and processes is not currently listed in Annex III; it could be in the future, however, if it meets the criteria for inclusion and if the process for the consideration of whether a substance should be added to Annex III is triggered. That process is triggered in respect of a particular substance when at least one party from each of at least two regions (known under the Convention as "prior informed consent regions")¹ submits to the secretariat a notification of final regulatory action indicating that it has taken steps to ban or severely restrict the substance. To date, one party (Sweden) has submitted a notification of final regulatory action to the secretariat in respect of mercury used in products and processes. The submission of another notification by another party from another region would trigger the process. Paragraph 27 (d) of decision 25/5 provides that the comprehensive and suitable approach to mercury to be developed by the intergovernmental negotiating committee should include a provision to reduce international trade in mercury. In considering such a provision the committee may wish to take into account the provisions of, and activities taking place under, the Rotterdam Convention, including any implications they may have for avoiding unnecessary duplication of effort.

B. Efforts to enhance synergies in the chemicals and wastes cluster

6. Discussions are under way between the Basel, Rotterdam and Stockholm conventions to explore opportunities for synergies in their administrative arrangements and work. An ad hoc joint working group was established to prepare joint recommendations on enhanced cooperation and coordination between the three conventions for submission to their respective conferences of the parties. Opportunities for cooperation and coordination were discussed further at simultaneous extraordinary meetings of the conferences of the parties to the conventions in February 2010. At the simultaneous meetings, each conference of the parties adopted an omnibus synergies decision on joint services, joint activities, synchronization of budget cycles, joint audits, joint managerial functions and arrangements for reviewing cooperation and coordination.

7. Agreed outcomes of the meeting include, among other things, continued efforts to implement joint activities relevant to cross-cutting issues within the secretariats' approved programmes of work (including technical assistance, regional centres, technical and scientific matters and public awareness and outreach) and joint managerial functions (including the establishment of a joint head of the three secretariats for a period of two years). In addition, UNEP was requested to establish, through the executive secretaries of the conventions, joint services for the three conventions, including financial and administrative services, legal services, information technology services, information services and resource mobilization services. The respective conferences of the parties will review, in 2013, how far

¹ The prior informed consent regions differ from the United Nations regional groups and are used only for the purposes of triggering the procedure for listing chemicals in Annex III to the Convention. They comprise Africa, Asia, Europe, Latin America and the Caribbean, the Near East, North America and the Southwest Pacific.

the new arrangements have contributed to strengthening the implementation of the conventions and maximizing the effective and efficient use of resources at all levels.

8. The report of the simultaneous extraordinary meetings, contained in document UNEP/FAO/CHW/RC/POPs/EXCOPS.1/8, is available at <http://excops.unep.ch/documents/report/r08e.pdf>. In addition, document UNEP(DTIE)/Hg/INC.1/17 discusses synergies and enhanced cooperation and coordination in the context of a number of multilateral environmental agreements and the mercury instrument to be developed by the intergovernmental negotiating committee.

C. Progress in the Global Environment Facility replenishment negotiations

9. The fifth replenishment of the GEF Trust Fund is intended to fund GEF operations and activities during what is referred to as the “fifth replenishment period”, which will run from 1 July 2010 to 30 June 2014. To ensure the uninterrupted funding of GEF operations and activities donors are striving to conclude the negotiations on the fifth replenishment in early 2010. More detailed information on GEF and the fifth replenishment may be found in chapter I of document UNEP(DTIE)/Hg/INC.1/8.

D. Progress in the climate change negotiations

10. With 194 Parties, the United Nations Framework Convention on Climate Change has near universal membership and is the parent treaty of the 1997 Kyoto Protocol. The Kyoto Protocol has been ratified by 190 of the parties to the Convention. Under the Protocol, 37 highly industrialized countries and countries undergoing a transition to market economies have legally binding emissions limitation and reduction commitments. The ultimate objective of the treaty and its protocol is to stabilize greenhouse gas concentrations in the atmosphere at a level that will prevent dangerous human interference with the climate system. The commitments to reduce emissions of greenhouse gases, which are quantified in what are termed “carbon dioxide equivalents”, are being negotiated. A major contributor to such emissions is energy generation, which is also the single greatest source of mercury emissions.

11. The United Nations Climate Change Conference took place in Copenhagen from 7 to 19 December 2009. It included the fifteenth session of the Conference of the Parties to the United Nations Framework Convention on Climate Change and the fifth meeting of the Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol. The Copenhagen conference marked the culmination of a two-year negotiating process to enhance international climate change cooperation under the Bali Road Map launched by the Conference of the Parties at its thirteenth session, in December 2007. In all, 119 world leaders attended the Conference, including a high-level segment from 16 to 18 December, making it the largest gathering of heads of State and Government in the history of the United Nations. The Conference was subject to unprecedented public and media attention and more than 40,000 people, representing Governments, non-governmental organizations, intergovernmental organizations, faith-based organizations, media organizations and other United Nations agencies applied for accreditation.

12. After intense negotiations, the Conference ended with a non-binding agreement by countries, called the Copenhagen Accord, to cap global temperature rise by committing to reduce emissions significantly and to raise money to kick-start action in the developing world to deal with climate change. At the close of the meeting the Conference of the Parties adopted a decision by which it took note of the Copenhagen Accord, the text of which was annexed to the decision. The Accord sets out a list of the parties that, subject to confirmation at the national level, associated themselves with it. Further information is available at <http://unfccc.int/home/items/5262.php>.

13. The Copenhagen Accord recognizes the scientific view that the increase in global average temperature must be limited to less than 2° C to stave off the worst effects of climate change. To achieve that goal, the Accord specifies that industrialized countries will commit themselves to implementing, individually or jointly, quantified economy-wide emissions targets from 2020, to be listed in the Accord before 31 January 2010. A number of developing countries, including some with major emerging economies, agreed also to list their voluntary emissions pledges before 31 January 2010 and to report every two years on their efforts to limit greenhouse gas emissions. Nationally appropriate mitigation actions for which international support is sought are to be recorded in a registry along with relevant technology, finance and capacity-building support from industrialized countries. Because the pledges by developed and developing countries may, when judged against the best available scientific information, be found insufficient to keep the global temperature rise below 2°, the Accord is to be

reviewed by 2015. The review would include a consideration of the long-term goal to limit the global average temperature rise to 1.5°.

14. The Accord also calls for prompt action on mitigation, adaptation, finance, technology, reduction of emissions from deforestation in developing countries and capacity-building. To that end, it establishes the Copenhagen Green Climate Fund to support immediate action on climate change. Developed countries have collectively committed themselves to providing nearly \$30 billion over the period 2010–2012. For long-term financing, developed countries have agreed to support a goal of jointly mobilizing \$100 billion per year by 2020 to meet the needs of developing countries. To enhance action on the development and transfer of technology, the Accord establishes a new technology mechanism to accelerate technology development and transfer in support of action on adaptation and mitigation.

15. The challenge now is to transform the political agreement reached at the Copenhagen Conference into effective action. The official report of the Conference is not yet available. The next annual United Nations climate change conference will take place from 29 November to 10 December 2010 in Cancún, Mexico. It will be preceded by a major two-week negotiating session in Bonn, Germany, scheduled for 31 May–11 June 2010.
