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**Ad hoc open-ended working group to
prepare for the intergovernmental
negotiating committee on mercury**

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Item 4 (c) of the provisional agenda*

**Preparations for the work of the intergovernmental
negotiating committee to prepare a global legally binding
instrument on mercury: information that might assist the work
of the intergovernmental negotiation committee**

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

Note by the secretariat

1. By its decision 25/5, the Governing Council of the United Nations Environment Programme agreed to further international action on mercury consisting of the elaboration of a legally binding instrument, which could include both binding and voluntary approaches, together with interim activities, to reduce risks to human health and the environment. The decision was taken on the basis that mercury is a chemical of global concern due to its long-range atmospheric transport, its persistence in the environment once anthropogenically introduced, its ability to bioaccumulate in ecosystems and its significant negative effects on human health and the environment.
2. In providing the mandate for the intergovernmental negotiating committee, the Governing Council agreed that the committee should consider a number of issues, including: the need to achieve cooperation and coordination and to avoid unnecessary duplication of proposed actions with relevant provisions contained in other international agreements and processes; the possible co-benefits of conventional pollutant control measures and other environmental benefits; efficient organization and streamlined secretariat arrangements.
3. A number of existing multilateral environmental agreements tackle 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 both institutional and substantive terms, including efforts to enhance synergies between the Basel and Rotterdam conventions and the Stockholm Convention on Persistent Organic Pollutants; negotiations for the fifth replenishment

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of the Global Environment Facility (GEF) and negotiations on the international response to climate change.

4. The present note provides summaries of work under way in other international forums and international discussions as they relate to the upcoming mercury negotiations for the working group's information.

I. Existing multilateral environmental agreements

5. 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, to be held in May 2010, sets out comprehensive information on mercury wastes, including the chemistry and toxicology of mercury, sources of mercury and mercury wastes, existing expertise on the environmentally sound management of mercury wastes and provisions to tackle mercury wastes under international legal instruments. One of the provisions to be included in a comprehensive and suitable approach to mercury, as set out in decision 25/5, is that it should "address mercury-containing waste and remediation of contaminated sites". In considering this provision, the committee should be aware of the Basel Convention's obligations and activities so as to avoid any duplication of effort.

6. The Rotterdam Convention contains provisions relating to mercury compounds, including inorganic mercury compounds, alkyl mercury compounds and alkyloxyalkyl and aryl mercury compounds. These compounds are included in Annex III to the Convention, which lists chemicals that are subject to the prior informed consent procedure. While industrial uses of mercury in products and processes are not currently listed, they may be listed in Annex III in the future if they meet the criteria for inclusion. The Convention's trade provisions provide a possible model for a provision to be included in the global legally binding instrument on mercury related to the reduction of international trade in mercury.

II. Existing international discussions

A. Synergies between the Basel, Rotterdam and Stockholm conventions

7. 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 will be discussed further at the simultaneous extraordinary meeting of the conferences of the Parties to the conventions to be held in February 2010, during which cooperative measures in areas including organizational issues in the field, technical issues, information management and public awareness issues, administrative issues and decision-making will be considered. In developing the global legally binding instrument on mercury, the committee may wish to monitor progress on cooperation and coordination between these conventions.

B. Global Environment Facility

8. The fifth replenishment of GEF is intended to fund four years of GEF operations and activities from 1 July 2010 to 30 June 2014. Paragraph 86 of the draft programming document for the fifth replenishment of GEF (GEF/R.5/14) indicates that: "Regarding mercury, it is anticipated that, just as it did for POPs, the GEF would support assessment-type activities and demonstrations of good practices for alternatives or mercury release reduction while the treaty is negotiated, so that the international community is indeed ready for implementing the treaty when it is adopted. This is similar to the range of activities that the GEF supported in the years leading to, and during, the negotiations for the Stockholm Convention".

9. The above-mentioned draft programming document was presented at the second meeting for the fifth replenishment, held in Washington, D.C., on 25 and 26 June 2009. The full meeting report is not yet available. The GEF Secretariat will prepare a revised programming document for the third meeting for the fifth replenishment that will include detailed programming scenarios and trade-offs at various replenishment levels. The third meeting is due to be held from 14 to 16 October 2009, while a fourth meeting is likely to take place in early 2010.

10. The working group may wish to consider the funding opportunities available under GEF, particularly during the negotiations, and consider opportunities for contributing to discussions on the fifth replenishment.

C. United Nations Framework Convention on Climate Change

11. For the international community, 2009 is a crucial year in its efforts to tackle climate change, culminating in the fifteenth session of the Conference of the Parties to the United Nations Framework Convention on Climate Change, to be held in Copenhagen from 7 to 18 December 2009. In 2007, Parties to that Convention agreed to shape an ambitious and effective international response to climate change to be agreed upon at the fifteenth session. A series of intensive negotiations are under way during 2009: the first and second rounds of negotiations were held in Bonn, Germany, from 29 March to 8 April and from 1 to 12 June 2009, respectively. Three further sessions will be held prior to the Copenhagen conference: 10–14 August 2009 in Bonn (informal meeting); 28 September–9 October 2009 in Bangkok; and 2–6 November 2009 in Barcelona, Spain. The focus of these meetings is to prepare text for discussion and possible adoption by the Conference of the Parties at its fifteenth session. During the June discussions, participants considered amendments to the Kyoto Protocol to the Convention relating to emissions reduction commitments of industrialized countries for the second phase of the Protocol (post-2012) and other related issues, including emissions trading and project-based mechanisms relating to land use, land-use change and forestry activities under the Clean Development Mechanism.

12. Commitments to reduce emissions of carbon dioxide equivalent emissions of greenhouse gases are being negotiated. A major contributor to such emissions is energy generation, which is also the single greatest source of mercury emissions.

13. The working group may wish to propose that the secretariat should provide updates on progress in the climate change negotiations to the intergovernmental negotiating committee. The updates would focus, in particular, on commitments to reductions under the new climate change agreement that might produce co-benefits in the reduction of mercury emissions.
