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

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Preparation of a global legally binding instrument on mercury

**Synergies and institutional cooperation and coordination with
related multilateral environmental agreements and policies**

Note by the secretariat

Introduction

1. At its meeting held 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 prepare materials relating to synergies and institutional cooperation and coordination with related multilateral agreements and policies. The present note has been prepared in response to that request.
2. The concept of synergies goes beyond mere collaboration and cooperation or the use of provisions within existing multilateral environmental agreements. Instead it posits that the outcome of collaborative action is greater than the outcome would be if those collaborating undertook their efforts individually: improvements in the efficiency and effectiveness of implementation are the result.
3. The successful implementation of multilateral environmental agreements will improve the protection of human health and the environment from hazardous substances and help countries to attain the Millennium Development Goals and the Johannesburg Plan of Implementation aim that, by 2020, chemicals are used and produced in ways that lead to the minimization of significant adverse effects on human health and the environment. The identification and achievement of synergies will enhance the success of multilateral environmental agreements.

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

4. Opportunities for synergies are found at various levels, including the provisions of multilateral environmental agreements, the decisions and procedures of the governing bodies of such agreements, international cooperation, national actions and secretariat arrangements. The benefits of identifying and achieving synergies can include:

- (a) Avoidance of duplication among the provisions of related agreements;
- (b) Consistent decision-making among the governing bodies of related agreements and their associated technical and financial bodies;
- (c) Improved coherence in programme delivery at the international level;
- (d) Improved coherence and implementation at the national level;
- (e) Consistent and harmonized institutional and budgetary arrangements for secretariats of related agreements;
- (f) Improved overall effectiveness of related agreements.

5. The benefits of synergies have been recognized by the parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, 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. Following initial decisions taken by the conferences of the parties to the three conventions, an ad hoc joint working group on enhanced cooperation and coordination among the three conventions prepared recommendations that were adopted by the three conferences of the parties in 2008 and 2009. Further measures were taken at simultaneous extraordinary meetings of the conferences of the parties held in Bali, Indonesia, from 22 to 24 February 2010. At the simultaneous extraordinary meetings the conferences considered issues relating to cooperation and coordination, including joint activities, joint managerial functions, joint services, joint audits and synchronized budget cycles. The report of the simultaneous meetings is contained in document UNEP/FAO/CHW/RC/POPS/EXCOPS.1/8, which is available at <http://excops.unep.ch/documents/reports/r08e.pdf>.

6. It is important to note that, with certain exceptions,¹ measures to achieve synergies do not necessarily require specific mention in the text of an agreement and are usually left to the governing body of the agreement to elaborate or to national discretion. Indeed it may be argued that the less prescriptive the text of a treaty, the greater the potential for parties, the governing body and the secretariat to seek out and exploit synergies. In addition, obligations in an agreement that are outcome-oriented, in contrast to those that prescribe measures to achieve outcomes, provide greater flexibility to seek synergies at all levels.

II. Synergies, cooperation and coordination in relation to the mercury instrument

7. In considering how to respond to the challenge posed by mercury Governments have discussed extensively options such as the inclusion of mercury as an additional substance within the Stockholm Convention, including a protocol for mercury within the Stockholm Convention and amending the Basel Convention to include additional matters relating to reducing mercury emissions. In the end it was concluded that the most effective approach would be to develop a new legally binding instrument for the control of mercury and as a result the Governing Council of the United Nations Environment Programme adopted decision 25/5, by which it mandated the intergovernmental negotiating committee to develop a global legally binding instrument on mercury. Although the Governing Council thus opted for a separate instrument on mercury, in paragraph 28 (d) of decision 25/5 it called for the intergovernmental negotiating committee to consider the need for cooperation and coordination and the need to avoid the unnecessary duplication of proposed actions with relevant provisions contained in other international agreements and processes. Furthermore, in paragraph 28 (g) of its decision, the Governing Council agreed that the committee should consider efficient organization and streamlined secretariat arrangements for the mercury instrument.

¹ An example of a synergistic cross-reference between conventions may be found in article 6 of the Stockholm Convention, paragraph 2 of which provides that the Conference of the Parties is to cooperate closely with the appropriate bodies of the Basel Convention on certain technical issues relating to the environmentally sound disposal of waste containing persistent organic pollutants.

8. In developing provisions to be included in the mercury agreement, in accordance with paragraph 27 of decision 25/5, the intergovernmental negotiating committee may therefore wish to consider the extent to which provisions that already exist under established agreements could be incorporated by reference into the new mercury instrument. The Basel Convention, for example, has provisions relating to the transboundary movement and environmentally sound disposal of hazardous wastes, including wastes containing mercury, and the United Nations Framework Convention on Climate Change has provisions that address fossil fuel combustion, a major source of mercury emissions. The secretariat's note on options for substantive provisions (UNEP(DTIE)/Hg/INC.1/5) will identify a number of such provisions. The need for provisions of the mercury instrument that are related but additional to those existing under other agreements should not be ruled out, however.

9. As noted above, provisions relating to operational synergies with related agreements, for example with regard to cooperation among secretariats, do not need to feature in the text of the mercury instrument itself. It would perhaps be appropriate and effective to address such matters in the decisions of the conference of plenipotentiaries that adopts the instrument and the future governing body of the instrument once it has entered into force. The intergovernmental negotiating committee may nevertheless wish to keep in mind the actions taken by the conferences of the parties to the Basel, Rotterdam and Stockholm conventions to enhance synergies in implementing those conventions and to foster cooperation and coordination between their respective secretariats. Those conventions, along with other instruments such as the Montreal Protocol on Substances that Deplete the Ozone Layer and the United Nations Framework Convention on Climate Change, are among those with which there may be scope for cooperation with the future mercury instrument in relation to, for example, secretariat arrangements, reporting, financial mechanisms, technical assistance and national implementation activities.
