

GEF Council Meeting
November 13 – 15, 2012
Washington, D.C.

Agenda Item 7

**PROPOSED FRAMEWORK FOR A FINANCIAL MECHANISM FOR THE
FUTURE MERCURY CONVENTION AND DRAFT OPERATIONAL
PROGRAM FOR MERCURY**

Recommended Council Decision

The Council, having reviewed GEF/C.43/04, *Proposed Framework for a Financial Mechanism for the Future Mercury Convention and Draft Operational Program for Mercury*, takes note of the progress of the Intergovernmental Negotiating Committee (INC) to prepare a global legally binding instrument on mercury; and if requested by the INC, would welcome the GEF becoming a Financial Mechanism of the future instrument on mercury, within the framework of the GEF.

EXECUTIVE SUMMARY

This paper responds to the request of the 42nd GEF Council to revise document GEF/C.42/Inf.10, *Operational program for Mercury and Options for a Financial Mechanism* and present it to the 43rd Meeting of the Council.

The paper presents a single model that can be accommodated in the structure of the GEF. The rationale for a single model is also presented.

A framework the Council may wish to consider for an operational program on Mercury, if the Intergovernmental Negotiating Committee to Prepare a Globally Binding Agreement on Mercury (INC) welcomes the GEF as one of or the financial mechanism(s) of the Convention, is also elaborated. This framework would guide the GEF's efforts in directing resources to the achievement of the objectives of the proposed Mercury Convention.

The INC will conclude its negotiations on the proposed Mercury Convention in January 2013, in Geneva, Switzerland and the GEF Council has the opportunity to convey to the negotiations its willingness to be one of, or, the financial mechanism(s) of the Convention.

Table of Contents

Acronyms	i
Introduction.....	1
Background.....	1
Intergovernmental Negotiating Committee and Funding Tracks	2
The GEF’s Past and Current Engagement in Mercury	3
Rationale for Future GEF Engagement in Mercury.....	3
(i) Finance.....	3
(ii) Technical.....	4
(iii) Synergies with other areas	4
(iv) Administrative and Operational.....	5
Proposed Framework of a Financial Mechanisms for a “Mercury Convention”.....	5
Format for Channeling Resources:	5
Replenishment.....	6
Compliance with Convention Obligations.....	6
Governance	7
Elements of an Operational Framework on Reducing and Eliminating Releases of Mercury Into the Environment.....	7
Enabling Activities (EA).....	8
Capacity Building, Technology Transfer, and Investments.....	9
GEF Coordination and Leveraging Functions	9

ACRONYMS

CEITs	Countries with Economies in Transition
COP	Conference of Parties
EA	Enabling Activities
FSP	Full Sized Projects
GEF	Global Environment Facility
ICCM	International Conference on Chemicals Management
INC	Intergovernmental Negotiating Committee
IOMC	Inter-Organization Programme for the Sound Management of Chemicals
MLF	Multilateral Fund for the Implementation of the Montreal Protocol
MSP	Medium Sized Projects
NGO	Non-Governmental Organization
NIE	National Implementing Entity
ODS	Ozone Depleting Substances
ODP	Ozone Depleting Potential
OP	Operational Program
OWEG	Open Ended Working Group
POPs	Persistent Organic Pollutants
PPG	Project Preparation Grant
PTS	Persistent Toxic Substances
SAICM	Strategic Approach to International Chemicals Management
UNDP	United Nations Development Program
UNEP	United Nations Environment Programme
UNEP GC	United Nations Environment Programme Governing Council

INTRODUCTION

1. The Global Environment Facility Council, at its 42nd Meeting, requested the GEF Secretariat to revise document GEF/C.42/Inf.10, *Operational program for Mercury and Options for a Financial Mechanism* and present it to the 43rd Meeting of the Council.
2. The present paper has been revised to respond to the comments made by Council Members and also takes into account the discussions at the fourth Intergovernmental Negotiating Committee (INC 4), at the final consultative process on financing chemicals and waste and at the third International Conference on Chemicals Management (ICCM 3).
3. The financial mechanism to enhance the effective implementation of obligations under the proposed Mercury Convention is still under discussion in the context of the INC.
4. There are several views on how the financial mechanism should be established and operated. One of the views supports the GEF as operating the financial mechanism.
5. Should the GEF be invited to operate a financial mechanism of the Convention, the guidelines set forth in this paper will be adapted and revised in light of the provisions of the Convention.
6. Future decisions on the operation of the program set out in this paper will be guided by the Conference of the Parties (COP).
7. To assist eligible GEF countries in addressing the full scope of obligations that might emerge under the new legal instrument, additional donor resources will need to be made available.
8. This new operational framework for Mercury and in particular the activities being considered for international action would include activities as decided by the COP.
9. The paper will describe a rationale for GEF engagement, elaborate on what could be eligible for funding and provide a single model that can serve as the basis of the financial mechanism of the future Convention.

BACKGROUND

10. Mercury is an elemental metal that is widely used. It is a very toxic chemical and has been found to have the characteristics of being a global pollutant. In its Global Mercury Assessment, UNEP concluded that international action would be needed to eliminate the threats posed by Mercury to human health and the environment.
11. **Intentional Usage:** Mercury is traded internationally and used in a variety of products (including thermostats, thermometers, blood pressure gauges, and other measuring devices; batteries; switches, relays and other electronic equipment; fluorescent lamps; and dental amalgam) and industrial processes, (including artisanal and small-scale gold mining; certain processes for chlorine, caustic soda, and vinyl chloride monomer production). For most products and processes, cost-effective alternatives to mercury exist. Reducing mercury use is the most direct way to reduce mercury exposures and releases to the environment.

12. **Unintentional Emissions:** Mercury is released unintentionally to the environment from a number of sources. The largest of these sources is fossil fuel combustion for power and heating. Other sources include artisanal and small scale gold mining, industrial metals production, cement production, and waste incineration. Mercury emissions to the atmosphere can be controlled in conjunction with other pollutants, and through mercury-specific control measures.

Intergovernmental Negotiating Committee and Funding Tracks

13. Following the 2002 Global Mercury Assessment published by UNEP and the Inter-Organization Programme for the Sound Management of Chemicals (IOMC), governments recognized that mercury is a chemical of global concern due to its long range atmospheric transport, its persistence in the environment, its ability to bio-accumulate in ecosystems and its significant adverse effects on human health and the environment.

14. Within this context, the UNEP Governing Council (GC) at its 24th session (decision GC 24/3) established an Ad Hoc Open Ended Working Group (OEWG) on Mercury to develop the elements for a comprehensive mercury framework with two possible options: developing a legally binding instrument, or adopting voluntary measures for mercury.

15. After several sessions, the OEWG agreed to support a legally binding instrument and proposed the establishment of an INC to develop a comprehensive and suitable approach to mercury, including principles underpinning the instrument, as well as provisions to specify the objectives of the convention, reduce the supply of mercury, reduce atmospheric emissions, address remediation of contaminated sites, etc., and address financial and technical assistance. This proposal was adopted by the UNEP Governing Council at its 25th Session (decision GC 25/5).

16. The Intergovernmental Negotiating Committee met four times: 1) Stockholm, Sweden, in June 2010; 2) Tokyo, Japan, in January 2011; 3) Kenya, Nairobi in November 2011, and; 4) in Uruguay, Punta del Este in June 2012, to discuss the provisions of the legally binding instrument.

17. On the issue relating to the financial arrangement, it was recognized that a financial mechanism for the proposed Mercury Convention would enhance the effective implementation of some legal obligations under the Convention.

18. Based on this recognition, the governments requested UNEP to draft a document on “options for predictable and efficient financial assistance arrangements”.

19. Discussions on financial considerations, most recently at the fourth session of the INC, revealed two distinct views:

- (a) Some countries support the creation of a stand-alone financial mechanism along the lines of the Multilateral Fund for the Implementation of the Montreal Protocol. Such a mechanism, they said, would among other things provide predictable and adequate funding, transparency, equality in decision-making and operational responsiveness to the COP.
- (b) Other countries expressed a preference for a financial mechanism operated by one or more existing entities. They said that GEF should be entrusted with the operation of the mechanism as that would provide opportunities to access financial resources prior to the instrument's entry into force, reduce overhead and duplicative administrative expenses,

leverage funds from the private sector and civil society, capitalize on GEF experience in the chemicals and wastes sector, provide synergistic opportunities to address multiple issues through individual projects and allow for clear oversight by, and responsiveness to, the COP.

20. These two views have arisen from the presence of two financial mechanisms that fund environmental agreements; these are the GEF and MLF. The GEF is a multifocal area fund and receives guidance from the COP of the Conventions it serves and the MLF is a single focal area fund, which is controlled directly by a subsidiary body of the Montreal Protocol.

21. The discussion on the form of the instrument's financial mechanism will undoubtedly continue throughout the INC process and will likely not be finalized before the last session of the INC (January 2013).

22. It should be noted that after the four sessions, no consensus has emerged on the financial mechanism.

23. The following provides an update of GEF activities relating to chemicals management. The framework that the GEF Council may consider for acting as the financial mechanism to the proposed Mercury Convention in which the GEF provides the Secretariat services is presented.

The GEF's Past and Current Engagement in Mercury

24. The involvement of the GEF in addressing global chemical contaminants dates back to 1995, when the GEF Council, recognizing the global significance of the problems posed by Persistent Toxic Substances (PTS), which include mercury, heavy metals and organo-metallic compounds, approved the eligibility of actions aimed at "limiting the releases of contaminants causing priority concerns" in the International Waters focal area. Specific reference to mercury is made in the Contaminant Based Operational Program (OP10). The program scope of OP10 focuses on specific contaminants rather than a specific water body.

25. The GEF-5 strategy for chemicals consolidates the Persistent Organic Pollutants (POPs) and Ozone Depleting Substances (ODS) focal areas, and broadens the scope of the GEF's engagement with the sound management of chemicals and initiates work on mercury consistent with the INC process.

26. In the GEF's 5th Replenishment, an allocation of \$15 million was provided for projects to complement and advance negotiations on a global, legally-binding mercury instrument. A strategy for Mercury was elaborated in document GEF/C.39/Inf.9.

Rationale for Future GEF Engagement in Mercury

27. The arguments for the GEF engaging in future work on mercury are described below:

(i) Finance

28. Including mercury funding in the GEF multiplies the resources that recipient countries would have available to them to manage mercury and chemicals in general through the established GEF model of leveraging co-financing from bilateral donors, the private sector, the public and NGO sector, and from national budgets. There is no other existing model in operation that can offer this multiplier effect.

29. The GEF has over the last 20 years leveraged over US\$1.5 billion with a commitment of GEF donors of US\$569 million for the management of chemicals.

30. Donors to the GEF would also be able to meet their obligations to the proposed Mercury Convention by provision of financial resources in a structure that has been proven to multiply donor contributions well above the amounts they would be able to contribute.

(ii) Technical

31. The GEF provides support for the implementation of the following Chemical conventions and global processes focusing on chemicals and waste.

- Stockholm Convention on Persistent Organic Pollutants (POPs) as the interim Financial Mechanism
- Montreal Protocol on Substances that deplete the Ozone Layer. The GEF supports the implementation of the Protocol in Countries with Economies in Transition.
- Strategic Approach to International Chemicals Management (SAICM) priority issues including e-waste, lead in paints and chemicals in products.
- Projects to help elaborate on technical issues being negotiated at the INC for mercury.

32. The GEF is the largest public funder in the area of chemicals management with two decades of experience, characterized by the phase-out of 29,000 ODP tonnes (ozone depleting potential tonnes) in CEITs and the sound disposal of more than 200,000 tons of POPs legacy in developing countries and CEITs, including disposal of more than 70,000 tons of PCB oil, contaminated equipment, and waste, more than 40,000 tons of obsolete POPs pesticides and associated waste, and reducing dioxin/furan and mercury emission.

33. The structure of the GEF instrument provides the flexibility to include activities within the broad focal areas of the GEF that meet the eligibility criteria in the instrument. Through this mechanism the addition, modification or expansion of focal areas can be achieved. While it is a relatively small change, the change needs to be made by the GEF Assembly.

34. Careful design of the focal area strategies will enable the GEF to direct resources to specific convention requirements and obligations.

(iii) Synergies with other areas

35. Globally, the three existing chemical and waste conventions, Basel, Rotterdam and Stockholm, are in the process of implementing their synergy decisions to bring the operations of the conventions under the same institutional architecture.

36. In parallel the Executive Director of UNEP has elaborated a financial architecture for financing the chemicals and waste and this will be considered by the 27th Governing Council of UNEP. This proposal describes an integrated approach for financing chemicals and waste.

37. Incorporating mercury into an expanded Chemicals (or Chemicals and Waste) focal area of the GEF would allow for management of multiple chemical issues at a sectoral/national level,

which would accrue multiple chemical management and reduction benefits and maximize the use of resources and would be in line with various synergy processes.

38. Including mercury in the GEF programs would allow for cross focal area programming. For example, the reduction of carbon emissions from fossil fueled power plants would also reduce the emissions of mercury. The reduction of mercury in artisanal and small scale gold mining reduces emissions of mercury to water systems, and proper hazardous and municipal waste management reduces the usage of energy and emissions of POPs and mercury.

39. In the GEF, recipient countries would have the ability to develop programs that address multiple issues, including mercury, in a more comprehensive way rather than addressing mercury issues in stand-alone projects.

(iv) Administrative and Operational

40. The GEF Secretariat has a long history of engaging with countries on investing in environmental issues, including investing in chemical and waste management and elimination.

41. The Secretariat has the technical staff to facilitate the addition of mercury to the GEF programs.

42. Costs of operations and administration would therefore not be a barrier to programming for mercury.

PROPOSED FRAMEWORK OF A FINANCIAL MECHANISMS FOR A “MERCURY CONVENTION”

43. In GEF/C.42/Inf.10, *Operational program for Mercury and Options for a Financial Mechanism*, three models were presented. In this paper only one model is presented.

44. This model describes how the GEF Secretariat can fulfill the secretariat function of the financial mechanism of the proposed Mercury Convention in a cost effective, synergistic, and responsive to governance concerns raised at the negotiations.

Format for Channeling Resources:

45. In this model funding for mercury would be incorporated into the GEF Trust Fund. This would ensure a stable and predictable source of funds since mercury funding will be subject to the GEF replenishment process, which has a proven track record of attracting resources from the established, and emerging donor community.

46. The inclusion of Mercury into the trust fund can take one of two forms.

- Through the expansion/modification of the existing chemicals focal area or,
- The creation of a new focal area that addresses chemicals and waste management.

47. Such changes would require an amendment to the focal areas listed in section 2 of the Instrument for the Establishment of the Restructured Global Environment Facility. This would have to be done by the GEF Assembly.

Operations and Administration Requirements

48. Incorporating Mercury into the GEF chemicals focal area will benefit from the fundamental reforms that the GEF Secretariat and Agencies are currently designing, for approval by the GEF Council in November 2012, as well as other expected reforms that will be made operational as early as the 6th GEF Replenishment (GEF-6). These reforms are expected to substantially reduce the burden on countries accessing GEF resources.

49. The GEF Secretariat and Council will continue to review and approve projects under existing GEF policy and guidelines and will develop a Mercury Strategy that incorporates guidance from the future Mercury COP as is currently done with respect to the Stockholm Convention and all other GEF focal areas.

50. The GEF can, as early as GEF-6, begin to fund activities for mercury in the interim period before ratification once mercury is included in the GEF-6 replenishment. In the interim period, the GEF can develop a strategy based on the text of the convention and the provisions of the GEF instrument.

51. Once the Convention comes into force, COP guidance will be incorporated into the strategies to direct resources to assisting recipient countries meet their obligations under the proposed Mercury Convention.

52. Accessing the resources will be the same as other GEF focal areas. These include direct access for Enabling Activities (EA) and access to resources for Medium Sized Projects (MSP) and Full Sized Projects (FSP). The GEF Network of agencies will be able to assist countries in accessing resources for mercury.

53. The GEF would provide funding to countries to achieve specific emission reductions, to meet the control measures set forth by and within the time frames set under the proposed Mercury Convention as defined by the Mercury COP.

54. Under this model, the GEF Council would review and approve all FSPs and Programmatic Approaches.

Replenishment

55. Including mercury funding in the Chemicals (or Chemicals and Waste) focal area will allow donors to include their contributions for mercury programming during the GEF replenishment, which reduces transaction costs by having a single replenishment negotiation and a more integrated approach in funding allocation as well as in programming.

Compliance with Convention Obligations

56. Under this model a specific strategic objective within the focal area can be established for assisting parties to meet compliance related obligations under the proposed Mercury Convention. The format of this can be elaborated in the Memorandum of Understanding (MOU) between the GEF Council and the future Mercury COP.

57. Projects meeting compliance targets would be prioritized and could have their own dedicated funding contained within the overall Chemicals (or Chemicals and Waste) focal area.

It should be noted that this modality already exists for the GEF support of the Montreal Protocol - projects are prioritized based on the compliance needs of countries.

58. The amount of funding set aside for specific compliance targets would need to be determined by the type of obligation as well as the duration of the obligation. For example, obligations that require development of specific legislation and/or regulation would be a one-time activity, whereas the gradual phase out of consumption of mercury in the production of products in a given country would require multi-year/multi-project funding depending on how a phase out of mercury in products was developed.

Governance

59. The GEF has several mechanisms for ensuring responsiveness to convention guidance, and these have been further enhanced in GEF-5. The GEF Secretariat can continue to innovate in this area and propose additional measures for Council approval. In addition the GEF Council may wish to elaborate arrangements or mechanisms on ensuring the COP guidance is fully addressed by the Council. This arrangement or mechanism would be fully elaborated in the MOU between the GEF Council and the future Mercury COP.

ELEMENTS OF AN OPERATIONAL FRAMEWORK ON REDUCING AND ELIMINATING RELEASES OF MERCURY INTO THE ENVIRONMENT

60. Should the GEF be asked to operate one of, or, be the financial mechanism of the proposed Mercury Convention the following framework would guide the programming of resources for achievement of the Convention's objectives.

61. The GEF response to the challenge posed by the increasing contamination of mercury would adhere to the basic principles set forth in the GEF Instrument and Operational Strategy (GEF/C.6/03), which establishes "Operational Principles" for the development and implementation of GEF eligible projects. These are:

- (a) **Accountability:** For the purpose of the financial mechanisms for the implementation of conventions, the GEF would function under the guidance of, and be accountable to, the COP.
- (b) **Incremental costs:** The GEF would provide new, and additional, grant and concessional funding to meet the agreed incremental costs of measures to achieve agreed global environmental benefits.
- (c) **Cost-effectiveness:** project activities would maximize global environmental benefits and assist developing countries and countries with economies in transition meet their obligations under conventions.
- (d) **Country ownership:** projects would be country-driven, and based on national priorities designed to support sustainable development, as identified within the context of national programs.

- (e) **Flexibility:** GEF would respond to changing circumstances, including evolving guidance of the COP and experience gained by monitoring and evaluation activities.
- (f) **Public participation:** projects would provide for consultation with, and participation as appropriate of, the beneficiaries and affected groups of people; all non-confidential information will be made fully public.
- (g) **Leveraging of additional financing:** in seeking to maximize environmental benefits, the GEF would emphasize its catalytic role and leverage additional financing from other sources.
- (h) **Monitoring:** GEF would ensure that programs and projects are monitored and evaluated on a regular basis.
- (i) **Disclosure of information:** GEF projects would provide full disclosure of all non-confidential information.

62. The new GEF Operational Framework on Mercury would be crosscutting in nature. Multiple global environmental benefits in the areas of reducing consumption and production of chemicals of global concern, the prevention of transboundary contamination of water-bodies, the conservation of biodiversity, and the mitigation of climate change will be accrued from actions eligible under the new Operational Program.

63. Activities would be developed at three different geographic levels: national, regional, and global. Emphasis would be on actions at the country level, as the main objective of the Operational Program is to provide assistance to countries for the implementation of the provisions of the Convention.

64. Regional actions would also be eligible or financing if deemed appropriate by the countries, when similarities in environmental conditions and socio-economic context presents opportunities for the optimization of resources, the sharing of experience and the enhancement of replication potentialities.

65. Interventions at the global level would also be appropriate, in areas such as the facilitation of targeted research efforts and assessments.

66. Since the specific convention obligations are still under negotiations, the following descriptions of possible interventions that can be made follow from what is already practiced in other focal areas of the GEF.

Enabling Activities (EA)

67. Enabling activities as defined in the GEF Operational Strategy represent basic building blocks of GEF assistance to countries. They are either fulfilling essential communication requirements to a convention or providing basic and essential level of information to enable policy and strategic decisions to be made, or assisting planning that identifies priority activities within a country. Countries thus enabled will have the ability to formulate and direct sectoral and economy-wide programs to address global environmental problems through a cost-effective approach within the context of national sustainable development efforts. Country driven enabling

activities will normally qualify for full agreed costs funding when they are directly related to global environmental benefits and/or consistent with the guidance of a convention.

68. Enabling activities that are funded from the GEF include baseline assessments, inventories, institutional strengthening, development of policy and other activities as decided upon by conventions.

Capacity Building, Technology Transfer, and Investments

(Full Sized Projects and Medium Sized Projects)¹

69. Project Preparation Grants (PPG) may be requested to develop specific medium or full sized project ideas. They would need to conform to the Operational Strategy principles, and should be consistent with the guidance of the COP.

70. Full Sized Projects and Medium Sized Projects eligible for funding, would be focused on the objectives and strategic priorities specified by the COP. The practice of the GEF to date, has allowed some of these larger activities to commence prior to the convention coming into force if there is an urgent need. Otherwise, these activities become eligible for funding after the convention comes into force as decided by the COP.

GEF Coordination and Leveraging Functions

71. The delivery capacity of the GEF within the context of the Operational Program on Mercury will be enhanced through the full involvement of the GEF Implementing and Executing Agencies, according to their comparative advantages, and through the establishment of specific Strategic Partnerships. Additional partnerships can be developed with National Implementation Entities (NIE) and other regional and international agencies, as appropriate.

72. The GEF, within its mandate, would provide a framework for consultation and cooperation to focus available technical and financial resources on strategies, programs and projects consistent with the guidance from the COP. The GEF would extend its catalytic role to enhance the collective response to this new global challenge by coordinating closely with other actors such as bilateral donors, multilateral development cooperation agencies, major non-governmental organizations (NGOs), and the private sector - primarily in the chemical industry. To more effectively address issues related the implementation of the convention's provisions, GEF would promote and facilitate more integrated responses and programs of action. Such an effort would be aimed at:

- (a) increasing the capacity to deliver timely and quality projects, while increasing also the number of innovative project ideas and diversifying experience;
- (b) expanding the opportunities to co-finance and mobilize additional finance, thus leveraging additional resources for this global challenge;
- (c) achieving synergy and coordination among each agency's own programs in the field of mercury according to their comparative advantages;

¹ An expedited project cycle applies to projects requiring less than \$1M in GEF resources, referred to as Medium Size Projects.

- (d) identifying actions and designing partnerships to address effectively the provisions of the convention, including the transboundary and global aspects of mercury phase-out;
- (e) Facilitating overall coordination, and partnerships for achieving the needed levels of effective and sustained action.