Plastics INC-2 Highlights:
Monday, 29 May 2023

The second meeting of the Intergovernmental Negotiating Committee (INC-2) to develop an international legally binding instrument (ILBI) on plastic pollution, including in the marine environment, convened in Paris, France, on Monday, 29 May 2023. Delegates gathered in plenary throughout the day, hearing opening statements and addressing organizational matters, including conducting a secret ballot to elect bureau members from two regional groups, as well as discussing outstanding matters regarding the draft rules of procedure (RoP).

Opening
INC Chair Gustavo Meza-Cuadra, Peru, opened the meeting, calling for effective, decisive, and swift negotiations towards an ILBI on plastic pollution. He underscored the importance of collective action to address the whole lifecycle of plastic which affects human health and the environment and pledged to ensure inclusive discussions taking into consideration the views of governments and stakeholders.

Philippe Franc, Permanent Representative to the UN Educational, Scientific and Cultural Organization (UNESCO), France, expressed hope that INC-2 would be a decisive session towards drafting the new treaty.

Via video, President Emmanuel Macron, France, underlined the need to conclusively address plastic pollution by 2040, particularly by addressing unsustainable consumption and production patterns. He highlighted the country’s 2020 anti-waste law and stressed the need for an agreed text of the ILBI by 2024. He called for greater innovation in creating new value chains for sorting, reusing, and recycling plastic, and urged the creation of incentives for the private sector to move from linearity to circularity.

Reiterating the need to eliminate unnecessary plastic, Inger Andersen, UN Under-Secretary-General and Executive Director, UN Environment Programme (UNEP), called for a redesign of: products; packaging and shipping; reuse, repair and recycling measures; the justice measures for the informal waste sector; and waste pickers; and measures to address legacy plastic. She expressed hope that the private sector not to wait for the ILBI to be agreed, but to take the initiative to begin to transform production and manufacturing processes to eliminate unnecessary plastic. She expressed hope that INC-2 would mandate a zero draft of the ILBI to be discussed at INC-3, demonstrating ambition to get the deal done.

Urging delegates to “make Paris count,” Jyoti Mathur-Filipp, Executive Secretary, INC Secretariat, expressed hope that delegations will use INC-2 to narrow down options and identify gaps, in order to leave Paris with the mandate for a zero draft. She committed to ensuring more effective participation at future meetings of the INC, lamenting the space constraints at the meeting venue.

Election of Officers
INC Chair Meza-Cuadra reminded delegations that INC-1 had deferred designation of vice chairs and a rapporteur to allow for deferred designation of vice chairs and a rapporteur to allow for operationalization of draft rule 38 (adoption of decisions) should be discussed at INC-3, demonstrating ambition to get the deal done.

Depending on order, the RUSSIAN FEDERATION decried the politicization of the process and urged to go back to consensus-based decision making. UKRAINE stated that, because of the technical nature of the process, and in the spirit of compromise, they had withdrawn their nomination in favor of Georgia, and voiced their support for Georgia and Estonia to the INC Bureau. The RUSSIAN FEDERATION stated that there were no meetings of the EEG on Sunday or Monday morning to reaffirm or amend the election made by the CRP in Nairobi.

The DEMOCRATIC REPUBLIC OF THE CONGO opined that the nomination process for the INC bureau members from the African Group had not been transparent. SENEGAL clarified that the African Ministerial Conference on the Environment (AMCEN) had approved the nominations of Senegal and Rwanda, and reaffirmed the transparency of the process within the region.

In a point of order, SAUDI ARABIA requested clarification on how the draft RoP would be applied during the vote, since these were only approved provisionally. The Secretariat clarified that at INC-1, the Committee agreed that draft RoP will be applied to their work provisionally until their adoption, noting that they apply to the Committee’s work on a provisional basis. SAUDI ARABIA called for further clarification, stating that engaging in a vote may not be transparent when using RoP provisionally. They also called for clarification on the application of the number of votes of an economic integration organization (REIO) and their members. The Secretariat informed delegates that the EU, as a REIO, would not participate in the vote.

SAUDI ARABIA, supported by CHINA, BRAZIL, ARGENTINA, INDIA, and IRAN, called for assurances from INC Chair Meza-Cuadra that this practice was exceptional and will not be repeated during future voting procedures, underlining that the operationalization of draft rule 38 (adoption of decisions) should not establish a precedent, noting this rule has been abused in other
processes. INC Chair Meza-Cuadra reiterated his commitment to consensus-based decision making, underlining that this was an exceptional situation.

UGANDA called for clarification on draft rules 1 (definitions) and 37 (voting rights). The Secretariat explained the voting procedure. The RUSSIAN FEDERATION stated that the RoP should be adopted by the Committee before going to a vote.

On a point of order, INDIA, supporting BRAZIL and others, called for application of draft rule 37 only to voting on procedural issues at this session, and not any future substantive decisions undertaken by INC.

INC Chair Meza-Cuadra reiterated that draft rule 41 (conduct of voting) was to be provisionally applied and that points of order could only be made on voting procedures after the ballot process was initiated. He announced that BRAZIL, INDONESIA, SAMOA, and URUGUAY would serve as tellers, after which ballot papers were distributed.

Following the vote on the Eastern European states, INC Chair Meza-Cuadra invited tellers to confirm the secret ballot, stating that of the 159 ballot papers received, there was 1 invalid vote, 158 valid votes, with 17 abstentions. Representatives from Georgia and Estonia were elected as vice chairs with 111 and 104 votes, respectively, with the Russian Federation garnering 51 votes.

Turning to the vote on Western European and Others Group, Stadler Trengove, UNEP Legal Officer, explained draft rules 45 and 47 (on elections). INC Chair Meza-Cuadra initiated the secret ballot.

Following the vote for vice chairs from Western Europe and Others group of states, INC Chair Meza-Cuadra invited tellers to confirm the secret ballot, stating that of the 149 ballot papers received, there were no invalid votes, 149 valid votes, with 21 abstentions. Representatives from Sweden and the US were confirmed as vice chairs with 119 and 116 votes, respectively.

**Organizational Matters**

**Adoption of the agenda:** The Committee adopted the provisional agenda (UNEP/PP/INC.2/1/Add.1). INC Chair Meza-Cuadra informed delegations that other matters, including the date and venue of INC-3, will be taken up on Friday afternoon.

**RoP:** INC Chair Meza-Cuadra informed delegations that he would conduct further informal consultations on the bracketed text contained in rule 37 (voting rights) on the draft RoP (UNEP/PP/INC.2/3) and update delegates on progress later in the week. He stated that the draft RoP are being applied provisionally, as decided at INC-1.

INC Legal Officer Trengove drew attention to the INC-1 meeting report (UNEP/PP/INC.1/L.1), stating that the INC had agreed to apply the draft RoP on a provisional basis, and that the draft RoP, with the exception of bracketed text, do have legal effect, drawing attention to other UN bodies and processes that have applied RoP provisionally.

UGANDA opined that applying RoP provisionally does not make legal sense. IRAN highlighted the different understandings of “provisional.” CHINA emphasized that the draft RoP cannot be seen as agreed and accepted by all, and therefore are not legally binding, opposing, with UGANDA, RUSSIAN FEDERATION, SAUDI ARABIA, and others, the application of the provisional draft RoP, with respect to substantive discussions. RUSSIAN FEDERATION requested the establishment of a contact group to address the RoP, noting it is unacceptable to conduct substantive negotiations using provisional RoP.

SAUDI ARABIA stated that the entirety of the draft RoP are still open for discussion including draft rules 37 and 38. INDIA, with BRAZIL, QATAR, SAUDI ARABIA, BAHRAIN, CUBA, ARGENTINA, and GUATEMALA reiterated a request to bracket the second sentence of draft rule 38.1 (adoption of decisions). SAUDI ARABIA stressed that the INC is a state-driven process, expressed disappointment and stated, “we will absolutely not move forward until our concerns are addressed,” expressing concern that a text could be adopted that is not implementable in the majority of countries. BRAZIL called for a serious discussion on the content of the RoP, expressed it is not possible to adopt a treaty text dealing with a global problem by a 2/3 majority, and stated, “we do not want to see ourselves in a position negotiating with you, the Chair, or the Secretariat.”

SENEGAL, with SWITZERLAND, the EUROPEAN UNION (EU), UNITED KINGDOM (UK), PERU, and NORWAY, underscored the importance of consensus, and expressed the need for a way forward if consensus cannot be achieved. To this end, they called for ensuring that unanimity is not imposed on delegations, as it risks halting negotiations. SWITZERLAND remarked that being able to vote is often necessary to reach consensus. The UK and NORWAY called for continued work on the basis of extensive discussions from the OEWG. PERU stated that rule 38.1 cannot be bracketed on the request of one delegation.

The US supported informal consultations to resolve “the one outstanding issue” and, with CANADA, URUGUAY, COSTA RICA, CHILE, and EL SALVADOR, proposed the adoption of the RoP. NIGERIA stated that the contentious issue is with rule 37.

BRAZIL requested clarity from the Chair on why the request made by INDIA, which was supported by other countries, to bracket draft rule 38.1 of the draft RoP, was not taken up, highlighting the lack of consensus on continuing the work of the Committee until brackets have been applied. She clarified that...