

Plastic Pollution INC-3 Highlights: Wednesday, 15 November 2023

Delegates attending the third session of the Intergovernmental Negotiating Committee (INC-3) to develop an international legally binding instrument (ILBI) on plastic pollution, including in the marine environment, met in contact groups throughout the day and into the evening. They addressed substantive elements contained in the [Zero Draft text of the ILBI](#), relating to the regulation of the plastics lifecycle, and modalities and means of implementation (MoI) for the future treaty. They also discussed elements that had not been discussed at previous sessions of the INC, contained in the [Synthesis Report](#).

Preparation of an ILBI on plastic pollution, including in the marine environment

Contact Group 1: This group was co-facilitated by Gwendalyn Kingtaro Sisor (Palau) and Axel Borchmann (Germany). Delegations shared initial views on provisions related to **chemicals and polymers of concern**, from three options contained in the Zero Draft. Many countries noted their preference for option 1, agreeing that national standards towards eliminating chemicals and polymers of concern was the most ambitious measure. On this point, several countries underlined the importance of globally harmonized requirements and criteria, based on strong scientific evidence and data.

Other delegations were in favor of including annexes of potentially harmful substances, whereas some contended that this should follow agreement on substantive provisions. Others shared their preference for more flexible measures as contained in option 2, and should be designed in line with national capacities. Others still were in favor of option 3, defining chemicals and polymers of concern based on proposed criteria provided in the ILBI.

Many delegations preferred that the future instrument should not duplicate the listing of hazardous chemicals and substances contained in other MEAs, including the Stockholm Convention and the Global Framework for Chemicals. Some recommended that associated provisions on this topic should follow a risk-based approach. One delegation noted that chemicals and polymers of concern were evident throughout the plastics lifecycle, and that this should be clearly recognized in the future instrument. Some countries drew attention to the need for a binding and coordinated approach to phase out microplastics across supply chains. Others suggested polymers and chemicals of concern should be addressed separately.

Delegations also provided initial views on the options on **problematic and avoidable plastic products**, including short-lived and single-use plastic products and intentionally added microplastics. Some delegations noted their preference on complete bans and phaseouts, while others cautioned that these measures could lead to undesired consequences. A number of countries called for exemptions to be nationally determined.

Concerning intentionally added microplastics, some delegations urged strong controls, whereas others favored clear guidelines on

definitions first. Certain countries advocated for the establishment of a technical body to examine issues related to the impact of microplastics. Discussions continued into the evening.

Contact Group 2: This group, co-facilitated by Katherine Lynch (Australia) and Oliver Boachie (Ghana), discussed elements related to capacity building, technical assistance and technology transfer, national plans, implementation and compliance, and progress reporting.

On **capacity building, technical assistance and technology transfer**, several countries supported intersessional work. Some delegations expressed preference for two provisions, addressing capacity building and technical assistance, and technology transfer, respectively. Others called for a single provision on capacity building, and another on technical assistance and technology transfer.

Several countries supported including reference to developing countries in these provisions, with a number emphasizing the inclusion of least developed countries (LDCs) and small island developing states (SIDS); other delegations called to list additional country groupings and vulnerable groups. Regarding technology transfer, a number of countries argued that this must be provided on mutually agreed terms, contending that property rights must be respected, while several others stressed that technology transfer should be on concessional and preferential (rather than commercial) terms, in order to adequately fulfil developing country needs.

Some countries proposed the creation of a mechanism overseeing MoI, with others underlining the importance of technology transfer. Observers recommended the addition of text on removal of plastic pollution in relation to risk management, as well as language on toxic-free reuse and refill systems.

On **national plans/national action plans/national implementation plans/regional plans**, delegates offered diverging views on their nature, with a number supporting binding national plans with mandatory reporting requirements. Others supported voluntary plans and/or commitments, based on national circumstances and capabilities. Some countries preferred that these plans outline intended national actions.

One regional group suggested *ex post* and *ex parte* reviews of these plans to encourage ambition and identify gaps and challenges. Some called for a public registry to facilitate transparency of national plans.

Regarding the timeline for the development and review of national plans, delegates debated the bottom-up approach of a Paris Agreement-like arrangement, or a different arrangement, better suited to the future ILBI. Several delegations called for financial support for the preparation of such plans.

Concerning the content of the national plans, some suggested that specific elements align with the substantive elements of the ILBI. Several emphasized the need for the plans to include MoI for developing countries, including LDCs, SIDS, and ecologically vulnerable countries. Others noted that these provisions could be

discussed at a later date. Some countries reserved their positions on national plans, noting ongoing discussions under other contact groups.

On **implementation and compliance**, numerous delegations listed their preference for a transparent, consultative, flexible, facilitative, non-judicial, non-adversarial, non-confrontational, and non-punitive mechanism/committee that is subsidiary to the governing body. Some delegates underlined that the mechanism/committee should pay attention to the national circumstances of parties, with others calling for the goal to be to get parties back in compliance. One country preferred a review committee instead of a compliance mechanism, noting the politicization of compliance mechanisms in other processes.

Some did not support a stand-alone provision on compliance in the ILBI text, while others called to first address core obligations and MoI. Those supporting a provision on compliance stressed that the committee must be representative, with clear terms of reference, and a periodic review schedule. Some called for the committee to be: composed of experts from all UN regions, gender balanced, and free from conflicts of interest. On submissions to the committee/mechanism, several supported parties making submissions about their own compliance (party trigger), with very little support for submissions from one party about another party's compliance (party-to-party trigger). One regional group supported the secretariat making submissions to the committee/mechanism. Others preferred a broader set of considerations.

One country suggested additional language on voting, when consensus cannot be reached, along the lines of the Minamata Convention, with others supporting consensus-based decision making only. Some called to discuss the specifics of the mechanism at a later stage of negotiations, with one proposing that this could occur at the first Conference of the Parties (COP). Others called for intersessional work to review other MEAs' compliance measures.

Delegates discussed options for **reporting** on ILBI implementation, including on the effectiveness of the measures and possible challenges in meeting the objective of the instrument. Countries exchanged views on a comprehensive or more streamlined reporting provision. Several countries preferred a comprehensive approach, with many calling to exclude mandatory disclosures from businesses, and some calling to exclude the requirement to report on production, imports, and exports of plastic polymers and products. One country proposed moving the provision on disclosures to the provision addressing transparency, referencing the Kunming-Montreal Global Biodiversity Framework. Many countries preferred the streamlined option, referencing different national capabilities and circumstances. Others expressed flexibility, noting significant overlaps between these two options.

Countries also exchanged views on provisions addressing: periodic evaluation of the effectiveness of the ILBI; review of chemicals and polymers of concern, microplastics, and problematic and avoidable products; international cooperation; information exchange; awareness raising, education, and research; and stakeholder engagement.

Contact Group 3: Co-Facilitators Danny Rahdiansyah (Indonesia) and Marine Collignon (France) opened the meeting, recalling the initial exchanges made on Tuesday.

Delegations completed a first round of addressing their preferences on the preamble, definitions, and scope, with some proposing the inclusion of elements not contained in the Synthesis Report. On the **preamble**, a number of delegations reaffirmed their preference for a short and concise preamble. Some called for clear references to UNEA resolution 5/14, the Rio Declaration, and UNGA resolution 48/13 on the right to a clean, healthy and sustainable environment. Others proposed including issues not explicitly mentioned, with one delegation noting the importance of habitat restoration, among others. Some delegations called to incorporate the special circumstances of SIDS, LDCs, and other

country groupings. Several countries proposed including time-bound targets, while others opposed these, preferring flexibility. Some delegations called to consider the preamble after other operative clauses are addressed.

On **definitions**, some called for intersessional work to further consider both current and new definitions. Other delegations called for definitions on: plastic, plastic pollution, microplastic, problematic and avoidable plastic, extended producer responsibility (EPR), legacy plastic, and energy recovery. Some underlined this exercise should be linked to the work under other contact groups.

On **principles**, delegations differed on whether to include a dedicated provision, restrict principles to the preamble, or include them in relevant operational provisions. Several delegations supported the mention of specific principles, including, *inter alia*, common but differentiated responsibilities (CBDR), prevention of transboundary harm, precautionary, non-discrimination/non-regression of trade, and public participation. One delegation spoke against including explicit reference to CBDR, emphasizing plastic pollution remains a global problem.

On **scope**, there was a general agreement that UNEA resolution 5/14 serves as a guide to address the long-term elimination of plastic pollution based on the full lifecycle of plastics, including all sources of plastic pollution within this scope. Delegations differed on whether to include a dedicated provision on scope, having a short scope, or a detailed scope addressing additional aspects. One delegation remarked that addressing primary plastic polymers goes beyond resolution 5/14. Other delegations urged intersessional work on key definitions and other pending issues, including through the establishment of a scientific and technical body.

Addressing the group's working modalities, Co-Facilitator Collignon stated that efforts would be made to consolidate proposals together with those made in other contact groups.

On the **institutional arrangements** of the ILBI, delegations widely favored the establishment of one governing body supported by one or more subsidiary bodies. A number of delegations noted that existing MEAs, including the Minamata Convention, could be used as a model. Several countries expressed that the specific functions of subsidiary bodies would need to be determined at a later stage, contingent on the future development of relevant provisions of the instrument.

In the Breezeways

On Wednesday, in candid discussions, delegates shared both preferences for, and aversions to, certain elements that could form part of the future treaty on plastic pollution. In some instances, familiar stumbling blocks arose, pitting developing countries against developed countries. One such obstacle involved the provision of technology to developing countries. It is still unclear whether this transfer should be on mutually agreed terms—which, to some, is a reference to commercial terms—or whether it should be on preferential terms. The latter is sometimes seen as a threat to private sector interests, who more often than not develop, and thus possess proprietary rights over, these technologies. In the case of plastic pollution, such technologies extend from those used for remediation to mechanical sorting or recycling. If we are to move at the same pace in order to save the world from drowning in plastic waste, technology transfer will remain a core component. But how will the future instrument ensure that it is shared equitably and transparently, and in a manner that does not impose upon, but rather is attentive to, developing-country needs and preferences? As one delegate asserted, “no technofixes!”

More broadly, many delegates expressed relief and satisfaction that the working modalities agreed on Tuesday were moving the process forward, with one sharing that things are progressing perhaps “a little better than expected.” Another opined that “this may be the beginning of a new form of treaty making,” which, if successful, might be applied when negotiating future agreements.