

Plastic Pollution INC-3 Highlights: Saturday, 18 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. They addressed the way forward on revised sections of the [Zero Draft text of the ILBI](#) and the [Synthesis Report](#) on issues not previously discussed by the Committee. The contact groups carried out a validation exercise to ensure that all submissions had been properly reflected in the revised texts.

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

Contact Group 1: Co-Facilitated by Gwendalyn Kingtaro Sisor (Palau) and Axel Borchmann (Germany), the group continued their review of compilations of submissions, validating whether members' submissions had been adequately reflected for respective parts of the Zero Draft.

The group addressed the Co-Facilitators' proposals for merged text proposals addressing objectives, primary plastic polymers, and chemicals and polymers of concern. Co-Facilitator Borchmann noted that the merged text proposals expand upon the Zero Draft, by indicating additional options, including options for no text; as well as revisions to existing options in the Zero Draft, indicated by bracketed text as well as proposed additional/alternative paragraphs.

On **objectives**, delegations were largely in favor of the Co-Facilitators' proposals on merged text, containing 23 proposals and accompanying sub-options on the two options discussed on Friday. The Co-Facilitators made two proposals on options for objectives, with option 1 reflecting the objective to end plastic pollution, including in the marine environment would be "based on a comprehensive approach that addresses the full life cycle of plastic," "through the prevention, progressive reduction and elimination of plastic pollution," "by 2040"/"enhanced efforts thereafter." Option 2 indicated the objective to protect human health and the environment, "through the prevention, progressive reduction and remediation of plastic pollution" "management" "and utilization of plastic and plastic waste," "according to national priorities" "by 2040"/"enhanced efforts thereafter."

On **primary plastic polymers**, the merged proposals contained bracketed language in the chapeau, as well as an alternative of no chapeau text. They also reflected on an alternative proposal for an "overarching provision" entitled "plastic polymers," supplemented by an annex, which was proposed by one delegation. The merged proposals under this part also contained: a "no text" option for the entire part on primary plastic polymers, to reflect proposals for having no text on this particular provision; an expanded text for options 1 (global production target, with targets mandated for each party), 2 (global production target, achieved through nationally determined targets), and 3 (nationally determined measures to manage and reduce production) of the Zero Draft, containing bracketed text; and additional/alternative text/paragraphs.

On **chemicals and polymers of concern**, the Co-Facilitators proposed options, including: a "no text" option; bracketed text expanding upon options 1 and 2 in the Zero Draft, addressing national standards for additives and trade in raw material, and minimum standards at the national level, respectively. Option 3, on global standards, towards a ban of chemicals in plastics, contained bracketed text as well as additional and alternative text. Two additional options were indicated, which both propose to replace the parts on primary plastic polymers and chemicals and polymers of concern with a single alternative provision.

The group also addressed submissions for the compilation text related to waste management, existing plastic pollution, including in the marine environment, and just transition. Some countries voiced concerns that some of their written submissions had yet to be reflected, and required more time to review; others proposed amended text.

The Co-Facilitators then informed delegations that merged proposals had been made available for sections on: problematic and avoidable plastic products, including short-lived and single-use plastic products and intentionally added microplastics; exemptions available to a party upon request; product design, composition and performance; non-plastic substitutes; and extended producer responsibility.

Some delegations expressed concern about the speed of the process, and the little time available to review compilation texts and merged proposals. Others recommended that the merged text be used to guide discussions at INC-4, preferring to review the Co-Facilitators' compilation texts in the interim.

The Co-Facilitators adjourned the session, to give delegations time to review the newly-available merged proposals, and to enable further work to prepare merged proposals addressing remaining parts of the Zero Draft covering: emissions and releases of plastic throughout its lifecycle; waste management; trade in listed chemicals, polymers and products, and in plastic waste; existing plastic pollution, including in the marine environment; and just transition.

The contact group reconvened in the evening to address outstanding compilation texts and merged proposals.

Contact Group 2: Delegates began their discussions on the revised Zero Draft on the part related to **capacity building, technical assistance and technology transfer**, presented by Co-Facilitators Katherine Lynch (Australia) and Oliver Boachie (Ghana). This part contains three paragraphs with 20 alternatives, as well as two additional proposals including issues related to technology transfer and technical and scientific cooperation. They made suggestions for merging the proposed alternatives and highlighted missing proposals.

They reviewed the revised Draft on **national plans**, which includes a proposed heading, with two alternatives, a chapeau with six alternatives, as well as nine paragraphs with approximately 50 alternatives, and approximately 20 additional submissions. They flagged missing proposals and considered options for merging similar options. Recognizing the large number of options that could be merged, they agreed to the Co-Facilitators' suggestion to produce a new streamlined version of the Draft.

On a provision on **reporting**, which addresses how and what measures parties to the ILBI have taken to implement its provisions, the effectiveness of such measures, and possible challenges faced, delegates noted that the three options contained therein are similar, with the first being more comprehensive in describing the contents of what will be reported. These options have 12 alternative proposals by delegations. They reviewed the Draft to flag missing elements and opportunities to merge alternatives and options. One country cautioned against disclosure of business activities included in the provision.

The group also finalized their review of Part IV of the revised Draft on the issues related to: international cooperation; information exchange; awareness raising, education and research; and stakeholder engagement. This part has 25 paragraphs and 35 proposed alternative paragraphs. Delegations noted missing proposals, including: a request to include the knowledge of waste pickers; a reference to developing communication materials; a reference to just transition; amending the reference to “stakeholders” to “partners and stakeholders” so as to also reflect the role of Indigenous Peoples; adding text referring to sharing scientific knowledge on plastics; as well as underlining that some relevant stakeholders should receive additional visibility.

The Co-Facilitators presented two proposals for the part on **implementation and compliance** and called for feedback from delegates on the way forward. The first proposal was a “clean version” which reflects the original Zero Draft paragraph as well as the suggested text by delegates. This version had one paragraph with bracketed alternatives, one alternative of clean unbracketed text, and one alternative for no text. The second proposal consisted of a text, also based on the compilation document, but in track changes to reflect proposed changes. They proposed to work in this manner regarding the other parts of the Draft.

Delegates widely supported working on the basis of the proposed “clean version,” with many asking to also make available the version displaying the track changes. One delegation called for time and date stamps for the documents.

The Co-Facilitators noted that they would work with the Secretariat to finalize compiling the outstanding issues, and would issue both a “clean” and “track changes” version, which will be attached to their report.

Contact Group 3: Co-Facilitators Danny Rahdiansyah (Indonesia) and Marine Collignon (France), presented a revised proposal regarding the preamble, principles, and scope.

They highlighted that the proposed **preamble** was based on the preambular text of UNEA resolution 5/14, taking into account the inputs from members during INC-3, with a view to its further development. While many delegations noted missing elements of their submissions, including references to human rights, there was a general agreement that this text was an adequate starting point for negotiations.

On **principles**, the Co-Facilitators presented three options. Option 1 was a suggestion to place the relevant principles in the preamble. Option 2 was a dedicated provision identifying principles to guide the instrument. Option 3 was for the incorporation of the relevant principles under relevant substantive provisions.

This proposal presented a structure for the three options, not including any specific principles or approaches. Many delegations called for the inclusion of their submissions of specific principles and approaches to be reflected in the text. One delegation said this proposal would not be an adequate basis for negotiations, noting the process of presenting preferred principles would be repeated at INC-4. Others recognized this proposal captured the three different views delegations had expressed during INC-3.

On **scope**, the Co-Facilitators presented three options intended to reflect the three possible approaches identified by the Committee during INC-3. Option 1 was not to include a specific scope provision in the instrument. Option 2 provided a short scope provision, essentially reflecting the language contained in UNEA resolution 5/14. Option 3 presented a detailed scope

provision, addressing additional aspects, including with respect to what might be covered as part of the full life cycle of plastics; sectoral coverage; types of plastics and products to be covered (material scope); geographical and/or jurisdictional coverage; and scope with respect to trade. Delegations agreed that this was an acceptable basis from which to continue discussions at INC-4.

On **definitions**, the Co-Facilitators presented a list of terms identified in the Synthesis Report, as well as those terms identified during INC-3 potentially requiring a definition. The definitions could be: in a standalone article (option 1); integrated into the substantive provisions of the instrument (option 2); or both. Views diverged, as many delegations called for their proposals to be reflected in the revised draft, with others stating that the Co-Facilitators’ proposal could be an appropriate basis for negotiations.

The group then addressed **institutional arrangements**, related to the governing body, subsidiary bodies and the secretariat. On the governing body, the Co-Facilitators presented text developed adapted from the Minamata Convention on Mercury and reflecting elements identified in the Synthesis Report.

On subsidiary bodies, the Co-Facilitators presented a list of potential subsidiary bodies identified by the Committee for further consideration. They noted specific language would need to be elaborated following further discussion in the Committee, including with respect to the composition and functions of the relevant bodies, while also taking into account written submissions during INC-3. On the secretariat, the Co-Facilitators presented a structure following Article 24 of the Minamata Convention and Article 19 of the Rotterdam Convention, as well as elements reflected in the Synthesis Report.

The Co-Facilitators then presented their proposal on **final provisions**, noting these would be developed by a legal drafting group to be established by the INC. Delegations requested information on when and how the legal drafting group would be established, with the Co-Facilitators noting that this will be defined by the Committee.

In the Breezeways

“Where has the time gone?” seemed to be the question on many delegates lips on the penultimate day of INC-3. Convoluted options, confusing alternatives, and look-alike text were the order of the day as delegates rushed to get the text in good enough shape for what lies ahead. Many felt that this has been a worthy exercise, with several sharing that “it has given us a clearer understanding of where countries stand.”

Others pointed to “a heightened trust in the process and the people,” pointing to the fact that so many proposals had been incorporated in the sections of the revised Zero Draft. In some rooms, the mood was completely different, as delegations fought to get their submissions included in the revised text. “Is it too soon to say the ghost of Paris is haunting us?” whispered one participant, reminded of the endless hours of circular debate held at INC-2.

Looking ahead, the INC has its work cut out for it. Delegates will need to deal with pragmatic as well as substantive issues during the intersessional. “Before we can negotiate anything, this text will need to be at least readable,” one knowledgeable participant opined. If all goes well, on Sunday, the when, where and how this work will be conducted is expected to be decided, as rumors circulate that some of it can be done in the margins of UNEA-6 in February. “Six months is not a long time,” sighed one participant, reflecting on the gargantuan task ahead of INC-4, which is scheduled for late April 2024. Among some, aspirations still remained high. “We are starting to discern the shape of the treaty,” one perceptive delegate opined, settling in for what might be a late night.

The *Earth Negotiations Bulletin* summary and analysis of INC-3 will be available by Thursday, 23 November 2023 at bit.ly/plasticsINC3