

Plastics INC-1 Highlights Wednesday, 30 November 2022

The first meeting of the Intergovernmental Negotiating Committee (INC-1) to develop an international legally binding instrument (ILBI) on plastic pollution, including in the marine environment, convened online and in person in Punta del Este, Uruguay, for day three of its deliberations on Wednesday, 30 November 2022. Delegates gathered in plenary throughout the day, delving into core elements related to the development of a new treaty addressing plastic pollution. An informal group on possible options, and stakeholder engagement met over lunchtime, and into the evening.

Preparation of an ILBI on Plastic Pollution, including in the Marine Environment

Scope, objectives, and structure of the ILBI: The Secretariat introduced the documents including on broad options for the structure of the ILBI, (UNEP/PP/INC.1/4), and the potential elements, including key concepts, procedures and mechanisms of legally binding multilateral agreements that may be relevant to furthering implementation and compliance under the ILBI (UNEP/PP/INC.1/5).

On the *scope*, NORWAY, with CHINA, AUSTRALIA, UK, THAILAND, ARMENIA, SENEGAL, VIET NAM, CHILE, and others preferred a comprehensive approach addressing the full life cycle of plastics. NORWAY noted that it should be wide enough to cover the drivers and sources of plastic pollution as well as the materials, products, substances, uses, and processes from the polymerization phase. SWITZERLAND noted the need for the ILBI to address plastic from feedstock phase. PERU, PAKISTAN, and IRAN noted that the scope should also address legacy plastic waste, particularly as it related to small island developing States (SIDS) and coastal states. The EU highlighted that the scope should be to end plastic pollution to protect human health and the environment and achieve a circular plastics economy, prioritizing upstream measures.

NEW ZEALAND called for the ILBI to make a distinction between plastic materials and plastic products. ANTIGUA AND BARBUDA, for AOSIS, called to include the full lifecycle of plastics; the past, present, and future plastics globally; and recognize the transboundary nature of plastic pollution. COOK ISLANDS, for Pacific Small Island Developing States (P-SIDS), called for a broad scope addressing human health and the environment by eliminating plastic pollution from the source. INDONESIA supported a full lifecycle approach towards a circular economy, calling for the ILBI to clearly define these terms. CUBA called for an instrument that focuses on plastic pollution, including in the marine environment. ALGERIA preferred that the scope address general aspects of plastic pollution.

MALAYSIA called for country-driven approaches, noting that plastic only becomes a material at the point of polymerization. MEXICO supported the ILBI addressing global prohibitions.

SOUTH AFRICA, with THAILAND, called for both mandatory and voluntary measures, and with SENEGAL, noted attention to national capabilities and common but differentiated responsibilities (CBDR). The US called for a country-driven agreement, with national action plans (NAPs) containing nationally determined measures and policies to combat plastic pollution that are periodically updated.

SOUTH AFRICA said any processes and products linked to plastic pollution should be included. CHINA with PAKISTAN called for the ILBI to address the sources of plastic and types of plastics to be controlled. CHINA suggested focusing on plastic products that leak into the environment. RUSSIAN FEDERATION stated the ILBI should balance environmental protection with social and economic development.

REPUBLIC OF KOREA said the ILBI should ensure sound management and recycling of plastic waste, with COSTA RICA underscoring integrated waste management; education campaigns and awareness raising; and the importance of research and design. ARMENIA called for tools in the ILBI addressing awareness raising, education, and information exchange.

CANADA noted the need to refine the scope throughout the INC process. COLOMBIA called for an instrument with a general goal to reduce and eliminate plastics, including in the marine environment, which includes annexes that can be amended, when necessary. SAUDI ARABIA highlighted the sustainable design of products and materials for reuse and recycling, and called for the reduction of harmful additives.

BUREAU OF INTERNATIONAL RECYCLING underlined the need for coherence with existing conventions including the Basel and Stockholm conventions. The OCEAN CLEANUP stressed that the ILBI must fill the lacuna on legacy plastic pollution in the high seas.

On *objectives*, NORWAY, with several others, preferred that this be to “protect the environment and human health from plastic pollution, and ultimately end plastic pollution.” SWITZERLAND also called to address problematic plastics and ensure the environmentally sound management of plastic waste. The EU noted that this should be short and inspirational, proposing “ending plastic pollution,” with a view to protecting human health and the environment. GHANA, for the AFRICAN GROUP, called for a broad and ambitious objective that covers the entire lifecycle of plastics and includes equally ambitious means of implementation. KENYA added biodiversity. RWANDA and VIET NAM favored that it addresses future generations.

MEXICO stressed the ILBI should be based on human rights and, with THAILAND, said the ILBI needs a clear common vision with ambitious goals. TÜRKIYE said the ILBI would form basis for joint work at national, global, as well as regional levels and, with REPUBLIC OF KOREA, underscored sustainable consumption and production. MONTENEGRO, with GUINEA, AUSTRALIA and several others, referred to the ILBI enabling a circular economy. BRAZIL said the ILBI should promote systemic economic transformations.

JAPAN stressed that the objective should be protecting human health and the environment from potential risks, underlining the lack of scientific data on actual risks. P-SIDS called to end plastic pollution including in the marine environment, and achieving a non-toxic environment. ANTIGUA AND BARBUDA, for AOSIS, called for the prevention of the harmful effects of plastics on human health and the environment and the recognition of the special circumstances of SIDS. INDONESIA called for the ILBI to focus on ending plastic pollution, including in the marine environment.

ALGERIA called for combatting plastic pollution, with adequate means of implementation for developing countries. URUGUAY called for a human rights-based approach, and urged that the ILBI also promotes a just transition, and addresses the interests of waste pickers. NEW ZEALAND called for the ILBI to eliminate plastic pollution and reduce plastic waste overall. COSTA RICA noted the ILBI should establish global standards to guide states and business. ECUADOR called to identify all options for obligations and control measures that can reduce the impact of plastics on human health and the economy in developing countries and SIDS, including bans on harmful substances across the plastics value chain and promoting a circular economy.

On the *structure*, NORWAY preferred a dynamic, legally binding treaty with general and specific commitments for all parties. SWITZERLAND, PERU, TÜRKIYE, ARMENIA, PAKISTAN, and MONTENEGRO supported a specific legally binding convention, including core obligations and control measures. IRAN favoured a framework convention. EGYPT called for annexes that adapt to changing circumstances.

KENYA and REPUBLIC OF KOREA expressed flexibility on a specific or framework convention. The US noted the options presented were not mutually exclusive, noting the possibility for a hybrid treaty. CHINA suggested that different structure options could be mixed.

P-SIDS called for a specific convention, with provisions for a scientific and technical body, a financial mechanism, capacity building measures, research and development, access to science, incorporating traditional knowledge, and taking into account the special circumstances of SIDS. CUBA called for an instrument that: permits amendments; has adequate means of implementation, including new and additional financial resources; recognizes the special circumstances of SIDS; and contains protocols for specific issues. NIGERIA called for the ILBI to include monitoring and reporting mechanisms.

The EU, with JAPAN, INDONESIA, CANADA, and several others, underlined that “form follows function,” preferring to address the structure after an understanding of the objectives of the ILBI. AUSTRALIA called for a dynamic structure, based on the substance of the agreed control measures. ALGERIA preferred protocols evolving over time.

NEW ZEALAND called for obligations and control measures in a single document. MALAYSIA called for a flexible structure to allow for new science and knowledge on plastics. The US and MONTENEGRO pointed to models under other MEAs, with reference to the Minamata and Basel, Rotterdam and Stockholm (BRS) Conventions. CHINA and MEXICO said that the ILBI should promote synergies with other relevant instruments.

On *guiding principles and approaches*, CHILE, MEXICO, P-SIDS, CHINA, TÜRKIYE, PAKISTAN, and COSTA RICA prioritized, among others, the precautionary principle, and the polluter pays principle. The AFRICAN GROUP, INDONESIA, and SAUDI ARABIA emphasized CBDR. SENEGAL supported aligning the ILBI with the principles of the Rio Declaration. MEXICO highlighted prevention, non-regression, an ecosystem approach, and Principle 12 of the Rio Declaration, addressing trade and environmental protection. TÜRKIYE, PAKISTAN, COSTA RICA suggested that the ILBI establish an Extended Producer Responsibility (EPR) approach.

The AFRICAN GROUP also prioritized a human and socioeconomic rights approach. MEXICO and COSTA RICA underscored an ILBI that seeks gradual progress. AUSTRALIA

underlined transparency and accountability. ALGERIA prioritized transparency, inclusiveness, participation, and acknowledging different national capacities and capabilities. JORDAN highlighted best available science, and both top-down and bottom-up approaches. INDONESIA, the US, SENEGAL, and SAUDI ARABIA favoured bottom-up approaches, with EGYPT noting that these could be nationally determined contributions. SAUDI ARABIA opposed the inclusion of the polluter pays principle and the EPR schemes until they are clearly defined.

On *sequencing the work* of the INC, CHILE, COLOMBIA, and COSTA RICA called for the establishment of two contact groups on substantive issues, and on procedures and modalities. GRULAC called also for discussions on the modalities for multistakeholder engagement. INDONESIA, with RWANDA, cautioned against contact groups convening in parallel. SOUTH AFRICA proposed a contact group on means of implementation. TÜRKIYE proposed a specific working group on marine issues. ARMENIA supported a contact group on institutional content for the INC.

SWITZERLAND noted that discussions on core obligations and control measures could proceed before agreement on sequencing is reached.

URUGUAY, supported by COSTA RICA, called for funding two delegates per developing country delegation to facilitate effective participation. INC Chair Gustavo Meza-Cuadra noted that contact groups would not meet in parallel.

Stakeholder statements: ENDOCRINE SOCIETY called for scientist participation in monitoring and evaluating the treaty obligations. MAJOR GROUP FOR CHILDREN AND YOUTH noted there is no time for additional negotiations, called for the use of a treaty model, and to divest from polluting industries. INTEGRATIVE STRATEGIES FORUM said there is no absolution for the harm already done, and we cannot wait until 2040 for change. WATER KEEPER ALLIANCE noted that she lived in a location surrounded by petrochemical refineries and called for an ILBI that assists communities like hers, “so our way of life does not have to be our way of death.”

PARTNERSHIP FOR CHANGE underscored the effective management of transboundary hazardous waste materials based on the tools of the Basel Convention.

INC Chair Meza-Cuadra proposed, and delegates agreed, to establish an informal group to work on possible options of the ILBI, as well as to identify the modalities for stakeholder engagement at the INC, co-chaired by Daniela García, Ecuador, and Erin Silsbe, Canada.

Potential elements of an ILBI: On *core obligations*, several delegations said the ILBI should combine legally binding core obligations, control measures, and voluntary elements, and address the entire plastics lifecycle. THAILAND underlined the need for different obligations along the plastics value chain. The UK supported the ILBI containing legally binding obligations including a harmonized global framework.

CAMEROON called for clear obligations on preventing and fighting against plastic pollution, and on sustainable consumption and production practices; and to address marine plastics, promote a non-toxic circular economy, and manage legacy and “orphan” plastic stocks.

REPUBLIC OF KOREA noted obligations to address harmful chemical additives and substances, recycling, and waste management. CHINA stated that consensus on key terms is necessary and that there is not one universal approach, referring to national circumstances and capabilities.

ANTIGUA AND BARBUDA, for AOSIS, called for a global harmonized system of design standards and methodologies that promotes circularity, reducing production of problematic plastics and those that are difficult to recycle, and prevents leakage into the environment. FEDERATED STATES OF MICRONESIA, for P-SIDS, called for: the reduction and elimination of plastic; remediation of legacy plastic; bans on single use and problematic plastic; development of measures to collect data; and the removal of legacy plastics.

NORWAY underscored the need to curb the production and consumption of plastics closing leakage points and other sources of pollution. He called for: an annex identifying problematic polymers; maximizing circularity in the global market; targets and commitments; transparency across value chains; disclosure of hazardous chemicals in polymers; and commitments to maximize reuse and recycling rates. SWITZERLAND called for core obligations that reduce plastic consumption and prohibit problematic plastic products and harmful additives in plastics that cannot be recycled, calling for information on polymers that have to be removed from the economy. COSTA RICA called for establishing a transitional period towards substitutable plastics.

EU said the ILBI should reduce overall production and consumption of plastic, regardless of the raw material and called for core obligations on: design criteria; environmentally sound waste management; phasing out unnecessary, avoidable, and problematic plastics, and making others reusable, repairable, and recyclable; and cautioned against measures that could have unintended consequences. COSTA RICA called for: obligations to eliminate harmful substances and additives; reduce and control other substances and additives; and to address unnecessary products. ARMENIA urged strong obligations related to substances and materials, and for plastic products, including taxes, fees, and harmonized product labelling.

The PHILIPPINES called for: plastic avoidance and reduction through reduction and elimination of problematic plastics; time-bound phase down of plastics; product design standards; restrictions on polymers for certain products; improved waste management; and eliminating leakages.

CANADA stated that ending plastic pollution is not a “one solution problem” and requires a set of binding obligations that cover upstream, midstream, consideration for design and product standards, and downstream measures that strengthen end of plastic management.

The US said obligations would include mandating parties to develop NAPs that lead to achieving objectives of ending plastic pollution.

The UN DIVISION FOR OCEAN AFFAIRS AND THE LAW OF THE SEA noted that the ILBI should be guided by and aligned with the UN Convention on the Law of the Sea. INTERNATIONAL ORGANIZATION FOR STANDARDIZATION (ISO) pointed to ISO standards related to plastic pollution, including on recycling. HEALTHCARE WITHOUT HARM urged to make sure no exemptions are made to healthcare products’ supply chains and waste in the INC discussions.

On *control measures*, SOUTH AFRICA, REPUBLIC OF KOREA, THAILAND, and RWANDA supported control measures across the entire lifecycle of plastics. REPUBLIC OF KOREA noted the entire lifecycle includes design, production, consumption, trade, and waste management. NEW ZEALAND urged a focus on the upstream to have the greatest impact.

The AFRICAN GROUP called for defining international reference standards across the entire lifecycle of plastics, including their product design and chemicals. RWANDA called for measures and controls on sources of raw materials, production and consumption, waste management, and plastic pollution in the environment.

COSTA RICA called for standardised design and packaging to avoid dumping, labelling, and appropriate ways of disposal. EU, AUSTRALIA, NEW ZEALAND, and the PHILIPPINES called for transparency requirements and traceability. RWANDA and ARMENIA called for chemical transparency requirements.

The AFRICAN GROUP called for replacing harmful plastics with environmentally sound alternatives, or where that is not possible, controlling harmful chemicals whilst ensuring transparency and prior informed consent. PAKISTAN called for phase out and phase down measures and addressing hazardous and toxic plastic. CUBA called for substitutes to single use plastics. AUSTRALIA preferred control measures that ban chemicals of

concern and hazardous additives, and phase out single use and nonrecyclable plastics.

NEW ZEALAND and AUSTRALIA called for measures to ensure environmentally sound management of plastic waste. The AFRICAN GROUP said the ILBI should include measures to prevent illegal trafficking and dumping of plastic waste, and establish a legal framework to implement EPR at national and international levels.

CAMEROON supported both a financial and a non-compliance mechanism. The UK favoured an effectiveness evaluation framework, as well as national reporting and compliance. MONACO called for international shared measures and voluntary NAPs towards a circular economy.

EGYPT underlined the need for an incentive-based, non-punitive ILBI. MEXICO, with several others, called for additionality in means of implementation, and urged including an enforcement and evaluation mechanism as well as addressing knowledge gaps. FEDERATED STATES OF MICRONESIA, for P-SIDS, called for: binding measures for primary production establishing baselines, similar to the Montreal Protocol; establishing harmonious design and label design; ensuring global transparency; and establishing monitoring targets.

On *voluntary approaches*, SAUDI ARABIA called for, *inter alia*: recognizing the vital role of plastics in sustainable development and the achievement of SDGs and the importance of response measures; and an approach based on national circumstances, underpinned by a bottom-up approach and nationally determined action plans, without any standardization and harmonization of these plans.

REPUBLIC OF KOREA underscored the need for voluntary national measures to address, *inter alia*, the waste hierarchy. AOSIS and BRAZIL called for a mix of voluntary and mandatory measures, with BRAZIL calling to explore all options at this point of the INC process.

Stating that voluntary fragmented and regional approaches have proven to be insufficient, SWITZERLAND urged for a more focused and concrete discussion and requested a document with options before INC-2.

The EU promoted multi-stakeholder involvement regarding voluntary approaches, for example on awareness-raising, consumer behaviour, and education. The US said that control measures should consist of nationally determined policies and measures that are regulatory and voluntary in nature.

NEW ZEALAND said the ILBI must contain measures to facilitate indigenous perspectives and traditional knowledge. BRAZIL called for control measures that are based on scientific evidence and environmental, economic, and social impact assessments.

On *NAPs*, SENEGAL, TÜRKIYE, MEXICO, and PAKISTAN supported NAPs. The AFRICAN GROUP asked for global targets supported by NAPs. AUSTRALIA said consistent global measures are necessary to complement NAPs, and that NAPs are still critical to drive progress and increase transparency. The EU underscored that NAPs are key to support implementation, in addition to binding core obligations.

THAILAND called for NAPs to address the excessive use of additives and hazardous chemicals in plastics, and unintentional releases. EGYPT underscored the nationally determined nature of the agreement, with NAPs at the core; noting that mandatory obligations will relate to the submission of NAPs while the establishment of regulations would be the remit of the state. IUCN shared that NAPs should be designed to increase ambition over time and should not have staggered timelines; noting the need for international oversight related to reporting requirements and compliance obligations.

TÜRKIYE emphasized that NAPs should be prepared with and reflect opinions of all relevant stakeholders, and should include national targets, actions, and timeline for mentioned targets. CHILE called for developing NAPs, which are regularly evaluated and facilitate compliance, as well as capacity building

and financing to support compliance, noting Montreal Convention mechanism as alternate possibility.

Means of implementation, including capacity building, technical assistance, and finance: INC Chair Meza-Cuadra highlighted the documents on existing funding currently available for addressing plastic pollution through international funding arrangements (UNEP/PP/INC.1/9) and, on priorities, needs, challenges and barriers relating to ending plastic pollution at the national level (UNEP/PP/INC.1/11).

Several delegates noted that means of implementation are critical and must address the entire lifecycle of plastics, and emphasized that finance, capacity building, and technology transfer will be crucial to implementation, particularly for developing countries, noting a lack of resources, infrastructure, and technological capacity to manage plastic pollution.

GHANA, for the AFRICAN GROUP with EGYPT, called for launching a dedicated process to assess the needs of developing countries to implement provisions of the ILBI in a manner of assessing the whole lifecycle of plastics. SOUTH AFRICA, CAMEROON and CHILE supported a contact group on means of implementation. Several delegates addressed implementing the polluter pays principle, among others through EPR schemes, and supported the principle of CBDR. JORDAN underscored prevention and protection.

ANTIGUA AND BARBUDA stressed the importance of means of implementation for SIDS and LDCs, particularly for enabling and reporting activities and their establishment should begin at the inception of negotiations. BRAZIL called for equity in the implementation of the ILBI, and with EGYPT and KENYA supported a just transition. ARMENIA called for a flexible implementation mechanism, similar to the clean development mechanism to balance institutional and technical gaps between developed and developing countries. ARGENTINA called for Secretariat support for compliance with the obligations in the future ILBI. THAILAND called for taking into account national circumstances and capabilities. TÜRKIYE underscored that the different capacities and technical structures of countries should be taken into account in the instrument.

Several delegates underscored the need for a financial mechanism to assist developing countries in implementing the obligations of the ILBI. CUBA said the financing mechanism must be designed with the goal of helping full implementation of the obligations. GHANA, for the AFRICAN GROUP with EGYPT, called for transfer of environmentally sound technology to prevent transfer of polluting or outdated technology; technology transfer on concessional and preferential terms; and strategic capacity building to facilitate preparedness for new technology; and, with SENEGAL and SOUTH AFRICA, said a dedicated financial mechanism must contain new and additional financial resources, which are sustainable, pointing to the Montreal Protocol. SOUTH AFRICA and MONTENEGRO called for a dedicated multilateral fund. PAKISTAN called for financial and technical support. The EU stated that resource mobilization should come from multiple sources and models, including private, public, domestic and international and welcomed the inclusion of provisions that incentivize private financial flows and develop EPR schemes, and stressed that a comprehensive understanding of the instrument's scope and control measures is necessary before discussing means of implementation.

SWITZERLAND said the details of the financial mechanism strongly depend on the structure and contents of the treaty. The US noted it is premature to discuss specific arrangements for the financial mechanism, and underscored capacity building, technical assistance, and technology transfer under mutually agreed terms. EGYPT, INDONESIA, JORDAN, and SOUTH AFRICA called linking obligations with means of implementation. INDONESIA added that the ILBI should immediately create a level playing field to ensure effective implementation.

VENEZUELA underscored education and access to information. NIUE, for P-SIDS, called for assistance in developing the national tools to develop sustainable business models and national tools and methods to remove legacy plastics.

CUBA called for changes in the multilateral arena and financing in order to make technology transfer a reality. CHINA noted that success will depend on whether parties will reach consensus on issues such as finance, capacity building and technology transfer towards developing countries and economies in transition.

JAPAN and the UK called to prioritize those countries that are in most need. EGYPT emphasized support for small and medium enterprises in developing countries. SRI LANKA urged for support for bankrupt countries. SYRIA called for financial assistance through grants or investments, without increasing the burden for countries. EGYPT addressed not contributing to debt burden of many developing countries.

SWITZERLAND suggested synergies with the BRS Conventions in order to lower cost of managing the treaty and the administrative burden for member states. TÜRKIYE proposed establishing a unit related to budgetary issues with independent auditing. DEMOCRATIC REPUBLIC OF THE CONGO called for strengthening existing funds such as the Blue Fund.

CHILE urge all actors involved in the plastics lifecycles to do what they can do now and facilitate public access to data. MEXICO requested decision making to be based on the best available science and be grounded in traditional knowledge. MONTENEGRO addressed co-development of new technologies and information-sharing. KENYA, MEXICO, SENEGAL called for an inclusive ILBI, addressing needs of all stakeholders. KENYA emphasized the collective responsibility of all stakeholders. VIET NAM said the manufacturing industry must have a significant role in the process, as well as partnerships with the private sector.

Informal Group on Possible Options for the ILBI and Modalities for Stakeholder Engagement

The informal group to advance discussions to explore possible options of the ILBI, as well to identify the modalities for stakeholder engagement at the INC, held its first session at lunchtime. On sequencing and the further work of the INC, delegates made general targeted statements including calls to provide a new policy options paper, similar the one provided during the Minamata Convention INC process. Others preferred expanding the working document on potential elements. One delegation asked the Secretariat to prepare a document containing common obligations and control measures, including implementation measures, and present this during the intersessional period. Delegates agreed to request states and stakeholders for written submissions on potential elements for the ILBI, while one called to clearly differentiate between state and stakeholder submissions, "because they carry different weight."

In the Corridors

In full negotiation mode, delegates resumed their talks towards a new instrument on plastic (pollution) on Wednesday. Through statements that were hurriedly read out throughout the day in plenary, the bones of an options paper which could be the basis of treaty text began to form in some delegates' minds. However, predictably, some of these options were as different as night and day. In this regard, the expected divide related to the voluntary or mandatory nature of the instrument was prominent during the day's discussions.

On financing, much as there seemed to be several suggestions for innovative funding sources on the table, including frequent nods to the model provided by the Multilateral Fund of the Montreal Protocol, as well as calls to "make the polluters pay," divergence still persisted between developing and developed countries over who should foot the bill. Yet as many delegates pointed out, there is not much point developing obligations without having adequate finance in place. "But they don't know what they are financing yet," acknowledged one veteran participant. Overall, though, some delegates expressed their surprise at the swift pace and organized format of the negotiations "this early in process," with one saying, "we will see if this INC delivers an outcome with real meat, or whether it will just be a plate of bones."