

Plastics INC-2 Highlights: Thursday, 1 June 2023

Delegates attending 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 at the UN Educational, Scientific and Cultural Organization (UNESCO) headquarters in Paris, France. They met in two contact groups throughout the day and into the night, addressing objectives and substantive obligations, and means of implementation (MoI), implementation measures, and additional matters.

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

Contact Group 1: The group on potential options for core obligations, control measures, and voluntary approaches was co-facilitated by Gwendalyn Kingtaro Sisior (Palau) and Axel Borchmann (Germany). Having held initial discussions on the objectives of the agreement on Wednesday evening, delegates started their review of options for possible core obligations, basing discussions on the options paper (UNEP/PP/INC.2/4).

On **phasing out and/or reducing the supply of, demand for, and use of primary plastic polymers**, delegates' views differed on the options for targets, with many favoring the establishment of global targets to reduce the production of primary plastic raw material, while others preferring setting nationally determined commitments or targets. Some suggested a combination of general global targets with more specific measures to be nationally mandated.

Regarding options for **regulating primary plastic polymers**, some countries highlighted the value of plastics, and cautioned against bans, limits, or reductions on manufacturing, export, and import of virgin plastic polymers. Others urged strong upstream measures, considering the impact polymers can have on health, the environment, and vulnerable communities. Many called for the reduction of primary plastics to sustainable levels, and for increasing plastic recycling and the availability of sustainable alternatives. Others called for the reduction or elimination of fiscal incentives, such as subsidies for fossil fuels and plastic production. Many delegations also supported mechanisms for transparency as well as intersessional work to elaborate clear definitions that could inform work at INC-3.

On **banning, phasing out, and/or reducing the use of problematic and avoidable plastic products**, delegations were widely in support of the development of concrete timelines, supported by clear and transparent criteria. Some favored binding measures, while others advocated the need for voluntary actions. More than one suggested that specific exceptions should be made for certain types of plastic products, given their demonstrated functionality within selected sectors. Several delegations discussed examining the environmental safety of plastic alternatives. Many noted that the proposed options were linked and could support a sequenced approach in line with national circumstances, and emphasized the need for aligning with existing conventions, such as the Basel, Rotterdam and Stockholm (BRS) Conventions. A few delegations called for the formation of an expert group to examine relevant definitions and standards for baseline setting.

On **banning, phasing out, and/or reducing the production, consumption, and use of chemicals and polymers of concern**, many called for the establishment of an intersessional expert working group tasked with the identification of chemicals and

polymers of concern using the best available science in order to inform negotiations at INC-3.

On **reducing microplastics**, delegations focused on options for addressing intentional use and unintentional releases. Many delegations supported banning intentionally produced microplastics. Several urged that MoI widen access to best available technologies for detecting microplastic sources and pathways. Delegates heard differing views on global mandates versus implementation of nationally determined measures. On unintentional releases, some delegations noted knowledge gaps, and called for further research and knowledge sharing to address these gaps. A few noted the need to develop scoping definitions as part of intersessional work.

Observer organizations shared their views, focusing on, among others: upstream measures; a potential for greenwashing; reducing all petrochemical subsidies; a standalone obligation for microplastics; including nanoplastics as an area of concern, as well as use- and degradation-based microplastics; a caution to not use healthcare as an excuse for an unambitious treaty, since there are safe alternatives for many medical items; and a reminder that plastic is not an inherently circular material.

On **strengthening waste management**, delegates addressed: options for enhancing waste management capacity and promoting innovation; options for regulating plastic waste; options related to illegal dumping and disposal of plastic waste; and options for promoting Extended Producer Responsibility (EPR) and enabling markets for recycling. Some delegates emphasized the need for applying the waste hierarchy as a guiding principle for waste management. Delegates also discussed: provisions for environmentally sound management of waste; targets and indicators for collection and sorting of plastic; harmonized EPR schemes; and guidelines on plastic traceability and recycling, among others.

One point of debate centered on the environmental safety of plastic incineration, chemical recycling, and refuse-derived fuel. Some developing countries contested regulating some waste management options, countering that these are the only solutions they have at present. Others opposed globally mandated requirements.

Delegates also discussed options for possible core obligations on **fostering design for circularity**, including: establishing circularity criteria and guidance for design and production of plastic products and packaging; establishing national requirements for design criteria based on a global harmonized system; establishing labeling measures for plastic products and packaging; setting a target for the required minimum recycled content of plastic products on the market; and establishing a central data exchange registry to share information.

Some delegations raised concerns about the risk of creating new challenges in trying to identify plastic substitutes. Others highlighted that incorrect labeling could lead to greenwashing, and called for greater information exchange on circularity. Many noted the need to respect national circumstances when promoting collection, reuse, and recycling systems, recommending this should be addressed through national action plans (NAPs) and voluntary actions. One delegation noted that harmonization of circularity criteria can streamline global plastic recycling efforts. Others recalled that waste collection and recycling is important in terms of income and employment generation with potential to support new business models across value chains.

Contact Group 2: This contact group was co-facilitated by Katherine Lynch (Australia) and Oliver Boachie (Ghana). Co-Facilitator Lynch noted that an initial discussion on NAPs had been held on Wednesday evening, and informed participants that

the group would meet throughout the day and into the night, and resume discussions on Friday morning.

Co-Facilitator Boachie outlined the items under discussion, including cooperation and coordination, financial assistance, capacity building, technology transfer on mutually agreed terms, and technical assistance.

Several delegations stressed the link between MoI and NAPs, and called for the MoI to be aligned with the substantive obligations under the future ILBI and to be based on developing country needs. Delegations debated the inclusion of the principle of common but differentiated responsibilities (CBDR) and respective capacities. Many delegates indicated a preference for an integrated approach to MoI, while some preferred stand-alone provisions.

On cooperation and coordination with relevant regional or international conventions, instruments, and organizations, several delegations supported the establishment of a technological cooperation mechanism. Delegations called for cooperation with, among others, the Food and Agriculture Organization of the UN, International Organization for Standardization, and the International Maritime Organization. Several called for enhancing synergies with the BRS Conventions, the Abidjan Convention, the Convention on Biological Diversity, the UN Framework Convention on Climate Change, the MARPOL Convention, the Ramsar Convention, and the Regional Seas conventions. Delegations also stressed that the ILBI should not duplicate efforts undertaken by other instruments, frameworks, and bodies.

Some pointed to the importance of North-South, South-South, and triangular cooperation, with some linking cooperation with MoI. Other delegations stressed the need for cooperation to enhance the science policy-interface. Some delegations called for cooperation on transboundary pollution through rivers, the marine environment, and in areas beyond national jurisdiction. Some delegations underscored the need for local, bilateral, and regional cooperation and coordination, as well as to include “action by all stakeholders.” Stakeholders included the private sector, informal sectors, small, micro, and medium-sized enterprises (SMMEs), and public-private partnerships. One delegation called for establishing a discrete scientific advisory panel for guidance on implementation and the negotiation process, as well as to establish a social and economic advisory panel to facilitate coordination between the ILBI and existing MEAs during the negotiation process.

On financial assistance, some delegations requested renaming this obligation as “financial mechanism,” calling this to be a separate article in the ILBI, with others preferring “financial resources and mechanism” as under the Minamata Convention on Mercury. Several delegates called for a dedicated multilateral fund resembling the fund under the Montreal Protocol and emphasized accessibility and needs’ prioritization. Regarding sources of funding, several delegates addressed member state contributions as well as other financing, including from, among others, the private sector, plastics industry, and innovative sources.

Some delegations preferred building on existing financial mechanisms, namely the Global Environment Facility (GEF), although others were hesitant to appoint the GEF as the ILBI’s designated financial mechanism. Others supported a stand-alone fund, with some suggesting that this fund could work in tandem with the GEF, pointing to the Minamata Convention on Mercury.

A few delegations called for the establishment of an additional fund specifically focused on existing plastic pollution and legacy plastics, while some opposed, suggesting it is difficult for smaller funds to mobilize resources. Several proposed that finance focus on implementing the ILBI, with some calling for finance for plastics inventories, NAPs, waste management, and promoting technology transfer, capacity building and training, reporting and monitoring, and pilot projects.

A number of delegations called for financing to be composed of market-based approaches, while others encouraged both market- and non-market-based approaches. Several emphasized the role of public-private partnerships, and EPR schemes, while some stressed that EPR schemes must be nationally determined and implemented. Some delegations opposed the reference to plastic fees, taxes, or levies, as well as to credit schemes, with some noting these could be voluntary.

Some delegations supported a mandate for intersessional work to advance more detailed deliberations on financial options ahead of INC-3.

On capacity building, several underscored the importance of adequate capacity building for the implementation of the ILBI, with one emphasizing that capacity building programmes will

assist in delivering NAP commitments. Several underscored capacity building for developing countries and economies in transition. One delegation underscored that capacity building should be country driven, with another opposing it being only country driven. Several supported learning from the capacity building programmes under the Montreal Protocol. One delegation called to recognize informal waste pickers, local communities, and marginalized groups explicitly in capacity building provisions and programmes, and called for research and data sharing to be part of capacity building. Another delegation highlighted SMMEs, alternative modes of economic development, and a just transition, and yet another spoke on involving citizens and stakeholders in decision-making processes.

On technology transfer, some favored a clear definition of technology transfer based on mutually agreed terms, while others preferred that it be on a concessional and preferential basis. One delegation raised that technology transfer has not been effective, raising issues of technology patenting, and called for adequate, effective, and binding technology transfer in the ILBI. Some proposed technology transfer for waste management, with others supporting South-South technology transfer. Some delegates proposed that EPR schemes could finance technology transfer, with some others stressing that producers should be at forefront of research and development to address plastic pollution from their products.

On technical assistance, one delegate called for more attention to technical assistance with respect to monitoring, reporting, and verification. One delegation called for needs-based technical assistance to developing countries, including through bilateral and multilateral programmes. Another delegation called for investment in research and innovation for eco-design products, as well as for reducing, reusing, and recycling plastic.

Observers emphasized including young entrepreneurs and those working on alternatives to plastic in capacity building efforts; underscored that chemicals and plastic producers must contribute to the financial resources needed to implement the ILBI by internalizing the costs of their industries; and called for ensuring that, in addition to addressing the needs of developing countries, including small island developing states, MoI also include and prioritize the unique needs of Indigenous Peoples, including Indigenous Peoples living in developed countries.

In the Corridors

Equipped with chocolate, snacks, coffee, and their (refillable) water bottles, delegates were prepared to go “all night long” as they finally settled into discussions on substantive matters. Constructive exchanges in both contact groups, with delegates working cordially and cooperatively, were a welcome break from the week’s more dramatic moments.

As they discussed objectives and substantive obligations, familiar rifts emerged, most notably among those who favored global obligations versus those who insisted any such measures should be nationally determined. Given the procedural delays over the week, some delegates grumbled about the short opportunity to make interventions on the wide array of available options. While many tried to make the most out of the sessions by providing quick, structured remarks, some were surprised when a delegate of one large country forcefully imposed themselves, unapologetically exceeding their allocated time. Tensions were quickly defused by the graceful manner of the Co-Facilitator from Palau, who reminded delegates to breathe deeply.

Considering MoI, well known, yet important, calls filled the room: new and additional financing! technology transfer on preferential terms! capacity building! Some wondered how the new treaty would differ from others in actualizing these expectations.

Meeting into the night, with more time for contact groups scheduled for Friday morning, delegates’ focus shifted to post-INC-2 considerations. Calls for a zero draft were clear, but with the limited time spent actually addressing the options paper, some were concerned that the zero draft would just be an “updated options paper.” Others were hopeful that intersessional work could be game changing. “If we use the five months before INC-3 judiciously, we may not need an INC-6,” shared one delegate, buoyed with newfound hope.

The *Earth Negotiations Bulletin* summary and analysis of INC-2 will be available on Monday, 5 June 2023 at enb.iisd.org/plastic-pollution-marine-environment-negotiating-committee-inc2