

## Summary of the Third Session of the Intergovernmental Negotiating Committee to Develop an International Legally Binding Instrument on Plastic Pollution: 11-19 November 2023

No corner of the planet has been left untouched by plastic pollution. Plastic waste fills landfills, chokes waterways, and pollutes the Ocean, and poses harm to human health. In March 2022, the world took the historic decision to end plastic pollution by adopting UN Environment Assembly (UNEA) resolution 5/14, which established an Intergovernmental Negotiating Committee (INC) to develop an international legally binding instrument (ILBI) on plastic pollution, including in the marine environment, which could include both binding and voluntary approaches, based on a comprehensive approach that addresses the full lifecycle of plastics.

As concerns about the scourge of plastic pollution continue to mount around the world, delegates arrived at the third session of the INC, armed with a Zero Draft, developed by the INC Chair Gustavo Meza-Cuadra (Peru), in conjunction with the INC Secretariat. However, during INC-3, the varying interpretations of UNEA resolution 5/14 came to the fore as delegates shared their views on the “full life cycle of plastic,” with some favoring measures addressing plastic production, and others favoring downstream measures to eliminate plastic waste. Others focused on how best to ensure lasting design standards for plastic products.

The goals of the meeting were to advance the development of the ILBI, using the Zero Draft as a basis for discussions. Delegates also had to address issues that had not been previously considered by the Committee, including those related to the general provisions on, for instance, scope and definitions, using a Synthesis Report of submissions compiled by the Secretariat, and to decide on a plan for intersessional work.

Working in contact groups, delegates spent the bulk of the meeting proposing textual submissions to be included in a revised Zero Draft. In the closing hours of the meeting, delegates were able to agree on a mandate for the preparation of a revised Zero Draft, based on the compilations of submissions by delegations throughout the week. The revised Draft is also expected to include those elements contained in the Synthesis Report. After long discussions, however, they were unable to agree on a mandate for intersessional work to be done in preparation of INC-4, to be held in April 2024.

INC-3 was held at the UN Environment Programme (UNEP) headquarters in Nairobi, Kenya, from 13-19 November 2023. It brought together over 1,500 participants, representing governments, academia, civil society organizations, private sector entities, UN

entities, and international organizations, with 1,000 more participants tuning in to the webcast. It was preceded by a preparatory meeting on Sunday, 11 November 2023, which addressed the Synthesis Report.

### A Brief History of the INC

As plastic pollution becomes ever more visible both on land and in waterways, calls to tackle the mounting plastic waste crisis have reverberated around the world. With over 10 billion tonnes of plastic produced since the 1950s, studies show that over 8 billion tonnes are now waste, with between 10-15 million tonnes of plastic leaking into the marine environment each year. This number is expected to more than triple by 2050.

Studies have linked unsustainable production and subsequent consumption patterns to exponential growth in plastic pollution, which impacts human health as well as the health of terrestrial and marine ecosystems. In 2022, there were reports of plastic particles found in human lungs and in human blood; and a 2021 report found microplastics in human placenta.

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### Origins of the INC

In response to these growing concerns, UNEA passed a number of resolutions to discuss the best ways to address plastic pollution. Specifically, in 2017 UNEA resolution 3/7 established an Ad Hoc Expert Group (AHEG) on marine litter and microplastics to identify, *inter alia*: the range of national, regional, and international response options, including actions, innovative approaches, and voluntary and legally binding governance strategies and approaches; and environmental, social, and economic costs and benefits of different response options.

In parallel, several other bodies have conducted work related to marine litter and microplastics, including the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel Convention), the Strategic Approach to International Chemicals Management (SAICM), the International Maritime Organization (IMO), the World Health Organization (WHO), the World Trade Organization (WTO), and various Regional Seas Programmes and Conventions.

There are also numerous voluntary initiatives on marine litter, several public-private partnerships to address land-based sources of marine pollution, and other dialogues considering plastic pollution. However, gaps remain in regulatory frameworks addressing plastic, and plastic pollution, including marine plastic.

### Key Turning Points

**AHEG-1-4:** The AHEG met four times from May 2018 to November 2020. The Expert Group also convened two workshops to better understand elements related to information, monitoring, and governance, and requested the Secretariat to produce reports on the financial and technical resources and mechanisms to address the issue, as well as on partnerships. At its fourth meeting, the Group concluded its work, agreeing to forward a Chair's Summary to UNEA-5. The Summary contained, *inter alia*, a non-exhaustive list of recommendations for future action on marine litter and microplastics. It reflected a growing consensus to address plastic pollution more broadly. Some of the recommendations included strengthening existing instruments, including voluntary measures, and calling for UNEA to establish an INC towards a new global agreement.

**2021 Ministerial Conference:** From 1-2 September 2021, the governments of Ecuador, Germany, Ghana, and Viet Nam co-convened the Ministerial Conference on Marine Litter and Plastic Pollution, under the auspices of UNEP, online and in-person in Geneva, Switzerland. At this meeting, Peru and Rwanda called for support for their resolution, which would be tabled at UNEA-5.2, calling to establish an INC.

**UNEA-5.2:** Held at UNEP Headquarters in Nairobi, Kenya, from 28 February – 2 March 2022, UNEA-5.2 closed the circle on the discussions on marine litter and plastic pollution. Convening under the theme “Strengthening Actions for Nature to Achieve the Sustainable Development Goals,” UNEA-5.2 vaulted itself into the history books by adopting resolution 5/14 to “End plastic pollution: Towards an international legally binding instrument,” which established the INC and called for an open-ended working group (OEWG) to lay the necessary groundwork.

**OEWG:** Hosted by the Government of Senegal in Dakar from 29 May – 1 June 2022, the *ad hoc* OEWG to prepare for the INC on plastic pollution met to address two core issues: the rules of procedure (RoP) governing the INC's work and decision-making, and the INC's meeting schedule. They quickly agreed on the

latter but were unable to conclude on the draft rule on voting rights, specifically voting rights for regional economic integration organizations. The group agreed to forward this issue to INC-1.

### Recent Meetings

**INC-1:** Held from 29 November – 2 December 2022, in Punta del Este, Uruguay, delegates elected Gustavo Meza-Cuadra, Peru, as Chair of the INC, and decided that the role of Chair would alternate to Ecuador after INC-3. They were unable to elect all members of the Bureau and postponed this decision to INC-2. They also postponed discussions on the RoP.

The Committee decided to request the INC Secretariat to prepare a document, ahead of INC-2, which would outline options for the ILBI's possible elements, based on a comprehensive approach that addresses the full lifecycle of plastics, including identifying possible objectives, substantive provisions including core obligations, control measures, and voluntary approaches, implementation measures, and means of implementation (MoI), and including both legally binding and voluntary measures.

**INC-2:** From 29 May – 2 June 2023, delegates met in Paris, France, and despite some procedural hiccups, engaged in discussions based on an options paper, considering multiple elements that could eventually be included in the future treaty. INC-2 mandated the preparation of a “zero draft” for a new treaty for consideration at INC-3, and allocating time for a one-day pre-meeting event to discuss a synthesis report of elements that were not considered during INC-2. They also elected the remaining members of the INC Bureau, following two votes, and to come to an understanding on the provisional application of the draft RoP.

### Preparatory Meeting

On [Saturday, 11 November 2023](#), delegates met in a preparatory meeting, as requested at INC-2, to address issues not previously discussed. Co-Facilitated by Marine Collignon (France) and Danny Rahdiansyah (Indonesia), they considered a synthesis report ([UNEP/PP/INC.3/INF/1](#)), which contained sections related to the preamble, principles, definitions, and scope of the future treaty, as well as institutional arrangements and final provisions. They also spent time addressing potential issues for intersessional work. The Co-Facilitators' summary was relayed to INC-3.

### INC-3 Report

On [Monday, 13 November 2023](#), Jyoti Mathur-Filipp, Executive Secretary, INC Secretariat, called on delegates to move swiftly to ensure that an ILBI is achieved by the end of 2024, underscoring that “we hold in our hands the power to correct this destructive course,” to “heal our planet,” and to protect the “intricate and fragile web of life that sustains us all.”

INC Chair Gustavo Meza-Cuadra called on delegates to capitalize on the Nairobi Spirit of consensus, which had delivered the mandate to negotiate the ILBI, through UNEA resolution 5/14. Pointing to the Zero Draft as a starting point, he called on the INC to agree on a mandate to prepare a revised draft and possible intersessional work towards INC-4.

UNEP Executive Director Inger Andersen recalled that UNEA resolution 5/14 provided a mandate to develop an ILBI that is based on “a comprehensive approach that addresses the full life cycle of plastic,” noting this must encompass the plastics value chain from polymers to pollution, and establish ambitious targets with accelerated timelines.

Urging delegates to support the country's bid to host the treaty secretariat, Kenya's President William Samoei Ruto called on the INC to agree on a treaty that: brings overall plastic production to sustainable levels; addresses existing plastic pollution; and operationalizes the Rio Principles.

### **Organizational Matters**

**Adoption of the agenda and organization of work:** On [Monday](#), delegates adopted the agenda ([UNEP/PP/INC.3/1](#) and [Add.1](#)) and organization of work ([UNEP/PP/INC.3/2](#)).

**Rules of procedure:** INC Chair Meza-Cuadra recalled that delegates had agreed to the provisional application of the RoP ([UNEP/PP/INC.3/3](#)). Addressing a concern expressed by INDIA, he underlined that the Committee had no intention of invoking rule 38 (adoption of decisions), also pointing to the interpretative statement agreed at INC-2. Delegates agreed to proceed on this basis.

### **Election of Officers**

On [Thursday](#), Georgia, for the EASTERN EUROPEAN STATES, nominated Estonia as Vice-Chair to the INC Bureau.

On Sunday, delegates elected Luis Vayas Valdivieso (Ecuador) as Chair for the remainder of the INC. They also elected, by acclamation, Estonia and Peru as Vice-Chairs of the Committee, representing Eastern European States and the Latin American and Caribbean Group (GRULAC), respectively.

Incoming INC Chair Vayas pledged to bring energy, warmth, hard work, and a commitment to listen, learn, and work together for the remaining period of the negotiation process. He underscored that plastic pollution is scientifically proven to have "huge adverse and scary impacts" on the environment and human health, and poses a threat of such a magnitude that it "requires all of us to end it."

### **Dates and Venue of INCs 4 and 5**

On Sunday, INC Chair Meza-Cuadra recalled that Ecuador, Peru, Senegal, and Rwanda made offers to host the Diplomatic Conference in 2025. He reminded delegates that Canada had also offered to host INC-4 in Ottawa in April 2024, and that the Republic of Korea had offered to host INC-5 in the second half of 2024.

Executive Secretary Mathur-Filipp introduced the hosting arrangements for INC-4. CANADA welcomed delegates to Ottawa for INC-4, scheduled for seven days within the period 21-30 April 2024. REPUBLIC OF KOREA informed delegates that INC-5 could be hosted from 25 November – 1 December 2024 in Busan.

The RUSSIAN FEDERATION and SENEGAL requested assurance that all delegations would be able to obtain visas in a timely manner to participate in INC-4. RWANDA and PERU noted their intention to jointly host the 2025 Diplomatic Conference.

### **Provisional Agenda for INC-4**

On Sunday, INC Chair Meza-Cuadra introduced the draft decision on the provisional agenda for INC-4 ([UNEP/PP/INC.3/L.2](#)), which delegates forwarded to INC-4 for adoption.

### **Preparation of an ILBI on Plastic Pollution, Including in the Marine Environment**

On [Monday](#), INC Chair Meza-Cuadra introduced the Zero Draft ([UNEP/PP/INC.3/4](#)), pointing to the options contained therein. He encouraged delegates to identify convergence, gaps, and/or options to be deleted. Delegates addressed this agenda item for the duration of the meeting, in plenary, contact groups, and informals.

**Report of the preparatory meeting:** On [Monday](#), INC Chair Meza-Cuadra introduced the Synthesis Report ([UNEP/PP/INC.3/INF/1](#)) on elements not discussed at INC-2. Preparatory meeting Co-Facilitators Marine Collignon and Danny Rahdiansyah presented an oral report on the discussions held on Saturday, 11 November.

**General statements:** On [Monday](#) and [Tuesday](#), delegates outlined their priorities on the Zero Draft, including those related to, among others, a comprehensive lifecycle approach to address legacy and existing plastics; MoI; national action plans (NAPs); international cooperation; and avoiding duplication among existing agreements and instruments. They also pointed to the importance of, among others: addressing problematic plastics and chemicals of concern; ensuring a just transition; promoting effective measures for remediation of legacy plastics; and establishing a new dedicated multilateral fund.

Some supported, *inter alia*: adhering to the Rio Principles; criteria to determine hazardous materials; promoting environmentally sound substitutes; creating a new dedicated fund; and acknowledging the vulnerabilities of small island developing states (SIDS). Others underlined the importance of plastics to human life, and called for the inclusion of clear-cut principles to ensure due consideration of national circumstances and capacities of all countries.

Others, including the LIKE-MINDED GROUP, stressed a clear mandate was needed to ensure inclusivity in the process and the incorporation of all views in the Zero Draft. Speaking for the group, IRAN called for a contact group to produce an updated zero draft, which would include in-session submissions and discussions as presented, without alterations or interpretations, and for this updated draft to be presented to the Committee.

**Contact group mandates:** On [Tuesday](#), INC Chair Meza-Cuadra outlined his proposal for the establishment of contact groups, noting: Contact Group 1 would review elements of Parts I (objectives) and II (technical elements) of the Zero Draft; Contact Group 2 would address Parts III (MoI) and IV (modalities) of the Zero Draft; and Contact Group 3 would consider the Synthesis Report on elements not discussed at INC-2, taking into account the preparatory meeting, as well as inputs from members for placeholders in the Zero Draft. These placeholders included sections of Part I (preamble, principles, definitions, and scope), and Parts V (institutional arrangements) and VI (final provisions). This group would also consider the substance and timelines for intersessional work.

INC Chair Meza-Cuadra noted that textual proposals made during the first round of discussions would be reflected in a revised Zero Draft. He highlighted that the second round of discussions, based on the revised Zero Draft, should start no later than Thursday. He also announced that Contact Groups 1 and 2 would relay inputs on possible relevant intersessional work to Contact Group 3 for further elaboration. He noted the groups would present a final report to plenary on Saturday. The INC then established the three contact groups, which met for the rest of the week.

The groups carried out a first reading of the original Zero Draft, before submitting proposals to be included in a revised text. They also shared reflections on the contents of the revised Zero Draft, section by section, through a validation exercise. This summary is structured along the lines of the original Zero Draft.

### **Discussions on the Zero Draft**

#### **Part 1**

This part, included as a placeholder in the original Zero Draft, was addressed in the Synthesis Report, and taken up by Contact

Group 3, co-facilitated by Danny Rahdiansyah (Indonesia) and Marine Collignon (France). Elements under this part were addressed during the [preparatory meeting](#) and during INC-3 on [Tuesday](#) and [Thursday](#), with delegates providing submissions towards the revised Zero Draft. On [Friday](#) and [Saturday](#), delegates engaged in a validation exercise to ensure all views discussed and submitted had been included in the Co-Facilitators' compilation towards the revised Zero Draft. The element related to the objective was addressed by Contact Group 1.

**Preamble:** Many delegates shared their preference for a short preamble, setting the foundation for the instrument. Others contended that this section could be developed at a later stage, following agreement on substantive provisions. 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, least developed countries, and other country groupings. Several countries proposed including time-bound targets, while others opposed them, preferring flexibility. Some delegations called to consider the preamble after other operative clauses are addressed.

**Objective:** On this element, Contact Group 1 discussed, among others, the options presented in the Zero Draft, with some preferring the option to “end plastic pollution, including in the marine environment, and to protect human health and the environment,” while others choosing a more concise objective to “protect human health and the environment from plastic pollution, including in the marine environment.”

**Definitions:** On this element, many delegates in Contact Group 3 supported using relevant existing internationally agreed definitions; and others calling for including additional definitions in line with best available science. Some countries noted that definitions have a bearing on the overall scope of the ILBI and proposed intersessional work. Other delegations called for definitions on: plastic, plastic pollution, microplastic, problematic and avoidable plastic, extended producer responsibility (EPR), legacy plastic, and energy recovery.

**Principles:** Discussing this issue, some countries indicated they did not support a dedicated provision. Some countries referenced internationally agreed principles, particularly common but differentiated responsibilities, the polluter pays principle, and the precautionary principle, with others calling for trade-related principles, and one other proposing a new principle on non-toxic circularity.

**Scope:** On this element, there was general agreement that UNEA resolution 5/14 should guide the provisions of the ILBI, especially with regard to the plastics lifecycle. Some indicated there was no need to include a dedicated provision; while others, citing varying interpretations of the resolution, called for further discussion on how best to determine scope.

**Co-Facilitators' Summary:** The Co-Facilitators' summary is addressed under Parts V and VI.

## Part II

This part formed the bulk of the original Zero Draft, and was taken up by Contact Group 1, co-facilitated by Gwendalyn Kingtaro Sisor (Palau) and Axel Borchmann (Germany). Delegates opened discussions on these elements on [Tuesday](#), [Wednesday](#), and [Thursday](#), based on the original Zero Draft, and engaged in a validation exercise to ensure all views discussed and submitted

had been included in the Co-Facilitators' compilation and merged proposals of these towards the revised Zero Draft on [Friday](#) and [Saturday](#).

**Primary plastic polymers:** Discussing this element, delegations considered three options. Noting that parties would take necessary measures to prevent and mitigate the potential for adverse impacts on human health or the environment from the production of primary plastic polymers, including their feedstocks and precursors, one option calls on each party not to allow its level of production and supply of primary plastic polymers to exceed the reduction target specified in the relevant annex to the ILBI.

Another option requires parties, through the development of nationally determined targets, to manage and reduce the global production and supply of primary plastic polymers to achieve the global target set out in the relevant annex. The third calls on parties to take the necessary measures to manage and reduce the global production and supply of primary plastic polymers, and to reflect these measures in national plans including information the intended level of domestic supply including, as relevant, domestic production, and the measures taken to manage and reduce it.

Some called to include language on “circular polymers,” while others preferred deleting this provision altogether, citing their sovereign right to exploit their own resources.

**Chemicals and polymers of concern:** In their discussions on this element, delegations shared initial views related to three options. Option 1 proposes national standards towards eliminating chemicals and polymers of concern, with several countries also calling for 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 this should follow agreement on substantive provisions. Some shared their preference for more flexible measures as contained in option 2, noting these should be designed in line with national capacities. Others preferred option 3, defining chemicals and polymers of concern based on proposed criteria in the ILBI.

**Problematic and avoidable plastic products, including short-lived and single-use plastic products and intentionally added microplastics:** In their discussions on this element, some delegations noted their preference for complete bans and phaseouts, while others cautioned 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.

**Exemptions available to a party upon request:** Delegations discussed this element, addressing the exemptions parties could register concerning proposed phaseout dates related to problematic and avoidable plastic products. Some delegations called to delete this element, underlining that no exemptions should be permitted in the case of problematic and avoidable plastic products. Other countries wanted to discuss procedures for seeking exemptions, with a number of delegations calling for time-limited exemptions. Some also considered the need for dedicated programmes of work to support the implementation of this element.

**Product design, composition and performance:** This element calls on each party to take measures to enhance the design of plastic products, including packaging, and improve the composition of plastics and plastic products, in order to:

- reduce demand for and use of primary plastic polymers, plastics and plastic products;
- increase the safety, durability, reusability, refillability, repairability, and refurbishability of plastics and plastic products, as relevant, and their capacity to be repurposed, recycled, and disposed of in a safe and environmentally sound manner upon becoming waste; and
- minimize releases and emissions.

Delegates discussed options related to, among others, minimum design standards, globally applied design standards, and international partnerships to address product design, proposing additional options and alternative language.

**Non-plastic substitutes:** Delegations considered this element, which calls on each party to take measures to foster innovation and incentivize and promote the development and use at scale of safe, environmentally sound, and sustainable non-plastic substitutes, including products, technologies, and services, taking into account their potential for environmental, economic, social, and human health impacts. They considered the call to encourage parties to use regulatory and economic instruments, public procurement, and incentives to promote the development and use of safe, environmentally sound, and sustainable non-plastic substitutes.

**Extended producer responsibility:** Considering this element, several delegations highlighted the value of having a globally harmonized system to establish producer responsibility, particularly addressing how this would enhance reuse, recyclability, and recycling rates, while also stimulating secondary markets. They considered two options. Option 1 calls for mandatory EPR requirements, while option 2 proposes voluntary requirements.

Many shared their preference for option 2, noting that flexibility is needed to encourage more countries to participate. One country voiced support for not including an option on EPR, while another called to have this included in provisions on waste management. Another delegation suggested merging both options. Many countries highlighted flexibility in implementing EPR schemes, based on their sovereign rights, capacities, capabilities, and national circumstances. Many others suggested applying EPR to operationalize the polluter pays principle.

**Emissions and releases of plastic throughout its life cycle:** In their deliberations on this element, some countries called to focus this element on emissions and releases of plastic pellets, flakes, and powder from production, storage, handling, and transport. Others indicated preference for a sectoral approach to address the sources of emissions and releases of plastic polymers, plastics, including microplastics, and plastic products across their lifecycle. Many countries called to include language related to abandoned, lost, or otherwise discarded fishing gear (ALDFG) under this element. Several delegations cautioned against duplicating existing instruments, such as the IMO.

**Waste management:** Under this element, delegations addressed options related to global standards for waste management and country-driven waste management, respectively, with several preferring the latter. Many expressed support for addressing the full lifecycle of ALDFG. Others suggested placing ALDFG under provisions addressing emissions and releases, while also underscoring the need for a just transition for artisanal fishers in this regard.

**Trade in listed chemicals, polymers and products, and in plastic waste:** In their discussions on this element, a number of countries pointed to the WTO as the sole regime under which

issues of trade are discussed. Some delegations suggested including provisions for non-parties, while others suggested that this could remain as a placeholder, until other parts of the ILBI are defined. On transboundary movement of plastic waste, many participants urged avoiding duplication with relevant provisions of the Basel Convention.

**Existing plastic pollution, including in the marine environment:** Considering this element, some countries noted the absence of binding provisions on remediation and, citing the special circumstances of SIDS, called for the establishment of a legal framework to address transboundary plastic pollution, especially ALDFG, in line with the Cartagena and MARPOL Conventions. Others prioritized accumulation zones and hotspots.

**Just transition:** Delegates expressed diverging views when discussing this element. A number of countries emphasized the need for adequate working conditions for actors involved in waste management and the plastics value chain, especially informal waste pickers. One delegation stressed that MoI, including technical and financial assistance, was paramount for facilitating a just transition. Another mentioned that efforts to address informal waste pickers should be addressed in the social policies of each respective country, qualifying that waste management is under the remit of national and local governments.

**Transparency, tracking, monitoring and labelling:** In addressing this element, one delegation called attention to the positive results of package labelling, and stressed that it was necessary to consider information across the plastics lifecycle. Another country suggested that clarity was needed on whether reference to national regulations should be included in the ILBI and, if so, whether this would be better suited to the provision on reporting.

**Co-Facilitators' Summary:** On Sunday, Contact Group 1 Co-Facilitators Gwendalyn Sisior and Axel Borchmann reported on their work during the week, noting that a [Co-Facilitators' updated full compilation of the revised Zero Draft](#) had been circulated. They pointed to the [Co-Facilitators' summary of discussions](#), including suggestions for intersessional work, as well as the [Co-Facilitators' full compilation of possible mergers for Members' proposals](#). On the way forward, the Co-Facilitators reported the group had considered that the merged texts of the parts of the Zero Draft addressing objectives, Part II, and relevant proposed annexes related thereto, should serve as a starting point for further work.

#### Parts III and IV

These parts of the original Zero Draft, addressing modalities and MoI, were taken up by Contact Group 2, co-facilitated by Katherine Lynch (Australia) and Oliver Boachie (Ghana). Delegates opened discussions on these elements on [Tuesday](#) and [Wednesday](#), based on the Zero Draft, and engaged in a validation exercise to ensure all views discussed and submitted had been included in the Co-Facilitators' compilation towards the revised Zero Draft on [Friday](#), [Saturday](#), and Sunday.

**Financing:** Delegates addressed the element related to finance, which contains, among others, options for the ILBI's financial mechanism, namely a newly established dedicated Fund (stand-alone fund), and a dedicated Fund within an existing financial arrangement. Some delegates expressed support for a stand-alone Fund as a matter of necessity. One group of countries indicated their support for a dedicated fund supported by public finance. Others supported both options, calling for a hybrid approach using both an

existing and new financial mechanism. Some others preferred the Global Environment Facility (GEF) as the financial mechanism.

**Capacity building, technical assistance and technology transfer:** Discussing this element, 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.” Delegates also discussed how to include references to developing country groupings. On technology transfer, they debated whether it should be provided on mutually agreed terms or on preferential terms. Some countries proposed the creation of a mechanism overseeing MoI.

**National plans:** On this element, delegates proposed alternative names, including, national action plans, national implementation plans, or regional plans. In their discussions, views diverged on the nature of these plans, 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.

**Implementation and compliance:** In their discussions on this element, some did not support a stand-alone provision on compliance, while others called to postpone this discussion and 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 options.

**Reporting on progress:** In their discussions on this element, countries exchanged views on a comprehensive or more streamlined draft 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.

Delegates held a joint discussion on the following elements, providing written submissions for inclusion into the revised Zero Draft: periodic assessment, monitoring, and effectiveness evaluation; international cooperation; information exchange; awareness raising, education, and research; and stakeholder engagement.

**Co-Facilitators’ Summary:** On Sunday, Co-Facilitator Boachie presented the [Co-Facilitators’ summary of discussions](#), reflecting both written submissions and the group’s discussions. He highlighted that a validation exercise had been undertaken on the compilation text to ensure that all submissions and non-text options were fully considered, but noted the group did not have time to endorse a Co-Facilitators’ proposal to merge and streamline the text.

IRAN suggested focusing on areas where there is common ground, rather than disputed topics, and called for flexibility so that INC-3 could be concluded in a positive manner. Uruguay, for GRULAC, urged not reopening discussions, and suggested incorporating the compilation text into the Zero Draft. CHINA stressed that the compilation text should clarify the source of finance for technology and capacity building.

The Group then reconvened to continue validating submissions. During the evening plenary, Co-Facilitator Boachie reported that the group had finalized a validation of the ten sections of the compiled text towards the revised Zero Draft, including full compilation, possible mergers, and streamlining of members’ submissions. Stating that the group had completed its work, he pointed to [Co-Facilitators’ full compilation of the revised zero draft text](#), as well as the [Co-Facilitators’ compilation of possible mergers for members’ proposals](#).

#### Parts V and VI

This part, included as a placeholder in the original Zero Draft, was addressed in the Synthesis Report, and taken up by Contact Group 3, co-facilitated by Danny Rahdiansyah (Indonesia) and Marine Collignon (France). As well as addressing Part I outlined above, this group was tasked with discussing the needs for intersessional work, as they pertain to all elements of the Zero Draft. Delegates initially considered these parts during the [preparatory meeting](#), and also on [Wednesday](#) and [Thursday](#), providing submissions towards the revised Zero Draft. On [Friday](#), [Saturday](#), and Sunday, delegates carried out a validation exercise, going through a compiled text to ensure their submissions on the elements addressed in the Synthesis Report were reflected, and also addressed the overall status of the Zero Draft, as well as intersessional work.

**Governing body:** Delegates were largely in favor of establishing a Conference of the Parties (COP) to serve as the governing body of the ILBI.

**Subsidiary bodies:** Delegations were also in favor of establishing one or more subsidiary bodies, including on: science and technical/technological matters; monitoring, review, and evaluation; implementation and compliance; and financial/socio-economic matters. Several delegations stressed the need for ensuring the inclusiveness and fairness of these bodies, guided by consensus, with due attention to geographical and gender balance, and the principle of common but differentiated responsibilities. One country proposed the creation of a clearinghouse to facilitate an effective exchange of information and support cooperation.

**Secretariat:** Delegations also expressed willingness to establish a secretariat, with calls for secretariat functions to be performed by the UNEP Executive Director until the COP convenes and decides on the location of the treaty secretariat.

**Final provisions:** In discussing this part, countries exchanged views based on a description of standard articles on final provisions provided by the Secretariat ([UNEP/PP/INC.1/8](#)) and the Synthesis Report. Several countries highlighted that these provisions should be negotiated after the substantive obligations of the treaty were agreed upon, with one delegation noting that the inclusion of a provision on reservations depends on the nature of the future treaty, and another stating that the necessity of final provisions depends on the content of the future treaty. Several delegations supported a legal drafting committee to draft the final provisions.

**Co-Facilitators’ Summary:** On Sunday, Contact Group 3 Co-Facilitators Rahdiansyah and Collignon presented the [Co-Facilitators’ summary of discussions](#), noting that a [compilation of written submissions on elements addressed in the Synthesis Report](#), as well as the [outcome regarding Part I, Part V and Part VI of the Zero Draft](#), had been circulated, following discussions on Saturday evening. The Co-Facilitators noted that, as far as definitions were concerned (Part I of the Zero Draft), the group agreed that a working document compiling all definitions proposed by members would be prepared by the Secretariat, and that members would be

invited to provide any further inputs on definitions for inclusion in this document. The Co-Facilitators referred to their proposal for intersessional work, which included proposals received from Contact Groups 1 and 2, noting that their proposal had not been discussed.

SAUDI ARABIA expressed support for the Co-Facilitators in Contact Group 3 to carry on with their work at INC-4, and requested clarification on the way forward for work in this group. KENYA indicated that his delegation's inputs into the compilation summary from Contact Group 3 had yet to be reflected.

INC Chair Meza-Cuadra then requested the group to reconvene to consider the status of the revised Zero Draft, and to complete discussions on intersessional work. The group's work on Sunday constituted the way forward for the meeting.

### ***Discussions on the Way Forward***

On Sunday evening in plenary, Contact Group 3 Co-Facilitator Rahdiansyah reported that the group agreed on a mandate for the preparation of a revised Zero Draft. He reported that the group agreed to request the Secretariat, by 31 December 2023, to compile, into a single "revised zero-draft text," the merged texts put forward by Contact Groups 1 and 2 and the outcome document of Contact Group 3, following the outline of the original Zero Draft text. When compiling the revised Zero Draft, the INC requested the Secretariat to standardize the formatting of the document, and to correct any clear typographical errors, without making any substantive changes to its contents.

He underlined that the revised Zero Draft will be the starting point and basis for textual negotiations at INC-4, without prejudice to the right of any member to propose additions, deletions, or modifications in the course of negotiations at INC-4.

On intersessional work, Co-Facilitator Rahdiansyah requested more time for the group to discuss the list of proposed elements for intersessional work. After extensive discussions, including in informal-informals, Co-Facilitator Rahdiansyah reported to the plenary that the group was unable to reach consensus. INC Chair Meza-Cuadra then closed discussions on this agenda item.

The US, supported by BRAZIL, requested to reopen the agenda item to enable further consultations with the aim of reaching agreement on intersessional work. The RUSSIAN FEDERATION, supported by SAUDI ARABIA, considered that all agenda items had been closed, and objected to re-opening this issue. He also pointed to rule 51 of the draft RoP (interpretation) and stated that plenary sessions should be interpreted into all official languages of the UN, highlighting that interpretation services had ended for the night. SAUDI ARABIA noted that although the group was "closer than ever," consensus had not been reached. Chair Meza-Cuadra noted that, considering some delegations did not support re-opening the item, he would not re-open it.

### ***Adoption of the Report and Closure of the Meeting***

On Sunday at 10:00 pm, delegates adopted the meeting report (UNEP/PP/INC.3/L.1). During the closing session, UNEP Executive Director Andersen commended delegations on their tremendous progress towards reaching agreement on a revised draft as a starting point for the next round of negotiations at INC-4, and for considering the full lifecycle of plastics in their discussions.

Ghana, for the AFRICAN GROUP, emphasized the need to continue discussions on, among others: waste streams of primary plastic polymers; chemicals and polymers of concern; problematic and avoidable plastic products; design and performance;

transparency; tracking; EPR; and finance. He indicated the region was looking forward to engaging in an open-ended working group before INC-4.

Samoa, for the ALLIANCE OF SMALL ISLAND STATES, reiterated their calls for an ambitious agreement, based on a comprehensive approach addressing the full lifecycle of plastics, and encompassing corresponding MoI, particularly for SIDS; and noted INC 3 demonstrated that ending plastic pollution can only be achieved together, noting there is still "much work to be done."

While noting that many areas will require further work, Palau, for PACIFIC SMALL ISLAND DEVELOPING STATES, lauded delegates for the constructive and enriching discussions at INC-3 and the significant progress made since INC-1, and noted support for the way forward on the basis of the merged proposals providing a starting point for textual negotiations at INC-4.

INC Executive Secretary Jyoti Mathur-Filipp congratulated members on the "incredible progress" they had made at INC-3, working through the Chair's Zero Draft, compilations of submissions on elements of the future treaty, preparing validated merged proposals, and agreeing on a starting point for negotiations at INC-4, expressing that the Nairobi spirit had been "in full force in the city," and delegations stayed on the path to achieve the ambition of completing negotiations by the end of 2024.

Chair Meza-Cuadra expressed that INC-3 had "reinvigorated the Nairobi spirit," and kept intact "our North Star," to end plastic pollution by addressing the entire lifecycle of plastics, which threatens both human health and the environment. Meza-Cuadra thanked delegations for their trust and collaboration, as he passed the baton to Luis Vayas Valdivieso, reaffirming his country's and his personal commitment to continue to contribute to the negotiation process, to deliver the "ambitious treaty that the world calls for." Reciting the words of Nelson Mandela, he concluded the meeting: "Sometimes it falls upon a generation to be great. You can be that generation. Let your greatness blossom."

He gavelled the meeting to a close at 11:01 pm.

### **A Brief Analysis of INC-3**

Entering the third meeting of the Intergovernmental Negotiating Committee (INC-3), delegates knew their goal was to make progress on a new international legally binding instrument (ILBI) on plastic pollution, including in the marine environment. At the beginning of this process, there was general agreement to use the scope provided by United Nations Environment Assembly (UNEA) resolution 5/14, adopted in 2022, as the "North Star" for all participants, providing the guidance for the INC towards advancing the ILBI, which could include both binding and voluntary approaches, based on a comprehensive approach to address the full lifecycle of plastics. But, as INC-3 demonstrated, not everybody was on the same page as to how they would reach their destination.

This brief analysis examines where things stand at the halfway point, how delegates decided to address intersessional work, and progress in defining the scope of the ILBI. It will also look ahead to some of the discussions on the horizon, including trade.

### ***Déjà-vu***

Before INC-3 even began and continuing into the first days of the meeting, there was still disagreement about what the basis of negotiations would be. INC Chair Gustavo Meza-Cuadra (Peru) prepared a Zero Draft on the basis of the options for potential elements of the future treaty discussed at INC-2 in Paris, France,

and the Secretariat distributed a Synthesis Report on the submissions received on elements not discussed at either INC-1 or INC-2, such as the principles and scope of the instrument. The Chair's intention was that these documents—together with the views shared at a preparatory meeting held two days before the start of INC-3—would potentially constitute the basis for negotiations.

The Zero Draft was ambitious. It distilled the main positions on issues to be regulated in a succinct and clear manner. For example, on regulating single-use plastics, the draft included one option for a phase-out towards a timebound ban, and another, less strict option for an open timeline towards a ban, including through nationally determined actions.

But this was not enough for some countries. They saw the Zero Draft as an unbalanced text, specifically calling for options for no text to be indicated in the draft under relevant provisions, in order to reflect their position of not wanting any kind of regulation for certain issues. In essence, some delegations saw the Zero Draft as too far reaching. For instance, in their general statement, countries belonging to the Gulf Cooperation Council clearly called to exclude plastic polymers from the Zero Draft, while others, more subtly, pointed only to downstream waste management issues. It took some work by the INC Chair to convince these delegations that their views would be included, to allow for the contact groups to begin work.

On Tuesday, one day after originally planned, the Committee was able to establish the three contact groups tasked with moving things forward: one group to work on technical and regulatory matters; the second on the means of implementation; and the third, on those issues related to the Synthesis Report, which included the preamble, definitions, scope, principles, institutional arrangements, and final provisions. Delegations trusted that their views during INC-3 would be captured on an “even footing,” which effectively meant listing them all in a single document, ballooning the original text from 31 pages to approximately 112.

It may be important to recall that the reason states requested the Secretariat to prepare a Synthesis Report to be considered during a preparatory meeting at INC-2 was because many did not feel that their views had been adequately reflected in the Options Paper addressed at INC-2. So, when some delegations did not see their interventions and submissions in the draft prepared by the contact group co-facilitators, many were reminded about the difficulties experienced during INC-2. The “Ghost of Paris” began to haunt the “Spirit of Nairobi.”

In the end, no single draft was achieved as an outcome of this meeting. As agreed during the extended negotiations on the last day, INC-4 will have before it a revised Zero Draft, comprised of the co-facilitators' full compilations of discussions and submissions from INC-3, as well as the contact group's outcomes regarding the preamble, definitions, principles, scope, means of implementation, and final provisions.

### ***Meeting Between Meetings***

To achieve the goal of adopting the ILBI by the end of 2024, the envisioned five INC meetings may not be enough. Past negotiations of multilateral environmental agreements have shown that the time allocated to these meetings is not always sufficient. As a result, negotiations such as these typically require some kind of intersessional work to refine certain proposals and/or provide guidance to negotiators. For example, some delegations highlighted the need to have information on the quantities of plastics being

produced, or about waste management facilities, to have a better understanding of the realities on the ground that may be subject to regulation.

The Committee agreed at INC-2 to conduct intersessional work on technical and scientific issues and on finance and means of implementation issues between INC-3 and INC-4. But at INC-3 there no longer seemed to be agreement on this plan. Some delegations welcomed the intersessional work, noting this would help the negotiations and build a better understanding among delegations. Others voiced concerns that even opening a discussion on certain topics during the intersessional period might prejudice future decisions by the Committee.

After rushed meetings in informal settings, aimed at bridging disagreement on a draft resolution on intersessional work, proved unsuccessful, INC-3 closed without any decision on intersessional work ahead of INC-4. This means delegates may have to navigate some difficult terrain ahead, a cause for dismay for many who were hoping to resolve these issues prior to INC-4. Some countries remained steadfast in their desire to reach agreement, pleading with Chair at the 11th hour to reopen the agenda item and continue discussions, leading one exhausted delegate to exclaim, “We understand that reopening items is something not very usual, but... it's always good to try and do something unusual when we have the hope to achieve something positive.”

### ***Tuko Pamoja? (Are We Together?)***

UNEA resolution 5/14 may provide the “North Star,” but the end is still not in sight. How ambitious will the ILBI be and what kind of regulatory strength will it have? So far, the work of the INC has illustrated two distinct sets of preferences from delegations: the ones who want to limit the ILBI to what is contained in the UNEA resolution, and those who want to add ambition.

There are two important things shaping ambition. One relates to defining the lifecycle of plastics, and if measures will begin far upstream, midstream, or downstream. The second relates to the type of obligations the treaty will have.

For example, if the ILBI has provisions related to the production of plastics but their regulation is not through a global mandate, and instead relies on voluntary commitments—like the Paris Agreement on climate change—it would be an ambitious treaty in scope, but not necessarily in strength. It could also be very narrow in scope and address only downstream issues, such as waste management, but have strong command-and-control measures for all its parties. This would be a less ambitious treaty, that could—depending on many different factors, including to what extent it is universal in membership—be more effective in implementing its provisions.

At this point in the INC process, there is still no clarity on any of the basic characteristics of the instrument. Perhaps because the subject of plastics extends from fossil fuel extraction, through product design, consumption, and into transboundary waste management, the working modality applied through the INC process appears to be deductive: putting all possibilities on the table first and narrowing them down, as the necessary compromises and “red lines” begin to emerge. It is a time-consuming exercise to be sure, but—as many in this meeting stressed—necessary to do when participants have not yet developed trust in the process.

### ***Can We Talk About Trade?***

The ILBI's effectiveness, of course, does not only depend on the agreed legal provisions. There are several factors that can influence its future implementation that also must be discussed.



Finance provided to developing countries, the building of necessary professional and institutional capacities, and facilitating access and transfer to relevant technologies is essential. This is even more important if everyone acknowledges that the ILBI seeks to tackle a global issue and can only be effective if everyone is on board. For example, if the ILBI is supposed to curb the production of single-use plastics, no regulation will be effective if a group of countries limits production, while another continues—and even increases—it. This would just move the origin of a problem that affects health and the environment, to just another part of the world.

This is where the issue of trade comes into the picture. Some have argued what is being negotiated is a trade agreement, because of the nature of plastics and their clear relevance to international commerce. The Zero Draft included provisions on trade in listed chemicals, polymers and products, in plastic waste, as well as on the transboundary movement of plastic waste. In this sense, it may be very ambitious, seeking to limit the import and export of certain regulated products, as well as providing necessary guidance on how to deal with non-parties to the agreement.

On trade, one thing was stated clearly by almost all delegations: avoid duplication. In other words, many delegations prefer that the ILBI will not move beyond World Trade Organization (WTO) rules. However, in this respect, some delegations have drawn attention to the possibility for exceptions within the WTO framework for trade-related measures that pertain to protecting “human, animal or plant life or health,” as well as the “conservation of exhaustible natural resources” (Article XX of the General Agreement on Tariffs and Trade (GATT)). As far as the transboundary movement of plastic waste is concerned, delegations largely called to utilize—rather than duplicate—existing provisions under the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal.

At this point, the path states will choose to take on issues related to trade remains to be seen. But with calls to delete the element addressing trade from some quarters growing louder, the path ahead may be thorny.

### *A Lo Hecho, Pecho (What's Done is Done)*

“The way forward” is an often-heard phrase in intergovernmental negotiations, and in Nairobi, many delegates have repeated this countless times, hinting towards a need for more clarity. Unlike March 2022, when the UNEA resolution was decided, the “Spirit of Nairobi” did not always prevail and provide the necessary way forward. Perhaps being able to come to agreement from a place of disagreement is the whole point of negotiations. But this meeting did have outcomes that chart a way forward, such as the compiled submissions towards a revised Zero Draft text, and the dates and locations of future meetings.

No one expected that negotiating a plastics treaty was going to be an easy task. The next session will have a new Chair presiding over the Committee, who has to roll with many challenges left to him and his team. Incoming INC Chair Luis Vayas shared a quote after his election, calling on participants to “never lose hope when working with environmental issues.” A fitting thought, optimistically reminding everyone that it is hope—the hope that we have a hand in ending plastic pollution all over the world—that got us here in the first place.

## Upcoming Meetings

**2023 UN Climate Change Conference:** The Conference comprises: the 28th meeting of the Conference of the Parties (COP 28) to the UN Framework Convention on Climate Change (UNFCCC); the fifth meeting of the COP serving as the Meeting of the Parties (MOP) to the Paris Agreement (CMA 5); the 18th meeting of the COP serving as the MOP to the Kyoto Protocol (CMP 18); and the 59th meetings of the Subsidiary Body for Implementation and Subsidiary Body for Scientific and Technological Advice. Among other things, COP 28 will conclude the first Global Stocktake of the implementation of the Paris Agreement. **dates:** 30 November – 12 December 2023 **location:** Dubai, United Arab Emirates **www:** [unfccc.int/cop28](https://unfccc.int/cop28)

**Barcelona Convention COP 23:** The Barcelona Convention has the main objectives the control of marine pollution, the sustainable management of seas and coasts, the integration of environmental issues into social and economic development, and the protection of natural and cultural heritage in the Mediterranean Sea. **dates:** 4-8 December 2023 **location:** Portoroz, Slovenia **www:** [unep.org/unepmap/meetings/COP23-Portoroz](https://unep.org/unepmap/meetings/COP23-Portoroz)

**OEWG-2 on a Science-Policy Panel to Contribute Further to the Sound Management of Chemicals and Waste and to Prevent Pollution:** The second session of the Open-ended Working Group will continue the group’s work to prepare proposals for the science-policy panel. **dates:** 11-15 December 2023 **location:** Nairobi, Kenya **www:** [unep.org/events/conference/oewg-2-science-policy-panel-contribute-further-sound-management-chemicals-and](https://unep.org/events/conference/oewg-2-science-policy-panel-contribute-further-sound-management-chemicals-and)

**Sixth meeting of the UN Environment Assembly (UNEA 6):** UNEA 6 convenes under the theme “Effective, inclusive and sustainable multilateral actions to tackle climate change, biodiversity loss, and pollution.” The Assembly will hear a progress report from the INC on plastic pollution. It will be preceded by the sixth meeting of the Open-ended Committee of Permanent Representatives, which will take place from 19-23 February 2024. **dates:** 26 February –1 March 2024 **location:** Nairobi, Kenya **www:** [unep.org/environmentassembly/unea6](https://unep.org/environmentassembly/unea6)

**Plastics Treaty INC 4:** Under its mandate from UNEA, the INC is scheduled to continue negotiations on a treaty on plastics pollution. **dates:** 21-30 April 2024 **location:** Ottawa, Canada **www:** [unep.org/inc-plastic-pollution/session-4](https://unep.org/inc-plastic-pollution/session-4)

For additional meetings, see [sdg.iisd.org](https://sdg.iisd.org)

## Glossary

ALDFG	Abandoned, Lost, or otherwise Discarded Fishing Gear
AHEG	Ad Hoc Expert Group
EPR	Extended producer responsibility
GRULAC	Latin American and Caribbean Group
ILBI	International legally binding instrument
IMO	International Maritime Organization
INC	Intergovernmental Negotiating Committee
MoI	Means of implementation
SIDS	Small island developing states
UNEA	United Nations Environment Assembly
UNEP	United Nations Environment Programme
WTO	World Trade Organization