

Plastic Pollution INC-4 Highlights: Thursday, 25 April 2024

Delegates reconvened at the fourth session of the Intergovernmental Negotiating Committee (INC-4) to develop an international legally binding instrument (ILBI) on plastic pollution, including in the marine environment. Basing their discussions on the Revised Draft Text of the ILBI ([UNEP/PP/INC.4/3](#)) as well as new versions of streamlined texts, they worked throughout the day and into the evening engaging in discussions on both technical matters and implementation measures needed for a robust instrument.

Contact Group 1

Subgroup 1.2, co-facilitated by Maria Angélica Ikeda (Brazil) and Erlend Draget (Norway), opened discussions on the provisions addressing product design, composition and performance (Part II.5) and non-plastic substitutes (Part II.6).

On **product design and performance**, many delegations supported the ILBI including measures to enhance the design of plastic products, with some countries preferring legally binding provisions, in line with a set of minimum product design criteria set out in an annex. Others urged for clarity about implementation measures before agreeing on issues dependent on the availability of relevant technology. Some suggested setting nationally determined targets and timeframes.

On **reduce, reuse, recycling, refill, and repair of plastics and circularity approaches for plastic products**, some suggested considering a waste hierarchy as a cross-cutting priority and establishing provisions that enable the creation of reuse systems. Others opposed uniform targets, since countries significantly differ in their levels of waste management capacity. On the **use of recycled plastic contents**, many suggested considering these under discussions on waste management.

On **alternative plastics and plastic products**, many urged that these be exempted from differentiated regulations, since they are also plastics.

On **non-plastic substitutes**, many delegates emphasized that it is essential to ensure safe, environmentally sound, and sustainable substitutes, avoiding substitutes that have regrettable impacts of an environmental, economic, social, cultural, or human health nature. Many underscored that substitutes must be subject to a lifecycle assessment, encompassing environmental, economic, social, cultural, and human health aspects. Some suggested global criteria for substitutes. One delegate proposed establishing a working group on the lifecycle approach after the adoption of the ILBI, and others called for intersessional work. One delegation stated that technologies and services that promote reuse and refill models should be considered among non-plastic substitutes, and a few delegates underscored the importance of adequate MoI, including technology transfer and financial resources.

Many underlined that efforts on substitutes be based upon the best available science, and dialogue with traditional, Indigenous and local knowledge systems and practices. One delegate opposed a provision addressing non-plastic substitutes, stating that this goes beyond the ILBI's mandate. Discussions continued into the evening, addressing provisions on dedicated programmes of work (Part II.4bis), primary plastic polymers (Part II.1), chemicals and polymers of concern (Part II.2), problematic and avoidable plastic products (Part II.3), and exemptions (Part II.4).

Subgroup 1.3, co-facilitated by Andrés Duque Solís (Colombia) and Abdulrahman bin Ali Alshehri (Saudi Arabia), opened discussions on the provisions addressing extended producer responsibility (Part II.7) and emissions and releases of plastic throughout its life cycle (Part II.8).

On **extended producer responsibility (EPR)**, many supported a voluntary EPR scheme, with some calling for an EPR scheme with efficient and effective traceability and accountability mechanisms and international cooperation in the implementation of EPR schemes. Most countries stressed the need to consider the national circumstances and capabilities of parties, calling for guidelines developed by the governing body of the ILBI. Some countries called for global EPR schemes, others for voluntary guidelines included in an annex, while a few stated their preference on deleting provisions on EPR.

Some countries suggested moving the provisions on EPR schemes to the provisions related to waste management. Others warned about the consequences of EPR schemes on the economy and food security of developing countries, as well as on trade. Many urged to consider a just transition, particularly highlighting the role of waste pickers.

On **emissions and releases** of plastic throughout its lifecycle, many supported mandating all parties to take measures, with several highlighting that the measures should take into account national circumstances and capacities and/or be nationally determined. Some delegates preferred a provision for voluntary nationally determined measures, in accordance with national circumstances, capabilities, and environmental regulations, with some proposing that these be enumerated in national plans.

Many supported including sources across the entire plastic lifecycle, from extraction/production, to use and waste, with some calling specifically to include raw materials, polymers, chemicals of concern, pellets, microplastics (intentionally and unintentionally released), and plastic alternatives; as well as production facilities and transportation. Other delegations preferred that the provision be limited to leakages and releases of plastic products and waste, proposing to relocate the provision to the article dealing with waste management. Many delegates emphasized that all aspects of the environment should be addressed by the provision, with some also including the “human body” and “workplaces” as part of the environment.

Some supported linkages to discussions on periodic assessment and monitoring (Part IV.4), and several emphasized the need for means of implementation (MoI). Some called to avoid duplication with other international organizations and frameworks.

Contact Group 2

Subgroup 2.1, co-facilitated by Naomi Namara Karekaho (Uganda) and Antonio Miguel Luís (Portugal), opened discussions on the nature, functions, and governance of the financial mechanism (Part III.4), including whether to establish an executive committee, details on its eligibility criteria, as well as specification of initial resource mobilization (Part III.1-3).

Several delegates underscored that the **financial mechanism** should remain flexible without delving into eligibility criteria until the details of the treaty are agreed. Views diverged on whether the Global Environment Facility (GEF) should serve as the instrument's financial mechanism, with many delegations strongly preferring a stand-alone mechanism, modeled after the Multilateral Fund of the Montreal Protocol. Those in support of

the GEF as the financial mechanism underscored the tremendous cost of operationalizing a stand-alone mechanism and pointing to the fact that the GEF is already addressing pollution-related issues. One delegation reminded the group that the GEF bases its disbursements on gross domestic product (GDP) *per capita*, which leaves small island developing states (SIDS) and least developed countries (LDCs) at a loss for much needed implementation funding.

On **resource mobilization**, some delegations emphasized that contributions to any funds for treaty implementation should be made on a voluntary basis. Others did not support the inclusion of any language on this, at this stage. Commenting on a possible provision calling also for private sector financing, one delegation underlined that this has not worked under any other Multilateral Environmental Agreement (MEA) and underscored that this treaty will require guaranteed sources of funding to ensure effective implementation.

Several delegations called to streamline the text to make clear distinctions between the sources of funds and how to mobilize them, including at the domestic level. Many delegations strongly emphasized that calls for domestic resource mobilization detract from the requisite international support and cooperation. Others emphasized that a wide variety of public and private financing options across both domestic and international spheres is required to implement a robust and ambitious instrument with some calling to include a reference to the polluter pays principle. Several others called to delete the text altogether, noting that different countries are already mobilizing finances domestically, and that national budgets are nationally determined and should not be subject to international scrutiny.

Several delegations supported text calling for developed countries to provide new and additional financial resources to enable developing countries to meet the agreed full incremental costs of treaty implementation, with many highlighting the need for adequate, predictable, and timely flows of funds. Others called for further discussions on this issue, with some hesitant to include the “bifurcated language” relating to developing-developed countries, and others stressing the need to expand the list of donors. Some noted that both developing and developed countries produce plastic pollution and should thus contribute to meeting the costs of implementation.

The Co-Facilitators, working with the Secretariat, noted that they would further streamline the text, based on the subgroup discussions.

Subgroup 2.2, co-facilitated by Marine Collignon (France) and Danny Rahdiansyah (Indonesia), opened discussions on reporting progress (Part IV.3), periodic assessment and monitoring of progress (Part IV.4), international cooperation (Part IV.5), and information exchange (Part IV.6).

On **reporting**, several delegates stressed, *inter alia*: the importance of a common reporting framework; the importance of differentiated monitoring and reporting timelines between developed and developing countries; and linking reporting to national action/implementation plans and assessment and monitoring frameworks. Several delegations strongly supported reporting obligations for all parties to ensure transparency and accountability, with some underscoring the importance of information exchange with Indigenous Peoples, local knowledge systems, subject to free, prior, and informed consent.

Arguing that information disclosure could be used to the detriment of governments and in contravention of industry confidentiality, one delegate, supported by two others, raised concerns on publishing national reports, particularly regarding statistical data on types and volume of plastic production, imports and exports of plastic polymers and products, numerical information on production and consumption, and leakage along the value chain.

On **periodic assessment and monitoring**, delegates discussed provisions on assessment and monitoring as well as effectiveness evaluation/progress assessment, and review of chemicals and polymers of concern.

On **assessment and monitoring**, one delegation opined that monitoring was not part of UNEA resolution 5/14. Another delegation called for relevant capacity building for developing countries. Some noted that this provision should be considered under compliance, with one other noting its links to product

design discussions in Part II. One delegation pointed to existing assessment and monitoring measures, including under the Global Partnership on Marine Litter. A number of delegations supported the establishment of a subsidiary body addressing assessment and monitoring.

Several called for the governing body, at its first session, to adopt language on **effectiveness evaluation**, including establishing an effectiveness evaluation committee. Some others called for such effectiveness evaluations (and assessments) to be carried out every four years, in line with the Montreal Protocol, with another preferring a six-year evaluation cycle.

Delegates also considered a provision on **review of chemicals and polymers of concern**, with views diverging on whether these reviews were necessary. Some opposed this provision, noting that this issue is covered under the BRS Conventions. A number of delegations supported merging this section with other relevant sections under Part II.

On **international cooperation**, delegates discussed, among others: the needs-based nature of cooperation arrangements, including South-South, North-South, triangular, or bilateral cooperation; ensuring that cooperation does not overburden developing country parties; and avoiding duplication among other relevant international instruments. One delegation suggested deleting text that provides specific language, including on monitoring obligations.

On **information exchange**, delegates proposed, *inter alia*: deleting specific examples of information exchange, such as on green chemistry; maintaining the focus on “information exchange” rather than “transparency”; underscoring knowledge exchange with Indigenous Peoples, local knowledge systems, and the knowledge of workers in the informal plastic sector, including waste pickers; voluntary and mutually agreed terms for exchange, and establishing a clearing house mechanism after the adoption of the ILBI. Some delegations suggested merging discussions on information exchange with awareness raising (Part IV.7).

In the Corridors

On Thursday, delegates were preoccupied with seemingly simple provisions which may have monumental effects. Extended Producer Responsibility (EPR) operates in the spirit of the polluter-pays principle, in which a producer’s responsibility is extended to the post-consumer stage of a product’s life cycle. This means that responsibility for tackling pollution would begin upstream at the production stage and may involve incentives to encourage producers to sustainably design plastic products by eliminating harmful polymers. While EPR is a fundamental and ambitious strategy for addressing plastic pollution, the concept remains contentious among delegations at the INC, partly due to the interests of those plastic producers present in these negotiations. Some observers from civil society have drawn attention to the growing number of participants from the fossil fuel and chemicals industry at these negotiations. Much as this seems like a worrying trend, one seasoned participant noted that the practice of lobbying is not new in intergovernmental processes, raising the question: “aren’t government representatives from oil producing countries also lobbyists for their own national interests?”

Although EPR schemes are intended to hold producers accountable for the proliferation of plastics and go beyond downstream approaches to plastic waste clean-ups, some delegates have raised concerns about the risk of such schemes in exacerbating economic inequalities and food insecurity in developing countries, or being implemented in a manner that merely offloads the costs of sustainable product designs onto consumers. And yet, this does not mean that all countries must continue to depend on plastic for development. Some developing country delegations even volunteered to share their knowledge on non-plastic substitutes, which have been utilized by Indigenous Peoples and local communities for generations.

Some observers took it a step further, wondering why discussions on the investor-state dispute settlement (ISDS) system have been absent in the negotiations thus far. This system gives the transnational private sector the power to bypass domestic legislation and sue governments for actions that could jeopardize industries’ bottom line. It remains to be seen if the elephants in the room will emerge in time to support a robust and effective plastics treaty.