

Plastic Pollution INC-4 Highlights: Saturday, 27 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 streamlined parts of the Revised Draft Text of the ILBI ([UNEP/PP/INC.4/3](#)), they worked throughout the day and into the evening to consider both the technical aspects and implementation measures that will be required to operationalize a new treaty.

Contact Group 1

Subgroup 1.1, co-facilitated by Sara Elkhoully (Egypt) and Julius Piercy (UK), considered the Co-Facilitators' second streamlined text on the objective, scope, and just transition. They were unable to validate the Co-Facilitators' text on the objective, deciding to base further discussion on the Co-Chairs' initial streamlined text on this issue. On **scope** (Part I.4) and **just transition** (Part II.12), they made technical edits before validating the texts. The Subgroup then proceeded to textual negotiations, beginning with the objective, having agreed to negotiate the preamble at a later stage. On the **objective** (Part I.2), many delegations supported indicating the instrument's objective to end plastic pollution, with some adding "including in the marine environment"; and to protect human health and the environment. Some wanted an approach based on the "full lifecycle of plastic," while others preferred the "lifecycle of plastic waste." Some delegates indicated their preference not to have a time-bound target in the objectives, with one noting this could be included in the preamble.

Subgroup 1.2, co-facilitated by Maria Angélica Ikeda (Brazil) and Erlend Draget (Norway), opened discussions on the provisions addressing micro- and nanoplastics (Part II.3bis), exemptions available to a Party upon request (Part II.4), and trade in listed chemicals, polymers, and products (Part II.10a).

On **micro- and nanoplastics**, the proponent of the placeholder for this part, presented their submission, which included: taking effective measures to promote research on leakage of micro- and nanoplastics; promoting transparency and reducing emissions of intentional and unintentional releases; establishing regional centers for monitoring and reporting; and the role of a dedicated fund to provide resources to promote research on micro- and nanoplastics. While delegations welcomed the text, they said they would need time to review it. Some said a standalone provision would not be needed, as this issue is covered under other provisions.

On **exemptions available to a party upon request**, most countries agreed that the contents of this provision depend upon decisions on the substantive obligations of the ILBI. Other countries were against having any provisions on exemptions, with some stating that these cannot be applied without a common understanding on overarching provisions, including the definition of avoidable and problematic plastics. Some countries urged including language that exemptions cannot be applied to hazardous chemicals.

On **trade in listed chemicals, polymers and products**, several delegates, including two regional groups, supported global/harmonized rules prohibiting the export/import of chemicals, polymers, and microplastics controlled by the future instrument, except where permitted under the instrument and when the prior informed consent of the importing state is ensured. Some requested to include products that do not meet product design standards. Some favored applying the trade measures to non-parties. Supporting the measures, two regional groups of developing countries called for research, and adequate transition periods to ensure substitutes are available so as not to negatively impact economies reliant on imports. One regional group of developing countries supported trade measures to prevent illegal dumping, including hazardous waste, noting that existing multilateral environmental agreements (MEAs) have not succeeded in stemming those practices.

Some other delegations considered that the trade measures being discussed would have economic and trade implications going beyond World Trade Organization (WTO) rules, with some expressing concern that they would be used for discriminatory and/or protectionist purposes. One delegate presented a proposal providing that measures of the instrument shall be in accordance with WTO legal standards. Some delegations, including a regional group, called for non-prescriptive provisions and national measures in accordance with WTO law, with some underscoring that the ILBI should not hinder the economic growth of developing countries or disrupt global supply chains.

Several delegations noted that it is premature to discuss these provisions, requesting to return to them once negotiations have been progressed on the relevant interrelated provisions. Many delegations underscored the importance of non-duplication and complementarity with the work of the WTO, BRS Conventions, and UN Trade and Development (UNCTAD), with some noting that the ILBI can cover gaps in existing processes and MEAs.

On **transparency, tracking, monitoring, and labelling**, many delegations highlighted the value of having information on the components in plastic products in order to reduce the potential impact of harmful substances on health and the environment. Some said that these provisions should avoid duplication with existing instruments, with one delegation noting that this provision is not needed since transparency requirements for plastics would already be covered by the Plastics Industry Association standards. One delegation requested the Secretariat to provide information on possible overlaps of the current text with other existing instruments.

Subgroup 1.3, co-facilitated by Andrés Duque Solís (Colombia) and Abdulrahman bin Ali Alshehri (Saudi Arabia), addressed provisions on **fishing gear** contained in various parts of the Revised Draft text. The Co-Facilitators presented a streamlined text which noted different views on placement and scope: no provision on fishing gear; no provision on fishing gear and instead creating a sectoral programme among dedicated programmes of work (Part II.4.bis); no provision on fishing gear and instead addressing this issue in other relevant provisions of the ILBI; a stand-alone provision; elements on fishing gear considered under emissions and releases (Part II.8); and elements on fishing gear

considered under waste management (Part II.9). The group agreed with the Co-Facilitators' proposal and began textual negotiations.

Some noted that options available on the market are not viable for many developing countries, so they urged to address this matter under waste management. Others preferred a no-text option.

Delegations proposed additional language in the overarching obligation: addressing "lost and damaged" fishing gear; calls to "reduce and eliminate" fishing gear composed of plastic from becoming abandoned, lost, or otherwise discarded; and to "tackle pollution" arising from lost or damaged fishing gear.

Contact Group 2

Subgroup 2.1, co-facilitated by Naomi Namara Karekaho (Uganda) and Antonio Miguel Luis (Portugal), continued to discuss financing (Part III.1), and opened discussions on capacity building, technical assistance and technology transfer (Part III.2).

On **financing**, the group considered provisions calling for a (global) plastic pollution fee, to be paid by plastic polymer producers. Most delegations noted that this issue should be addressed under extended producer responsibility (EPR) provisions under Part II, with several noting that there are other ways to operationalize the polluter pays principle. Some stated that a plastic pollution fee would not be required, underlining that there are different ways to capture these revenues, including policy measures and finance flows, and encouraging an enabling environment. Others underlined that the levying of fees was a sovereign issue, calling for the deletion of the provision altogether.

Some were open to discussions on text calling to compel EPR schemes to provide technology for processing and recovery of plastic products. Other delegations also called to streamline aspects of this provision with that on technology transfer. One regional group, and a few countries, requested retaining the language on the plastic pollution fee for further discussion at a later date.

While some were supportive of text calling for parties to take measures like phasing out financial flows from all sources towards activities which result in emissions and releases, others stated that it was overly prescriptive, with some preferring a no-text option. A number preferred text encouraging parties to increase these flows from all sources, to prevent or reduce plastic(s) emissions and releases. Many supported linking this provision to earlier text on financial flows, with one proposing new text in this regard.

Others were in favor of intersessional work on these issues as part of wider discussions on financing. The Co-Facilitators noted that they would streamline the text for further discussions.

On **capacity building, technical assistance and technology transfer**, delegations raised, *inter alia*, the need for stronger language on this provision, with preference on including "scientific cooperation" in the title; the need for long-term and sustainable capacity building for a just transition, and building capacity according to national circumstances and conditions, underscoring the importance of vulnerable regions and groups, including women, Indigenous Peoples, informal waste pickers, and local communities. Several underlined that technology transfer should not be on mutually agreed terms. Another delegation, supported by others, stressed that capacity building should be responsive to national needs, foster ownership at the national, subnational, and local levels, and avoid bifurcated obligations between developed and developing countries. They supported South-South cooperation and capacity building and technology transfer between all countries; stating that it is also countries' responsibility to solve pollution on their own, based on voluntary and mutually agreed terms, and removing reference to financial assistance as it is already mentioned under financing. One delegation stressed including an additional paragraph that distinguishes capacity building from technology transfer, with details added on research development and innovation.

Subgroup 2.2, co-facilitated by Marine Collignon (France) and Danny Rahdiansyah (Indonesia), met to finalize discussions on Part V and Part VI.

In their discussions on the **subsidiary body** (Part V.3), one delegate expressed interest in the establishment of a clearing house

mechanism on the exchange of information, support for technical panels to share relevant knowledge of Indigenous Peoples and local communities in relation to free, prior, and informed consent. Another delegate stressed, and supported by many others, the importance of a scientific, technical, and socio-economic subsidiary body and another for implementation and compliance but noted that the proliferation of multiple subsidiary bodies should be avoided. Another delegate, supported by others, urged that all decisions on subsidiary bodies rest with the governing body at its first conference of the parties (COP).

On the **secretariat** (V.3), one delegation suggested including both health and environment elements in the treaty, suggesting the World Health Organization (WHO) and UNEP jointly forming the secretariat, with another delegate stating this is premature.

On **final provisions** (Part VI), Co-Facilitator Collignon detailed that these are a standard procedure included in multilateral treaties. Delegates discussed, among others, signature, ratification, approval, succession, article withdrawal, amendments, status of annexes, entry into force, and settlement of disputes. Co-Facilitator Collignon requested delegates to discuss key concepts to include in the final provisions and to develop basic text to forward to the legal drafting group for the treaty. Many delegates noted that it is premature to conduct this work, calling instead to devote time to other parts of the Text. One delegate requested the Co-Facilitators to provide delegates with a non-paper on the issue, with another, supported by others, stating that final provisions will depend on the structure of the instrument, including the design of the obligations and appropriate processes for revision, including of the annexes. The Co-Facilitators agreed to provide a first draft on final provisions based on standard provisions within other MEAs, for discussion at INC-5.

Validation of streamlined text: Co-Facilitator Collignon noted that time will be given to discuss text to be streamlined in order to enter textual negotiations with adequate information. Delegates requested clarification on whether text would be deleted or bracketed, with some saying that if any disagreement exists on text, it should simply be bracketed. Upon clarification, they were able to validate the Co-Facilitators' text on **national action/implementation plans**, proceeding with technical edits before validating the text. Discussions continued into the evening.

In the Corridors

As the energy waned in the halls of the Shaw Center in Ottawa, delegates slogged through the Revised Zero Draft to make headway on narrowing down the options, thereby streamlining the text.

Spending a considerable amount of time during the day addressing issues of finance, the testy discussion about breaking the traditional approach to financing, that developed countries should pay, has reared its head over the past few days. If all countries are responsible for plastic pollution in the environment, all countries pay to clean it up, correct? And what about historical responsibility? Should we compel the plastics industry to pay for plastic waste generated further down the plastics value chain? Delegations grappled with these questions, as one delegate reminded others that to effectively implement the new treaty, every cent, from every source, will count.

In the corridors, and behind closed doors, many participants were involved in fevered conversations about the status of the Draft and the nature and magnitude of intersessional work ahead. "They've spent so much time streamlining the text that we really may not get to the heart of the textual negotiations at this meeting," lamented one worried observer. One participant said that "at this stage, we don't know if we are taking one step forward and two steps back, or two steps forward and one step back." On intersessional work, one delegate was overheard saying, "this cannot be a repeat of Nairobi... the earlier we hear what is planned, the sooner we can agree." One seasoned delegate, commenting on the sheer volume of work remaining, wondered if INC-4 would benefit from "one additional day of negotiations." A plenary scheduled for Sunday may give additional guidance.