

Plastic Pollution INC-5 Highlights: Tuesday, 26 November 2024

Delegates reconvened on the second day of the fifth session of the Intergovernmental Negotiating Committee (INC-5) to develop an international legally binding instrument (ILBI) on plastic pollution, including in the marine environment. They met in two contact groups during the day, and two others in an evening session, engaging in an article-by-article based discussion related to the preparation of the new ILBI and, in some cases, initiated textual negotiations. They based their discussion on the Chair's [Non-Paper](#), while also drawing from the compilation of draft text of the ILBI on plastic pollution, including in the marine environment ([UNEP/PP/INC.5/4](#)).

Contact Group 1

Co-chaired by Maria Angélica Ikeda (Brazil) and Axel Borchmann (Germany), this group met in the evening, having held informal consultations during the day. The group was mandated to consider plastic products, chemicals of concern in plastic products, product design, and production/supply and related aspects. They were also tasked to address exemptions, emissions and releases, and definitions, based on text in the Non-Paper. They began deliberations by explaining their working modalities. The Co-Chairs explained they would have two rounds of negotiations for each part, after which the proposals would be forwarded to the plenary, and then to the legal drafting group. They said that if the proposals resulted in too many brackets, they would either ask delegations to propose a solution, or, if given the mandate by the group, the Co-Chairs would present a compromise text.

The group began deliberations on **plastic product design** (draft article 5), with most delegations sharing the view that this element is key to the ILBI, and many proposing to strengthen the language to ensure it is legally binding. One delegation urged to guide this provision through national policies, calling for a balance between national policies and other principles of international law.

Contact Group 2

Following Monday evening's session, in which delegates completed a first reading of Non-Paper provisions on emissions and releases and plastic waste management, the group, co-chaired by Oliver Boachie (Ghana) and Tuulia Toikka (Finland), met in the morning and afternoon to complete a first reading of provisions on existing plastic pollution and just transition, and embark on textual negotiations.

On **existing plastic pollution** (draft article 9), a few delegates proposed renaming the article to "legacy plastic waste." Many delegates supported a provision to identify, evaluate, and prioritize locations or zones most affected by existing plastic pollution, and take mitigation and remediation measures. Divergence ensued on whether this provision should be legally binding or voluntary, as well as on whether it should address national measures and/or require/encourage cooperation among parties. Some delegations preferred a legally-binding provision including both national measures and cooperation, while others stressed that the scope of the provision be limited to voluntary national measures. Others favored the provision encouraging parties to cooperate, on a voluntary basis, in accordance with the principle of common but differentiated responsibilities (CBDR).

Delegates proposed additions to strengthen and expand the scope of the provision, including: adding wetlands and mangroves to a list of locations; addressing the special circumstances of small island developing states (SIDS) and coastal communities; assessing and mapping existing levels of plastic pollution, including global baselines; setting targets for the reduction of existing/legacy plastics; requiring reporting and monitoring of measures, including use of indicators; and taking measures on the basis of the best available science and techniques/practices, including those of Indigenous Peoples. They also proposed: ensuring that remediation measures are without adverse effects on the environment and human health, guided by the conference of the parties (COP); establishing a legacy plastic waste work programme; and addressing means of implementation (MoI) to support mitigation and remediation.

A regional group, supported by some, called for a separate provision on remediation in areas beyond national jurisdiction (ABNJ), accompanied by a remediation fund, but others did not support addressing ABNJ in the provision. Divergence also ensued on whether and how to specify cooperation and coordination with the secretariats of existing multilateral environmental agreements (MEAs), other intergovernmental organizations, and regional organizations.

On **just transition** (draft article 10), delegates shared views, including related to text calling on parties to cooperate to promote and facilitate a transition towards sustainable production and consumption (SCP) of plastic, taking account of the situation of workers in the informal sector, including waste pickers, Indigenous Peoples and populations affected by the adverse effects of plastic pollution. Some called for this list to also

include women, children, youth, and all workers within the plastic supply chain, while other states preferred only referencing relevant workers. A few delegations called for the article to promote cooperation towards a just transition, and not include reference to SCP, while others called to also mention circular economy as part of SCP. Some delegations noted that, as this article deals with a socio-economic issue, individual states should take the responsibility to ensure just transitions for the workers within their jurisdictions. Others called for the treaty to mandate vocational training for those whose jobs will be affected by the implementation of the treaty.

On the related reporting requirements, many delegations supported mandatory reporting on national just transition measures. Some delegations prioritized linking the issue of just transition to CBDR, including how CBDR relates to financial flows from developed countries to developing ones. Others underlined that all discussions on MoI, including financial considerations, should be addressed in Contact Group 3.

In their statements, observers called for a freeze and phaseout of primary production to reduce plastic waste, and underlined the importance of global extended producer responsibility (EPR) measures and the need to prohibit burning plastic waste and toxic chemical recycling, among others.

Before embarking on textual negotiations, the Co-Chairs clarified that this would be a paragraph-by-paragraph exercise, welcoming additional text and suggested deletions from the Non-Paper. Some states called for line-by-line negotiations, noting that many states had already indicated their preferences for this part.

The group initiated a line-by-line negotiation on **plastic waste management** (draft article 8). One delegation proposed some introductory text for this article, in line with the Minamata Convention on Mercury, which notes that the “relevant definitions of the Basel Convention shall apply to waste covered under this convention for parties to the Basel Convention,” with non-parties to the Basel Convention required to use those definitions as guidance as applied to waste covered under the ILBI.

Some delegations preferred that each party shall take measures, “based on CBDR,” (a reference which was opposed by a number of delegations) through “circular approaches” to address plastic waste, with another calling to include reference to industrial, agricultural, and municipal waste. Another called to delete reference to “sectoral approaches” in relation to parties’ measures to ensure plastic waste is managed in an environmentally sound manner. One delegation underlined that all measures proposed need to consider “national circumstances and capabilities,” while another suggested that the measures recognize that “resource efficiency and waste management are pertinent to the achievement of SCP.”

Another suggested additional text to ensure that plastic waste is managed in an environmentally sound manner for the purpose of sound recovery, reuse, recycling, or disposal, and also noting that both parties and non-parties importing plastic waste should provide proof of their capacity to manage such waste. Other delegations supported including references to the just transition of waste pickers, and/or all workers involved in the plastics value chain.

Some delegations proposed alternative text, with references to MoI for developing countries, with one underscoring the importance of including MoI in all technical parts of the future ILBI. Others opposed reference to MoI. Some delegations called to revert to the original language contained in the Non-Paper to avoid a proliferation of brackets and an overexpansion of the text.

Noting that there was no more time to take up additional submissions for this paragraph, the Co-Chairs proposed the establishment of a states-only informal group to address this article, in order to find convergence. This was opposed by some delegations, who expressed concern over the process and the proliferation of informal groups which put a strain on small delegations, and supported line-by-line negotiations in a contact group setting.

Others supported working in an informal group, noting that line-by-line negotiations would result in “redoing the work we have already done.” Some other delegations supported informal discussions with reports back to the contact group in order to come up with a clear text containing the essential elements, lamenting that the current text with new suggestions is similar to the compilation text. Many others called on the Co-Chairs to revise the text and present it to the contact group at a later date. One regional group called for clarity about the timeline for considering a new text, noting that they would not accept a take-it-or-leave-it document.

The Co-Chairs, noting the opposition to informal consultations, then proposed that delegates entrust them to revise the text and present it to the group later in the week. They highlighted that if the revised text was unsatisfactory the group could revert to the current text. Delegates agreed to this proposal.

Contact Group 3

Co-chaired by Gwendalyn Kingtaro Sisor (Palau) and Katherine Lynch (Australia), the group met in the evening and into the night, focusing their consideration on provisions on **finance, including the establishment of a financial mechanism** (draft article 11). The Co-Chairs began by summarizing outstanding issues to be addressed, on the basis of work conducted at previous sessions of the INC and through intersessional work, including: the range of activities requiring funding under the treaty, pending the outcome of work in other contact groups; the form of funding, including design of the financial mechanism, whether one or more funds would be established, who will contribute, and who will be the beneficiaries; the responsibilities of parties at national level; the role of the governing body in the overall guidance on the financial mechanism; whether or how the treaty implements the broader financial flows to support the objectives of the ILBI; and what review mechanisms would be put in place and under whose responsibility. The contact group subsequently heard views and textual proposals on finance. Discussions continued into the night.

Contact Group 4

Co-chaired by Han Min Young (Republic of Korea) and Linroy Christian (Antigua and Barbuda), this group met in the morning and afternoon to discuss: objective, scope, preamble, principles, reporting, and effectiveness evaluation and monitoring. On the **objective** of the new ILBI (draft article 1), delegates agreed that it should be focused, clear, and concise. Delegates recalled the mandate contained in UN Environment Assembly (UNEA)

resolution 5/14, discussing, *inter alia*, the inclusion of the full life cycle of plastic, biodiversity, animal health, sustainable development, safe circular economy for plastics, and plastic waste management. Some delegates noted that a number of these can be included in other parts of the future ILBI, such as in the scope or preamble.

The group then discussed a possible provision on **scope** (which is not included in the Non-Paper), with one delegation submitting a proposal stating the ILBI would apply “from the design of plastic products to the environmentally sound management of plastic waste,” and would “exclude feedstock such as hydrocarbons, monomers and polymers in primary forms made thereof.” This proposal was supported by many countries, with some making suggestions for amendments, including extending the scope to add plastic production. Many other countries stressed there is no need for a standalone provision on scope, since it is covered by UNEA resolution 5/14 and would be incorporated within relevant individual provisions. Some delegations suggested deferring discussions on scope until other parts of the text are defined. Two delegations cautioned against “renegotiating” UNEA resolution 5/14, with one explaining that because the resolution is very general there is a need to specify the scope of the ILBI.

On **principles** (which is not included in the Non-Paper), they debated whether a standalone provision is needed, with some delegates arguing that these are better located in the preamble or operational provisions, which would avoid duplication. Other delegates insisted on the importance of having a standalone article on principles, to give clear guidance on the interpretation and implementation of the ILBI.

Delegates addressed specific principles, such as the precautionary principle, CBDR, polluter pays principle, principle of sovereignty and the sovereign right to exploit resources of states, best available science, and recognition of the special circumstances of SIDS. Some delegates warned against selectively quoting isolated and specific principles from the Rio Convention.

On the **preamble**, delegates discussed including reference to science-based decision making, the One Health approach, and the human right to clean and healthy environment (the last of which was opposed by some). Delegations expressed their preference of adding specific issues, such as: reference to the challenges of landlocked countries; distinguishing the special circumstances of SIDS from those of developing countries; equal importance in the recognition of science-based decision making and traditional and Indigenous knowledge systems; recognition of economic impacts of regulating plastics; avoiding disguised restrictions in international trade; highlighting that plastics are not pollutants as well as acknowledging their economic importance; and, recognizing the importance of small and medium-sized enterprises in waste management.

On **reporting** (draft article 15), the group engaged in textual negotiations, with several delegations including language that recognizes the different capacities of countries and provides support for reporting, with one delegation stating that all parties should be obligated to provide reports on an equal basis. Discussions ensued on whether reporting requirements for developed countries should be explicitly mentioned and whether financial and technical support are conditions for reporting requirements. Some delegations added references for reporting

on specific provisions of the ILBI, which was opposed by others. Delegations also proposed additional provisions regarding timeframes and suggested modifying the need to have different types of reports.

On **effectiveness evaluation and monitoring** (draft article 16), delegates noted the need to clarify what effectiveness refers to, as it can relate to the effectiveness of implementation, measures, or support, among others. Many delegates agreed to include socio-economic information for evaluation. They also discussed a non-exhaustive list of information sources with suggestions to include, among others, Indigenous Peoples’ knowledges, sciences, and practices, with free, prior, and informed consent, and global, regional, and local monitoring information. They further debated the timing for the first evaluation, with one delegation arguing that the six years suggested in the Non-Paper is too far in the future.

With these views put forth by the delegations during the two sessions and the written submissions made, the Co-Chairs were entrusted to prepare a revised, streamlined text for consideration by the group in a second reading.

In the Corridors

Despite the morning downpour, delegates arrived at the conference venue in Busan ready to share their views on the Chair’s Non-Paper, before delving into textual negotiations. Contact group rooms were filled to capacity and, unfortunately, several observers were locked out entirely as some of the rooms ran out of space to accommodate them. “Unbelievable that we came all the way here only to stand in the corridors,” lamented one observer, who shared that she had arrived more than half an hour early for a morning contact group, only to find all the observer seats already filled.

In one room, delegates initially engaged in procedural discussions on which comes first: the treaty’s objective or setting out its scope? In another room, discussions moved at a brisk pace, as delegates got into the weeds of the issues on the table. Should the new treaty deal with “existing plastic pollution” or “legacy waste” and what is the actual difference? Who will deal with the existing/legacy waste in areas beyond national jurisdiction if the treaty only provides for national measures? Should the responsibility for existing/legacy waste always be laid at the feet of rich countries, when every country has used (and discarded) plastic waste over the last three decades? “This issue is directly tied to funding,” shared one observer. “Which issue isn’t?” quipped another.

Later in the day, before they launched into textual negotiations, many delegations were frustrated at what they deemed “wasted time” in sharing their views during the first reading, when they discovered that these interventions had not been recorded in the text. Meanwhile, another delegate shared, “we are ready for line-by-line negotiations, but the process to get there is not clear.” But as they began to propose additions to the text on waste management, the dreaded multiplicity of brackets reemerged. “This was the low hanging fruit element that we all seemed to agree on,” sighed one participant, “what happened?” Commenting on the ballooning text, one delegate stressed “We just don’t have the time to continue like this,” while another implored the contact group to “focus on the must-haves and not the wish lists.”

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