



Environment and Food Foundation (E2F) report of the Third Session of the Intergovernmental Negotiating Committee to Develop an International Legally Binding Instrument on Plastic Pollution: 11-19 November 2023, Nairobi, Kenya

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.

Recent INC 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.

Outcome from INC-2:

- INC-2 established a Zero Draft as the basis for negotiations on the ILBI on plastic pollution
- The draft included provisions on various elements including product design, waste management, emissions and releases, and financial mechanisms

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.

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

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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.

Key highlights from INC-3

The draft text was appreciated though considered limited in its scope.

Some delegates expressed their dissatisfaction with the draft text, highlighting that it did not include your views.

Discussions on the Zero Draft focused on different interpretations of UNEA resolution 5/14 and the scope of the ILBI

There were disagreements on the scope and strength of the ILBI, with some delegations seeking a more comprehensive approach and others advocating for limited regulation.

Ambitious proposals included measures to address single-use plastics, chemicals and polymers of concern, product design and composition, waste management, capacity building, and extended producer responsibility.

Some delegations were in favor for downstream measures such as improving waste management and promoting recycling rather than cutting plastic production.



Three contact groups were established: one on technical and regulatory matters, one on means of implementation, and one on elements from the Synthesis Report.

No political issues were raised during the sessions especially from Arab countries, Russia and Iran.

Regional bodies and countries' perspectives:

African Group:

- Emphasized the need for waste management, transparency, and financial support.
- Called for a multilateral funding mechanism for legacy plastic.

Angola:

- Supported the development of national action plans and a just transition.

Egypt:

- Called for time-bound and measurable provisions without rewriting existing principles.

Pacific Small Island Developing States (PSIDS):

- Highlighted the vulnerability of SIDS to plastic pollution.
- Called for an ambitious agreement.

Solomon Islands:

- Called for restraint in the consumption and production of primary plastic polymers.



- Emphasized the need to address avoidable and problematic plastic products.

Oman:

- Acknowledged the importance of plastic to human life and its necessity for economic development and trade.
- Stressed the consideration of national capacities and circumstances of countries.

Iran:

- Questioned the inclusivity of the process and the incorporation of all views in the Zero Draft.

Saudi Arabia:

- Stated that there was a lack of balance between the interests of all members.
- Criticized the current Zero Draft for lacking equilibrium.

Russia:

- Argued that the current Zero Draft prejudged the direction of the negotiation.
- Claimed that it exceeded the mandate of UNEA 5/14.

Brazil:

- Highlighted the needs of developing countries.
- Stated that the ILBI (International Legally Binding Instrument) would be successful if seen through the lens of sustainable development.

Pakistan:

- Underscored the value of plastic.
- Recognized that mismanagement of plastic has led to a global crisis.

Iraq:



- Called for differentiation between polymers and plastic.

Japan:

- Called for ambitious time-bound targets to reduce plastic by 2040.

India:

- Stressed that the mandate of UNEA resolution 5/14 should not be exceeded.

- Expressed opposition to the creation of binding targets or caps on polymer production in the ILBI.

China:

- Emphasized that unsound waste management contributes to plastic pollution.

- Highlighted that consensus has yet to be reached on provisions in the Draft.

Vietnam:

- Asserted that the ILBI should not create additional trade barriers for developing states.

Panama:

- Favored a global framework that addresses the entire plastic lifecycle, from design and production to consumption and final disposal.

Sri Lanka:

- Argued that obligations and control measures across the entire life cycle should be complemented by voluntary approaches.

- Stressed the importance of considering the unique situation of developing countries.

Paraguay:

- Supported the development of National Action Plans in line with national circumstances.

- Underlined that provisions in the ILBI should be complementary and not duplicated.



What to look forward to in INC-4:

- Further negotiations based on the revised Zero Draft to refine and finalize the ILBI
- Discussion on key issues such as trade in plastics and the role of financial mechanisms
- Building on the progress made at INC-3 to achieve a comprehensive and effective international agreement on plastic pollution

Concluding remarks:

- The negotiations on the ILBI are complex and require further discussions to address divergent viewpoints
- The outcome of INC-4 will determine the strength and effectiveness of the ILBI in addressing plastic pollution globally
- Continued collaboration and compromise among member states will be crucial for achieving a successful agreement.

Quotes from speeches:

- INC Chair Meza-Cuadra: "We hold in our hands the power to correct this destructive course."
- UNEP Executive Director Andersen: "Tremendous progress towards reaching agreement on a revised draft."



Policy Recommendations:

- **Raise Awareness and Education:** Launch comprehensive awareness campaigns and educational initiatives targeting fishers and the wider community to increase understanding of ALDFG, marine pollution, and marine litter.
- **Promote Recycling and Responsible Disposal:** Encourage and support plastic waste and fishing gear recycling activities and provide incentives for responsible disposal practices among fishers. Establish dedicated waste management infrastructure for fishing vessels.
- **Remove plastic waste and Ghost Nets:** Develop and fund programs for the systematic removal of ghost nets from the marine environment, involving fishers as active participants in clean-up efforts.
- **Engage Stakeholders:** Foster multi-stakeholder collaboration involving government authorities, NGOs, local communities, and fishers in the development of policies and strategies to combat ALDFG, marine pollution, and marine litter.
- **Monitor and Evaluate:** Implement monitoring and surveillance mechanisms to track progress in ALDFG and pollution mitigation efforts and assess the effectiveness of policies and initiatives.

Finding strategic intervention points for local- and local-national-level engagement.

Facilitating connections between organizations and groups working within different sectors .

Fostering the emergence of multi-stakeholder partnerships at the local- and local-national-level that can serve as more cohesive and unified fronts to participate in decision-making processes.

Institutionalizing processes and spaces for civil society-government and peer-to-peer engagement.

Engaging national governments in ongoing country dialogues with downstream stakeholders.

Advocating for the importance of systematically addressing knowledge gaps.



Based on the findings from our research, intervention, and analysis of the interviews and focus groups with local-level stakeholders, we commend: