

**TECHNICAL NOTE BY THE SECRETARIAT**

**DRAFT RESOLUTION ENTITLED “Internationally legally binding instrument on plastic pollution”**  
*Submitted by Peru and Rwanda on 20 October 2021*

This technical note has been prepared by the UNEP Secretariat to facilitate consultations among Member States within the Committee of Permanent Representatives (CPR) on submitted draft resolutions for the resumed session of UNEA-5, as requested in paragraph 31 the [Chair’s Summary of the 8<sup>th</sup> meeting of the annual subcommittee of the CPR](#) held 25 - 29 October 2021<sup>1</sup>. The note may be adjusted and updated, as needed and relevant, in view of additional information that may become available in the course of upcoming consultations.

***The [Draft resolution on an internationally legally binding instrument on plastic pollution](#) aims to establish an intergovernmental negotiating committee (INC) with a mandate to negotiate a legally binding global agreement to address plastic pollution with the objective of reducing discharge of plastics into the environment by covering all stages of the plastic life cycle and by adopting a circular economy approach to plastics. The draft resolution suggests elements to define the mandate on the agreement of the INC, to be negotiated at UNEA5.2.***

**i) *Relation to UNEPs Medium Term Strategy and Programme of Work***

The draft resolution relates to one of the key objectives of UNEPs Medium Term Strategy,<sup>2</sup> i.e. combating pollution and to the MTS’s thematic subprogramme Chemicals and Pollution Action, in particular to paragraph 83 (UNEP will accelerate policy shifts towards the sound management of chemicals and waste), paragraph 90 (UNEP will support the shift away from the generation, production and use of harmful chemicals that pose a risk to human health and the environment, while promoting sound management of chemicals and waste in general), and paragraph 93 (UNEP will scale up ongoing efforts to address land-based sources of freshwater and marine pollution, especially nutrients, chemicals and plastic and other forms of marine litter). Additionally, the draft resolution relates to the MTS’s foundational subprogramme Environmental Governance, as any INC will promote environmental governance.

As reflected in Outcome 3 of the Chemical and Pollution Action sub-programme : Reduced releases of pollutants to air, water, soil and the ocean , UNEP is expected to support stakeholders through the Global Partnership on Marine Litter, the Regional Seas Programmes as well as relevant digital platforms to take an evidence-based approach to identify key sources, pathways and hazards from source-to-sea and across product lifecycles. The resolution calls on UNEP to convene an Intergovernmental Negotiating Committee with a vision to complete its work by UNEA 6. The INC process would include at least five intergovernmental meetings. UNEP will engage all

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<sup>1</sup> “The Chair also suggested that the secretariat will support our upcoming consultations on the draft resolution by providing technical guidance in writing for each draft resolution, with a technical analysis on the following three aspects: i) Relation to UNEPs Medium Term Strategy and Programme of Work; ii) Legal aspects; and iii) Budget implications”

stakeholders of the plastics value chain to raise awareness and encourage their participation in the INC process.

ii) **Legal aspects**

UNEA resolutions: At the very first session of UNEA in 2014, Member States adopted a resolution entitled “Marine plastic debris and microplastics”<sup>3</sup>. The resolution requested the Executive Director of UNEP to conduct a study on marine plastic pollution. The study, which was submitted to UNEA-2 in 2016, sought to “provide a background on marine plastic debris, including a definition of what it is, why it occurs, in what way it is a global problem, and what measures can be taken to reduce its impact.”<sup>4</sup>

Building upon the findings of this report, UNEA-2 adopted a second resolution<sup>5</sup> on the issue. The resolution asked UNEP to “undertake an assessment of the effectiveness of relevant international, regional and subregional governance strategies and approaches to combat marine plastic litter and microplastics”, which was presented to UNEA-3 in 2017<sup>6</sup>.

To further explore barriers to combating marine litter and microplastics, and to consider the costs, benefits, feasibility, and effectiveness of possible response options, UNEA-3 established an ad hoc open-ended expert group (AHEG)<sup>7</sup>. The AHEG, which met in two sessions in 2018 (Nairobi and Geneva), covered a broad range of questions around barriers and response options.

In 2019, UNEA-4 decided to extend the mandate of the AHEG<sup>8</sup>. A third AHEG meeting was held in December 2019, and a fourth and final AHEG meeting was held virtually in November 2020.

The approach to international regulation of the marine environment and plastics pollution in both the United Nations and in MEAs remains fragmented and there is no single legal instrument that specifically has as its primary goal the elimination of marine plastic litter and microplastics. The approach is also inter-disciplinary as combating marine plastics is addressed in various instruments across different thematic areas.

International binding agreements with relevance to the issue of marine plastic litter and microplastics vary in scope, objectives, applicable approaches and principles, including reporting and compliance requirements<sup>9</sup>. These include:

- Pollution oriented agreements
  - United Nations Convention on the Law of the Sea (UNCLOS);
  - The Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972 (London Convention) and its 1996 Protocol (the London Protocol);

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<sup>3</sup> UNEP/EA.1/Res.6.

<sup>4</sup> UNEP (2016), “Marine plastic debris and microplastics – Global lessons and research to inspire action and guide policy change”, United Nations Environment Programme, Nairobi.

<sup>5</sup> UNEP/EA.2/Res.11

<sup>6</sup> UNEP/EA.3/INF/5

<sup>7</sup> UNEP/EA.3/Res.7

<sup>8</sup> UNEP/EA.4/Res.6

<sup>9</sup> UNEP/EA.3/INF/5

- Annex V of the International Convention for the Prevention of Pollution from Ships of 1973 (MARPOL) as modified by its 1978 Protocol;
- Biodiversity and species oriented agreements
  - The Convention on Biological Diversity (CBD);
  - The Convention on the Conservation of Migratory Species of Wild Animals (CMS);
  - The Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (United Nations Fish Stocks Agreement);
- Chemicals and waste oriented agreements
  - The Stockholm Convention on Persistent Organic Pollutants (Stockholm Convention); and
  - The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (Basel Convention), in particular the Basel Convention Plastic Waste Amendments.

iii) ***Budget implications***

Taking into consideration the available existing resources, the overall extrabudgetary financial requirements for implementing this resolution from UNEA 5.2 to UNEA 6 is estimated at **USD 13,4 M**. This amount provides for USD 7,1 M in staff positions and USD 6,2 M in non-staff resources including activities covering travel, consultancies, operational costs, contractual services; etc. The table below provide the breakdown of estimated costs by budget group.

<b>Budget Category</b>	<b>Financial requirements</b>	<b>PSC 13%</b>	<b>Sub-total</b>	<b>Existing resources</b>	<b>Net requirements</b>
Staff	6,337,200	823,836	7,161,036	-	7,161,036
Non-staff	5,500,000	715,000	6,215,000	-	6,215,000
<b>Total</b>	<b>11,837,200</b>	<b>1,538,836</b>	<b>13,376,036</b>	<b>-</b>	<b>13,376,036</b>

*Note: resolution indicates work should be completed by sixth session of the Environment Assembly (which may be February 2024 or February 2025)*

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