

Co-facilitators report on discussions in Contact Group 1¹

Focus on Section A: Objective(s). Section B: Substantive Obligations.

1. Co-facilitators: Ms. Gwen Sisior of Palau and Mr. Axel Borchmann of Germany.

2. Guidance:

- The Contact Groups will aim to make as much progress as possible on identifying Members' views on the elements and options that could serve as the basis for the development of a future instrument. These discussions may lead, amongst others, to identifying areas of convergence and remaining gaps.
- The contact groups are expected to report back to the plenary under the form of a summary of the discussions prepared by the co-facilitators, with the support of the Secretariat. Final report back to plenary on Friday, 2 June.

3. Outcomes of each segment

The group met for four sessions from Wednesday May 31st to Thursday June 1st on substantial issues. Overall, the contact group had rich discussions and many views were expressed on the options paper and on the way forward.

The group opened its work with a discussion on the proposed structure. Some delegations expressed flexibility on following the structure suggested by the Chair to start with a suggested order of discussions for part B, followed by a guided discussion on part A. Others expressed their strong preference to start with the objectives to follow the order of the options paper. A delegation suggested a restructuring of the proposed work plan of the contact group. In the spirit of flexibility, the group decided to start with part A, followed by part B in the order of the options paper.

A delegation requested to add a discussion item on scope at the end of discussions on Part B. This request was subsequently retracted by that delegation who suggested that scope be included as place holder in the zero-draft.

Part A. Objective(s)

The group considered the three options set out in paragraph 9 of document UNEP/PP/INC.2/4

Many members expressed a preference for the option set out under 9(a), as they favoured a focused, precise, and succinct objective. Many members also supported the reference in option A to the objective of "ending plastic pollution" in line with UNEA resolution 5/14, and many asked to add an emphasis on the marine environment in accordance with said resolution.

Several members favored merging elements of the different options. Several members supported the option set out under paragraph 9(b) and several members, including through regional groups, supported the option set out under paragraph 9(c) for its mention of reduction in the production, use and discharge of plastic and of the circular economy.

With respect to a time-bound target for ending plastic pollution, while some members were in favour of its inclusion to express the urgency of the issue and facilitate monitoring of progress and validity; others preferred not to include so as not to limit the lifetime of the instrument to a specific timeframe. To stress the sense of urgency, many members suggested to either include a time target in the operative provisions or sub-objectives and some members have also shown flexibility where to assign the aspect of time.

A number of members suggested references to additional aspects. The following list does not show any priority of the listed aspects including:

- a. Protection of the marine environment
- b. Just transition and protection of workers, including informal waste pickers

¹ Presented without formal editing

- c. Sustainable development, sustainable future for all and SDGs Agenda 2030
- d. Precautionary approach as captured by principle 15 of the Rio Conference and Stockholm
- e. Human rights approach
- f. Including all sources of plastic pollution including legacy plastics
- g. Addressing the full lifecycle
- h. Impact of plastic pollution on ecosystems, climate change and biodiversity
- i. Environmentally sound management of plastic waste
- j. Reduction of hazardous plastic waste
- k. Accelerating management and utilization of plastic
- l. A safe circular economy
- m. A non-toxic circular economy
- n. Reduction of production
- o. Considering special circumstances of countries as SIDS.

Part B. Obligations

In their consideration of the core obligations, some delegations highlighted interlinkages including with other sections of the options paper and respective measures.

Some members provided detailed proposals orally, including additional proposals of options not yet captured in the options paper, some of which's transcriptions were sent in writing in support to the Secretariat and to inform the Chair when drafting the 0-draft.

There was a proposal to also have an overarching obligation encouraging obligation for establishing a plastic circular economy.

Proposals for intersessional work will be covered at the end of this report, not under each obligation.

Possible obligation 1. phasing out and/or reducing the supply of, demand for and use of primary plastic polymers

Many members supported consideration of some options listed under this obligation. Some underscored that their applications depended on the nature of the polymer or chemical being regulated. Many members highlighted the need to focus on the effect of plastics on the environment. Some members also highlighted that plastic is not a pollutant as such and was, is and will be essential in a number of industries and applications. Some members stressed the need to take into account sustainability or availability of substitutes.

Some members also highlighted the need for a phased approach and transitional periods.

Many members supported the establishment of global targets on production of primary plastics, and many also favoured supporting and complementing these global targets with national targets and commitments aligned with these global targets, since they saw a close interconnection.

Some members did not support the establishment of global targets and favoured the establishment of national targets and commitments only or none of those at all, as well as highlighted the need for promoting sustainable production and consumption of plastic polymers throughout the lifecycle of plastic as well as demand side measures including through nationally determined actions.

Some delegations suggested the need to establish criteria for prioritizing problematic primary substances be prioritized, with some suggesting taking into account the following:

- *hazardous* plastic polymers,
- those with greatest adverse impacts on the environment or public health, or
- those that can be easily substituted.

It was also noted that it would be important in this context to define clearly the notion of “primary” plastics polymers, in particular whether it refers only to fossil-based polymers or might also include non-fossil material such as bio-based plastics.

Several members favoured the development of common standards and criteria, with the aim of achieving sustainable consumption and production.

Many members supported the inclusion of tracking and monitoring requirements, to support the implementation of targets and commitments, and allow progress to be assessed.

A number of members supported the establishment of import and export requirements under paragraph 10 b (ii).

A number of members expressed support for the use of market-based measures under paragraph 10(c), with flexibility in the choice of specific measures to be adopted at the national level to account for national circumstances. It was suggested that both incentives and disincentives should be considered. Some delegations supported the removal of fiscal incentives and subsidies to the production of primary plastics.

Some members highlighted the need to take binding obligations with flexibility for countries like SIDS.

Possible obligation 2: banning, phasing out and/or reducing the use of problematic and avoidable plastic products

While many members supported consideration of options for banning, phasing out and/or reducing the use of problematic and avoidable plastic products (c), some members also expressed that banning certain types of plastics can have negative socio-economic effects on the global recycling industry and national circumstances have to be taken into account based in light of accessibility and affordability of alternatives including that of technologies.

There was broad support for establishing criteria to determine and prioritize problematic and avoidable plastic products, including unnecessary or short-lived products.

Some members viewed this option as complementary to or a prerequisite for measures to ban, phase out, reduce or control the production, sale, distribution, trade and use of specific problematic and avoidable plastic products by identified dates. Several members also supported setting up an inventory.

Many members supported option (c). Some noted the need for exemptions for certain categories of plastic products, including those for which alternatives are not available and accessible. The need for exemptions in certain sectors, including the health sector, was further highlighted. Some members were in favour of a gradual phase-in of measures under 11(c).

A clear definition of problematic and avoidable plastic products was considered necessary by many members, with some calling for science-based evidence and a process, supported by intersessional work, to further identify criteria for such products and a few stressing that criteria should be nationally determined. Some expressed criteria and plastic products to be phased out or banned could be included in annexes, amendable through an evidence-based assessment process, following the example of some MEAs. Some members also called for the leakage and littering potential of plastic products to be included in the criteria.

Some members also supported the establishment of trade-related measures, many of which also for non-parties. In this context several members called for increased transparency.

As also for the obligation 3 many members expressed the need to have intersessional work on definition and criteria, while some also called for a list of existing measures.

Possible obligation 3. Banning, phasing out and/or reducing the production, consumption and use of chemicals and polymers of concern

While many supported consideration of this obligation, some stressed the importance of taking into account national circumstances, and following an evidence-based approach. Clarity on the identification of the chemicals and polymer of concern at issue before considering this option was deemed necessary by many members. Many stressed the need to base any ban, phasing out or control of substances of concern on clear and precise criteria supported by a strong evidence base and risk assessment.

Many speakers pointed out linkages between this obligation and others, including obligation 2 (on problematic plastic products), the promotion of safe and sustainable alternatives and substitutes (obligation 8), and EPR (covered in obligation 5) as well as informal workers (obligation 11).

There were suggestions to undertake measures to foster innovation including sustainable or green chemistry for plastic polymers, to further reduce the use of hazardous substances in plastic, and releases from industrial processes, and to further the development of more environmentally sustainable alternatives to plastics.

A number of members supported the introduction of options to regulate the production and use of chemicals and polymers of concern as identified in paragraph 12.a, in light of the adverse impacts of some chemicals and polymers on human health and the environment, and also on the recyclability and circularity of products containing them.

There was support for transparency on the use of polymers and chemicals of concern as a means of supporting the implementation of the obligations, including trade measures.

Some Members considered that transparency standards should be on an internationally agreed basis.

A number of members supported fostering innovation and incentivizing alternatives and substitutes (option c(i)) and incentivizing research on sustainable alternatives and substitutes. At the same time, it was noted that “accelerating” the transition should be approached with caution, in light of the need to ensure that any alternative and substitutes do not themselves result in adverse impacts, as reflected in obligation 5.

Many members noted the need to consider synergies and avoid duplication or contradiction with existing MEAs, in particular the Stockholm and Basel Conventions. Reference was also made to disclosure obligations for producers under the Framework Convention on Tobacco Control.

As for the obligation 2 many members expressed the need to have intersessional work on definition and criteria, including on polymers of concern.

Possible obligation 4. reducing microplastics

There was convergence on the adverse effect of microplastics and support among members for measures to reduce leakage of microplastics.

There was broad support for addressing unintentional releases of microplastics. Many members supported the options under 13(b)(iii) Developing guidelines on best available technology and best environmental practices to reduce release of microplastics, including for design, in the washing, textile, tyre, and road marking industries.

Many members supported either option 13(a)(i) (Ban, phase out, reduce or control the use of intentionally added microplastics to avoid the potential release of microplastics into the environment from certain sources) or 13(a)(ii) (Ban, phase out, reduce or control the production, sale, distribution, trade and use of microplastics and products containing intentionally added microplastics).

A few members supported subobjectives to include time-bound targets for phase out/bans. Some members supported a science-based mechanism for amendments of annexes on listed sources of microplastics.

Several members highlighted the importance of identifying potential sources of release of microplastic, including from specific sectors. Intersessional work on this could be helpful to guide future negotiations.

Some members also mentioned the relevance of nanoplastics; a globally harmonized monitoring mechanism could support assessing presence of microplastics in the environment; linkages to sustainable consumption and production and measures to enhance circularity.

Several members supported further work on definitions of microplastics and the scope of measures under paragraph 13. Some members favoured a science-based approach guided by the precautionary principle for such work to be supported by intersessional work.

Possible obligation 5: strengthening waste management

Most supported strengthening plastic waste management under this new instrument, while stressing the need to avoid duplication with existing MEAs, in particular the new guidelines adopted under Basel Convention. The coordination with MARPOL was also called for by some members.

Waste hierarchy, ESM of plastic waste, research and innovation, deploying and fostering the development of technologies for the collection, recycling and disposal of plastic waste were supported by many. Some supported for a definition of circularity.

The need for technology, technical and financial assistance for enhancing waste management capacities was stressed by many members.

Different views were expressed with regards to listing of dangerous practices to be prohibited. Some supported prohibiting open burning and incineration as dangerous practices, while others expressed that not all of the practices listed should be considered dangerous. Some pointed out that chemicals recycling is an evolving field and should be considered along with other technologies. It was noted that in some countries, recourse to these methods was currently the only means available for disposing of waste.

Some stressed that setting up indicators and obligations for waste collection, sorting and recycling must be nationally driven.

It was noted that remote territories and flexibility for SIDS should be considered .

On illegal dumping and disposal, members stressed the need to avoid duplication and risks of contradiction with existing conventions, in particular MARPOL with respect to the marine environment and the Basel Convention with respect to transboundary movement of plastic waste.

A number of members supported the adoption of EPR schemes as an expression of the polluter pays principle, and an effective means of reducing plastic waste. The critical importance of financing improved waste management capacities was also noted. Some members however did not support the introduction of obligations on EPR.

Many members noted the need to adapt EPR schemes to national conditions. Concern was expressed however that making accountability of producers voluntary had implications on the application of the polluter pays principle. It was also pointed out by some that the EPR scheme should be expanded to the global level.

Some considered that implementing measures to ensure the collection, sorting, management, and disposal of plastic waste in an environmentally sound and safe manner, should be addressed at the national level.

Waste pickers and social factors were proposed to be considered. Also, it was pointed out that cross-cutting issues such as human health, the role and interests of indigenous people and gender responsive measures should be considered.

Additional options were proposed, including economic instruments to promote avoidance and minimization of waste and minimum requirements for e.g. performance, reduction or reuse.

Possible obligation 6: fostering design for circularity

Many members highlighted linkages between obligations under section 6 and those under sections 7 and 8.

Many members supported the establishment of circularity design criteria (option 15a) and certification schemes for products put on the market (option 15b). The criteria could be set out in an annex to the instrument. For some members, design criteria are also important to promote reuse and repair of plastic products as well as the promotion of circular business models (obligation 6). Clear definition and guidance on circularity are considered important for some members. Some members pointed out those options should be nationally driven actions.

Many members supported national requirements for design criteria (option 15c) but some preferred that these not be based on globally harmonized system and methodologies to promote circularity of plastics. Some members emphasized that national design criteria need to take into account national circumstances, infrastructure and capabilities.

Several members supported labelling measures for plastic products and packaging in light of the design criteria (option 15d), that could be globally harmonized.

Several members supported establishing recycled content targets for plastic products put on the market (option 15e), with a sectoral approach and while limiting toxicity of recycled products. Some members highlighted that such targets to be nationally determined or account for national circumstances.

There was some support for an information exchange mechanism (option 15f).

Possible obligation 7: encouraging reduce, reuse and repair of plastic products and packaging

Some members supported setting targets for reduction, reuse and repair of plastic products (option 16a), taking into account national circumstances, while some objected its inclusion.

Many members supported encouraging reduction and reuse of plastic products (option bii), in line with the waste management hierarchy, in some cases through raising consumer awareness, applying harmonized product design standards, certifications and requirements (option b (iv)) and/or measures under option b(v) including EPR, while some members do not support a standardized utilization of tariffs or tax incentive, EPR schemes as each member state must assess its own capacity and circumstance through individual plans.

For some members, design standards are to be nationally determined. Standards could be in line with those established by ISO.

Possible obligation 8: promoting the use of safe, sustainable alternatives and substitutes

Some members supported platforms for information-sharing on the development of safe, sustainable alternatives and substitutes (option 17ai) and the use of economic tools to incentivise research on such alternatives (option 17aii). Some delegations highlighted the consideration of traditional knowledge, knowledge of Indigenous Peoples, and local knowledge systems including from local communities,

Understanding what could be considered as alternatives was also considered important by many members. Criteria for such alternatives need to be established, including by taking into account indigenous and local

knowledge, national circumstances, potential for extended lifespan and safe disposal, while avoiding unintentional consequences on human health and the environment.

Some members cautioned against biobased and biodegradable plastics as alternatives to fossil-based plastics. Some members favoured a technical expert group to establish criteria on alternatives and their availability (option 17bii). Some members emphasized the need for financing, technical assistance and technology transfer to switch to [safe] alternatives.

Possible obligation 9: eliminating release and emission of plastics to water, soil and air

Members converged on the importance of the inclusion of provisions on the elimination of releases to water, soil and air throughout the life cycle of plastics including microplastics. Some members spoke in favour of binding provisions. Many stressed the role of upstream measures in this context.

The relevance of sectoral measures was also noted, in particular on *abandoned, lost, discarded fishing gear (ALDFG)*, as defined under the FAO. It was suggested that sector-specific measures covering the full life cycle be considered, including gear design. Also, it was noted that specific sources like spills and storms should be included.

It was also suggested that the reference to existing efforts in other fora (IMO, FAO) be extended to other institutions, including regional fisheries management organizations (RFMOs), and it was noted that guidelines were adopted at the country level rather than internationally in this context.

Possible obligation 10: addressing existing plastic pollution

Many identified the urgency and importance of addressing existing plastic pollution, some supported all current options under obligation 10, while some suggested merging some of the options. Some delegations highlighted the priority of addressing fishing gears.

Synergies with existing MEAs and mechanisms, including the FAO, IMO, RFMOs, MARPOL, London Convention, were stressed by many.

Awareness raising was mentioned by some members.

BAT/BEP was supported by many, while some stressed such guidelines should be voluntary and nationally determined to adapt to national circumstances.

It was also mentioned that identification of indicators for the hotspots should be science-based.

Some members highlighted the disproportionate impacts of legacy plastic pollution, in particular in the marine environment, on developing countries, in particular SIDS.

It was noted that legacy plastics are not suitable for mechanical recycling and alternatives need to be found.

Possible obligation 11: facilitating a just transition, including an inclusive transition of the informal waste sector

There was broad support for the introduction of provisions for a just and fair transition contributing to poverty alleviation, taking into account national circumstances. Reference was made in this context to a human rights approach as well as to the UN General Assembly's recent recognition of the right to a clean, healthy and safe environment as a human right (A/RES/76/300).

Several Members stressed the importance to them of this obligation. The important role of waste pickers as actors of the transition was noted. The impact of plastic pollution on indigenous peoples and vulnerable groups was also noted.

Some Members noted that not all proposed obligations may be relevant to all countries, and that the details of a proposed just transition programme should be discussed further, including with a view to targeting it to vulnerable populations.

It was also noted that other aspects, including standards for waste management and EPR, would also contribute to a just transition.

A few delegations recognized the rights of Indigenous Peoples and relevant stakeholders facing capacity constraints

Possible obligation 12: Possible core obligation: protecting human health from the adverse effects of plastic pollution

There was broad support to this obligation. Integrated approach, scientific approach, risk-based approach, human rights approaches were mentioned by some Members. Traditional knowledge, knowledge of Indigenous Peoples and local knowledge systems was also recognized.

There was a proposal to establish a subsidiary body dedicated to synthesizing relevant science and research for policy makers and work with organizations such as WHO and ILO on this issue. It was noted that knowledge gaps should be addressed, including through further research and study and the transfer of knowledge.

Some mentioned that such measures should be country specific and country driven, as required.

Placeholder for potential zero draft:

It was suggested to include two placeholders in the potential zero draft: principles and scope. It was further suggested that members could make submissions or have further intersessional exchange on these topics.

5. Proposals for intersessional work:

In identifying possible areas of work to be conducted in the inter-sessional period, members stressed their understanding that this work was not to pre-empt the work of the INC as well as the zero-draft.

Potential timelines and working methods would be subject to a decision of the INC. As well as the instrument itself the intersessional work should avoid any duplication of existing workstreams under other MEAs and rather draw from them.

Possible areas of work could include:

- Identification of criteria and potential list of substances of concern also considering different sectors and the full lifecycle
- Definitions, including problematic and avoidable plastics
- Criteria to identify specific problematic and avoidable plastic products for Ban, phase out, reduce or control the production, sale, distribution, trade and use
- Criteria to determine and prioritize problematic and avoidable plastics
- List of problematic plastics, sectors, uses and functionalities for which no substitutes exist
- Scoping, definition of microplastics, potential products containing intentionally added microplastics and sources (products and sectors) of releases of such.
- Development of targets for the reduction, reuse and repair for plastic products
- Work on intentional releases of microplastics
- Work with relevant stakeholders on fishing gears in the lifecycle of plastics

- Guidelines on EPR (by experts group)
- Transition period until some products or substances are to be banned or reduced

Proposed studies to be carried out by the Secretariat:

- Compilation of a list of problematic single use plastics banned by governments and existing criteria used by governments as an INF doc
- Compilation of information on national measures on plastics production
- Identification of linkages with other MEAs
- Clarification of polymers of concern increase transparency.
- Compilation of existing standards on sustainability of alternatives and which could be reflected in design criteria
- Definitions and criteria for circularity
- Compile existing standards and certification that verify plastic circularity
- Criteria for assessing alternatives, include that are economically and environmentally sound
- Market-based measures
- Analysis on existing productions and trade bonds of existing polymers and overall sustainable product from health and environmental perspective

Suggested modalities of work included establishment of an intersessional technical and scientific expert group/body. Open-ended working group, or more informal settings

A delegation did not support intersessional work, in particular with regards to identifying or developing lists or criteria.

In the final discussion the contact group discussed the following general topics that might be covering some or all of the above mentioned item, not including informal documents that were asked from the secretariat:

To consider:

- Information on definitions of, e.g. plastics, microplastics, circularity
- Information on criteria, also considering different applications and sectoral requirements, including:
 - Chemical substances of concern in plastics,
 - Problematic and avoidable plastic polymers and products and related applications
 - Design e.g. for circularity, reuse
 - Substitutes and alternatives to plastic polymers and products

In order identify, also possibly on a later stage:

- Potential substances of concern in plastics, problematic and avoidable plastic polymers and products
- Potential sources of release of microplastics (applications and sectors).

6. linkages identified with CG2:

Members identified linkages with other elements discussed in CG2, in particular with regard to means of implementation and implementation measures. They highlighted that the two conversations were complementary and mutually supportive.

Some specific considerations include;

Under obligation 1: Need to support capacity building for tracking and monitoring of volumes of plastic polymers manufactured, used, imported and exported

Under obligation 5: Need to support development of waste management capacity in accordance with appropriate technology

Under Obligation 7, related means of implementation, in particular financial resources for infrastructure.

Under Obligation 9: need to include access to technology as well as consider the role of a fund to address legacy plastics.

Under Obligation 10. addressing existing plastic pollution, linkages with MoI was identified.

Under obligation 12: consideration of funds to be allocated to research on assessing and evaluating risks and adverse effects of plastic pollution

Under several obligations, the possible inclusion of implementing measures in national action plans was noted.
