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**Intergovernmental negotiating committee to develop
an international legally binding instrument on plastic
pollution, including in the marine environment**
Third session
Nairobi, 13–19 November 2023

Draft report of the intergovernmental negotiating committee to develop an international legally binding instrument on plastic pollution, including in the marine environment, on the work of its third session

I. Introduction

1. In resolution 5/14 of 2 March 2022 entitled “End plastic pollution: towards an international legally binding instrument”, the United Nations Environment Assembly of the United Nations Environment Programme requested the Executive Director of the United Nations Environment Programme (UNEP) to convene an intergovernmental negotiating committee to begin its work during the second half of 2022, with the ambition of completing that work by the end of 2024. The Environment Assembly also decided that the intergovernmental negotiating committee was to develop an international legally binding instrument on plastic pollution, including in the marine environment, which could include both binding and voluntary approaches, based on a comprehensive approach that addressed the full life cycle of plastic, taking into account, among other things, the principles of the Rio Declaration on Environment and Development, as well as national circumstances and capabilities, and including provisions described in the resolution.

2. Accordingly, the first session of the intergovernmental negotiating committee to develop an international legally binding instrument on plastic pollution, including in the marine environment, was held at the Punta del Este Convention and Exhibition Centre, Punta del Este, Uruguay, from 28 November to 2 December 2022. The second session of the intergovernmental negotiating committee was held at the headquarters of the United Nations Educational, Scientific and Cultural Organization (UNESCO) in Paris from 29 May to 2 June 2023. The third session of the intergovernmental negotiating committee was held at the headquarters of UNEP in Nairobi from 13 to 19 November 2023.

II. Opening of the session

3. The third session of the intergovernmental negotiating committee was declared open by Gustavo Meza-Cuadra Velásquez (Peru), Chair of the intergovernmental negotiating committee, at 10.15 a.m. on Monday, 13 November 2023.

4. Opening statements were delivered by Jyoti Mathur-Filipp, Executive Secretary of the intergovernmental negotiating committee; Mr. Meza-Cuadra Velásquez, Chair of the intergovernmental negotiating committee; Inger Andersen, Under-Secretary-General and Executive Director of UNEP; and William Ruto, President of Kenya.

5. Welcoming participants, Ms. Mathur-Filipp expressed her gratitude to the Government of Kenya for hosting the third session of the committee and to the governments of Australia, Belgium, Canada, Denmark, Finland, France, Germany, Ireland, Japan, Monaco, the Kingdom of the Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, as well as the European Commission, for their generous contributions in support of the committee's work. She also thanked the Chair, the Bureau members and the secretariat for their hard work, and UNEP and the secretariats of several multilateral environmental agreements for their invaluable support. Noting her satisfaction at the growing interest in the ongoing negotiations, she said that the convergence of views on many key issues notable at the preparatory meeting held immediately prior to the present session had demonstrated that the common ground existed to achieve the creation of an international legally binding instrument on plastic pollution, including in the marine environment.

6. In his opening remarks, Mr. Meza-Cuadra expressed gratitude to the host Government for its hospitality and to all those who had worked tirelessly to ensure the successful organization of the current session. The urgency of addressing plastic pollution could not be overstated, as plastic waste continued to inundate oceans, harm wildlife and infiltrate ecosystems, posing a direct threat to the environment, human health and the planet. There was a collective responsibility to effectively address the crisis and to change its trajectory. Promising initiatives implemented worldwide had demonstrated the potential for change. However, the transnational nature of plastic pollution and the need to make a difference on a larger scale meant that international cooperation and a legally binding instrument were crucial. Negotiations could only be advanced through dialogue and consensus, in a spirit of ongoing cooperation. He expressed the hope that the committee at its third session would agree on a mandate for a revised draft of the instrument and possible intersessional work to prepare for the fourth and fifth sessions. Reaffirming his commitment to the negotiation process, he encouraged delegations to capitalize on the "Nairobi spirit", which implied consensus and ambition, and to work purposefully towards the fulfilment of their mandate.

7. Ms. Andersen, in her opening remarks, recalled the significance of the fifth session of the Environment Assembly and its historic resolution to craft an instrument on plastic pollution, which had exemplified the Nairobi spirit. That spirit must be reembraced during the current session, to ensure that a strong, comprehensive agreement would be ready by 2024. The instrument in question must address the full life cycle of plastic pollution. To that end, using fewer virgin materials, less plastic and no harmful chemicals, ensuring more efficient use of resources, and undertaking safe waste disposal were key measures. Such actions would serve to protect the health of humans and ecosystems, slow climate change, create new jobs and sustainable markets, and deliver a just transition.

8. The zero draft of the instrument was a true work of multilateralism. To render it transformational, it was time to set ambitious targets with accelerated timelines; focus on enabling policies and legislation; establish clear incentives, including for the private sector; ensure financing, assistance and international cooperation for nations with fewer resources; provide funding for research and development solutions; eliminate unnecessary plastic products; and address the legacy of plastic pollution. Safe and environmentally sound approaches to redesigning were also necessary to guarantee non-harmful substitutes, which required the cooperation of all stakeholders, while also ensuring investment in solid waste management infrastructure and a transition that left no one behind. Private sector leadership would be key in that regard; the early adoption of non-plastic substitutes or alternatives was in the interests of companies, as it would enable them to secure the market share in the future. Africa could lead the way, as demonstrated by its efforts to reduce single-use plastics and its innovations in the business sector, as well as its prolific natural resources. She asked all participants to negotiate at the current session towards refining an instrument that could carve out a better future, free of plastic pollution.

9. Welcoming participants to Nairobi and to the third session of the committee, Mr. Ruto said that the threat of plastics to the planet, health and the future was of such magnitude that it required an urgent and truly global response, through the development and implementation of an international instrument. According to the current statistics, unless action was taken, over 1 billion tons of plastic would be produced by 2060, which constituted an existential threat. The work undertaken by the Committee thus far was commendable, and augured a monumental shift in the relationship between humankind and the planet. The instrument was eagerly awaited by the international community, and the third session presented an opportunity to convert the zero draft into a plan for international action including measures for reducing plastics production; eliminating problematic and short-lived plastics; investing in solid waste management policies; and ensuring a just transition that left no one behind, particularly workers in informal settings. The zero draft was a product of true environmental multilateralism; a welcome signal that the world was one step closer to ending plastic pollution, one of the biggest contributors to the triple planetary crisis.

10. Kenya was committed to ending plastic pollution, as demonstrated through various policies including the Sustainable Waste Management Act, which had made his country the first to subject all products to extended producer responsibility. He thanked the African Ministerial Conference on the Environment for proposing that the secretariat of the international legally binding instrument on plastic pollution be hosted at the UNEP headquarters, and asked Member States to support that proposal, which would strengthen one of the few United Nations entities headquartered in the global South. Addressing plastics pollution was central to making progress on climate change; investors, multinational corporations and technology companies should therefore shift strategic investments to reduce their plastic waste footprint. Plastic product alternatives without any negative impacts should be explored, and investments should be made in Africa, as its natural resources could be used for such alternatives, which could in turn drive economic growth and the creation of jobs. To address plastic pollution, a paradigm shift was needed in terms of consumption, production and waste disposal, and the instrument was the first step. Lastly, he invited all participants to partake in a national tree-planting initiative currently under way in Kenya.

III. Election of officers

11. [to be completed]

IV. Organizational matters

A. Adoption of the rules of procedure

12. Introducing the sub-item, the Chair recalled that, in accordance with the decision of the intergovernmental negotiating committee at its first session, the draft rules of procedure, as set out in document UNEP/PP/INC.3/3, would apply to its work on a provisional basis until their adoption, with the exception of the bracketed rule.

13. At its second session, the committee had decided to adopt an interpretive statement relating to rule 38, paragraph 1, of the draft rules of procedure, which had been included in the note by the secretariat that accompanied the draft rules. While the Chair had held consultations on this important matter with a number of delegations during the intersessional period, more time was needed to consider the matter further. His consultations on the matter would therefore continue, and he proposed that his successor should continue in that vein in the intersessional period.

14. Responding to a request for reassurance from one representative that paragraph 1 of rule 38 would not be invoked, the Chair reiterated his commitment to discussions being held in the spirit of cooperation and consensus, noting that he counted on all members to demonstrate that spirit by participating in the session without resorting to paragraph 1 of rule 38.

B. Adoption of the agenda

15. The committee adopted the following agenda on the basis of the provisional agenda (UNEP/PP/INC.3/1):

1. Opening of the session.
2. Election of officers.
3. Organizational matters:
 - (a) Adoption of the rules of procedure;
 - (b) Adoption of the agenda;
 - (c) Organization of work;
 - (d) Dates and venues of subsequent sessions of the intergovernmental negotiating committee;
 - (e) Provisional agenda of the fourth session.
4. Preparation of an international legally binding instrument on plastic pollution, including in the marine environment.
5. Other matters.
6. Adoption of the report of the session.
7. Closure of the session.

C. Organization of work

16. The intergovernmental negotiating committee agreed to organize its work as described in the scenario note for the session (UNEP/PP/INC.3/2), the proposed programme available on the website for the session, and as further outlined in the Chair's reflection note.

17. Noting the resignation from the Bureau of the Vice-Chair from the Eastern European States, the Chair said that the committee would need to elect a replacement to serve for the remainder of the term, as established in rule 13 of the draft rules of procedure, which were being applied on a provisional basis, with due regard for paragraph 2 of rule 9. Accordingly, he invited the Eastern European States to conduct consultations with a view to nominating a candidate for the position for consideration by the committee under agenda item 2 (Election of officers).

D. Dates and venues of subsequent sessions of the intergovernmental negotiating committee

18. [to be completed]

E. Provisional agenda of the fourth session

19. [to be completed]

F. Attendance

20. Representatives of the following States attended the session: [to be completed]

21. The following intergovernmental organizations and other entities were represented as observers: [to be completed]

22. The following United Nations bodies, secretariat units and convention secretariats were represented as observers: [to be completed]

23. A total of [--] non-governmental organizations were also represented as observers. The list of participants is set out in document UNEP/PP/INC.3/INF/[--].

V. Preparation of an international legally binding instrument on plastic pollution, including in the marine environment

24. Introducing the item, the Chair drew attention to the zero draft text of the international legally binding instrument on plastic pollution, including in the marine environment (UNEP/PP/INC.3/4), noting that it was intended to facilitate and support the work of the committee in the development of that instrument. The zero draft text reflected the objective and mandate of United Nations Environment Assembly resolution 5/14 and attempted to capture the range of views expressed during the first and second sessions of the committee, including by presenting various options, while ensuring coherence, logic and readability of the text. As some issues had not been fully explored by the committee in previous sessions, gaps remained in the text. Members were encouraged to use the opportunity afforded by the present session to fill in those gaps and to improve on the draft text.

25. He recalled that the zero draft text was not intended to prejudice the committee's decisions on the content or structure of the future instrument. He invited the committee to identify convergence of views on options or on the removal of options, and on gaps and ideas on ways to address them. He also stressed that the committee could decide to remove completely any of the provisions in the text.

26. The Chair also drew attention to the synthesis report of the submissions received on elements not discussed at the second session, such as principles and scope of the instrument (UNEP/PP/INC.3/INF/1), which had been prepared to help inform discussions at the preparatory meeting held prior to the current session.

27. With regard to the zero draft text of the international legally binding instrument on plastic pollution, including in the marine environment, the representative of the secretariat recalled that the committee had requested the Chair to prepare the zero draft text with support from the secretariat and had further decided that the preparation of the text should be guided by the views expressed at the first and second sessions of the committee, and that the full range of views should be reflected through options in the zero draft text. With regard to the approach taken to the drafting of the text by the secretariat, she noted that indicative placeholders had been used to identify elements that had not yet been discussed in detail by members; that the order of headings was not fixed and did not imply any

prioritization; that the draft text reflected possible ways of addressing issues, on the basis of views expressed by members; that the terms “instrument” and “governing body” were only indicative terms, without prejudice to the final designation to be decided by the committee; and that any footnotes were explanatory and not intended to form part of the negotiated text.

28. The co-facilitators of the preparatory meeting, Marine Collignon (France) and Danny Rahdiansyah (Indonesia) delivered a summary of the discussions at the preparatory meeting, held on 11 November.¹

A. Statements

29. The intergovernmental negotiating committee heard statements delivered by representatives of regional groups and other groups of countries.

30. The representative speaking on behalf of the Asia-Pacific States recalled the importance of all participants engaging in good faith in the drafting process and striving to reach consensus in decision-making. A comprehensive life-cycle approach was required to address more directly the issue of legacy, present and future plastic pollution, including in the marine environment. She noted that some of the States in the region had expressed concern that the current draft text was not sufficiently balanced and could focus more on the recovery, removal and remediation of legacy plastic and less on measures that could have wide and unintended socioeconomic impacts and implications. It was important for the instrument to adopt a science-based approach that was complemented by traditional knowledge, knowledge of Indigenous Peoples and local knowledge systems, as well as to improve the circular economy for plastics, taking into account national circumstances and capabilities. When considering obligations under the new instrument, it was vital to consider means of implementation that took into account different national circumstances and capabilities. National action plans should therefore be an essential component of the instrument, allowing for country-driven action. Providing timely, appropriate, and adequate financial and technical assistance, as well as developing modalities for technology transfer on mutually agreed terms, would also be key for the implementation of the instrument. International cooperation and coordination were also vital for achieving the goals of the instrument. She underlined the importance of using the time at the present session wisely, by prioritizing discussions on the basic components needed to implement the instrument and by ensuring that the instrument complemented, and did not duplicate, work under other international instruments.

31. The representative speaking on behalf of the African States said that the countries in the region embraced a comprehensive life-cycle approach to preventing plastic pollution. He therefore called for the sustainable consumption and production of primary plastic and the elimination of problematic polymers, chemicals, products and applications of concern, with measures that ensured full transparency and information disclosure along the entire plastic value chain. As changes in the value chain could lead to the loss of livelihoods and have other negative socioeconomic impacts, it was important for the instrument to take into account national circumstances and ensure a fair, equitable and inclusive transition for affected populations, with special consideration for people in vulnerable situations, such as women, children, youth and waste pickers. The instrument should also prioritize waste prevention and reduction over recycling and waste management. Where waste management was necessary, effective measures were needed to ensure environmentally sound practices at all stages of that process. Furthermore, the instrument should include effective measures to ensure clean-up and remediation of legacy pollution in all environments, and should take into account the Bamako Convention on the Ban of the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa, as well as applying the Rio Principles to the provisions of the instrument overall. Regarding the financing mechanism for the instrument, a dedicated multilateral fund should be established that would provide necessary, predictable, sustainable and adequate financial resources for countries to ensure they met their commitments under the future instrument. He highlighted the need for capacity-building in the region for institutions and for advanced infrastructures in particular, and for an instrument that facilitated information and knowledge exchange, international cooperation and coordination on the best available science on sustainable consumption and production, research and technologies, and Indigenous knowledge. Regarding the importance of stakeholder engagement, he urged governments to encourage public-private sector partnerships and private sector investments in circular economy approaches along the plastics value chain. He thanked the secretariat for the documentation provided and looked forward to constructive discussion at the present session and clear mandates for intersessional work to allow for a first draft text of the instrument to be ready for consideration at the fourth session. Finally, he

¹ Available from <https://wedocs.unep.org/bitstream/handle/20.500.11822/43978/PreparatorMeetingSummary.pdf>.

requested members to support the call of his region for the secretariat of the future instrument to be hosted in Nairobi, at the headquarters of UNEP.

32. The representative speaking on behalf of the Latin American and Caribbean States welcomed the zero draft text, which, she said, fully responded to the mandate given at the second session and reflected the views expressed at the first and second sessions. She also underlined the importance for small delegations of holding a maximum of two contact group meetings at any one time to allow for full engagement in discussions. Regarding the instrument itself, it should contain obligations and control measures that covered the entire life cycle of plastics, complemented by voluntary measures, and should take into account the national circumstances and capabilities of developing countries, supported by robust means of implementation. The instrument should also promote the circular economy and international cooperation that would result in sustainable production and consumption of plastics, research and innovation, education and awareness-raising. Developing countries, in particular small island developing States, which were disproportionately affected by plastic pollution, required new and additional financial resources, technology transfer, capacity-building and other means of implementation for the new instrument. The interpretation and implementation of the instrument should be guided by the key principles of international environmental law, including the Rio Principles, and by the principles of just transition, in particular for waste pickers; the promotion and protection of human rights; intergenerational equity; non-discrimination; access to information; transparency and accountability; coherence with existing multilateral environmental agreements; and the use of the best available science, traditional knowledge, knowledge of Indigenous Peoples and local knowledge systems. The instrument should also contain a gender perspective, promote decent work throughout the value chain of plastics, and be science-based. The establishment of a scientific and technical subsidiary body was therefore critical for the effective implementation of the instrument, which should include the identification and adoption of criteria to determine hazardous chemicals and additives, plastic polymers, and plastic products that negatively affected human health and the environment, as well as the evaluation of alternatives. With regard to implementation, a robust financial mechanism was required, which could include, but should not be limited to, the establishment of a new fund, synergies with existing multilateral environmental funds, and the provision of technical assistance and technology transfer programmes on mutually agreed terms. In addition, taking into account the diverse starting points among countries, a phased approach to implementation was required. Regarding next steps, the Chair should be given a mandate to develop the first draft text during the intersessional period on the basis of the views expressed at the present session. A formal intersessional process should be established to discuss means of implementation, technical aspects related to control measures, and criteria for chemicals, polymers, and plastic products.

33. The representative speaking on behalf of the small island developing States reiterated her call for an ambitious, effective and equitable instrument that adopted a full life-cycle approach to end plastic pollution once and for all. The instrument should also provide for new, additional, adequate and predictable means of implementation, as well as a just transition and specific support provisions for small island developing States, including priority access, in particular in areas where those States were disproportionately affected. It was therefore important that the obligations and implementation measures of the instrument should include the full recognition of the special circumstances of small island developing States. Obligations relating to chemicals, polymers and plastic products should be commensurate with the level of harm posed, and clear definitions and processes should be established for the identification of such materials. Furthermore, the design of all obligations and measures should take into account domestic contexts; the availability of safe, accessible, efficient, economically feasible, environmentally sound and sustainable alternatives; and cooperation and coordination with existing relevant frameworks or conventions, as well as ensuring adequate time for transition. The instrument should also prescribe appropriate processes to allow for the use of best available data, science and information, traditional knowledge, knowledge of Indigenous Peoples and local knowledge systems, in order to help inform the compilation of annexes, the development of timetables and the necessary regulatory actions. Turning to the marine environment, she noted that the regulation of abandoned, lost or otherwise discarded fishing gear containing plastic, which was one of the largest sources of marine plastic litter, should not be limited to the waste management section of the instrument. The remediation of legacy plastics in the marine environment, including in areas beyond national jurisdiction, required particular attention, given the urgency of the matter, and should include binding obligations to address past, present and future plastic pollution. Regarding the means of implementation of the instrument, she noted that the priority areas for small island developing States included waste management, recycling, remediation, technical assistance, access to technologies and reporting requirements. In conclusion, she recalled that, given the devastating health, environmental and socioeconomic impacts of plastic pollution on critical global ecosystems, the instrument needed to encourage strong action from stakeholders at all levels and across all sectors.

34. The representative speaking on behalf of the European Union and its member States recalled that scientific knowledge had shown that plastic pollution was an increasingly pressing global environmental and health issue, and noted that environmental multilateral action was a powerful tool to protect the global environment. It was therefore vital for all participants to engage in negotiations in a spirit of constructive cooperation in order to achieve an ambitious agreement that addressed all possible causes and sources of plastic pollution and contained legally binding obligations throughout the entire life cycle of plastics. It was also important to note that the paradigm shift in the production, consumption and management of plastics and plastic waste also brought with it economic benefits and business opportunities. Turning to the zero draft text, he said that the European Union and its member States stood ready to begin work on the text, although that text did not reflect all the views that they had expressed at previous sessions, and they were of the view that discussions at the present session would allow all members to acquaint themselves with the views of others and work towards a convergence of views. Those discussions should form the basis of a first draft of the text to be prepared by the Chair for the fourth session of the committee. Discussions at the present session should also lead to the production of a clear road map for intersessional technical work, in order to make best use of the time available and fill any remaining gaps.

35. The representative speaking on behalf of Pacific small island developing States recalled that the vast amount of plastic that ended up in oceans every year was expected to double by 2030 if no action was taken. It was imperative that such a situation was not allowed to continue, as plastics in the Pacific region were threatening food security and human health, undermining critical sectors of the economy, such as tourism and fisheries, and causing a huge financial burden, in particular in relation to waste management. Although plastics had helped to improve lives around the world, that could not be used as an argument to lessen the ambition of the instrument. The modern world was addicted to plastic and the time had come to admit that the addiction was a problem and to change habits globally. The instrument must therefore address the entire life cycle of plastics, with measures applicable to upstream, midstream and downstream stages, including legacy plastics, and that ensured that even the smallest State could fully engage and meet its obligations. Adequate means of implementation were needed, for small island developing States in particular, to ensure that it was possible to revolutionize production and consumption worldwide in the face of the current crisis of pollution and waste.

36. The representative speaking on behalf of the Gulf Cooperation Council said that it was important to recall the importance of plastics to human life and their contribution to the growth of international trade and economies, as well as to the implementation of the Sustainable Development Goals and the achievement of obligations under other international instruments, including ensuring that no one was left behind. Negotiations on the instrument needed to be based on consensus in order to avoid any policies that would be difficult to implement or that would have negative economic or social consequences, including in relation to the supply chain. There was therefore a need for the principles on which the instrument was based to be clear and to take into consideration the circumstances, capacities and potential of all countries into consideration. The instrument should focus on the sound management of plastic waste and guarantee a just transition that would enable countries to have access to the appropriate technologies and innovations, including enhancing the design of plastic to make it more recyclable.

37. The representative speaking on behalf of the Coordinating Body on the Seas of East Asia said that the member countries of that Body were committed to supporting an ambitious, implementable international legally binding instrument. There was a need for regional and global cooperation to drive practical actions against plastic pollution, including by leveraging existing mechanisms such as the regional seas conventions and action plans and the regional nodes of the Global Partnership on Marine Litter, thereby streamlining efforts and reducing duplication. The instrument needed to encourage practical, country-driven initiatives that took into account diverse national circumstances. It should also address all sources of plastic pollution by adopting an entire life-cycle approach that included product design and environmentally sound waste management; consideration of legacy plastics and transboundary flows, including in relation to abandoned, lost and discarded fishing gear; and resource efficiency and circular economy, while recognizing the important role that plastics played in society. There was a need for clear, science-based definitions related to plastic pollution, microplastics, circularity and substances of concern in plastics, as well as a common understanding of truly sustainable and economically viable substitutes and alternatives. One approach that could be adopted was that of extended producer responsibility, which should be appropriately tailored to national circumstances. Turning to implementation measures, she recalled that they should be inclusive, sustainable, impactful and just, and she advocated for the establishment of a scientific advisory body. The governance mechanism for the instrument should be robust and streamlined, building on lessons learned from other multilateral environmental agreements and allowing for coordinated action with such agreements. The instrument should also allow for reasonable transition times to allow industries

and markets to adjust, and should build on existing efforts, including at the regional level, and strive towards greater data comparability and transparency that would in turn enable countries to identify action needed and develop fit-for-purpose and context-specific measures. The provision for developing countries of timely, appropriate and adequate financial and technical assistance in that regard was therefore vital.

38. The representative of speaking on behalf of the High Ambition Coalition to End Plastic Pollution said that the zero draft text provided a good basis for engaging in negotiations at the present session. He reiterated the call for binding provisions in the treaty to restrain and reduce the consumption and production of primary plastic polymers to sustainable levels; eliminate and restrict unnecessary, avoidable or problematic plastics, as well as plastic polymers, chemical constituents and plastic products of particular concern; increase the safe circularity of plastics in the economy, guided by the waste hierarchy; and manage plastic waste in an environmentally sound and safe manner, and eliminate the release of plastics, including microplastics, to air, water and land. The instrument should also contain binding provisions for reporting and transparency across the value chain of plastics, and allow for the mobilization of the necessary means of implementation to deliver action on the ground. He encouraged all members to engage constructively at the present session, with the goal of making substantial progress on the draft text, and requested the Chair to prepare a first draft, on the basis of those discussions, for consideration at the fourth session. Technical work should also be carried out in the intersessional period in order to collate the best available science, data and knowledge to inform the committee in its discussion of the first draft and work towards the common goal of ending plastic pollution by 2040.

39. The representative of speaking on behalf of a group of like-minded countries said that the group remained committed to constructive and fair dialogue, taking into account the need for broad participation of all countries and regions. Discussions on the instrument should focus initially on matters that could bring about immediate and effective outcomes. It was imperative for any discussion in contact groups at the present session to have a clear mandate for producing a revised version of the zero draft text set out in document UNEP/PP/INC.3/4 that reflected all the views expressed as presented, without alteration or interpretation, in order to ensure the inclusivity of the process. The revised document should be presented to the committee for review on Wednesday, 15 November.

40. Representatives of 64 members also made statements on agenda item 4, which are summarized below, as did representatives of 20 observers. The full text of statements made by members and observers, when submitted, can be found on the website for the session.

41. Many of the representatives who spoke expressed thanks to the Chair and the secretariat for the preparation of the zero draft text and several expressed appreciation for the synthesis report and for the preparatory meeting held on 11 November. Many representatives expressed the view that the zero draft text, which several representatives said reflected the range of views expressed at previous sessions, was a good basis for discussion in the contact groups. Several representatives, however, said that not all the views expressed during previous sessions had, in fact, been reflected in the document, therefore creating imbalance in the zero draft text. A number of representatives therefore requested that a more balanced zero draft be produced and called for the exact wording used by members to be reflected rather than an interpretation thereof, whereas one representative suggested that the zero draft text be used, as long as any additions, deletions or modifications proposed by members were treated on an equal basis to that text. One representative expressed the strong belief that the zero draft text did, in fact, prejudge the direction of discussion in the contact groups and therefore was an unsuitable basis for negotiations. Furthermore, a number of representatives noted that elements of the zero draft text went beyond the mandate of resolution 5/14, in particular in relation to trade, which, they said, was not acceptable.

42. There was general agreement that discussion should continue in contact groups. A number of representatives said that such discussion should focus on completing a first reading of the zero draft text, with others suggesting that initial discussion focus on non-controversial areas of the zero draft text and urging the use, where appropriate, of agreed wording from resolutions of the United Nations Environment Assembly and the governing bodies of multilateral environmental agreements. A number of representatives said that the definition of technical terms to be used in the instrument should be established before discussions progressed further. Furthermore, several representatives underlined the importance of recalling that the negotiations should be country-driven and always based on consensus, especially as it was vital for the future instrument to be inclusive in nature.

43. Many representatives emphasized the urgency of tackling the negative effects of plastic pollution on human health and the environment, and some provided details of past and present national actions to address plastic pollution. Several representatives highlighted the need for a robust

instrument that was comprehensive, specific, time-bound and measurable, with the ambition of eliminating additional plastic pollution by 2040. Many expressed the view that it was critical to adopt a full life-cycle approach and promote the circular economy with regard to plastics. Several representatives stressed the importance of focusing on the sustainable production and consumption of plastics, including on related research and development. The sound management of waste, including the prevention of leakage of plastic into the environment, was identified by many representatives as the key issue that should be tackled by the instrument.

44. With regard to plastics in general, several representatives recalled that plastics played an essential role in modern daily life and said that it was imperative to note that the instrument was related to plastic pollution in particular. It was therefore critical to differentiate between types of plastic and identify the exact types of plastic and plastic products that may have contributed to plastic pollution. In that regard, many representatives also referred to the Rio Principle on the sovereign right of countries to exploit their own natural resources pursuant to their own environmental and developmental policies, and the need for trade policy measures for environmental purposes not to constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade, in particular with regard to primary plastic polymers. They said that any calls for limits on the production of primary polymers could have unintended and wide-ranging economic impacts, including on the supply chain. A number of other representatives, however, stressed the urgent need to reduce primary polymer production, calling for ambitious and time-bound reduction of problematic and avoidable plastic polymers and products, and several others highlighted the importance of including in the instrument the means to identify, trace and eliminate chemicals of concern, including polymers, including through the elaboration of a list of problematic chemicals.

45. With regard to the principles on which the instrument should be based, most of the representatives who spoke emphasized the importance of the Rio Principle of common but differentiated responsibilities, with many also referring to other Rio Principles, including the polluter pays and the precautionary principles. Many representatives spoke of the need for a just transition; a fair, equitable and inclusive approach; a human rights approach; transparency and accountability; the incorporation of traditional knowledge, local knowledge and knowledge of Indigenous Peoples; the eradication of poverty; the application of extended producer responsibility; and the promotion of reuse, recycling and repair of plastics and plastic products.

46. There was general agreement that the instrument should complement, and not duplicate, the work of other multilateral environmental agreements, including regional agreements, and that cooperation and coordination with international chemicals-related conventions and frameworks and with the 2030 Agenda for Sustainable Development was vital. A number of representatives also deemed it important to ensure that the instrument was in line with the United Nations Convention on the Law of the Sea, and one said that it should be in accordance with the rules of the World Trade Organization.

47. The need for the instrument to adopt a science-based approach that was data driven and used the best available science was underscored by many representatives, with a number also calling for the establishment of a scientific body, which could, they suggested, also be in the form of a science-policy body or socioeconomic-scientific body.

48. Regarding implementation, some representatives noted the importance of binding global and national targets, in conjunction with voluntary measures. Many representatives, recalling the principle of common but differentiated responsibilities, expressed their strong support for the development of national action plans, allowing countries to tailor their obligations according to the specific needs, priorities and capabilities of their countries. A number of representatives also expressed the view that the instrument should not be overly burdensome for countries to implement, thereby making implementation achievable, in particular for small island developing States. One representative, however, said that it was imperative that the wording in the section of the draft text referring to existing plastic pollution, including in the marine environment, should refer to mandatory rather than voluntary measures, echoing the view of many representatives that addressing plastic pollution in the marine environment was of paramount importance. Many representatives underscored the need for coordination with a range of stakeholders, including non-governmental organizations, civil society, academia and the private sector, with one representative noting the importance of collaboration and the development of public-private partnerships at the national level for future implementation of the instrument.

49. Several representatives emphasized the importance of establishing effective mechanisms in society to promote plastic circularity and prevent leakage into the environment. One representative advocated for an annex to the instrument setting out effective measures, both voluntary and

compulsory, to be taken upstream, midstream and downstream, and noted the need for integrated and holistic national policies. Several representatives called for accessible, affordable and environmentally friendly alternatives to plastics and plastic products, with some representatives highlighting the importance of government and private sector investment to that end.

50. Many representatives called for adequate support to be provided for developing countries and countries with economies in transition, including through capacity-building, technology transfer under mutually agreed circumstances and technical assistance. Several representatives stressed the need for accessible, adequate, predictable and sustainable financial resources and one emphasized the importance of providing focused, cost-effective implementation support to those most in need. Sustainable waste management was highlighted by several representatives as a key area in which developing countries required assistance. A number of representatives also drew attention to the special circumstances of small island developing States, which, they said, should be reflected in the provisions of the instrument itself, and of archipelagic States and those with extensive coastlines. Several representatives also drew attention to the transboundary nature of plastic pollution and the need to consider in particular the circumstances of downstream countries, with one representative noting that his country had submitted a non-paper for the consideration of the committee on the special attention needed by downstream underdeveloped countries in order to manage cumulative plastic load and protect the adjacent marine environment. Several representatives also emphasized as a priority consideration of the needs of vulnerable groups in particular, including women, children, youth, Indigenous Peoples, coastal communities, and waste pickers.

51. Regarding financing, some representatives expressed the view that the financial mechanism for the instrument should be based solely on a new, dedicated multilateral fund, while others advocated also using existing financial mechanisms, such as the Global Environment Facility. Yet others said that financial support could be mobilized from a range of sources, including the private sector. Some representatives said that existing financial mechanisms should be used, with one representative noting that such an approach would avoid a wait of several years while a new fund was established and another emphasizing that access to funding should involve as little bureaucracy as possible.

52. Several representatives expressed support for the hosting of the secretariat of the new instrument in Nairobi.

53. With regard to intersessional work, some representatives called for a focus on technical work, including on principles; the definition of key terms; means of implementation, including the financial mechanism; and annexes to the instrument. One representative said that her country could not support any intersessional work on technical issues that was not accompanied by intersessional work on financing, and another stressed the importance of conducting work in an inclusive manner, with equitable geographical and gender representation. One representative called for clear mandates and timetables for the work, while another proposed the establishment of an open-ended working group. Several representatives supported giving the Chair a mandate to prepare a first draft of the text, on the basis of the discussion at the present session, for consideration by the committee at its fourth session.

B. Establishment of contact groups

54. Subsequently, the intergovernmental negotiating committee decided to establish two contact groups in order to identify areas of consensus and narrow down potential options using the text set out in the annex to document UNEP/PP/INC.3/4 as the guiding reference for their work. The mandate of contact group 1, to be co-facilitated by Axel Borchmann (Germany) and Gwen Sisor (Palau), was to focus on the elements set out in part I on the objective(s); and in part II of the annex to document UNEP/PP/INC.3/4. The mandate of contact group 2, to be co-facilitated by Kate Lynch (Australia) and Oliver Boachie (Ghana), was to focus on the elements set out in parts III and IV of the annex to document UNEP/PP/INC.3/4. Following the discussions in the contact groups, the co-facilitators were to prepare a co-facilitators' summary of the discussions to be presented to the committee.

55. The committee also decided to establish a third contact group. The mandate of contact group 3, to be co-facilitated by Marine Collignon (France) and Danny Rahdiansyah (Indonesia), was to consider the elements addressed in the synthesis report and inputs from members for the placeholders in the zero draft, focusing on elements that had not been discussed at the second session of the committee, taking into account discussions at the preparatory meeting held prior to the current session and intersessional work; to consider the needs and timelines identified for relevant intersessional work, if any, on the substantive matters discussed in contact group 3; and to prepare recommendations with respect to possible intersessional work and its modalities for issues identified in contact groups 1, 2 and 3, based on the relevant work in those contact groups. Following the discussions in the contact

group, the co-facilitators would prepare a co-facilitators' summary of the discussions to be presented to the committee.

56. The Chair also proposed that the co-facilitators of each contact group report to the committee on progress in the work of that group.

57. One representative expressed the desire to engage in a constructive discussion on the elements contained in the synthesis report, notwithstanding the fact that the report had been made available only two weeks prior to the opening of the current session. Consequently, internal consultations were ongoing and needed to be finalized before a position could be presented by her delegation. Another representative highlighted the role of downstream countries as the main actors in preventing marine littering, noting that they should therefore be accorded special attention in the discussion in contact group 3, with a view to ensuring proper waste management, a just transition and resolution of the issue of legacy plastic, among other objectives.

58. Several representatives expressed concerns about the proposal to discuss definitions in contact group 3, given that discussions would simultaneously be under way in contact groups 1 and 2, and requested clarification on how effective interlinkages could be ensured between the contact groups. In that connection, various representatives also raised concerns with regard to the scheduling of the contact group meetings, proposing that the meetings of contact group 3 be postponed until after the meetings of contact groups 1 and 2 had been held. Clarification was also sought by one representative regarding how the outcomes of contact group 3 would be reflected in the zero draft, given its distinction from the other two contact groups.

59. Some representatives, including one speaking on behalf of a group of countries, said that the proposed schedule accommodated the concerns expressed by some parties, for example it ensured consideration of elements that had been missing in the zero draft at an earlier stage of the meeting. Another noted that the consideration of definitions in contact group 3 would be appropriate, given its strong interlinkages with scope, which was also within the mandate of that contact group.

60. The Chair said that, given the interlinkages between the mandates of all three contact groups, the co-facilitators of all three contact groups would ensure close coordination on the progress achieved with regard to linked elements and devise strategies to address possible overlap and, where necessary, consult on specific interlinkages.

61. The Chair further invited members with text proposals to submit them to the secretariat in writing by 10a.m. on Thursday, 16 November.

62. Subsequently, the committee heard reports from the co-facilitators of the three contact groups on progress in the discussions of those groups. Following the report by the co-facilitator of contact group 2, one representative, supported by several others, requested that the report of contact group 2 take note of the fact that, during the group's meetings, some members had expressed a preference for the establishment of a new financial mechanism in order to provide full support for the new instrument. One representative, however, stated a preference for using an existing financial mechanism, in order to make the process smoother and faster, while another representative expressed her preference for the establishment of a new financial mechanism within an existing financial institution.

63. [to be completed]

VI. Other matters

64. [to be completed]

VII. Adoption of the report

65. [to be completed]

VIII. Closure of the session

66. [to be completed]