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**Intergovernmental negotiating committee to develop
an international legally binding instrument on plastic
pollution, including in the marine environment
Fifth session**

Busan, Republic of Korea, 25 November–1 December 2024
Item 3 (c) of the provisional agenda*

Organizational matters: organization of work

**Scenario note for the fifth session of the intergovernmental
negotiating committee to develop an international legally
binding instrument on plastic pollution, including in the marine
environment****

Note by the Chair of the intergovernmental negotiating committee

I. Our goal and expectations

1. The fifth session of the intergovernmental negotiating committee to develop an international legally binding instrument on plastic pollution, including in the marine environment (INC), will be held in Busan, Republic of Korea, from 25 November to 1 December 2024. The provisional agenda for the fifth session has been made available in document UNEP/PP/INC.5/1. An annotated provisional agenda is also available in document UNEP/PP/INC.5/1/Add.1.
2. At this stage of the negotiations, our shared purpose is to agree on and approve the text of an international legally binding instrument in fulfilment of our mandate. At this session, the committee will also need to identify any issues and areas where preparatory work should be done in the interim period between the Diplomatic Conference mandated in paragraph 12 of UNEA resolution 5/14¹ and the first session of the Conference of the Parties (COP) to enable the COP to make the provisions of the instrument fully operational, as well as any actions to facilitate early entry into force and preparations by States for ratification.
3. My sense is that there is much common ground to build on, and a strong commitment among Members to achieve a successful conclusion of these negotiations in Busan.
4. With this in mind, the present note is intended to guide Members in their preparations for the fifth session and to propose a way forward, with the aim of optimizing the limited time available for

* UNEP/PP/INC.5/1.

** The present document has not been formally edited.

¹ UNEP/EA.5/Res.14, available at 5/14. End Plastic Pollution: Towards an International Legally Binding Instrument - Resolution adopted by the United Nations Environment Assembly on 2 March 2022 [UNEP/EA.5/Res.14].

the completion of the negotiations. This note should be read in conjunction with the meeting documentation.²

II. Meeting purpose

5. To complete the objectives of the committee, the purpose of the fifth and final session is to:
- (a) Finalize and approve the text of the instrument;
 - (b) Identify, for consideration and adoption by the Diplomatic Conference in its resolutions, issues and areas where preparatory work should be done in the interim period between the Diplomatic Conference and the first session of the COP, as well as any actions to facilitate early entry into force and preparations by States for ratification.

III. Modalities for the session

6. The host country and the secretariat have made the necessary arrangements for the session to take place in Busan, Republic of Korea, from 25 November to 1 December 2024.
7. Regional consultations will be possible at the meeting venue on 24 November 2024. There will also be an opportunity for regional meetings throughout the week of the session.
8. The plenary meetings of the fifth session will be conducted in the six official languages of the United Nations. Taking into consideration United Nations practice, any contact group meetings and meetings other than plenary will be held in English only. The session will be held in-person, with plenary meetings livestreamed.

IV. Opening of the session

9. The opening of the fifth session of the committee will take place at 10:00 am on Monday, 25 November 2024. I propose that we progress swiftly through this agenda item and that Member statements are not made under this agenda item. In the interest of time and considering how much work we have before us, I invite you instead to submit any statements in writing through the INC in-session document platform, to be made available closer to the session.

V. Election of officers

10. A formal notice was received of resignation of Mr. Mohammed Khashashneh (Jordan) from his position of Vice-Chair. The committee will therefore be invited to elect a Vice-Chair from the Asia Pacific Group of States for the vacant seat, for the remainder of the term of Mr. Khashashneh. The election will be conducted in accordance with rules 11 and 13 of the draft rules of procedure being provisionally applied to the work of the committee (contained in document UNEP/PP/INC.5/3).

VI. Organizational matters

A. Rules of procedure

11. At its first session, the committee agreed that the draft rules of procedure, as contained in document UNEP/PP/INC.5/3,³ would apply to its work on a provisional basis.
12. At its second session, the committee decided to adopt the following interpretive statement relating to rule 38, paragraph 1:

The intergovernmental negotiating committee understands that, based on discussions on the draft rules of procedure for the intergovernmental negotiating committee, there are differing views among intergovernmental negotiating committee members on rule 38, paragraph 1, and its reflection in the report of the intergovernmental negotiating committee on the work of its first session. Therefore, the provisional application of rule 38, paragraph 1, of the draft rules of procedure has been a subject of debate. In the event that rule 38, paragraph 1, is invoked before the rules are formally adopted, members will recall this lack of agreement.

² A list of the meeting documentation is provided in the annex to the present note.

³ UNEP/PP/INC.5/3, available at https://wedocs.unep.org/bitstream/handle/20.500.11822/46374/Draft_Rules_of_Procedure_English.pdf.

13. Therefore, the draft rules of procedure would continue to apply on a provisional basis to the work of the committee, as decided at its first session. I would also like to take this opportunity to reiterate my commitment to the negotiations, and the achievement of our objectives, being held in the spirit of cooperation and consensus.

B. Adoption of the agenda

14. I will invite the committee to adopt the agenda, as contained in document UNEP/PP/INC.5/1.⁴

C. Organization of work

15. The work of the committee will start with a plenary meeting on Monday 25 November and will conclude with a plenary meeting on Sunday, 1 December 2024. Simultaneous interpretation has been arranged for plenaries during this period.

16. As described in greater detail below, I expect that most of the work during the week will be undertaken in contact groups, supported by informal consultations among Members as needed. In addition, I expect that the Legal Drafting Group established by the committee at its fourth session will start its work as early as possible in the session. I will also convene plenary meetings as needed during the week.

17. The proposed organization of work, including in plenary and in contact groups, is set out in more detail below.

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

A. Further development and finalization of the text of the instrument

18. To facilitate and support the development of the necessary convergence at the fifth session, I have been consulting with Members in various formats, mainly through informal open-ended consultations at the level of Heads of Delegations. Through these informal consultations, I have heard that we will not achieve our goal in INC-5 if we are to work incrementally on the compilation of the draft text contained in UNEP/PP/INC.5/4⁵, and that a simplification in the structure and content of the instrument, and a sharpening of the focus on elements that are necessary for the instrument to be fully operational and effective, are necessary to achieve agreement on its text at the fifth session.

19. I have also heard a broad shared understanding that some aspects, such as detailed implementing arrangements, could be developed further after the Diplomatic Conference, for consideration and adoption by the COP, provided that the text of the instrument agreed at the fifth session provides the necessary basis for such work. From my consultations, I also sense a strong commitment to build on the common ground and all the work to date, to bridge remaining gaps and achieve convergence on agreed text in Busan.

20. Building on these understandings, I have been working with members to facilitate and support their preparations for the fifth session. My informal consultations, and several iterations of a non-paper presented under my authority as Chair to support these consultations, draw on the compilation of draft text contained in document UNEP/PP/INC.5/4, and on the views of members. These efforts are intended to support and facilitate the further development and finalization of the text of the instrument at the fifth session, including by building on the common ground among members, and identifying areas in which some work could be deferred to a later stage.

21. I plan to make available my non-paper 3, prepared under my own authority, in advance of the session. It is my hope that this can be considered by the committee, to inform its further work, facilitate convergence, and supplement the documents before it as a possible basis for further negotiations at the fifth session, across all aspects of the negotiations. In addition, the committee will

⁴ See UNEP/PP/INC.5/1, available at https://wedocs.unep.org/bitstream/handle/20.500.11822/46375/Provisional_Agenda_English.pdf.

⁵ See Compilation of draft text of the international legally binding instrument on plastic pollution, including in the marine environment, available at <https://www.unep.org/inc-plastic-pollution/session-5/documents#WorkingDocumentsINC5>.

have before it the outcomes of the two *ad hoc* intersessional expert groups established at its fourth session.⁶

22. Therefore, reflecting on what I have heard from Members through my informal consultations with them including at the Heads of Delegations level, and based on the objectives of this session, I am proposing the organization of work below.

B. Plenary meetings

23. Under agenda item 4 (“Preparation of an international legally binding instrument on plastic pollution, including in the marine environment”) in plenary, I will present my non-paper, and provide an opportunity for the reports from the intersessional work mandated at the fourth session to be presented.

24. In the interest of time, Members are invited to make any national statements in writing only and to submit them through the INC in-session document platform for posting on the session’s website. Any oral statements on behalf of a regional group or group of States will be limited to five minutes each. I strongly encourage all statements in plenary to be succinct so that we can move promptly to textual negotiations, including through the establishment of contact groups. Specific and technical statements can be made most effectively in the contact groups.

25. As described further below, I also intend to provide for the possibility of short plenary meetings to take place throughout the week, as needed. I also propose to convene at least one plenary during the week, to take stock of progress in the contact groups and in the Legal Drafting Group and decide, as needed, on any adjustments to the modalities for further work.

C. Establishment of contact groups and modalities for their work

26. Given the limited time available to us to bring our negotiations to a successful conclusion at this session, it is essential that we organize our work in the most efficient and effective manner possible. I envisage that this will involve ensuring an efficient allocation of time over the course of the week to enable the development of convergence and agreement across all areas of the text. This will also require the identification, by the end of the session, of any issues related to the preparation of the Diplomatic Conference, including any areas of work which may need to be addressed through decisions of the first session of the COP to facilitate the implementation of the instrument.

27. Accordingly, my overall approach is based on ensuring that convergent elements of draft text can move as swiftly as possible to the Legal Drafting Group for finalization, and that sufficient time is available to resolve any outstanding issues, including through informal consultations as needed. With this objective in mind, I propose to organize the work as detailed below. This proposed organization of work is intended to allow for flexibility to conduct our work in the most effective manner possible, while preserving full transparency and inclusiveness.

28. I propose that the committee refer to the Legal Drafting Group, with a view to their early finalization, the draft final provisions (namely settlement of disputes, amendments to the instrument, adoption and amendment of annexes, right to vote, signature, ratification, acceptance, approval or accession, entry into force, reservations, withdrawal, depositary and authentic texts) and the draft provisions on the governing body and the secretariat,⁷ without prejudice to any potential decisions with respect to subsidiary bodies. In accordance with the mandate given by the committee, any policy issues that the Legal Drafting Group identifies in the course of its review are to be referred back to the plenary for resolution.

29. I would also propose that work on issues addressed in Part I of the compilation of draft text (UNEP/PP/INC.5/4) and in the first part of my non-paper be finalized towards the end of the session, to allow me to consult with delegations as the session is ongoing and so that the final text on these elements can be informed by the development of text in other parts of the instrument. I will propose a working arrangement to finalize text on these elements.

30. All other issues would be referred to contact groups with the aim of finalizing the text. Each contact group would be mandated to conduct textual negotiations and make proposals for

⁶ See Reports of the Co-Chairs of the *ad hoc* intersessional open-ended expert groups, UNEP/PP/INC.5/5 and UNEP/PP/INC.5/6.

⁷ Draft text contained in the Chair’s non-paper and in Parts V and VI of the compilation of draft text (UNEP/PP/INC.5/4).

consideration of the committee. Each contact group would also be requested to identify any aspects within the scope of its mandate that may need to be addressed through future COP decisions.

31. I propose the establishment of four contact groups, based on the following broad grouping of issues:

(a) Plastic products, chemicals of concern as used in plastic products, product design, and production/supply and related aspects, as reflected in my non-paper and in reference to relevant issues addressed in Part II of document UNEP/PP/INC.5/4;

(b) Plastic waste management, emissions and releases, existing plastic pollution, including in the marine environment, and just transition, as reflected in my non-paper and in reference to relevant issues addressed in Part II of document UNEP/PP/INC.5/4;

(c) Finance, including the establishment of a financial mechanism, capacity building, technical assistance and technology transfer, and international cooperation, as reflected in my non-paper and in reference to relevant issues addressed in Part III of document UNEP/PP/INC.5/4;

(d) Implementation and compliance, national plans, reporting, monitoring of progress and effectiveness evaluation, information exchange, and awareness, education and research, as reflected in my non-paper and in reference to relevant issues addressed in Part IV of document UNEP/PP/INC.5/4.

32. Each contact group would be chaired by two co-chairs. Set periods of time would be assigned for each group to meet and progress as needed. I intend to consult further on the sequence in which to organize the work of the contact groups, with a view to ensuring that draft text on issues on which early convergence can be achieved can be finalized as early as possible, and the relevant text elements referred promptly to the Legal Drafting Group, and that we also provide sufficient opportunity for the development of convergence as needed in all areas, including through informal consultations as needed.

33. Each contact group would be expected to organize its work in the most effective manner possible, to foster the development of convergence across all areas within its mandate and allow prompt referral by the plenary to the Legal Drafting Group of any elements of draft text on which its work is complete. This may include informal consultations as needed to facilitate dialogue among members for the development of convergence. Any outcomes of such informal work should be promptly reported to the contact group in full for its consideration. The contact groups may also propose to hold joint meetings on related matters within their respective mandates, as needed.

34. Any outcomes of the work of contact groups would need to be forwarded to the plenary for its consideration. Each contact group should identify, as its work progresses, any issues where there is convergence on text that could be forwarded by the plenary to the Legal Drafting Group (see section VII.D below).

35. I propose to convene a stock-taking plenary mid-week, provisionally at the end of the day on Wednesday, 25 November 2024. At this meeting, each contact group would be expected to report on any draft text that could be referred to the Legal Drafting Group, and on the state-of-play on any outstanding issues within its mandate. As needed, the co-chairs of the contact groups could be requested to develop draft text for consideration by the contact group, with a view to bridging any remaining gaps in positions and facilitating the development of convergence.

36. There will also be an opportunity for plenary meetings to be convened over the course of the week as needed, including to ensure that any text on which convergence has been achieved in the relevant contact group can be promptly referred to the Legal Drafting Group.

37. All contact groups should aim to conclude their work by Friday, 29 November 2024, with a view to making any outcomes of their work available in time for consideration by the committee in plenary on Sunday, 1 December 2024.

38. I expect that an initial schedule of meetings could be developed for the first three days of the session, and that the schedule for the following days could be developed over the course of the session, taking into account the progress of work in each contact group, to ensure that adequate opportunity is provided to consider all elements.

39. I plan to undertake further consultations in advance of the session to identify co-chairs for each of the proposed contact groups, and to make proposals in this regard for consideration by the plenary. I will work closely with the co-chairs of the contact groups and of the Legal Drafting Group during the session, to ensure close coordination in their work, both in terms of substantive aspects and with respect to procedural arrangements.

D. Legal drafting group

40. At its fourth session, the committee agreed to establish an open-ended legal drafting group to conduct a legal review of any elements of the draft text forwarded to it by the committee with a view to ensuring that the text is drafted in a legally sound manner and make recommendations on the wording to the committee for its consideration. The committee also agreed that in its work, the Legal Drafting Group would not consider policy issues, and any policy issues it might identify in the course of its work would be referred back to the committee.

41. The committee further agreed that the open-ended Legal Drafting Group would be composed of legal experts from Members. Members wishing to do so were invited to communicate to the Secretariat, by 15 August 2024, information on their legal expert, to be made available on the committee's website. Delegations are reminded that participation in the work of the Legal Drafting Group is open to representatives of Members only.

42. The committee agreed that the co-chairs of the Legal Drafting Group would be appointed by the committee at its fifth session, based on a proposal by the Chair. Accordingly, I have been consulting on the appointment of co-chairs for this group and will propose that the committee appoint them as early as possible in the session, so that the group can start to work immediately on any draft text referred to it by the committee.

43. Meetings of the Legal Drafting Group would be convened by the Co-chairs during the fifth session as and when needed, to consider draft text referred to it by the plenary of the committee. The Legal Drafting Group would be invited to bring to the attention of the committee any policy issues that it may encounter in the course of its work, and to transmit to the committee as soon as possible, as its work progresses, any text in respect of which it has completed its review. This will allow the committee to consider elements of draft text as they develop. The committee may wish to provisionally approve any text provisions reviewed by the legal group on the understanding that any such elements of draft text would subsequently need to be approved as part of the full text of the instrument (see section E below). In addition, the Legal Drafting Group would be asked, towards the end of the session, to review the entirety of the draft text for overall consistency before the text is presented for formal approval by the committee.

44. Following the closure of the fifth session and before the diplomatic conference, as is common practice in treaty negotiations, the secretariat can be mandated to make only minor formatting and consistency changes to the text. It is therefore essential that the Legal Drafting Group is presented with any agreed elements of the text as soon as possible for its initial review and that it is also given the opportunity to review the full agreed text of the instrument before it is presented for approval to the plenary to ensure consistency and legal accuracy of the text as a whole.

45. The Legal Drafting Group should aim to conclude its work at the latest by Saturday, 30 November 2024, with a view to making any outcomes of its work available in time for consideration by the committee in plenary on Sunday, 1 December 2024.

E. Consideration of the work of contact groups and the Legal Drafting Group by the plenary

46. As per usual practice, once the negotiations on the text of the instrument are completed and the text as a whole has undergone legal review by the Legal Drafting Group, the committee, in its closing plenary, will need to consider the text of the instrument provision by provision with a view to their formal approval. In order to expedite this process, the committee may also wish to consider and provisionally approve in the course of the week those articles on which negotiation has been completed as negotiations progress, and which have been reviewed individually by the Legal Drafting Group. Such provisional approval would be subject to confirmation at the formal approval stage and is, of course, subject to formal agreement on all other provisions of the instrument.

47. During its closing plenary, the committee may also wish to consider and approve the formal title for the draft instrument.

VIII. Other matters

48. I propose to take up agenda item 5 ("Other matters") in plenary on Sunday, 1 December 2024.

49. Under this item, I propose that the committee addresses identification of any issues and areas where preparatory work should be done in the interim period between the Diplomatic Conference and any actions to facilitate early entry into force and preparations by States for ratification. Such issues,

areas and actions could be reflected in the report of the INC which will be available to the Diplomatic Conference when it considers its resolutions, including the resolution on the interim arrangements.

50. Under the same item, the committee may also wish to formally request the Executive Director of UNEP, as the Convener of the Diplomatic Conference mandated in paragraph 12 of UNEA resolution 5/14, to also convene a preparatory meeting for the Diplomatic Conference, including for the purpose of preparing draft resolutions for consideration by the Diplomatic Conference.

51. Further, I propose to invite the secretariat to present the practice on how approved texts of treaties are reviewed for minor editorial adjustments as well as the process through which all language versions can be verified.

52. Should any Member wish to raise any other matters under this item, I invite them to alert me during the consideration of the provisional agenda item 3(b) (“Adoption of the agenda”) in plenary on Monday, 25 November 2024.

IX. Adoption of the report and closure of the session

53. Decisions to be agreed on by the committee should be tabled for adoption in plenary on Saturday, 30 November 2024.

54. A report of the session will be prepared by the Rapporteur under my overall guidance, with the support of the secretariat, and circulated as an official document. As has been done at previous sessions, the draft report will be tabled for adoption at the end of the session, capturing the early parts of the proceedings and discussions during the session. I will invite the committee to entrust the Rapporteur to finalize the report as soon as possible after the session, with the assistance of the secretariat and under my overall guidance.

X. Possible outcomes of the fifth session of the committee

55. By the end of this session, the committee will need to agree on the text of the international legally binding instrument mandated under UNEA resolution 5/14, in accordance with that resolution.

56. Considering this timeframe, the committee may consider the following possible outcomes for the fifth session:

(a) Agreement on and approval of the text of the instrument for adoption by the Diplomatic Conference of plenipotentiaries;

(b) Identification of any areas of work which may need to be advanced in the period after the Diplomatic Conference and through decisions of the first session of the COP to facilitate the implementation of the instrument.

57. Finally, let us all keep in mind that we are developing an international legally binding instrument that is effective in addressing the urgent environmental challenge we face, implementable, and will protect future generations and the environment from plastic pollution, including in the marine environment. I look forward to seeing you in Busan and working constructively with you all towards successfully achieving this goal and delivering on our mandate.

Ambassador Luis Vayas Valdivieso
Chair of the Intergovernmental Negotiating Committee

Annex

List of documents for the fifth session

UNEP/PP/INC.5/1	Provisional agenda
UNEP/PP/INC.5/1/Add.1	Annotated provisional agenda
UNEP/PP/INC.5/2	Scenario note for the fifth session of the intergovernmental negotiating committee to develop an international legally binding instrument on plastic pollution, including in the marine environment
UNEP/PP/INC.5/3	Draft rules of procedure for the work of the intergovernmental negotiating committee to develop an international legally binding instrument on plastic pollution, including in the marine environment
UNEP/PP/INC.5/4	Compilation of draft text of the international legally binding instrument on plastic pollution, including in the marine environment
UNEP/PP/INC.5/5	Report of the Co-chairs on the work of the <i>ad hoc</i> intersessional open-ended expert group to develop an analysis of potential sources, and means that could be mobilized, for implementation of the objectives of the instrument, including options for the establishment of a financial mechanism, alignment of financial flows, and catalyzing finance
UNEP/PP/INC.5/6	Report of the Co-chairs on the work of the <i>ad hoc</i> intersessional open-ended expert group to identify and analyze criteria and non criteria based approaches with regard to plastic products and chemicals of concern in plastic products, and product design focusing on recyclability and reusability of plastic products, considering their uses and applications
	Non-paper 3 of the Chair of the Committee
