**First session of the Intergovernmental Negotiating Committee to develop an internationally legally binding instrument on plastic pollution, including in the marine environment (INC- 1)**

26 November – 2 December 2022

**MEMBERS BRIEFING NOTE**

**Cluster 2: Institutional Framework**

*This briefing note needs to be read with UNEP/EA.5/Res.14 the key point of reference document for INC 1 negotiations. The relevant sub-paragraph(s) are: OP3(h); OP3(j); OP3(n); OP3(p); Op3(k)); OP4(b); OP4(e); OP4(f); OP4(g); OP4(k); Op5.* UNEP/EA.5/Res.14 is provided in **Annex 1**.

**1. Background Information**[[1]](#footnote-1)

* The institutional framework cluster group discussion concerns the structure and functions of the governing, legislative, scientific, and regulatory bodies and agencies. Resolution 5/14 contains multiple subparagraphs directly and indirectly related to the institutional framework, which given their interrelatedness are best advanced through a concurrent negotiation within a single technical working group.
* This would include negotiations concerning the science-policy interface, including the possibility of a dedicated mechanism to provide policy relevant scientific and socio-economic information and assessment (Op4(f)) and arrangements for capacity-building and technical assistance (OP3(n)). It would also include negotiations on the financial mechanism, in particular consideration of a dedicated multilateral fund, to support the implementation of the instrument (OP4(b)). Given the crucial importance of both a dedicated scientific mechanism and fund to support capacity-building and implementation, these pillars of the institutional framework should have specific sub-streams within this thematic track.
* This cluster would also address the need for periodic assessment of the progress of implementation of the instrument OP3(g), its effectiveness in achieving its objectives; OP3(h), how to address compliance (OP3(p)), and coordination with other instruments (Op4(k)).
* These negotiations could be considered separately yet concurrently in the same cluster, beginning early in the INC process to revisit different elements as negotiations progress. Such an approach would allow distinct yet connected discussions to take place throughout the INC process.

**2. Potential questions that could facilitate discussions at the first session**

The following table is based on the concept note developed by the Secretariat of the INC.

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| --- | --- | --- |
| **INC concept note element** | **Response** | **Why is this important to the Pacific Region?** |
| 26. Considerations for the legally binding instrument |  |
| (a) Which problem or problems will the instrument/[the cluster] aim to address? | **Member State comments**: | **Member State comments**: |
| How will the aim be reflected in the instrument? | **Member State comments**: | **Member State comments**: |
| (b) What core obligations, control measures and voluntary approaches would provide a comprehensive approach to addressing the problem or problems? | **Obligation/s:****Member State comments**: | **Member State comments**: |
| **Control measures:** **Member State comments**: | **Member State comments**: |
| **Voluntary measures:****Member State comments**: | **Member State comments**: |
| (c) How can the instrument create an incentive-based approach and enabling environment such that it is in everyone’s interest to implement their obligations? | **Member State comments**: | **Member State comments**: |
| 27. Considerations in structuring the process to reach agreement |  |
| (a) On what issues can early agreement be envisaged?  | **Member State comments**: | **Member State comments**: |
| (b) What areas require further work to be undertaken by the secretariat or by the Chair of the committee? | **Member State comments**: | **Member State comments**: |
| By when? | **Member State comments**: | **Member State comments**: |
| (c) How can the INC ensure that the interests of all stakeholders are considered and contribute to the process of elaborating the instrument? | **Member State comments**: | **Member State comments**: |

|  |  |
| --- | --- |
| **UNITED NATIONS** | **EP** |
|  | **UNEP**/EA.5/Res.14 |
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| **United Nations****Environment Assembly of the United Nations Environment Programme** |

**United Nations Environment Assembly of the United Nations Environment Programme**

**Fifth session**

Nairobi (hybrid), 22 and 23 February 2021

and 28 February–2 March 2022

**Resolution adopted by the United Nations Environment Assembly on 2 March 2022**

**5/14. End plastic pollution: towards an international legally binding instrument**

*The United Nations Environment Assembly,*

*Noting with concern* that the high and rapidly increasing levels of plastic pollution represent a serious environmental problem at a global scale, negatively impacting the environmental, social and economic dimensions of sustainable development,

*Recognizing* that plastic pollution includes microplastics,

*Noting with concern* the specific impact of plastic pollution on the marine environment,

*Noting* that plastic pollution, in marine and other environments, can be of a transboundary nature and needs to be tackled, together with its impacts, through a full-life-cycle approach, taking into account national circumstances and capabilities,

*Reaffirming* General Assembly resolution 70/1 of 25 September 2015, by which the General Assembly adopted the 2030 Agenda for Sustainable Development,

*Reaffirming also* the principles of the Rio Declaration on Environment and Development, adopted in Rio de Janeiro, Brazil, in 1992,

*Stressing* the urgent need to strengthen the science-policy interface at all levels, improve understanding of the global impact of plastic pollution on the environment, and promote effective and progressive action at the local, regional and global levels, recognizing the important role played by plastics in society,

*Recalling* United Nations Environment Assembly resolutions 1/6, 2/11, 3/7, 4/6, 4/7 and 4/91 and affirming the urgent need to strengthen global coordination, cooperation and governance to take immediate action towards the long-term elimination of plastic pollution in marine and other environments, and to avoid detriment from plastic pollution to ecosystems and the human activities dependent on them,

1 On marine plastic debris and microplastics (1/6), marine plastic litter and microplastics (2/11, 4/6), marine litter and microplastics (3/7), environmentally sound management of waste (4/7) and addressing single-use plastic products pollution (4/9).

*Recognizing* the wide range of approaches, sustainable alternatives and technologies available to address the full life cycle of plastics, further highlighting the need for enhanced international collaboration to facilitate access to technology, capacity-building, and scientific and technical cooperation, and stressing that there is no single approach,

*Underlining* the importance of promoting sustainable design of products and materials so that they can be reused, remanufactured or recycled and therefore retained in the economy for as long as possible, along with the resources they are made of, and of minimizing the generation of waste, which can significantly contribute to sustainable production and consumption of plastics,

*Welcoming* efforts made by Governments and international organizations, in particular through national, regional and international action plans, initiatives and instruments, including relevant multilateral agreements such as the initiatives of the Group of 7 and the Group of 20, including the action plans of 2015 and 2017 addressing marine litter; the Group of 20 Implementation Framework for Actions on Marine Litter; Osaka Blue Ocean Vision; the Ocean Plastics Charter; the Association of Southeast Asian Nations (ASEAN) Framework of Action on Marine Debris; the Bangkok Declaration on Combating Marine Debris in the ASEAN region; the Asia-Pacific Economic Cooperation Roadmap on Marine Debris; the 2021 Leaders’ Declaration of the Alliance of Small Island States; the St. John’s Declaration of the Caribbean Community; the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal; and the outcome of the 2021 Ministerial Conference on Marine Litter and Plastic Pollution, and recognizing the need for complementary actions and a coherent and coordinated long-term global vision,

*Noting with appreciation* the significant work of the Global Partnership on Marine Litter and action to tackle marine litter and plastic pollution supported and implemented by the United Nations Environment Programme, and taking into account the Chair’s summary of the ad hoc open-ended expert group on marine litter and microplastics, which presented options for continued work for consideration by the United Nations Environment Assembly at its fifth session,

*Reaffirming* the importance of cooperation, coordination and complementarity among relevant regional and international conventions and instruments, with due respect for their respective mandates, to prevent plastic pollution and its related risks to human health and adverse effects on human

well-being and the environment, including the International Convention for the Prevention of Pollution from Ships of 1973, as modified by the Protocol of 1978 relating thereto and as further amended by the Protocol of 1997; the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal; the Rotterdam Convention on the Prior Informed Consent Procedure for certain Hazardous Chemicals and Pesticides in International Trade; the Stockholm Convention on Persistent Organic Pollutants; the United Nations Convention on the Law of the Sea; the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter of 1972 and the Protocol thereto; the Strategic Approach to International Chemicals Management; the United Nations Framework Convention on Climate Change; the Convention on Biological Diversity; and other international organizations, regional instruments and programmes, and recognizing efforts led by non-governmental organizations and the private sector,

*Recognizing* that each country is best positioned to understand its own national circumstances, including its stakeholder activities, related to addressing plastic pollution, including in the marine environment,

*Recognizing also* the significant contribution made by workers in informal and cooperative settings to the collecting, sorting and recycling of plastics in many countries,

*Underlining* that further international action is needed by developing an international legally binding instrument on plastic pollution, including in the marine environment,

1. *Requests* the Executive Director to convene an intergovernmental negotiating committee, to begin its work during the second half of 2022, with the ambition of completing its work by the end of 2024;
2. *Acknowledges* that some legal obligations arising out of a new international legally binding instrument will require capacity-building and technical and financial assistance in order to be effectively implemented by developing countries and countries with economies in transition;
3. *Decides* that the intergovernmental negotiating committee is to develop an international legally binding instrument on plastic pollution, including in the marine environment, henceforth referred to as “the instrument”, which could include both binding and voluntary approaches, based on a comprehensive approach that addresses 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:

1. To specify the objectives of the instrument;
2. To promote sustainable production and consumption of plastics through, among other things, product design and environmentally sound waste management, including through resource efficiency and circular economy approaches;
3. To promote national and international cooperative measures to reduce plastic pollution in the marine environment, including existing plastic pollution;
4. To develop, implement and update national action plans reflecting country-driven approaches to contribute to the objectives of the instrument;
5. To promote national action plans to work towards the prevention, reduction and elimination of plastic pollution, and to support regional and international cooperation;
6. To specify national reporting, as appropriate;
7. To periodically assess the progress of implementation of the instrument;
8. To periodically assess the effectiveness of the instrument in achieving its objectives;
9. To provide scientific and socioeconomic assessments related to plastic pollution;
10. To increase knowledge through awareness-raising, education and the exchange of information;
11. To promote cooperation and coordination with relevant regional and international conventions, instruments and organizations, while recognizing their respective mandates, avoiding duplication and promoting complementarity of action;
12. To encourage action by all stakeholders, including the private sector, and to promote cooperation at the local, national, regional and global levels;
13. To initiate a multi-stakeholder action agenda;
14. To specify arrangements for capacity-building and technical assistance, technology transfer on mutually agreed terms, and financial assistance, recognizing that the effective implementation of some legal obligations under the instrument will depend on the availability of capacity-building and adequate financial and technical assistance;
15. To promote research into and development of sustainable, affordable, innovative and cost-efficient approaches;
16. To address compliance;
17. *Also decides* that the intergovernmental negotiating committee, in its deliberations on the instrument, is to consider the following:
18. Obligations, measures and voluntary approaches in supporting the achievement of the objectives of the instrument;
19. The need for a financial mechanism to support the implementation of the instrument, including the option of a dedicated multilateral fund;
20. Flexibility that some provisions could allow countries discretion in the implementation of their commitments, taking into account their national circumstances;
21. The best available science, traditional knowledge, knowledge of indigenous peoples and local knowledge systems;
22. Lessons learned and best practices, including those from informal and cooperative settings;
23. The possibility of a mechanism to provide policy-relevant scientific and socioeconomic information and assessment related to plastic pollution;
24. Efficient organization and streamlined secretariat arrangements;
25. Any other aspects that the intergovernmental negotiating committee may consider relevant;
26. *Requests* the Executive Director of the United Nations Environment Programme to convene an ad hoc open-ended working group to hold one meeting during the first half of 2022 to prepare for the work of the intergovernmental negotiating committee and to discuss in particular the timetable and organization of the work of the committee, taking into account the provisions and elements identified in paragraphs 3 and 4 of the present resolution;
27. *Stresses* the need to ensure the widest and most effective participation possible in the work of the ad hoc open-ended working group and of the intergovernmental negotiating committee;
28. *Requests* the Executive Director, as a priority, to provide the necessary support to developing countries and countries with economies in transition to allow for their effective participation in the work of the ad hoc open-ended working group and of the intergovernmental negotiating committee;
29. *Also requests* the Executive Director to ensure the necessary support by the secretariat of the United Nations Environment Programme to the ad hoc open-ended working group and the intergovernmental negotiating committee;
30. *Decides* that participation in the ad hoc open-ended working group and the intergovernmental negotiating committee should be open to all States Members of the United Nations and members of United Nations specialized agencies, to regional economic integration organizations and to relevant stakeholders, consistent with applicable United Nations rules;
31. *Invites* Governments and other stakeholders in a position to do so to provide extrabudgetary resources to help support the implementation of the present resolution;
32. *Requests* the Executive Director to facilitate the participation of, and close cooperation and coordination with, relevant regional and international instruments and initiatives and all relevant stakeholders in the context of the mandate of the intergovernmental negotiating committee;
33. *Also requests* the Executive Director to convene a diplomatic conference of plenipotentiaries upon completion of negotiations by the intergovernmental negotiating committee, for the purpose of adopting the instrument and opening it for signature;
34. *Further requests* the Executive Director to report on progress on the work of the intergovernmental negotiating committee to the Environmental Assembly at its sixth session;
35. *Requests* the Executive Director to continue to support and advance the work of the Global Partnership on Marine Litter, while strengthening scientific, technical and technological knowledge with regard to plastic pollution, including in the marine environment, on methodologies for monitoring, and sharing available scientific and other relevant data and information;
36. *Calls upon* all Member States to continue and step up activities, and adopt voluntary measures, to combat plastic pollution, including measures related to sustainable consumption and production, which may include circular economy approaches, and to develop and implement national action plans, while fostering international action and initiatives under national regulatory frameworks, and, on a voluntary basis, to provide statistical information on the environmentally sound management of plastic waste, as appropriate, taking into account national circumstances;
37. *Requests* the Executive Director, subject to the availability of financial resources, to convene, in conjunction with the first session of the intergovernmental negotiating committee and building upon existing initiatives, where appropriate, a forum that is open to all stakeholders for the exchange of information and activities related to plastic pollution.

**ANNEX 2**

**PACIFIC REGIONAL DECLARATION ON THE**

**PREVENTION OF MARINE LITTER AND PLASTIC POLLUTION AND ITS IMPACTS**

***We****,* representatives of the people of the Pacific region and stewards of the world’s largest ocean, meeting at the **Environment Ministers’ High-Level Talanoa**, 10th September 2021, are deeply concerned about the impacts of plastics and microplastics pollution on our region and that the current patchwork of international legal instruments is not sufficient to prevent the acceleration of these impacts.

***Recalling*** the international commitments made by the Parties to multilateral environmental agreements including – but not limited to - the UN Framework Convention on Climate Change 1992 , the Paris Agreement 2015, the UN Convention on Biological Diversity 1992, Basel Convention, International Human Rights instruments, the Sustainable Development Goals 2030, the International Convention for the Prevention of Pollution from Ships, SAMOA Pathway and the environmental principles notably the polluter-pays principle, precautionary approach and the inter-generational equity principle.

***Further*** recalling the commitments made by Pacific Islands Forum Leaders Ocean Statement 2021, the Parties to the Nouméa Convention 1986, and the Parties to the Waigani Convention 1995, and reaffirming the Kainaki II Declaration for Urgent Climate Change Action Now 2019, the [Vemööre Declaration 2020](https://www.sprep.org/sites/default/files/documents/publications/declaration-Vermoore-endorsed-2020-eng.pdf) and the [Ocean Day Declaration on Plastic Pollution 2021](https://www.aosis.org/statement/launch-of-ocean-day-plastic-pollution-declaration/).

***Reiterating*** our commitment to work to protect our Ocean from harmful plastics through the implementation of our regional strategy [Cleaner Pacific 2025](https://sustainabledevelopment.un.org/content/documents/commitments/1326_7636_commitment_cleaner-pacific-strategy-2025.pdf), the [Pacific Islands Framework for](https://4401ab7b-8bfc-4254-b12e-e1d4ec6387e7.filesusr.com/ugd/58faab_3fe81073de194147a1f6f9e57bf645fc.pdf) [Nature Conservation and Protected Areas 2021 – 2025](https://4401ab7b-8bfc-4254-b12e-e1d4ec6387e7.filesusr.com/ugd/58faab_3fe81073de194147a1f6f9e57bf645fc.pdf), the key actions for Pacific Island Countries and Territories in the [Pacific Regional Action Plan on Marine Litter 2018-2025](https://www.sprep.org/sites/default/files/documents/publications/MAP-Digital-small.pdf) notably its support for the development of a global legal framework to address marine litter.

***Expressing*** our grave concern about the environmental, social, cultural, economic, human health and, food security impacts of plastics pollution at each stage of its life cycle on the enjoyment of certain human rights for current and future generations. These impacts are due to linear economic models, disregard for or lack of adequate end-of-life management, insufficient support for the development of sustainable alternatives to plastics, continued production and use of unnecessary or harmful plastics, especially single-use plastic products, and open burning and dumping of plastic waste.

***Further*** expressing our grave concern for migratory marine species such as seabirds, marine turtles and whales as they are especially vulnerable to the impacts of marine plastics through entanglement and ingestion of plastic and reaffirming these species as important cultural icons for Pacific peoples.

***Calling*** specific attention to the fact that notwithstanding that the Pacific island countries contribute as little as 1.3% of global plastic pollution1, we in the Pacific region are grossly and disproportionately affected by its impacts, particularly considering that we are not a major producer of plastics and their additives, and emphasizing the [Second World Ocean Assessment](https://www.un.org/regularprocess/sites/www.un.org.regularprocess/files/2011859-e-woa-ii-vol-ii.pdf) stating that the highest recorded quantity of floating plastics are in the South Pacific subtropical gyre.

1 <https://reports.eia-international.org/wp-content/uploads/sites/6/2020/09/Plastic-Prevention-Gap-Analysis-2020.pdf>

***Underlining*** that marine litter and plastic pollution is a transboundary global issue and that the Pacific region is often the recipient of the pollution, much of which originates thousands of kilometres from our shores and is carried to our countries by atmospheric and oceanic currents.

***Deeply concerned*** about the accelerating rate of plastics consumption and production, underscoring the fact that 50% of all plastics produced are intended for the manufacture of single- use products, that the current 368 million metric tonnes of virgin plastics produced annually is set to double by 2040; that only 9% of all plastics ever produced have been recycled, and 12% have been incinerated; and that 79% of all plastics produced have accumulated in landfills or the environment2.

***Acknowledging*** the actions taken to reduce and eliminate single use and problematic plastics in the region and the need for more ambitious action and global and regional policy frameworks such as extended producer responsibility, container deposit systems and consumer awareness and responsibility.

***Convinced*** that despite some progress at national and regional levels, the marine litter and plastic pollution crisis requires a dedicated and coordinated global and regional governance response with the support of all States and other institutional global and regional stakeholders.

***Acknowledging*** the role played by all stakeholders throughout the full plastics lifecycle, from extraction, production, trade, manufacturing, consumption to waste management and environmental legacy and the need for global intervention and support for pollution prevention at each stage.

***Cognizant*** of the vital global, regional and local ecosystem services provided by our Ocean and recalling SDG14, we are mindful of our role and responsibility as Ocean stewards to guard our Ocean from plastics pollution if we are to protect our peoples’ cultural identity through protection of iconic species, fisheries and tourism industries, livelihoods, food security, and health.

***Stressing*** the importance of incorporating Indigenous and Traditional Knowledge Systems, Practices, and Innovations as appropriate and with their free prior and informed consent that have evolved through generations into nature-based solutions for the sustainable conservation of ecosystems*.*

***Recognizing*** that plastics and climate change are inextricably linked particularly in their production and disposal, such as incineration, and reiterating that climate change is a top regional priority due to its disproportionately adverse impacts on human-environment relationships and biodiversity in the Pacific region.

***Declare that we***

***Strongly support and urge*** all United Nations Member States at the Fifth session of the United Nations Environment Assembly to support the establishment of an Intergovernmental Negotiating Committee to negotiate a new binding global agreement covering the whole life cycle of plastics.

***Call*** for a new binding global agreement on the prevention and reduction of new marine litter and plastic pollution and management of plastic pollution already in our environment, to complement and expand on existing international instruments to cover the full life cycle of plastics.

***Call*** *for* future discussions on this agreement to consider the need for financial and technical support mechanisms to adapt international science and best practice to the challenges specific to our region, as well as technology transfer and capacity building, and recall the [United Nation’s](https://wedocs.unep.org/bitstream/handle/20.500.11822/11186/K1607228_UNEPEA2_RES11E.pdf?sequence=1&isAllowed=y) [Environmental Assembly Resolution 2/11](https://wedocs.unep.org/bitstream/handle/20.500.11822/11186/K1607228_UNEPEA2_RES11E.pdf?sequence=1&isAllowed=y) calling on United Nations Member States to consider providing financial assistance in particular to Small Island Developing States to establish and implement necessary policies, regulatory frameworks and measures addressing plastic pollution.

***Call*** for the future discussions on the agreement to consider implementation measures such as national plans and targets to be globally supported and coordinated as well as mechanisms for regular regional monitoring including identification of suitable regional indicator species, and reporting to support the Pacific region in meeting measurable marine litter and plastic pollution elimination targets.

***Call*** for future discussions on the agreement to consider the need for elements such as a reduction of virgin plastic production, the phasing out of toxic and avoidable plastics, problematic and single-use plastic products and additives and the harmonization of design and labelling standards, to support transition to a safe circular global economy and to find alternatives to allow for our continued economic development.

***Call*** *on* the international community to take urgent and immediate action to help us protect our region and peoples from further marine litter and plastic pollution impacts that threaten our marine ecosystems, marine species, our food security and our health.

***Emphasize*** the need for accessible information and support to scientific research on plastics and plastic pollution data collection on waste plastics and material flows, as well as the development of marine litter and plastic pollution prevention best practice to inform robust evidence based and coherent policy.

***Support*** ambitious policy implementation measures through mechanisms such as national plans, noting the role that private sector can play in helping drive solutions such as product stewardship, including extended producer responsibility and container deposit schemes.

***Emphasize*** that Indigenous and Traditional Knowledge Systems, Practices, and Innovations with their free prior and informed consent must be an integral part of the solution to the plastic pollution crisis.

1. This background information is extrapolated from the *Environmental Investigation and Center for International Environmental Law* brief of 4th July 2022. [↑](#footnote-ref-1)