

INC Chair's initial thoughts on elements to achieve an effective treaty at INC-5

The Intergovernmental Negotiating Committee aims to approve the text of an international legally binding instrument at its fifth session, which will take place from 25 November to 1 December, in Busan, Republic of Korea. To achieve this goal, we will have only seven days at INC-5 in which to finalize the text.

In my continuous consultations since INC-4, I have heard from a very broad range of Members that we will not achieve our goal in INC-5 if we are to work incrementally on the INC.5/4 compilation text. I have also heard from a similarly broad range of Members that we should use the valuable interim period after the Diplomatic Conference and before the first meeting of the Conference of the Parties (COP) to develop details on a number of issues for consideration and adoption by the COP. This is on the understanding that the approved text at INC-5 provides the necessary basis for such work.

Therefore, I propose we work on identifying how to move towards a treaty text for approval at INC-5, focusing on a structure with necessary elements to allow us to deliver an effective treaty fit for the purpose of ending plastic pollution, and how to productively use the time we have available to negotiate, with confidence that we can use the interim period after the Diplomatic Conference to develop the detail necessary for implementation for consideration by the COP.

This non paper presents my initial thoughts on a structuring of elements that are necessary to agree on a text of an effective treaty at INC-5, informed by the following:

- Prioritizing elements that are necessary for the treaty to be fully operational or may require harmonized action on a global level to ensure effectiveness and effective implementation.
- The elements included should reflect the full life-cycle approach. Crosscutting and supporting aspects can be addressed under such elements, as relevant.
- Previously agreed approaches found in existing MEAs can be applied for specific issues, as identified by Members.
- These elements will need to provide the basis for the development of aspects to enable effective implementation.

I intend for this non paper to be a "living document", which will be updated as my further consultations progress. It is an initial think piece to help frame further informal discussions and consultations. It is not intended to be subject to negotiations, but rather to facilitate discussions among Members to help build a common understanding on how the text can be agreed and approved at INC-5. As a next step, this work would also need to include consideration of the appropriate sequencing of work at and beyond INC-5.

The outline below presents my reflections on a possible structure of the instrument and is not intended to prejudge the outcome of INC-5. It builds on the compilation text and generally follows its overall flow, with some elements reflected in a combined manner. While not all issues may have been individually numbered as possible provisions, all issues identified in the negotiations so far can be discussed in the context of one or more of the possible provisions.

Potential structure

Preamble including

- Principles, including relevant principles of international law
- Just transition
- Overarching provision
- Relationship to existing agreements

1. Objective
2. Definitions
3. Supply
4. Plastic products
5. Chemicals of concern as used in plastic products

Supporting elements for 4-5:

- Product design
- Dedicated programmes of work, including fishing gear
- Non-plastic substitutes
- Extended producer responsibility
- Trade
- Transparency

6. Exemptions
7. Emissions and releases
8. Plastic waste, including transboundary movement of plastic waste
9. Existing plastic pollution
10. Finance, including the establishment of a Financial Mechanism
11. Capacity building, technical assistance and technology transfer, including international cooperation
12. Implementation and compliance
13. National plans
14. Reporting
15. Monitoring of progress and effectiveness evaluation
16. Information exchange
17. Awareness, education and research
18. Health
19. Conference of the Parties, including ability to establish subsidiary bodies
20. Secretariat
21. Settlement of disputes
22. Amendments to the instrument
23. Adoption and amendment of annexes
24. Right to vote
25. Signature
26. Ratification, acceptance, approval or accession
27. Entry into force
28. Reservations
29. Withdrawal
30. Depositary
31. Authentic texts

Annexes as necessary