

Agenda Item 8.5: Intergovernmental Negotiating Committee to negotiate an International Legally Binding Instrument to address plastic pollution including from the marine environment

Purpose:

1. To inform the Meeting of the Outcomes of the third and fourth sessions of the Intergovernmental Negotiating Committee (INC-3 and INC-4) to negotiate an International Legally Binding Instrument to address plastic pollution including from the marine environment.
2. To commend the financial support provided from the Government of Australia, the United Nations and New Zealand and encourage other donor partners to also assist.

Background:

3. The resumed fifth session of the United Nations Environment Assembly (UNEA5.2) held in Nairobi, Kenya from 28 February to 2 March in 2022 saw the adoption of a resolution titled, ‘End Plastic Pollution: Towards an internationally legally binding instrument’ in line with the Pacific Regional Declaration on the Prevention of Marine Litter and Plastic Pollution and its Impacts adopted in 2021. By this resolution the Assembly agrees to establish an Intergovernmental Negotiating Committee (INC) to draft the legally binding agreement by 2024. The agreement is expected to address the full lifecycle of plastics, including production, design, and disposal, as well as the design of reusable and recyclable products and materials.
4. The 3rd Executive Board Meeting acknowledged with appreciation the financial support from the Government of Australia Department of Foreign Affairs and Trade to ensure Pacific Island Countries and their negotiators are prepared to effectively engage in the INC process, as well as the partnership with CROP, UNEP as well as *NGOs - Environmental Investigation Agency, Centre for International Environmental Law, University of Wollongong, WWF and Massey University* to ensure PICs have access to specialized technical and policy advice and information throughout the INC process.
5. A total of five INC sessions are scheduled before the proposed diplomatic conference. The first Session of the INC (INC-1) was held in Punta del Este, Uruguay late 2022. The second session of the INC (INC-2) was held in Paris, France from the 29 May to 2 June 2023. The third session was held in Nairobi, Kenya in November 2023 and the session was held in Ottawa Canada. The fifth and final session will be held in November 2024 in Busan Korea.

6. The 31 SPREP Meeting requested the Secretariat to continue to lead coordination and support from all interested Pacific agencies including the CROP for effective, unified support to our Pacific Island Members negotiating in the Intergovernmental Negotiating Committee process.
7. A Pacific preparatory meeting is held before each INC session to enable participation and strengthened partnerships of the Pacific Small Islands Developing States to actively engage in the negotiations. A preparatory meeting was held in Suva Fiji, Rarotonga Cook Islands, Koror Palau and Auckland New Zealand for INC-1, INC-2, INC-3 and INC-4 respectively.

INC-3

8. The Pacific INC-3 Preparatory Meeting was held in Koror Palau from the 18-20 October 2023 which prepared Members for the INC-3 in Nairobi Kenya. Similarly to INC-1 and INC-2, the meeting was held in hybrid mode over 3 days with two days of open session for members and non-state actors and a closed day for members only. The key outcome of the Preparatory Meeting was the Pacific SIDS positions on the zero- draft text - *Palau Outcomes*. The PSIDS also agreed to convene a one-day preparatory meeting that was also held back-to-back with INC-3 in Nairobi Kenya.
9. The major focus of INC-3 was the population of the zero draft by Members and non-state actors. Similarly to the INC-1 and INC-2 the organisation of work was guided by a scenario note provided by the INC Secretariat.
10. The zero draft is organised similar to the potential options of elements discussed for INC-2 which are:
 - a. Part I: preamble, objectives, definitions, principles and scope
 - b. Part II: Core obligations.
 - c. Part III: Means of Implementation
 - d. Part IV: Implementation Measures
 - e. Part V: Additional Measures
 - f. Part VI: Possible annexes
11. The Organisation of work at INC-3 included plenary and three contact groups. Contact group 1 discussed Part I (Objective), II, Contact group 2 discussed Parts III, IV and Contact group 3 discussed Part I, V and VI. Only two contact groups met at any one time. All fourteen Pacific island countries participated in INC-3 under the leadership of Palau as the Chair of Pacific SIDS. PSIDS statements were delivered in plenary by Palau as the PSIDS Chair. The PSIDS statements were delivered in the three contact groups by the lead coordinators for the various zero draft elements.
12. The INC-3 had no intersessional work between INC-3 and INC-4 largely due to the Pacific SIDS (and others) not agreeing to discussing primary plastic polymers. The INC-3 agreed for the Chair to produce a revised zero draft for INC-4.

INC-4

13. The Pacific INC-4 Preparatory Meeting was held in Auckland New Zealand, kindly hosted by the Government of New Zealand, Ministry of Foreign Affairs and Trade, that prepared Members for the INC-4 in Ottawa Canada. Similarly to INC-1, INC-2 and INC-3, the meeting was held in hybrid mode over 3 days with two days of open session for members and non-state actors and a closed day for members only. The INC-4 prep meeting also included a fourth day of negotiations training as well. The key outcome of the Preparatory Meeting was the Pacific SIDS positions on the revised zero-draft text based on the *Palau Outcomes*. The PSIDS also agreed to convene a one-day preparatory meeting that was also held back-to-back with INC-4 in Ottawa Canada.
14. The major focus of INC-4 was the streamlining of the revised zero draft by Members and non-state actors. Similarly to previous INCs the organisation of work was guided by a scenario note provided by the INC Secretariat.
15. The Organisation of work at INC-4 included plenary and two contact groups. The contact groups were divided into subgroups comprising of 3 subgroups for Contact Group 1 and 2 subgroups for contact group 2. Contact group 1 Subgroup 1 (Subgroup 1.1) discussed Part I, Part II 12 and 13 bis, Sub-group 2 (Subgroup 1.2) discussed Parts II 1,2,3,3bis, 4, 4bis, 5,6, 9(b), 10(a) and 13. Subgroup 3 (subgroup 1.3) discussed Part II 7,8,9(a), 10(b) and 11. Contact Group 2 subgroup 1 (Subgroup 2.1) discussed Part III 1 and 2, subgroup 2 (Subgroup 2.2) discussed Part IV 1,2,3,4,5,6,7,8,8bis, Part V 1,2,3 and Part VI.
16. All fourteen Pacific island countries participated in INC-4 under the leadership of Vanuatu as the incoming Chair of Pacific SIDS. PSIDS statements were delivered in plenary by Vanuatu as the PSIDS Chair. The PSIDS statements were delivered in the contact groups and subgroups by the lead coordinators for the various revised zero draft elements.
17. The INC-4 agreed to establish two ad hoc intersessional open-ended expert groups on 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, for the consideration by the Committee at its fifth session.
18. The Committee also decides to establish an ad hoc 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, for the consideration by the Committee at its fifth session.
19. The Committee also decided to establish a legal drafting committee and invited members to nominate representatives to the Secretariat by the 31st July 2024.
20. The committee also agreed for the Chair to provide a streamlined zero draft of the revised text.

Next steps following INC-4 and preparations for INC-5

21. The Secretariat will continue supporting Members to be fully engaged in the Intergovernmental Negotiating Committee to negotiate a global treaty to address the full life cycle of plastic pollution through the funding support from Australia Department of Foreign Affairs and UNEP under the leadership of Vanuatu as the Pacific SIDS Chair.
22. The Secretariat will also continue to lead coordination working with other Metropolitan members as well as interested Pacific agencies including the CROP such as the Pacific Islands Forum Secretariat, Office of the Pacific Ocean Commissioner, The Pacific Community, Forum Fisheries Agency, as well partners such as Environmental Investigation Agency, Centre for International Environmental Law, University of Newcastle, University of Wollongong, WWF, and Massey University to provide technical support to members.

Recommendation:

23. The Executive Board Meeting is invited to:
 - 1) **Note** the outcomes of the INC-3 and INC-4 sessions as well as the preparatory meetings;
 - 2) **Acknowledge** with appreciation the support for our Pacific Islands Members led by the Secretariat, with funding support from the Government of Australia, Government of New Zealand and the United Nations as well as partners;
 - 3) **Acknowledge** the leadership of the Government of Vanuatu as the Pacific SIDS Chair and **request** the Secretariat to continue to lead coordination and support from all interested Pacific agencies including the CROP for effective, unified support to our Pacific Island Members negotiating in the INC process; and
 - 4) **Encourage** financial support from other donor partners to assist with the negotiations process as is currently undertaken by the Government of Australia and the United Nations.