

31st SPREP MEETING OF OFFICIALS

5, 6, and 7 September 2023, Apia, Samoa

Agenda item 8.5: Intergovernmental Negotiating Committee to negotiate an international legally binding instrument to address plastic pollution including from the marine environment

Purpose of paper:

1. To inform the Meeting of the outcomes of the first and second sessions of the intergovernmental negotiating committee (INC-1 and INC-2) 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 and the United Nations and encourage other donor partners to also assist.
3. To recommend the Secretariat continue to lead coordination and support to Members from all interested Pacific agencies including the CROP for effective, unified support to Pacific Island Members.
4. To encourage Members to join the High Ambition Coalition of like-minded countries to end plastic pollution by 2040.

Background:

5. 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. 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.
6. 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.

7. 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 will be in Nairobi, Kenya in November 2023 and the fourth and fifth in April and November 2024.
8. Before each INC session there will be a Pacific preparatory meeting held 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 and Rarotonga Cook Islands for INC-1 and INC-2 respectively. A third preparatory meeting is planned for Koror, Palau.

INC-1

9. The Pacific INC-1 Preparatory Meeting was held in Suva Fiji that prepared Members for the INC-1. The meeting was held in hybrid mode over three days with two days open session for members and non-state actors and a closed day for members only. The key outcomes of the Meeting were a Summary of Outcomes for the open session and the Statement of Outcomes for the closed session.
10. The major focus of INC-1 was on potential provisions of six clusters that could be included in the international legally binding instrument (ILBI):
 - Cluster 1: Objectives, definitions and structure of work
 - Cluster 2: Institutional Framework
 - Cluster 3: Sustainable production and consumption
 - Cluster 4: Sustainable Product Design and Manufacture
 - Cluster 5: Environmentally Sound Waste Management
 - Cluster 6: National Action Plans
11. Twelve Pacific island countries (Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Niue, Palau, Papua New Guinea, Republic of the Marshall Islands, Samoa, Solomon Islands, Tonga, and Tuvalu) participated in INC-1 under the leadership of Samoa as the Chair of Pacific SIDS. Six PSIDS statements were delivered in plenary by the Federated States of Micronesia, Fiji, Cook Islands, Niue, Solomon Islands, and Samoa for the various clusters under the Agenda 4 items.
12. The main outcomes included the INC Secretariat to develop a potential elements paper, of what elements were to be included in the zero draft for discussion at INC-2, agreement on the draft Rules of Procedure, organisation of work at INC-2 and intersessional work before INC-2. Members were invited to provide submission of potential elements to the INC Secretariat.

INC-2

13. The Pacific INC-2 Preparatory Meeting was held in Rarotonga Cook Islands that prepared Members for the INC-2 in Paris France. Similarly, to the INC-1, the meeting was held in hybrid mode over two days with a day of open session for members and non-state actors and a closed day for members only. The key outcomes of the Meeting were a Summary of Outcomes for the open session and the Statement of Outcomes for the closed session.

14. The major focus of INC-2 was on the potential options of elements to be included in the ILBI, election of officers, and organisation of work. The INC Secretariat provided a potential options of elements paper based on submissions by Members and non-state actors. The organisation of work was guided by a scenario note provided by the INC Secretariat.
15. The potential options of elements comprised of the following Parts A, B, C, D and E to be discussed at INC-2.
 - a. Part A: Objectives
 - b. Part B: Core obligations, control measures and voluntary approaches
 - c. Part C: Means of Implementation
 - d. Part D: Implementation Measures
 - e. Part E: Additional Matters
16. The Organisation of work at INC-2 included plenary and two contact groups. Contact group 1 discussed Part A and B, and Contact group 2 discussed Parts C, D and E. Contact group 1 was co-facilitated by Palau and Germany and Contact Group 2 was co-facilitated by Australia and Ghana.
17. Twelve Pacific island countries (Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Nauru, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tuvalu and Vanuatu) participated in INC-2 under the leadership of Palau as the Chair of Pacific SIDS. PSIDS statements were delivered in plenary by Palau PSIDS Chair. PSIDS statements were delivered in the two contact groups by Cook Islands, Fiji, Nauru, Palau, Papua New Guinea and Tuvalu for the various potential elements under the Agenda 4 items.
18. Despite the INC-2 slow start around Rules of Procedure particularly concerning consensus and voting, agreed for the Chair, with assistance from the INC Secretariat to produce a zero-draft text of the ILBI for consideration at INC-3 as called by UNEA resolution 5/14. The draft would be guided by views expressed at INC-1 and INC-2.
19. The INC-2 also agreed for the Secretariat to invite submissions from Members and observers on elements not discussed at INC-2 such as principles and scope of the instrument as well as any potential areas for intersessional work compiled by the co-facilitators of the two contact groups, to inform the work of INC-3. The INC-2 session also agreed to convene a preparatory one-day meeting, back-to-back with INC-3.

High Ambition Coalition

20. A group of like-minded countries has taken the initiative to form a coalition of ambitious countries following the adoption of resolution 5/14 “End Plastic Pollution: Towards an International Legally Binding Instrument” by the UN Environment Assembly in March 2022. The High Ambition Coalition is Co-Chaired by Norway and Rwanda as announced during UNEA5.2.
21. The High Ambition Coalition to End Plastic Pollution is committed to develop an ambitious international legally binding instrument based on a comprehensive and circular approach that ensures urgent action and effective interventions along the full lifecycle of plastics.

22. Their common ambition is to end plastic pollution by 2040. At the outset of the plastic treaty negotiations, they have outlined three strategic goals and seven key deliverables for success in this regard. The ambition and goals of the High Ambition Coalition are in line with the Pacific Declaration on Marine Litter.
23. Cook Islands and the Federated States of Micronesia are members of the HAC.

Next steps following INC-2 (INC-3, 4 and 5 preparations)

24. 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.
25. The Secretariat will also continue working with other Metropolitan members as well as partners such as the Pacific Islands Forum Secretariat, Office of the Pacific Ocean Commissioner, 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:

26. The Meeting is invited to:
- 1) **Note** the outcomes of the INC-1 and INC-2 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 and the United Nations as well as other metropolitan members and partners;
 - 3) **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;
 - 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; and
 - 5) **Encourage** Member states to join the High Ambition Coalition of like-minded countries to end plastic pollution by 2040.
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13 June 2023