

## Notes

1 These measures are equally applicable to developed and developing countries, a fact that is at odds with the principle of common but differentiated responsibilities. In accordance with that principle, a number of State delegations to IMO conferences maintained the view that such measures should only be applicable to Annex I Parties to the UNFCCC and its Kyoto Protocol (the developed countries and countries undergoing the process of transition to a

market economy). Clearly, there is a need to resolve inconsistencies and conflicts among instruments addressing these issues.

2 See [https://www.wto.org/English/tratop\\_e/dispu\\_e/dispu\\_status\\_e.htm](https://www.wto.org/English/tratop_e/dispu_e/dispu_status_e.htm).

3 [The Energy Charter Treaty is a non-UN instrument adopting a multilateral framework for cross-border cooperation in the then Soviet Union and Eastern Europe, with regard to the energy industry. Ed.]



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# Expert Group Identifies Barriers and Response Options on Marine Litter and Microplastics

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The first meeting of the Ad Hoc Open-ended Expert Group on Marine Litter and Microplastics<sup>1</sup> (the “Expert Group”) was held from 29–31 May 2018 in Nairobi, Kenya, under the auspices of the United Nations Environment Programme (UNEP). Approximately 270 delegates attended the meeting representing governments, the European Commission, international and regional organisations, non-governmental organisations (NGOs), academia and the private sector. The formal meeting was preceded by a preparatory Meeting of Major Groups and Stakeholders.

The Expert Group was established at the third UN Environment Assembly (UNEA-3) in 2017.<sup>2</sup> It was to meet not more than twice before UNEA-4, charged with further examination of the barriers to and options for combating marine plastic litter and microplastics from all sources, especially land-based sources.

At this first meeting, the Expert Group took note of the discussion papers prepared by the Secretariat and, in accordance with the initial programme of work adopted by UNEA-3, explored barriers to combating marine litter and microplastics, including challenges related to resources in developing countries; identified national, regional and international response options, including voluntary and legally binding governance strategies and innovative approaches; discussed the environmental, social and economic costs and benefits of different response options; examined the feasibility and effectiveness of different response options; and identified potential options for continued work. A report<sup>3</sup> was prepared after the meeting. It includes the Co-Chairs’ summary and further guidance on the next steps for the Expert Group.

## Barriers to Combating Marine Litter and Microplastics

The Expert Group took note of a discussion paper prepared by the UNEP Secretariat highlighting legal, financial, technical and information barriers to combating marine litter and microplastics, and reporting on

challenges related to resources in developing countries and small island developing States (SIDS). Delegates discussed the increased use of single-use plastics and the lack of standardisation among plastic products. They also examined information on challenges and problems, including investments in false solutions such as plastic-to-energy strategies, uncoordinated clean-up efforts and consequences of unplanned transitions to green development, including unemployment.

In their deliberations, delegates stressed the need to address consumer use of plastics and to facilitate access to plastic-free or recycled plastic alternatives to single-use plastics. They also noted the value of integrating reuse policies into plastic production planning and called on countries to scale up their work on technological solutions for waste collection and management.

With regard to the regulatory gaps in this area, the Group called for application and extension of what they termed the “producer responsibility principle” and for enhanced efforts to raise awareness regarding the problem. Representatives of the private sector countered some of these points by decrying the lack of incentives to encourage investment in waste management infrastructure. NGOs called for a lifecycle approach in product design to promote reuse, repair and recycling of plastic already in circulation over manufacture of virgin plastic.

Delegates also highlighted the absence of a broadly agreed methodology to assess sources of litter and microplastics. They noted that efforts suffered from a lack of information on the chemical composition of plastics exported to end-user countries, as well as the lack of a comprehensive approach to managing microplastics. They also pointed out discrepancies in policies related to production, management and disposal of plastics.

Noting the need to address the drivers of plastic pollution, some delegates asked inland countries, as sources of marine plastics, to give more attention to this issue. Others cited resource challenges in developing countries, which motivate retention of the *status quo*. Others emphasised the need to push for change from the production sector, underlining that the problem of marine litter and microplastics is essentially not behavioural.

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Interventions drew attention to the European Union's recent proposal of rules to target the 10 single-use plastic products most prevalent on Europe's beaches and seas. Delegates also called for a lifecycle analysis of alternatives to plastics to prevent unintended negative consequences from being created by proposed so-called "solutions" to the plastics problem.

Discussions also raised a need to clarify the geographical scope being addressed. Some noted that the Expert Group should be clear on whether it is looking at litter and microplastics in the countries' respective exclusive economic zones and territorial waters or only those on the high seas. Others stated that all marine litter, including that in nationally controlled waters, is a transboundary issue, necessitating international action.

Some delegates called for an internationally legally binding instrument to address marine litter and microplastics. Others focused on existing mechanisms, including regional seas organisations, urging that these mechanisms should take the lead in addressing the gaps in science and regulation regarding these issues.

### Response Options and Approaches

The Secretariat's discussion paper on possible responses and approaches was divided into three general areas: law/policy, technological and economic. Among the legal and policy responses, it examined the management of single-use plastics at the national and regional level, coupled with the possibility of establishing a new global voluntary or binding mechanism. Technological responses discussed included research and development of alternatives and regional cooperation on waste management. In the separately identified category of "economic responses", it included the possibility of "incentivising" the development and use of alternatives. For some reason, the latter category was also the one under which the paper discussed educational and informational responses, e.g., regional awareness raising and capacity-development programmes. The Expert Group's discussion followed this outline.

### Law and Policy Responses

With regard to law and policy, the Secretariat's paper found that marine litter is not a primary focus of any instrument, and that relevant governance structures are fragmented. It detailed three options to address governance gaps: maintaining the *status quo*, revising and strengthening existing frameworks or building a new global architecture, possibly a new legally binding instrument.

Delegates called for coordinated measures on global production and trade in plastics. Some emphasised the need to view marine litter as a "waste issue" rather than a "waste management issue", invoking an extended polluter pays principle. Others simply insisted on the need for a compulsory restriction on the use of plastic carrier bags. With regard to monitoring, a critical prerequisite to their calls for regional and/or global action, delegates also emphasised the need for a harmonised methodology on reporting and monitoring marine litter and microplastics.

With regard to work under existing legal instruments and processes, it was noted that the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel Convention), the Stockholm Convention on Persistent Organic Pollutants (Stockholm Convention), and the Regional Seas conventions all address some marine aspects of waste management. At the same time, however, many stressed the need for a holistic response under UNEP, to reduce fragmentation and duplication of efforts. Opponents to calls for a new instrument noted that the time it would take to establish one would create undue delay in efforts to solve the problem. They called for action to be taken immediately at the local, national and regional levels, urging coordination among existing instruments and collaboration with industry.

### Technological Responses

Some delegates stressed that biodegradable plastics are not the way forward, instead proposing a focus on improved materials design. Others called for attention to the importance of effective wastewater treatment to address microplastics before they enter the marine ecosystem. The private sector suggested that technological responses to marine litter should include plastic-to-fuel options and incineration-for-energy, which could also be beneficial in addressing energy gaps in SIDS and developing countries. Environmental NGOs opposed this approach, noting that information on environmentally sound plastics incineration is insufficient. They called for increased investment in zero-waste plans and strategies, building on goals of ensuring that 100 percent of packaging should be reusable, recyclable or compostable.

Delegates also called for action to address legacy waste threatening island nations. In particular, they mentioned the problem of abandoned, lost or otherwise discarded fishing gear. Other interventions called for a systematic phase-out of the use of microbeads in the cosmetics industry. As has become usual, it was suggested that an international information-sharing platform be developed to facilitate the sharing of best practices and lessons learned.

### Discussions of the Costs and Benefits of the Various Options

A discussion paper prepared by the Secretariat presented its views on the environmental, social and economic costs and benefits of the various response options that



Meeting Co-Chairs Jillian Dempster (New Zealand) and Elizabeth Ines Taylor Jay (Colombia)

Photo by IISD (<http://enb.iisd.org/oceans/marine-litter-microplastics/adhoc-oeeq1/>)

have been put forward. It focused on the impacts of global microplastics contamination on the environment and human health, noting particularly the toxicity from chemical additives in plastics. This paper also highlighted the impact of marine pollutants on fisheries and marine species reproduction, noting *inter alia* the extent to which many countries' gross domestic products are partly dependent on fisheries.

Noting that the cost of inaction is always higher than the cost of response, many delegates asked that policy makers be given incisive data on the cost of inaction, as a means of motivating them to take effective action urgently. They also sought to emphasise the co-benefits (in the form of more effective efforts to address other marine pollutants) that countries would receive in the course of combating marine litter. In view of the urgency, they strongly restated the precautionary principle, emphasising that marine resources are a common heritage for mankind.

Recognising that the economic viability of any proposed solution is a critical factor in determining if it will be effective, delegates noted that marine litter and microplastics are international security issues, closely aligned to another important on-going international discussion: illegal, unregulated and unreported fishing.

Interventions pointed out that the external costs of plastic pollution are borne by communities, the environment and taxpayers, but usually only those at the end point of the plastics production and consumption cycle. In this connection, interventions supported a holistic approach to developing alternatives and highlighted the effectiveness of industry-led voluntary material design standards and goals.

### Feasibility and Effectiveness of Options

Delegates were invited to consider a combination of alternative options, noting the need to match cost-effectiveness with overall effectiveness. Some suggested that the Expert Group consider meeting in a workshop setting, to encourage a more robust exchange of views and more in-depth discussions on options. Others called for more details on impacts, added value, and risks of the different options proposed, aiming at a better-informed dialogue on them. Delegates proposed that the second meeting of the Expert Group identify the gaps in the existing mechanisms addressing the issue; understand the challenges faced by existing instruments, notably the Basel Convention, the International Maritime Organization, and the Regional Seas programmes; assess how global coordination could work given the current framework; and identify what measures might be applied where immediate action is required. In this connection, delegates again called for an exchange of information – with particular focus on relevant national experiences.

### Options for Continued Work

During the feasibility-effectiveness discussion, delegates mentioned the idea of coordinating with other conventions to identify gaps in their mandates regarding marine litter and microplastics. Some cited benefits that

could be drawn from interregional synergies in implementation of SDG-14 (Life below Water), while others drew attention to the UN Food and Agriculture Organization work in fisheries, as well as the methodology on marine pollution followed by the Intergovernmental Oceanographic Commission of the UN Educational, Scientific and Cultural Organization. Some reported on national or regional projects aimed at combating marine litter and microplastics, and shared experiences in marine litter management, law enforcement and involvement of youth. Under the cost-benefit agenda item, the Secretariat outlined on-going work that could feed into the second meeting of the Expert Group. For example, it noted that the Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection (generally known as "GESAMP") is already at work on methodologies to guide priority action on marine litter. It was formed to advise the UN on marine environmental protection, in general. Similarly, the World Resources Institute is undertaking work on legal actions and market-based measures in this area. The Regional Seas programmes are also working to identify key intervention points and develop a model for the cost of marine litter. Interestingly, in neither of these discussions did the Secretariat propose that the Expert Group should be coordinated through or report to GESAMP or reduce its mandate to avoid duplicating other on-going work, mentioned above.

Instead, with regard to future work by the Expert Group, delegates supported the idea that the second meeting should be or include a workshop as well as breakout sessions. To this end, they suggested that UNEP should call for written submissions on the topics to be discussed. More generally, they reiterated the discussions that surrounded the Expert Group's creation: that it be an information-based process and encourage the sharing of experiences. Some supported using the existing website and platform of the Global Partnership on Marine Litter to share case studies. They also asked that status reports on work on marine litter and microplastics be requested from the Regional Seas conventions and the Basel Convention, to be presented before UNEA-4.

Regarding future topics and agendas, delegates were asked to comment on two documents: UNEP's assessment of the effectiveness of relevant international, regional and sub-regional governance strategies and approaches,<sup>4</sup> and the Co-Chairs recap of the meeting discussions, which identified elements for further work. The latter proposed that in preparation for the second meeting, the Expert Group should continue to assess the ideas already submitted by States, major groups and key stakeholders. It also called on Parties to, *inter alia*, the Basel and Stockholm, Regional Seas and London conventions, to explore the possibilities for future coordinated actions. It suggests that UNEP, as well as its member States and stakeholders, work on a series of cost-benefit studies on different aspects including improving recycling rates through new technologies, as well as a phase-out of biodegradable plastics and other efforts to improve recyclability and sustainability. It also called on States, the private sector and stakeholders to submit ideas on

upstream product design and substitutability of plastics and hazardous chemicals used in plastics.

The Co-Chairs' document was attached to the final report of the meeting, so it does not constitute an actual decision or recommendation on the agenda of the second meeting, but may in practice be used as an outline. Accordingly, it is useful to know that it mentioned most of the issues discussed in the first meeting, as issues to be addressed in preparation for further study, calling for, *inter alia*, the following:

- identification of an appropriate platform for submission of ideas and inputs;
- approaching the various secretariats of multilateral environmental agreements mentioned in this report regarding their work in this area;
- development of an overview of existing international and regional governance structures to further identify gaps and tools to address the gaps;
- consideration of the harmonisation of monitoring frameworks, indicators and data on marine litter and plastics;
- collation of examples of costs of inaction in different contexts, assessing impacts on key economic sectors, human health, ecosystem functioning, resource management and livelihoods;
- a summary of on-going initiatives on labelling standards and harmonisation of products;
- an inventory of existing guidelines, standards and labels to inform consumers and trade on products and materials characteristics, in collaboration with industry, the three UNEP-hosted chemical conventions,<sup>5</sup> and other relevant entities;
- an exchange of scientific and expert knowledge using the most appropriate modalities (academic conferences and expert meetings);
- examination, together with other UN agencies and international governmental organisations, of existing

and potential trade and economic instruments linked to limiting the export and import of certain plastic goods and providing recycling incentives including bottle-return schemes and scaling up recycled plastic products; and

- work with other initiatives and conventions to analyse potential investment instruments for waste technology infrastructure, capacity building, and research and development.

This is a long list for in-depth study in a single meeting. Thus, the second meeting apparently hopes for more in-depth discussion of the issues raised in the first.

### Dates and Venue of the Next Meeting

The UNEA-3 plenary came to no conclusion on whether a second meeting of the Expert Group should be held. Thus, although delegates discussed the dates and venue of the next meeting, as an Expert Group under UNEA-3 they do not have the authority to decide. They left with the understanding that the dates and venue of the second meeting will be confirmed by the Secretariat in due course.

### Notes

1 The working documents of the first meeting of the Ad Hoc Open-ended Expert Group on Marine Litter and Microplastics are available at <https://papersmart.unon.org/resolution/adhoc-oeeeg-working-documents>. The Co-Chairs' summaries of the meeting are available at <https://papersmart.unon.org/resolution/summaries-of-the-co-chairs>. The IISD/ENB coverage of the meeting is available at <http://enb.iisd.org/download/pdf/sd/enbplus186num13e.pdf>.

2 UNEP/EA.3/Res.7.

3 [UNEP's website apparently does not yet include a copy of the final report of the meeting, however the draft Co-Chairs' Summary, as it appeared prior to being discussed by the Expert Group, is available online at [https://papersmart.unon.org/resolution/uploads/draft\\_co\\_chairs\\_summary\\_31may2018\\_11am\\_0.pdf](https://papersmart.unon.org/resolution/uploads/draft_co_chairs_summary_31may2018_11am_0.pdf). Ed.]

4 UNEP/AHEG/2018/1/INF/3.

5 The UNEP Secretariat hosts a combined Secretariat for the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, along with the Basel and Stockholm Conventions.



UNFF

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## Moving Forward on Forest Protection Through Global Cooperation

Since its inception, the UN Forum on Forests (UNFF) has been called to tread a difficult path. Specifically, it is entirely focused on promoting internationally agreed goals on an entirely domestic national issue – the conservation and sustainable use of forests. During its 17 years of existence, its successes have been attributable to the overwhelming commitment of participating States as reflected in the professionalism and calibre of participating delegates. The 13th Session of the Forum (UNFF-13)<sup>1</sup> demonstrated the level of progress that can still be made

where the UN enables committed States' experts to operate collaboratively at the international level.

Under the guidance of UNFF-13 Chair Muhammad Shahrul Ikram Yaakob (Malaysia), the session reports<sup>2</sup> indicate that nearly 450 delegates participated both in the main sessions and in the Ministerial Roundtable. Much of its work focused on progress that has been made under the United Nations Strategic Plan for Forests 2017–2030 (UNSPF), but it also canvassed the question of how the on-going reform of the UN Department of Economic and

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