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NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	AOB for the meeting of the Council (Environment) on 17 December 2024 Fifth session of the Intergovernmental Negotiating Committee (INC-5) to Develop an International Legally Binding Instrument on Plastic Pollution (INC-5) (Busan, Republic of Korea, 25 November-1 December 2024) - Information from the Presidency and the Commission

The Intergovernmental Negotiating Committee to prepare a new legally binding instrument on plastic pollution (INC) was established at the fifth session of the United Nations Environment Assembly (UNEA-5) in Nairobi in March 2022¹, with a mandate to conclude negotiations on this instrument by the end of 2024. Its fifth session (INC-5) took place in Busan, Korea, from 25 November to 1 December 2024. INC-5 gathered more than 3.300 delegates from more than 170 countries, as well as the European Union, and more than 440 observer organisations.

¹ UNEA Resolution 5/14: End plastic pollution: towards an international legally binding instrument (<https://documents.un.org/doc/undoc/gen/k22/007/33/pdf/k2200733.pdf>).

The INC-5 was going to be the final session, resulting in an agreement on decisive collective action to end plastic pollution by addressing the whole life cycle of plastics, as was mandated by UNEA Resolution 5/14. However, after days of intense and difficult negotiations and informal discussions, it became clear that it was not possible to reach an agreement on a new instrument at INC-5. Therefore, INC-5 was only suspended and will resume in the first half of 2025 (INC-5.2). The main output of INC-5 was that the full legal text that has been issued by the Chair on the last day can be used as a “starting point and basis“ for negotiations at the resumed session.

Although INC-5 did not achieve its objective of delivering a new treaty to the world, progress was still made towards this aim. In particular, the High Ambition Coalition (HAC), consisting of 67 countries and the EU, was instrumental in mobilising the support of over 100 INC members. HAC rallied for global legally binding measures, including a reduction target for primary polymer production and lists of products to be banned – such as single use plastics and products containing highly hazardous chemicals that pose risk to health and environment, e.g. in toys and other children products, food contact materials or microplastics. One of the least controversial substantive elements of the Chair's text was the provision on product design, which promotes reuse and recyclability and also mentions a reuse and recycled content target. However, in the current Chair's text even this provision doesn't contain any binding measures.

Important progress has been made during the meeting in terms of consolidating the draft treaty text, which now has all relevant elements in legal treaty language, including institutional and financial aspects. However, positions of countries as regards polymer production, plastic products and chemicals of concern, remain very far apart. Another divisive area, although cutting across different line, has been the means of implementation, in particular a dedicated financing mechanism outside of the GEF modelled upon the Multilateral Fund of the Montreal Protocol. The EU and its Member States, as well as other western countries, supported the Global Environmental Facility as the mechanism. Additional resources should be however mobilised from the private sector as well as countries with financial ability to do so. The third issue is that of the decision-making by consensus or voting.

In view of concluding negotiations at INC-5.2, the preparatory efforts will need to concentrate around finding a common ground among all INC members on the main contentious areas – production limits, provisions on products and chemicals and a financial mechanism.

During the Hungarian Presidency of the Council, the EU and its Member States collaboration functioned extremely well, both during the preparatory process and also on the spot. The EU and its Member States conducted extensive outreach to partners across all regions, showed flexibility and tried to build bridges and understand the positions of others. When preparing for INC-5.2, the EU and its Member States will need to reassess their flexibilities and continue intensive outreach at all levels, both at experts and also at political level as well as in diplomatic relations. If an agreement on a new legally binding instrument can be found at INC-5.2, such an instrument is to be forwarded to the diplomatic conference for the purpose of adopting the instrument and opening it for signature, ideally still in 2025, e.g. at the UN General Assembly of the UN Environment Assembly.
