

June 17, 2024

International Agreement on Plastic Pollution: Negotiations

Global plastic waste is projected to almost triple by 2060. Plastic waste can cause environmental pollution, because it can break down into microplastic or nanoplastic particles. Some plastics also pose human health hazards. There are ongoing international efforts to address global plastic pollution. Some of these efforts focus specifically on marine debris, including plastic pollution in the ocean.

This In Focus provides an overview of the current status of negotiations to develop a multilateral legal agreement to address plastic pollution. Without objection, representatives from 175 countries at the 2022 United Nations Environment Assembly (UNEA) set a goal for finalizing agreement text by the end of 2024. The status of these negotiations may be of interest to Congress, including considerations as to whether the United States should become a party to an international agreement and, if so, whether legislation would be needed to fulfill any future U.S. obligations.

International Negotiating Committee

In 2022, the UNEA passed a resolution establishing an International Negotiating Committee (INC) to develop an “international legally binding instrument” (*international agreement*) on plastic pollution, including pollution in the marine environment. The international agreement would address the full life cycle of plastic, including its production, design, and disposal. The resolution sets a goal of completing negotiations regarding the instrument by the end of 2024 and contemplates that a final agreement could include both binding and voluntary approaches.

The UNEA resolution calls for countries to prepare national action plans with “country-driven approaches” to help prevent, reduce, and eliminate plastic pollution. The resolution contemplates that countries would periodically assess progress on the agreement’s implementation and effectiveness. Parties would also support technical assessments on plastic pollution, potentially through a new mechanism for information sharing, scientific assessment, and/or implementation. The resolution recognizes that for developing countries and “countries with economies in transition,” full implementation of some legal obligations would depend on financing, capacity building, and technical support.

Negotiating Timeline and Process

Countries established a schedule of five INC meetings between 2022 and 2024. Details on specific topics and country dynamics for each INC negotiating session are reported via the Earth Negotiations Bulletin.

In November 2022, the INC met for its first session (INC-1), at which it agreed to provisionally apply negotiated rules of procedure. INC-2 convened in May 2023 and initiated a “zero draft” (initial negotiating

draft) of the agreement text and a synthesis report of topics not covered in the draft. Rules of procedure continued to be applied on a provisional basis, with disagreement over whether decisions on the instrument were to be resolved by consensus or by voting. At INC-3 in November 2023, negotiations centered on the zero draft agreement text.

At INC-4 in April 2024, negotiators reviewed and updated draft agreement text. At the conclusion of INC-4, much of the text remained under active negotiation. Negotiating governments agreed to work between sessions to further advance discussions around finance as well as approaches for addressing plastic products and chemicals of concern. INC-5, to be held in the Republic of Korea from November 25 to December 1, 2024, is the last scheduled meeting of the INC before the stated goal of finalizing an agreement by the end of 2024. After negotiators agree to a final version of the text, it would be presented for adoption at a diplomatic conference.

Components of the Draft Agreement

The draft agreement text as of April 2024 includes the following components, some of which are subdivided into specific options that reflect countries’ negotiating positions:

- **Objective(s), Principles, Definitions, and Scope.** Proposed objectives cover a range of goals, such as ending plastic pollution, including pollution in the marine environment, and protecting human health and the environment. The scope of an agreement may also reference a circular economy approach or the full life cycle of plastics. According to the United Nations Development Program, a circular economy “aims to minimize waste and promote a sustainable use of natural resources, through smarter product design, longer use, recycling and more, as well as regenerate nature.” Negotiators have not settled on whether an agreement should include standalone provisions concerning principles, definitions, and scope.
- **Core Obligations, Measures, and Approaches.** Proposed provisions of this component include sections on plastic polymers; chemicals or polymers of concern; “problematic” and avoidable plastics such as single-use plastics or microplastics; product design/performance (including waste management); nonplastic substitutes; and transparency, tracking, monitoring, and labeling. Negotiators also developed text options for provisions on extended producer responsibility, plastic emissions and releases; waste management; trade; existing pollution, including marine pollution; and fishing gear. Approaches may be voluntary or mandatory and could potentially include certain exemptions based on, for example, substance levels or country status.

- **Means of Implementation.** Proposed provisions include sections on finance (with a potential financial mechanism, the details of which are still under negotiation), capacity building, technical assistance, and technology transfer.
- **Procedural Obligations.** Proposed provisions include requirements for national plans, implementation, reporting, and assessments. There are also options for provisions on international cooperation, information sharing, and stakeholder engagement.
- **Governance.** Proposed provisions address roles for the Conference of the Parties as a global plenary body, a secretariat, scientific or other subsidiary bodies, and dispute settlement procedures.
- **Annexes.** Examples of proposed options for this component include life-cycle measures and specific obligations such as phase-down or phase-out of certain polymers and chemicals of concern.

Related Congressional Activity

In 2020, Congress enacted P.L. 116-224, the Save Our Seas 2.0 Act, to “improve efforts to combat marine debris.” The act could be relevant to U.S. policy during negotiations on the agreement. Of note

- Section 201 (33 U.S.C. §4261) establishes the policy of the United States to partner and coordinate with foreign governments and others to, among other things, support the reduction of plastic waste, emphasize “upstream” solutions to decrease waste, advance alternatives to disposable plastic, support postconsumer waste management, and cooperate internationally to establish marine debris and plastic waste reduction targets, metrics, reporting, and action plans.
- Section 203 (33 U.S.C. §4263) provides that the President “shall direct United States representatives to appropriate international bodies” to implement the policy established in Section 201 through U.S. “voice, vote, and influence.” It also directs U.S. engagement at the global level to advocate for specific measures in international bodies. Examples of specific measures contemplated include encouraging standards and practices for disposable plastic products, supporting research, and enhancing private-sector coordination and markets, such as for plastic waste reuse.
- Section 206 (33 U.S.C. §4265) applies to international plastics agreement negotiations. It provides that “the President shall, as appropriate ... ensure that the agreement strengthens efforts to eliminate land-based sources of plastic waste and other solid waste from that country that impact the marine and aquatic environment.” It also calls on the President to consider the impacts of that waste in negotiating any international agreement.
- Other legislative initiatives include, for example, bills in the 118th Congress to limit plastic pellet pollution (H.R. 7634) and to reduce the production of single-use plastic

(S. 3127). In March 2024, 33 Members of Congress sent a letter to the Secretary of State in support of three negotiating principles concerning the potential international plastics agreement: (1) binding limits for plastic production; (2) rules of procedure that “stop a small number of plastic-producing countries from undermining the rest of the world’s efforts to address the plastic production crisis”; and (3) nonparty trade provisions that allow parties to the agreement “to protect themselves and their economies.”

U.S. Stakeholder Points of View

Stakeholders hold a range of perspectives on the potential contents of a multilateral agreement to curb plastics pollution. Some chemical and petroleum industry organizations have taken the position that a multilateral agreement should address plastic pollution through waste management and efforts to recycle plastic and not through restrictions on plastic production. Some ocean and environmental conservation organizations have taken the position that an agreement should include plastic production reductions, including the elimination of single-use plastics.

Considerations for Congress

If the negotiating countries agree on a final version of the text, that proposed agreement would then be opened for signature. Under international law, a signatory country must not undermine the agreement’s stated objectives and purpose, but the country is not legally required to adhere to the text until it formally consents to be bound by the agreement. Each country goes through its own nationally determined process to decide whether to accept the text as binding. In the case of the United States, policymakers would face a decision on whether the final agreement falls under the scope of the U.S. Constitution’s Treaty Clause—which would require the agreement to be approved by a two-thirds majority in the Senate and ratified by the President before it could become binding—or whether the commitment could be entered by way of an executive agreement not subject to that process. Policymakers might also consider whether any conditions should be placed on U.S. commitments under the proposed agreement.

Whether an international commitment on plastics could be implemented under existing U.S. domestic law or would require new legislation would not be clear until agreement text is finalized. Congress might be called upon to respond to any differences between existing U.S. law and the text of an international agreement. Such differences could affect whether and when the United States would agree to any new international commitments.

There are a variety of existing programs, strategies, and initiatives by federal agencies that address various aspects of plastic pollution. Through its oversight role, Congress may choose to examine the relationship of these activities to an international agreement on plastic pollution.

Jonathan D. Haskett, Analyst in Environmental Policy
Kristen Hite, Legislative Attorney

Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.