

Global Plastics Treaty: Initial Considerations for INC-3

“Imagination is the beginning of creation: you imagine what you desire, you will what you imagine and at last you create what you will.”

– George Bernard Shaw

This briefing provides a first look—our initial considerations—at the zero draft (ZD) to be discussed at INC-3 (UNEP/PP/INC.3/4). In line with the scenario note (UNEP/PP/INC.3/2), which envisions three contact groups taking up the issues in the order in which they are presented in the ZD, our initial considerations are similarly structured. For our views on topics to be discussed at the one-day preparatory meeting, please refer to our submission, which can be found [here](#) (Part A), and for our priorities for intersessional work please see [here](#) (Part B).¹

UNEP/PP/INC.3/2	Scenario Note
Overview	
	<ul style="list-style-type: none"> • INC-3 Objectives. Objectives for INC-3 should include: (i) a first reading of the zero draft to inform the development of the first draft; (ii) a mandate to the Chair to prepare a first draft; and (iii) a programme for intersessional work. The meeting has been extended to afford additional negotiating time, with a one-day preparatory meeting also added to the schedule. With this additional time, negotiators will still need to pay close attention to timekeeping and ensure procedural issues and other delay tactics do not derail the substantive discussions on content. EIA recommends moving swiftly to substantive negotiations in contact groups to achieve a complete read-through of the text. • Advancing the Work. The ZD is a steppingstone which can provide a direction of travel, but for safe crossing in the negotiations ahead, there will need to be a focus on substantive discussions on key elements. EIA recommends four priorities for advancing discussions at INC-3 and providing a solid foundation for an updated text at INC-4. First, it is imperative that intersessional work is initiated to advance core topics given limited negotiating time and the limits on the number of contact groups that can take place simultaneously. This work will be essential to provide greater clarity and specificity in the options presented in the next draft of the text. Second, moving forward, it is clear there is a need for more contact groups at the negotiations running concurrently to advance different topics and ensure adequate in-person time for exploring all potential options, in addition to exploring longer INCs in the final year of negotiations. EIA recommends structuring future sessions to allow for more contact groups. Third informal intersessional work on some topics would be advisable to solicit input to improve text where the issues are more sector-specific or technical in nature (e.g. building capacity amongst delegates on issues such as reuse and fishing gear by engaging expert stakeholders in those consultations). Fourth, as negotiators move toward negotiating text, EIA encourages negotiators to use the full range of tools available to advance matters of substance, from informal convenings to the submission of in-session documents, such as conference room papers or non-papers, that can further advance thinking on specific topics.

Key Takeaways in the Scenario Note	
III. Modalities for the session	<ul style="list-style-type: none"> • Equitable Access. Given the access issues at INC-2 and substantial interest in negotiations, EIA recommends appropriate arrangements are in place to ensure access for observers to participate in official sessions. Noting that only plenary will be live-streamed, in the event that a floating badge system and delegate limits are in place, EIA requests that contact groups be available to registered participants via video link either in overflow rooms or a web platform.
VI. Rules of Procedure	<ul style="list-style-type: none"> • Consult Informally. Noting the substantial delays to negotiations caused by the discussions on Rules of Procedure at INC-2 and the eventual agreement on the interpretative statement related to rule 38.1, EIA recommends no plenary time is devoted to this topic. However, given the interpretative statement does not provide a long-term solution to the fundamental issue of voting on matters of substance in the event the rule is invoked, EIA recommends the Chair continues to undertake informal consultations throughout the week with interested Parties to seek a satisfactory resolution. The formation of a Friends of the Chair group could serve to constructively progress discussions without detracting from negotiations on substance.
UNEP/PP/INC.3/4	Zero Draft
Overview	
	<ul style="list-style-type: none"> • Basis for Negotiations. The ZD should be viewed as a solid basis—the starting point—for negotiations and represents a significant milestone in the journey towards creating a new governance framework for addressing plastic pollution, capturing the range of views expressed by the negotiators. For our high-level takeaways on the ZD, please see here.
Part I	
1. Preamble	<ul style="list-style-type: none"> • Triple Planetary Crises. The preamble is arguably the last task to be completed in the preparation of the new treaty and can thus wait for future sessions when substantive elements have been discussed. The potential elements presented in UNEP/PP/INC.2/4 provide a starting point for those conversations, though EIA recommends the inclusion of more explicit references to the relationship between plastic pollution and the connected planetary crises of climate change and biodiversity loss, in addition to recognising plastic pollution’s impact on human health and planetary boundaries.
2. Objectives	<ul style="list-style-type: none"> • In All Environments. The reference to “including in the marine environment” can be removed. The phrase first appeared in resolution 5/14 as part of the compromise to highlight the need to address plastic pollution in the marine environment, such as through legacy clean-up. As obligations and control measures are now being negotiated, which include specific approaches for the marine environment, its inclusion is no longer necessary and somewhat confusing for those without background. • Open-Ended Objectives. A few observations. First, the new instrument should have open-ended objectives that allow it to address without constraint the generational work required to end plastic pollution and protect human health and the environment. Therefore, the inclusion of a date (2040) is inappropriate. An aspirational date to achieve certain outcomes could be referenced elsewhere. Second, “through, <i>inter alia</i>, managing both the utilisation of plastics and plastic waste, while contributing to the achievement of sustainable development” is rather inartful and artificially truncates the lifecycle of plastic to exclude production and remediation. Instead, “based on a comprehensive approach that addresses the full life cycle of plastic” is more appropriate, particularly as it derives from resolution 5/14 and represents agreed-upon language. Third, EIA prefers reference to the dual objectives of “to end plastic pollution” and “to protect human health and the environment” as formulated in option 1 but with reference to the full lifecycle of plastic as formulated in option 2 sub-option 1.2. EIA recommends the following formulation of the objectives of the treaty: “The objectives of this instrument are to end plastic pollution and to protect human health and the environment, based on a comprehensive approach that addresses the full life cycle of plastic.”

3. Definitions	<ul style="list-style-type: none"> • Full Lifecycle. Negotiators should consider this working definition provided by the INC secretariat in advancing the instrument’s text: “(full) life cycle approach means considering all potential impacts of all activities and outcomes associated with the production and consumption of plastics including raw material extraction and processing (for plastics: refining; cracking; polymerisation), design and manufacturing, packaging, distribution, use and reuse, maintenance and end of life management, including segregation, collection, sorting, recycling, and disposal.”² • Definitions. There will be a need for certain definitions to avoid ambiguity as the negotiations advance, but these can be identified and elaborated under the discussions of the specific control measures they relate to and do not require a dedicated negotiating track or specific time set aside. EIA recommends, where possible, relying on definitions that have been adopted or endorsed by other intergovernmental processes, including working definitions as necessary.
4. Principles	<ul style="list-style-type: none"> • Operationalisation. EIA recommends little time be spent negotiating preambular paragraphs or an article dedicated to principles and instead, after a quick exchange of views, encourages negotiators to integrate the principles directly into the text of the treaty itself. By operationalising these principles, negotiators can avoid negotiating what are often tokenistic statements about principles in favour of their practical application in the design of control measures. For example, rather than simply stating that the treaty shall be guided by the precautionary principle, the precautionary principle could be operationalised in the articles themselves, such as shifting the burden to chemical producers to prove the safety of their chemicals rather than placing the burden on the public to prove harm. Similarly, the polluter pays could be operationalised through mandatory EPR systems and a plastic pollution fee that supports waste management and remediation. For further discussion on principles, please see our submission here.
5. Scope	<ul style="list-style-type: none"> • Comprehensive Scope. It is not necessary for the treaty to include a specific provision on scope, rather the scope should be derived from the objectives, discussed above, and the mandate in Resolution 5/14.

Part II

1. Primary Plastic Polymers	<ul style="list-style-type: none"> • Overview of Options for Primary Plastic Polymers. The ZD presents three options in order of ambition: <ul style="list-style-type: none"> Option 1 – Global target with globally agreed national targets/reductions (a la the Montreal Protocol); Option 2 – Global target with nationally determined national targets/reductions (a la the Paris Agreement); and Option 3 – Nationally determined national targets/reductions only (no global target). <p>Option 3 should be rejected outright as it is weaker than even the Paris Agreement and lacks any global reference point—a North Star, as it were—upon which to measure ambition and understand the effectiveness of our actions. In terms of considering the way forward between options 1 and 2, negotiators should bifurcate the conversation. On one view, there is the question of a global target to benchmark our collective ambition to reduce overall primary plastic polymer production to sustainable levels. As it stands, there is simply too much plastic being produced every year to waste manage our way out of this crisis, exacerbating leakage and undermining the economics of environmentally sound waste management and circularity. In addition, production should align with our climate objectives to limit global warming to 1.5°C and achieve net-zero by 2050. At the time of writing, our planet just recorded the four hottest months on record—June, July, August, September—with devastating environmental, economic and social impacts worldwide³. In 2019, plastics generated 1.8 billion metric tonnes of greenhouse gas (GHG) emissions—3.4 per cent of global emissions—with 90 per cent associated with plastics production and, by 2050, these emissions could quadruple to 15 per cent of global emissions.⁴ On another view, there is the question of national targets, i.e. should they be globally agreed or nationally determined. In the final analysis, this comes down to political commitment to the objective of the treaty to end plastic pollution. Globally agreed national targets provide market certainty and certainty of result (see the Montreal Protocol) whereas nationally determined national targets have thus far failed (see the Paris Agreement), as recently evidenced in the synthesis report of the first Global Stocktake under the Paris Agreement which found “much more ambition in action and support is needed in... setting more ambitious targets in [nationally determined contributions]” if we are to stay within 1.5°C.⁵</p>
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	<ul style="list-style-type: none"> • Intersessional Work. Negotiators should undertake intersessional work on two fronts. First, define primary plastic polymers, establish a baseline against which to measure progress and identify reporting requirements. Independent of any member’s position on global and national targets, a tracking and monitoring framework for primary plastic polymer production will be required to evaluate treaty implementation and effectiveness. For example, it is necessary to monitor the impact of demand-side measures and efforts to promote a circular economy as well as understand overall inputs of primary plastic polymers into the economy to assess leakage, among other things. Discussions on this front should also consider how best to reflect these aspects within treaty text, such as whether to set out the baseline in an article or annex or to empower the governing body to adopt the baseline at its first meeting. It should also consider the information that should be reported and modalities and formats. Second, identify the level of a global target—whether aspirational or binding—and exchange on approaches to setting out national targets/reductions, which could also include options between globally agreed and nationally determined – for which there are many. • Additional Elements. The article on primary plastic polymer production should also include the following: (i) a role for the governing body, such as reviewing and updating the global and/or national targets in the annex (see Part IV(4)(b) of the ZD); (ii) trade provisions (see Part II(10)(a) of the ZD); (iii) reporting requirements; and (iv) a licensing system.
<p>2 Chemicals and Polymers of Concern</p>	<ul style="list-style-type: none"> • Overview of Options for Polymers and Chemicals of Concern. The ZD presents three options in order of ambition: <ul style="list-style-type: none"> Option 1 – Globally agreed elimination of polymers and chemicals listed in an annex; Option 2 – Nationally determined regulations for polymers and chemicals identified in an annex and nationally determined regulations to minimise polymers and chemicals with adverse impacts on human health or the environment or with properties that undermine ESM; and Option 3 – Nationally determined regulations for polymers and chemicals with adverse impacts on human health or the environment or with properties that undermine ESM. <p>Given the global nature of the economy, options 2 and 3 based on nationally determined actions would likely create a regulatory patchwork too varied across countries to protect human health and promote a safe circular economy. An exemption process could provide adequate protections for any essential or critical uses that may be identified by a Party and should therefore be considered, if needed.</p> • Intersessional Work. Negotiators should undertake intersessional work on three fronts. First, discuss potential indicative criteria for listing polymers and chemicals of concern. The purpose would be to frame the discussion on an initial list, but it should not be used to delay the actual development of that initial list. For this reason, it is preferred that any indicative criteria be adopted by the governing body at its first meeting, rather than be outlined in an annex by INC-5. This would also allow flexibility and development of the indicative criteria over time. Second, decide on a listing approach, such as a positive list, negative or hybrid. Third, compile an initial list of polymers and chemicals of concern to populate the annex. This should build upon those already targeted by countries and major companies, starting with the no-brainers that are already banned or being avoided. But let us not understate the importance of the task at hand. Studies have identified up to 13,000 chemicals used in plastics of which 3,200 are identified as chemicals of potential concern based on existing hazard types and of which 6,000 have no hazard data, many of them could also be chemicals of potential concern.⁶ Only 128 chemicals of concern are regulated under the Stockholm Convention, Minamata Convention and Montreal Protocol, representing around 4% of all identified chemicals of potential concern and 1% of all chemicals in plastics.⁷ In addition, 960 of the chemicals of potential concern are subject to national regulation.⁸ • Additional Elements. Any article on polymers and chemicals of concern should also include the following additional elements: (i) the process for a Party to propose additional polymers or chemicals for listing in the annex; (ii) additional roles for the governing body, such as adopting and regularly updating indicative criteria to guide future listings (in addition to reviewing and updating the annex under Part IV(4)(b) of the ZD); (iii) reporting requirements; and (iv) a licensing system.

<p>3. Problematic and Avoidable Plastic Products</p>	<ul style="list-style-type: none"> • Overview of Options for Problematic and Avoidable Plastic Products. The ZD presents two options in order of ambition: <ul style="list-style-type: none"> Option 1 – Globally agreed restrictions for products listed in an annex and nationally determined measures for other products based on criteria set out in an annex; and Option 2 – Nationally determined measures based on criteria set out in an annex. <p>Negotiators should work from option 1. It is recommended that, as a starting point for discussion on an initial list of products and any criteria, negotiators look at the plastic products that have been identified by other jurisdictions for early action. For example, the European Union (EU) has taken action to prohibit cotton bud sticks, cutlery, plates, straws, beverage stirrers and balloon sticks as well as food containers, beverage containers and beverage cups made from expanded polystyrene (EPS).⁹ It further identified food containers and beverage cups (not made from EPS) for consumption reductions as well as lightweight plastic carrier bags.¹⁰ Similarly, Rwanda has similarly taken action on a wide range of plastic products¹¹ alongside over 100 other countries.¹²</p> • Intersessional Work. Negotiators should undertake intersessional work on two fronts. First, set out indicative criteria for listing problematic and avoidable plastic products. The purpose would be to frame the discussion on an initial list, but it should not be used to delay the actual development of that initial list. For this reason, it is preferred that any indicative criteria be adopted by the governing body at its first meeting, rather than be outlined in the annex by INC-5. This would also allow flexibility and development of the indicative criteria over time. Second, compile an initial list of problematic and avoidable plastic products to populate the annex based on those products already subject to elimination in various countries. • Additional Elements: Any article on problematic and avoidable plastic products should also include the following additional elements: (i) the process for updating the annex to list additional plastic products; (ii) a role for the governing body, such as adopting indicative criteria for nationally determined measures and reviewing and updating the annex; and (iii) reporting requirements. • Overview of Options for Intentionally Added Microplastics. The ZD presents two options in order of ambition: <ul style="list-style-type: none"> Option 1 – Globally agreed restrictions; and Option 2 – Nationally determined measures. <p>Negotiators should work from option 1. The exemption process in the ZD provides adequate protections for any essential or critical uses that may be identified by a Party.</p>
<p>4. Exemptions Available to a Party Upon Request</p>	<ul style="list-style-type: none"> • Exemption Procedure. As mentioned in the ZD, a procedure for seeking an exemption should be defined. EIA recommends considering Article 6 of the Minamata Convention as a basis for those discussions.¹³ • Registry. To facilitate implementation of the provision on trade (point 10), a registry should be established for exemptions for polymers and chemicals of concern, problematic and avoidable plastic products and intentionally added microplastics, including the Party to whom it is applicable – similar to the Minamata Convention.
<p>5. Product Design, Composition and Performance</p>	<ul style="list-style-type: none"> • Chemicals. When identifying the purposes for enhancing the design of plastic products in Part II(5)(a)(1)(a), explicit reference should be made to reducing demand for and use of chemicals as well as primary plastic polymers, plastics and plastic products. • Overview of Options for Product Design and Performance. The ZD presents two options in order of ambition: <ul style="list-style-type: none"> Option 1 – Globally agreed design and performance criteria with mandatory certification and labelling; and

Option 2 – Nationally determined design and performance criteria with optional certification and labelling.

A few observations. **First**, to provide market certainty and a level playing field in a global plastics economy, globally agreed product design and performance criteria are needed to ensure a smooth and effective implementation and should certainly be coupled with mandatory certification and labelling. **Second**, since it is not clear that the product design and performance criteria need to reside in an annex—they can be quite lengthy and technical and might be better placed in a registry—this provision would benefit from the addition of a paragraph explicitly empowering the governing body to adopt product design and performance criteria and setting out the procedure. **Third**, the development of standards, such as those adopted by standardisation bodies like the International Organisation for Standardisation (ISO), should only be relied upon to certify compliance with the globally agreed product design and performance criteria. In other words, standards are not a substitute for globally agreed product design and performance criteria but rather a mechanism to facilitate compliance. Moreover, the governing body should be empowered to approve standards as adequate for the purposes of certifying compliance with its design and performance criteria before being relied upon to demonstrate compliance. This will ensure harmonisation and facilitate implementation.

- **Overview of Options for Reduce, Reuse and Repair.** The ZD presents two options in order of ambition:

Option 1 – Obligation to promote reduction, reuse, refill, repair, repurposing and refurbishment (based on guidance adopted by the governing body) with globally agreed targets for reduction, reuse, refill and repair; and

Option 2 – Obligation to promote reduction, reuse, refill, repair, repurposing and refurbishment (based on guidance provided by the governing body) with nationally determined targets.

A few observations. **First**, a paragraph should be included that explicitly empowers the governing body to adopt and review design criteria (as opposed to guidance) and to regularly review the targets for reduction, reuse, refill and repair. **Second**, EIA encourages immediate work to promote reuse in high-impact sectors where solutions already exist, such as packaging, given its critical role in reducing consumption and complementing bans on short-lived plastic products. To this end, language should be included to prioritise high-impact sectors during early implementation of the treaty.

- **Intersessional work.** There is significant potential for innovation and investment to scale reuse with companies poised to act in the right regulatory environment. But this transition will need to be safe, equitable and well-managed. Intersessional work should be undertaken on: (i) consideration of baselines and targets for reuse across sectors; (ii) setting clear and enforceable definitions for reuse, refill and repair for adoption by the governing body; and (iii) developing minimum design criteria for reuse systems (as opposed to just guidance), including for toxic-free reusable products and related processes, such as collection and washing, as well as essential elements to support national implementation, such as capacity-building, stakeholder consultation and technology.
- **Overview of Options on Use of Recycled Plastic Content.** The ZD presents two options in order of ambition:

Option 1 – Mandatory minimum percentages of recycled content as set out in an annex; and

Option 2 – Voluntary minimum percentages of recycled content based on elements contained in an annex.

A few observations. **First**, in general, measures to increase recycled content need to be considered carefully along side the indicative criteria for chemicals and polymers of concern to ensure that targets to increase recycled content do not perpetuate the re-circulation of toxic chemicals, which have been found in many products featuring recycled content, including children's toys.¹⁴ **Second**, the use of terms "safe" and "environmentally sound" within this option will require clarification by the governing body to avoid ambiguity.

	<ul style="list-style-type: none"> • Overview of Options for Alternative Plastics and Plastic Products. The ZD presents two options in order of ambition: <ul style="list-style-type: none"> Option 1 – General obligation to ensure alternative plastics and plastic products are safe, environmentally sound and sustainable; and Option 2 – General obligation to encourage the development and use of alternative plastics and plastic products that are safe, environmentally sound and sustainable. <p>A few observations. First, the risk of regrettable substitutions and new environmental burdens with alternative plastics is significant. At present, the lack of clear definitions or criteria for bio-based plastics, biodegradable plastics or compostable plastics has led to a proliferation of materials that walk and talk like plastic but come with their own set of challenges, not least when it comes to end-of-life treatment and the contamination of household waste streams and the environment. For these reasons, under either option, the governing body should be empowered to adopt definitions and criteria to ensure a globally harmonized approach to the safety, environmental soundness and suitability of alternative plastics and plastic products as well as to provide guidance on the applications where suitable.</p>
6. Non-Plastic Substitutes	<ul style="list-style-type: none"> • Regrettable Substitutions. The treaty should reduce overall material use to conserve natural resources and protect planetary health for future generations. While the focus here is plastics, there is simply no sense in replacing one material problem with another and perpetuating a linear economy with substitutes that have their own set of challenges for resource use, the environment and waste management infrastructure. Thus, under this provision negotiators are urged to consider criteria and comprehensive assessments to support decision-making about switches to other materials, guided by the zero-waste hierarchy. The “substitutes” track should be linked to the discussions on 5(b), with an emphasis on alternative systems or services rather than alternative materials. Clear definitions for substitutes and the promotion of globally agreed criteria and consistent labelling will be necessary to avoid regrettable substitutions. • Role of the Governing Body. UNEP/PP/INC.2/INF/9 can be a useful reference and the definition for substitutes can serve as a working version for the basis of negotiations to avoid confusion between plastics (<i>e.g.</i> fossil-based, bio-based, biodegradable, compostable) and non-plastic substitutes. Negotiators should ensure, however, that assessments take place under the governing body with the participation of relevant experts and the governing body should be empowered to adopt guidelines and periodically review the use of non-plastic substitutes.
7. Extended Producer Responsibility	<ul style="list-style-type: none"> • Overview of Options for Extended Producer Responsibility. The ZD presents two options in order of ambition: <ul style="list-style-type: none"> Option 1 – <u>Mandatory EPR based on</u> modalities in an annex; and Option 2 – <u>Voluntary EPR based informed</u> by modalities adopted by the governing body. <p>A few observations. First, negotiators should explicitly reference “reuse” as a focus of EPR systems. As it stands, the focus only references recycling and waste management as the solution but, given the shortcomings of recycling and waste management, EPR systems should promote the shift towards less material use in general. Second, whereas certain general minimum requirements for EPR systems can be harmonised—see for example Article 8a of the EU Waste Framework Directive—other features are specific to sectors. The treaty should therefore aim to promote specific minimum requirements for EPR systems in specific sectors, where appropriate, such as fishing gear, textiles, packaging and agriculture. Third, it is imperative that EPR systems be developed alongside design and performance criteria for plastic products to ensure circularity and, as such, should form part of the discussion on dedicated programmes of work (see below).</p>

8. Emissions and Release of Plastic throughout its Lifecycle

- **Emissions and releases of plastic polymers, plastics and plastic products.** While EIA supports the opening provision to eliminate emissions and releases into the environment, the chapeau text in paragraph 1 should explicitly include reference to “chemicals of concern” in addition to “plastic polymers,” “plastics” and “plastic products.”
- **Pellets, Flakes and Powders.** Pellets, flakes and powders (hereinafter referred to simply as pellets) are the feedstock of plastic material melted and moulded into plastic products. Pellets are spilled into the environment at each stage of the supply chain through careless mismanagement, including production, storage, handling, transport and conversion as well as at recycling facilities, making them a significant source of microplastic pollution. Although the IMO is considering measures to reduce pellet loss from transport at sea, including labelling, packaging and stowage requirements, most pellets are spilled into the environment on land despite well-known measures to prevent their loss. To ensure commensurate action across the supply chain, the text should include reference to the supply chain and the governing body should be empowered to adopt guidelines on pellets best handling and management practices to prevent pellet loss.
- **Protection of Vulnerable Communities.** As the governing body adopts guidelines to facilitate the implementation of this provision, EIA recommends incorporating an explicit reference to the protection of fenceline communities and vulnerable populations from the environmental and health impacts from emissions when developing such guidance.
- **Dedicated Programmes of Work / Sectoral Strategies.** EIA recommends ensuring dedicated programmes of work are undertaken for specific sectors, for example packaging, fisheries, agriculture and textiles, among others. Provisions to give it effect could include:
 - Empower the governing body to initiate dedicated programmes of work for specific sectors, headlined by the development of a comprehensive global strategy that identifies policies and initiatives by state and non-state actors across the value chain to reduce plastic pollution from a given sector;
 - Require Parties to cooperate and coordinate with other intergovernmental organisations and entities, as appropriate, and to engage non-state actors via a multi-stakeholder action agenda;
 - Require each Party to adopt measures to implement the strategy in its national plan;
 - Empower the governing body to adopt guidelines to implement the strategy in national plans;
 - Require the governing body to review and evaluate the progress and implementation of the dedicated programme of work.
- **Example: Fisheries Sector.** For context, a dedicated programme of work for the fisheries sector would work toward the development of a comprehensive global strategy to prevent, reduce and eliminate abandoned, lost or otherwise discarded fishing gear (ALDFG), identifying a package of policies and actions to address plastic pollution in this sector. Potential policies and actions could include: circular and sustainable design; EPR systems; passively fished waste; hotspot clean-ups; cost frameworks at ports; research and development; adequacy of ports; marking and logging; reporting; training and capacity-building; education and awareness-raising; reasonable precautions at sea; illegal, unreported and unregulated (IUU) fishing; fiscal incentives; and the role of certification and eco-labels. The strategy would be developed in cooperation and coordination with the International Maritime Organisation (IMO), Food and Agriculture Organisation (FAO) and regional seas programmes and conventions, among others, with the participation of stakeholders from across the value chain, including producers, fishers, port authorities, local municipalities, recyclers, certification bodies, non-governmental organisations and research institutions. Following adoption of the strategy, Parties would implement portions in their national plans, as appropriate, promote actions in other international instruments and leverage the multi-stakeholder action agenda to promote actions by non-state actors.

	<ul style="list-style-type: none"> • Example: Agricultural Sector. For context, a dedicated programme of work for the agricultural sector would work toward the development of a comprehensive global strategy to ensure the sustainable use of agricultural plastics, identifying a package of policies and actions for this sector. Potential policies and actions are extensive, as identified in by the FAO in their Assessment of Agricultural Plastics and Their Sustainability – A Call for Action. The strategy would be developed in cooperation and coordination with the FAO and stakeholders from across the value chain, including farmers, labourers, agricultural businesses retailers, producers, recyclers, consumers, and research institutions and complement existing initiatives such as the development of a Voluntary Code of Conduct for on the Sustainable Use of Plastics in Agriculture under FAO. Following adoption of the strategy, Parties would implement elements in their national plans, as appropriate, support actions in other international instruments and leverage the multi-stakeholder action agenda to promote actions by non-state actors.
<p>9. Waste Management</p>	<ul style="list-style-type: none"> • Overview of Options on Waste Management. The ZD presents two options in order of ambition: <ul style="list-style-type: none"> Option 1 – Obligation to meet minimum rates and requirements for safe and environmentally sound collection, recycling and disposal, as set out in an annex; or Option 2 – Obligation to adopt measures in national plans on safe and environmentally sound collection, recycling and disposal, based on harmonised indicators set out in an annex. <p>In addition, provisions common to both options include prohibiting and/or regulating certain waste management practices that emit or release hazardous substances and preventing ocean dumping, open dumping, littering and open burning.</p> <p>A few observations. First, the governing body should be empowered to adopt global targets for waste management, in particular separate collection and recycling. Global targets are needed to inform national targets and overall ambition. Second, the governing body should be empowered to adopt its own ESM guidance or guidelines (see paragraph 2 of option 2) and not be restricted to simply adopting additional or complementary ESM guidance or guidelines (see paragraph 1 of option 1). In other words, the treaty should follow the approach taken in Article 10 of the Minamata Convention and not restrict the ability of the governing body to define ESM in the context of the objectives of the treaty. Curiously, under option 1, the governing body is only empowered to adopt “guidance or guidelines” that are “additional or complementary to the relevant guidance and guidelines developed under other relevant international agreements” (read: Basel convention) whereas, under option 2, the governing body is empowered to adopt “guidelines... taking into account other relevant international guidelines and guidance.” The latter formulation should be selected so as not to hamstring the governing body. Third, Parties should report on their management of plastic waste and, to this end, specific reference should be made to reporting requirements.</p> • Fishing Gear. EIA welcomes the inclusion of a specific provision dedicated to fishing gear given the need for a bespoke and tailored governance for this harmful source of marine plastic pollution.¹⁷ However, such governance requires regulation across the entire lifecycle of fishing gear—as a material and as a product—a point that was emphasised during the discussions at INC-2. The provision’s current location in the waste management section textually minimises more upstream measures required to address ALDFG adequately, such as product design and performance criteria and EPR systems, as well as remediation, such as environmentally sound retrieval. Furthermore, despite being in the waste management section, the current provision does not include the necessary language to facilitate adequate end-of-life treatment, which falls outside the scope of international frameworks like the IMO or FAO. Finally, the governing body is not empowered to have a role, for example by adopting guidance or guidelines, developing a comprehensive global strategy or promoting synergy and complementarity with relevant initiatives beyond just safe disposal. For these reasons, negotiators should set out a specific article on fishing gear and ensure that it is subject to a dedicated programme of work that initiates a comprehensive global strategy with policies and initiatives by state and non-state actors across the value chain.

<p>10. Trade in Listed Chemicals, Polymers and Products, and in Plastic Waste</p>	<ul style="list-style-type: none"> • Trade in Primary Plastic Polymers. EIA recommends including trade in primary plastic polymers in this provision. • Trade in Polymers and Chemicals of Concern. No comment. • Trade in Plastic Waste. The provisions on transboundary movement of plastic waste address gaps in the current Basel Convention framework and would require prior informed consent for all transboundary movements of plastic waste thus ensuring transparency while also facilitating the environmentally sound management of plastic waste. A few observations. First, the information to be provided should still include information on whether the plastic is sorted or contaminated and whether it is destined for mechanical recycling. This information is quite relevant to ensure PIC is truly informed. Second, negotiators should include a take-back obligation on the Party where the illegal export originated. • Non-Party Trade Provisions. EIA recommends the inclusion of a non-party trade provision prohibiting Parties from trading with non-Parties.
<p>11. Existing Plastic Pollution, including in the Marine Environment</p>	<ul style="list-style-type: none"> • Polluter Pays. The provisions on addressing existing plastic pollution provide a solid basis for addressing remediation. But given the scale of remediation required in marine, freshwater and terrestrial environments, dumpsites included, significant financing will be required. As a result, remediation activities are a prime candidate for applying the polluter pays principle within the operational measures of the treaty, as the advent of poorly designed, non-recyclable polymers and products and their distribution to regions and communities without adequate waste management infrastructure in place is a symptom of an industry that has avoided accountability for too long while reaping the benefits. EIA recommends the establishment of a Plastic Pollution Trust Fund that is funded with fees on the private sector and which operates under the authority of the Parties, with provisions available to access financial support for both long-term remediation and clean-up projects, as well as responding to large-scale plastic pollution events such as pellet spills from container ships. • Focus Upstream. While the issue of legacy pollution is a priority for many countries, in particular SIDS, EIA recommends that negotiation time is prioritised on upstream provisions that will create the framework to stem the flow of plastics into marine and other environments, protecting future generations. The special needs of SIDS should however be front and centre of discussions on access to support for clean-up and remediation, with adequate assistance provided.
<p>12. Just Transition</p>	<ul style="list-style-type: none"> • Full Value Chain. EIA welcomes the inclusion of provisions on just transition and emphasise the need for the principle to apply across the plastics value chain, including just transition for communities and workers experiencing the impacts of primary plastic polymer production and its planned expansion. This could be noted more explicitly in 12(d).
<p>13. Transparency, Tracking, Monitoring and Labelling</p>	<ul style="list-style-type: none"> • Right to Know. Lack of access to information on material composition and safety along the plastics value chain has hampered consumer choice and business action, particularly when it comes to recycling, to the detriment of health and the environment. EIA welcomes the provisions on transparency, tracking, monitoring and labelling, with a clear role for the governing body in adopting guidelines on harmonised requirements, noting the word "globally" should be added to ensure consistency. Given challenges in existing international chemical regulation with regards to transparency and traceability, EIA recommends Member States utilise intersessional work to further consider the criteria for the scope of chemicals to be disclosed, alongside guidelines for how information sharing and access to information by Parties and other stakeholders will work in practice, to ensure uniformity of this regulation. This could include guidance that describes the setup of a centralised database to which disclosed data is reported and modalities (e.g. who reports to whom, in what format, who has access to the data).¹⁸ There is a clear need for all chemicals to be tracked, not just the ones that are deemed toxic or hazardous.
<p>Part III</p>	
<p>1. Financing</p>	<ul style="list-style-type: none"> • Overview of Options on Financing. The ZD presents two options on the financial mechanism that it states could be considered individually or together:

Option 1 – Newly established dedicated multilateral fund or funds; and

Option 2 – Existing multilateral fund, such as the Global Environment Facility.

A few observations. **First**, a newly established dedicated multilateral fund established alongside the new instrument will be required to deliver new, additional, stable, accessible, adequate, timely and predictable financial assistance, particularly for “enabling activities” and “incremental costs of compliance” – both of which should be funded on a grant basis. **Second**, the newly established dedicated multilateral fund should take a “[country programme](#)” approach toward ending plastic pollution—similar to that taken in the Multilateral Fund for the Implementation of the Montreal Protocol—that is comprehensive in scope and tailored to national circumstances. **Third**, for costs that fall outside of those funded by the newly established dedicated multilateral fund, and for which funding could be provided on a grant or concessional basis, the Global Environment Facility (GEF) and its predominantly project-based approach to funding could be relied upon.

- **Activities and Costs to Receive Financial Assistance.** The ZD does not include any reference to the specific activities or costs to receive financial assistance, unlike the articles on financial aspects in other instruments, such as the Minamata Convention and Montreal Protocol. At a minimum, this section should reference “enabling activities” and “incremental costs of compliance” as eligible to receive financial assistance, preferably on a grant basis.
- **Indicative List of Categories of Activities and Costs.** EIA recommends developing an “indicative list of categories of activities and costs” during negotiations for adoption by the governing body at its first meeting. This would follow the approach in other instruments. The indicative list could outline, for example:
 - **Enabling Activities.** Enabling activities should include at least those activities listed in the [INC-2 in-session submission by Chile, Cook Islands, Ecuador, Federated States of Micronesia, Rwanda, Senegal and Uganda](#), namely: **(i)** institutional strengthening; **(ii)** policy development and implementation; **(iii)** education and awareness-raising; **(iv)** capacity-building and training; **(v)** technology transfer; **(vi)** reporting and monitoring; and **(vii)** pilot and demonstration projects. Enabling activities can be compiled early and thereafter agreed to as part of the final deal.
 - **Incremental Costs of Compliance.** Incremental costs of compliance should be compiled for each compliance-related control measure and thereafter agreed to as part of the final deal.
 - **Other Costs.** Those costs not considered enabling activities or incremental costs of compliance for which financial assistance may also be needed to fulfil the objectives of the treaty. Due consideration should be given to how existing financial mechanisms can support financing of other costs, such as GEF, as well as innovative financing, such as a plastic pollution fee on polymer producers.

Examples of indicative lists of categories of activities and costs in other instruments can be found [here](#) (UNEP/MC/COP1/Dec.5: Decision adopted by the first Conference of the Parties to the Minamata Convention) and [here](#) (UNEP/OzL.Pro.4/15: Annex VIII of the Report of the Fourth Meeting of the Parties to the Montreal Protocol, page 803).

- **Plastic Pollution Fee.** A few observations. **First**, the plastic pollution fee should be placed in a newly established dedicated multilateral fund that operates under the authority of the Parties, not under the authority of polluters. This ensures that the fees are not used for projects that conflict with the objectives of the treaty, such as chemical recycling. **Second**, the discussion on a plastic pollution fee should be separate from the discussion on donor-country-to-recipient-country funding for enabling activities and incremental costs of compliance and should instead focus on providing supplemental funds to assist with waste-management projects and remediation in recipient countries.

2. Capacity-Building, Technical Assistance and Technology Transfer

- **Safeguards on Technology Transfer.** The governing body should be empowered to ensure that, to the extent technologies are transferred, those technologies do not undermine the objectives of the treaty. For example, the proliferation of chemical recycling undermines resource efficiency and mechanical recycling and results in negative impacts on human health and the environment in addition to our climate

	system. EIA therefore recommends that the governing body is tasked with ensuring that technology transfers are not only mutually agreed upon but align with the objectives of the treaty.
Part IV	
1. National Action Plans	<ul style="list-style-type: none"> For further reading, please see this brief on key considerations with regards to NIPs and NAPs from IUCN, CIEL and WCEL.
2. Implementation and Compliance	<ul style="list-style-type: none"> Facilitative, not Punitive. EIA supports the provisions in this section which allows for a mechanism to be established to facilitate implementation and non-compliance and in particular notes this mechanism should be facilitative in nature. EIA recommends looking to the non-compliance procedure in the Montreal Protocol (pursuant to Article 8, Annex 11)¹⁹, which is broadly viewed as an effective mechanism to support bringing Parties into compliance in the further drafting of this text.
3. Reporting on Progress	<ul style="list-style-type: none"> Overview of Options on Reporting. The ZD presents two options: <ul style="list-style-type: none"> Option 1 – National submissions on implementation measures and their effectiveness, pursuant to modalities and formats adopted by the governing body, with reporting of statistical data on types and volumes of production, imports and exports of plastic polymers and products. Option 2 – National submissions on implementation measures and their effectiveness, subject to timing and format decided by the governing body, with reporting on information in certain (to-be-determined) articles. <p>A few observations. First, the approach to national submissions under option 1 is stronger, namely because the national submissions are publicly available and subject to modalities and formats adopted by the governing body and its review. It therefore represents the preferred approach. Second, negotiators should ensure a reporting framework for statistical data that establishes baselines and inventories, allows for monitoring of trends and facilitates implementation and compliance. To this end, reporting of information/statistical data should: (i) cover each stage of the lifecycle of plastic as well as specific sources and sectors; (ii) be regularly undertaken, such as annually or biennially; and (iii) be standardised, subject to modalities and formats adopted by the governing body. In this regard, the approach to reporting of information/statistical data in option 2 is closer to what is needed as it would allow for the relevant articles to be listed (unlike option 1 which only references production, imports and exports of plastic polymers and products). Member should aim, however, to ensure at least the following information/statistical data is reported:</p> <ul style="list-style-type: none"> - Primary Plastic Polymers. Plastic comes into existence as a material upon polymerisation in the form of primary plastic polymers. Primary plastic polymers are traded internationally as goods with unique Harmonised System (HS) codes based on polymer type under the World Customs Organisation (WCO).²⁰ Currently, accurate data on the production and trade in primary plastic polymers is currently unavailable, forcing governments to rely on unsubstantiated information volunteered by petrochemical representatives, such as PlasticsEurope and the American Chemistry Council.²¹ Fortunately, securing such data is a fairly straight-forward exercise for governments as there are relatively few producers of primary plastic polymers.²² Reporting should cover production, imports and exports of types and quantities of primary plastic polymers, which would also then allow for Parties to determine consumption. - Post-Consumer (Recycled) Plastic Polymers. Accurate data on types and quantities of post-consumer (recycled) plastic polymers is needed to determine the state of secondary markets for recyclates and progress toward a circular economy. Reporting should cover production, imports and exports of types and quantities of primary plastic polymers, which would also then allow for Parties to determine consumption. - Plastic Use. Reporting should provide information on plastic use of types and quantities by market segment, for example packaging, building and construction, automotive, electrical and electronic, household and leisure sports, agriculture, appliances, mechanical engineering and medical.

	<p>- Plastic Waste Management. Parties should report data on plastic waste management, including prevention, separate collection, reuse, mechanical recycling, disposal (e.g. chemical recycling, incineration, landfill) and leakage.</p> <p>- Plastic Waste Trade. Accurate data on plastic-waste shipments and their treatment is lacking. Such data should be reported, in cooperation with the Basel Convention, where appropriate.</p> <p>- Sea-Based Sources. While approximately 80% of marine plastic pollution originates from land-based sources, the remaining 20% originates from sea-based sources, primarily fishing vessels followed by shipping, offshore industries and tourism.²³ Such data should be reported, working in cooperation with the International Maritime Organisation, where appropriate.</p> <p>- Primary Microplastics. Primary microplastic pollution is plastic that enters into the environment in small pieces, and includes microplastics emitted during the lifecycle of a product through wear and tear (e.g. automobile tires, road markings, textiles, artificial turf, building paint), through accidental spills (e.g. pellets) or because intentionally added (e.g. microbeads in cosmetics and cleaning products, controlled release fertilisers). It is likely that factors will need to be developed and used to facilitate reporting for many types of primary microplastics.</p> <p>- Chemicals. The types of chemicals added to plastics are varied and cover those that assist production and manufacturing processes (e.g. catalysts, solvents, auxiliaries, lubricants, mould release agents, cross-linkers) and those that improve performance (e.g. antioxidants, colourants, plasticisers, stabilisers, compatibilisers, flame retardants). Chemicals are often toxic and undermine secondary markets for post-consumer (recycled) plastic polymers as well as the circular economy. Chemicals are added by three main actors along the supply chain: (i) producers of primary plastic polymers; (ii) masterbatch makers or compounders, i.e. specialist mixers of primary plastic polymers with additives; and (iii) converters who melt, mix and mould primary and post-consumer (recycled) plastic polymers into plastic products.</p> <p>Given the importance of reporting across the full lifecycle of plastic, the approach in option 2 is preferred as it would allow for the articles for each lifecycle stage subject to reporting to be clearly listed. The approach in option 2 would benefit, however, from the addition of a provision that requires reporting be subject to modalities and formats adopted by the governing body (as in option 1).</p> <ul style="list-style-type: none"> • Intersessional Work. Reporting should form the subject of intersessional work as it is an essential element in the treaty. • Quantities, not Volumes. The ZD mistakenly uses the term “volumes” instead of “quantities.” “Volumes” refers to the amount of space the polymers take up (e.g. litres) and not their weight (e.g. tonnes), which is what is typically used. There may be instances in which reporting volumes make sense, but it will not always be the case. For this reason, EIA recommends replacing “volumes” with “quantities,” which is a term that is flexible enough to allow volumes and weight reported.
<p>4. Periodic Assessment and Monitoring of the Progress on Implementation of the Instrument and Effectiveness Evaluation</p>	<ul style="list-style-type: none"> • Quadrennial Assessment. EIA supports the inclusion of a periodic assessment of the implementation and effectiveness of the instrument, pursuant to OP 3(g) and 3(h) of resolution 5/14. EIA recommends at least every four years. • Review of Control Measures not Limited to Periodic Assessment. EIA supports the articulation of the role of the scientific and/or technical body in the assessment of control measures relating to chemicals and polymers of concern, microplastics and problematic and available products. EIA also supports a role of the governing body in updating related annexes. However, EIA believes this process should not be limited to being undertaken solely on a periodic basis. Instead, the instrument should include a process by which Parties may propose amendments to listings independent of the periodic assessment. In addition, the review of primary plastic polymers should be included in the periodic

	<p>review of chemicals and polymers of concern, microplastics and problematic and avoidable plastic products.</p> <ul style="list-style-type: none"> • Amendments to annexes. The provisions laid out in section 4b assumes that the final provisions of the instrument will include an article outlining the process for amending the annexes, similar to Article 22 of the Stockholm Convention. However, the provisions in 4b only outlines review and amendments to parts of Annex A and Annex B. The zero draft includes several annexes not mentioned in the periodic review (Annexes C, D, E, F and G). EIA recommends negotiators consider whether all provisions require annexes, and therefore an amendment procedure. For example, listing or product design criteria (Annex C), listing of sources of emissions and releases of plastics (Annex E) or the format for national plans (Annex G) may be undertaken via decisions made by the governing body.
5. International Cooperation	<ul style="list-style-type: none"> • No comment
6. Information Exchange	<ul style="list-style-type: none"> • No comment
7. Awareness-Raising, Education and Research	<ul style="list-style-type: none"> • No comment
8. Stakeholder Engagement	<ul style="list-style-type: none"> • See the Part II(8) discussion on dedicated programmes of work to see how stakeholder engagement can be operationalised as part of a multi-stakeholder action agenda.

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