

## Global Plastics Treaty: Initial Considerations for INC-4

“Progress lies not in enhancing what is, but in advancing toward what will be.”

– Khalil Gibran

In the (potential) final year of negotiations for a new international legally binding instrument (ILBI) to end plastic pollution, negotiators will meet for its fourth session in Ottawa, Canada from 23-29 April.

Following a third session (INC-3) which concluded with neither a mandate for intersessional work nor a request for the Chair to prepare a first draft of the text, negotiators now face a meeting where progress towards text-based negotiations is essential in order to meet the timeline set out in UNEA resolution 5/14.

With a revised zero draft (RZD) at 70 pages and several key policy issues undecided, this briefing sets out our initial considerations for INC-4 and makes recommendations for the design of a treaty fit for purpose,<sup>1</sup> focusing on Parts I, II and III.

## Overview

- **Advancing the work.** We are at a crossroads in the negotiations. To produce a text that allows for strong initial basis for action with mechanisms to allow for its strengthening over time, we must facilitate exchanges and seek compromise. To do this, the Chair must provide clear mandates to the co-facilitators, allowing them to: (i) frame discussions and produce text for negotiation; (ii) establish working and informal groups to advance specific topics outside of the contact groups; and (iii) sequence and cluster issues with more time for those topics with more divergent views. To this end, topics such as primary plastic polymers, polymers and chemicals of concern, problematic and avoidable plastic products, product design criteria and performance, waste management and means of implementation should all be prioritised – with cross-cutting issues such as transparency, trade and reporting, as well as intersessional work, discussed in the context of each topic. Negotiators should also be flexible with regard to more than two groups meeting at once, possible with early communication from the Chair about the structure and agenda to allow smaller delegations to coordinate and ensure representation. Lastly, negotiators should also be prepared to work late into the night – and bring snacks to that end.
- **Spaces to exchange views.** At this stage, it is clear that many elements in the ILBI will come down to policy rather than drafting decisions. For example, whether a country supports globally agreed national targets or nationally determined targets is not a decision that can be solved by drafting but through facilitated exchanges to reach compromise. In that regard, on certain topics, it is essential to move beyond a conversation about whether a member does or does not support a particular option – been there, done that. Rather, spaces to exchange views and craft compromises, notably on the upstream measures, should be undertaken with haste. Negotiators must work to find common ground – landing spots – in the spirit of compromise and dispense with uncompromising positions.
- **Merge text early.** In reviewing the RZD, it is clear that certain elements can uncontroversially be combined into merged text with brackets to serve as the working basis for negotiations. In that regard, we would encourage negotiators to arrive with potential text mergers in hand, and be ready to join drafting groups, while otherwise requesting the Chair and co-facilitators to prepare text mergers early and often.
- **Legal drafting group.** Negotiators should establish a closed legal drafting group at INC-4 to commence work on text during the meeting, for example on provisions where policy agreement is reached or provisions where policy differences can easily be reflected with brackets, as well as intersessionally coming out of INC-4.
- **Rules of Procedure.** The provisional application of the Rules of Procedure (RoP) and the uncertainty this engenders leaves a lingering shadow over the committee and undermines the work of good-faith negotiators. The inability to resolve issues by voting gives countries an effective veto, holding negotiations hostage in pursuit of consensus. We recommend the RoP be revisited at INC-4, at a minimum through an informal Group of the Chair, but note that this matter cannot be left until the final hours of the negotiations at INC-5 to be addressed. See more on this topic from CIEL.<sup>2</sup>
- **Leave no country behind ≠ hold all other countries back.** We believe in an ILBI that works for all, one that ensures all countries can be a part of the solution to end plastic pollution. But 'leave no country behind' does not mean 'hold all other countries back', which is how some have used it. On the contrary, it means working together to identify and design measures so countries that would otherwise fall behind can keep pace.

UNEP/PP/INC.4/3	Revised Draft Text
<b>Overview</b>	
	<ul style="list-style-type: none"> <li>• <b>Ballooned text.</b> An intended outcome of INC-3 was for the incoming Chair to be delivered a mandate to prepare a first draft of the text for negotiations in Ottawa. However, during the meeting, the zero draft (UNEP/PP/INC.3/4) was subject to numerous additional content proposals and discussions were hampered by deliberation on scope, principles and the objective. Towards the end of the week, it was clear that in order for the text to reflect the views of all members, the zero draft would need to balloon and absorb inputs representing a diversity of views and positions. The outcome of the meeting was for the Secretariat to prepare a single merged text reflecting the inputs, with formatting permitted but no editorialising to streamline or synthesise the inputs. The result is a complex, lengthy and dense document which presents numerous challenges for the move towards text-based negotiations; in particular, as there are still in some cases various 'options' to choose from rather than a single merged text with brackets to serve as a working basis for discussions and, in some cases, multiple similar options appear that could fairly easily have been merged and bracketed had editing been permitted. This now becomes one of the primary tasks at hand.</li> <li>• <b>A comprehensive view.</b> The strength of the RZD is that it keeps all options on the table while also reflecting a fully comprehensive view of all members of the INC, ensuring there is no room for claims of bias or exclusion of particular positions. Sufficient time was spent at INC-3 hearing all views and even re-visiting some already agreed elements, such as scope, to satisfy concerns about the process and avoid the fractures experienced in Paris. From this point on, we can move forward towards more robust good-faith exchanges about the obligations and implementation measures.</li> </ul>
<b>Part I</b>	
<b>1. Preamble</b>	<ul style="list-style-type: none"> <li>• <b>Return to later.</b> Given availability of time and the need to prioritise content, it remains our recommendation that the preamble be dealt with last – as typically done in legislative processes – once the measures have been agreed to frame and interpret them in the future.</li> </ul>
<b>2. Objective</b>	<ul style="list-style-type: none"> <li>• <b>Keep it simple.</b> We favour a simple objective without a timeline in order to ensure the ILBI remains relevant in the future. Specific targets, such as reducing production to sustainable levels by a certain date, are appropriate but belong in the provision to which they relate, thus ensuring they are flexible and can be adopted and updated. An objective of ending plastic pollution and protecting human health and the environment based on a comprehensive approach across the full lifecycle of plastics would reflect the mandate from UNEA resolution 5/14. Efforts to include further text around the use of plastic waste, common but differentiated responsibilities and just transition would, for example, be better placed in the preamble and provisions on principles in order to keep the objective clear and concise.</li> </ul>
<b>3. Definitions</b>	<ul style="list-style-type: none"> <li>• Avoid ambiguity. Some definitions may be necessary to avoid ambiguity and guide interpretation of the control measures. In general, however, most definitions can be adopted by the governing body via decisions. Moreover, given the attempts to reduce scope through misuse of definitions, in particular as it relates to the lifecycle of plastics, EIA reiterates its recommendation to use the definition provided by the INC Secretariat as the basis for discussions:   <i>“(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; polymerization), design and manufacturing, packaging, distribution, use and reuse, maintenance and end of life management, including segregation, collection, sorting, recycling and disposal.”<sup>3</sup></i>             With this definition there can be no ambiguity about the scope of the ILBI and the necessary control measures required when taking a full lifecycle approach.         </li> </ul>

	<ul style="list-style-type: none"> <li>• <b>Existing definitions.</b> EIA recommends, where possible, relying on definitions which have been adopted or endorsed by other intergovernmental processes, including working definitions, as necessary. In other multilateral environmental agreements, the definition of key terms is often an exercise left for early decisions by the governing body, as needed, providing flexibility in interpretation, and hence such an approach should be followed here.</li> </ul>
<p><b>4. Principles</b></p>	<ul style="list-style-type: none"> <li>• <b>Integrate principles with obligations.</b> As before, we recommend that no further negotiating time is spent on a standalone provision on principles and instead encourage members to integrate the principles into the text of the ILBI itself to ensure they are operationalised – instead of tokenistic. While we recognise principles are an important aspect of any instrument and guide future interpretation, deliberation on principles should not hold up discussions on content, especially as these considerations will emerge as certain topics are explored. For example, conversations about transition to reuse systems or the promotion of right to repair initiatives are inherently about the principle of waste prevention, while discussions on chemicals and polymers of concern naturally foster exploration of how to apply the precautionary principle in the design of control measures related to those issues. The ILBI should be designed such that the principles are operationalised in the provisions themselves. With this in mind, <b>option 0</b> is our favoured approach.</li> </ul>
<p><b>5. Scope</b></p>	<ul style="list-style-type: none"> <li>• <b>The mandate is king.</b> The scope of the negotiations was agreed by member states at UNEA 5.2 and is reflected in the resolution, adopted by consensus at that time. It is our view that the agreed language of UNEA 5/14 provides a compass to allow negotiations on the content to advance. The re-opening of the conversation on scope at INC-3 led to 16 options now appearing in the RZD. Given the similarity in many of the options, we recommend that if no agreement can be reached to pursue <b>option 0</b>, which would be more appropriate and consistent with existing international agreements, the scope provision is merged into a single option, with brackets, that can act as a placeholder and be revisited at a later date. While we feel some new options could offer further clarity and ambition (e.g. option five), in light of existing consensus on scope in 5/14, we believe no further time should be spent on this.</li> <li>• <b>Open, not closed.</b> In some options, certain elements proposed for inclusion in scope are inappropriate, such as exemptions for specific sectors or uses (option 3) or exclusion of virgin polymers (option 13). Any attempts to reduce the scope from UNEA resolution 5/14 should be rejected outright.</li> </ul>
<p><b>Part II</b></p>	
<p><b>1. Primary plastic polymers</b></p>	<ul style="list-style-type: none"> <li>• <b>Sustainable production.</b> Production of primary plastic polymers is unsustainable, undermining efforts to transition to a circular economy for plastics and limit warming to 1.5° C. A small handful of countries continue to argue primary plastic polymers are outside the of ILBI – pure nonsense since this when plastics come into existence as a material and first pollutes the environment as pellets and powders – and the political wranglings over defining lifecycle is a proxy war.</li> <li>• <b>Collective global ambition.</b> The science is clear even if the petropolitics are muddy – polymer production must decrease. For this reason, the ILBI should include a collective global ambition, a North Star, to guide our activities to reduce polymer production to sustainable levels, providing a benchmark against which to measure our actions and define progress. Such a collective global ambition, like 1.5°C under the Paris Agreement or 30 per cent by 2030 under the Kunming-Montreal Global Biodiversity Framework, would be the headline feature of the ILBI.</li> <li>• <b>Transparency framework.</b> Fact-finding is good policymaking and good policymaking requires good fact-finding. Establishing a transparency framework to monitor the production trends of polymers is an essential element with independent value to the ILBI. Accurate information on polymer production allows the governing body to track progress toward its objectives, set priorities and perform periodic assessments.</li> <li>• <b>Additional elements.</b> Within the text options there are various elements needing to be addressed. <b>First</b>, the inclusion of secondary plastics in this obligation, which addresses production of primary plastic polymers, should be removed. <b>Second</b>, conflating primary plastic polymers with polymers of concern should be avoided. References to polymers of concern should be dealt with in the obligation</li> </ul>

	<p>specifically intended to restrict and eliminate those polymers of concern (see next section). This is not to say that measures to eliminate polymers of concern are not relevant to the achievement of a collective global ambition on plastic polymer production, only that it is a different mechanism subject to its own framework and conflating them is inappropriate.</p>
<p><b>2. Chemicals and polymers of concern</b></p>	<ul style="list-style-type: none"> <li>• <b>Addressing chemicals and polymers of concern.</b> Recent studies have shown that there are more than 16,000 chemicals used or present in plastic and plastic products, with only six per cent of them subject to international regulation and more than 4,200 plastic chemicals identified as ‘of concern’ because they are persistent, bioaccumulative, mobile, and/or toxic.<sup>4</sup> Given the latest science pointing to both regulatory and data gaps, attention on chemicals and polymers of concern should be a priority consideration both in the production phase – through the restriction and elimination of such substances – but also further downstream in product design and bans on certain problematic plastic products.</li> <li>• <b>No need to reinvent wheels.</b> We recommend policymakers look to the core recommendations in the new PlastChem report as guiding concepts when reviewing the options. It calls for negotiators to: <ul style="list-style-type: none"> <li>- regulate plastic chemicals comprehensively and efficiently</li> <li>- require transparency on plastic chemicals (see obligation on transparency, which should be cross-cutting across multiple obligations) – <b>“no data, no market”</b></li> <li>- simplify plastics towards safety and sustainability</li> <li>- build capacity to create safer and more sustainable plastics.</li> </ul> </li> <li>• <b>Global coordination.</b> Any obligation should be determined at the global level given the transboundary nature of both pollution and trade, with a clear role for the governing body in adopting or updating criteria, a licensing system and a streamlined and timely process for parties to add further listings as new information becomes available.</li> </ul>
<p><b>3. Problematic and avoidable plastic products</b></p>	<ul style="list-style-type: none"> <li>• <b>Indicative criteria.</b> It is unclear why some options consider it necessary to negotiate and adopt criteria in order to list problematic plastic products in an annex rather than to just list problematic plastic products and allow for indicative criteria for future listings to be adopted by the governing body. Time is of the essence. Moreover, adopting indicative criteria via decision is more flexible than amending an annex, allowing any indicative criteria to more easily evolve over time.</li> </ul>
<p><b>4. Exemptions available to Party upon request</b></p>	<ul style="list-style-type: none"> <li>• <b>Exemption procedure.</b> As mentioned in the RZD, a procedure for seeking an exemption should be defined. EIA recommends considering Article 6 of the Minamata Convention as a basis for those discussions and extending it to potential exemptions that would be relevant to limits on primary plastic polymers.<sup>5</sup></li> <li>• <b>Small Island Developing States.</b> <i>OP4 bis 1</i> includes special exemptions for Small Island Developing States (SIDS). We believe that the special circumstances of SIDS are particularly important given high dependency on imports, limited domestic waste management capacity and limited buying power to influence upstream design elements. In principle, we see the need for an exemption to capture this special case, but also wish to note that investment and support for transition to reuse and refill systems, as well as other zero-waste approaches, including those using traditional and local knowledge, are supported through policy design and financial support to reduce the need for specific exemptions. This speaks to ensuring exemptions are time-bound and reconsidered according to market developments.</li> </ul>
<p><b>4 bis Dedicated programmes of work</b></p>	<ul style="list-style-type: none"> <li>• <b>Different sectors, different solutions.</b> The ILBI should be empowered to establish dedicated programmes of work to develop comprehensive sectoral strategies, bringing together relevant stakeholders, bodies and instruments.<sup>6</sup> Such sectoral strategies would provide the roadmap for how different sectors approach the obligations and could support, for example, the development of product design criteria or sector-specific targets for elements such as reduction and reuse. Moreover, it provides a space (purpose) to initiate a</li> </ul>

	<p>multi-stakeholder action agenda and promote private sector engagement with achieving the aims of ILBI, while also providing clear linkages and coordination to other initiatives. It further creates an accountability mechanism as their work progresses.</p> <p>At INC-3, Norway proposed the inclusion of text on dedicated programmes of work, highlighting specific sectors for which this approach would be suitable as an initial matter, although the text should have clear language to empower the governing body to add additional sectors over time. While we recognise some members struggle with the specific legal text that will ensure the dedicated programmes of work do not replace references to sectors or products elsewhere, EIA believes this is easily addressed. In particular, this provision is an umbrella framework for ensuring a comprehensive approach for specific sectors and products and gives a specific role to the governing body to initiate such a programme of work moving forward. Examples of such work could include a specific programme on tyres as a product group within the automotive sector or addressing microplastic emissions from paints within the construction sector, but could also include dedicated workstreams on sectors such as agriculture, fisheries, healthcare, packaging, textiles and construction. An area where this work is particularly relevant is in the context of sectors where either there is already existing uncoordinated activities (e.g. fisheries, aquaculture, packaging) resulting in fragmentation, as well as well as other sectors, such as healthcare, where plastic use is essential in discreet applications but where concerted efforts to promote plastic reduction, transparency and material safety would be welcomed.<sup>7</sup></p> <ul style="list-style-type: none"> <li>• <b>Example: Textile sector.</b> A dedicated programme of work for the textile sector would work toward the development of a strategy to prevent and mitigate the environmental impact of plastic fibre textiles, including microfibre pollution. Such a programme of work would identify a package of policies and actions for this sector, which could include product design standards on materials to minimise shedding; requiring the use of microfibre filters in new washing machines and wastewater treatment plants; setting up extended producer responsibility schemes; incentivising alternative materials; developing technical guidance on the environmentally sound treatment of synthetic textiles waste; training and capacity-building of manufacturing practices; raising awareness and education; and producing labelling guidance and eco-label certifications, among other actions. The strategy could be developed in cooperation and coordination with the Basel Convention and the UN Alliance on Sustainable Fashion with the participation of stakeholders across the value chain, including raw material producers, garment manufacturers, retailers, machinery manufacturers, recycling facilities, research institutions and other stakeholders. Following the development and adoption of a strategy, parties would implement elements in their national plans, as appropriate, including through the provision of financial assistance, take actions under the provisions of the ILBI, promote actions in other international instruments and leverage the multi-stakeholder action agenda to promote actions by nonstate actors.</li> </ul>
<p><b>5. Product design, composition and performance</b></p>	<ul style="list-style-type: none"> <li>• <b>Reuse as a critical demand side measure.</b> A large-scale shift to reuse systems as a primary means of delivering products to people has the potential to make a significant impact on plastic reduction efforts, as well as delivering numerous benefits to local communities, economies and the environment. While we acknowledge that capacity-building is still required for policymakers to fully realise the potential as a demand side measure to support reduction efforts, there is the opportunity for ILBI to create an enabling environment to make this transition possible through, among other things: <ul style="list-style-type: none"> <li>- harmonised design and performance criteria for reuse systems, including minimum criteria for reusable package to promote interoperability and material safety</li> <li>- standard methodologies for monitoring and reporting on reuse, per sector, to support the development of target setting and compliance</li> <li>- fiscal incentives, whether through public procurement, EPR or direct capital investments in shared infrastructure and logistics to enable reuse to scale</li> <li>- engagement of workers in informal and cooperative settings in the transition to safe and fair work in reuse systems</li> <li>- sector-specific guidance, targets and systems for reuse beyond the packaging sector.</li> </ul> </li> </ul>

	<p>Given the fairly unique characteristics of reuse, refill, repair and refurbishment, EIA recommends that each activity is separated into separate sub-paragraphs. For example, a specific repair obligation could include the minimum requirements for right to repair legislation at the national level and guidelines for implementation, whereas refill could cover a role for the governing body in adopting guidance on formal and informal refill and reuse initiatives, as well as other best practices.</p> <ul style="list-style-type: none"> <li>• <b>Targets for reuse and repair.</b> We recommend targets for reuse and repair, along with other technical criteria, be adopted and implemented alongside reduction targets at the national level, on a sectoral basis, given reduction and reuse must go hand in hand. A clear role should be provided for the governing body to adopt new criteria, building on existing best practice and standards, and review, adopt and update target targets as well as initiate dedicated programmes of work for reuse in different sectors. <b>Option 1</b> provides a good working basis to develop from.</li> <li>• <b>Recycled content targets alone are no silver bullet.</b> While recycled content certainly plays a role in the circular economy, measures to increase recycled content need to be considered alongside measures on chemicals and polymers of concern to ensure that targets to increase recycled content do not perpetuate the re-circulation of toxic plastics, nor do they promote the use of potentially harmful recycled content in certain applications that pose a risk to human health, such as food contact materials. Additionally, targets to promote recycled content should be approached with a view on technical and logistically feasibility given current challenges with global recycling infrastructure and availability and cost of recycled feedstock, and in parallel to conversations on the reduction in production of primary plastic polymers since their proliferation undermines secondary markets. Binding targets across the board to increase recycled content are part of a holistic package of policies and should be viewed less favourably to system changes that favour reduction, redesign, reuse, repair and refill. In this regard an amalgamation of options 1, 2 and 3 will be necessary to achieve the desired result.</li> <li>• <b>Avoid regrettable substitutions.</b> Alternative plastics and plastic products may pose a risk of regrettable substitutions. On this, independent and science-based criteria should inform the decision-making process to ensure any alternatives are safe and sustainable and align with socio-economic and health considerations. In that regard we welcome <b>OP1 bis</b>, which provides for the governing body to adopt criteria and otherwise recommend following the language in <b>option 1</b> as the working basis for negotiations, ensuring that the governing body will play a role in preventing regrettable substitutions.</li> </ul>
<p><b>6. Non-plastic substitutes</b></p>	<ul style="list-style-type: none"> <li>• <b>No like-for-like replacement.</b> The options in the RZD have broad similarities and it would be a fairly straightforward exercise to merge them to serve as the basis of negotiations. The main elements for delegates to consider is the level of specificity surrounding this obligation, for example, whether the financial mechanism should promote technology transfer related to non-plastic substitutes and whether the ‘substitute’ relates to systems and services as well as materials. EIA welcomes the presence across multiple options of reference to safe and environmentally sound alternatives and, in particular, the language in <b>options 1 and 2</b> which provide further detail on the necessary considerations, such as economic, social and human health impacts. We strongly favour approaches that do not promote direct material substitution but that use public procurement, research and innovation in favour of sustainable alternative systems and services over materials. The language from option 5 could be integrated into an obligation on product design, composition and performance.</li> </ul>
	<ul style="list-style-type: none"> <li>• <b>Mainstream EPR globally.</b> Whether the EPR obligation evolves as a mandatory or voluntary obligation based on certain agreed harmonised criteria is a policy decision for negotiators at the forthcoming meeting. But it is clear that application of the polluter-pays principle through EPR is one approach that many delegates would like to see in the ILBI. EIA recommends the harmonisation of minimum requirements for EPR schemes and, potentially through a dedicated programme of work, sector-specific guidance for high-impact waste streams for which such a scheme would be appropriate, for example for agricultural plastics such as pesticide containers and silage wraps, for fishing equipment such as bait boxes, nets and traps, for textiles sold by fashion retailers, and so on. Other important considerations include how EPR can: <ul style="list-style-type: none"> <li>- facilitate transition to reuse</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>- avoid passing costs onto consumers, particularly in low-income countries</li> <li>- ensure that EPR promotes re-design</li> <li>- integrate with the financial mechanism of the ILBI to fund environmentally sound waste collection and management</li> <li>- involve workers in informal and cooperative settings, in particular with a view to ensuring health, safety and equity.</li> </ul>
<p><b>8. Emissions and releases of plastic throughout its lifecycle</b></p>	<ul style="list-style-type: none"> <li>• <b>Ensure coverage across the full lifecycle.</b> While EIA generally supports <b>option 2</b> as a basis for negotiations to eliminate emissions and releases into the environment, this provision should also regulate emissions and releases of chemical pollutants associated with plastic to all environments, including during extraction, polymer production, product manufacturing and end-of-life treatment.</li> <li>• <b>Plastic pellets, powders and flakes.</b> Pellets, powders and flakes (hereinafter referred to simply as pellets) are the feedstock of plastic material melted and moulded into plastic products. Pellets are a unique but significant source of pollution, spilled at every stage of the supply chain starting at polymer production. Yet pellet spills have a straightforward solution centred on preventative measures. Missing from the sub-provision on pellets is language to assist the development of global requirements and guidance for an effective regulatory approach that ensures economic operators across the supply chain use best management practices and controls to prevent plastic pellet loss. A few observations on what effective and comprehensive global governance includes: <ul style="list-style-type: none"> <li>- traceability and transparency across the supply chain using harmonised reporting standards to report on quantities of pellets produced, imported, exported, spilled and disposed</li> <li>- mandatory minimum measures for each installation and carrier type, contained in an annex and strengthened over time to represent the best practices for prevention of pellet loss across the supply chain</li> <li>- requirements to ensure the independent verification of adherence to agreed-upon measures, based on guidance and methodology adopted by the governing body</li> <li>- globally harmonised reporting of losses or spills into the environment and minimum requirements for containment and clean-up</li> <li>- requirements for zero discharges of plastic pellets from installations.</li> </ul> </li> <li>• <b>Fishing gear.</b> EIA welcomes <b>option 2</b>, moving fishing gear from provision 9 into this provision on emissions of plastic throughout its lifecycle as this more closely reflects the need to regulate fishing gear materials and products across their entire lifecycle. However, much more will be required beyond just preventing releases of fishing gear into the environment to fully address the issue, making fishing gear a prime candidate for a dedicated programme of work. EIA also welcomes provision 9 Option 2 to move this language to provision 8bis; however, recommends language in this provision serves as a basis for negotiations.</li> <li>• <b>Protection of vulnerable communities.</b> Still missing is the incorporation of explicit references to protect fenceline communities and vulnerable populations from the environmental and health impacts from releases and emissions.</li> </ul>
<p><b>9. Waste management</b></p>	<ul style="list-style-type: none"> <li>• <b>Overview of options on waste management.</b> The RZD presents four options: <ul style="list-style-type: none"> <li>- <b>Option 1.</b> Obligation for parties to ensure plastic waste is handled in an environmentally sound manner by meeting minimum requirements set out in an annex, following the waste hierarchy, relevant instruments and harmonised indicators. It references special circumstances of small island developing states, acknowledging the need for tailored approaches and enables the governing body to adopt requirements, guidance and guidelines that are additional or complementary to other agreements.</li> <li>- <b>Option 2.</b> Obligation to adopt measures in national plans based on nationally determined targets on safe and environmentally sound collection, recycling and disposal, based on guidelines and guidance to be adopted by the governing body. It also provides</li> </ul> </li> </ul>

	<p>language to ensure a basic effective social system at the local level for handling plastic waste, highlighting the importance of just transition.</p> <ul style="list-style-type: none"> <li>- <b>Option 3.</b> Recommends that each party should adopt best available practices for safe and environment-tally sound plastic waste management.</li> <li>- <b>Option 4.</b> Obligation to take measures on safe and environmentally sound waste management, but based on parties' own determination, capabilities and relevant national regulations.</li> </ul> <p>Sub-provisions common to the first three options include options to prohibit and/or regulate certain waste management practices that emit or release hazardous substances and preventing ocean dumping, open dumping, littering and open burning. A few observations. <b>First</b>, the governing body should be empowered to adopt global targets for waste management on collection, sorting and recycling, which will be necessary to measure ambition and determine any national targets. <b>Second</b>, the guidance or guidelines adopted by the governing body should not be restricted by other international agreements, ensuring that the governing body has the freedom to address the unique and evolving challenges of plastic waste management. Such an approach fosters adaptability, innovation, and collaboration among nations and allows the governing body to create responsive and effective solutions over time. <b>Third</b>, this provision still requires a clear mechanism for monitoring and reporting on the progress of waste management efforts. In addition to parties reflecting measures taken in their national plans, parties should also report on progress and data collection should be regularly assessed to track the effectiveness of measures and identify areas that need improvement. <b>Fourth</b>, any promotion of investment or mobilisation of resources for new technologies or waste management infra-structure should be based on scientifically proven and scalable solutions that do not create adverse impacts on health or the environment or contradict our objectives for resource efficiency. See more in technology transfers.</p> <p><b>Fishing gear.</b> See fishing gear comments in section 8 on <i>Emissions and releases of plastic throughout its lifecycle</i>.</p>
<p><b>10. Trade</b></p>	<ul style="list-style-type: none"> <li>• <b>Non-party trade provisions.</b> EIA recommends the inclusion of a non-party trade provision prohibiting parties from trading with non-parties to promote cooperation and uphold the objectives of the ILBI.</li> <li>• <b>Trade in primary plastic polymers.</b> EIA recommends the inclusion of trade in primary plastic polymers in this provision.</li> <li>• <b>Trade in polymers of concern.</b> EIA recommends the retention of trade in polymers of concern in this provision.</li> <li>• <b>Trade in chemicals of concern.</b> EIA recommends the retention of trade in chemicals of concern in this provision.</li> <li>• <b>Trade in plastic waste.</b> The provisions on transboundary movement of plastic waste can address gaps in the Basel Convention through more broad and stringent regulations and transparent monitoring mechanisms. EIA supports Sub-Option 1 to require prior informed consent for all transboundary movements of plastic waste, facilitating the environmentally sound management of plastic waste. A few additional observations. <b>First</b>, the ILBI should implement stringent regulations and monitoring mechanisms, including third-party certification of facilities and transparent online reporting database, to enhance compliance. <b>Second</b>, the ILBI should mandate strict import and export requirements and empower competent authorities to reject non-compliant shipments, which should be paired with a take-back mechanism to shift responsibility and address the unequal distribution of waste trade burdens. <b>Third</b>, financial assistance should be provided to developing countries to enhance their capacity for monitoring and reporting.</li> </ul>
<p><b>11. Existing plastic pollution, including in the marine environment</b></p>	<ul style="list-style-type: none"> <li>• <b>Polluter-pays.</b> Provisions on addressing existing plastic pollution provide a solid basis for negotiation on 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</li> </ul>

	<p>from 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.</p> <ul style="list-style-type: none"> <li>• <b>Focus upstream.</b> 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.</li> </ul>
<b>12. Just transition</b>	<ul style="list-style-type: none"> <li>• <b>Just transition beyond waste.</b> The current text reflects the broad impacts across many communities and the need to support transition to alternative livelihoods, jobs and skills development along the plastics value chain, in recognition of the lifecycle impacts of plastics. Given the breadth of this obligation with regards to impacted communities, workers, Indigenous peoples, women and children and others directly identified in the RZD, we recommend meaningful and inclusive dialogue with these stakeholder groups to best determine the final text, noting that many elements referenced in this provision are cross-cutting and should also be acknowledged elsewhere. We welcome the intention of OP2 ter with regards to putting in place safeguards to ensure the construction of waste management facilities does not disproportionately impact vulnerable persons. We recommend this is expanded to include petrochemical and polymer production facilities, given the direct harm caused to communities living in their vicinity. The elements in Option 2 are important aspects of ensuring the ILBI is equitable, fair and inclusive; however, many of these aspects should be covered in implementation, for example in identifying activities to be funded, technology transfer and so on.</li> </ul>
<b>13. Transparency, tracking, monitoring and labelling</b>	<ul style="list-style-type: none"> <li>• <b>Reporting across the full lifecycle.</b> At its core, statistical data across the full lifecycle should be forthcoming and serves three main purposes. First, it complements environmental monitoring by allowing scientists and policymakers to complete our understanding of the state of the environment and its evolution, providing information on polymer production, consumption and use as well as management and leakage that cannot be discerned from environmental monitoring alone. Second, it allows for conclusions to be drawn for each individual country on their national action, allowing for implementation to be monitored and compliance enhanced. Third, it enables conclusions to be drawn on the overall effectiveness of the ILBI, which will then inform priorities and next steps.</li> </ul>
<b>13 bis Overarching provision related to Part 11.</b>	<ul style="list-style-type: none"> <li>• <b>Truncated lifecycle.</b> In terms of general obligations, the operative paragraphs could be revised to add value but reference to Annex X, which truncates the lifecycle of plastic, violating the mandate in UNEA resolution 5/14, should be rejected.</li> </ul>
<b>Part III</b>	
<b>1. Financing [mechanism and resources]</b>	<ul style="list-style-type: none"> <li>• <b>Ignore at our peril.</b> To date, the negotiations on financial matters have not progressed in any meaningful manner despite being considered paramount. Discussions have tended to focus mostly on the form that any new financial mechanism should take, be it a newly established dedicated multilateral fund or through some existing fund, such as the Global Environment Facility (GEF). These opinions have now been clearly articulated. However, form should follow function, and members have yet to engage in discussions on the activities, functions and costs that a financial mechanism should support. Negotiators should use INC-4 as an opportunity to step out of the current paradigm of discussing the structure of a future fund and advance meaningful discussions on what the overall financial framework will do, which will help unpick future discussions on the form it should take. EIA believes discussions should prioritise key elements including: <ul style="list-style-type: none"> <li>- What are the enabling activities that will support universal implementation? Negotiators should seek to highlight the core costs relating to enabling activities, such as institutional strengthening to support national plastics focal points responsible for national implementation of and compliance with the ILBI, as well as reporting and policy development.</li> <li>- What are the clearinghouse functions that will need to be supported? Clearinghouse functions are those actions and undertakings that parties agree to cooperate on to support implementation, including capacity-building, training, information exchange and</li> </ul> </li> </ul>

	<p>technology transfer, among others. Clearinghouse mechanisms, typically operated by the secretariat, often rely on regional centres or networks to deliver these clearinghouse functions. For these clearinghouse functions to be performed, adequate and stable funding will be necessary.</p> <ul style="list-style-type: none"> <li>- What are the costs related to compliance and implementation? Identification of the costs of compliance should be undertaken on an ongoing basis as the exact nature of the control measures becomes known and, for those other costs unrelated to compliance but critical to implementation, discussions on how best to meet them should also be a priority.</li> <li>• <b>Focus on mechanics.</b> Although many details of the financial framework will be adopted after the opening for adoption of the ILBI, several impact aspects merit discussion now to inform those discussions. This includes, among others: (i) contributions from donor countries, which is particularly important to consider when discussing support for enabling activities, clearinghouse functions and costs of compliance and implementation; (ii) replenishment periods; (iii) needs assessment; (iv) governance; (v) secretariat; and (vi) institutional arrangements.</li> <li>• <b>Private sector finance.</b> On mobilising private sector finance, should it interest the committee, negotiators must recognise that this has not historically been done in an efficient or successful manner. We will have to be innovative and the following observations are made. <b>First</b>, any discussions on private sector finance should seek to ensure, early in the planning process, the commitment of multilateral development banks, international financial institutions and private companies to assume certain roles and responsibilities. <b>Second</b>, negotiators should avoid discussion on false solutions or models, such as ‘plastic credits’ schemes. Credit and offsetting schemes for biodiversity and climate have failed, and for good reason, and recent media reports have also highlighted the issues with plastics credit schemes.<sup>8</sup></li> </ul>
<p><b>2. Capacity-building, technical assistance and technology transfer</b></p>	<ul style="list-style-type: none"> <li>• <b>Clearinghouse functions.</b> Clearinghouse functions are those actions that parties agree to undertake cooperation or support related to implementation, including capacity-building, training, information exchange and technology transfer, among others. Clearinghouse mechanisms, typically operated by the secretariat, often make use of regional centres or networks to deliver the clearinghouse functions. The RZD identifies multiple potential clearinghouse functions that negotiators will need to consider how best to deliver, including their relationship to the financial mechanism. At INC-4, negotiators would be well-served addressing clearinghouse functions head on by: (i) identifying those activities considered to be clearinghouse functions; and (ii) specifying how to finance the clearinghouse mechanism to deliver them, namely via a newly established dedicated multilateral fund.</li> <li>• <b>Capacity-building.</b> Capacity-building is a clearinghouse function. A post-Rio+20 review of environmental governance within the United Nations system conducted by the UN Joint Inspection Unit identified that, with the exception of the Montreal Protocol, most MEAs have few dedicated resources for capacity-building.<sup>9</sup> To this end, negotiators would be well-served to build upon the model in the Montreal Protocol on Substances That Deplete the Ozone Layer, including its regional ozone networks.</li> </ul>
<p><b>[3.] Technology [transfer]</b></p>	<ul style="list-style-type: none"> <li>• <b>Technology transfer.</b> Technology transfer is a clearinghouse function. See section on ‘Capacity-building, technical assistance and technology transfer.’</li> </ul>

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## References

1. INC Secretariat (2023). UNEP/PP/INC.4/3 Revised Zero Draft Text. [Available here](#).
2. CIEL (2024) Obstructionist Tactics in Decision Making. [Available here](#).
3. UNEP/PP/INC.1-7, Plastics science. [Available here](#).
4. Martin Wagner, Laura Monclús, Hans Peter H. Arp, Ksenia J. Groh, Mari E. Løseth, Jane Muncke, Zhanyun Wang, Raoul Wolf, Lisa Zimmermann (2024) State of the science on plastic chemicals - Identifying and addressing chemicals and polymers of concern. [Available here](#).
5. Minamata Convention on Mercury. Article 6. [Available here](#).
6. EIA (2023). Dedicated Programmes of Work. [Available here](#).
7. See more from Healthcare Without Harm on plastics in healthcare in their INC submission, [available here](#).
8. Campaign for Nature (2023). Funding Nature: The Essential Role of Governments and the Illusion of Biodiversity Credits. [Available here](#). ProPublica (2019). An Even More Inconvenient Truth: Why Carbon Credits for Forest Preservation May Be Worse Than Nothing. [Available here](#). Source Material (2023). 'Get Out of Jail Free' How plastics offsetting is giving industry a licence to pollute. [Available here](#).
9. JIU/REP/2014/4. Post-Rio+20 review of environmental governance within the United Nations System. [Available here](#).