

Global Plastics Treaty: Initial Considerations for INC-1

“We cannot solve our problems with the same thinking we used when we created them” – Albert Einstein

In March 2022, the United Nations Environment Assembly (UNEA) adopted resolution 5/14 titled “*End Plastic Pollution: Towards an International Legally Binding Instrument.*” The resolution convenes an intergovernmental negotiating committee (INC) to develop a new global agreement combatting plastic pollution, otherwise referred to as the global plastics treaty (GPT), with its first meeting (INC-1) set in Uruguay from 28 November to 2 December 2022 to kick off negotiations. The aim is to reach agreement by the end of 2024 with four additional rounds of negotiations, ideally with significant intersessional work, and to open the agreement for adoption in 2025.

UNEA Resolution 5/14 was a landmark moment in global policymaking, with a heavy task now handed to negotiators who must carry the labouring oar in ensuring the eventual agreement meets the expectations and ambitions of those who championed it. INC-1 will set the tone for the negotiations to follow, with a focus on procedural matters, definitions and scope discussions which if handled poorly will set us up for failure, but if handled well could provide a guiding compass for the design of an ambitious and effective GPT.

In this briefing we provide some key considerations for negotiators going into INC-1 (previous briefing in this series can be found [here](#)).

Setting The Goal Posts: What Negotiators Must Get Right

Aligning on the objectives and priorities of the GPT provides something for negotiators to strive towards during the coming years. Equally, finding some common ground on what a “failed” GPT design would look like is equally critical at the outset as it provides negotiators with something to avoid at all costs.

The following design elements—or lack thereof—have the potential to undermine the ability of the GPT to be effective at ending plastic pollution while promoting a safe circular economy for plastics, and merit consideration during the early scene-setting discussions at INC-1.

- **Failure to include controls on virgin plastic polymer production.** Upstream measures (controls on polymer production) are a necessary precursor to achieving the desired “sustainable” production and consumption plastics, in line with Resolution 5/14. Without controlling the production of virgin plastic polymers, true plastics circularity will remain a pipe dream and the enabling conditions for the reduction and elimination of plastic pollution will not be established.¹ Meanwhile, while critical, midstream measures (product design and use), and downstream measures (waste management and treatment) measures will be inadequate if instituted without complementary controls upstream.
- **Lack of monitoring and reporting obligations.** A global monitoring and reporting framework is *sine qua non* for the new legally binding instrument.² Progress needs to be measured through a combination of both economic and environmental indicators, instituted through national reporting (bottom-up) and environmental monitoring (top-down). These are complementary and interdependent activities that together will help us understand the evolution of plastics inputs into the economy and presence of plastic pollution in the environment, based on established baselines. Without a framework that obligates reporting from the sourcing of petrochemical feedstocks for plastics, virgin plastic production, plastic use, waste management and chemical transparency, we will not be able to ascertain the relative success or failure of policy interventions, stifling adaptive policymaking.
- **Inadequate and unstable funding.**³ The financial aspects of the GPT should be addressed head-on as an essential element to achieve its objectives. Significant resources are already being dedicated to marine and other plastic pollution—and will be for the foreseeable future—making the predominant issue how best to direct and deliver them in a coordinated, predictable and effective manner to those people and systems that need it. To avoid the pitfalls of other agreements, the financial mechanism and issues related to enabling activities and other agreed costs, as well as technology transfer, must begin early and be built into the structure of the agreement.
- **Lack of transparency and restrictions on the chemicals used in plastic products.** At least 10,000 chemicals are found in plastics, almost a quarter (24%) of which are substances of concern and 39% of which are lacking data.⁴ There is an urgent need for quality standards for plastic polymers (both virgin and recycled) and plastic products to eliminate harmful chemicals, such as endocrine disruptors and carcinogens, as well as standards for recycled and reusable products to ensure their safety and environmental sustainability. Furthermore, full transparency and public disclosure of the chemical additives and residual chemicals present in plastic products is required to ensure freedom of information. Failing to view plastics as materials, rather than solely as products, with impacts on human health as well as the environment, will put the long-term effectiveness of the GPT at risk.
- **Linear-economy conceptualisation of plastics.** The current linear model of plastics use is unsustainable and in dire need of systemic reform. UNEA resolution 5/14 requests the instrument to “promote... *environmentally sound [plastic] waste management, including through resource efficiency and circular economy approaches.*” While the term ‘circular economy’ has been subverted by motives that seek to weaken policy responses, the original concept focused on two key pillars: the protection of natural capital (*i.e.* minimisation of resource extraction) and the elimination of negative externalities, whose costs are otherwise borne by the public rather than those responsible for risks, hazards, or harms.⁵ Rather than simply

perpetuating 'business-as-usual,' true circularity uses a clearly defined priority order of action based on the waste hierarchy to guide policymaking. This means that the primary priority is to minimise the quantities of raw materials that are extracted, and products produced, followed by having clear eco-design, safety and sustainability criteria for those materials and products we still produce. Fundamentally, the GPT presents the first major global opportunity to create the enabling environment to foster true and safe circularity for plastics that protects natural capital while eliminating negative externalities.

- Replicating the failings of the Paris Agreement.** The Paris Agreement (Article 4, paragraph 2) requires each Party to prepare, communicate and maintain successive nationally determined contributions (NDCs). NDCs are at the heart of the Paris Agreement, embodying efforts by each country to reduce national emissions and adapt to the impacts of climate change. Relatedly, an important feature of the GPT will be country-level national action plans that relate to the international obligations, setting out the specific policies and measures to be taken to prevent and reduce plastic pollution. Such plans will necessarily be tailored to the national context, setting out policies and measures based on the realities on the ground. There is however a significant risk that an overreliance on the NDC approach instituted under the Paris Agreement will lead to inefficiency and ineffectiveness. This is because Parties do not have an obligation to achieve their NDCs to address climate change – thus, in that respect, NDCs are not legally binding. There is also no mechanism for non-compliance, meaning they are essentially voluntary. Moreover, the lack of international coordination and cooperations on core obligations further upstream undermines national action. To this end, national action plan framework in the GPT must take heed from the shortcomings of the Paris Agreement’s NDC approach and seek to strike the balance between national action and internationally applied core obligations, particularly on virgin polymer production (upstream) and product design and use (midstream).

INITIAL CONSIDERATIONS ON KEY INC-1 DOCUMENTS

The Secretariat has provided a range of documents to support discussions at INC-1 on topics ranging from potential structures of the new legal agreement to a glossary of terms to provide a common language. Here we present some initial considerations on the documents available for this meeting.

INC-1 Document	Initial Considerations
UNEP/PP/INC.1/3: Draft rules of procedure for the work of the intergovernmental negotiating committee to develop an international legally binding instrument on plastic	<ul style="list-style-type: none"> Rules of Procedure. At the outset of the meeting, delegates will be invited to adopt the Rules of Procedure (ROP) for the INC. A key task of the Open-Ended Expert Working Group (OEWG) in Dakar was to agree to the ROP, however this was not fully finalised, in particular the voting rights for regional economic integration organisations (REIO) (Rule 37). It is our view that this negotiation is neither the time nor place to upend decades long practice on REIOs, and prolonged discussions on the ROP threaten an environment conducive to compromise and waste precious time.

<p>pollution, including in the marine environment⁶</p>	
<p>UNEP/PP/INC.1/4: Broad options for the structure of the international legally binding instrument on plastic pollution, including in the marine environment, taking into account paragraphs 3 and 4 of United Nations Environment Assembly resolution 5/14⁷</p>	<ul style="list-style-type: none"> ▪ Specific Convention vs. Framework Convention. The Secretariat presents two broad options for structuring the instrument: (i) specific convention, whereby the core obligations and some control measures appear in the body of the instrument and may be supplemented or elaborated upon by additional control measures, such as technical information and substantive details found in one or more annexes, which form an integral part of the instrument; and (ii) framework convention, whereby the convention includes the standard structure, categories and provisions described in a specific convention but some or all of the control measures appear in one or more separate protocols to the convention, which are legally distinct instruments usually adopted at separate conferences. ▪ Justification for a Specific Convention. A specific convention is appropriate here for several reasons. First, it respects the text and spirit of UNEA resolution 5/14. There, UNEA set out a comprehensive mandate setting out provisions for control measures that should form a part of GPT to end plastic pollution, in particular those to promote sustainable production and consumption of plastics (upstream), product design and use (midstream), environmentally sound waste management (downstream) and reduction of existing pollution in the marine environment (legacy pollution). To settle on less—a framework convention—would be a step back. Second, it is not responsive to the urgency of the plastic pollution crisis. In effect, a framework convention would prolong adoption of control measures and result in a fragmented—invariably ratified—framework. Third, it neglects the significant body of work that already exists. Unlike situations in which framework conventions were adopted, such as the Vienna Convention for the Protection of the Ozone Layer or United Nations Framework Convention on Climate Change (UNFCCC), scientific understanding of plastic pollution and sources are very far along and potential response options quite developed, for example through the work of the Ad Hoc Open-Ended Expert Group on Marine Litter and Microplastics (AHEG). For these reasons, it is appropriate and imperative that a specific convention is negotiated with control measures clearly in the final text. ▪ Control Measures. As an initial frame for conceptualising the control measures—in the articles and any corresponding annexes—EIA recommends focusing on each stage of the full lifecycle of plastics sequentially, in particular: (i) raw materials (sourcing), namely oil and gas extraction and processing and petrochemical production, which comprise 90% of the greenhouse gas (GHG) emissions associated with plastics;⁸ (ii) polymer production and consumption (upstream), coinciding with when plastic first comes into existence as a material through polymerisation, which would include measures to phase out

	<p>problematic and hazardous polymers and additives and phase down other polymers to sustainable levels, taking into consideration societal needs; (iii) product design and use (midstream), which would include general and product-specific eco-design criteria, waste prevention and systemic approaches to promote reuse; (iv) waste management and treatment (downstream), which would include measures on the environmentally sound management of plastic waste in line with resource efficiency and the waste hierarchy with strict limitations on thermal treatment and other technologies; and (v) plastic in the environment (leakage), which would include measures to remediate existing plastic pollution, including in the marine environment, focusing on reducing impacts to local communities, biodiversity hotspots, fisheries and food security, tourism and navigational safety.</p> <ul style="list-style-type: none"> ▪ Start-and-Strengthen Mechanism. Within the specific-convention structure, negotiators must also ensure that the agreement contains a start-and-strengthen mechanism for adjusting control measures over time via decisions of the Conference of the Parties (COP) – without the need for additional amendment or ratification, which can take years and be fought with political complexity. This is the approach taken in the Montreal Protocol (on production and consumption of virgin ozone-depleting substances) Stockholm Convention (on listing of persistent organic pollutants) and the International Convention for the Prevention of Pollution from Ships (MARPOL).
<p>UNEP/PP/INC.1/5: Potential elements, based on provisions in paragraphs 3 and 4 of United Nations Environment Assembly resolution 5/14, including key concepts, procedures and mechanisms of legally binding multilateral agreements that may be relevant to furthering implementation and compliance under the future international legally binding instrument on plastic pollution, including in the marine environment⁹</p>	<ul style="list-style-type: none"> ▪ Initial Considerations on OP3 and OP4. EIA encourages negotiators to read this document in parallel with the EIA briefing titled <i>“Initial Considerations for the INC on the UNEA Resolution 5/14 to End Plastic Pollution”</i> (located here), which reviews OP3 and OP4. The following are some additional observations. ▪ Objectives and Scope. The overarching objectives of the GPT should be at least twofold, namely: (i) ending plastic pollution in all environments, and (ii) achieving a circular economy for plastics protective of human health and the environment. In addition, EIA believes that terms such as “plastic” or “plastic pollution” do not require definition within the GPT nor at the outset of negotiations. To the extent their interpretation is required to implement a control measure, that can be adopted via decision for purposes of that control measure, as done previously in other conventions (see <i>e.g.</i> Montreal Protocol). In this way, scope is open and flexibility is provided. ▪ Core Obligations and Control Measures. Negotiations on the core obligations and control measures should proceed in a systematic way along each stage of the full lifecycle of plastic (see above), and should constitute the bulk of negotiations in tandem with the means of implementation. Moreover, national reporting should be considered a core obligation--an essential element—with reporting

obligations tracking each stage of the full lifecycle of plastic, namely sourcing, polymer production and consumption, product design and use, waste management and treatment and plastic in the environment.

- **Voluntary Measures.** Negotiators should waste little time discussing voluntary measures as those represent the status quo and can be adopted via decisions at a later date. A GPT text that is heavy on voluntary measures—identified as actions that Parties “should” take or adopt “as appropriate”—would be weak.
- **Means of Implementation.** EIA published a briefing note on the financial aspects of the GPT, including the financial assistance to be provided and the financial mechanism for delivering it (available [here](#)). A well-designed financial mechanism will ensure not only capacity-building, technical assistance and technology transfer are provided—as raised by the secretariat—but also ensure financial assistance for other enabling activities, including institutional strengthening, monitoring and reporting and policy development and implementation. Financial assistance for enabling activities and other agreed costs should be concessional, with financing otherwise being made available for infrastructure investments.
- **Institutional Arrangements.** UNEA resolution 5/14 specifically mentions two institutional arrangements that negotiators should strive to ensure forms part of the GPT: (i) a “dedicated multilateral fund” to support implementation of the instrument, which is to distinct from a “multipurpose multilateral fund” such as the Global Environment Facility (GEF); and (ii) a mechanism to provide policy-relevant scientific and socioeconomic information and assessment related to plastic pollution, which should be a subsidiary body under the GPT that informs policies and priorities.
- **Non-Party Provisions.** Negotiators should consider the role of a non-party provision as a means of implementation measure in the GPT. A non-party provision typically limits circumscribe trade or other interactions with states that have not ratified, acceded or otherwise become a party to an international agreement. In the GPT context, a non-party provision is particularly relevant to implementation of potential control measures along the lifecycle of plastics, including: (i) raw materials (sourcing); (ii) polymer production and consumption (upstream); and (iii) product design and use (midstream). Notably, the Basel Convention, which address the transboundary movement of plastic waste, also contains a non-party provision (see Article 4(5) and 11, located [here](#)), which limits trade with non-parties unless certain conditions are met.

<p>UNEP/PP/INC.1/6: Glossary of key terms¹⁰</p>	<ul style="list-style-type: none"> ▪ Facilitative, not Prescriptive. Although a common language for negotiators avoids ambiguity and facilitates negotiations on control measures, it should be noted that the glossary provides definitions adopted or endorsed by other intergovernmental processes in other contexts – not in the context of plastic pollution. ▪ No Time to Waste. As noted above, EIA believes that most terms do not require definition within the GPT but can be adopted via decision at a later date, for example “plastic” or “plastic pollution,” “microplastics,” “environmentally sound management of waste” and many other terms listed in INC.1/6. The more important aspects are the obligations and actions to be taken. Negotiators should focus on setting out core obligations and control measures without wasting precious time on definitional questions. ▪ Full Lifecycle of Plastic. It is unclear why “full lifecycle of plastic” would require definition as the term—and notion underlying it—is rather straight-forward and common-sensical. Nonetheless, it would merit discussion to ensure a common understanding among negotiators for purposes of promoting the effective negotiation of control measures for each stage going forward. The term should not, however, be subject to negotiation itself. • Environmentally Sound Management of Plastic Waste. Negotiators must also consider the role of the agreement in promoting the environmentally sound management (ESM) of plastic waste and how this work will align with efforts underway under the Basel Convention. For example, it will be essential to differentiate between mechanical and so-called “chemical” or “advanced” recycling (energy-intensive processes that attempt to convert plastic waste back to raw materials for petrochemical production and polymerisation), especially in discussions on resource efficiency and circularity. Negotiators will also need to consider when incineration, waste-to-energy and other end-of-life treatments are not “environmentally sound.” EIA believes that work under the Basel Convention on ESM of plastic waste should only be advisory to avoid fragmentation.
<p>UNEP/PP/INC.1/7: Plastics Science¹¹</p>	<ul style="list-style-type: none"> ▪ Further Evidence. Document INC.1/7 provides further evidence on the lifecycle impacts of plastic pollution on human health and the environment, including areas typically receiving little attention to date, such as the negative impacts on the ozone layer, soil, air and the economy. ▪ Monitoring and Reporting. A key finding is that there remains substantial knowledge gaps and inconsistency in monitoring and reporting. See earlier comments on the need for robust monitoring and reporting frameworks to be discussed early on.

	<ul style="list-style-type: none"> ▪ Unclear Origins of the Four Strategic Goals and Selection of Sample Measures. It is unclear how the four strategic goals and the selection of sample measures to achieve them were developed or why they were presented in a document on plastics science. Nor is it clear how the document reconciles with previous documents for INC-1, namely clarifying for negotiators the core obligations and control measures under the GPT. In this sense, EIA believes the strategic goals and the selection of sample measures can serve as signposts, not goalposts, because they offer an incomplete picture and relate predominantly to promoting a circular economy for plastics, not ending plastic pollution from all its sources. For example, the description of policy and legislative tools across the lifecycle of plastics fails to reference reductions in overall quantities of plastic or controls to eliminate problematic polymers at the point of production, rather than simply at the design stage, and the bespoke approaches towards eliminating microplastic pollution are absent.
<p>UNEP/PP/INC.1/8: Description of standard articles on final provisions that are typically included in multilateral environmental agreements¹²</p>	<p>No comment</p>
<p>UNEP/PP/INC.1/9: Overview of existing funding currently available for addressing plastic pollution through international funding arrangements, including from other processes, programmes, multilateral funds, development banks and private sector initiatives¹³</p>	<ul style="list-style-type: none"> ▪ Financial Assistance on a Grant or Concessional Basis. In order to ensure stable and predictable funding, donor countries will need to provide financial assistance on a grant basis for, at least, enabling activities and other agreed costs. Other forms of financial assistance on a concessional basis, such as private investment and matching financing or loans from multilateral development banks, are complementary tools but not replacements for financial assistance provided as grants. ▪ Fiscal and Other Measures. Fiscal measures adopted by local and national governments to finance plastic-waste management should be promoted to ensure sustainability of waste management over the long term. This includes measures such as waste-management fees on households and other end-users, deposit-refund schemes, extended producer responsibility (EPR) schemes, plastic taxes and levies, advanced disposal fees and green public procurement, among others. ▪ EIA Briefing on Financial Aspects. See the EIA briefing note on the financial aspects of the GPT, including the types of financial assistance to be provided and the financial mechanism for delivering it (available here).

	<ul style="list-style-type: none"> ▪ Mutual Understanding of Financial Aspects. Negotiators must tackle the financial aspects of the GPT head on, and clearly set out the roles and responsibilities of donor and recipient countries, in particular with respect to enabling activities and other agreed costs, financing, technology transfer, remediation as well as how to promote fiscal measures and other national policies based the polluter-pays principle, such as extended producer responsibility. In this way, negotiators can avoid the pitfalls of other multilateral environmental agreements that look good on paper but lack the means of implementation to be more than a paper tiger.
<p>UNEP/PP/INC.1/10: Overview of information to promote cooperation and coordination with relevant regional and international conventions, instruments and organizations¹⁴</p>	<ul style="list-style-type: none"> ▪ Sector-Specific Strategies / Dedicated Programmes of Work. There are several instruments, both binding and voluntary, as well as regional and global, that cover various elements related to addressing plastic pollution, recognising that plastics touch on nearly every aspect of human, animal and environmental health and throughout the economy. While the current regulatory framework is fragmented, negotiators will need to agree on the most appropriate method by which to promote cooperation and coordination while avoiding duplication. For example, it could take the form of a dedicated workstream overseen by the secretariat or the establishment of joint working groups between various conventions. In particular, EIA sees a clear need for sector-specific strategies—or dedicated programmes of work—on plastics that span several regional and international agreements, with fishing gear and agricultural plastics being just two examples that need coordination to avoid duplication and redundancy while ensuring the current regulatory gaps are plugged. ▪ Risk of Fragmentation. Negotiators must not make assumptions about the willingness of another convention to act or its ability to act comprehensively to address an issue, which would continue the very fragmentation in the global policy landscape that led to the adoption of UNEA resolution 5/14 in the first place. Moreover, there should be careful consideration of the effectiveness and sustainability of voluntary and industry-led schemes described in the document, such as the Alliance to End Plastic Waste. If industry schemes and alliances are to be considered part of the ecosystem of complementary approaches, there should be supportive policy frameworks to hold them accountable.
<p>UNEP/PP/INC.1/11: Priorities, needs, challenges and barriers relating to ending plastic pollution at the national level¹⁵</p>	<ul style="list-style-type: none"> ▪ Guidance for Negotiators. Perhaps the most useful document, this document summarises submissions from Member States and elaborates on key issues related to the governance of plastics. In particular, it highlights multiple cross-cutting issues related to plastic production, hazardous chemicals and additives, fossil fuel subsidies, trade and risks related to transition away from fossil fuels. There are several priority issues that will require consideration during negotiations and EIA encourages negotiators to request more information on potential approaches for controlling virgin plastic production and standards for feedstock materials that could be included within the GPT, in particular.

<p>UNEP/PP/INC.1/12: Overview of stakeholder engagement frameworks under other instruments and of potential approaches for the international legally binding instrument on plastic pollution, including in the marine environment¹⁶</p>	<ul style="list-style-type: none"> ▪ Stakeholder Participation. This document provides information about how stakeholder participation is organised in different MEAs and provides the rationale for stakeholder participation. We recommend this document is considered in parallel with the publication from CIEL <i>Towards a Global Treaty to End Plastic Pollution: Ensuring Meaningful and Effective Stakeholder Involvement in the Intergovernmental Environmental Negotiations</i>.¹⁷ ▪ Modalities for Engagement. In particular, we recommend the secretariat ensure modalities for meaningful engagement of civil society stakeholders, particularly from low- and middle-income countries, Indigenous Peoples, the informal sector, women and children and other groups who will be impacted by the agreement. Ultimately the inclusion of vulnerable peoples in the decision-making process is an essential element to avoid the perpetuation of environmental injustices.
<p>UNEP/PP/INC.1/13: Existing information that might assist policymakers¹⁸</p>	<p>No comment</p>

CONCLUSION

In approaching INC-1, it is clear that there will be a need to establish a level playing field for negotiators and other stakeholders to meaningfully participate in the work to follow. With the start of negotiations, a new set of participants are engaging in the process who may not have followed the previous work in the AHEG or elsewhere. To that end, it is important to some degree to go back to basics and ensure that we have a common language on both the problem we are trying to solve and the potential approaches under the new instrument to achieve those aims. We cannot leave people behind as we strive towards an ambitious timeline to craft the GPT, so we must thread the needle in providing clear, consistent terminology and transparent and inclusive policymaking, while recognising that there is a substantial body of work over many years which has brought us to this point.

Since AHEG, our understanding of plastic pollution as something that is both transboundary and occurring in every environment on earth as well as in our bodies has broadened and with each day new information becomes available. It is essential that we do not become overwhelmed with the continuous desire for more information and thus craft an agreement that is flexible yet clear in its overarching objective of eliminating plastic pollution through a comprehensive lifecycle approach. In particular, we urge negotiators to consider how the precautionary principle should be applied in the agreement, with control measures across the full lifecycle of plastic and preventive measures aligned with the waste hierarchy at the core of the discussions.

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