

Your Excellency,

The undersigned are US based members of Break Free From Plastic, a coalition of over 13,000 organizations and individuals across the world working towards a plastic free future. We write in response to your guiding questions for the second informal Heads of Delegation meeting leading up to INC 5.4, to take place from 27-30 September 2026 in Bangkok, Thailand.

The United States sits right behind China as the world's second largest producer of plastics, accounting for 13% of all global production in 2024. All US residents are eating, drinking, and breathing plastics through the ubiquity of microplastics in consumer products and the environment. However, the social, political and environmental costs of an economy organized around petrochemical products are inequitably distributed. Across the US Gulf South and Ohio River Valley, in states like California and cities like Detroit and countless other 'environmental justice' communities, the combination of advantageous geography, a deregulatory political environment and a legacy of poverty and racial discrimination has led these regions to become major sites of fossil extraction, petrochemical manufacturing, landfills, and plastic burning sites.

Across these regions the negative externalities of plastic production have been laid bare in the Indigenous, Afro-descendant, and poor white communities on the frontline of plastic production. The burden of pollution falls heaviest on the most vulnerable members of these already vulnerable communities: their women and children, their elderly, their disabled people. These residents are destined to toxic exposure and the threat of severe illness by the fate of their birth into a petrochemical 'sacrifice zone'. Incinerators and landfills are also disproportionately located in racialized and impoverished communities. Workers in extraction, production, and disposal sites as well as the informal sector also suffer routine exposures. Frontline communities and workers are thus at a heightened risk of human rights violations via adverse health impacts across the full lifecycle of plastics.

We refer to our communities as "the frontline" because we are the first to get sick and suffer the highest mortality rates from exposure to plastics and chemicals. Yet we are also frontline in the sense that eliminating exposures in our communities will protect *all* communities from being exposed. We are dismayed at the omission of globally enforceable regulations to reduce production of plastics and chemicals and a number of other provisions to protect our health and human rights from the recent *Aid to Negotiations*.

We understand that the *Aid* is merely intended to be a starting point. Our concern is that if the eventual instrument resembles anything approaching the *Aid*, it will take years to strengthen it to the point that it can meaningfully control pollution- and we will continue to bury our relatives in the meantime. We find the provisions of the *Aid* to be too vague and voluntary to ensure predictability in implementation. And we doubt that an instrument resembling the *Aid* will be able to effectively harmonize with other multilateral environmental agreements that address plastics. We hope that these responses to your guided questions will compel members to advocate for a second iteration of the *Aid* that is replete with binding, global regulations with clear enforcement mechanisms by the eventual Conference of the Parties. These positions garnered the support of many member states at INC 5.2, and our people and the planet cannot afford to retreat from them now.

RESPONSES TO GUIDED QUESTIONS:

CLUSTER A: ON NATIONAL PLANS, REPORTING, IMPLEMENTATION, AND COMPLIANCE, INFORMATION EXCHANGE, AND EFFECTIVENESS EVALUATION

Q1: National plans should be for the implementation of the globally determined measures of the Convention, not a substitute for them. We thus suggest renaming Art. 13 of the *Aid* on nation plans as “National Implementation Plans”. National implementation plans should serve as reports to the Convention that enable parties to better coordinate their efforts and assess the feasibility of meeting globally agreed upon timelines. Accordingly, adjustments to timelines should be made by the Convention, and not at an individual party’s discretion as in *Aid* 13.2. National plans should also clearly identify all relevant stakeholders to avoid convulsion of industry with other stakeholders whose human rights the industry may be violating, such as Indigenous Peoples, People of African Descent, and other frontline communities.

Q2: It is critical for frontline communities, women, children, workers, and other vulnerable populations to be able to access information on how plastics, plastic chemicals, and microplastics are affecting our health. The US Environmental Protection Agency and state governments rely on this data to assess the risks of potentially hazardous substances to human health and the environment, and restrict those substances that present an unreasonable risk. However, any data that is considered proprietary is redacted from official regulatory decisions, preventing the general public and medical professionals alike from fully understanding the risks.

Art 14 on reporting should have clear directives from the Convention on what Parties should be reporting on. Art 14.1 of the *Aid* says the details of national plans should be included in reports, but article 13 leaves these details to the discretion of the Parties. Thus different Parties will inevitably report different things. At minimum, Parties must report on the production volumes, chemicals of concern, (including exposure pathways and potential epidemiological data) plastic products, and releases and leakages to the Convention in their national action plans to functionalize the articles of the instrument in a harmonized manner. Art 16 on information exchange should emphasize transparency obligations, in line with those of the Stockholm and Rotterdam Conventions.

Q3: The effectiveness of the instrument can only be enabled through transparent reporting and consistent information sharing. Art 15 of the *Aid* lacks any procedure for the COP to take action to strengthen effectiveness in the event that an evaluation calls for it. Similar to the reporting requirements in Art 14, Art 15 should explicitly require the aggregation of levels of production and consumption, chemicals of concern, plastic products, releases and leakages, and other necessary information from national implementation plans to ensure the convention is becoming more effective over time.

CLUSTER B: ON RELEASES AND LEAKAGES, EXISTING PLASTIC POLLUTION, PLASTIC WASTE MANAGEMENT, PLASTIC PRODUCT DESIGN, AND PLASTIC PRODUCTS

Q1: Plastic products should be regulated at the global level if they contain chemicals of concern. However, some chemicals of concern in plastics (COCIPs) do not only exist in products, but are also used to manufacture them. Therefore, we recommend *separate* articles for COCIPs and plastic products. At this stage of negotiations, either a criteria or non-criteria based approach could lead to an effective instrument as long as there are strong initial lists of COCIPs, and products for elimination in Annexes. The first iteration of the *Aid* contains neither of these elements. Article 4 is entirely in accordance with national circumstances and capabilities, with no global list, and nothing happening at the convention level.

The *Aid* is also contradictory in a manner that could undermine the existing law of countries that are already regulating COCIPs and plastic products. Art 4.2 creates a mandatory obligation for parties to implement under their own legal authorities. However, Art 4.1 is non-binding.. In practice, this could serve to undermine existing laws in countries that have more stringent criteria for regulating plastic products than those outlined in Art 4.2.

We support elements of the [Conference Room Paper](#) submitted by Switzerland and Mexico at INC 5.2 and recommend their inclusion in the second iteration of the *Aid*. Though not ideal, the proposal included a workable list of chemicals in plastic products in Annex Y. It represents the minimum of what is required for effectively controlling COCIPs and the most problematic and avoidable plastic products.

Criteria under assessment suggested by the [PlastChem report](#) could form the basis for identifying COCIPs. The current criteria are:

- Carcinogenic, mutagenic, or toxic for reproduction (CMR),
- Persistent, Bioaccumulative and Toxic (PBT),
- Very persistent and very accumulative (vPvB),
- Respiratory and skin sensitizers,
- Specific target organ toxicity (STOT),
- Long range transport potential (LRT potential)
- Endocrine disruptor (ED),
- Persistent, mobile and toxic (PMT),
- Very persistent and very mobile (vPvM),
- Equivalent Level of Concern to the above criteria

The report contains many chemicals that are already subject to national and supranational regulation. The inclusion of an equivalent level of concern to the above criteria as a criteria itself will enable subsidiary bodies of the Convention to close data gaps.

An effective, legally consistent, and predictable instrument would take a generic approach to identifying further COCIPs for risk evaluation that at least regulates the 15 priority groups of concern outlined by PlastChem. Structurally similar chemicals can have the same inherent properties that pose a risk to human health and/or the environment, and hence a generic approach is important to avoid regrettable substitution to other chemicals in the same group. The 15 priority groups of concern are:

- Aromatic amines
- Aromatic aldehydes
- Alkylphenols
- Salicylate esters
- Aromatic ethers
- Bisphenols
- Phthalates
- Benzothiazoles
- Benzotriazoles
- Organometallics
- Parabens
- Azodyes
- Aceto/benzophenones
- Chlorinated paraffins
- Per- and polyfluoroalkyl substances (PFAS)

As for products, we agree with the criteria for products outlined by Switzerland, Mexico, et. al. at INC 5.2. As a reminder, these criteria are:

- a. plastic products not listed in Annex [Y][†] that meet one or more of the following criteria:
 - i. are likely to be littered or to enter the environment or pose a risk to human health or the environment;
 - ii. contain a chemical or chemicals of concern to human health or the environment;
 - iii. are not capable of being reused or recycled in practice and at scale;
 - iv. may disrupt the circular economy on a large scale; or
- b. other products not listed in Annex [Y], if they contain plastics that fulfil one or more of the criteria in letter a.

Part b is particularly important to allow for subsidiary bodies of the COP to recommend more products for annexation. Finally, the language around "socioeconomic considerations" in Art 4.2d, while appreciated, is too vague and insufficient for addressing the specific impact on Indigenous Peoples, People of African Descent, and other frontline communities.

Q2: We recommend the approach suggested by the Pacific and Small Island Developing States in the [Conference Room Paper](#) they submitted at INC 5.2. Article 8 of the *Aid* is completely non-binding, making it highly unlikely countries will take action on existing plastic pollution at all. It is imperative that each section of this Article read as "Parties *shall*" and not "Parties *should*" to legally compel parties to act.

The enabling factors for addressing legacy pollution, including the process to identify and locate accumulation zones and subsequent remediation efforts should be stipulated by a remediation mechanism established under the guidance and authority of the Conference of the Parties. The mechanism should develop methodologies and guidelines for parties to undertake remediation activities and the outcomes of its work should be included in effectiveness evaluations. The mechanism should also work to harmonize this work with the Agreement on Biological Diversity of Areas Beyond Borders of National Jurisdiction, Basel Convention, and other relevant MEAs. Parties and the mechanism should undertake these activities according to the best available science, including Indigenous knowledge, knowledge of People of African Descent, and other local knowledge systems.

Q3: We recommend a similar approach suggested by the European Union in the [Conference Room Paper](#). We remind members that the waste hierarchy prioritizes reduction, reuse and refill systems, and recycling only as a last resort. The term is bracketed in Article 7 of the *Aid*. We suggest removing the brackets, and also spelling out that reduction and reuse are, indeed, the foremost way to soundly manage waste.

Therefore, there should also be national level targets for increasing the amount of *non-toxic* reuse and refill systems as well as for recycling. Post consumer recycled plastic can be more toxic than the original virgin product, hence increasing the amount of recycled plastic in products can amount to trading one problem for another. The current global recycling rate also suggests that recycling systems alone will not be sufficient to manage the scale of annual plastic waste production.

We agree with the language of the *Aid* and the proposal by the EU that this section of the instrument should serve to fill in the gaps left by the plastic waste amendments of the Basel Convention. However, it is important to define environmentally sound waste management for this instrument, or at the very least to exclude the same false solutions for waste management that are not considered sound under Basel. Chemical recycling, also known as advanced or molecular recycling, is not considered sound under

Basel and should be disallowed under the instrument, along with other forms of incineration such as open burning.

Finally, while the *Aid* does not exclusively mandate parties to implement extended producer responsibility (EPR) policies to increase recycling rates, it does mandate taking economic measures of some sort. We caution against globally mandated EPR programs to achieve environmentally sound waste management. In practice, EPR policies in the US have not led to reductions in waste, mainly because of the loopholes in state regulations that render the policy ineffective. Parties should focus on eliminating subsidies to the portions of the private sector that are contributing the most to the crisis.

CLUSTER C:

Q1: We believe that large producers of plastic, especially the United States, have a historic responsibility to mobilize all financial resources, including public finance, to stop the torrential flow of waste to developing nations that had little to no role in creating it. We thus recommend the approach to effectively mobilizing all financial sources, including public finance, [proposed](#) by the African Group of Negotiators, Group of Latin American and Caribbean Countries, the Cook Islands, and Fiji at INC 5.2. The elements of this proposal, along with the elimination of subsidies to bad actors of the private sector, constitute the minimum requirements for an effective financing in accordance with national circumstances.

Art 10.4 of the *Aid* seems to favor the GEF as the funding mechanism under the Convention over establishing a new dedicated fund. The proposal by AGN et. al. only called for the latter. Everything is left to a COP decision in the *Aid*. Art 10.5 should include the explicit list of enabling activities that AGN et al outlined. The assessment and reporting requirements of Art 10.11 should also be made more explicit, as in the CRP.

Q2: Private financing should be done according to the polluter pays principle, which contradicts Art 10.8 of the *Aid*. We recommend explicitly including the polluter pays principle either in this article or the chapeau. This is necessary to ensure equity in financing, and to maintain consistency between this article and Art 7 on waste management, especially if parties adopt EPR programs at the national level.

Q3: Similar to financing, we believe that developed country parties, especially the United States, have a historic responsibility to cooperate to provide timely and appropriate capacity-building, technical assistance and safe technology transfer on mutually agreed terms to developing country Parties, in particular, LDCs and SIDS, to assist them in implementing their obligations under this instrument. We recommend a similar approach to the one [proposed](#) by the European Union at INC 5.2, with the caveat that such provisions should be mandatory.

We are concerned that this section could serve as a loophole for chemical recycling and other technologies that will not promote environmentally sound waste management. We thus reiterate that article 7 on waste management must exclude these technologies so that this article does not contribute to their promotion.

CLUSTER D: ON PREAMBLE, OBJECTIVE, PRINCIPLES AND APPROACHES, DEFINITIONS, JUST TRANSITION, PUBLIC INFORMATION, AWARENESS, EDUCATION, AND RESEARCH, SECRETARIAT, FINAL PROVISIONS

Q1: First and foremost, the most effective principle to ensure successful implementation is embedded in the original mandate of Resolution 5/14: measures that address the full life-cycle of plastics. An instrument that does not address the upstream stages of plastics, from the extraction and refinement processes to waste management, will not effectively address the environmental and human health impacts

of the plastics crisis. Although our scientific understanding of these impacts continues to evolve, there is sufficient evidence for the deleterious effects of plastics to apply the precautionary principle and empower the Convention to update its regulations when new information becomes available.

Regulating the full lifecycle is critical to ensuring harmonization between the instrument and international humanitarian laws, such as the UN Declaration on the Rights of Indigenous Peoples and the International Convention on the Elimination of All Forms of Racial Discrimination. We thus agree with the reference to human rights in the *Aid* Art. 2 and encourage for it to be kept in the document, while the bracketed language in Art 2.1b around the Rio Declaration should be omitted as it unnecessarily limits its interpretation and application. We also agree with having a dedicated article on just transition, though we believe this article should be legally binding and the need for a just transition should also be emphasized in the Article 2 of the *Aid*.

Another important principle for successful implementation is transparency and information exchange. Without transparency and effective use of information, parties will become limited in their ability to collaborate and determine effective implementation plans, implementation will be handicapped without the best and most recent scientific information, and communities will lack transparency about how the plastics crisis is affecting their wellbeing. Thus, the bracketed *Art 2.1e* should be adopted and perhaps taken even further. In parallel, *Art 2.1c* is problematic as it is written and should explicitly address the need for transparency, non-Party trade provisions, and controlling illicit trade.

We must ensure that the development of effective solutions are supported, and false solutions that perpetuate the plastics crisis are disallowed. Thus, technology transfer between parties should support the development of non-toxic reuse and refill systems, and explicitly restrict and omit the promotion of false solutions such as chemical recycling and incineration. The *Aid* Art.2 should reflect these principles.

Q2: Public information, awareness, education, and research on their own are important—but more critically, there must actually be active feedback loops integrated in implementation. For instance, this means that the best available scientific research, free and guarded from conflicts of interest, must be a pillar of the instrument that is regularly reflected, updated, and integrated. Furthermore, the instrument must include the flexibility and binding mandate to require parties and the MEA body to adapt their implementation to the best available scientific information.

Art 17 of the *Aid* provides a decent starting point for this article and rightly notes the connection between this article and the importance of considering human health in its implementation. There is overwhelming and exponentially growing scientific evidence proving the connections between plastic pollution and adverse health, social, and economic impacts. Thus, the language “potential adverse effects of plastic pollution” in *Art. 17.1* should be deleted. The adverse impacts of plastic pollution are well established and should not be up for debate.

Furthermore, this article should not replace a dedicated article on human health—human health cannot be adequately protected through mere “research and awareness”. Binding measures must be included in the overall instrument dedicated to the active protection of human health.

Q3: Despite the progress claimed, there is still substantial progress and detail required for the *Aid* to be sufficient as a basis for an effective instrument. For instance, *Art. 3* is quite underdeveloped, and leaves too much of the instrument up to broad interpretation. There are critical aspects of the instrument that need to be explicitly defined for the instrument to be workable, even beyond an ambition standpoint. Specifically, the article should provide definitions for *releases*, *leakages*, and other required terms for functionalizing the instrument. Arguably most important, the article must include a definition for *plastics* and *plastic pollution*, and we suggest the definition [proposed](#) previously by the EU.

Overall, if parties were to go to the first COP with the *Aid* as the text to be implemented, it would take decades to strengthen it to the point that it is effective- decades our communities simply do not have. In many of the articles, more detail is required to ensure that parties and the Convention have a clear understanding of the scope, limitations, and boundaries of the sector that this instrument will impact. We strongly urge the Chair and members to provide a stronger and more clear basis for the Convention to begin its work—not just from the standpoint of ambition, but also in order to effectively implement the instrument within a reasonable timeline.

We appreciate the opportunity to share these views with you and esteemed members of the Committee.

Sincerely,
The Environmental Justice Delegation at Break Free From Plastic