3a: Problematic plastic products

1. Each Party shall identify at the national level a list of problematic and avoidable plastic products with a view to addressing the pollution they cause. It shall do so in line with the procedure set out in this Article.

2. In line with measure 11(2)(b) below, each Party shall identify items contributing to plastic pollution which satisfy at least one of the following criteria with a view to taking measures as indicated in para 3:

   (a) Account for at least 70% by item count of all identifiable plastic products, excluding those used in fishing activities and cigarette butts, found in audits of areas which are surveyed as per Measure 11(2)(b);

   (b) Account for at least 70% by weight of all identifiable plastic products, excluding those used in fishing activities and cigarette butts, found in audits of areas which are surveyed as per Measure 11(2)(b);

   The listing shall be made no later than 24 months after this Treaty enters into force [and submitted to the governing body]. Parties are encouraged to exceed the above criteria.

3. For each of the items identified,

   *either*

   (a) the necessary measures must be taken to phase out the production, sale, distribution, import or export of the plastic products identified. The phase out period must respect the following criteria:

   (b) For products a Party considers to be unnecessary, the period shall be no less than one year and no longer than three years from the time of identification on the relevant list;

   (c) For products for which a Party considers there to be readily available alternatives, the period shall be no longer than four years from the time of identification on the relevant list;

   (d) For products where a Party considers there to be limited available alternatives, and where the product is not considered unnecessary, the period shall be no longer than eight years from the time of identification on the relevant list;

   or
(e) The items must be included within a deposit return scheme, to be implemented no later than 24 months after the item being included in the relevant list. The scheme must achieve the following outcomes:

i. The return rate of items, calculated as the number returned relative to the number sold, must achieve at least a 90% return rate within 24 months of implementation, and be sustained at or above this level thereafter;

ii. The recycling / reuse rate of the returned items must be no less than 90% within 24 months of implementation, and be sustained at or above this level thereafter;

(f) The measures taken to implement this provision, including the appropriate nationally determined timeframes for phase-out, shall be reflected in the national plan communicated pursuant to [Part IV.1 on national plans].

(g) The governing body* shall develop guidance on acceptable methods for the sampling used to select the products at para 2. This will include a suggested classification of ‘items’, and a list of default item weights for use where these are unavailable.
3b Intentionally Added Microplastics

1) Each Party shall not allow the production, use in manufacturing, sale, distribution, import or export of products containing intentionally added microplastics, other than in those permitted uses specified in part IV of annex B. Part V of annex B sets out the timetable for these actions to be given effect.

2) Parties are also encouraged to phase out the use of IAMs in those applications set out in part IV of annex B, and may take measures, as appropriate and consistent with its national laws, to control the use or manufacture of these products. Such measures could include a Party taking actions to address their production, use in manufacturing, sale, distribution, import or export.

Annex B Part IV

List of permitted uses of microplastics

Annex B Part V

Timing of ban (for different country groupings)

Note as a possible addition, given that this Article relates, in the main, to producers of products, matters could be speeded up by indicating in a separate clause that where a company produces products containing IAMs in more than one Party, it must phase out IAMs wherever it produces them on the earliest date by which the ban is to be met in any of the countries where its products are sold. This might help overcome objections in relation to a company dumping its IAM products in countries with later deadlines. An alternative is simply to set the same date for all Parties.