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UNEP INC-4 - Global Plastics Treaty
Ottawa, Canada

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Honorable and esteemed Chair Luis Vayas Valdivieso, delegates, and Secretariat,

Thank you for the opportunity to speak.

We as observers and advocates within this process from Environmental Justice communities co-located with polluting plastic petrochemical plants have supported the INC process and strive for participation despite language barriers, limited resources, and limited opportunities for intervention. Fenceline Watch believes that it is imperative that the legally binding instrument reaffirm the United Nations Universal Declaration of Human Rights and the United Nations Declaration on the Rights of Indigenous Peoples, a historic instrument rejected by the United States and others at its inception. The unquantifiable harms of plastic pollution on Indigenous Peoples, Black and Brown bodies, waste pickers, and other vulnerable populations cannot be decoupled from the fundamental right to dignity and the guarantee of a healthy environment, a necessary foundation for freedom, justice, and peace. Unfortunately, for those who are adversely impacted by plastic production, this promise has yet to be fulfilled. Human rights violations are inherent in the plastic lifecycle, from extraction and transportation of fossil fuels on Indigenous lands, to chemical feedstock and manufacturing plants in Black and Brown communities, developing nations, and, ultimately, to landfills and sham recyclers in the backyards of our brothers and sisters in the developing world and global south. We are at a crossroads and justice must prevail.

Fenceline Watch is based out of Houston, Texas, the petrochemical capital of the United States. There are no zoning regulations in Houston and state law allows for the siting of refineries, chemical plants, and other heavily polluting industries next to homes, parks, and schools. Explosions, fires, flares, toxic releases are common in our communities, some accidents have killed workers.

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Our state government is captured by the oil and gas industry. Indeed, our environmental agency, the Texas Commission on Environmental Quality (TCEQ), implements permit programs that limit and altogether eliminate public participation. The situation is so dire that the United States Environmental Protection Agency (EPA) and TCEQ entered into a settlement that provides actionable steps to remedy violations of the civil rights of Spanish-speakers and other linguistically isolated communities to receive information about permits in Spanish, a settlement that Fenceline Watch continues to implement. Even when communities organize against new plants and expansions, and secure legal representation, State laws shift the burden of proof onto residents to demonstrate that a permit application is deficient. Proactive enforcement by TCEQ is near nonexistent, with an enforcement process that is nearly entirely complaint-driven. We currently have a progressive local government with an interest in bringing polluters into compliance, but state law limits the ability of local governments to enforce environmental laws. The companies that produce the very polymers we have spoken about for the past seven days overburden our
communities. Chair and Secretariat, we cannot find relief, not through our local, state, or national governments. We appeal to the international community to bring an end to our community’s suffering.

Fenceline Watch calls on the Chair and the Secretariat to issue a strong mandate for intersessional work that addresses primary polymer production and chemicals of concern. As the days progressed at INC-4, civil society groups sat through hours of Contact Group and Sub-group meetings, often late into the night, hoping to see constructive conversations on how to fulfill the objectives of UNEA Resolution 5/14. Instead, we witnessed States from oil producing regions and their allies dilute the proposed text of the instrument, especially regarding terms to abate plastic production, and drive the conversion away from the Resolution’s clear mandate to curb the plastic crisis. This has only entrenched our worry that the objectives of the Resolution will not be achieved. We hope that a strong mandate for intersessional work can put negotiations back on track and we remind the Chair and the Secretariat that for us at the fenceline, this is not a theoretical exercise, our lives and those of our descendants are at stake. We find hope in the leadership of States who rose to the challenge during INC-4, from Rwanda’s proposal for production caps, to Norway’s efforts in increasing transparency, traceability, and monitoring. To this end, we hope that intersessional work addresses, at least:

1 - Conflict of Interest
The power of a strong Global Plastics Treaty that has legally binding provisions that tackle the entire lifecycle of plastic, from the extraction of fossil fuels, the production of polymers and plastic feedstocks, to waste. Without a global framework, nations will default to methods that have historically failed our communities on the fenceline. This has been our experience in Houston. Cycles of elections, unchecked multinational resources to fund industry-supported approaches, and an inherent power imbalance has the potential to undermine the implementation of a treaty infusing advisory, scientific, and other decision making bodies with the same fossil fuel and chemical
sector industry actors that aided climate change denial\(^1\) as stewards addressing a plastic crisis they continue to profiteer from. We support the protection and success of this treaty as a means to address the human rights violations we face from the production of plastic along the Houston Ship Channel, home to over 618 chemical manufacturers.\(^2\) We support inclusion in the treaty text of article 5.3 of the WHO’s Framework Conventions on Tobacco Control.\(^3\) Additionally, the treaty presents an opportunity to close exemptions provided by governments that incentivize plastic production and externalize those costs onto the world’s most vulnerable.\(^4\) In Texas, companies pollute with impunity as environmental laws are replete with exemptions from enforcement. This treaty could serve as a counterbalance to the corporate capture that we have seen in our regulatory agencies at home. It is documented that EPA officials expedited the approval of industry high-priority chemicals, including those found to be neurotoxic, mutagenic, and carcinogenic to human health, including benzyl chloride, used to make plasticizers, resins and other products, which the EPA had previously found to be a “probable human carcinogen.”\(^5\) Records show that EPA officials pressured agency scientists to fast-track and falsify documents in order to meet industry demands.\(^6\) In the United States communities living at the fenceline of extraction and production have been forced to absorb the deadly toxic loads created by plastics due to deficient domestic policies. The United States consistently fails to meet domestically set goals, including multiple federal Clean Air Act Standards. Communities along the Houston Ship Channel, and those along the Gulf Coast, have never achieved protective ozone ambient air quality standards dating back nearly fifty years.\(^7\)

2 - Global standards on Transparency, Traceability, Monitoring, Disclosure

We support the establishment of global standards as they would provide needed guardrails that could serve as protections for vulnerable communities impacted by governments prioritizing corporate profits over human rights. Specifically, the Conference Room Paper proposal by Norway, Cook Islands, and Rwanda for an approach to criteria and lists, including initial list of chemicals of concern in plastics, addresses the massive backlog in risk assessments of toxic chemicals used in plastic faced in the United States.\(^8\) As well as the inclusion of the proposal from Norway, Cook Islands, and Rwanda for an Annex on Part II Provision 2. Chemicals and polymers of concern.\(^9\) Industry is proceeding within this process with cautious optimism and is keen to what is on the list of chemicals of concern.

The treaty presents an opportunity to create a global legally binding instrument that provides all countries with a path toward addressing the global plastic crisis. We encourage continued pressure from this negotiation process on countries to move toward closing exemptions provided by governments that subsidize and incentivize plastic production and externalize those costs onto the world’s most vulnerable.\(^10\) This treaty could serve as a counterbalance to the corporate capture we have seen in our regulatory agencies at home. It is documented that EPA officials expedited the approval of industry high-priority chemicals, including those found to be neurotoxic, mutagenic, and carcinogenic to human health, including benzyl chloride, used to make plasticizers, resins and other products, which the EPA had previously found to be a “probable human carcinogen.”\(^11\) Records show that EPA officials pressured agency scientists to fast-track and falsify documents in order to meet industry demands.\(^12\)

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\(^1\) https://www.scientificamerican.com/article/exxon-knew-about-climate-change-almost-40-years-ago/

\(^2\) https://www.houston.org/houston-data/chemical-industry-overview

\(^3\) https://ogtc.world/coi-policy

\(^4\) https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tscac/polymer-exemption-new-chemicals

\(^5\) https://theintercept.com/2022/08/01/epa-chemical-assessments-health-risks-cancer-whistleblowers/

\(^6\) https://theintercept.com/2022/03/02/epa-whistleblowers-chemical-assessments/

\(^7\) https://www.federalregister.gov/documents/2024/01/26/2024-01525/clean-air-act-reclassification-of-the-san-antonio-dallas-fort-worth-h-and-houston-galveston-brazoria--text-In%20October%202022%2C%20the%20EPA%20Made%20a%20Change%20That%20Will%20Affect%20the%20Design%20of%20New%20Major%20Sources%20of%20Air%20Pollution%2C%202%200%202%204%202%204%202%204

\(^8\) https://www.epw.senate.gov/public/index.cfm/2024/1/oversight-of-toxic-substances-control-act-amendments-implementation

\(^9\) https://resolutions.unep.org/mcrs/uploads/sub-group_1.2_proposal_from_norway_cook_islands_rwanda Annex part ii provision 2 on chemicals 0.pdf


\(^11\) https://theintercept.com/2022/08/01/epa-chemical-assessments-health-risks-cancer-whistleblowers/

\(^12\) https://theintercept.com/2022/03/02/epa-whistleblowers-chemical-assessments/
Only a mere 128, or 1%, of the chemicals used in plastics are regulated under international multilateral agreements—even though more than 3,000 chemicals used in plastics have been identified as chemicals of concern. Many are linked to DNA mutations and reproductive harm and are known to be toxic to the aquatic environment. Demand-side strategies do not address the toxics released during production.

Chemical research is a vast and growing field, we support a global instrument that can be strengthened overtime and that is most protective of communities.

- Plastic waste generation is expected to
- almost triple by 2060. In line with the growth in plastic use, the future plastic waste generation
- is projected to almost triple, reaching 1014
- million tons in 2060.7
- https://zenodo.org/records/10701706/files/plastchem_db_v1.0.xlsx?download=1

3 - False Solutions

Fundamental to the protection of human rights and achieving a global instrument within UNEA Resolution 5/14 mandate for a full lifecycle approach we cannot support efforts to exacerbate that continue to exploit opportunities to reinforce the illusion that management of waste is an adequate solution. Incineration, exporting waste, co-incineration, co-firing, waste-to-fuel, plastic credit and offset schemes, pyrolysis, plastic bonds, marine clearing systems are all novel, unproven technologies, which will not only fail to address the currently sanctioned limitless tidal wave of plastic production but actually increase the dangerous posed to human health by plastics.

Technology transfer of proven and problematic methods harms already vulnerable communities, making them the testing grounds that further entrench the global community into a world beyond 1.5 C temp increase. One thing is clear, a proven way to address the global plastic crisis is by curbing production levels. Eliminating the most problematic & avoidable plastics and the chemicals associated with their adverse health impacts on people, biodiversity and or environment. We call for an End to Waste Colonialism by Global North countries like the United States. The treaty must deter practices that reinforce waste colonialism through the export of plastics to developing nations.

Esperamos que puedan escuchar el verdadero costo del plástico en las comunidades de producción y esperamos con confianza un instrumento global jurídicamente vinculante que cumpla con la ambición del mandato de la UNEA Resolución 5/14 que se les encomendó.

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