Australia’s written submission for Agenda Item 4

Australia thanks the Government of the French Republic for its outstanding efforts and generosity in hosting the second Intergovernmental Negotiating Committee meeting.

Australia remains firmly committed to negotiating an ambitious, legally binding instrument to end plastic pollution. We are mindful of the high stakes of this work, and the hopes of people all around the world who look to this process to progress a tangible and meaningful pathway forward. This will require not only strong national-led action, but also globally agreed standards and binding obligations to facilitate and give certainty to the major transition necessary across all economies.

Australia thanks the Secretariat of the INC for preparing the Options Paper, which provides a clear framework to guide our discussions this week. Building on this options paper, Australia’s priorities for the instrument are that it includes:

1. **An overarching objective for the instrument to end plastic pollution from all sources to protect the environment and human health.**

2. **Measures to restrain primary plastic production to sustainable levels.** Setting a clear signal here will support the private sector to make necessary investment in technologies and business models that will increase plastic recycling rates and improve the availability of more sustainable alternatives.

3. **Binding provisions to eliminate and restrict unnecessary, avoidable and problematic plastic products and packaging.** We can – and should - phase out the problem plastics we simply don’t need. We note over 80 Member States have already phased out certain problematic single-use plastics, demonstrating that such phaseouts are both feasible and effective in a range of national contexts. We also note over 130 Member States have expressed support for control measures on problematic single use plastics.

4. **Binding provisions to eliminate, avoid and better manage chemicals of concern from use throughout the plastics supply chain.**

5. **Core obligations to ensure safe circularity for plastics.** The product design stage is where we can have the most impact to reduce the detrimental impacts of plastics that are used in our economies. The instrument should include obligations for sustainable design criteria, that ensure products are designed, produced, manufactured, and transported in a way that facilitates a circular economy and minimises adverse impacts on the environment and human health.

We also note the need to work with industry to establish harmonised transparency and traceability frameworks. These frameworks will support industry’s transition and realise new economic opportunities.

6. **Binding provisions to reduce and manage plastic waste in an environmentally sound and safe manner and to address legacy waste,** in a manner which complements existing international instruments. This must include provisions to remediate existing plastic pollution, recognising its disproportionate impacts on small island developing states, including Pacific Island Countries. We must look for the best available options now and remain open to new solutions as they emerge.

7. **Provisions for implementation measures,** which will be critical to the instrument’s ultimate success. Priority implementation provisions include:
• Provisions for innovative and effective capacity building, technical assistance and finance and funding models to support the transformation required across all economies to sustainably manage plastics. This should include consideration of ways to align and influence existing multilateral work programs, funding and financing arrangements to amplify dedicated efforts under this instrument to end plastic pollution.

• Obligations for monitoring, reporting and compliance to support Member States’ implementation activities, and to ensure we can adequately measure our progress in reducing plastic pollution.

• Provisions to ensure that development and implementation of the legally binding instrument draw upon Indigenous and local knowledge, and the latest scientific and technical advice. Australia looks forward to outcomes of discussions at INC-2 delivering a clear mandate for the Chair to prepare zero draft text for consideration at INC-3.

In requesting the Chair be given a mandate to prepare zero draft text, we recognise that some measures within the instrument will include standing requirements that are unlikely to require amendment over time (i.e. the articles). Other the elements with the instrument will likely need to be amended or strengthened over time – for example, lists of chemicals, products and substances requiring regulation or other actions by Member States. The instrument’s structure should reflect these different needs, for example through the inclusion of annexes that can be updated over time by the Parties.

We reiterate that this is a global problem requiring a global solution. We look forward to working with all countries to deliver a strong and ambitious instrument, noting only an ambitious approach will be enough to end plastic pollution.

See Attachment A for Australia’s submission on Contact Groups 1 (Objective and control measures) and contact Group 2 (Implementation Measures).
Submission on Contact Group 1

**Items 1 - Phase-out, reduce demand for plastic polymers**

Australia seeks for the instrument to include measures to restrain primary plastic production to sustainable levels. Setting this clear signal will support the private sector to make necessary investment in technologies and business models that will direct plastic use to its highest value applications. It would increase plastic recycling rates and improve the availability of more sustainable alternatives. At this stage we would like to see, without prejudice, all the options outlined in the paper reflected in the zero draft text for delegations to consider.

**Item 2 - Banning, phasing out problematic single use plastics**

Problematic single-use plastics epitomize our current linear approach to plastic – we often use these products for mere minutes, yet they then remain in the environment for centuries. Australia notes there is already significant convergence on this issue:

- Over 80 Member States have already banned certain products.
- Over 130 Member States expressed support for control measures on problematic single use plastics in their written submission ahead of this meeting.

To be effective, the instrument will need to include:

- **Criteria** to define, identify and prioritise problematic single use plastics for elimination.
- **Legally binding provisions** for Parties to eliminate identified problematic and unnecessary single-use plastics.
- **Import and export requirements** for listed products that apply to Parties and non-Parties alike on a non-discriminatory basis.

As such we support the proposed Core Obligations of 11(b),(c) and (d). We note 11(a) may be better included as a sub-element under Item 1 in the Options Paper.

In terms of intersessional work, we request the secretariat:

1) Compiles a list of those problematic single-use products and packaging formats that Member states and sub-national governments have already eliminated.

2) Compile the different criteria already used by Member States and others to define problematic single use plastics and packaging.

We propose that these intersessional compilations be prepared for Members States to consider ahead of INC-3.

**Item 3: Banning, phasing out and/or reducing the production, consumption and use of chemicals and polymers of concern.**

Australia supports the measures outlined in paragraph 12a) and b). We see that common global rules are required to consistently ban the production and trade of plastics containing polymers and chemical additives of concern.
We note that plastics are a globally traded material, and that’s why we need a global approach to ensure that the materials that circulate through our economies and communities are safe both during their intended use and at end of life.

We strongly support increasing transparency and traceability of polymers and chemicals in plastics. This will be critical to support any trade requirements and achieving a safe circular economy. We consider option c) could be complementary to options a) and b), but note the need for caution regarding unintended consequences and the need for further scientific evidence.

In terms of intersessional work, we consider that technical work is required to develop criteria for identifying chemicals and polymers requiring collective intervention by Member States, and examine potential linkages with other MEAs to avoid duplication. Progress on this work could then be provided to future INCs for consideration.

**Item 4 Reducing microplastics**

Australia supports the inclusion of global bans on intentionally added microplastics, per 13a(ii), noting there may also be a need for a short positive list. We also support options 13(b)(i),(ii) and (iii), noting the wide variety of point sources of microplastics that need consideration, future action or innovations.

We note the need to ensure any actions under this instrument complement existing initiatives and agreements, such as the work of the International Maritime Organisation and MARPOL, which also seek to minimise plastic leakage into the environment.

We consider that intersessional work is required to compile the criteria already used by Member States and sub-national governments for defining intentionally added microplastics.

**Item 5: Strengthening waste management**

Mismanaged waste is a significant source of plastic release. Australia supports the inclusion of provisions to ensure that those plastics that are essential in modern society but cannot be reused or recycled are managed in an environmentally sound manner, in line with the waste hierarchy and taking into account other international instruments, including the Basel Convention. We particularly support options 14bi),(ci) and civ), noting the need to avoid duplication with the Basel Convention.

In addition, exploring potential research and technologies and opportunities for innovation (as mentioned in 14ai), iii) and iv)) in relation to waste management will be integral to reducing plastic leakage. In this respect, it will be important not to stifle innovation through bans on specific technologies to ensure new innovative technologies can be further developed and improved.

For option 14d) Australia supports the polluter pays principle and its application through Extended Producer Responsibility (EPR) schemes, particularly as a means to ensure sustainable financing to achieve a safe circular economy. We support the development of guidelines to encourage globally consistent and interoperable EPR systems (14(d)(iii)(b)) to support Member States wishing to implement EPR nationally. We note that harmonising EPR systems wherever practical reduces the costs of doing business across national borders.
Items 6, 7, 8 – Fostering design for circularity, encouraging reuse and repair, promoting safe alternatives

The OECD tells us over 70% of a product’s total environmental impact is determined at the product design stage. We need to design out waste from the outset.

Australia supports option 15(a) and 15(b) – that is, establish Circular Design Criteria for plastic products and packaging. Criteria should be developed and applied on a sector-by-sector basis, with the intent that over time only products and packaging that meet the criteria be placed on the market. We request that the zero draft text include an overarching provision to design plastic products for safe circularity, with a reference to Circularity Design Criteria.

We consider that the Circular Design Criteria could also be complemented with clear, evidence-based labelling measures so that consumers can make informed choices about which product they buy (per 15(d)).

We also support the instrument setting minimum recycled content targets - per 15(e) - particularly for product packaging and would welcome intersessional work to consider existing implementation timeframes used currently by members states.

Australia welcomes the Option Paper’s inclusion of reuse solutions. We suggest that the Circularity Design Criteria referred to at Item 6 also include guidelines or standards for reuse systems, which Member States could then adopt and implement at the local level.

Regarding the use of safe sustainable alternatives and substitutes, Australia is conscious of the risk that, in trying to solve the problem of plastic pollution, we may worsen other human health and environmental problems, or create entirely new ones. We also recognise the need to combat false and misleading greenwashing claims. To this end, we request technical intersessional work to:

1) compile the existing standards and certifications used verify the environmental sustainability of plastic alternatives.

2) consider which of these existing standards and certifications should be reflected in the circularity criteria, and advise where further work is needed.

Item 9: Eliminating the release and emission of plastics to water, soil and air

Australia supports the need to reduce and eliminate the release of plastics to water, soil and air, including microplastics (as per paragraph 18a). We support general obligations complemented with supporting information, updated by the Conference of the Parties, to provide further guidance on priority leakage points on a sector-by-sector basis. These measures should recognise existing regional and international efforts and focus on filling identified gaps. We should build on existing instruments but not duplicate or compromise actions under existing international or regional frameworks.

Ghost gear in the marine environment is a significant issue for Australia and our region and should be considered as an initial priority sector, noting the need to ensure complementarity with existing instruments and efforts by other international and regional forums.

Item 10 Addressing existing plastic pollution

Australia supports provisions to address existing plastic pollution. We recognise the disproportionate impacts of existing plastic pollution on remote communities, including on small island developing
states and the least developed countries. We agree with others that ghost gear is a significant issue and is a priority for remediation.

We consider that remediation actions would be best supported by criteria and guidelines on best available techniques and best practices for clean-up and remediation. We support all the measures outlined in paragraph 19.

Monitoring of plastic pollution will be critical to gauge the success of the instrument. It will be hard to manage what we don’t measure. The Instrument will need to establish baseline information on existing plastic pollution and continue data collection as we collectively undertake remediation activities.

**Item 11 Just Transition**

Australia recognises that ending plastic pollution will require a transition to environmentally and socially sustainable jobs, and economies. We are also conscious that Parties will have a primary role in implementing this transition in a just manner.

We note the Paris Agreement offers a precedent by taking into account the imperatives for a just transition in its preambular text. This approach has spurred a range of activities, including the development of guidance and programmes to support Parties to implement a just transition. On this basis, we recommend the instrument similarly includes ‘just transition’ within its preambular text.

**Item 12 - Protecting human health**

Australia considers that protecting human health is a key objective of this instrument, along with protecting the environment. Risks to human health should be included as one of the criteria for assessing the safe circularity of plastics, polymers and chemical additives.

The instrument will require mechanisms to ensure ongoing assessments and evaluations are undertaken to assess additional chemical types as more information becomes available about their impacts on human health.

We recognise the need to include treaty text that encourages collaboration and communication with other organisations such as World Health Organisation and the International Labour organization.

Australia supports all the measures outlined at paragraph 21.
Submission on Contact Group 2

Financial mechanism intervention

Australia recognises that, to be effective, the new instrument needs to include financial, technical and capacity building support mechanisms to help developing countries meet their obligations, particularly for Small Island Developing States. Our priorities for the financial mechanism are that the:

- governing body can decide to direct the priorities for funding, guided where investment will have the greatest impact and the implementation needs of Parties.
- means of administration are efficient - this could be achieved by using existing mechanisms but we are open to further discussion on other options where they are efficient, effective and avoid duplication of existing administrative functions.

We support the views expressed by many others that:

- The mechanism should yield financial support from both public and private sources, with a view to increase the latter.
- In line with the polluter-pays principle, national EPRs, fees and taxes are a potential source of funds but are best determined and implemented at the national level.

Compliance intervention

For the instrument to be effective and have credibility, Australia considers that it is critical that it includes consequences for persistent and repeated non-compliance with mandatory obligations.

The compliance mechanisms, including a framework based on taking a facilitative and supportive approach to non-compliance with consequences as a last resort, should be included in the instrument. The compliance framework must be linked closely to capacity building, and to the reporting framework.

Monitoring, evaluation and reporting

Australia supports the inclusion of treaty provisions setting out mandatory periodic reporting requirements to allow the monitoring and assessment of:

- National implementation of treaty obligations and voluntary actions.
- Progress towards achieving specific plastic pollution outcomes in line with the treaty’s objective, at the national and global levels.

The reporting requirements must conform to a common reporting framework, and include detailed, quantifiable information to support accurate, timely and efficient assessments of whether we are achieving the outcomes we need to end plastic pollution in a transparent and accountable way.

Australia recognises mandated reporting requirements can be complex and expensive. To mitigate this:

- The reporting framework should be harmonised with existing reporting processes where possible to avoid duplication and minimise reporting burdens on governments and industry.
- Treaty provisions should recognise that developing countries and small island developing states (SIDs) in particular will require additional assistance, including through specific financial and capacity building supports.
**National Action Plans**

Australia supports including a mandatory provision requiring Parties to develop a National Action Plan to implement the instrument. National ActionPlans should set out how Parties will implement the legally binding instrument and achieve its objectives.

National Action Plans should be a **means of implementation**, and **not the only obligation** under the instrument. Member States have always had the ability to develop nationally determined action plans to address plastic pollution, yet the problem continues to worsen. Global, legally binding requirements are also required to eliminate chemicals and polymers of concern, eliminate unnecessary and avoidable plastics products and packaging, ensure the safe design circularity of plastics, ensure transparency and traceability of chemicals and materials, and ensure environmentally sound waste management.

To be effective, National Action Plans should include a set of minimum requirements. These could include:

- Mandatory elements for those elements essential to the instrument’s success
- A menu of evidence-based options that can be tailored to the specific challenges of the Party.

National Action Plans should also outline regular reporting and assessment provisions and achievement of relevant outcomes.

**Scientific advisory function**

For the instrument to be effective, the governing body will need a way to access independent, credible, trusted expert advice. This includes:

- Scientific and technical advice, and
- Indigenous and Local knowledge, shared on the basis of free, prior and informed consent.

Australia recommends the zero draft text includes a provision for the governing body to establish subsidiary bodies, including specific advisory functions as required. We note that the instrument will be enduring and its needs for scientific, technical, and traditional and local expert advice will change over time as the instrument is implemented. A short, general provision allowing future flexibility will ensure any subsidiary bodies remain relevant, adaptable and efficient, to minimise ongoing resourcing liabilities.