

INC-3 Submissions

Aotearoa Plastic Pollution Alliance (APPA)

Tāngata Whenua Coalition for an Effective Plastics Treaty (TWC)

- This collaborative submission represents the views of both the APPA and the TWC.
- [APPA](#) is a collaborative forum of researchers, educators, artists, activists, community leaders, and more in Aotearoa (New Zealand) and Te Moananui-a-Kiwa (the Pacific) working to end plastic pollution through holistic systemic transformation.
- [TWC](#) is a collective of Māori plastic pollution experts including community leaders, educators, scientists, businesspeople, and researchers committed to honouring Te Tiriti o Waitangi and ensuring the effective participation and representation of Tāngata Whenua throughout the United Nations Global Plastics Treaty (GPT) process.
- In this submission, we place more emphasis on Submission B, noting in Submission A that precious time should not be spent on substantially renegotiating the scope and principles of the treaty.
- In Submission A, we reiterate that the scope of the treaty is largely already in place, only adding detail for clarity and accuracy, and we recommend additional principles, focusing on the need to enact the principles and other relevant international, regional, and local declarations, agreements, and reports through the Treaty’s control measures.
- In Submission B, we detail recommended control measures and other intersessional work (Contact Group 1) that prioritise prevention and ‘polluter pays’ principles, underpinned by the precautionary principle, including: capping production and eliminating fossil-fuel subsidies; harmonised reporting requirements; licensing schemes; non-party trade measures; ‘safety’, ‘sustainability’ and ‘essentiality’ criteria; transparency and traceability; and a hybrid regulatory approach using Prohibited, Restricted, Permitted, and Exemption lists. We also comment on intersessional work for Contact Group 2, including: expert groups; science-policy interface; National Implementation Plans; a dedicated finance mechanism; and determining Members’ required financial support.

SUBMISSION A

Name of country (for Members of the committee)	New Zealand (Aotearoa)
Name of organization (for observers to the committee)	Aotearoa Plastic Pollution Alliance (APPA)
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Scope

[UNEA Resolution 5/14](#) already sets the scope of the treaty as “**plastic pollution including microplastics**” along the **full life cycle of plastics**. Since plastics are a complex mix of chemicals

and diverse physical properties, the chemical and physical properties of plastics are included in the scope of Res 5/14.

Plastics are a broad category of synthetic polymers including thermosets, thermoplastics, elastomers, liquid and semi-liquid polymers and bioplastics (including biodegradables, bio-compostables, and biobased), and the feedstocks, monomers, additives, and other chemicals they are made from. Plastics also include chemicals, monomers, and polymers and products either wholly or partly made of synthetic polymers (i.e. composite products/materials). All plastics will eventually fragment into micro- and nano-sized fragments. Therefore, nanoplastics also sit within the scope of the treaty.

The scope in Res 5/14 is explicit: the **full life cycle of plastics** including **binding and voluntary approaches, based on a comprehensive approach that addresses the full life cycle of plastic.** ¶15 of Appendix II of UNEP/PP/INC.2/4 (Options Paper) captures the scope of 'life cycle':

"A life cycle approach to plastic considers the impact of all the activities and outcomes associated with the production and consumption of plastic materials, products and related services – from raw material extraction and processing (refining, processing, cracking, polymerization) to design, manufacturing, packaging, distribution, use (and reuse), maintenance and end of life management, including segregation, collection, sorting, recycling and disposal. Transportation and trade of plastic products also occur at each stage of the life cycle".

Therefore, full life cycle would also include the following detail: extraction or acquisition of raw materials, including feedstocks for synthetic and bio-based plastics alternatives and substitutes; chemicals and feedstocks used in the production of monomers, polymers, and products and the pollution caused during production and manufacturing of plastics and plastic products; transportation, distribution, use, and consumption of synthetic polymers, chemicals destined for plastic production, and plastic products, and midstream pollution; plastic waste, emissions, and residuals and products manufactured or resulting from the treatment of plastic waste; all pollution from downstream plastics, chemicals, and residual treatment, disposal, and activity; and removal of plastic pollution from the environment and remediation of polluted ecosystems.

Member States should not expend limited time revising the agreed scope and diverting the attention needed for defining and negotiating control measures critical to preventing and ending plastic pollution.

Principles

[UNEA Resolution 5/14](#) has already agreed that the treaty be underpinned by the [1992 Rio Declaration on Environment and Development](#) Principles including, inter alia:

- **The principle of common but differentiated responsibilities (CBDR) (Principle 7) that should apply to finance under the global plastics treaty.** We recommend caution in the application of this principle and recommend that it be applied to financing but not to technology transfer (even on mutually agreed terms). The principle of common but differentiated responsibilities should not be deployed to support a weak and ineffective voluntary national action plan-driven instrument.
- **Public participation in environmental decision-making (Principle 10)**
- **Access to information (Principle 10)**
- **Liability and compensation (Principle 13)**

- **Transboundary environmental justice, also known as the “no harm rule” protecting states from transboundary harm (Principle 14)**
- **The precautionary principle (Principle 15)**
- **The ‘polluter pays’ principle (Principle 16)** should not be applied in the treaty text as giving polluters the right to pay to pollute; but rather that the polluter (as polluting industry) should bear the full cost of pollution (starting with polluting product) prevention and minimisation, management, mitigation, removal, remediation and compensation for loss and damage.

We recommend the following additional principles should be reflected in the treaty specific to ending plastic pollution:

- **Principle of prevention.** If we are to end global plastic pollution, this principle must be the priority. Prevention is about turning off the tap of toxic, unsustainable plastics that cannot be safely and sustainably recirculated within the economy. The principle should ensure assessment of potentially harmful activities underpinned by the **precautionary principle** such as environmental and social, cultural, and economic impact assessments, and obtaining free, prior, and informed consent from communities (see also UNDRIP)
- **Zero waste hierarchy principles.** The principle of prevention sits at the top of the Zero Waste Hierarchy Principles (not the outdated waste hierarchy): refuse, rethink, and redesign, reduce, reuse, and repair.
- **Principle of non-regression.** States must not weaken the environmental protections that they have created in their domestic or national regulations, and the decisions of the prospective Conference of the Parties must not regress on matters that have already been established.
- **Human rights obligations relating to the enjoyment of a safe, clean, healthy, and sustainable environment.**
- **Key rights set forth under the United Nations Declaration for the Rights of Indigenous Peoples (UNDRIP):** the right to be free from discrimination; self-determination, be recognised as distinct peoples, and free prior, and informed consent.
- **Rights-based approach that centers Indigenous Peoples.** The instrument must advance Indigenous Peoples’ sovereignty and free self-determination, their right to protect their spaces, and their science and knowledge systems must be clearly recognised throughout the Treaty design, negotiations, and implementation processes. These knowledge systems protect lands, oceans, treasured and keystone species, language and intergenerational well-being.
- **Indigenous justice:** The Treaty must recognise that Indigenous Peoples are disproportionately impacted throughout the full life-span of plastics. Indigenous Peoples’ sovereignty, their right to protect their spaces, and their science and knowledge systems must be clearly recognised throughout the Treaty design, negotiations, and implementation processes.
- **Justice, equity, and community-led transition away from plastics.** The instrument should ensure that those most disproportionately impacted by plastic pollution, including waste pickers, Indigenous Peoples, high mountain and coastal communities, youth, and children, are properly resourced to lead and facilitate these transitions in their spaces.
- **Inter- and intra-generational equity**
- **Gender equity**
- **Justice and equity for children and youth**

The Treaty’s control measures and the Treaty preamble should clearly state how the instrument aligns with and plans to implement the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the Convention on Biological Diversity (CBD), and other relevant international, regional, and local declarations, agreements, and reports that uphold Indigenous Peoples rights to self-determination, to protect their spaces and knowledge systems, and to a healthy environment. Examples of relevance for Aotearoa (New Zealand) include He Whakaputanga (1835), Te Tiriti o Waitangi (1840), claims made through the Waitangi Tribunal (i.e. WAI262), Matike Mai Aotearoa (2016), and He Puapua (2019).

Principles of international human rights and environmental law must drive the implementation of the treaty’s control measures. To ensure that these principles are realized in the implementation of the future instrument, we urge the **Member States to focus on establishing control measures that will manifest these principles instead of solely addressing them in the preamble of the future instrument and avoid spending substantial negotiating time on principles.**

