Elements not discussed at INC-2

1. **Scope**

*What is the proposed scope for the future instrument?*

*Which types of substances, materials, products and behaviors should be covered by the future instrument?*

**Proposed scope:**

The International Council of Beverage Associations (ICBA) supports a legally-binding instrument that covers the whole life cycle of all plastics, including clearly defined up-stream and down-stream measures to reduce our reliance on fossil-fuel based virgin plastics and address all sources of plastic pollution, with a focus on products that present barriers to achieving a circular economy.

**Explanatory Text:**

In preparation for discussions at INC-3, and building on Potential options for elements towards an international legally binding instrument ([UNEP/PP/INC.2/4](https://www.icba-net.org)), ICBA would like to highlight the following three areas as critical components to be included in the scope of the instrument:

**Types of plastic included:** To enable a level playing field, the future instrument should not be limited to plastic packaging, and should cover all sources of plastic pollution. The instrument should include clear and harmonized definitions of different substances, materials, products and behaviors covered, as well as common reporting metrics and methodologies. Harmonization of definitions and standards will support the design of National Action Plans, which will be critical to achieving measurable results and progress that can be appropriately tracked and linked to the overarching Treaty goals.
Harmonization can also help scale innovation in sustainable design, infrastructure and systems for managing plastic; align trade policies; and create the market conditions for supply chain cooperation.

**Complement and support other existing agreements:** The instrument should complement, support, but not duplicate or conflict with, other existing international agreements and policy frameworks that address plastic waste and pollution and protect human rights.

**Possibility for strengthening over time:** ICBA supports the inclusion of a review mechanism that enables the evolution and strengthening of the instrument over time.

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2. **Principles**

*What principles could be set out in the future instrument to guide its implementation?*

**Proposed principles:**

The ICBA is generally aligned with the principles outlined in Appendix 1 - Section D in UNEP/PP/INC.2/4, and in particular would like to emphasize the significance of the following principles:

- Transparency and Reliance on Best Available Science
- Waste Hierarchy
- Extended Producer Responsibility (EPR)
- Social Rights

The following section goes into further detail on considerations related to each of these principles.

**Explanatory Text:**

**Transparency and Reliance on Best Available Science:** The beverage sector supports mechanisms for evaluating the best available science and a continuous process for evaluating the effectiveness of the instrument and making revisions to reflect new data or advancements to ensure innovations in technology and advances in best practices are captured.

**Waste Hierarchy:** The beverage sector is committed to creating a circular economy for our packaging and support a range of complementary solutions that promote circularity and increase the supply of recycled plastic that can be reincorporated into new products and packaging, including packaging reduction, recycling, reuse and refill. We believe in starting with designing packaging that is recyclable and uses less virgin plastic from non-renewable sources, as well as exploring re-use options. This work must be complemented by driving investment in recycling and packaging delivery systems through policies like EPR.
Further, the instrument should include measures that strengthen waste management governance; ban the most harmful practices, such as open dumping and burning of plastic waste, and establish minimum requirements for the safe and controlled operation of landfill facilities and incineration technologies that minimize emissions and releases of pollutants to water, land, and air.

**Extended Producer Responsibility (EPR):** ICBA believes that the beverage sector, and other packaging producers, have a responsibility to increase the collection rates of the packaging we put into the market. To that end, we support well-designed EPR policies that reduce waste and plastic pollution. At the highest level, we view the role of government as responsible for enabling EPR through legislation, and the role of producers, who are legally obligated, to recover and recycle their products and/or packaging at end of life, through industry-funded and managed not-for-profit collection and recycling programs.

Various models of EPR collection policy exist in different jurisdictions around the world. These models often differ according to national context and it is important that the Treaty allow for these distinctions. Fundamentally, EPR is enabled by government and funded and managed by obligated industries. These policies include different types of EPR – which typically supports residential curbside or drop off programs – and deposit return systems, which have proven effective in increasing collection rates and reducing littering of products such as beverage containers.

EPR programs should include producer fees that reflect the actual cost of managing matter at the end of life and incentivize upstream design decisions that promote sustainability and reflect environmental considerations. ICBA supports the “polluter pays” principle, which allocates the costs of preventing or managing the risks of plastic pollution to producers and underpins EPR policies.

The benefits of well-designed EPR programs are extensive, and include:

- Funding the changes needed to increase recycling rates for plastic and other packaging types, and in realigning incentives to support circular design, in particular the use of recycled content.
- Ability to be adapted to the priorities of both developed and transitional markets, while leveraging industry expertise to help design efficient and effective approaches.

Based on the beverage industry’s significant experience with a range of packaging EPR policies in jurisdictions all over the world, ICBA recommends the following:

- **Producer Management:** EPR policies should be enabled by government and managed by producers through a not-for-profit system. Given that producers bear the responsibility of achieving recovery rates and associated costs, they should have oversight over the program design and performance. The role of producers is to ensure compliance (in partnership with government), to promote and invest in efficient systems that drive circularity and strong environmental outcomes, and to continuously assess program performance.
- **Governance:** Successful EPR requires effective governance to ensure the programs operate efficiently and achieve compliance. There are various EPR models in place globally, each of which have their own complexities associated with their governance structures. At the highest level, we support industry funded and managed, not-for-profit “producer responsibility organization(s)” as the designated entities to administer EPR programs on behalf of producers.

- **Measurable Environmental Outcomes:** EPR policies should generate strong, measurable outcomes and are rooted in assessments of the capabilities of existing collection programs and recycling infrastructure and collection/recycling data, where available.

- **Consumer Convenience:** Consumers have a critical role in supporting the circular economy. By making recycling convenient and easy to understand, optimal collection systems can foster active and enthusiastic consumer participation while promoting the view that packaging after use is no longer waste but a valuable resource.

- **Financial Sustainability:** The long-term financial sustainability of any EPR program is necessary to enable strategic investment decisions. For that reason, it is important that all material types bear a fair share of the costs, and that all fees raised stay within the system.

- **Closed Loop Recycling:** Obligated producers should be given fair and legitimate access to recycled materials captured by the collection program (whether curbside or DRS), including via “priority access” or “right of first refusal” for food grade recycled content.

- **Social Inclusiveness:** EPR programs should promote social inclusiveness and fairness, especially in transitional markets with informal sector involvement.

**Social Rights:** The beverage sector supports a Treaty that reduces inequalities, enables a just transition, and protects the environment, while also balancing economic and social considerations.

Mechanisms in the Treaty should complement and support other international efforts to safeguard human health, and the livelihoods, labour and human rights of all people involved in the plastic value chain, with a specific focus on workers in informal and cooperative settings as important stakeholders to achieve a safe and socially-just circular economy.

Our members support the Fair Circularity Principles, which apply the responsibilities outlined in the UN Guiding Principles on Business and Human Rights to the informal waste sector, and encourage these principles to be referenced in the instrument.

3. **Additional considerations**

   Provide any other relevant inputs, proposals or priorities here that have not been discussed at INC-2 (e.g. preamble; institutional arrangements, including governing body, subsidiary bodies, scientific and technical cooperation and coordination, and secretariat; final provisions including dispute settlements; and if appropriate annexes).
Additional priorities

The ICBA believes that the Treaty will enable harmonized global policy to achieve our collective goal of ensuring that our packaging never becomes waste. To achieve this goal, it is critical that all countries have the right combination of access, ability and incentive to implement best practices. To that end, and building on the above sections, ICBA would also like to note additional priority areas for inclusion in the final instrument.

**Harmonized Definitions, Standards & Reporting:** The current lack of common standards is a significant factor currently hindering progress in the global coordination on the plastic pollution challenge. The beverage sector supports an instrument that includes harmonized definitions, standards, metrics, and reporting to drive progress toward a circular economy and ensure that efforts can be appropriately tracked and linked to overarching Treaty goals.

Transparent and accurate reporting, monitoring and independent auditing of systems are necessary to eliminate discrimination, ensure compliance, drive cost efficiency, and provide a level playing field for materials and producers.

Ensuring that the instrument establishes harmonized definition, standards and reporting will not only establish a level playing field, but this level of consistency will also help to create the market conditions for supply chain cooperation and scale both innovation in sustainable packaging design and recycling infrastructure.

**Criteria to Support Circular Design:** The beverage sector is committed to creating a circular economy for our packaging, starting with designing packaging that is recyclable and uses less virgin plastic from non-renewable sources. To that end, the instrument should support policies that incentivize circular packaging innovations, including the use of recycled content and design for recyclability.

As noted above, well-designed EPR collection policies and systems not only minimize plastic leakage into the environment and achieve higher rates of collection, but can spur packaging design innovation that reduces the use of plastic packaging - especially packaging that is hard to recycle and lacks strong end markets in favour of more recyclable and sustainable materials. For example, eco-modulated fees within packaging EPR programs provide producers with a financial incentive to incorporate higher levels of recycled content, improve recyclability and avoid unnecessary packaging.

Our members have not only made company-led commitments, but are also actively participating in and leading global multistakeholder initiatives around circular design, such as Golden Design Rules released by the Consumer Goods Forum. These design rules focus on eliminating unnecessary plastic packaging, by reducing headspace and plastic overwraps, as well as increasing recycling value in various types of plastic, including PET thermoformed packaging, flexible consumer packaging and rigid HDPE and PP. Business-to-business plastic packaging is also
targeted, with the elimination of all unnecessary packaging that doesn’t reach the consumer. The rules also cover the use of clear and accurate on-pack recycling instructions, which will help consumers to ensure that packaging is sorted for the appropriate end-of-life solution.

**Reuse:** As part of the transition to a circular economy and achieving zero plastic waste, the beverage sector supports the role of role re-use, and see reuse as a complementary solution to other packaging sustainability efforts, such as packaging reduction and recycling. Currently, there is a lack of clear policy frameworks to promote reuse options and new delivery models at the economic scale required.

The Ellen MacArthur Foundation has identified four reuse models: refill at home, refill on the go, return from home, and return on the go. It will be important for the Treaty to recognize all of the different reuse models and put forward robust and harmonized reuse definitions, metrics and standards with the aim of establishing the conditions needed to demonstrate sound environmental benefits.

Reuse models should only be introduced after having considered the full life cycle of different packaging solutions to realize the environmental benefits and minimize trade-offs, including water use and greenhouse gas emissions.