INC Submissions
Indigenous Peoples Major Group (IPMG)

Member Statements from INC-2:

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IPMG Evaluation of INC-2

The Indigenous Peoples Major Group (IPMG) actively engaged in the second round of negotiations for this legally binding instrument (INC-2). This statement presents an evaluation of INC-2 and treaty negotiations so far, particularly in relation to the full and free participation of Indigenous Peoples.

The participation rights of Indigenous Peoples in plastics treaty negotiations have been breached in many significant instances. This includes:

- The Secretary of the INC’s rejection of the IPMG’s proposal for an official side event at INC-2. This resulted in the absence of Indigenous Peoples' representation in any of the official side events held during INC-2, further marginalising our voices in the treaty’s negotiations.
- Restrictions on access to the UNESCO building, imposed by the INC Secretariat, hindered the ability of Indigenous Peoples' representatives to participate in the negotiations, particularly during the initial two days. While the restrictions were eventually lifted, they had a negative impact on the right to participate and limited access to the discussions.
- Current provisional rules of procedure, which were extensively debated during the negotiations, do not include any provisions for the participation of Indigenous Peoples. This deviates from the precedent set by other negotiations for Multilateral Environmental Agreements (MEAs), where priority is given to Indigenous Peoples for making statements. This precedent must be urgently restored for the remainder of plastics treaty negotiations.

Despite these barriers, the efforts of the IPMG has resulted in a stronger platform for Indigenous Peoples in the plastics treaty negotiations.

The IPMG comprises representatives from Indigenous Peoples across all regions of the world and has been formed through coordinated and structured work between members. This approach has facilitated meaningful and extensive engagement in the negotiations.
We have successfully established a relationship with the Office of the High Commissioner for Human Rights of the United Nations (OHCHR). This has resulted in their support for facilitating engagement with negotiators. This support has also opened the door for us to seek their endorsement in advocating for the recognition and protection of IP rights.

At least 5 delegations called for the recognition and protection of Indigenous Peoples rights in the global plastics treaty so far: Colombia, Mexico, Aotearoa New Zealand, Uruguay, and Ecuador called out for the inclusion of the IP systems of knowledge in the global plastics treaty. This showcases a successful outreach across regions, gaining acceptance to our proposals and requirements. This should ensure that language associated with IP rights and our systems of knowledge is included in the Zero Draft which will be prepared for INC-3 by the presidency with the assistance of the Secretariat. Still, the majority of countries need to call out and publicly support specific provisions on IP rights and systems of knowledge. Such widespread support is crucial to generate momentum and guarantee the inclusion of these provisions in the final text.

Indigenous Peoples bear a disproportionate burden of the impacts of plastic pollution, with their rights undermined at every stage of the plastic lifecycle. It is essential for us, as recognized right holders, to actively participate in the negotiations of a global plastics treaty to ensure the recognition and protection of our rights and knowledge systems.

Indigenous Peoples, scientists, and knowledge holders are available to Member States for information and advice at all times throughout plastics treaty negotiations, including intersessional periods. The Indigenous Peoples Major Group has formed as a point of contact between Indigenous Peoples and others involved in treaty negotiations. Indigenous scientists and knowledge holders are also active in the Scientists’ Coalition.
Elements not discussed at INC-2

1. Scope

Indigenous Peoples bear a disproportionate burden of the impacts of plastic pollution, with their rights undermined at every stage of the plastic lifecycle. As highlighted in the UNEA 5.4 resolution, the scope of the plastics treaty should cover the whole lifecycle of plastic\(^1\) to enable the protection of collective planetary health and stability and Indigenous Peoples rights. This includes the extraction of raw materials (fossil fuel feedstocks and biobased feedstocks), the manufacturing of precursors, polymers, resins, and products, as well as the consumption, disposal, and persistence of plastic in the environment.

Indigenous Peoples have science, knowledge, innovations, technologies and practices that are key drivers for Nature-based Solutions and importantly contribute to ending plastic pollution. Partnership with Indigenous Peoples and their meaningful engagement and participation in the instrument’s design and implementation is essential to effectively ending plastic pollution. The international legally binding treaty must ensure freedom of information and science and take a human rights-based approach in its provisions and partnership with Indigenous communities in ending plastic pollution.

The IPMG supports:

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\(^1\) As defined in appendix II of UNEP/PP/INC.2/4 (Options Paper) “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.”
- A legally-binding instrument to end plastic pollution across its full life cycle.
- Minimising plastics and chemical production based on principles of human health and rights, healthy and clean environment, safety, sustainability, and essentiality.
- Minimising the human health and ecological harms caused throughout the full life-span of plastics and their chemical additives, including the extraction of raw materials (fossil fuels), manufacturing, distribution, and end-of-use waste management. For, and the production of, virgin plastics, including their base materials (fossil-fuel based polymers) and their chemical additives.
- A precautionary approach that incorporates the simplification (minimal polymer/chemical types) and detoxification of plastics production.
- Recentring the protection of our planet’s collective health and wellbeing in economic and political decision making and international cooperation to end plastic pollution.
- Reducing the need for plastic packaging, single-use models, and carbon-intensive modes of distribution by investing in the relocalisation and circularisation of economies while supporting food sovereignty and reuse/refill systems.
- Reducing the impacts of misleading marketing, and particularly greenwashing, on consumption and resultant pollution levels.
- Transparency around the full impacts of dangerous false solutions such as incineration, waste-to-energy, bioplastics, plastic credits, waste exports/colonialism, chemical recycling, and mechanical recycling, with provisions to prevent these harmful technologies from proliferating.
- National Implementation Plans (NIPs) rather than National Action Plans (NAPs).
- Plastic waste management has to adopt and practise precautionary measures so as not to impact human health, the community, and environment.
- Eliminating fossil fuel subsidies is fundamental to facilitate an economic shift away from dependence on plastics and other fossil fuel-based products and systems. Plastics and fossil fuels more generally are cheap because they are subsidised.
- We strongly support the New Zealand Ministry of Foreign Affairs and Trade’s advocacy for Fossil Fuel Subsidy Reform and all Member States that are looking to or already support this issue (currently: Costa Rica, Denmark, Ethiopia, Finland, Norway, Uruguay, Sweden and Switzerland, as well as NZ).
- Indigenous-led implementation and effectiveness evaluation and research, rather than external evaluation on the continued impacts of plastic pollution and the implementation of the instrument in Indigenous spaces.

### 2. Principles

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.

The Treaty preamble should clearly state how the instrument aligns with and implements the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the Convention on Biological Diversity (CBD), and other relevant international, regional, and local agreements that uphold Indigenous self-determination, sovereignty, and wellbeing.

The IPMG supports the following principles:
3. Additional considerations

Indigenous science and knowledge is based on an extensive lineage of intergenerational experience, experimentation, and evidence-based practice that has helped ensure relative socio-ecological balance in Indigenous societies for millennia. The treaty must therefore recognize Indigenous Peoples and their science and knowledge systems as essential for systemically and holistically ending plastic pollution and other interconnected challenges.
Indigenous communities have unique governance structures and decision-making processes that have been the foundation of their heritage and security over generations, including traditional knowledge systems related to sustainable resource use and waste management. The treaty must have implementation mechanisms that respect and ensure inclusive and culturally appropriate participation of Indigenous people through their traditional structures and processes. The treaty must also mandate legally sound provisions for dispute resolution and remediation in cases of environmental harm in their ecological spaces.

Implementation and compliance committees must be comprised of independent experts, including Indigenous Peoples, and must not include industry. Indigenous Peoples should have leadership roles in the implementation and compliance processes following the instrument’s ratification in their Lands and Ocean spaces.
Potential areas for intersessional work

Contact group 1:

1. *Information on definitions of, e.g. plastics, microplastics, circularity*
   - Definitions should be based on expert group advice, including independent and Indigenous scientists and knowledge holders.

2. *Information on criteria, also considering different applications and sectoral requirements, including:*
   - a. Chemical substances of concern in plastics,
   - b. Problematic and avoidable plastic polymers and products and related applications
   - c. Design e.g. for circularity, reuse

   - Focus on circular design of both products and the systems necessary to manufacture, transport, and waste control at end-of-use.
   - Responsibility for pollution must be with manufacturers and regulated through legally binding product stewardship / extended producer responsibility schemes.

3. *Substitutes and alternatives to plastic polymers and products*
   - Before potential alternatives to plastics are explored, the Zero Waste Hierarchy should be employed to assess which products are safe, sustainable, and essential, and therefore which products should be manufactured using alternative materials.
   - Circular system redesign must accompany product redesign so that accessible repair/refill infrastructure can maximise the use-time of products that are likewise designed for durability.
- Bioplastics and other forms of so-called ‘compostable packaging’ are largely toxic, dangerous and resource-intensive examples of greenwashing and should not be pursued as a potential solution to plastic pollution.
- Caution around the substitution of plastics with alternative materials is necessary. We must:
  - Prevent the development of monoculture systems to support increased demand for alternative materials.
  - Consider the full impacts of the material and end-product across lifetimes and minimise the production of non-essential products before simply manufacturing them with alternative materials.
  - Respect any cultural value(s) that alternative and/or traditional materials/products have for Indigenous Peoples and bear this in mind before scaling up demand for and the production of these materials/products with full respect of their Free Prior and Informed Consent.
  - Protect culturally and ecologically significant species.

4. Potential substances of concern in plastics, problematic and avoidable plastic polymers and products

- Raw materials (fossil fuels) for plastic products come from the areas where Indigenous Peoples, farmers, women, youths and intersectional groups live. These materials are extracted forcefully and without the free prior and informed consent of these communities, to create products that are adversely impacting human health, biodiversity, ecosystem and climate stability. It is important that the treaty text contains provisions that protect the human rights of these communities and protect them from hazardous and toxic plastic products.

5. Potential sources of release of microplastics (applications and sectors).

- The intentional production and sale of microplastics (such as microbeads) must be banned.

Contact Group 2:

1. To consider the potential role, responsibilities and composition of a science and technical body [to support negotiation and/or implementation of the agreement]

- Indigenous scientists and knowledge holders are available to Member States for information and advice at all times, including intersessional periods. The Indigenous Peoples Major Group has formed as a point of contact between Indigenous Peoples and others involved in treaty negotiations. Indigenous scientists and knowledge holders are also active in the Scientists’ Coalition.
- Treaty negotiations must be informed and led by independent science (including Indigenous science), free from industry influence and conflict of interest.
- Non-Indigenous and industry-led science and technologies cause disproportionate harm to Indigenous Peoples throughout the lifespan of plastics. This includes the significant impacts of hydraulic fracking for plastics feedstock (fossil fuels), and unsafe and linear material use, product and system design, and manufacturing practices that result in widespread pollution of plastics and chemicals.
- Rather than designing products for safe circularity, industry-led science has focused on linear waste management technologies with demonstrable human and ecological health impacts, including: landfilling; mechanical, chemical, and advanced recycling; incineration; and waste-to-energy.
- An independent science and technical body may be needed for effective communication of scientific evidence to Member States to make informed decisions in the design and
<table>
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<th>Implementation of the instrument. Indigenous sciences and knowledge systems must be equitably and appropriately represented in any such advisory body, with consideration for the unique socio-political positionality of Indigenous Peoples.</th>
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<td><strong>Independent scientists and Indigenous Peoples’ must be involved in the implementation of the Treaty with designated positions on implementation and evaluation committees.</strong></td>
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2. **To consider potential scope of and guidance for National Action Plans [including optional and/or suggested elements]**

- **Focus should be on developing National Implementation Plans,** rather than National Action Plans.
- While developing National Implementation Plans, the full and meaningful participation of Indigenous Peoples has to be ensured from planning to implementation. Monitoring and evaluation processes must recognize Indigenous Peoples as knowledge and rights-holders, not simply as stakeholders.

3. **To identify current provisions within existing MEAs [and other instruments] on cooperation and coordination that could be considered**

- International human rights instruments (e.g. CBD, Paris Agreement, ILO Convention 169, UNDRIP etc.) have recognized the contributions of Indigenous Peoples in combating environmental crises including pollution. The plastics treaty should also follow this precedent and ensure Indigenous Peoples full and meaningful participation in negotiations and implementation.
- Cooperation and coordination with the Indigenous Peoples and their communities along with farmers, women, youths and intersectional groups is necessary to ensure effective and holistic local-led solutions are resourced and pursued.

4. **To consider how other MEAs provide for monitoring, and suggest best practice**

- **Indigenous Peoples have their own planning, implementation, monitoring and evaluation systems, often known as customary institutions or Indigenous governance systems, which function as community based monitoring and information systems (CBMIS).** There are many best practices and knowledge systems that Indigenous Peoples uphold in their communities (e.g. Barghar system of Tharu from Nepal, Tagal System from Indigenous communities of Sabah, Malaysia). These need to be recognized and respected as strong institutions to contribute to ending plastic pollution.

5. **To consider options to define ‘technology transfer on mutually agreed terms’**

- **Any potential technology proposed to contribute to ending plastic pollution must be evaluated as safe, sustainable, and non-toxic by an independent expert group,** including Indigenous Peoples.
- The knowledge and technology systems of Indigenous Peoples and their communities are importantly contributing to ending plastic pollution. The appropriate and Indigenous-led sharing of this knowledge and technology should be considered in the treaty’s design and implementation.

6. **To further consider how a potential financing mechanism could work [including a new standalone mechanism, a hybrid mechanism, or an existing mechanism]**

- **Partnership with Indigenous Peoples’ needs to be ensured** with their full free prior and informed consent to enable community-led solutions to plastic pollution.
• ‘Polluter pays’ principle implemented to ensure fair and adequate reparations for communities most disproportionately affected by plastics and chemical additives across their life cycles.

7. To identify options to mobilise and align private and innovative finance (including in relation to matters at 24(e) and the proposed Global Plastic Pollution Fee (GPPF)

• Environmental and Indigenous safeguarding needs to be centred and fully protected while identifying options to mobilise and align private and innovative finance. The rights of Indigenous Peoples must be ensured across the process.

8. To map current funding and finance available [to address plastic pollution] and determine the need for financial support for each Member

• While mapping current funding and financial availability and determining the need for financial support for each member, it is also equally important to map the potential other actors and contributors who are already doing significant work on the ground to address plastic pollution, including Indigenous Peoples, waste pickers, high mountain and coastal communities.

• The IPMG supports community-level waste prevention education, training and resources and targeted investment in Indigenous-led waste prevention initiatives and other local-led systems of circularity (reuse, refill, repair) to support the uptake and accessibility of waste prevention practices at the top of the Zero Waste Hierarchy.

9. To identify capacity building and training needs for each Member.

• All actors who engage and contribute to the treaty process need capacity building in the areas of understanding the value and importance of environmental safeguarding, Indigenous Knowledge, Innovations, Technologies and Practices, international human rights instruments, Decade of Ecosystem Restoration, Water Action Decade and so on.

• The treaty must also build the capacity of all actors and stakeholders in complying with international human rights standards, along with monitoring and reporting on the impacts and changes from the actions.

• As part of capacity building, there is also a need to appropriately share the knowledge, systems, and practices of Indigenous Peoples in holistically and effectively ending plastic pollution.