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 mandate in Resolution 5/14 provides the scope of the future instrument: to end plastic pollution, addressing the full life cycle of plastic.

This scope is now reflected in the proposed objectives for the instrument discussed by members.¹ Each articulation of the proposed objective² includes protecting human health and the environment from the adverse effects of plastic pollution.

Explanatory Text:

A dedicated scope provision is not mandated by Resolution 5.14, nor is this required for efficacy. Instead, operative provisions of the instrument should reflect core obligations, control measures and voluntary approaches, implementation measures and means of implementation that work to achieve its stated objective. We urge Members to prioritise discussion of these measures at INC3.

¹ UNEP/PP/INC.2/4 Options paper; Co-facilitators report on discussions in Contact Group 1.
² In UNEP/PP/INC.2/4 Options paper.
To effectively end plastic pollution and address its adverse impacts to the environment and human health, based on a comprehensive approach that addresses the full life cycle of plastic, it is important that the instrument is informed by a comprehensive understanding of plastics and plastic pollution.

A comprehensive understanding of plastics should include: synthetic polymers (both bio-based and fossil fuel), chemicals\(^3\) intermediate and final plastic products, and primary micro-plastics, as well as breakdown products (including secondary micro-plastics).

A comprehensive understanding of plastic pollution should consider all emissions and pollutants arising in connection with the production, use, management and leakage of plastics throughout the life cycle, including those associated with the extraction of raw materials. The OECD definition of “plastic pollution” is a useful reference point: “Broadly, all emissions and risks resulting from plastics production, use, waste management and leakage.”\(^4\) Articulations of the emissions and risks resulting at each stage of the life cycle have been developed elsewhere (for example, UNEP/PP/INC.1-7 Plastics science and the Global Governance of Plastic and Associated Chemicals\(^5\) (BRS report)). See also Appendix A of Minderoo’s part b submission for examples of the impacts to human health and the environment at the different life cycle stages, which follows the life cycle stages articulated in the BRS report.\(^6\)

Definitions of some relevant terms – for example “plastic pollution” – could be included in the instrument to clarify scope.

2. Principles

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

**Proposed principles:**

Resolution 5/14 mandates that the instrument take into account, among other things, the principles of the Rio Declaration on Environment and Development. The Rio Declaration sets out a broad set of principles, some of which are particularly relevant to the plastics context. These are highlighted below.

For their special importance in guiding negotiations and implementation of the future plastics instrument, we also highlight:

- the importance of being informed by the best available data, science and knowledge; and

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\(^3\) Additives, processing aids, unreacted monomers and oligomers, byproducts, impurities, all other chemicals incorporated into plastics in the production, material or use phases, as well as degradation products of these chemicals and of the polymer itself.


\(^6\) These life cycle stages are set out in section 1.5.3 of the BRS report.
having particular regard to the protection of the most vulnerable, including those most exposed to the harms associated with plastics.\textsuperscript{7}

**Explanatory Text:**

The application of the Rio Declaration principles in the plastics context should be guided by the recognition of interdependence that is integral to the Rio Declaration, including the interdependence of human and planetary health. We highlight the following principles:

- entitlement to a healthy and productive life in harmony with nature (Principle 1)\textsuperscript{8}
- intergenerational equity (Principle 3)
- special priority for the special situation and needs of developing countries, particularly the least developed and the most environmentally vulnerable (Principle 6)
- common but differentiated responsibilities (CBDR) (Principle 7)
- elimination of unsustainable patterns of production and consumption (Principle 8)
- no transfer of harm (Principle 14), which has evolved in other conventions to not only consider no-transfer of harm from a geographic/national perspective but also to consider no-transfer of harm to other kinds of pollution or impact\textsuperscript{9}
- the precautionary principle or approach (Principle 15)
- the polluter pays principle (Principle 16)

We stress that the role of these principles during the negotiations phase is to guide the development of appropriate control measures that will operationalise them in the plastics context. To this end, we particularly emphasise a subset of the principles for their connection with areas of potential intersessional work and the discussion of control measures during INC3: see Annexure 1.

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).*

On scientific and technical cooperation and coordination, and a dedicated science and technical subsidiary body supporting implementation, please see Minderoo Foundation’s part b submission.

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\textsuperscript{7} [Framework Principles on Human Rights and the Environment 2018, principle 14.]

\textsuperscript{8} In intervening years, complementary developments include the recognition of the human right to a clean, healthy and sustainable environment and the incorporation of just transition in the outcome of the Rio+20 Earth Summit.

\textsuperscript{9} As in the Intergovernmental Conference on Marine Biodiversity of Areas Beyond National Jurisdiction (BBNJ) and the London Convention.
## Annexure 1: Operationalising the principles

<table>
<thead>
<tr>
<th>Principle</th>
<th>Application in the plastics context</th>
<th>Options paper for elements</th>
<th>Potential areas for intersessional work in which the principle is particularly relevant</th>
</tr>
</thead>
<tbody>
<tr>
<td>Precautionary principle (15)</td>
<td>Particularly relevant to ensure that gaps in knowledge do not delay effective and precautionary action on chemicals and polymers of concern, and microplastics. Intrinsically relevant to ensuring an objective of protecting human health and the environment from the adverse impacts of plastic pollution is achieved.</td>
<td>CO 3 – banning, phasing out and/or reducing the production, consumption and use of chemicals and polymers of concern. <em>(see Appendix A of Minderoo Foundation’s part b submission for comments on the specific issues that the application of plastics raises in terms of the hazards, exposure and risk of chemicals that warrant a precautionary approach)</em></td>
<td>Information on criteria, including: ➢ Chemical substances of concern in plastics ➢ Problematic and avoidable plastic polymers ➢ Design eg for circularity, reuse ➢ Substitutes and alternatives In order to identify, also possibly at a later stage: ➢ Potential substances of concern in plastics, problematic and avoidable plastic polymers and products ➢ Potential sources of release of microplastics Transition period until some products or substances are to be banned or reduced.</td>
</tr>
</tbody>
</table>

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10 Numerical references in this column are to the Rio Declaration Principle number, unless otherwise indicated.
12 EIA submission to INC3 (8 August 2023).
13 See further Minderoo Foundation part b submission, Annexure A, Table 1.
<table>
<thead>
<tr>
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<tr>
<td><strong>Polluter pays principle (16)</strong></td>
<td>Can guide development of fiscal mechanisms and extended producer responsibility schemes which internalise the environmental and human health costs associated with plastics, and contribute to financing implementation <em>(see also)</em></td>
<td>CO 1 – phasing out and/or reducing the supply of, demand for, and use of primary plastic polymers, especially options for economic tools (10(c)) which internalise the cost of waste management and pollution (e.g. levies, taxes and EPR mechanisms) CO 5 - strengthening waste management, especially 14(d), options for promoting EPR and enabling a market for recycling</td>
<td>Market-based measures <em>(proposed study to be carried out by the Secretariat)</em></td>
</tr>
</tbody>
</table>

CO 8 – promoting the use of sustainable alternatives, with particular caution to not further the use of plastic alternatives which may have similar characteristics to plastics (e.g. persistence) or which may impact recycling streams

CO12 – protecting human health from the adverse effects of plastic pollution, as well as measures which are health protective and integrated within all core obligations and control measures

Effective transparency obligations, exchange of information, especially mandatory reporting, and other national reporting will contribute to addressing existing data gaps and enable prioritization of research, including assessment of potential solutions and alternatives

Continuing research (including the options in paragraphs 36 -38 of the options paper) will assist with continuing to close knowledge gaps

Criteria for assessing alternatives *(proposed Secretariat study)*

Further considering how a potential financing mechanism could work [including a new standalone mechanism, a hybrid mechanism, or an existing mechanism]

Identifying options to mobilise and align private and innovative finance

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14 Including reporting in the domains identified in Minderoo Foundation’s part b submission (p2-3).
<table>
<thead>
<tr>
<th>Principle 10</th>
<th>Application in the plastics context</th>
<th>Options paper for elements</th>
<th>Potential areas for intersessional work in which the principle is particularly relevant</th>
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</thead>
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<tr>
<td><strong>Minderoo Foundation’s part b submission</strong></td>
<td>CO 7 - encouraging reduce, reuse and repair of plastic products and packaging, especially the possible measures under 16(v): fees, tariffs and EPR schemes to encourage reduction and reuse Means of implementation: Financial assistance, especially 24(d), (e)(i), (ii), (v), (vii)</td>
<td></td>
<td>CG1</td>
</tr>
<tr>
<td><strong>Elimination of unsustainable patterns of production &amp; consumption (8)</strong></td>
<td>In the plastics context, application of this principle should be guided by primary prevention (upstream measures) and the waste hierarchy</td>
<td>CO 1 – phasing out and/or reducing the supply of, demand for, and use of primary plastic polymers CO 2 – banning, phasing out or reducing the use of problematic and avoidable plastic products CO 6 – fostering design for circularity, informed by the waste hierarchy and the precautionary principle CO 7 – encouraging reduce, re-use and repair of plastic products and packaging, informed by the waste hierarchy CO 8 – promoting the use of safe, sustainable alternatives and substitutes, including by using economic instruments to incentivize reduction of plastic use and the adoption of sustainable alternatives (17(iv)) Means of implementation: capacity building and technical assistance Additional matters: • awareness-raising and education, • exchange of information, and • stakeholder engagement,</td>
<td>Information on criteria, including: ➢ Problematic and avoidable plastic polymers ➢ Design eg for circularity, reuse Definitions, including problematic and avoidable plastics List of problematic plastics, sectors, uses and functionalities for which no substitutes exist Development of targets for the reduction, reuse and repair for plastic products Guidelines on EPR (by experts group)</td>
</tr>
</tbody>
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15 See also EIA and GAIA submissions to INC3.
| Principle<sup>10</sup> | Application in the plastics context | Options paper for elements  
*Core obligations, means of implementation and implementation measures for which the principle is particularly relevant* | Potential areas for intersessional work  
*in which the principle is particularly relevant* |
|----------------------|-----------------------------------|---------------------------------------------------------------|-------------------------------------------------------------|
| **Protection of the most vulnerable**  
(Principle 14 of the Framework Principles on Human Rights and the Environment) | Plastics’ harms disproportionately damage vulnerable populations – including low-income groups, people of colour, Indigenous populations, children, fossil fuel extraction workers, plastic production workers, informal waste and recovery workers, and persons living in communities adjacent to | CO 3 – banning, phasing out and/or reducing the production, consumption and use of chemicals and polymers of concern, acknowledging the specific exposure risks for vulnerable groups such as unborn and young children, women and formal and informal workers in the plastics value chain  
CO 5 – strengthening waste management  
CO 11 – facilitating a just transition, including for formal and informal workers in the plastic value chain  
CO12 – protecting human health from the adverse effects of plastic pollution, as well as measures which | Information on criteria, including chemical substances of concern in plastics  
Identification of potential substances of concern in plastics, problematic and avoidable plastic polymers and products | Ensuring effective mechanisms for science traditional, knowledge, knowledge of Indigenous Peoples and local knowledge systems, to inform negotiations and implementation |
<table>
<thead>
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<tr>
<td>Principle 10</td>
<td>Fossil fuel extraction, plastic production and plastic waste facilities. The right to a healthy and productive environment must also be protected for current and future generations, including young and unborn children who are disproportionately affected by plastic pollution.</td>
<td>Core obligations, means of implementation and implementation measures for which the principle is particularly relevant</td>
<td>CG1</td>
</tr>
<tr>
<td>Best available data, science and knowledge</td>
<td>Resolution 5/14 requires that the INC consider the best available science, traditional knowledge, knowledge of indigenous people and local knowledge systems in its deliberations on the future instrument. Best available data, science and knowledge will be integral to ensuring the effectiveness of the instrument and its ongoing responsiveness to</td>
<td>Relevant to the development of all core obligations, control measures and targets as well as means of implementation and implementation measures.</td>
<td>All</td>
</tr>
</tbody>
</table>

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17 Ibid.
<table>
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<td>No transfer of harm (14)</td>
<td>When addressing plastic pollution, ensuring that there is no spillover in the form negative impacts on climate and biodiversity, or spillover to other forms of pollution. Import/export limits and non-party trade provisions could contribute to operationalising the principles of no transfer of harm from a national perspective.</td>
<td><strong>Core obligations, means of implementation and implementation measures for which the principle is particularly relevant</strong>&lt;br&gt;<strong>CO1</strong> - phasing out and/or reducing the supply of, demand for, and use of primary plastic polymers, including import/export limits and non-party trade provisions (10(b))&lt;br&gt;<strong>CO 2</strong> - banning, phasing out and/or reducing the use of problematic and avoidable plastic products, including import/export limits and non-party trade provisions (11(e))&lt;br&gt;<strong>CO 3</strong> - banning, phasing out and/or reducing the production, consumption and use of chemicals and polymers of concern, including import/export requirements and non-party trade provisions (12(a))&lt;br&gt;<strong>CO 5</strong> – strengthening waste management&lt;br&gt;<strong>CO 8</strong> – promoting the use of safe, sustainable alternatives and substitutes, including having regard to the emissions and pollution impacts of alternative products and systems</td>
<td>To consider the potential role, responsibilities and composition of a science and technical body. This could include considering ways that the science-policy interface can be strengthened, including by means of coordination and knowledge sharing with science and technical bodies of other MEAs, the Science Policy Panel to be established pursuant to Resolution 5/8, the IPCC and IPBES.&lt;br&gt;To identify current provisions within existing MEAs [and other instruments] on cooperation and coordination that could be considered&lt;br&gt;To consider how other MEAs provide for monitoring, and suggest best practice.</td>
</tr>
</tbody>
</table>