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<th>Name of country (for Members of the committee)</th>
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<td>Name of organization (for observers to the committee)</td>
<td>Out for Sustainability</td>
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| Date | August 14, 2023 |

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:**

Out for Sustainability (Out4S) strongly encourages the Members of the International Negotiation Committee (INC) to carefully consider and address, through a Human Rights-based approach,¹ the various suggestions presented by Member States and Observers regarding the scope of the International Legally Binding Agreement (ILB) on plastic pollution. This agreement should acknowledge the differentiated impacts of plastic pollution on people in all their diversities, including Lesbian, Gay, Bisexual, Transsexual, and Intersex (LGBTI) people, while certifying the right to equal political participation in initiatives aimed at ending plastic pollution that derive form the agreement.

Based on this, as presented on figure 1, our organization commends the scope ILB on plastic pollution shall include, among other elements, the fulfillment of the Bill of Human Rights, particularly on matters related to ensuring the equal participation in political and public affairs; the promotion of the Human Right to a clean, healthy, and sustainable environment; and to prevent any type of discrimination.

Explanatory Text:

While non-discrimination based on sexual orientation, gender identity, or sex characteristics is not explicitly referenced in any international treaty, numerous treaty bodies responsible for interpreting and overseeing such treaties and their execution have identified instances where violations of LGBTI people’s rights have occurred. These bodies have held States accountable for these transgressions and consequently issued recommendations outlining necessary changes to legislation or other measures to safeguard this specific segment of the population. For instance, the Human Rights Council has passed multiple resolutions aimed at safeguarding against violence and discrimination rooted in sexual orientation and gender identity (A/HRC/RES/32/2, A/HRC/RES/27/32, and A/HRC/RES/17/19).

Moreover, even though it remains a subject of limited study, there is enough evidence on the disproportionate impacts of environmental degradation on the LGBTI population. Multiple studies suggest that the discrimination faced by this demographic increases the likelihood of poverty and limited access to health services, including water and sanitation, thereby hindering their right to self-development. Consequently, this population is more susceptible to heightened levels of harm from both air and solid pollution, encompassing factors like contaminated water and microplastics. They are also more likely to reside near environmentally hazardous areas, with these challenges compounded for individuals who share additional traits that amplify their vulnerability, such as being women or belonging to indigenous populations. See additional resources in section 3.

Based on the aforementioned recommendations and background information, OUT4S strongly urges INC members to ensure that the scope of the agreement not only broadens the understanding of plastic pollution's impacts across all segments of the population, including LGBTI individuals, but also actively addresses and mitigates these impacts. The ILB should be solidly anchored in the rights and corresponding obligations enshrined in international law, comprehensively embracing civil, cultural, economic, political, and social rights, particularly emphasizing the right to be free from discrimination.
Furthermore, the scope of the ILB should thoughtfully encompass the disparities underpinning plastic pollution, targeting discriminatory practices and inequitable power dynamics that could hinder developmental progress and risk marginalizing specific groups. This extends to addressing acts of violence and discrimination committed against individuals due to their sexual orientation and gender identity, which could lead to violations of the human right to a clean, healthy, and sustainable environment.

Finally, it must ensure equal political participation of all relevant stakeholders in the processes arising from the ILB and proactively dismantle any barriers impeding citizens, particularly those from marginalized groups, minorities, or vulnerable circumstances, from fully and effectively participating in the agreement’s implementation.

OUT4S firmly believes that this presents a paramount opportunity to establish a robust precedent for future multilateral instruments, fostering an inclusive agreement that intrinsically champions equality and environmental justice.

2. Principles

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

In addition to the Rio Principles, with special emphasis on Principles 10 and 20, we wholeheartedly urge Member States to incorporate the Human Rights Principles of universality, indivisibility, equality, participation, accountability, and, most importantly, non-discrimination.

In light of this, we extend an invitation to Members of the INC to expressly include the principle of non-discrimination, ensuring that every decision encompasses all individuals. Ideally, this inclusion should outline potential factors that might lead to discrimination, encompassing but not limited to geography, poverty, gender identity, sexual orientation, age, indigenous or minority status, national or social origin, birth or other statuses, and disability.

Likewise, we strongly advocate for the explicit integration of the principles of equality, participation, and accountability. This is pivotal to ensure that the ILB establishes appropriate engagement mechanisms that allow all relevant stakeholders to engage in the development, implementation, and revision processes. Furthermore, it is crucial to take into account different segments of the population during the revision phase.

In relation to this, we draw attention to the guide developed by the American States Organization's San Salvador Protocol for Economic, Social, and Cultural Rights Working Group, which approaches indicators for the protocol from an LGBTI perspective. This tool enhances users' understanding of the impact of these indicators on this population and can serve as a valuable future reference.

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2 https://www.oas.org/es/centro_noticias/comunicado_prensa.asp?sCodigo=C-007/20
Moreover, we encourage the signatories of the Yogyakarta Principles\(^3\) to uphold the commitments outlined therein, particularly those related to:

- The Right to Education
- The Right to an Adequate Standard of Living
- The Right to the Highest Attainable Standard of Health
- The Right to Effective Remedies and Redress
- Accountability
- The Right to State Protection
- The Right to Bodily and Mental Integrity
- The Right to Sanitation
- The Right to Truth

We would like to highlight the principles of the right of adequate highest attainable standard of health, state protection, bodily and mental integrity, and sanitation, as these are the principles, we find that best align to the objectives proposed for the ILB, particularly when taking into account the following considerations:

- Everyone has the right to the highest attainable standard of physical and mental health, without discrimination.
- Everyone has the right to State protection from violence, discrimination, and other harm, whether by government officials or by any individual or group.
- Everyone has the right to bodily and mental integrity, autonomy, and self-determination irrespective of sexual orientation, gender identity, gender expression or sex characteristics, and therefore should not be exposed to toxic chemical which impacts in the human body is unknown.
- Everyone has the right to equitable, adequate, safe, and secure sanitation and hygiene, in circumstances that are consistent with human dignity, without discrimination, including being overtly exposed to plastic pollution on water streams.

Similarly, Out4S also urges Member States to elevate the principles of relevant regional declarations, mechanisms, and bodies that have been established and may be applicable to the ongoing discussion. Notable examples include Recommendation CM/Rec (2010)5 of the Council of Europe and Resolution 275 of the African Commission on Human and Peoples’ Rights.

Finally, it is critical to maintain the central pledge for the 2030 Agenda “no one will be left behind”. Achieving these goals will only be possible if LGBTI people, like any other population group, are included.

Unlike any other treaty that has come before, the INC possesses a historic opportunity to shape the trajectory of future environmental agreements, setting a formidable precedent and striving for more inclusive and equitable accords. Therefore, Out4S fervently implores Member States to ensure the explicit incorporation of these Principles to safeguard the integrity of all people.

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\(^3\) [https://yogyakartaprininciples.org/](https://yogyakartaprininciples.org/)
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).

We kindly invite Member States to note that we have strived to best aligned our recommendation to previously agreed mandates to facilitate the proposed interlinkages. Likewise, our comments and suggestions intend to consider human rights issues in an objective and non-confrontational manner.

We have highlighted the connection with the LGBTI population as these is the main constituency of our organization; however, we seek, in good will and solidarity, to support and represent other segments of the population who face similar challenges, including racism, racial discrimination, xenophobia, and related intolerance in all their forms. Based on this, we seek to provide a complementary perspective and not intend to be exclusionary in any way.

Out for Sustainability deploring the use of external pressure and coercive measures against States, particularly developing countries, including through the use and threat of use of economic sanctions and/or the application of conditionality to official development assistance, with the aim of influencing the relevant domestic debates and decision-making processes at the national level.

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