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 scope for the future instrument is clearly defined in UNEA resolution 5/14 and should follow the adopted language. We wish to emphasize that resolution 5/14 *unambiguously dictates that all forms of plastics along its entire lifecycle, including precursors, polymers, additives, materials and products, and its accompanying pollution, must be covered by the future instrument.*
Explanatory Text:

UNEA Resolution 5/14 was adopted by members on March 2, 2022 and clearly defines the scope of the new legally binding instrument (ILBI). The scope of the ILBI defined by UNEA 5/14 was reaffirmed by members and observers in the proceedings of INC1 and INC2, and no further modification of the scope is recommended. The adverse social, environmental and climate impacts of plastic throughout its whole lifecycle, from extraction to consumption, recycling and disposal, transcend national boundaries. In particular, production and disposal pathways are disproportionately impacting the global south, and low income communities in the global north. “Plastic Pollution”, as defined by UNEA 5/14 should be universally understood as all pollution associated with plastics throughout its lifecycle, including greenhouse gas emissions and other hazardous chemicals generated in the extraction and production phases, similar environmental contaminants produced by recycling and disposal processes, as well as plastics, microplastics, nanoplastics, and plastic derived chemicals that leak to the environment and food systems throughout its intended use and disposal. The transfer of plastic products and plastic waste among nations require a global mechanism of governance to meet the objectives of Resolution 5/14, therefore adherence to the language of the resolution is recommended without further revision or consideration.

2. Principles

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

Proposed principles:

We acknowledge and support the principles of international human rights and environmental law as defined by the 1992 Rio Declaration and those included in the Options for Elements Paper (UNEP/PP/INC.2/4). Considering these principles, we emphasize the importance of requiring Member States to establish control measures that directly uplift them rather than spend significant negotiating time to address them in the preamble of the future instrument. In particular, we highlight the following principles as particularly relevant for a just, equitable ILBI:

- Framework Principles on Human Rights and the Environment
- Intergenerational and intragenerational equity
• Principle of Prevention and the Zero Waste Hierarchy

• Transparency, public participation, access to information and remedies (Rio Principle 10)

• Precautionary principle/approach (Rio Principle 15)

• Polluter Pays (Rio Principle 16).

• Convention on Biological Diversity

Explanatory Text:

• The Framework Principles on Human Rights and the Environment are particularly important in the establishment and operation of an effective ILBI. Although each of the 16 principles are highly relevant, we emphasize:

- The rights to life and the highest attainable standard of physical and mental health

- The right to a safe, clean, healthy and sustainable environment and the prohibition on discrimination regarding the right to a safe, clean, healthy and sustainable environment (environmental justice)

- The rights to freedom of expression, association and peaceful assembly, including as they pertain to environmental defenders as per the Declaration on Human Rights Defenders

- The rights to education, information, participation and effective remedies

- The rights of Indigenous Peoples and Traditional Communities as per the United Nations Declaration on the Rights of Indigenous Peoples and the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169), as well as other human rights and conservation agreements, set out obligations of States in relation to the rights of indigenous peoples.

- A just transition for formal and informal workers and communities including Indigenous Peoples in the lifecycle of plastics, to safeguard their human rights and livelihoods as economies shift to sustainable systems to combat plastic pollution. A just transition ensures those most affected by plastic pollution do not bear the costs of transition and participate equitably in emerging economic opportunities.

Plastics, and the environmental pollution caused over their whole lifespan, undermine this principle. Evidenced by the continuous air, soil and water pollution resulting from plastic
exacerbating low-income environmental mechanisms found recycling and prevention all to management extraction their lifespan, plastics. Since plastics cause irreparable harm to the environment and human health at every stage of their lifespan, preventing pollution means ramping down current rates of production. From extraction and manufacturing to recycling processes and end of life disposal, improved management of plastic waste can only play a small role in solving the plastic crisis. To adhere to this principle, a ILBI needs to require strict production limits on new plastics, and phase out all non-essential and short lived plastic products. The zero waste hierarchy applies the prevention principle to materials including plastics across their lifecycle prioritizing “reduce and reuse” as key elements to promote a truly circular economy and to phase out non-essential plastics. Recognizing that plastics can't be recycled but only downcycled, recycling is the last alternative and can’t be considered as a real solution.

- **Transparency, public participation, access to information and remedies**: To successfully implement an effective ILBI, open access to data, information and remedies is needed so that a fully informed public can hold Members and the plastics industries accountable and participate in the processes.
Transparency to all data related to the production, consumption, disposal, recycling, and chemical ingredients in plastic products is essential to fully inform the public on the real and potential hazards of plastic and plastic pollution. Transparency and access to information also supports the Framework Principles on Human Rights and the Environment.

- **Precautionary principle/approach:** Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation: The current understanding of the prevalence of plastics and plastic derived chemicals in the environment and tissues of living organisms, including humans, is based on a relatively new foundation of scientific research into the issue.

Alarmingly, plastics have been found to be prevalent throughout the world, including environments considered pristine, such as the deep ocean, arctic, and remote mountaintops. Although the contribution of harmful pollution from plastic production and some plastic derived chemicals on negative health outcomes are well recognized and documented, the long term and cumulative impacts of plastic pollution, in its various forms, require substantial future research. Moreover, the long term impacts of plastic pollution on the structure and function of Earth’s ecosystems are currently unknown. A precautionary approach is necessary to guide the development and implementation of the ILBI to avoid potentially catastrophic environmental and public health consequences in the future.

- **Polluter Pays:** The multitude of social and environmental costs generated by plastic pollution are currently externalized by the plastics industry and downstream consumer goods companies who rely on short lived plastics to deliver their products.

The social and environmental costs of plastic pollution are estimated to be between **USD 300-600 billion per year**, with some estimates exceeding 1.5 trillion per year. Yet these costs are externalized by the plastics and consumer goods industries that are the cause of plastic pollution. These industries must be held accountable to pay for these costs, and the burden of plastic waste management must shift from jurisdictions to producers, largely through extended producer responsibility policies and regulations. Furthermore, the financial investment needed to shift to a plastic free, truly circular economy (the plastic economy is inherently linear) should be provided in large part by the polluters, and they should not benefit financially by solving the problem they created.
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).

Proposed inputs:

Subsidiary body dedicated to Social and Environmental Justice issues associated with plastic pollution in all its forms.

Explanatory Text:

Plastic pollution, in all its forms, disproportionately impacts low income communities, communities of color, indigenous communities, and communities in the global south that have become the final destination of plastic waste generated in the global north. Traditional zero waste and plastic-free systems in remote communities are being displaced by plastics as global consumer brands expand their markets in developing nations, perpetuating colonization practices and inequities. To address these issues, we encourage the formation of a subsidiary body dedicated to Social and Environmental Justice, to provide robust science information as well as nature based solutions guided by the Indigenous People Major Group to accurately assess the impacts of plastics and the plastic economy on these marginalized communities and identify local solutions. We find this to be a major gap in the language of UNEP/PP/INC.2/4. Whereas the intended scope of the ILBI is to cover pollution associated with plastics at each stage of their lifespan, focus is almost entirely on pollution generated by end-of-life disposal and leakage. The impacts of plastic production and recycling on local communities must be considered in addition to the downstream elements of plastic pollution. A subsidiary body dedicated to Environmental Justice issues related to plastic pollution would support a just, equitable ILBI and support transparency and access to public education, engagement and identification of local, community-based solutions.