Part A: Elements not discussed at INC-2

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<th>Name of country (for Members of the committee)</th>
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<td>15 September 2023</td>
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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:**
An article on scope is not necessary.

**Explanatory Text:**
UNEA resolution 5/14 gives the clear mandate to negotiate a legally binding instrument that has a broad scope covering the whole lifecycle of all plastics – starting at feedstock sourcing, covering the production of virgin plastics and products, their use, disposal, recovery and recycling, including the reintroduction of recycled materials into the lifecycle. Therefore, the addition of an article on scope in the treaty is unnecessary.
2. Principles

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

**Proposed principles:**

Resolution 5/14 states that the future instrument should take “into account, among other things, the principles of the Rio Declaration on Environment and Development, as well as national circumstances and capabilities…”, which means that all principles in the Rio Declaration are already agreed to reinforce the plastics treaty. There are many principles in other international agreements that should be considered when developing the provisions of the plastics treaty. As most MEAs do not have an article specifically for principles, the question of whether this instrument requires such an article could be left until later in the negotiation, and considered in conjunction with the Preambular text. In any case, consideration should be given to identifying the principles that MUST be listed (either here or in the Preamble).

The identified principles below could provide guidance for countries and the Conference of the Parties (COP) when evaluating actions to implement the instrument and to adapt it over time. Please note that there is no hierarchical order between these principles below.

1. **Polluter pays Principle:** the costs of measures to prevent, combat and reduce plastic pollution shall be borne by the polluter, as e.g. reflected in the Stockholm Convention (para. 17 of the Preamble) and in national legislation of the Swiss Federal Act on the Protection of the Environment (Art. 2).

2. **Refuse, Reduce, Reuse, Renew, Recycle (“the 5 Rs of waste management”) and waste hierarchy:** ban the movement of plastics into the environment, following the “5Rs - Refuse, Reduce, Reuse, Renew, Recycle” principle, which calls for an increase in the ratio of recyclable materials, greater reuse of raw materials and manufacturing waste, as well as an overall reduction in the resources and energy used, but above all to refuse the use of plastics that are not absolutely necessary, and to extend the lifetime of sustainable products. (This principle is stated in terms of “recovery, recycling, reclamation, reuse” in the 2019 Minamata Convention (Arts. 2 and 3) and in national legislations, e.g. the Swiss Federal Act on the Protection of the Environment (Art. 30). In this context, it is appropriate to add “refuse”, as found in the G20 Report on Actions against Marine Plastic Litter). The 5 Rs are linked to the waste hierarchy where waste has to be treated according to the following priorities: prevent waste, reduce the generation of waste (for instance by promoting reuse), recycle, thermal treatment, disposal (landfill). Preventing waste is always the most favoured option, while landfilling waste is always the least favoured option.

3. **Extended Producer Responsibility (EPR):** this principle is necessary to reinforce the responsibilities of the manufacturers of plastic products at the various stages of the lifecycle of plastics, including take-back, recycling and disposal. The costs of the negative environmental externalities of the products shall be transferred to the producers. Deposit-refund systems and the interplay with additional mandatory extended producer responsibility policies could be an effective instrument for waste management.

4. **Principle of Prevention:** this principle should be applied by all parties during the manufacture and distribution of plastic products, by considering the risks associated with all aspects of the full lifecycle of plastics. (In accordance with the 1992 Convention on Biological Diversity (para. 8 of the Preamble); the 1992 Helsinki Convention (para. 3 of the Preamble, Arts. 2 and 3); the 1997 Convention on the Law of the Non-navigational Uses of International Watercourses (Art. 21) and the Swiss Federal Act on the Protection of the Environment (Art. 1 and 30)).
5. **Precautionary Principle:** in pursuance of the precautionary principle or approach, in the event of a risk of serious or irreversible damage linked to plastics, the lack of scientific certainty shall not be alleged as a reason for postponing the adoption of effective remedial measures. (as provided for in: the 2023 Agreement on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (Art. 5-d); the Convention on Biological Diversity (para. 9 of the Preamble); the 2001 Stockholm Convention (Art. 1); the 1989 Basel Convention (Arts. 2, 4, 6); and the 1997 MARPOL Convention (Protocol - Annex VI)).

6. **Public participation and access to information:** Member States shall guarantee environmental democracy, understood to include the principles of access to information, public participation and access to justice in addressing environmental issues, to ensure that all persons, including NGOs, are informed and able to participate in decision-making processes relating to plastic pollution. (In accordance with the 1998 Aarhus Convention (Arts. 1, 4, 6, 9) and the 2018 Escazú Agreement (Arts. 4 to 8)). This includes a process that ensures an accessible, inclusive, transparent, responsive, and accountable public participation.

7. **Rectification at source:** Each Member State’s national policy on plastic pollution control shall aim for a high level of protection, based on the principle of preventive action and rectification at source as priority, to avoid damage to biodiversity and the services it provides or, failing that, to minimize the impacts of plastic pollution, as well as to compensate for harm that could not be avoided or reduced. (This principle is e.g. set out in the Swiss Federal Act on the Protection of the Environment (Art. 1, Art. 32c, 34-35), the Treaty on the Functioning of the European Union (Art. 191-2) and in the French environmental code (Art. L.110-1, II. 2°).)

8. **Principle of Non-regression:** States Parties shall take measures to prohibit setbacks and reversals in the fight against plastic pollution as in the field of the environment (as reflected in: the Paris Agreement (Art. 4-3); the Aarhus Convention (Art. 3); the Convention on Biological Diversity (para. 22 of the Preamble); the Lisbon Treaty on the European Union (Art. 3); and the Escazú Agreement (Art. 3-c)).

Explanatory Text:
For this submission, “plastics” means a substance, mixture or a product, consisting of or containing polymers and other chemicals which are not polymers (additives); “polymer” means a substance produced from one or more types of monomers.