POTENTIAL AREAS FOR INTERSESSIONAL WORK

WWF’s submission to the third session of the Intergovernmental Negotiating Committee on plastic pollution

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PRIORITY AREAS FOR INTERSESSIONAL WORK

As the Intergovernmental Negotiating Committee on plastic pollution (INC) prepares for its third session—with little more than a year left before the INC is set to conclude its work—intersessional work to advance the treaty’s draft in between sessions will be key to meeting the ambitious negotiation timeline.

For the immediate work in 2023, WWF urges States to focus on specifying the details of control measures to eliminate and regulate high-risk plastics through binding, common global rules. Discussions in Contact Group 1 at INC-2 showed that there is an urgent need to specify the criteria for identifying and listing the most high-risk plastic categories, and match these with the most appropriate global policy measures (such as global bans or phase-outs, global requirements to ensure a non-toxic circular economy and standards for environmentally sound waste management). Secondly, the discussions in Contact Group 2 showed that details on control measures are essential to identify the needs and mechanisms for financial and technical assistance and technology transfer, as well as the appropriate setup for action and/or implementation plans at the national level, and monitoring and reporting at all levels.

On control measures, WWF provides in the following sections a risk based criteria framework for assessing and listing plastic categories under control measures for elimination, reduction, safe circulation, and management of high-risk plastics. While this submission’s focus is on plastic products, it is recommended that similar approaches be taken for assessing plastic chemicals and polymers. In such an assessment, the criteria must prioritize measures to eliminate and reduce high-risk plastic categories, before considering the measures to facilitate and promote safe circular economy and waste management:

MEASURES FOR ELIMINATION AND SIGNIFICANT REDUCTION

- Global bans: prohibition of the production, use, import and export of specific plastic categories.
- Phased reductions: mandatory reduction within a given timeframe (“phase-outs”, i.e. 100% reduction by a set date; “phase-downs”, i.e. a set level of reduction by a set date).
- Economic instruments: fiscal incentives and disincentives to aid the elimination and phased reductions of high-risk plastics.
- Mandatory requirements and standards: on how products are designed and manufactured (including the materials/chemicals they contain)—products that do not meet the requirements are effectively prohibited or phased out.

MEASURES FOR NON-TOXIC CIRCULAR ECONOMY AND ENVIRONMENTALLY SOUND MANAGEMENT

- Mandatory targets for circulation and management—including on collection, recycling, recycled content, and reuse—that states must achieve on waste and resource management systems, within a given timeframe.
- Minimum requirements and standards for products and systems, to create a common and harmonised regulatory framework that enables non-toxic circular economy and environmentally sound management globally, as well as further reduction in plastic use, for products and materials that are not prohibited.
- Economic instruments to promote or discourage certain behaviours of economic actors, to improve non-toxic circular economy and environmentally sound waste management.
- Obligation to set up mandatory Extended Producer Responsibility and Deposit Refund Scheme regulations for certain product groups (e.g. packaging, electrical and electronic equipment) or specific products (e.g. PET bottles).

The detailed description, together with the lists of plastic categories and other technical details relevant to these measures, can be found in the reports “Breaking down high-risk plastic products” and “Regulating high-risk plastic products” (see Figure 1 on how these substantive elements could inform the different groups of provisions in the treaty’s content).

Regarding the potential intersessional work as discussed in Contact Group 2, the immediate first step prior to INC-3 is to explore in all possible forums, both formally and informally, the advantages and drawbacks of different funding mechanisms (including both public and private finance, and the mix of innovative financing options), technical assistance and technological transfer mechanisms, compliance, and non-compliance mechanisms.

Lastly, WWF strongly recommends that at INC-3, the Committee decides to formally organize technical expert working groups, with clear mandates and expected outputs. Formal intersessional work at the technical level is necessary to ensure the needed progress for finalizing the treaty in 2024 and to ensure that the measures agreed to in the final treaty text are based on best available technical knowledge and science.
The treaty's objective to end plastic pollution, and protect human health and the environment from its adverse effects

Elimination and Reduction
- Ban
- Phase-outs & phasedowns
- Other requirements & Economic instruments

Non-toxic circular economy
- Targets
- Products & systems requirements
- Economic instruments

Environmentally sound waste management
- EPR & DRS
- Banned & restricted practices
- Remediation & clean-up

Core obligations and control measures options across the plastic life cycle

Specifying applicable scope & technical details

Matching high-risk categories with suitable measures, setting specific timetable and technical details of requirements

ANNEX A.1
- Lists of categories/items that are banned
- Timetables, technical details

ANNEX A.2
- Lists of categories/items that are phased out/down
- Timetables, technical details

ANNEX A.3
- Lists of applicable categories/items
- Timetables, technical details

ANNEX B.1
- Categories subjected to reuse requirements
- Targets, timetable, technical details

ANNEX B.2
- Categories subjected to collection & recycling requirements
- Targets, timetable, technical details

ANNEX B.3
- Categories subjected to disposal requirements
- Targets, timetable, technical details

ANNEX B.4
- Categories subjected to microplastic controls & harm reduction
- Targets, timetable, technical details

ANNEX B.5
- Categories subjected to mandatory EPR & DRS
- Targets, timetable, technical details

ANNEX B.6
- List of waste management practice subjected to restrictions
- Targets, timetable, technical details

ANNEX B.7
- Prioritization of applicable remediation activities
- Targets, timetable, technical details

Implementation measures

National Action/ Implementation Plan
- Complementary action/implementation plan at the national level, to implement binding obligations and deploy additional policies beyond global requirements

Definitions
- Globally agreed technical definitions

Monitoring & Reporting
- Common methodologies to report environmental and socioeconomic metrics

Implementation support
- Including governance, scientific, and financial capabilities

Figure 2. Substantive elements of the treaty, including core obligations and control measures, accompanied annexes, and supported by implementation measures
CRITERIA AND LIST OF PLASTIC CATEGORIES

WWF recommends a risk-based, product-group approach, taking into consideration the different applications, sectoral and functional requirements, to prioritize plastic products that the treaty must tackle with urgency. The feasibility of control measures to address these product groups forms the second part of the criteria framework, through which the products are classified for suitable controls.

The reports ‘Breaking down high-risk plastic products’ and ‘Regulating high-risk plastic products’ explain and present this framework in detail. Key parts of the framework and the lists of plastic product groups are summarized below.

WWF recommends similar approaches be applied to plastic categories other than products. A risk-based, categories-grouping approach could be similarly designed for the assessment of plastic chemicals and polymers of concern. The outcomes of these assessments will assist in the elaboration of positive and negative lists of plastic applications, products, chemicals, and polymers subjected to the treaty’s control measures (i.e. allowed and not-allowed plastic categories, under global requirements on prohibition, phased reductions, circular economy, and waste management).

Applications and sectors: A product-group approach

In this approach, plastic products are grouped together based on their properties, uses, pathways to the environment, considering their specific sectors (e.g. intended for direct placement in the environment) and characteristics (e.g. designed to be short-lived and disposable, releasing significant microplastics during use). Four main groups are identified (details in ‘Breaking down high-risk plastic products’):

- **Packaging** refers to products — made wholly of plastic materials or of plastic materials in combination with other materials — that are used to contain, protect, handle, deliver and present goods at any point in the value chain.

- **Sector-specific products** are those for which the intended sector is a key determinant of whether a significant proportion of products will be used and/or disposed of directly in or close to sensitive ecosystems, including aquatic, marine and terrestrial environments.

- **Characteristic-specific products** include those that do not belong to specific sectors but share characteristics that increase their pollution risks (such as single-use, non-packaging items, or products with longer use-span that release secondary microplastics during use).

- **Primary microplastics** are plastic particles up to 5mm in size and manufactured for use in plastic products (sometimes referred to as preproduction plastics), or to be added to plastic or non-plastic products (e.g., microbeads in cosmetics, industrial abrasives, and paints, etc.). These are distinguishable from secondary microplastics, which arise from the fragmentation of larger plastic items over time.

These larger groups are then split into subgroups to reflect additional distinctions (e.g., packaging in contact-sensitive applications, like food and beverages or pharmaceuticals, have different characteristics and usage patterns from packaging in non-contact sensitive applications).

Further additional subgroupings are needed in some cases (e.g., food and beverage packaging is split into single-use and multi-use subgroups; while single-use products are split into the unnecessary, like disposable takeaway plastic cutleries, and the necessary, like contact lenses).

The final list of 17 product groups is provided in Table 1. Even with some subgroup splitting, the groups are deliberately kept broad. The aim is to capture the wide-ranging product applications and uses, while lowering the risk that specific or novel applications escape the regulatory framework and allowing for easier monitoring and enforcement.
Pollution risks

Product groups are each assessed against criteria of pollution risks, to prioritize those that the treaty must immediately tackle with binding control measures. Current data enables clear conclusions related to the most polluting plastic product categories. It shows, with a high level of confidence, that certain product groups and indeed specific products are key contributors to plastic pollution, and that some of these pose particular risks when they end up in the natural environment. In this approach, risk is calculated along two dimensions (probability and harm), while several risk factors are considered for each of the dimension (see Figure 2):

- **Probability of the plastic ending up in the environment**, considering:
  - Volume of production or in circulation
  - Tendency to enter the environment (e.g. how and where products are used)
  - Potential for transboundary movement of pollutants

- **Impacts on the environment and human health when this occurs**, considering:
  - Prevalence of pollutants
  - Physical properties
  - Specific harms and hazards (e.g. specific chemical properties or product design)

**Figure 2.** Risk assessment dimensions to determine the urgency of action for specific product groups

The report ‘Breaking down high-risk plastic products’ assessed 17 product groups and designated 14 as high-risk and to be urgently addressed by the treaty (summarised in Table 1).

Feasibility of control measures

In the second part of the criteria framework, the prioritized high-risk product groups are assessed against criteria of feasibility for control measures:

- Technical feasibility (e.g., the availability and viability of alternative materials or processes, existence, and scalability of technologies to collect, recycle and reuse waste)

- Socioeconomic feasibility (e.g., the affordability and acceptability of changes, including differential impacts for specific countries or demographic groups)

- Likelihood of unintended consequences (e.g., the risks that substitution/reduction/management may have other high-risk or worse environmental outcomes).
Based on the results of assessment against these feasibility criteria, the plastic product groups can be classified into Class I and Class II (see Figure 3):

- **Class I**: including product groups for which production, consumption and trade could be either eliminated or significantly reduced without major negative consequences. These products are suitable for measures under **Elimination and Reduction** as described in Figure 1.

- **Class II**: including product groups for which production, consumption and trade could not be directly and significantly reduced without major negative consequences at the time of assessment. These products are suitable for measures under ‘**Non-toxic circular economy**’ and ‘**Environmentally sound waste management**’ as described in Figure 1.

Across both Class I and Class II, the treaty should prioritize elimination, then reduction, then safe circulation, and finally safe management. This is discussed further in the report ‘Regulating high-risk plastic products’.

### Listing product categories to different control measures

8 out of 17 plastic product groups are assessed as suitable for those control measures towards elimination and significant reduction, and placed in Class I. For the analysis at hand, significant reduction, or elimination within the first decade of the treaty’s life (i.e., by or before around 2035) has been selected as the benchmark.

11 out of 17 plastic product groups are assessed as suitable for those control measures towards non-toxic circular economy and environmentally sound waste management, and placed in Class II. Some product groups in this analysis are placed in both Class I and Class II. While these products must be phased out and phased down, their pollution risks must in the meantime be reduced through global requirements for circular economy and waste management.

Table 2 and Table 3 further detail the product groups’ matches with suitable control measures for Class I and Class II. The results summarized in Tables 1, 2 and 3, however show only the starting priorities and control measures for a draft treaty by the end of 2024.

With this framework and analysis, there is scope for flexibility and gradual strengthening of the treaty in the future. This could be done by moving entire product groups, or specific products, from Class II to Class I, or by increasing the level of reduction and shortening reduction timelines (phase-out schedules) for products in Class I. Over time, as the treaty is being implemented and the state of knowledge and technology advances, more products may be put into the ‘Elimination and Reduction’ list. Negotiators may also wish to further divide some product groups to enable additional targeting of specific products.

Lastly, during intersessional periods, states should initiate and coordinate work on statistical analysis and modelling of the production, consumption and trade of plastic products, polymers, chemicals, and waste, to inform the setting of targets and timeline for elimination and phase-out measures, as well as targets and timeline for reuse, recycling, recycled content, collection, and disposal of specific plastic product groups.
<table>
<thead>
<tr>
<th>Product Grouping</th>
<th>Sub-group 1</th>
<th>Sub-group 2</th>
<th>Sub-group 3</th>
<th>Example products</th>
<th>ELIMINATE/REDUCE</th>
<th>CIRCULATE/MANAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Packaging</td>
<td>Contact sensitive</td>
<td>Food and Beverage</td>
<td>1a. Single-use food &amp; beverage</td>
<td>Necessary Beverage bottles, takeaway containers, crisp packets, sachets and pouches, nets and wraps for fruit and vegetables, very lightweight plastic carrier bags used as primary packaging for loose food items, EPS fish boxes, etc.</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>1b. Multi-use food &amp; beverage</td>
<td>Other Reusable beverage bottles, containers, and cups</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Cosmetics &amp; personal care</td>
<td>1c. Cosmetics &amp; personal Care</td>
<td>Necessary Toothpaste tubes, perfume spray bottles, shampoo and soap bottles, pots and tubs of creams, lotions and scrubs, beauty products like lipstick and mascara tubes</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>1d. Pharmaceuticals &amp; medical</td>
<td>Medication bottles, blister packs for pills, protective casings and inserts for medical devices, IV bags, test tubes</td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>1e. Other contact sensitive</td>
<td>Packaging for animal feed, veterinary devices, children’s toys, hazardous products</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>1f. non-contact sensitive</td>
<td>Packaging for products not listed above – household goods, stationery, electronics, plastic carrier bags, etc., including secondary or shipping/transport packaging where relevant</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>2. Characteristic-specific products</td>
<td>Single-use Short-lived</td>
<td>Fibre/ non-woven</td>
<td>2a. Necessary</td>
<td>Some absorbent hygiene products (AHPS) such as nappies, sanitary pads, incontinence pads or tampons), PPE, or filters in engineering systems</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>2b. Other</td>
<td>Wet wipes, cigarette butts, disposable vacuum filters or plastic tea bags</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Other</td>
<td>2c. Necessary</td>
<td>Contact lenses, bin bags, plastic PPE</td>
<td>✓</td>
<td>❌</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>2d. Other</td>
<td>Balloons, plastic cutlery/plates/cups, ear bud sticks, disposable e-cigarettes, etc.</td>
<td>✓</td>
<td></td>
</tr>
</tbody>
</table>
### Product Grouping

<table>
<thead>
<tr>
<th>Sub-group 1</th>
<th>Sub-group 2</th>
<th>Sub-group 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Longer life items</td>
<td>2e. Cause significant secondary microplastic release</td>
<td></td>
</tr>
<tr>
<td>2f. Other</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### 3. Sector-specific products

<table>
<thead>
<tr>
<th>Sub-group 1</th>
<th>Sub-group 2</th>
<th>Sub-group 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Marine, aquatic, and terrestrial</td>
<td>3a. Marine/aquatic – fishing &amp; aquaculture</td>
<td></td>
</tr>
<tr>
<td>3b. Terrestrial – agriculture</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3c. Other</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### 4. Primary microplastics

<table>
<thead>
<tr>
<th>Sub-group 1</th>
<th>Sub-group 2</th>
<th>Sub-group 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>4a. In application</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4b. Pre-production</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Example products

<table>
<thead>
<tr>
<th>Product</th>
<th>ELIMINATE/REDUCE</th>
<th>CIRCULATE/MANAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tyres, synthetic textiles, paint</td>
<td>✔️</td>
<td>✔️</td>
</tr>
<tr>
<td>Furniture, white goods, durable toys</td>
<td></td>
<td>Currently lower pollution risk, lower priority for global actions</td>
</tr>
<tr>
<td>Nets, lines, pots and trawls, plastic mesh, PVC piping, fishing aggregated devices (FADs)</td>
<td></td>
<td>✔️</td>
</tr>
<tr>
<td>Mulch film, plastic silage wrap, greenhouse tunnels</td>
<td></td>
<td>✔️</td>
</tr>
<tr>
<td>Electrical/ electronic equipment, construction materials, automotive components, household products</td>
<td></td>
<td>Currently lower pollution risk, lower priority for global actions</td>
</tr>
<tr>
<td>Microbeads in personal care products such as toothpastes, skin care and scrubs, antifouling application on ship hulls, microplastics used in industrial applications such as printer inks, paints, spray paints, injection mouldings and abrasives, microplastic coatings surrounding fertiliser granules, etc.</td>
<td></td>
<td>✔️</td>
</tr>
<tr>
<td>Plastic resin pellets, flakes, or powders</td>
<td></td>
<td>✔️</td>
</tr>
</tbody>
</table>
Table 2. High-risk product groups and suitable measures towards elimination and significant reduction

<table>
<thead>
<tr>
<th>Product Groups</th>
<th>Bans</th>
<th>Phase-outs &amp; phasedowns</th>
<th>Requirements &amp; standards</th>
<th>Economic Instruments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Packaging: Contact sensitive - Single-use Food &amp; Beverage (necessary/other)</td>
<td>☑</td>
<td>☑</td>
<td>☑</td>
<td>☑</td>
</tr>
<tr>
<td>Packaging: Contact sensitive - Cosmetics &amp; Personal care (necessary/other)</td>
<td>☑</td>
<td>☑</td>
<td>☑</td>
<td>☑</td>
</tr>
<tr>
<td>Packaging: Non-contact sensitive</td>
<td>☑</td>
<td>☑</td>
<td>☑</td>
<td>☑</td>
</tr>
<tr>
<td>Characteristic-specific products: Single-use short lived - Fibre/non-woven – Other (non-necessary)</td>
<td>☑</td>
<td>☑</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Characteristic-specific products: Other single-use short-lived items – Necessary</td>
<td>☑</td>
<td>☑</td>
<td>☑</td>
<td></td>
</tr>
<tr>
<td>Characteristic-specific products: Other single-use short-lived items – Other (non-necessary)</td>
<td>☑</td>
<td>☑</td>
<td>☑</td>
<td></td>
</tr>
<tr>
<td>Characteristic-specific products: Longer life – Cause significant secondary microplastic release</td>
<td>☑</td>
<td>☑</td>
<td>☑</td>
<td></td>
</tr>
<tr>
<td>Primary microplastics: In application or intentionally added microplastics</td>
<td>☑</td>
<td>☑</td>
<td>☑</td>
<td></td>
</tr>
</tbody>
</table>

For control measures towards non-toxic circular economy and environmentally sound waste management, as listed in Table 3 below, measures that are currently less proven but nonetheless likely to be effective in reducing plastic pollution, are marked as ‘possible’. This indicates that while the measure has potential, establishing best practice in relation to a particular product group or specific product may be challenging at present.

The measures with widest applicability for Class II plastics are standards and minimum requirements for design, reuse, recycling, collection, and disposal, which apply to all 11 product groups. A definite benefit of agreeing to these standards and requirements internationally is that it ensures consistency of actions, reduces operation and compliance costs for companies, and minimises potential value chain frictions in a global circular economy (e.g., products imported from elsewhere meet a country’s standards for reusability and/or recyclability). The product groups for which the greatest number of measures apply are packaging products, where most measures are assessed as necessary.

In this aspect, WWF recommends states prioritise intersessional work on: 1) global requirements for design and production of plastic products and packaging to meet circularity criteria in material composition, reuse, recycling, recycled content and microplastic release; 2) environmentally sound waste management best practices and global requirements to increase collection and recycling rates, and to gradually eliminate harmful practices; and 3) Extended Producer Responsibility (EPR) and Deposit Return schemes (DRS) best practices and potential global requirements for the setup and implementation of mandatory EPR and DRS.
Table 3. High-risk product groups and suitable measures towards non-toxic circular economy and environmentally sound waste management

<table>
<thead>
<tr>
<th>Product groups</th>
<th>Targets</th>
<th>Economic Measures</th>
<th>Circularity standards/ minimum requirements</th>
<th>Harm reduction standards</th>
<th>EPR</th>
<th>DRS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Reuse</td>
<td>Recycling</td>
<td>Recycled content</td>
<td>Collection</td>
</tr>
<tr>
<td>Packaging: Contact sensitive - Single-use Food &amp; Beverage (necessary/other)</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
</tr>
<tr>
<td>Packaging: Contact sensitive - Cosmetics &amp; Personal Care (necessary/other)</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
</tr>
<tr>
<td>Packaging: Contact sensitive - Pharmaceutical</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
</tr>
<tr>
<td>Packaging: Contact sensitive - Other</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
</tr>
<tr>
<td>Packaging: Non-contact sensitive</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
</tr>
<tr>
<td>Characteristic-specific products: Single-use short lived – Fibre/non-woven - Necessary</td>
<td>Possible</td>
<td>Possible</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
</tr>
<tr>
<td>Characteristic-specific products: Single-use short lived – Other non-packaging - Necessary</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
</tr>
<tr>
<td>Characteristic-specific products: Longer life items of concern – causing significant secondary microplastic release</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
</tr>
<tr>
<td>Sector-specific products: Environmentally sensitive - Marine/aquatic</td>
<td>✔️</td>
<td>Possible</td>
<td>Possible</td>
<td>✔️</td>
<td>Possible</td>
<td>✔️</td>
</tr>
<tr>
<td>Sector-specific products: Environmentally sensitive - terrestrial</td>
<td>✔️</td>
<td>Possible</td>
<td>Possible</td>
<td>✔️</td>
<td>Possible</td>
<td>✔️</td>
</tr>
<tr>
<td>Primary microplastics: Preproduction</td>
<td>Possible</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
<td>Possible</td>
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MEANS OF IMPLEMENTATION

While the identification of necessary and suitable control measures to address the prioritized high-risk plastics as outlined above will help advance the discussions on means of implementation, states should in the meantime explore and consider the potential innovative financing solutions for the implementation of potential treaty obligations.

Details of control measures will provide key insights to the discussions of the areas where countries may need assistance, the amounts, sources, and types of necessary support—either financial or technical or both—and the extent to which assistance would allow the fulfilment of core obligations within given timeframes. To respond to the ambitious timeline and to prevent the means of implementation discussion becoming a bottleneck for a successful conclusion of the INC, states should—in parallel to the debate on control measures’ details—facilitate and enter constructive, solution-oriented, and evidence-based exchanges, making use of both formal and informal forums, on potential innovative solutions and best practices for the design of the financial architecture for the treaty.

WWF encourages states to identify and analyze the linkages between each of the specific control measures and the potential financial and technical assistance and technology transfer that is required. For example, the feasibility analysis of eliminating certain plastic product groups could inform a parallel discussion on the need for financial and technical investments in scaling up reuse materials, products, and models. Requirements for mandatory EPR for packaging, on the other hand, could be an example indicating key areas for necessary technical guidelines, as well as the potential of addressing financial needs through polluter-pays and private financing models, covering the cost of upgrading collection, recycling, and waste management systems.

For the immediate intersessional work (before INC-3), states should make progress in mutual understanding and establishing constructive dialogue on means of implementation, such as on the advantages and drawbacks of different solutions for the funding mechanism (including a new fund, a hybrid model, or existing instruments, as well as the potential of both public and private finance), technical assistance and technological transfer mechanisms, and innovative solutions such as plastic fees, taxes and levies. Discussions should be inspired and informed by best practices and lessons learned in the setup and implementation of other MEAs.

In addition to financial assistance, transfers of technical know-how and technologies to countries in need would be necessary. Article 10, Article 10A of the Montreal Protocol could be used as inspirations for texts in the new treaty on plastic pollution.

IMPLEMENTATION MEASURES

Scientific and technical cooperation and coordination

The establishment of a scientific and/or technical body is amongst the fundamental underpinnings of the treaty’s long-term effectiveness. Legitimate decision making—often challenged by political interests and forces—could be strengthened through clear and comprehensive scientific evidence. Some aspects of plastic pollution, including, for example, long-term effects of plastic on human health, solution-oriented knowledge, and innovations, would require further and continuous research.

The treaty should establish mechanisms and responsible bodies to facilitate robust and salient research to expand our knowledge of the status and impacts of plastic pollution, and innovations relevant to the strengthening and implementation of the treaty’s control measures. It is however important to note that while new research is needed, there is sufficient scientific evidence to act now.¹

National action plans (NAPs) and/or National Implementation Plans (NIPs)

National-level plans — in the form of NAPs or NIPs — provide the space for countries to align national targets and action roadmaps with the objectives and binding obligation put in place by the new treaty. Beyond reflecting how national actions will be shaped to deliver on common, binding obligations, countries will also need to deploy a set of additional policies to complement the treaty and tackle the context-dependent aspects of the problem. These are

¹ UNEP/PP/INC.1/7, Plastic Science
areas where national (and local) discretion and flexibility would be important. While common obligations are critical to unlocking a step-change and setting the right foundations, countries should be encouraged to develop complementary policy measures to address context-specific causes and effects of plastic pollution.

For example, as the effectiveness of Extended Producer Responsibility (EPR) schemes may be maximized through context-specific designs, the treaty can oblige countries to establish EPR schemes for a specified list of plastic applications (e.g. packaging) and specify a set of criteria or guidelines for the essential elements of such schemes. The detailed design and mechanisms of those schemes could then be elaborated and implemented by the countries through their national action plans, to implement the common obligation in a way that is most appropriate to their national circumstances.²

**Effectiveness evaluation and national reporting**

Effective monitoring—including standardization of methodologies for data collection, evaluation, and reporting—is a condition for identifying non-compliance as well as areas where the treaty’s measures could be strengthened. It should thus be closely linked to both States’ implementation of control measures, and the expected outcomes of those measures.

The results could then be utilized in improvement of both States’ compliance and design of control measures, providing a fundamental component amongst gradual strengthening mechanisms. For example, regular collection and sharing of plastic waste management data (e.g. share of uncollected waste, mismanaged waste, landfilled waste etc.), could provide strong indications of the effectiveness of measures being implemented by States.³

In combination with monitoring, specific reporting obligations, requirements, standards, and deadlines should be established. This is important both to avoid confusion and to facilitate verification and assessment of progress. Clear guidelines for reporting should include standard definitions, harmonized units of measurement, timelines and reporting, review, and ratchet cycles. Reporting could relate to three dimensions:

1. Reporting on status (including, for example, relevant indicators of plastic waste generation, collection, management, and mismanagement).

2. Reporting on progress of fulfilling core obligations, e.g. legislative, regulatory, and administrative measures taken at the national level to enforce the provisions of the treaty; the implementation bans and phase-outs; the rate of plastic recycling and level of recycled content in production of new products; plastic waste collection and safe disposal rates.

3. Reporting on other supporting provisions, including capacity-building, technical assistance, technology transfer on mutually agreed terms and financial assistance, etc.

**Compliance**

To identify Parties’ difficulties in compliance, and to improve compliance in a facilitative manner, clear procedures and mechanisms must be established. The plastic pollution treaty could potentially follow the common practice of establishing an Implementation Committee, or Compliance Committee, that has a mandate to make recommendations, while the final output is a decision by a Conference of Parties. Transparency through self-reporting and monitoring, as discussed above, is an important element in any compliance mechanism.

Such mechanisms should be designed to first assist Parties for better compliance: guidelines including invitation to cooperation between a non-complying Party and the secretariat to find a solution will be crucial and should be the default in case of non-compliance.

In case of continuous non-compliance, however, there should be clear and credible consequences. Importantly, punitive measures to respond to non-compliance should be severe enough that States would want to proactively avoid them, but not so severe that the threat is not credible. Potential options could be gleaned from precedents set by existing MEAs, including CITES, Montreal Protocol, and the Kyoto Protocol.⁴

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² This has been done, for example, in Directive 2018/852 of The European Parliament And Of The Council of 30 May 2018, on packaging and packaging waste (Article 7(2), p. 149-150).

³ Plastic collected-for-recycling rates in countries could inform better design of control measures using circular approaches, and local difficulties found in implementing common obligations could inform necessary implementation assistance.

Scope of the instrument

WWF is of the view that, for the purpose of advancing the negotiations, the overall scope of the treaty has been adequately outlined in the negotiation mandate (Resolution 5/14): “long-term elimination of plastic pollution”, to “avoid detriment from plastic pollution to ecosystems and the human activities dependent on them” and also “prevent plastic pollution and its related risks to human health and adverse effects on human well-being and the environment”, through “a comprehensive approach that addresses the full life cycle of plastic”. WWF strongly urges all states to adhere to this agreed scope in the given negotiation mandate.

Accordingly, all forms and sources of plastic pollution should be within the scope of the new treaty. Additionally, co-benefits of control measures for other issues should be considered, including for climate change, biodiversity, the promotion of a circular economy, and the human right to a clean, healthy, and sustainable environment. These could be embedded in preambular paragraphs of the treaty. Details arising from discussions of specific core obligations and control measures—for example, the range of substances and products for which such measures are applicable—will implicitly reflect the scope of the treaty and negate the need for generic discussions of scope.

Principles to be set out in the instrument

UNEA Resolution 5/14 decides that the INC, in its work to develop a new treaty on plastic pollution, considers ‘among other things, the principles of the Rio Declaration on Environment and Development’. WWF encourages States to situate such considerations—of not only the principles of the Rio Declaration but also other agreed norms of international law and other existing agreements and principles—within the discussions and negotiations of the treaty’s provisions.

WWF urges states to make good use of the additional time allocated at INC-3 for the discussion on principles, to develop a common understanding on which of and how the principles may guide the development and design of the treaty and its operationalization. This debate should not spill over to the substantive discussions at INC3, costing valuable negotiation time.

The 27 principles in the Rio Declaration form a useful starting point for the discussion. Principle 7⁵ and Principle 16⁶ are amongst the better-known, yet some of the others are also highly relevant in the making of the new treaty on plastic pollution, and worth considering. For example:

- how the treaty’s control measures would ensure all human beings’ entitlement to a healthy and productive life in harmony with nature (Principle 1);
- how the treaty’s substantive obligations would ascertain that states do not cause damage to the environment of other states or areas beyond the limits of national jurisdiction in the face of the transboundary impacts of plastic pollution (Principle 2); or
- how the treaty’s overall design would make environmental protection an integral part of the development process, rather than considering it in isolation from development (Principle 4).

Beyond the Rio principles, agreed norms of international law and other existing agreements and principles of relevance should also be considered when developing the treaty’s core provisions.⁷ The United Nations General Assembly Resolution A/RES/76/300 on the human right to a clean, healthy and sustainable is highly relevant to all existing and newly developed multilateral environmental agreements. Principle 13 of the ‘General principles for assessment and control of marine pollution’ adopted by the Stockholm Conference (1972)⁸ and Article 195 of UNCLOS are significant when designing control measures to tackle plastic pollution, so as to not create solutions that transfer plastic pollution into another type of pollution:

⁵ ‘[...] In view of the different contributions to global environmental degradation, States have common but differentiated responsibilities’, often referred to as the ‘Common but Differentiated Responsibilities’, or CBDR, principle.
⁶ ‘[...] the polluter should, in principle, bear the cost of pollution’, often referred to as the polluter-pays principle.
⁷ Some are also mentioned in preambular paragraphs of Resolution 5/14, such as the United Nations Convention on the Law of the Sea (UNCLOS)
Principle 13 of the ‘General principles for assessment and control of marine pollution’
Action to prevent and control marine pollution (particularly direct prohibitions and specific release limits) must guard against the effect of simply transferring damage or hazard from one part of the environment to another.

Article 195 Duty not to transfer damage or hazards or transform one type of pollution into another (UNCLOS)
In taking measures to prevent, reduce and control pollution of the marine environment, States shall act so as not to transfer, directly or indirectly, damage or hazards from one area to another or transform one type of pollution into another.

Institutional arrangements
The treaty could broadly follow established practice when it comes to institutional arrangements. A Conference of the Parties (or equivalent) would be set up to evaluate implementation and serve as the governing body of the legal instrument. On one critical point, however, the treaty must avoid repeating the same mistake as previous MEAs have made, namely, to require the COP to adopt its rules of procedure by consensus.

For every MEA since 1992—from UNFCCC to Minamata, the effect of this requirement has been that the COPs are left without an agreed set of rule(s) for decision-making. For the UNFCCC, as one example, the rule on decision-making has been bracketed since 1996. The treaty text for the new treaty on plastic pollution must state clearly that the COP is to use the rules of procedure of the INC when adopting its own rules of procedure.

Final provisions

Reservations
In accordance with established practice, no reservation should be allowed. Most MEAs do not allow reservations, to promote internal consistency and coherence of implementation.

Amendments
To enable further development and gradual strengthening of the treaty and its integrated components (such as annexes or protocols), the treaty must include clear procedures on adoption of amendments, detailing how amendments could be proposed, reviewed, and approved. The treaty could establish procedures for States parties to propose amendments, a competent body—an authorized expert panel or committee—to review and recommend amendments, and the Conference of the Parties to decide on the proposed amendments. A three-fourths majority—as provided for in the Minamata, Rotterdam, Stockholm, Basel, UNFCCC, and the Vienna Convention on the Protection of the Ozone Layer—could be used as a threshold for adoption of amendments.

Entry into force
In addition to currently proposed texts in the Final Provisions, supplementary criteria relating to the estimated total volume of plastic consumption of States should be established for the instrument’s entry into force (similar to Montreal Protocol). This design should rely on the most recent data of production, consumption and trade of the controlled substances and their applications (i.e. plastic polymers and products), to determine a realistic entry-into-force threshold that can act as a tipping point.

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