

Written submission prior to INC-3 (part a)

Elements not discussed at INC-2

Name of organisation (for observers to the committee)	Business Coalition for a Global Plastics Treaty https://www.businessforplasticstreaty.org/ Convened by the Ellen MacArthur Foundation and WWF, in collaboration with aligned businesses and financial institutions, and supported by NGO partners
Contact person and contact information for the submission	Carsten Wachholz, Co-Lead Coalition Secretariat c/o Ellen MacArthur Foundation carsten.wachholz@businessforplasticstreaty.org
Date	10th of August 2023

1. Scope

What is the proposed scope for the future instrument?

Which types of substances, materials, products and behaviours should be covered by the future instrument?

Proposed scope and priorities:

Negotiators should underpin the overall objective of the treaty by defining the global outcomes that it aims to achieve. In line with the [Vision Statement of the Business Coalition for a Global Plastics Treaty](#), we suggest three main areas where progress is urgently needed:

- **REDUCTION of plastic production and use through a circular economy approach**, with a focus on eliminating plastics that have high-leakage rates, addressing short-lived products, and decoupling from fossil-based virgin resources.
- **CIRCULATION of all plastic items that cannot be eliminated**, keeping them in the economy at their highest value.
- **PREVENTION and REMEDIATION of remaining, hard-to-abate plastic leakage** into the environment, including robust waste management practices and tackling legacy pollution.

To be successful the instrument must adopt a broad scope, **covering both macro- and microplastics, and addressing all major sources and pathways of plastic pollution into the natural environment.**

The core provisions in the treaty need to **address, as a priority, plastic applications that are at high risk of leaking into the environment, including products and packaging that become waste very quickly.** Additional sector-specific programmes of work could be defined in the treaty but developed at a later stage via the governing and potential subsidiary bodies.

Prioritising action on the key sources of plastic pollution is an important prerequisite. It will enable **the treaty to deliver reduction of plastic pollution in the near term through specific, globally binding rules and obligations for governments, and implemented through harmonised policies and regulations.** For businesses it is paramount that the treaty prevents a patchwork of disconnected national solutions, while creating security of investment and a level playing field..

Explanatory Text:

For a discussion on scope ahead of INC3, delegations should be able to build on [UNEP/PP/INC.2/4](#): Potential options for elements towards an international legally binding instrument, based on a comprehensive approach that addresses the full life cycle of plastics as called for by United Nations Environment Assembly resolution 5/14.

While the list of options in Appendix I - Introductory elements (pages 26-28) is not exhaustive, the Business Coalition supports in particular the inclusion of the following elements related to the scope of the treaty:

C. Scope

4.(a) The legally binding instrument is expected to cover the whole life cycle of plastics, from extraction to their production and design to their use, consumption and disposal, and address all sources of plastic pollution, covering materials, products, chemicals, additives and microplastics, recognizing the risk of plastic pollution to human health.

4.(c) The instrument is a legally binding instrument that allows evolution and strengthening over time.

2. Principles

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

Proposed key principles for the design and implementation of effective policy measures:

- **Adopt a comprehensive lifecycle approach with legally-binding global rules and measures to drive change from plastic production to re-circulation or final disposal, respecting the**

hierarchy of waste management options¹, to help design solutions to end plastic pollution at source and assess their environmental, health, social, and economic impacts.

- **Complement and support global efforts to combat the climate and biodiversity crisis** by limiting the production and use of virgin plastics, with a focus on those produced from fossil fuels,, and by taking a precautionary approach towards minimising other environmental risks linked to plastic pollution.
- **Complement and support other existing international efforts to ensure the human right to a clean, healthy, and sustainable environment**, and to safeguard human health, and the livelihoods, labour, and human rights of all people involved in the plastic value chain. A specific focus is merited for waste workers particularly in informal and cooperative settings as important stakeholders to achieve a safe and just transition to a circular economy.²
- **Apply the ‘polluter pays’ principle** as a commonly accepted practice for allocating the costs of preventing or managing the risks of environmental pollution.³
- **Allow for gradual strengthening of obligations and control measures**, based on a sound mechanism for monitoring progress and evaluating effectiveness, and a decision-making process that allows for regular updating of annexes and the addition of protocols, if necessary.

Explanatory Text:

For a discussion on principles ahead of INC3, delegations should be able to build on [UNEP/PP/INC.2/4](#): Potential options for elements towards an international legally binding instrument, based on a comprehensive approach that addresses the full life cycle of plastics as called for by United Nations Environment Assembly resolution 5/14.

While the list of options in Appendix I - Introductory elements (pages 26-28) is not exhaustive, the Business Coalition supports in particular the inclusion of the following elements related to the principles of the treaty:

D. Principles

5.(e) Polluter pays principle

5.(g) Waste hierarchy

5.(h) Human rights, including the human right to a clean, healthy and sustainable environment

5.(i) Avoidance of adverse consequences to the climate, biodiversity and food security

¹ [UNEP/ ISWA \(2015\): Global Waste Management Outlook](#), page 31

² Building on the UN Guiding Principles on Business and Human Rights and the resolution adopted by the UN General Assembly on 28 July 2022 recognising the right to a clean, healthy, and sustainable environment as a human right

³ The ‘polluter pays’ principle can be translated into the design, implementation and enforcement of different policy instruments: For example, mandatory, fee-based Extended Producer Responsibility (EPR) schemes require all companies who introduce certain products or packaging to the market to pre-fund their eventual collection and after-use treatment. This could be complemented by economic incentives targeting different economic agents, starting with differentiating disposal fees for recyclable and non-recyclable waste, pay-as-you-throw schemes, landfill, or incineration taxes. Most prominently, the ‘polluters pay’ principle has been embedded into greenhouse gas pricing mechanisms to create synergies with achieving net-zero climate targets.

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:

Elements for consideration and reference in the preamble of the treaty

Regarding the preamble, delegations could refer to the non-exhaustive list of options in Appendix I - Introductory elements in the 'INC options paper' (see pages 26-28 in [UNEP/PP/INC.2/4](#)). The Business Coalition supports in particular the inclusion of the following elements:

A. Preamble

- 1.(b) Recognition of the need to leverage and further develop a circular economy for plastics
- 1.(c) Recognition of plastic pollution as a global and transboundary issue that requires a collective and coordinated response
- 1.(h) Recognition of the importance of a just transition
- 1.(n) Recollection of the Guiding Principles on Business and Human Rights

Regarding the preamble, the Business Coalition emphasises, in addition to the points mentioned above, the need to create synergies between international policy frameworks tackling climate change, biodiversity loss, and pollution.

Need for developing technical annexes to the treaty

In its [position paper for INC2](#), the Business Coalition has detailed the need to develop technical annexes to the treaty. The list of potential annexes in chapter F of the 'INC options paper' (see on page 25 in [UNEP/PP/INC.2/4](#)) could provide delegations with a good starting point to structure this important work. The Business Coalition is broadly supportive of developing annexes to provide the necessary technical specifications and tailoring potential control measures in the treaty towards sector or product applications, and to allow governments to implement a start-and-strengthen approach to further detailing and expanding these technical annexes over time in the following areas:

Criteria and lists for determining problematic and avoidable plastic products and packaging as well as of polymers and chemicals of concern

- The criteria must help governments to establish:
 - Chemical substances used in the production process, specific polymers, or plastic additives that pose a significant health or environmental risk over their product lifecycle, including for workers in the informal waste sector
 - Material combinations and product designs that technically or economically hamper the recycling of specific waste streams
 - Plastic applications that are at high risk of ending up in nature and should be prioritised for elimination if circulation does not work in practice and at scale
 - Provisions to avoid unintended environmental, social, or economic consequences
- Governments should start applying these criteria by compiling an initial list of problematic

plastics and additives in the form of technical annexes to the treaty, differentiated by sector and product applications (including packaging) that can be amended, updated, or extended over time, based on the best available scientific evidence and technological developments.⁴

Definitions, metrics, and standards for reuse systems and delivery models

- The treaty should mandate robust and harmonised reuse definitions, metrics, and standards, with the aim of establishing the conditions needed to demonstrate sound environmental benefits via a dedicated technical annex.
- Based on the above, the annex could tailor the policy approach towards different product types and applications, ensuring for example hygiene, safety, and quality management of reuse and refill systems.
- This annex could also provide guidance to governments on how to facilitate a globally coordinated implementation, including by directing reuse investments from the private sector towards setting up and operating shared infrastructure and reverse logistics.

Design criteria and requirements for plastic products and packaging

- Compliance with globally harmonised standards is the key to ensure that plastics are safe to be made, used, reused, and recycled.
- A technical annex to the treaty should establish binding sector-specific design requirements based on harmonised criteria⁵ with a focus on enabling and scaling mechanical recycling of plastic products and packaging.
- For high-impact sectors and plastic applications listed in the Annex, the treaty should mandate the development of technical standards that match the design requirements.
- The treaty should also include provisions for when products within scope of the annex must be redesigned to become compliant with these design requirements to be 'technically recyclable', noting that this alone will not ensure 'recycling in practice and at scale' (see below).

Plastic recycling in practice and at scale

- Under the treaty, all governments must be required to set national targets and standards for the collection, sorting, and recycling⁶ of all plastics. However, governments should adopt a start-and-strengthen approach, focusing first on plastic products that have high-leakage rates and/or are short-lived, such as packaging or apparel, while adding other sectors and plastic applications over time.
- Through a technical annex the treaty should establish common global rules on how to account for the international trade of both plastic products and waste:⁷ (1) when products are shipped to a country where a suitable (mechanical) recycling system does not yet exist at the scale needed, and (2) when plastic waste requires processing in a third country to achieve the national targets mentioned above.

⁴ There is already significant alignment regarding the materials, formats, and components most frequently identified as unnecessary or problematic plastic packaging -- for more details please see for example Appendix A in the [pre-INC-2 submission from the Ellen MacArthur Foundation](#).

⁵ The first step is to ensure that products containing plastics are 'designed for recycling' or 'technically recyclable'. Many guidelines already exist for this, and while they have some differences, they are broadly aligned across the world. Currently, these voluntary guidelines focus mostly on packaging items. A few examples include: [The Consumer Goods Forum Golden Design Rules](#), [The Association of Plastic Recyclers \(APR\) Design Guide](#), China National Resources Recycling Association: 'General guidelines for the evaluation of plastics products', [Indian Plastic Pact Design Guidance](#), [Australian Government: National Plastics Plan](#), and [Plastics Recyclers Europe RecyClass Guidelines](#).

⁶ Recycling must generate [recycled plastics](#) as outputs that can be incorporated into new products, excluding waste-to-energy or plastics-to-fuel technologies and processes.

⁷ In line with other international agreements such as the [Basel Convention Plastic Waste Amendments](#)

- On packaging specifically, all governments must set clear minimum requirements for all packaging put on market to be ‘technically recyclable’ by a certain date and to be ‘recycled in practice and at scale’⁸ by a later date.
- Countries should agree on some flexibility regarding the timelines for achieving their targets, but the annex to the treaty should define a recyclability assessment method, including clear global and regional thresholds when a ‘technically recyclable’ plastic product is to be assessed as being ‘recycled in practice and at scale’, or identified to be phased out if no sufficient recycling infrastructure is ultimately built.

Key principles and minimum requirements for Extended Producer Responsibility (EPR) systems

- All countries would be required to either develop new or align their existing EPR regulations to the requirements outlined in a technical annex to reduce the amount of mismanaged waste, and promote circular economy solutions, starting with priority sectors such as packaging.⁹
- The Annex should ensure a harmonised approach based on key principles and minimum requirements for the implementation of national EPR legislation, acknowledging different starting points & regulatory pathways across countries.
- This annex could define the scope of covered materials, activities, and targets; the roles and responsibilities of different stakeholders (such as Producer Responsibility Organisations who administer EPR systems, waste management service providers, and informal waste workers); as well as reporting, monitoring, and enforcement mechanisms.¹⁰

Measures to reduce microplastic pollution

- A technical annex to the treaty should list globally applicable requirements and standards for the transport, storage, trade, and stockpile management of plastic pellets, flakes, and powders that should be linked to a potential core obligation in the treaty to make them mandatory.
- This annex must also define what constitutes ‘intentionally added microplastics’ to enable and harmonise approaches to phase out their production, use, and trade globally, as well as establish clear functions and additional requirements for applications that may be subject to exemptions.
- The treaty must also establish an annex with harmonised rules for priority product categories such as paints, tyres, and textiles that are known to release the majority of ‘use-phase secondary microplastics’ in order to prevent or reduce the release of these particles into the environment.¹¹

⁸ This ‘in practice and at scale’ approach is already [used by more than 130 large businesses](#) in the Global Commitment to assess the recyclability of their plastic packaging portfolio in a 2025 timeframe. The recyclability of a packaging design is proven ‘in practice and at scale’ only if that packaging achieves a 30% post-consumer recycling rate in multiple regions, collectively representing at least 400 million inhabitants. The [EU proposal for a Packaging and Packaging Waste Regulation \(PPWR\)](#) also acknowledges the need to go beyond just design for recycling. It sets an objective for all packaging to be recyclable ‘at scale’ by 2035, meaning packaging is collected, sorted, and recycled through infrastructure covering at least 75% of the European Union’s population.

⁹ Extended Producer Responsibility (EPR) policies come with a long list of benefits, including, but not limited to, internalising costs, supporting better design of products, higher collection and recycling system efficiency, and increased transparency of material and financial flows. ([Ellen MacArthur Foundation 2021](#))

¹⁰ EPR is a policy tool already widely supported by the industry, with existing guidelines for the establishment of optimal EPR schemes in particular for packaging, including guiding principles for eco-modulation of fees – see for example: American Beverage Association (2020): [Essential Principles for a Successful Circular Collection System](#); Consumer Goods Forum (2020): [Building a circular economy for packaging](#) (2020); Consumer Goods Forum (2022): [Guiding principles for the Ecomodulation of EPR fees for packaging](#)

¹¹ The knowledge of microplastics and their impacts on the environment and on human health, including methodologies for their detection and control, is constantly evolving. Therefore, these annexes to the treaty should be regularly updated to ensure that harmonised global rules reflect best scientific knowledge and practices.