

WRITTEN SUBMISSION FOR INC-3 (Part A)

ELEMENTS NOT DISCUSSED AT INC-2

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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:

For the instrument to be effective the scope of it must:

- Cover the whole lifecycle of plastics, from production through to end of life, and be based on a comprehensive circular economy approach, including obligations and measures that drive elimination and innovation upstream (plastic production) and midstream (product design).**
Circular economy, which goes far beyond recycling, when applied to plastics, includes:
 - ELIMINATION** by reducing total volume of plastic production & consumption, and eliminating problematic and avoidable plastics
 - INNOVATION** by ensuring all plastics are reusable, recyclable, or compostable in practice and at scale
 - CIRCULATION** by keeping all plastics that we do use in circulation for as long as possible, keeping them out of the environment
- Prioritise measures for packaging and other short-lived applications.** As not all plastics applications can be covered at the same time, a start-and-strengthen approach should be adopted. We suggest an initial focus on high-leakage and short-lived plastic applications including packaging. 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.

For the treaty to be effective in reaching its goals and delivering on the scope, it is vital it includes legally binding global rules in the final text. Voluntary efforts are necessary but not enough. Global regulations and measures are the best prospect to effectively drive systems' change and tackle plastic pollution in a globally coordinated way.

Explanatory Text:

The latest scientific analysis shows that **a comprehensive circular economy approach across the whole plastics life cycle is most effective in avoiding plastic pollution, while offering the best economic, employment, and climate outcomes**¹. We can't recycle our way out of the plastics crisis - obligations and measures in the treaty on upstream (plastic production) and midstream (product design) are critical to tackle plastic pollution.

Prioritising action on the key sources of plastic pollution is an important prerequisite for the treaty to enable meaningful progress and deliver reduction of plastic pollution in the near term. Therefore, the core provisions in the treaty need to **address, as a priority, plastic applications with high emissions and those that are at high risk of leaking into the environment.** Plastic packaging sector is the single biggest source of plastic waste creating around 40% of total plastic waste today and projected to almost triple by 2060².

Based on the options outlined in the [Options Paper](#) the Ellen MacArthur Foundation supports 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 overtime.

2. Principles

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

Proposed principles:

To effectively tackle plastic pollution through circular economy we suggest that the following key principles are adopted in the treaty:

- **precautionary approach**, by minimising other environmental risks linked to plastic pollution and ensuring the treaty **complements and supports global efforts to combat the climate and biodiversity crisis**
- **polluter pays principle** to allocate the costs of preventing or managing the risks of environmental pollution
- **"start and strengthen"** to allow for gradual strengthening of obligations and measures, based on available science and taking into account progress of implementation of the instrument
- **transparency through measurement and use of data** to enable a shared understanding of the challenges and global assessment of collective progress

¹ International Resource Panel (2021): Policy Options to Eliminate Additional Marine Plastic Litter by 2050 under the G20 Osaka Blue Ocean Vision

² OECD (2022), Global Plastics Outlook: Policy Scenarios to 2060, OECD Publishing

Based on the options outlined in the [Options Paper](#) the Ellen MacArthur Foundation supports the inclusion of the following elements related to the principles of the treaty:

D. Principles

- 5.(a) Precautionary principle
- 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
- 5.(j) Transparency and reliance on best available science

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:

1. Elements for consideration and reference in the preamble of the treaty

Based on the options outlined in the [Options Paper](#) the Ellen MacArthur Foundation supports the inclusion of the following elements in the preamble:

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

In addition to the points mentioned above, we recommend that the preamble emphasises the need to create synergies between international legal frameworks tackling climate change, biodiversity loss, and pollution.

Explanatory text:

We must act urgently on a global, coordinated scale or the plastic pollution crisis will only get worse. A UN treaty based on legally-binding global rules and comprehensive circular economy measures is a unique opportunity to accelerate systems change and tackle plastic pollution because it has the potential to stimulate, coordinate and align national policies and actions towards a common, strategic direction.

Noting that not all countries have the means to tackle plastic pollution effectively on their territory, it is important to acknowledge that there is a need to establish a more formalised support mechanism to build the capabilities to work towards a circular economy and to provide institutional, scientific, technical, and financial assistance where it is most needed.

2. Elements for consideration regarding potential development of annexes to the instrument

The treaty should include annexes to provide the necessary technical specifications to enable implementation of the obligations and measures of the instrument. The Foundation encourages development of annexes on the following:

- a. Criteria and lists for determining problematic and avoidable plastic products and packaging as well as of polymers and chemicals of concern (starting point exists, please refer to [EMF's Pre-INC2 submission, Appendix A](#))
- b. Definitions, metrics, and standards for reuse systems and delivery models (Detailed recommendations in ["From Single-use to Reuse: a priority for the UN treaty"](#))
- c. Design criteria and requirements for plastic products and packaging to drive design for circularity (distinguishing between design for reduction, design for reuse, and design for recycling) and clear definitions, along with global/regional thresholds, when a plastic product or packaging is to be assessed as being recyclable "in practice" and "at scale" (starting point exists, please refer to [EMF's Pre-INC2 submission, Appendix B](#))
- d. Key principles and minimum requirements for Extended Producer Responsibility (EPR) systems (starting point exists, please refer to [EMF's Pre-INC2 submission, Appendix C](#))
- e. Definitions, metrics and methodologies for robust national reporting (starting point exists, please refer to [CDP, EMF, Minderoo, Pew Charitable Trusts Joint Pre-INC2 submission](#))

Explanatory text:

The Ellen MacArthur Foundation is supportive of developing annexes as outlined in the [Options Paper](#) (page 25). Including annexes in the structure of the instrument would allow governments to implement a start-and-strengthen approach to further detailing and expanding these technical annexes over time.

When developing technical annexes we suggest to **build on and align, where relevant, with progress made through existing voluntary efforts** where clear starting points and stakeholder alignments already exist (links with more detail included above for reference). To accelerate progress, the instrument should strengthen current voluntary and/or fragmented efforts by introducing harmonised regulations across markets.