

TEMPLATE FOR SUBMISSIONS

Name of country (for Members of the committee)	
Name of organization (for observers to the committee)	Reloop Platform
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Additional documentation (27 pages)	<i>International Legally Binding Instrument on Plastic Pollution, including in the Marine Environment: Proposed Draft Clauses</i>

Input on the potential areas of intersessional work to inform the work of INC-3 (following the lists compiled by the co-facilitators of the two contact groups)

We have also included as attached: *International Legally Binding Instrument on Plastic Pollution, including in the Marine Environment: Proposed Draft Clauses.*

Potential areas for intersessional work

The list of potential areas for possible intersessional work compiled by the co-facilitators of the two contact groups at INC-2 is set out below. Members and observers may wish to provide input on one or more of these areas.

Contact group 1:

1. Information on definitions of, e.g., plastics, microplastics, circularity
why 'circularity'?
what products may be subject to bans
2. Information on criteria, also considering different applications and sectoral requirements, including:
 - a. Chemical substances of concern in plastics,
 - b. Problematic and avoidable plastic polymers and products and related applications
 - c. Design e.g., for circularity, reuse
Design for reuse, or recycling, yes. What would 'design for circularity' add?
 - d. Substitutes and alternatives to plastic polymers and products
3. Potential substances of concern in plastics, problematic and avoidable plastic polymers and products

4. Potential sources of release of microplastics (applications and sectors).
EU JRC – also, Eunomia

(Please note: A longer list is included in the co-facilitators report on discussions in contact group 1¹. Submissions may also include input on any of the items in that longer list, such as, amongst others, the development of criteria to prioritise problematic and avoidable plastics; the development of targets for the reduction, reuse and repair of problematic and avoidable plastic products; or the guidelines on EPR)

Contact Group 2:

1. To consider the potential role, responsibilities and composition of a science and technical body [to support negotiation and/or implementation of the agreement]
2. To consider potential scope of and guidance for National Action Plans [including optional and/or suggested elements]
more what would be required to make them meaningful / work
3. To identify current provisions within existing MEAs [and other instruments] on cooperation and coordination that could be considered
4. To consider how other MEAs provide for monitoring, and suggest best practice
5. To consider options to define ‘technology transfer on mutually agreed terms
6. To further consider how a potential financing mechanism could work [including a new standalone mechanism, a hybrid mechanism, or an existing mechanism]
More important is what forms of funds for what purpose – staffing in relevant ministries / regulatory agencies. Legacy.
7. To identify options to mobilise and align private and innovative finance (including in relation to matters at 24(e) and the proposed Global Plastic Pollution Fee (GPPF))

¹ The report can be accessed here: <https://wedocs.unep.org/bitstream/handle/20.500.11822/42621/CG1.pdf>.

INPUTS RELATING TO POTENTIAL AREAS FOR INTER-SESSIONAL WORK: CONTACT GROUP 2

1. Information on definitions of, e.g., plastics, microplastics, circularity

Definitions are key, but only insofar as they relate to matters likely to be included in a Treaty and / or linked Protocols, or they contribute to enabling meaningful discussion and negotiation – by ensuring agreed understanding across participants - in the context of the INC process. The definition of ‘plastics’ is an obvious case of the latter. There are also likely to be different measures pertaining to macro- and micro-plastics also, but these are not the only sub-categories likely to require definition. Sources of micro-plastics might warrant a definition of ‘intentionally added’, and others. The other sources could also be split between, for example, those related to production of polymers, conversion (to products / packaging), and recycling, and other ‘in use phase’ so-called “unintentional” (the release can usually be anticipated) releases.

As regards definitions that might be necessary to give meaning to the Treaty itself, suppose there was a measure seeking to phase out / restrict use of single-use plastic sachets: a definition would then be necessary for both ‘single-use’ and ‘sachets’ (those already in existence vary by the size which they include / exclude). Clarity on what should be included as ‘substances of concern’ would be useful if there is to be consideration of banning / phasing out such substances.

There seems to be a great deal of confusion over the term ‘plastic pollution’. It would aid discussion to define terminology which draws distinction between:

- a) the pollution related to the production / conversion (and hence, consumption) of plastics, other than the emission to the environment of plastic itself (so, e.g., emissions of pollutants related to the process);
- b) the pollution which results from consumption and use of plastics and plastic products (including migration of substances of concern, for example, in the wearing of textile products, or the consumption of microplastics in bottled soft drinks);
- c) the pollution which relates to the emission, into the environment, of plastics and plastic products, whether in the production process, or in a recycling process, or through mismanagement;
- d) the pollution which relates to end-of-life management of plastics (such as emissions from incineration facilities).

It might also be helpful to distinguish between ‘Pollution’ and ‘the effects of pollution’, albeit, of course, these are related. The point here is that the Instrument needs to focus. It would also be useful if the INC process would consider how negotiations around this Instrument are affected by, or how they should affect, ongoing discussions in relation to climate change. For example, to what extent should the plastics treaty consider the growing emissions of fossil-derived CO₂ from incineration facilities, derived from combustion of plastics? To what extent are mitigation actions – recycling / use of recycled content – considered ‘in scope’? Or are these matters to be left to the UNFCCC?

We see far less reason to define ‘circularity’ as it seems to be used widely, but with an enormous variety in meaning. Use of the term, when it clearly means different things to different people, in the Treaty and associated documents, is not especially helpful, and seeking to define it would only be useful if it was likely to add something to the legally binding instrument. If we mean recycling (and sometimes, we will), we should define ‘recycling’ (and clarify what should be measured as ‘recycling’), if we mean ‘reuse’, we should define ‘reuse’ (and what we consider to be systems of reuse), and if we mean ‘refill’, we should define ‘refill’ (and refill systems), and where we mean all of these, then that can be made clear. There is little point in debating a definition of a term such as circularity unless its use in the Legally Binding Instrument is considered absolutely necessary. That does not mean that it could not be used in text at all for a very high-level introduction. We remain to be convinced, though, that spending time to define a term which is not central to substantive measures / requirements is useful. If, somehow, it becomes central, then by all means, define it.

Other definitions needed

We suspect that the ILBI will need to define ‘packaging’, ‘quality and convenient collection systems’, ‘coverage’ (of population by quality and convenient waste collection services), ‘municipal waste’, ‘household waste’, ‘fishing gear’, as well as the terms mentioned above. We would be inclined to avoid seeking to define terms such as ‘recyclable’, and concentrate instead on elaborating ‘design for recycling’ standards.

However, what definitions are required to be agreed on for the purposes of the ILBI will depend on the nature and content of what is included. Hence, whilst it might be useful to agree some definitions for the purposes of the negotiations, the final list of terms requiring clear definition will only become clear over time.

2. Information on criteria, also considering different applications and sectoral requirements, including:

- a. **Chemical substances of concern in plastics,**
- b. **Problematic and avoidable plastic polymers and products and related applications**
- c. **Design e.g., for circularity, reuse**
- d. **Substitutes and alternatives to plastic polymers and products**

3. Potential substances of concern in plastics, problematic and avoidable plastic polymers and products

Presumably, there is a need to consider the case for banning substances of concern, understanding where that might pose (short-term) problems in products which are of societal importance (e.g., medical applications) would help shed light on where time-limited exemptions could be applied. That might suggest a need for some technical panel whose role would be to rule on applications for time-limited exemptions for specific applications of banned items.

With so-called ‘problematic and avoidable’ plastic polymers, products and applications, our view is that the INC process has to recognize that where macroplastics are concerned, all plastics are problematic in areas where there is no waste collection service which is a) convenient, and b) meets minimum quality (of service) standards. Without defining quality and convenient collection services, and without ensuring that a) the technical assistance and b) the sustainable financing of such a service, the Instrument will fail to address plastic pollution. There may well be polymers and

products which are problematic, and more so, avoidable (in the sense of not being essential) in all contexts. But what is problematic also depends on the services available. This is not purely a technical matter.

Consideration should be given, as a result, to the potential means for restricting sales of plastics in countries where adequate collection services are not in place within a given time period, thereby incentivizing producers to support, financially, the roll-out of quality, convenient collection services.

Evidently, there are also plastic products and packages which are ‘problematic’ even where quality and convenient waste collection systems are present. We suggest that the problematic nature of plastic packages and products is linked first, to the extent to which they are likely to be discarded in the environment, and then, to whether or not they have been designed for reuse / refill, and or recycling. That assumes that a separate process is used to phase out substances of concern (so that the problematic nature of plastic packages and products does not rest on the presence of substances of concern). If that process is not in place, then whether or not products or packages incorporate substances of concern might be considered relevant in determining whether items are problematic.

Combining the ‘problematic’ nature of plastics with whether or not they are ‘avoidable’ seems problematic. In principle, it could be argued that all use of plastics is avoidable, with the consequences of avoiding use being different depending on what the avoided product or package is: humanity’s existence is not fundamentally reliant upon the use of plastics. Similar comments could be made regarding whether plastics are ‘necessary’, or not. It might be more meaningful to consider circumstances which make the use of some products and packages ‘essential’.

Fundamentally, what ought to matter to the ILBI is what measures can, and should, be applied to which products / packages. In this regard, the approach taken by Eunomia in work for WWF has much to recommend it.²

As regards ‘design for circularity’, if this is intended to mean ‘design for recycling’, it should say so. As indicated above, circularity is a somewhat nebulous term and we doubt that defining ‘design for circularity’ adds much that could not be gained from developing ‘design for recycling’ (DfR), or ‘design for repairability’, and so forth. The EU has considered DfR standards and standards for ‘reuse systems’ in its deliberations around the Packaging and Packaging Waste Directive and the Waste Framework Directive.³

These standards would benefit from incorporation of views from low-income and lower-middle income countries, where the potential options for recycling and reuse may be different to (or more numerous than) those typically considered in high-income and upper-middle income contexts.

The idea of developing a set of criteria which would give an objective basis for determining when, or whether ‘Substitutes and alternatives to plastic polymers and products’ are superior to the plastic polymers and products they might replace is superficially attractive, but actually, rather difficult to achieve in practice. The number of contested parameters and assumptions which are likely to be involved in making any assessment that claims to be objective is likely to be significant, even for one such case.

² See Eunomia (2023) Breaking Down High-Risk Plastic Products: Assessing Pollution Risk and Elimination Feasibility of Plastic Products, Report for WWF; Eunomia (2023) Regulating High-Risk Plastic Products: Global Measures to Eliminate, Reduce, Circulate and Safely Manage High-Risk Plastic Products, Report for WWF.

³ EU

We would suggest that if these criteria are to be used, the criteria are simple enough to allow for a relatively uncontroversial adjudication to be made. We suspect that many will propose life-cycle assessment (LCA) (or similar) as a basis for making this type of adjudication. Given that a key objective for the ILBI is likely to be a reduction in the discarding of plastics into the environment, then the inability of LCA to incorporate the impacts thereof immediately suggests that its application for this purpose is likely to be limited. In any event, unless a product was 'vector superior' when assessed using a range of life cycle impact assessment (LCIA) categories (i.e., the product performed better in every category), there would still need to be a basis for trading off better performance in one or more LCIA category against worse performance in another. Cost benefit analysis (CBA) might allow this to be conducted, but it would be difficult to conduct a CBA on a basis that is relevant to all Parties who might sign up to a global treaty.

As a result, we suggest that if the INC plans to conduct any work at all here (it is not clear what this adds to the other sets of criteria which it is proposed to explore), that it focuses on a sequential test, for example:

- A) whether the substitutes offer potential to reduce the flow of discarded plastics into the environment,
- B) whether or not the cost of the identified substitute is acceptable (i.e., not more than X% more expensive to the user), and
- C) whether there might not be still better substitutes as assessed in terms of A) above, B) above, and in terms of the implied level of embodied energy use.

It also seems unclear whether the possibility for one plastic product to replace another is being considered (e.g., replacement of single-use polypropylene cups with polypropylene cups designed to be reused within a functional reuse system). We believe this type of substitution should be considered.

As a final comment, it is clear that how one determines criteria for any one of the above 'classifications' (Chemical substances of concern in plastics; Problematic and avoidable plastic polymers and products and related applications; Design e.g., for circularity, reuse; Substitutes and alternatives to plastic polymers and products) will depend on which of the others are being applied at the same time. If products are not to be designed for recycling, then some may consider that a reason why such products are problematic;

4. Potential sources of release of microplastics (applications and sectors).

[Scoping, definition of microplastics, potential products containing intentionally added microplastics and sources (products and sectors) of releases of such.]

There are studies already available that highlight some sources believed to be key contributors (and some also propose measures to address these). These include the following:

ECHA (2019) Annex XV Restriction Report: Proposal for a Restriction, Intentionally Added Microplastics, 22 August 2019, p. 37, <https://echa.europa.eu/documents/10162/05bd96e3-b969-0a7c-c6d0-441182893720> (and ECHA (2019) Annex to the Annex XV Restriction Report: Proposal for a Restriction, Intentionally Added Microplastics, 22 August 2019, <https://echa.europa.eu/documents/10162/db081bde-ea3e-ab53-3135-8aaffe66d0cb>).

Eunomia Research & Consulting (2018) *Investigating Options for Reducing Releases in the Aquatic Environment of Microplastics Emitted by Products*, February 2018, <https://www.eunomia.co.uk/reports-tools/investigating-options-for-reducing-releases-in-the-aquatic-environment-of-microplastics-emitted-by-products/>

Eunomia (forthcoming 2020) *Creating a Circular Economy for Tyres in Scotland: Development and Appraisal of Policy Options*, Final Report for Zero Waste Scotland.

Eunomia (2017) *Environmental Impact Study on Artificial Football Turf*, Report for FIFA, March 2017, https://football-technology.fifa.com/media/1230/artificial_turf_recycling.pdf

van der Meulen (2019) *Situation of Microplastics and Paints*, CEPE (European Council of the Paint, Printing Ink, and Artist's Colours Industry) Presentation to ECHA, https://echa.europa.eu/documents/10162/23964241/01_cepe_van_der_meulen_en.pdf/076cf6fd-8065-364f-6f21-7ebe876295b1

5. Development of targets for the reduction, reuse and repair for plastic products

We welcome the suggestion that work should be done in this area, but only insofar as it takes place in the context of developing mandatory approaches. In this respect, at least as important as the nature of any target will be a) whether we know enough about existing practices to understand the baseline situation with anything like a meaningful level of accuracy, and b) how might such targets be set in such a way that they are 'fair' across the parties, and c) what is the mechanism envisaged to deliver the targets being set? So, for example, as regards 'reduction', would it be fair for some nations who may use a smaller quantity of plastics to be given the same percentage reduction target as a higher consumer of plastics? Or would it be better to set upper limits in terms of a per capita level of consumption? Or should a global cap be established that declines over time? What measure would be used to deliver each of these targets? Is it a matter to be left to the Parties to determine, or could, for example, the ILBI establish a cap-and-trade style system for plastic production (targeting producer companies, and not the Parties)?

One can offer similar comments regarding reuse, though repair is a matter that is likely to be delivered best through, for example, eco-design requirements, and / or measures such as minimum warranty periods (and charges to incentivize improvements in this regard).

In summary, it would be useful for the INC to understand what the data and information that is available would allow in terms of targets, and the measures envisaged to deliver them. We hope that the INC is considering application of binding measures for reasons outlined in our Template A response. To that end, whether it is reduction, reuse or repair being considered, it would be helpful if any inter-sessional work was focused on what we know, and based on what we know, what might be fair targets and / or measures to reduce plastic use / increase reuse / prolong product life where appropriate (not only through enhanced reparability).

6. Guidelines on EPR (by experts group)

As regards guidelines for EPR, we question whether that is the right focus for the ILBI. The ILBI ought, in our view, to mandate that producers should cover the costs of managing packaging and products at end of life. Whether this happens through a measure which is defined as extended producer responsibility or not, and whether those measures adhere to 'guidelines', might not be the main focus. The main focus should be on ensuring that funding by producers supports the implementation of quality and convenient collection services, and that those services meet specified performance objectives. For this reason, it is the scope of cost recovery that is more important than 'features of EPR'.

Equally, the magnitude of the costs for which producers will be made responsible depends on the performance targets which the collection and management services are required to meet. It follows that rather than spending time deliberating on what may or may not be the key features of 'EPR', time might be more wisely spent considering the nature of measures that would mandate

the recovery of costs from producers by public authorities in the jurisdiction of Parties. How the Parties choose to do this might be considered a matter of their choosing. What will be important is ensuring that the funds raised (from producers) are spent for the intended purposes, and are spent efficiently. Guidelines for how this might be ensured in different circumstances would be desirable to as to give reassurance to producers that in circumstances where they do not have direct control over the funds they contribute, that these funds are spent efficiently and are not misallocated or misappropriated.

We would expect an ILBI to mandate the recovery of costs from producers for a specified (broad) scope of services to the extent that their products contribute to those costs. We would also expect the ILBI to indicate targets which any such scheme ought to be required to meet. To the extent that data exists that allows for such a distinction to be made, the targets could be set by country type. An alternative target to a recycling target would be a quantity of plastic consumed but not recycled.

Note that another critical issue which has received rather limited attention is that of ‘for what waste streams which include plastic should cost recovery be made a requirement?’ Packaging is an obvious example, but there are a range of non-packaging household / municipal products which include plastics. Where these are not targeted for phase-out, these could reasonably be targeted for cost recovery also. Items might vary across Parties, but in principle, the scope of application (by products) of the cost recovery principle should be considered. This ought to include items regularly found in beach litter samples where these are not to be phased out under the auspices of the ILBI.

7. Work with relevant stakeholders on fishing gear in the lifecycle of plastics

We believe that the INC inter-sessional work should consider what measures can be taken that would address problems related to large and small vessels, and the applicability of novel instruments – including deposit refunds, for example - to incentivize the retrieval of abandoned fishing gear. The potential for repair of gear should be considered as part of that.

Note that a broad definition of ‘fishing gear’ ought to be applied, with some consideration given as to how to replace items such as plastic buoys with less harmful alternatives.

8. Transition period until some products or substances are to be banned or reduced

As a rule, we find that businesses are quite capable of responding to policy where the policies are made clear, and where the direction of travel is clear and stable. The INC ought to reflect on the fact that unless the ILBI makes absolutely clear that its desired direction of travel will be supported by a suite of (non-voluntaristic) policy and law, then businesses will not respond as it is hoped they should. Expectations must be borne out by reality so that those developing businesses and business models that respond positively to the problem of plastic pollution are not left high and dry as a result of a half-hearted approach to the matter.

Even relatively intractable problems are solvable by businesses if the lead-time for their being addressed is sufficient. In this respect, ten years might be considered a relatively long-term horizon. For matters where the case for phasing products / packages / substances out are clear, and where alternatives clearly exist, then a five-year timeline is likely to be adequate for re-tooling. If there are more pressing issues related to specific packages / products / substances, for example, because they pose an obvious hazard to the environment or human health, then a still shorter lead-time may well be appropriate, especially if it is clear that businesses have already profited from a history of polluting practices or products. In such cases, the issue of whether or not

alternatives exist might simply not be relevant, and the item should be banned as soon as law can reasonably be enacted.

It should be noted that in cases where products / packages / substances are to be phased out over time, we would strongly recommend using incentives – such as taxes, charges, levies – on the items concerned to send an economic signal consistent with the planned measure. If these escalate over the period during which the item is to be phased out so that high rates apply by the time the phase-out is to be achieved, this has the merit of reducing the likelihood that economic actors request exemptions / delay from the phase-out (because the item becomes prohibitively costly to use). It also signals a clarity of intent on the part of policymakers.

Other Matters for Consideration

Quality and Convenient Collection Systems and Population Coverage (by such collection systems)

We do not really know what proportion of the world’s population has access to a quality and convenient waste collection service. We may, for many jurisdictions, have some understanding of ‘population coverage’, but exactly what it means for a citizen to be included in, or excluded from those figures is rarely made clear (or even known).

We believe that there should be a clear definition of what it would mean for a citizen or household to be included in ‘population coverage’ figures. So, for example, where the system is a door-to-door collection services, how often would a convenient and quality system have to visit the property concerned? How many different streams would need to be collected separately for the system to be considered to pass the ‘quality’ threshold? For bring / road container systems, what density of provision of such containers would be considered ‘convenient’? How many separate containers would be required (as a minimum)? How frequently would they need to be collected? Would such systems be considered acceptable for all waste?

Defining these terms should not only help inform the question of where there is a problem of low quality waste collection, or of inadequate population coverage. It should also inform what has to be funded by producers (see above re EPR and other cost-recovery measures). In the absence of these types of standards – which should reflect the ‘customer experience’, and vary depending on differences in climate and demographics – there remains a significant risk that producer funding of waste management will be for partial systems of inadequate quality and convenience.

This is essential.

Scope of Application of Cost Recovery (breadth of services and waste streams)

As indicated above, we believe that producers should be required to pay for end-of-life management of their products in proportion to the costs which relate to those products. The scope of application of this principle should, though, be clarified. For most plastic items found in household / municipal waste, we believe that the following costs of should be recovered from producers (and other entities involved in the supply of plastics to end-consumers, as deemed appropriate in national policy and legislation) of plastic packaging and products:

- a. The relevant share of the costs of collection of plastics in systems which meet standards for quality and convenience
- b. The relevant share of the costs pf depots / transfer stations used for further bulking and onward transfer of the collected waste;
- c. The relevant share of capital and operating costs of all sorting systems used to sort plastics post collection;

- d. The relevant share of all costs of recycling plastics, net of revenue gained from sales of plastics made available for subsequent recycling;
- e. The relevant share of all costs of public education and communication campaigns designed to promote awareness of the problem of mismanaged plastic and to promote behaviours aligned with the Objective of the ILBI Convention;
- f. The relevant share of costs of acquiring the necessary data and information (including that required to inform National Action Plans as appropriate, and to track the level of performance achieved);
- g. The relevant share of all costs of public waste collection / litter bins as are still deemed necessary;
- h. The relevant share of all costs of clean-up of those waste materials, including, discarded plastics which continue to be discarded into the environment [it may be useful to have a form of words that differentiates 'litter flows' from legacy wastes in the environment – legacy should be dealt with separately]
- i. The relevant share of all costs of enforcement of measures designed to reinforce public information campaigns, and motivate behavioural alignment with the Objectives of the ILBI;
- j. The relevant share of all costs of managing the unrecycled portion of what is collected. This includes the costs of appropriate treatment and / or disposal systems
- k. The relevant share all associated costs of management of the above functions;
- l. The relevant share all applicable taxes (VAT etc.) in relation to the above.

In addition to scoping the costs to be covered, consideration needs to be given to the scope of application of this principle (i.e., to which waste streams). Packaging is an obvious waste to be included: what about textiles? What about electrical and electronic equipment? What about vehicles? What about (non-electrical) toys? What about cigarettes and e-cigarettes?

These matters – regarding the scope of costs to be recovered from producers, and the breadth of application, in terms of wastes, of the cost recovery principles – are important. They are likely to help support the provision of waste management services where they are currently absent.

Deposit Refund Schemes

Deposit Refund Schemes (DRSs) offer a compelling strategy, involving upfront deposits during purchase and their reimbursement upon proper return to a collection point. This approach has exhibited remarkable success in achieving high collection rates. DRS can also be deployed in the global south with the support of the informal sector.

Presently, over 50 countries and states have adopted deposit return models for single-use beverage containers, such as plastic bottles. Given the substantial global consumption and waste challenge, extending deposit return systems to single-use beverage packaging across all member states is essential. These products not only constitute a significant portion of litter but also contribute to environmental strain. Furthermore, the versatility of deposit systems extends beyond beverage containers to challenging-to-collect items.

Methodologies for Measurement of Recycling, Recycled Content, etc.

Both for the purposes of a clear understanding of what is happening to plastic, and so as to track the performance of waste management services, and also, to substantiate claims made by corporates, elaboration of some methodologies for measuring key performance characteristics is necessary. There is considerable latitude in interpretation of what 'counts' as recycling, and in the case of plastics, because material losses can be considerable in the chain of supply before materials, this renders performance

measures non-comparable unless methodologies are standardised. The losses may also be significant to the extent that they might imply losses to the environment.

Where post-consumer recycled content is concerned, companies are keen to make claims regarding integration of recycled content into their products, not least because of the climate benefits of using recycled content. It follows that in order for claims to be credible, some auditable method should be developed so as to prevent 'greenwashing'.

Much work has been undertaken by the EU in defining a measurement method for recycling, and in considering how to measure recycled content (so as to track Member State progress towards targets for recycled content). The ILBI should consider these as a basis for establishing methodologies to be used by the Parties (and their constituent companies) so as to measure recycling, recycled content, population coverage by quality and convenient waste collection systems (see above), and other matters that may be considered relevant under the ILBI. Methods to measure recycling performance should include appropriate means to track feedstock recycling outputs to the inputs to facilities from which feedstock chemicals are derived.

Development of targets for recycling

There is a need for consideration of targets for recycling. We discussed above the need for recovery of costs from businesses of relevant costs. The magnitude of those costs will be influenced by the performance targets which are required to be met by quality and convenient waste collection and management services. In any event, whilst provision of waste collection services will support the reduction of wastes flowing into rivers and oceans, it makes no sense to provide those services only to then landfill, or worse (in the case of fossil-derived plastics), incinerate the material.

Wastes Generated on River-going / Ocean-going Vessels

The INC would do well to review the options for managing waste generated at sea. Sadly, vessels travelling in rivers and oceans do discard waste directly into the surroundings. This might not always be a consequence of inadequate provision of infrastructure but can also result from consumers not using available facilities.

The INC should consider measures that can be used to address this issue, including at ports and other mooring / anchoring points, taking into account (for example) the purpose of the vessel, the size, and the distances being travelled. We do not have quality global data regarding the amount of plastics discarded directly into rivers and oceans from riverboats and ocean-going vessels. This area, though, could be fruitfully explored for suitable measures related to one or more of infrastructure (on- and off-vessel), products sold on tourist boats, incentives used to keep products sold from being discarded into the environment (such as deposit refunds), and other options.

Trade-related Measures

We believe that the INC should clarify what measures Parties would be entitled to take vis a vis non signatories in respect of trade restrictions (in the general sense). The use of non-discriminatory measures to ensure equal treatment between Parties and non-Parties would seem to be important so as to encourage countries to sign up to an ILBI. Furthermore, where they so desire, Parties which seek to achieve more ambitious objectives are more likely to do so where they are not placing domestic businesses at a disadvantage vis a vis third country competition. Hence, it would seem relevant to understand what measures are, or are not controversial in the context of existing trade law, and in the case of more

controversial matters, the conditions under which some things may be possible when otherwise they would not be possible.

INPUTS RELATING TO POTENTIAL AREAS FOR INTER-SESSIONAL WORK: CONTACT GROUP 2

1. To consider the potential role, responsibilities and composition of a science and technical body [to support negotiation and/or implementation of the agreement]

We agree with the need to do this.

We suggest that one of those supporting our team –Dr Dominic Hogg, formerly Chairman of Eunomia, and currently working for himself as Equanimator – would be an eminently suitable choice as a person who would be ideally suited to supporting design and implementation of the agreement, having played roles in developing EU waste policy and law, including the Plastics Strategy and Single-use Plastics Directive, the Waste Framework Directive and Packaging and Packaging Waste Directive.,

2. To consider potential scope of and guidance for National Action Plans [including optional and/or suggested elements]

We are sceptical of the value of NAPs unless they are produced against the backdrop of a set of binding commitments which Parties are incentivized to achieve (or sanctioned for failure to achieve). Our experience with similar plans (waste management plans at the EU level) is that they too often highlight the gulf between the aspirations of a Plan, and what happens in reality.

Our suggestion is that the work might do well to focus on the conditions which can make NAPs worth the time and effort likely to be spent in preparing them. If some countries are proposing that an ILBI be based principally around voluntarily proposed outcomes as set out in NAPs, then it ought to be incumbent upon those taking that position to demonstrate the conditions under which one would have any confidence at all that such an approach would deliver – with certainty – a major reduction in plastic pollution (however one chooses to define that). The corollary of that is that the INC will, most likely, have largely failed if ultimately, the only objective that can be met is one that non-committal and opaquely worded.

3. To identify current provisions within existing MEAs [and other instruments] on cooperation and coordination that could be considered

The relevance of this depends on what is meant by ‘cooperation and coordination’. Where, in particular, is it envisaged that provisions in respect of such cooperation and coordination will play a decisive role in enhancing outcomes? Much of the effectiveness of the ILBI will come down to the quality of the policy and law that Parties themselves implement. The main form of cooperation likely to be required is in the financial sense (see below).

4. To consider how other MEAs provide for monitoring, and suggest best practice

This seems sensible. It should, though, recognize also the (relative) complexity of understanding some of the performance measures and outcomes. There is a need for terms to be clearly defined so that monitoring takes place against an agreed method of measurement of matters such as ‘plastics placed on the market’, ‘plastics in waste’ ‘plastics recycled’, ‘proportion of population covered by waste collection’ etc. These terms sound simple, but experience indicates that they need to be specified clearly so that monitoring of performance takes place against an agreed

methodology (so that performance is measured consistently across countries (and can be compared as necessary)).

5. **To consider options to define ‘technology transfer on mutually agreed terms’;**
6. **To further consider how a potential financing mechanism could work [including a new standalone mechanism, a hybrid mechanism, or an existing mechanism]**
7. **To identify options to mobilise and align private and innovative finance (including in relation to matters at 24(e) and the proposed Global Plastic Pollution Fee (GPPF))**

(i) Plastic fees, taxes or levies: Implement a fee, tax or levy on plastic production, use or disposal to generate revenue that would finance initiatives to reduce plastic waste. For example, the tax could be applied to manufacturers or importers of plastic polymers and products and the revenue could be used to fund the instrument’s objectives, including recycling programmes, product redesign and public awareness campaigns.

(ii) EPR system: Set up an EPR system that requires plastic producers and importers to take responsibility for their products throughout their life cycle, from production to disposal, to incentivize collection and sorting, including by informal waste pickers, to initiate investment in recycling facilities, and to fund studies of advanced recycling and material recovery methodologies. The system would include fees paid by plastic producers, which would be used to fund initiatives aimed at reducing plastic waste, such as product design, material substitution and end-of-life management.

(iii) Public-private partnerships: Foster public-private partnerships to fund and implement initiatives aimed at reducing plastic waste. Companies could contribute funding, expertise and resources to support projects that align with their sustainability goals and the instrument’s objectives.

(iv) Credit schemes: Use credit schemes to finance initiatives that reduce plastic waste. The credits would be generated by projects that reduce greenhouse gas emissions, such as recycling, and sold to companies and governments to offset their carbon footprint.

(v) Funding through private-sector entities involved in the life cycle of plastic: Introduce a packaging fee.

(vi) Product charges: Introduce charges on specific plastic products, such as single-use items, to encourage a reduction in their use or increased use of more sustainable alternatives. The revenue generated could be used to finance initiatives aimed at reducing plastic waste.

(vii) Other market-based approaches, such as pricing mechanisms and financial incentives, to encourage or discourage certain behaviours or practices.

(viii) Voluntary contributions: Encourage voluntary contributions from foundations, individuals and businesses to support initiatives aimed at tackling plastic pollution.

8. **To map current funding and finance available [to address plastic pollution] and determine the need for financial support for each Member**

We consider these questions together.

We understand that for multilateral bodies (including UN agencies), there is an interest in becoming the holder of funds which are used to support the objectives of an ILBI. On the other hand, there is a need to ensure that some essential services are placed on a sustainable financial

footing. What matters, therefore, is that potential sources of funding are matched, appropriately, to the purposes which they are most well placed to support.

A GPPF – levied, we would suggest, on plastic producers – would be a logical source of funds to address:

‘legacy’ pollution (amongst other purposes)

support for low- and lower-middle income countries in terms of staffing of relevant ministries / regulatory bodies so that they have sufficient suitably qualified staff.

High-income countries could be sources of technical assistance funding to help ensure transfer of knowledge and expertise as required.

These funds would be channeled via a multilateral fund in a similar way to that established under the Montreal Protocol. They should support, amongst other things, competence in policy and strategy design, as well as data reporting and analysis.

As regards, for example, collection and management of waste plastics, as we have indicated above, much (if not all) of the plastic-related element should be recoverable from producers of plastics. That does not mean that producers need to finance capital investment directly themselves (though neither is that option excluded). Funds from producers should be adequate (and if they are not, the level of cost recovery should be increased) to repay those implementing projects for capital and operating costs via a counterpart revenue stream. If this takes place, the need for capital financing from multilateral agencies might be limited as regards such facilities, with the capital coming from private sources. What might be required are investment guarantees which are designed to give confidence to those financing investments that repayment will be forthcoming, this likely being an issue in less credit-worthy countries. Equally, there may be other ways of auditing the use of funds derived from producers where these are not controlled by producers themselves (as an alternative way to ensuring that investments can be paid for).

The argument for additional funding ought to be limited to the collection and management of those materials for which costs cannot easily be recovered from “producers”, or where the costs might not be fully recoverable from producers. In other words, in order to develop sustainable, holistic, appropriate waste systems (SHAWS), there would need to be funding for collection and treatment of biowaste, as well as a contribution (that which is not linked to products covered by cost-recovery financing) to the costs of managing wastes which are not recycled.

Deposit refunds can also be used to incentivize take-back, with unredeemed deposits used to support funding of infrastructure provision undertaken by producers.

Parties should also consider leveraging funds through taxing products targeted for phase-out (with tax rates escalating over the period given for phase-out) and where items being phased-out are single-use plastics, by taxing single-use non-plastic products to help drive reuse / refill options. In low- and lower-middle income countries, revenue from these could further support the development of waste management infrastructure for managing municipal waste, though the size of this revenue stream is likely to be uncertain.

If it is intended that the ILBI should seek to reduce the consumption of plastics, then a market-based measure may be a suitable way to achieve those reductions. In such circumstances, if certainty of outcome is sought, then a cap-and-trade style scheme would have more to recommend it than a GPPF. It is possible to implement both a GPPF, and implement a system of

tradable allowances in parallel. On the other hand, a hybrid instrument where a share of revenue from auctioned allowances (to manufacture plastics) is used to fund whatever purposes the GPPF is deemed appropriate for, or where the GPPF 'rate' is used to establish a price floor for allowances, would achieve these objectives. The cap-and-trade style system would, as the cap was tightened, be expected to lead to plastic being used where its marginal value (relative to alternatives) was highest.

In addition to the above revenue raising sources, Parties should be required to remove / phase out all subsidies – implicit and explicit – affecting all stages of the life cycle of plastics within a specified time period. This is recognized as a much needed measure, but the universality in agreement is matched only by the reluctance to actually implement removal of the subsidies. Options should be considered for cross-conditionality (funding is supplied subject to subsidy removal being achieved) as well as sanctions being applied to high- and upper-middle income Parties (who are unlikely and less likely, respectively, to be recipients of funding).

The case for the types of plastic credit scheme mentioned above need to be considered closely, but we doubt that they would have general applicability, not least because of the potential overlap with emerging systems of carbon pricing. They might be considered interesting measures until more complete plans for a transition are available, but it is hoped that the ILBI would herald that transition, so that such temporary funding streams are no longer required.

Voluntary contributions are already being made by corporates, and in some cases, in relatively large amounts. Yet these appear barely to have scratched the surface of the problem, and some heavily funded pilots have demonstrated rather little for the money that has been channeled in their direction. They are, for the most part, useful public relations, but their lack of effectiveness is what leads us to the situation where an ILBI with binding measures is implemented.

9. To identify capacity building and training needs for each Member.

Experience with countries seeking to accede to the EU indicates that a huge problem with getting to grips with the requirements of EU environmental legislation, especially as regards waste, is the quantum of staffing required to deliver a sensible system of waste management. That lesson has equal force in this case, covering as it does the full life cycle of plastics. Although plastics are not the totality of waste, they are part of virtually all waste streams, and a bewildering array of products and packages.

An ILBI will need to support a significant increase in staffing in many (if not all) low- and lower-middle income countries. That is essential even before one considers the capacity building (in terms of human capital) and training needs, as well as transfer of knowledge.

Crucially important will be building up – in line with the content of the ILBI – an understanding of how to translate its objectives into action through the development of relevant institutions, and a body of policy and law that drives action by incentivizing activity, and sanctioning non-compliance.