GAIA Options Paper top line comments - May 2023

Overview

GAIA's select comments on document 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* (Options Paper) focus on the following elements:

- robust objectives for an impactful treaty that enshrine **human health**, **human rights** and **planetary boundaries**;
- a trio of core obligations that **minimize plastic production, phase out problematic plastic products and applications and remove toxics from primary plastics production**;
- binding control measures for a successful plastics phasedown delivered through **regulation, market-based measures and scaling-up reuse**;
- waste-management control measures that **respect the waste hierarchy, planetary boundaries and informal waste workers**;
- finance, capacity building, technical assistance and technology transfer to support those ends.

These comments conclude with a table highlighting GAIA's views on strong, missing and problematic elements in the Options Paper. Full recommendations for treaty elements are detailed in the GAIA INC2 submission.

Objectives	
GAIA proposal	**End plastic pollution** across the **full lifecycle** of plastics, including by **minimizing the production of plastics,** and **protect human health, human rights, and planetary boundaries** from the adverse effects of plastics. This is a mixture of options (a) and (c), optimized according to the following rationale: ○ **End plastic pollution**: The treaty objective must respect the mandate of UNEA resolution 5/14 that has the objective "End plastic pollution" in its title. ○ **Full lifecycle**: The treaty objective must respect the mandate of UNEA resolution 5/14 that highlights the full lifecycle of plastics, that includes the sourcing of polymer precursors and their feedstocks. ○ **Minimize plastic production**: The treaty must prioritize prevention, which means not only reducing plastic production but minimizing it to essential uses only and a total volume that is consistent with human health and planetary boundaries.

	○ **Protect the health, human rights and environmental justice of affected communities**, including fenceline communities near plastic production and waste-management sites. This includes the need for a just transition for workers, in particular for waste pickers. ○ **Do no harm**: Ensure no solutions supported by the treaty harms our planetary boundaries, human rights or environmental justice. Plastics circularity can circulate toxics and be a net harm when it does not meaningfully displace primary production, and as such should not be mentioned in the treaty objectives that must remain broad in scope.
Core obligations and control measures	
General approach	**Focus on binding measures** to ensure effectiveness. Voluntary approaches have proven to be ineffective, and as such should not be included. Existing infrastructure such as the UNEP GPML digital platform can be used to list voluntary initiatives.
Core obligations	The Options paper proposes **three core obligations to phase down or phase out**: - primary plastic polymers - problematic and avoidable plastic products - chemicals and polymers of concern **These core obligations are complementary:** - phasing out problematic and non-necessary plastic products allows a minimization of plastic production - without primary material production controls, there is a high risk of new unnecessary and problematic plastic products and materials being created - the plastic pollution crisis is both a quantitative and a qualitative crisis: it is not only a crisis of overproduction (volume) but also a crisis of toxics and microplastics production, hence the need for phase outs of chemicals and polymers of concern
GAIA proposal	**Core obligations:** - **Minimizing the production** of primary plastic **materials and their constituents, precursors and feedstocks** - **Phasing out** problematic or non-essential plastic **products, materials and applications** - **Banning** chemicals and polymers of concern ○ **Minimization** rather than reduction is the appropriate framework to ensure plastic production is phased down to essential uses only and a total volume that is consistent with human health and planetary boundaries.

	○ **Problematic materials** such as plastic foams and textiles that fragment easily into microplastics must be controlled as materials and not merely as products. ○ **Essential applications** must be defined as the same product (e.g. a plastic straw) may be essential in certain circumstances (e.g. use by persons with certain disabilities) but not others.
General approach	**Use of annexes** will allow the INCs to agree on principles in treaty text while providing space to define specific control measure targets, lists or other details in annexes.
Minimizing primary plastic production (¶ 10)	Establish **global targets** to **minimize** production of primary plastic materials and their constituents, including controls on polymers and their precursors and feedstocks, as defined in an annex ○ **Global target**: To be effective, the target must be global and not nationally-determined. This does not mean identical targets for all countries, but it ensures that the sum of all national production cuts are sufficient to meet global targets and treaty objectives. Without a binding global target, we risk seeing the same debacle as for global climate change policy. ○ **Upstream controls**: effective controls on primary plastic production may require additional controls on the production of plastics precursors (e.g. additives and monomers) and their feedstocks (both fuel and bio-based).
Ending market incentives for primary plastics (¶ 10c)	**End subsidies** and other market incentives for primary plastic materials and their constituents, including polymers, precursors and feedstocks (both fuel and bio-based) Establish a **global plastics tax** as defined in an annex ○ **Markets matter**: as long as primary plastics are artificially cheap because of a suite of subsidies that channel taxpayer money into plastics production, it will be difficult to reduce demand for and production of primary plastics.
Phasing out problematic and non-essential products, materials and applications	**Phase out the production, sale, distribution, trade and use of all but essential and non-problematic plastic products, materials and applications** as defined in an annex. ○ **Whitelist approach** for essential and non-problematic plastic products to increase effectiveness and ease of enforcement. ○ **Products include intermediate products** such as pellets, expanded polystyrene beads, rolls of film and primary microplastics used to manufacture other products.

	○ **Problematic materials** such as plastic foams and textiles that fragment easily into microplastics must be controlled as materials and not merely as products, through a negative list. ○ **Essential applications** must be defined as the same product (e.g. a plastic straw) may be essential in certain circumstances (e.g. use by persons with certain disabilities) but not others.
Phasing out chemicals and polymers of concern	**Phase out the production, sale, distribution, trade and use of chemicals and polymers of concern by groups of chemicals**, as defined in an annex. ○ **Immediate priority phaseouts** where robust evidence of harm to human health or the environment already exists, by groups of chemicals to avoid regrettable substitutions e.g. chlorinated polymers, fluorinated polymers, PFAS chemicals, bisphenols, phthalates, brominated flame-retardants, chemicals controlled under the Stockholm Convention. ○ **Independent scientific body** to input into future annex amendments. Key supporting measures ○ **Mandatory disclosure** of inventories, production volumes, chemical composition and trade are key to monitor compliance, and must also apply to secondary (recycled) plastics. ○ **Transparency and accurate labeling of materials** will be key for enforcement of control measures. Currently, many plastics (e.g. silicones, water-soluble and water-absorbent polymers, bio-based plastics) are marketed as alternative materials when in fact they are plastics (see GAIA 2022 Defining plastic products, materials and polymers: a proposal). ○ **Transparency and accurate labeling of chemical composition** including non-intentional additive substances (NIAS), for instance through product passports, will be essential for enforcement of chemicals of concern control measures. ○ **Transparency, accurate labeling and accounting for recycled content** including through product passports will be fundamental to identify primary plastic material in products and prevent it being mislabeled as recycled content and fraudulently avoiding primary plastics controls. ○ **Trade requirements for non-parties** are key to avoid loopholes and ensure a level playing field. ○ **Scaling up reuse and refill** including through targets, standardization, general and sectoral guidelines, to ensure that single-use plastic products are not merely replaced with single-use products made from alternative materials, which would only shift but not resolve planetary boundary breaches (see ZWE 2023 Zero Waste Europe feedback on the INC2 options paper).

General approach: principles	**Waste hierarchy**: recycling should never take priority over avoidance/reduction and reuse, neither in design nor in adoption of targets or in EPR fund allocation. **Protect planetary boundaries and environmental justice**: define technical criteria to protect all planetary boundaries, exclude harmful processes and technologies, protect communities. Include provisions for **informal waste workers.** **Basel Convention**: build on the Basel Convention to establish more protective environmental safeguards for plastic waste management.
Environmentally-sound management (¶ 14bii)	**Ban open burning, thermal treatment, plastic-to-fuel and "chemical recycling"** (incineration, co-firing in coal-fired power plants and other waste-to-energy processes, co-processing in cement kilns, gasification, pyrolysis, solvolysis) ○ **Consistency**: ban also translates in exclusion from financing, technology transfer, technical cooperation or capacity-building for these harmful technologies. ○ **Avoiding harmful lock-ins**: the full strength of a ban is needed to avoid lock-ins into polluting infrastructure
Positive ESM criteria Missing in Options Paper	**Environmentally-sound waste management**: to protect all planetary boundaries, define in an annex technical criteria for waste management operations, including: - Carbon intensity (declining over time, consistent with Paris Agreement - note: carbon intensity reduction through carbon capture is not taken into consideration) - Microplastic emissions - Level of toxic process emissions - Level toxics in recyclate and other by-products - Water intensity [and use efficiency] - Material intensity and [use] efficiency - Land intensity [and use efficiency] ○ **Direct emissions and measurements**: the criteria refer to direct emissions and measurements, not emissions after CC(U)S abatement, or after offsetting ○ **Start and strengthen** criteria could be strengthened with the advent of technological improvements or planetary boundary changes.

Environmental justice Missing in Options Paper	**Cumulative impacts:** Require Parties to pass legislation and facility licensing regulations to prevent the accumulation of pollution-generating facilities in overburdened communities. **Access to information and consultation:** uphold the rights of affected communities to information and to meaningful participation and consultation in decisions to build or expand industrial facilities along the lifecycle of plastics. ○ **Comprehensive assessment:** The cumulative impact of all polluting facilities in a given location is to be considered in consultations, environmental justice legislation and facility licensing regulations, not only those associated with the lifecycle of plastics.
Waste trade (¶ 14c)	**No Basel Convention violations**: ○ **Options 14.c.iii, 14.c.iv and 14.c.v breach Basel Convention plastic waste amendments** by citing "circularity" and "sufficient capacity" for recycling as grounds for streamlining or exemption from waste trade controls, where the Convention includes criteria relating to polymer type, halogenation, waste contamination levels, and environmentally-sound recycling destinations (much narrower than "circularity" and narrower than unqualified "recycling").
EPR (¶ 14d)	**No duplication, robust standards** ○ The Basel Convention already published a Practical manuals on EPR and financing developed under the Basel Convention (2019). ○ EPR schemes should provide full cost coverage, be mandatory, be piloted by governments, focus on reduction and reuse before recycling, and integrate informal waste workers and workers in cooperative settings.
Just transition (¶ 29a)	**Just transition mechanism:** Establish a mechanism to ensure a fair, equitable and inclusive transition for waste pickers, workers in cooperative settings and other affected workers and communities (see International Alliance of Waste Pickers 2023 Recommendations for potential core obligations options for the plastics treaty).

Means of implementation	
Financial assistance (¶ 24)	**Dedicated fund** to ensure most funding and dedicated administrative capacity. ○ **Defined activities** to be funded or excluded by the treaty finance mechanism: - Include incremental compliance costs, institutional strengthening, policy development, just transition funding for waste workers (reskilling, access to capital & equipment), reuse pilot projects - Exclude waste-management technologies that are not environmentally sound (e.g. incineration including in cement kilns, "chemical recycling"), plastics alternatives that are not sustainable (e.g. single-use bio-based plastics) **Taxes, levies and EPR** to channel private sector finance sources for national governments. **No carbon or plastic credits** to avoid greenwash of plastic production, plastic pollution and polluting waste management.
Capacity building, technical cooperation and technology transfer (¶ 25-28)	**Non-duplication** of capacity building, technical cooperation and technology transfer, considering existing resources provided by GEF, the Basel Convention and other international agencies. **Do no harm** as a guiding principle: do not allow, fund, disseminate technologies or alternatives that harm the environment and planetary boundaries, human health or human rights. **Include informal waste workers**: build the capacity of waste pickers and waste workers in cooperative settings, and facilitate their access to capital and infrastructure, in the context of a just transition.

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GAIA is a global network of grassroots groups and national and regional alliances representing more than 1000 organizations from 92 countries. We envision a just, zero waste world built on respect for ecological limits and community rights, where people are free from the burden of toxic pollution, and resources are sustainably conserved, not burned or dumped. We work to catalyze a global shift towards environmental justice by strengthening grassroots social movements that advance solutions to waste and pollution.