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INC-3 BOOKLET



#PlasticsTreaty



GAIA is a network of grassroots groups as well as national and regional alliances representing more than 1000 organizations from 92 countries.

Our network is built on the deeply-rooted community knowledge of our members and the local expertise of our regional communities. Operating from a place of connectivity and trust, we are able to exchange the cross-border knowledge and tools needed to create a truly global movement that puts an end to waste pollution.

GAIA's mission is to catalyze a global shift towards environmental justice by strengthening grassroots social movements that advance solutions to waste and pollution. 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.

INC-3 booklet

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INC-3 schedule

Note: this information is based on the UNEP Scenario Note for INC-3, UNEP INC-3 Information Note, and UNEP INC-3 webpages as of 1 November 2023 and is subject to change.

Saturday 11 Nov	Sunday 12 Nov	Monday 13 Nov	Tuesday 14 Nov	Wednesday 15 Nov	Thursday 16 Nov	Friday 17 Nov	Saturday 18 Nov	Sunday 19 Nov
Preparatory meeting: scope, principles, areas for intersessional work, and other elements not discussed at INC-2, based on synthesis report	Regional meetings	INC-3 opens Plenary: Items 1, 3b, 3a (Rules of Procedure), 3c, 4 (zero draft, report back from preparatory meeting).	Regional meetings Contact groups Side events Contact groups	Regional meetings Contact groups Side events Contact groups	Regional meetings Plenary: progress update from contact groups Side events Contact groups	Regional meetings Contact groups Side events Contact groups	Regional meetings Contact groups conclude their work.	Regional meetings Plenary: mandate for first draft, intersessional work, meeting report, further work. INC-3 concludes

- First 7-day INC, in-person only, at UNEP headquarters in Nairobi, Kenya
- Floating badges for plenary access, with overflow room for those without: 4 badges per delegation for UN Member States and agencies, 2 per INGO, 1 per NGO
- Plenary will be [livestreamed](#) online in 6 UN languages, and in English in overflow room
- Contact groups (English only) will be convened from Tuesday to Saturday as follows:
 - **1:** Zero draft parts I & II: objective, control measures and relevant annexes
 - **2:** Zero draft parts III & IV: finance, technology transfer, national plans, implementation and relevant annexes
 - **3:** Zero draft placeholders & intersessional work
 - There will never be more than two contact groups meeting at the same time

What the INC-3 could achieve

The third session of negotiations for a new plastics treaty is the opportunity to make progress on key aspects for an effective response to the global plastics pollution crisis, namely:

1. A specific convention with binding measures to tackle the plastics crisis effectively

The zero draft represents the full array of government positions so far in the negotiations process, and a solid basis for negotiations. It includes the seeds of a specific convention on plastic pollution built on binding measures to effectively address a crisis that can only be resolved with global mandatory and concerted efforts, due to its transboundary nature, and to the failure of successive waves of voluntary and bottom up attempts.

2. Supply-side measures in service of the entire lifecycle

Most countries do not produce plastics, yet all are affected by the exponential increase of plastic production, and the pollution that goes along with it. Shrinking the size and gravity of the problem with upstream measures will only empower much-needed measures further downstream. While there is no way to overcome the plastic pollution crisis through waste-management alone, plastic production controls, both in terms of quantity and quality, are the key to unlocking the potential of recycling (see [The plastics circularity trap chapter](#) p. 11). Supply-side controls can also help make the cost of remediation and clean up more manageable, rather than attempting to mop the bathroom floor while the tub continues to overflow because the faucet is open full-blast.

3. A roadmap for intersessional work

INC-3 will be the first 7-day meeting in the plastics treaty process, with contact groups slated to run from Tuesday until Saturday. Still, contact group time may not suffice, and the INC-3 will have an opportunity to adopt a programme of intersessional work that sets up future INCs for success. This can be achieved by approving a plan for intersessional work that covers the most important and challenging control measures and means of implementation, and is accessible to all governments especially in the Global South as well as rights-holders and independent scientists (see GAIA INC-3 submission [Part B: Roadmap for intersessional work](#)).

4. Procedure and process that foster efficiency and allow breakthroughs

Informal channels at INC-3 could offer an avenue to resolve the Rules of Procedure disagreements around rule 38.1. While consensus is always preferred when possible, the prospect of a vote as a last resort can energize efforts to find common ground and foster breakthroughs (see [section on Rules of Procedure](#) p. 4). In addition, anchoring dialogue on scope, principles (see [Scope and Principles chapter](#) p. 6), and definitions (see [Definitions](#) p. 15) to related control measures will allow efficient and coherent progress and avoid disjointed conversations leading to inconsistent outcomes.

Rules of procedure

The saga so far

In **May 2022**, the **Ad hoc Open-ended Working Group** met in Dakar, Senegal, to prepare the work of the plastic treaty Intergovernmental Negotiating Committee (INC). In this context, it agreed the Draft Rules of Procedure to govern the negotiations process, with the exception of [bracketed text in rule 37](#) on the voting rights of economic integration organizations, and forwarded the Draft Rules to INC-1.

Debate on rule 37 continued during the **INC-1** in Punta del Este, Uruguay, without resolution. The INC agreed to apply the rules provisionally, with the exception of bracketed text in rule 37, pending their adoption, which was [postponed until INC-2 to allow for further consultations](#).¹

During **INC-2** in Paris, France, despite early convergence on rule 37, several delegates broadened the debate to the second sentence of rule 38.1, although the latter had not been bracketed in Dakar. That sentence reads:

If all efforts to reach consensus have been exhausted and no agreement has been reached, the decision shall, as a last resort, be taken by a two-thirds majority of the representatives of Members who are present and voting.

The controversy took up half of the INC-2 time at the expense of negotiations. The INC ultimately left rule 38.1 unbracketed but agreed to an interpretive statement recorded in the [meeting report](#), while continuing to provisionally apply the rules of procedure.² The interpretive statement is:

*The intergovernmental negotiating committee understands that, based on discussions on the draft rules of procedure for the intergovernmental negotiating committee, there are differing views among intergovernmental negotiating committee members on rule 38, paragraph 1, and its reflection in the report of the intergovernmental negotiating committee on the work of its first session. Therefore, the provisional application of rule 38, paragraph 1, of the draft rules of procedure has been a subject of debate. In the event that rule 38, paragraph 1, is invoked before the rules are formally adopted, members will recall this lack of agreement.*³

These Rules of Procedure issues are expected to keep emerging until they are solved and a proactive effort to settle them and adopt the rules is advisable. **This may be done without compromising contact group time, through an informal “friends of the Chair” group, that could continue its work intersessionally if no resolution is achieved at INC-3.**

Why the right to vote matters, when consensus cannot be reached

Rules of Procedure debate over voting is likely the single most important issue of the entire negotiation process as the decision-making mechanism will determine the level of ambition achievable.

¹ UNEP (2022). [Draft rules of procedure for the work of the intergovernmental negotiating committee to end plastic pollution, including in the marine environment](#), UNEP/PP/OEWG.1/4.

² Løvold, M. & Torbjørn Graff, H. (2023). [“Report from the ministry of magical diplomatic affairs”](#), Medium.

³ UNEP (2023). [Report of the intergovernmental negotiating committee to develop an international legally binding instrument on plastic pollution, including in the marine environment, on the work of its second session](#), UNEP/PP/INC.2/5.

Consensus is often the preferred mode of decision-making in diplomatic contexts. Indeed, it ensures that no country is forced to accept rules it disagrees with. The prospect of a vote, though, is an important enabler of consensus as whispers of a vote being tabled can encourage countries to converge, or at least abstain, rather than further derail progress. In rare cases, voting may happen, and typically requires a two-thirds majority representing significant convergence, rather than an even split with one vote tipping the balance (simple majority).

A provision for voting is key to delivering a strong and effective treaty that can end plastic pollution with the urgency required - and treaties that lack a voting provision have shown their weakness. For instance, chrysotile asbestos [remains unlisted under the Rotterdam Convention despite a quarter-million deaths every year](#) caused by the substance, and despite the availability of safer alternatives - as a handful of countries have been blocking consensus for nearly 20 years.⁴ In effect, the lack of voting means that **the near-totality of countries, most of which are Global South countries, are having their voices censored by a few vetoes**, only six at the 2023 Rotterdam Convention COP. As Senegal [elegantly stated](#) during INC-2, *"consensus kills democracy"*.⁵

The option to vote when consensus cannot be reached is a long-standing practice in UN spaces, negotiations and environmental agreements, including the [UNGA \(Rules 83 and 85\)](#), the [UNFCCC \(Rule 29\)](#), [UNEA \(Rule 49\)](#), the [Stockholm Convention \(Rule 37\)](#), the [Basel Convention \(Rule 34\)](#), the [Montreal Protocol \(Rule 40\)](#), and the negotiation rules for the new legally-binding instrument on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction or [BBNJ \(Paragraphs 18 and 19 of Resolution 72/249\)](#).

⁴ IISD Earth Negotiations Bulletin (2023). [The Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade](#)

⁵ Løvold, M. & Torbjørn Graff, H. (2023). ["Points of disorder"](#), *Medium*.

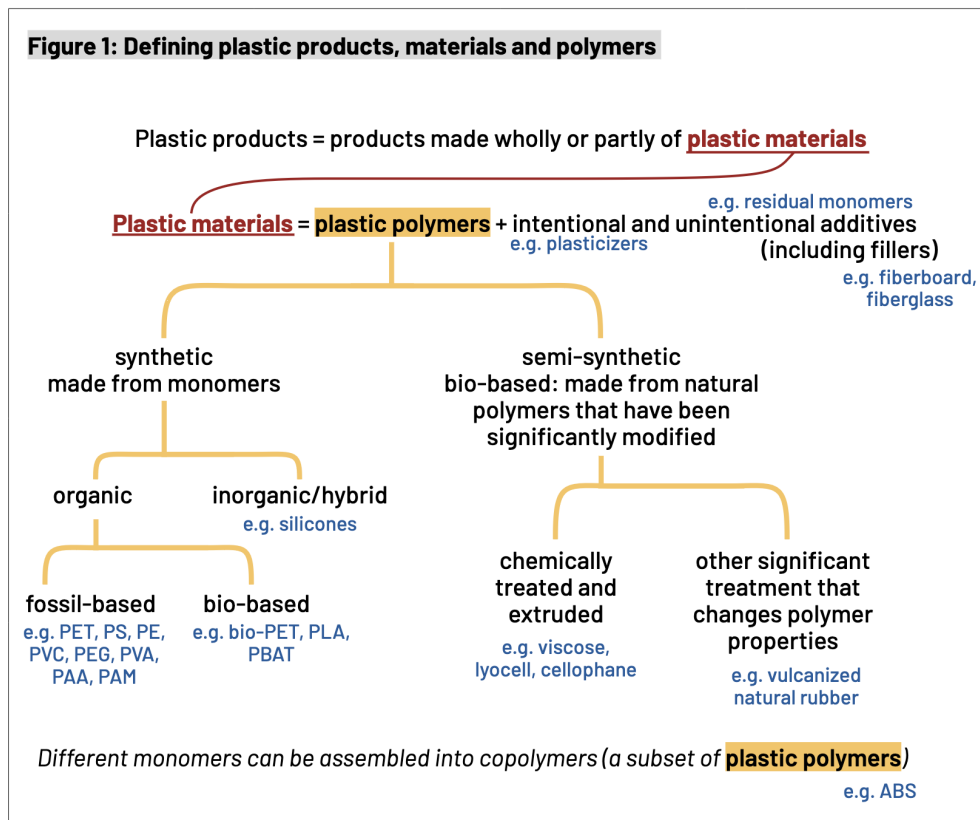
Scope and principles

Scope

[UNEA Resolution 5/14](#) sets the mandate for to negotiate the plastics treaty and **already defines its scope** as:

- Covering **all plastics and associated pollution**, with no exceptions.
- Covering processes along the **whole lifecycle** of plastics from the acquisition or generation of raw materials from natural resources until the very end of life of plastics and associated pollution impacts.

The following diagram shows the full scope of plastics covered, from plastic products to plastic materials, plastic polymers and additives (see GAIA 2022 [Defining plastic products, materials and polymers: a proposal](#)):



Principles

Global plastics treaty control measures and allocation of implementation resources may be informed by specific principles of international human rights and environmental law, some of which could be mentioned in the preamble to the future treaty. However, **treaty text does not need to specifically address principles** outside the preamble or separately from implementing them in control measures.

Rio Principles

[UNEA Resolution 5/14](#) reaffirms the principles of the [1992 Rio Declaration on Environment and Development](#) that include, inter alia: the principle of **common but differentiated responsibilities (CBDR)** (Principle 7); **public participation in environmental decision-making** (Principle 10); **access to information** (Principle 10); **liability and compensation** (Principle 13); **transboundary environmental justice** protecting states from transboundary harm (Principle 14); the **precautionary principle** (Principle 15); and the **polluter pays principle** (Principle 16).

Human rights

Human rights must also be central in the plastics treaty including: the **rights to life and the highest attainable standard of physical and mental health**; the **right to a safe, clean, healthy and sustainable environment** and the **prohibition on discrimination** regarding the right to a safe, clean, healthy and sustainable environment (**environmental justice**); the **rights to freedom of expression, association and peaceful assembly**, including as they pertain to **environmental defenders** as per the [Declaration on Human Rights Defenders](#); the **rights to education, information, participation and effective remedies**; the **rights of Indigenous Peoples and Traditional Communities** as per the United Nations Declaration on the Rights of Indigenous Peoples and the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169).

A key aspect of upholding economic and social rights is guaranteeing a **just transition** for formal and informal workers including waste pickers and communities including Indigenous Peoples in the lifecycle of plastics, to safeguard their human rights and livelihoods as economies shift to sustainable systems to combat plastic pollution. A just transition ensures those most affected by plastic pollution do not bear the costs of transition and participate equitably in emerging economic opportunities. Overall, the UN [Framework Principles on Human Rights and the Environment](#) provide a useful overview of human rights relevant for environmental protection.

Prevention principle and zero waste hierarchy

The **prevention principle** is a fundamental in environmental law since its recognition in the [1972 Stockholm Declaration on the Human Environment](#) when UNEP was founded. Prevention is the central focus of several international environmental agreements and is cited in the titles of the 1973 MARPOL Convention, the 1972 London Convention, while UNCLOS includes an obligation to prevent pollution (Article 194). The Ad Hoc Open-Ended Expert Group on Marine Litter and Microplastics recognized that “prevention is paramount and is the priority” as early as its second meeting in 2018. Prevention also appears both in principles 9 and 32 of the 2023 [Maastricht Principles on the Human Rights of Future Generations](#). The **zero waste hierarchy** applies the prevention principle to materials across their lifecycle. Unlike the traditional waste hierarchy, the zero waste hierarchy includes production and design and highlights the importance of reuse and repair as well as waste management.

Inter-generational equity and planetary boundaries

The [Maastricht Principles on the Human Rights of Future Generations](#) establishes equity between current and future generations in their human rights, including the right to a safe, clean, healthy and sustainable environment. **Protecting future generations’ right to a healthy environment requires respecting just levels for our planetary boundaries**. Nine planetary boundaries have been identified to date: climate change, stratospheric ozone depletion, atmospheric aerosol loading, ocean acidification, altered biogeochemical flows (phosphorus and nitrogen cycles), freshwater use, land-system change, loss of biosphere integrity, and novel entities. Plastics are a type of novel entities, and contribute to weakening all planetary boundaries.⁶

Inter-generational equity must be a key principle for the global plastics treaty. Just levels for planetary boundaries can be **benchmarks to inform the pace and scale of a global plastics production phasedown** to sustainable levels, specific phaseouts for chemicals including polymers, as well as materials and products, and to assess the sustainability of alternative systems and materials as well as waste management. A dedicated scientific body free from conflicts of interest with businesses in the plastics value chain will be best-placed to make such assessments.

⁶ Villarrubia-Gómez, P., Almroth, B. C., Ryberg, M. W., Eriksen, M., & Cornell, S. (2022). [Plastics Pollution and the Planetary Boundaries framework](#) (SSRN Scholarly Paper 4254033). <https://doi.org/10.2139/ssrn.4254033>

Priorities for zero draft discussion in contact groups

The plastics treaty zero draft is a balanced document that includes the full range of views expressed by governments during INCs 1 and 2 and should be the **basis for negotiations at INC-3**. This full range includes both strong and weak options for all control measures and means of implementation, from reducing plastic production to a financing mechanism.

A specific convention to end plastic pollution

Many of the draft's provisions are overly-broad, suggesting a framework convention (e.g. UN Framework Convention on Climate Change) with key control measures in separate protocols negotiated *after* the convention is adopted. This would **delay urgent action to end plastic pollution and make it uncertain**. Instead, the draft should feature **detailed control measures** typical of a specific convention, with add-ons in annexes to enable a **start-and-strengthen** approach. These should include targets, criteria and schedules hinging on science-based benchmarks bound to evolve, such as quantities of plastic production consistent with safe and just levels for planetary boundaries, as well as human health impacts.

Priorities for Contact Group 1 (Parts I & II)

Contact Group 1 should conduct a full reading of Parts I & II to gather views from INC members and enable the chair to prepare a first draft for INC-3.

Few of the Part I provisions need to be discussed at INC-3, and several are not essential in a treaty text. Principles (see p. 6) must be first and foremost operationalized in control measures and means of implementation, and can be tackled in a future preamble, which should be written at the end of negotiations to reflect the spirit of the text. Working definitions (see p. 17) are sufficient at this stage of negotiations and should be discussed alongside related control measures rather than in isolation. **Scope has already been agreed under UNEA Resolution 5/14 and includes all plastics and plastic pollution across the full lifecycle** (see p. 6). It must be reflected in the treaty objective, the best formulation for which is a merged adaptation of Option 2 sub-options 1 and 2, proposed by EIA: *"The objectives of this instrument are to end plastic pollution and to protect human health and the environment, based on a comprehensive approach that addresses the full life cycle of plastic."*

Beyond this, the discussion would be served by a **focus on upstream measures**, namely control measures 1 (primary plastic polymers), 2 (chemicals and polymers of concern) and 3 (plastic products and primary microplastics), 4 (exemptions), as well as 10a (trade in chemicals, polymers and products), 12 (just transition) and 13 (transparency, tracking, monitoring and labeling). Priorities for these include improving on Option 1 for each of these measures, and:

- **Primary plastic polymers:** commit to a **production phasedown to sustainable levels**. We can already derive an initial target for a **plastic production phasedown of at least 70% from 2019 levels by 2050 to stay within 1.5 of global warming**,⁷ and strengthen it as new data emerges on other planetary boundaries.
- **Chemicals including polymers of concern:** defend the regulation of chemicals including polymers as **groups**, as well as **chemical (including polymer) simplification**, as well as the **no data no market principle**. The control measure should provide for **bans on the production of polymers and other chemicals of concern** associated with plastics.

⁷ Eunomia & Zero Waste Europe (2022) [Is Net Zero Enough for the Materials Production Sector?](#); CIEL (2023). [Reducing Plastic Production to Achieve Climate Goals](#).

- **Products and primary microplastics:** also consider **controls by groups of products, including all products made from materials most likely to emit secondary microplastics**, such as plastic foams, textiles, and oxo-degradable plastics.
- **Exemptions:** consider the relative merits of the Minamata and Montreal approaches to exemptions, and further specify the mode of assessment of exemptions and the conditions required for approval, to preempt loopholes.

Future INCs will be better-positioned to tackle midstream and downstream measures 5-9, 10b and 11 in greater depth once progress has been made on the upstream controls necessary for their success. This is because the **downstream measures on recycled content, EPR, waste management and emissions and existing pollution will be intimately shaped by the upstream regulation landscape:**

- The viability of plastic reuse and recycling is conditioned by the guarantee of safe inputs through bans on all chemicals, including polymers of concern, and **controls on primary production to enable reusables and recycle to have a fighting chance to compete in a market currently saturated by single-use products.**
- The feasibility of waste management relies on having manageable overall volumes of plastics produced and consumed, rather than exponentially growing the problem.
- Similarly, controlling emissions and addressing existing pollution may be a self-defeating exercise without supply-side controls on quantities as well as types of plastics produced, with special attention to primary microplastics and sources of secondary microplastics.

Priorities for Contact Group 2 (Parts III & IV)

Contact Group 2 should also aim for a full reading of Parts III and IV. Beyond this reading, the discussion would benefit the most from a focus on financing and national action plans.

On **financing:**

- Ensure the establishment of a new **dedicated fund** to ensure most funding and dedicated administrative capacity and guarantee Member States, especially developing countries and economies in transition, assurances of access adequate, stable and predictable funding at the moment of ratification. Discuss methods of fund replenishment, and consider preferential access for Small Island Developing States (SIDS) and Least Developed Countries (LDCs).
- Define **activities** to be funded or excluded by the treaty finance mechanism:
 - **Including** incremental compliance costs, institutional strengthening, policy development, just transition funding for waste workers (reskilling, access to capital & equipment), reuse pilot projects
 - **Excluding** 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)
- While alternative sources of finance for national governments can include taxes, levies and EPR schemes, **no carbon or plastic credits must be considered**, to avoid greenwash of plastic production, plastic pollution and polluting waste management.

On **national plans**, the draft reconciles characteristics of national implementation plans and national action plans in its proposed ⁸, offering a solution for effective translation of global treaty obligations at the national level, with added flexibility to also include additional voluntary interventions.

⁸ CIEL, IUCN & WCEL (2023) [National Implementation Plans and National Action Plans](#).

Remaining Part IV provisions could be discussed in further depth if time permits, or could be better dealt with at future INCs, given the implications of implementation, compliance, reporting and periodic review in particular will depend on control measures most likely to be adopted.

Thee pitfalls to avoid in the zero draft

The draft includes three problematic concepts and approaches that need amending. The first is the notion of “**alternative plastics**” to refer to biobased, biodegradable, compostable plastics and plastics with high recycled content. The draft currently suggests their production should be increased, without consideration of how they might harm planetary boundaries or human health. In contrast, there is mounting evidence that these plastics may cause multiple harms, from deforestation, increased use of agrochemicals, and food insecurity (biobased plastics)⁹ to disruption of soil health (biodegradable and compostable plastics)¹⁰ to microplastic emissions¹¹ and concentration of toxics (recycling). Instead of spreading the fiction of harm-free plastics, the treaty should minimize the harm from plastics that may still be needed to perform essential functions in our societies, and ensure that the total production of plastics, including biobased, biodegradable, compostable and recycled plastics, remains within sustainable levels.

The second problematic notion is blanket support for “**technological innovation**” without any assessment of sustainability. The draft should steer clear from suggesting blind faith in techno-fixes and instead propose a science-based assessment of technologies based on their impacts on planetary boundaries, health and rights, with an emphasis on environmental justice. Specifically, its provisions on waste management should require the development of clear **criteria defining what is “adequate” and “environmentally-sound” waste management and what is not** in an annex that could be amended in light of new evidence and developments. Only clear criteria will prevent infrastructure lock-ins into polluting technologies like plastic-to-fuel and (co)incineration that will only shift the burden of plastic pollution instead of resolving it at the source. The Basel Convention has failed to produce such criteria in its latest plastic waste management guidelines, and the plastics treaty with its scientific and technical subsidiary bodies will be best-placed fill this gap.

The third problematic notion is that of **reuse** being confined to plastic materials. Dogmatic confinement of reuse systems to a single material type is a design and engineering non-starter: reuse must be **material-agnostic** to be effective, safe and environmentally-sound, with material choice guided by the specific practical, health and environmental parameters for every application.¹² In addition, reuse must be given the priority over recycling consistently with the zero waste hierarchy, including in provisions on Extended Producer Responsibility (EPR). Furthermore, the section on EPR needs specific mention of **waste pickers**, who are often the most vulnerable and overlooked workers in the informal waste sector, as well as the pillars of waste collection and segregation in many countries.

⁹ Gerassimidou, S., Martin, O. V., Chapman, S. P., Hahladakis, J. N., & Iacovidou, E. (2021). [Development of an integrated sustainability matrix to depict challenges and trade-offs of introducing bio-based plastics in the food packaging value chain](#). *Journal of Cleaner Production*, 286, 125378.

¹⁰ Accinelli, C., Abbas, H. K., Bruno, V., Nissen, L., Vicari, A., Bellaloui, N., Little, N. S., & Thomas Shier, W. (2020). [Persistence in soil of microplastic films from ultra-thin compostable plastic bags and implications on soil *Aspergillus flavus* population](#). *Waste Management*, 113, 312–318.

¹¹ Stapleton, M. J., Ansari, A. J., Ahmed, A., & Hai, F. I. (2023). [Evaluating the generation of microplastics from an unlikely source: The unintentional consequence of the current plastic recycling process](#). *Science of The Total Environment*, 902, 166090.

¹² Global Plastics Policy Centre (2023). [Making Reuse a Reality: A systems approach to tackling single-use plastic pollution](#).

The plastics circularity trap

References to the “circular economy of plastics” and “plastics circularity” have multiplied around the plastic treaty negotiations. This chapter considers the following questions:

- Is circularity the same as recycling?
- Is circularity always good for the environment?
- What are the challenges with plastic recycling, and what future does it have?

For a longer discussion of circularity and plastics, see GAIA 2022, [Plastics circularity: beyond the hype](#).

Circularity is reduction, repair, reuse and real recycling

We have long been cycling material resources in our economies through **repair, reuse** and **recycling**. These old practices were rebranded as “circular economy” by the [Ellen MacArthur Foundation and consulting firm McKinsey](#) a decade ago.¹³ It [excludes processes that destroy materials](#), such as toxic and chemical recycling, and all forms of burning plastic waste (open burn, (co)incineration, plastic-to-fuel).¹⁴

Many policies focus only on recycling, when **recycling is actually the least effective way to conserve materials and achieve circularity compared to reduction, reuse and repair**. This is because recycling has higher costs for the environment and wastes more material than reuse and repair, and of course, than reduction. Also, lack of chemicals transparency allows toxic recycling that creates recycle that cannot be safely used - toxic recycling is neither true recycling nor circular.



¹³ Ellen MacArthur Foundation (2013). [Towards the Circular Economy](#).

¹⁴ CIEL (2023). [Beyond Recycling: Reckoning with Plastics in a Circular Economy](#).

Circularity only helps the environment if and when it displaces new production

The collection and recycling of plastics cause carbon, toxic and microplastic emissions, as well as energy, water, material and land use. Those pressures on the environment [can only be redeemed when recycling directly avoids primary \(new, “virgin”\) plastic material production](#) - and not when it feeds into a pattern of growing production of plastics.¹⁵ To date, **plastic recycling has not meaningfully displaced primary plastic production.** In fact, **the plastics industry is using recycling to greenwash exponential plastic production.**

As long as government subsidies make primary plastic plentiful and artificially cheap, as long as product material and design decisions make plastic recycling impossible or too expensive in practice, and as long as the safety of plastic recycle is not guaranteed, plastic recycling will not displace primary production.

Recycling has long been the main metric used as a proxy for the circular economy - but this misses the mark, since recycling is the lowest form of circularity compared to reuse and repair. As leading industrial ecology expert [Roland Geyer advocates](#), **we must make annual primary production the main metric for the circular economy.**¹⁶

The best strategy to reduce overall primary material production is reduction, followed by reuse and repair.

Mere substitution of single-use fossil-based plastics to single-use bio-based plastics, or single-use products made from other materials will not close the circle.

Circularity is not intrinsically good for our planet nor something we should aspire to at any cost. Indeed, the circular economy paradigm only considers material use. It does not address energy use, water use, land use and the integrity of planetary boundaries, and as such, it cannot capture the lifecycle impacts of plastics. In contrast, [sufficiency](#) is “a set of policy measures and daily practices which avoid the demand for energy, materials, land, water, and other natural resources, while delivering wellbeing for all within planetary boundaries”.¹⁷ **Ensuring just levels for planetary boundaries is an overarching systemic principle that the plastics treaty must enshrine.**

Plastic recycling challenges and possible future

Recycling plastic waste delays its disposal, but does not reduce or prevent it. It brings real short-term benefits by lessening immediate harms associated with disposal, particularly toxic and carbon emissions from open burning or incineration.

However, the loop of recycling is only “closed” when a product with recycled content can be recycled into the same kind of product once it becomes waste - in other words, when the recycled content can do several loops at the same level of value in the economy.

Even PET bottle recycling, the poster child of plastic recycling, does not close the loop: PET bottles are mostly recycled either into polyester fiber (with greater microplastic shedding potential) or PET thermoform packaging (trays, clamshells or blister packs). Neither polyester fiber nor PET thermoforms are recycled in any meaningful way. In addition, even in PET recycling processes, a significant amount of material is lost and replaced with primary plastics. As of 2020, [only 10% of plastics ever produced](#) had been recycled.¹⁸ **True closed-loop plastic recycling is still largely a fiction.**

Recycling also adds a layer of uncertainty to the presence of toxic chemicals in plastics, and their implications for human health. [Over 13,000 chemicals](#) are associated with plastics, and most have not been tested for safety,

¹⁵ Zink, T. & Geyer, R. (2018). [Material Recycling and the Myth of Landfill Diversion](#), *Journal of Industrial Ecology*, Vol. 23 Issue 3. <https://doi.org/10.1111/jiec.12808>

¹⁶ Geyer, R. (2019). [The Business of Less: The Role of Companies and Households on a Planet in Peril](#).

¹⁷ Saheb, Y. (2021). [COP26: Sufficiency Should be First](#).

¹⁸ Geyer, R. (2020). [Chapter 2—Production, use, and fate of synthetic polymers](#). In T. M. Letcher (Ed.), *Plastic Waste and Recycling* (pp. 13–32).

while chemicals transparency is lacking.¹⁹ Recycling increases the potential for mixing and dissemination of chemicals in plastics. This makes it **hard to find applications for recycled plastic that are both safe and high enough in volume to meaningfully displace primary production**, hence the debate around recycled content requirements in food-contact materials. **Without chemicals transparency and bans on chemicals including polymers of concern, safe circularity is impossible.**

The truth is, plastic recycling comes at a cost - and the sustainable future of recycling may lie not in the mass-scale recycling of single-use plastics, but instead in the **targeted high-quality recycling of essential plastics**, for instance durable essential plastics in electric vehicles, renewable energy infrastructure and other areas of the climate transition.

¹⁹ UNEP (2023). [Chemicals in plastics: a technical report](#).

The plastics treaty and the Basel Convention

Plastic wastes as well as their trade and management threaten workers, communities, ecosystems and planetary boundaries, particularly in Global South countries. The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (Basel Convention) addresses some of these threats but also leaves many gaps. This chapter identifies which of these gaps are best addressed under the global plastics treaty – and which are best left for the Basel Convention, to avoid duplication. For more detail, please see the October 2023 briefing [Bridging the Basel Convention Gaps with the Future Plastics Treaty](#) by BAN, EIA and GAIA.

A treaty focused on binding upstream measures to complement Basel gaps

The Basel Convention has several provisions on waste generation and minimization: it requires Parties to minimize the generation of hazardous and other wastes (Article 4.2(b)), and its 2011 Cartagena Declaration is dedicated to waste prevention and minimization. Prevention is also the guiding principle of its 2013 Framework for the environmentally sound management of hazardous wastes and other wastes (ESM Framework), which calls for “resources and tools be allocated in accordance with the [waste] Hierarchy”. The Convention also adopted guidance on waste prevention and minimisation in 2017, while its 2023 Technical guidelines on the ESM of plastic wastes (Plastic Waste Guidelines) feature a section on waste prevention and minimisation. However, **Basel provisions on waste prevention are all voluntary guidance that has failed to curb the plastic pollution crisis, and the emphasis remains on recycling rather than upstream prevention. Prevention must be obligatory and binding for plastics, and must be the primary task for the new plastics treaty.**

Treaty regulations on harmful, polluting plastic waste management needed

All forms of plastic waste management harm the environment, health and human rights. Plastic burning, whether during open burn or controlled burning in incinerators, cement kilns, or pyrolysis, and even in state-of-the-art facilities,²⁰ generates significant toxic and carbon emissions as well as hazardous ashes laden with microplastics.²¹ US EPA scientists have found some chemicals emitted by chemical recycling to be so dangerous that they expect all people exposed to them over a lifetime to develop cancer.²² **None of these harms are adequately addressed in Basel guidance, and neither does it equip governments to tell apart harmful waste-management technologies from safe ones.**

Mechanical recycling can also circulate toxics and generate significant microplastics.²³ The Basel Convention's 2019 Plastic Waste Amendments require that plastic waste only be traded without controls when “destined for recycling in an environmentally sound manner,” among other conditions (Annex IX listing B3011). However, the Convention's texts including the 2023 Plastic Waste Guidelines fail to identify and distinguish between ESM and non-ESM recycling.

The new plastics treaty will have a focus on plastics associated pollution, which the Basel Convention lacks. **The new plastics treaty will therefore be the best avenue to establish binding criteria for what might be redefined as**

²⁰ Zero Waste Europe & Toxico Watch (2018). [Hidden emissions: A story from the Netherlands](#).

²¹ Yang, Z., et al. (2021). [Is incineration the terminator of plastics and microplastics?](#) *Journal of Hazardous Materials*, Vol. 401, 123429; Shen, M., et al. (2021). [Can incineration completely eliminate plastic wastes? An investigation of microplastics and heavy metals in the bottom ash and fly ash from an incineration plant](#). *Science of the Total Environment*, 779, 146528.

²² Lerner, S. (2023). [EPA Approved a Fuel Ingredient Even Though It Could Cause Cancer in Virtually Every Person Exposed Over a Lifetime](#), *Pro Publica*.

²³ Brown, E., et al. (2023). [The potential for a plastic recycling facility to release microplastic pollution and possible filtration remediation effectiveness](#). *Journal of Hazardous Materials Advances*, Vol. 10.

truly environmentally and socially-sound management of plastic wastes that upholds environmental justice and human rights and protects planetary boundaries.

Treaty consideration of hazardous polymers and additives

The BRS Conventions Secretariat participated in a thorough UNEP 2023 publication on chemicals of concern in plastics, [Chemicals in Plastics: A Technical Report](#). Yet, the Basel Convention continues to struggle to adequately address and regulate chemicals of concern in plastic wastes, either as polymers or additives. The 2023 Plastic Waste Guidelines leave Parties unequipped to clearly identify what plastic wastes are hazardous due to the presence of hazardous additives or polymers. It also fails to uphold the rebuttable presumption framework, where Parties should treat plastic wastes as hazardous unless the absence of hazardous polymers or additives is demonstrated. **The plastics treaty must establish transparency and accurate labeling of chemical constituents, as well as prohibitions on chemicals and polymers of concern, to end the international circulation of toxic plastic waste, and the amplification of toxics through recycling.**

Basel must address gaps on the trade of plastic wastes in other waste streams

Many types of plastic waste that should be controlled under the Basel Convention Plastic Waste Amendments continue to cross borders unchecked through the use of obsolete Annex IX listings that the Convention has failed to reform. These include synthetic textiles, rubber wastes, refuse-derived fuel, plastics in e-waste, plastics in cars, and plastics mixed in paper bales. Those wastes cause manifold harms in importing countries, including microplastic and toxic pollution through emissions and burning.²⁴ **The Basel Convention must update its listings on waste streams containing plastics and shift them to Annex II (waste deserving special consideration) if not Annex VIII (hazardous), while the plastics treaty should prohibit all thermal treatment of plastic waste.**

Better enforcement needed

Currently, the Plastic Waste Amendments are rarely enforced when it comes to hazardous plastic wastes (listing A3210). Meanwhile, many plastic wastes are traded without controls because they are presumed to be made from a single, non-halogenated polymer, free from contamination and destined for environmentally-sound recycling (listing B3011), although their contamination and toxics content bars any such safe recycling in practice. **The Basel Convention must strengthen its governance and implementation mechanisms and reaffirm the rebuttable presumption framework, where Parties should treat plastic wastes as hazardous, unless the absence of hazardous polymers (e.g. PVC), hazardous additives (e.g. brominated flame-retardants) and contaminants, as well as the safety of recycling destinations, is demonstrated.** The Convention must also strengthen its governance and implementation capacity to end the multiple abuses of Article 11 of the Convention for trade with non-Parties (US-Canada arrangement, Mexico-US trade invoking the OECD Decision), and other trade ignoring Basel controls (intra-EU trade).

Ultimately, a plastics treaty focused on binding upstream measures while establishing binding criteria for truly safe plastic waste management, and a Basel Convention with stronger governance and implementation powers and freed from obsolete listings that interfere with the Plastic Waste Amendments, will be the best combination to address the harms of plastics and plastic pollution across the whole lifecycle.

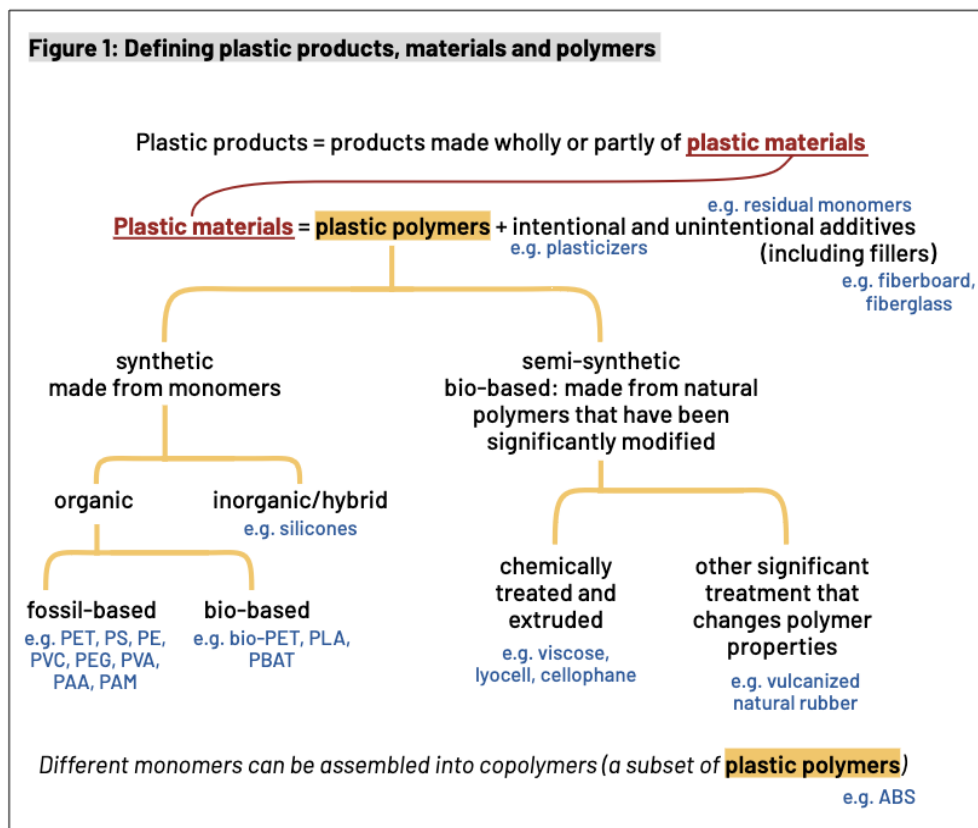
²⁴ Nexus3, Arnika, ECOTON & IPEN (2019). [Plastic Waste Flooding Indonesia Leads to Toxic Chemical Contamination of the Food Chain](#).

Definitions

A glossary of terms for the plastics treaty could be adopted as an annex during the early COPs, grouping definitions and defining criteria from different control measures and provide clarity for adequate implementation if needed. **The following working definitions may be helpful for negotiators in the context of discussions on related control measures.**

Plastics and plastic pollution

This diagram from GAIA 2022, [Defining plastic products, materials and polymers: a proposal](#) illustrates how some of the definitions below are interrelated:



Plastics include plastic polymers, plastic materials, plastic products and plastic wastes.

Plastic materials consist of plastic polymers and additives, both unintentional and intentional, including fillers (from [GAIA, 2022](#)).

Plastic pollution is the unintended or unlawful presence of plastic in the environment, as well as toxic and climate pollution from plastics (from [GAIA, 2022](#)).

Plastic polymers include all synthetic polymers (organic, inorganic and hybrid) as well as all semi-synthetic polymers, in their diverse states of matter, water solubility and water absorbency (from [GAIA, 2022](#)).

Semi-synthetic polymers are natural polymers that have been modified in a manner that affects polymer properties (e.g. vulcanization, viscose process, lyocell process) (from [GAIA, 2022](#)).

Plastic product: A product or component made wholly or partly from plastic materials, including intermediate products used to manufacture other products (e.g. pellets and other primary microplastics, polystyrene beads, rolls of film) (adapted from [Directive \(EU\) 2019/904 on the reduction of the impact of certain plastic products on the environment](#)).

Other definitions

Avoidable plastic product or material: A plastic or material product for which alternatives have been developed that have equivalent functionality and adequate performance. Systemic alternatives (e.g. avoidance of single-use plastic products through reuse and refill) are often preferable to alternative single-use products from an environmental standpoint (adapted from Cousins, et al. (2019). [The concept of essential use for determining when uses of PFASs can be phased out](#). *Environmental Science: Processes & Impacts*, 21(11).²⁵

Circular economy, “an approach contributing to Sustainable Consumption and Production patterns, refers to a system where products, materials and resources maintain their value and use in the economy, for as long as possible, thus minimizing waste by sharing, leasing, reusing, repairing, refurbishing, remanufacturing and recycling, instead of throw-away or take-make-dispose.” (definition from the [Amendments to the Regional Plan on Marine Litter Management in the Mediterranean in the Framework of Article 15 of the Land Based Sources Protocol](#) under the Barcelona Convention). *Note: the main indicator for the circular economy must be annual primary material production, not recycling rates – see p. 13 of this booklet and referenced publications by of Roland Geyer.*

Essential use: Use considered essential because it is necessary for health or safety or critical for the functioning of society and for which there are no alternatives that are acceptable from the standpoint of environment and health (adapted from the [European Union Chemicals Strategy for Sustainability Towards a Toxic-Free Environment](#) which draws on the Montreal Protocol [Decision IV/25](#)).

High-risk plastic product or material: Plastic product or material with high risk of causing plastic pollution, based on its probability of the plastic to end up in the environment, and resulting impacts on the environment and human health (adapted from WWF 2023 [Breaking down high-risk plastic products](#)).

Lifecycle: “life cycle approach means considering all potential impacts of all activities and outcomes associated with the production and consumption of plastics including raw material extraction and processing (for plastics: refining; cracking; polymerisation), design and manufacturing, packaging, distribution, use and reuse, maintenance and end of life management, including segregation, collection, sorting, recycling, and disposal” (from UNEP 2021 [Plastics Science](#), UNEP/PP/INC.1/7).

Recycling: “any recovery operation by which waste materials are reprocessed into products, materials or substances whether for the original or other purposes. It includes the reprocessing of organic material but does not include energy recovery and the reprocessing into materials that are to be used as fuels or for backfilling operations.” (EU [Directive 2008/98 on waste](#), aligned with the Basel Convention [Glossary of Terms](#)).

Refill: The action of using a container that is owned by the consumer and is either refilled in the shop or refilled at home (from DUH & Zero Waste Europe 2022 [Packaging Reuse vs. Packaging Prevention: Understanding which policy measures best apply](#)).

²⁵ Cousins, I. T., Goldenman, G., Herzke, D., Lohmann, R., Miller, M., Ng, C. A., Patton, S., Scheringer, M., Trier, X., Vierke, L., Wang, Z., & DeWitt, J. C. (2019). [The concept of essential use for determining when uses of PFASs can be phased out](#). *Environmental Science: Processes & Impacts*, 21(11), 1803–1815.

Reuse system: A comprehensive system designed for multiple circulations of reusable packaging which remains in the ownership of the reuse system and loaned to the consumer (from University of Portsmouth Global Plastics Policy Centre 2023 [Making reuse a reality: A systems approach to tackling single-use plastic pollution](#)).

Short-lived product: A product with a use phase of less than three years.

Single-use product: A product that is not conceived, designed or placed on the market to accomplish, within its life span, multiple trips or rotations by being returned to a producer for refill or reused for the same purpose for which it was conceived (adapted from EU [Directive 2019/904 on the reduction of the impact of certain plastic products on the environment](#)).

Zero waste: The conservation of all resources by means of reducing production and consumption, reuse, and recycling of products, packaging, and materials without burning and with no discharges to land, water, or air that threaten the environment or human health. (adapted from [Zero Waste International Alliance, 2018](#)).

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about
GAIA

GAIA is a network of grassroots groups as well as 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 and plastic pollution, and resources are sustainably conserved, not burned or dumped.



www.no-burn.org

Claire Arkin

Global Communications Lead
+1-973-444-4869 | claire@no-burn.org

Sirine Rached

Global Plastics Policy Coordinator
+1-510-356-7056 | sirine@no-burn.org