

Analysis of the INC chair's text for a Plastics Treaty



**by the latin american and Caribbean member
organizations of GAIA.**





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The Latin American and Caribbean organizations that have been monitoring negotiations for a Legally Binding Instrument to stop Plastic Pollution, including in the Marine Environment, organized under GAIA, have analyzed the text by the INC Chair, Ambassador Luis Vayas, and would like to underscore the following matters, which are especially relevant to our region.

Recognizing the treaty must be consistent with international frameworks such as the Regional Agreement on Access to Information, Public Participation, and Justice in Environmental Matters in Latin America and the Caribbean, better known as the Escazu Agreement, and the right to a healthy environment.

We hope this document will contribute to our governments' work towards achieving an instrument that fulfills the mandate of UNEA 5/14.

Art. 6: [Supply][Sustainable Production] Reducing Production.

To comply with the mandate of UNEA resolution 5/14, it is essential for the treaty to achieve a reduction in the production and consumption of plastics, reaching sustainable levels¹ that respect human rights. In this regard, the following must be highlighted:

- Cast aside Option 1 (no text).
- Strengthen Option 2.

With a view to strengthening Option 2, we recommend the following:

- **Consider stand-alone monitoring mechanisms:** Include a mandatory reporting system with cross-audits by civil society and academia (universities and specialized research centers).
- Establish a **moratorium on increasing installed capacity** for plastics production so that the precautionary and prevention principles are not breached, outlining indicators for this purpose.
- **Remove the brackets** around each of the paragraphs, since that text is an integral part of the proposal to have harmonious, binding control measure.
- Add **binding national targets for both production and consumption**, in support of the global reduction target to ensure that Parties are also individually accountable. Parties may request a de-

layed phasedown via Article 4 on Exemptions. Small island developing States (SIDS) and the least developed countries (LDCs) may additionally seek tolerance under the treaty's compliance mechanism when available funding is insufficient to ensure compliance.

- Provide an assessment of progress towards achieving the targets and their effectiveness, with the option of updating them, every two years instead of every five years, to address the urgency of the plastic pollution crisis and its harmful impact on the environment across the full lifecycle of plastics, including climate and biodiversity, as well as human health.

An Annex establishing the reduction target and including a streamlined update or adjustment process, for instance, through tacit acceptance or a two-thirds vote of the COP Parties present and voting, as well as ensuring the universal applicability of Annex updates once they enter into force (removing Article 27(4)) is critical to the success of this Article.

- We recommend to establish independent audits and regular reporting mechanisms under verifiable standards.

1. The organizations are critical of this concept because, just like the notion of circular economy, it often includes false solutions. We believe that production levels should be limited to respect planetary boundaries.

Art. 3: Plastic Products Products of Concern and Control of Chemicals.

The Chair's text on plastic products does not propose pre-manufacturing chemical controls, thereby placing the burden of legislation and oversight on the countries receiving these products. This is insufficient and does not reflect the ambition of 100+ governments that, during INC5, demanded control of chemicals and the phasing out of the use of chemicals of concern². Most of the chemicals of concern found in plastics are not regulated globally under any Multilateral Environmental Agreement. A consistent proposal reflecting the ambition of INC-5 should include the following elements:

- Harmonized mandatory disclosure of the chemical composition and associated potential hazards³.
- A "no data, no market" approach.
- To allow the use only of proven harmless chemicals.
- Phasing out the manufacturing and trade of plastic products containing hazardous chemicals identified as such via:
 - An approach based on the precautionary principle.
 - Hazard-related criteria such as persistence, bioaccumulation, mobility and toxicity, and other criteria detailed in an Annex.
- A red list identifying chemicals and

groups of chemical substances for which the hazardousness has already been established based on technical criteria. This list must contain at least the following: phthalates, bisphenol A, UV-328, flame retardants and heavy metals.

- Ongoing monitoring by a Scientific Review Committee when there is insufficient evidence to exclude hazardousness.
- Phasing out the manufacturing and trade of plastic products containing hazardous chemicals that:
 - Are unnecessary (can be eliminated without being replaced), or can be avoided after the scaling up of alternatives, such as reuse and refill systems.
 - Harm human health or the environment, including products that are single-use, short-lived, easily littered, or products that are more likely to emit microplastics.
 - Are difficult to reuse or safely manage as waste at a scale and in practice, recalling that neither chemical recycling or incineration are safe for human health or the environment.
- The criteria and the pertinent lists should be included in an Annex on plastic products and chemicals. Whenever possible, it is essential to adopt an approach

2. <https://www.bridgetobusan.com/ppcc> (Declaration on Plastic Products and Chemicals of Concern) and verbal support from countries at the INC-5 meeting as tracked by GAIA.

3. HEJSupport, Swedish Society for Nature Conservation and GroundWork (2022) <https://hej-support.org/global-plastics-treaty-transparency-requirement-for-chemical-constituents-in-plastic-is-a-must/>.

based on groups of chemicals, in the interest of efficiency and to avoid regrettable substitutes..

- Ensure transparency mechanisms for product labeling that are legible, accessible, and culturally relevant, aligned with consumer rights, with an emphasis on information on chemical composition for proper recovery, reuse, and/or final disposal of the product.

Essential to the success of this Article is an Annex that includes a simplified process for updating or adjusting the Annex through tacit acceptance or a two-thirds vote of the Parties present and voting at the COP, as well as ensuring the universal applicability of Annex updates once they enter into force (and deleting Article 27(4)).

Since, in practice, there are no effectively compostable plastics, we suggest removing any reference in this article, section 1 (c) to compostable plastics as a characteristic for exclusion from the list of plastic products of concern. We also propose including non-toxicity criteria for the exclusion of products in this same section.

Our proposed text in this section is as follows:

1. c). not suitable for safe and non-toxic reuse or recycling.

4. The United Nations Globally Harmonized System of Classification and Labeling (GHS) already uses persistence, bioaccumulation, and toxicity as criteria for hazard and risk, and is currently considering the possibility of adding mobility.

5. GAIA (2022) [“Chemical recycling” and plastic-to-fuel](#); GAIA (2022) [Waste incineration and burning waste in cement kilns](#).

6. See IPEN (2025) [The plastics treaty in 2025: IPEN views on the Chair's Text](#).

Art. 8: Control of plastic waste Waste Management.

Measures adopted on plastic waste management under the future plastics treaty must address the legal loopholes of the Basel Convention, and particularly:

- Focus on prevention as the top-tier of the waste hierarchy, and also consider that the Basel Convention provisions on waste prevention are only voluntary guidelines.
- Eliminate plastic waste management practices that harm the environment, health, and human rights, such as open burning of plastics or controlled combustion in incinerators, cement kilns, or pyrolysis, as well as chemical recycling. The provisions of the Basel Convention do not provide governments with sufficient information to tell the difference between harmful and safe waste management technologies.

We recommend that the negotiations strengthen Article 8 and that:

- **The exclusion of burning of plastics in all its forms**, including the removal of any reference to energy-recovery from waste, since energy recovery is a leak from the circular economy as it perpetuates the dependence on linear plastics production.
- Rearrange the measures in paragraph 2 according to the waste hierarchy, starting with prevention.
- The exclusion of Toxic recycling (also called Chemical Recycling, or Advanced Recycling).
- The excellent provisions of Article 3 on the movement of waste, which strengthen the Basel Convention, to be retained.
- The important references to Just Transition and Waste pickers in paragraph 2 are kept.
- Waste colonialism is stopped by banning the export and import of plastic waste not regulated by the Basel Convention's Amendment on plastics, so that each country is responsible for the waste it generates on its own land.

7. El colonialismo de la basura no se detiene en América Latina. (Waste colonialism does not stop in Latin America) GAIA 2022. <https://www.no-burn.org/wp-content/uploads/2022/09/comercio-residuos-2023.pdf>

Art. 11: [Financial resources and] financial mechanism.

Add to item 11, a letter d) so that:

- Funding for the treaty's implementation will allocate rapid start-up and dissemination funds that can be accessed by civil society organizations unrelated to the plastics industries and mass consumer goods.

Art. 27: Ratification, Acceptance, Approval or Accession.

An efficient way to approve changes to the treaty allows for the easy inclusion of emerging technologies and scientific contributions. We suggest that the amendments be automatically adopted and enter into force without the need for ratification. The parties may decide to opt out of the amendment. If more than one-third of the parties opts out, the amendment will not enter into force. An example of this type of approval is the International Convention for the Prevention of Pollution from Ships (MARPOL).

This will ensure the protection of health and the environment globally, simultaneously, and with no bias.

In view of the above, we recommend eliminating paragraph 4 of Article 27, since in other contexts this has hindered full implementation of the Treaty.

Art. 10: Just Transition.

We make the following recommendations:

- Strengthen inclusive recycling systems with an emphasis on formalization of and financing for waste pickers to ensure decent working conditions, access to infrastructure, and traceability mechanisms for recyclable waste.
- Ensure measures for a just transition are binding.

Art. 19: Health.

The link between human and environmental health and the effects of plastic pollution across plastics' full life cycle is evident. We therefore recommend that Article 19 remains in the text of the treaty.

We urge Member States to adopt a global plastics treaty that prioritizes human health in the efforts to eradicate pollution from plastics. Therefore, a consistent, preventive approach that protects health throughout the text is essential to reducing plastic pollution and safeguarding human health.

It is also important to uphold Article 19 on Health and to establish binding obligations to prevent the impact of plastics on health, advocate for environmental rights, and ensure safe and healthy environments, including workplaces, through specific strategies and programmes.

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