

INC-5 - Plastic Pollution Treaty (ILBI)

Legal analysis of the INC Chair's Non-Paper

Building on the [CompilationText](#), and in effort to find pathways to achieving an ILBI, the Chair of the Intergovernmental Negotiating Committee for the adoption of an international legally binding instrument on plastic pollution, including in the marine environment (INC) drafted three versions of a Non-Paper on the way forward for the negotiations to deliver an ILBI within the ambitious timeframe set forth in UNEA Resolution 5/14. The first Non-Paper was the basis for closed-door sessions for Heads of Delegation in early October 2024 in Nairobi. The outcomes of these meetings were used to inform a subsequent second iteration that was narrowly circulated and the third iteration of the Non-Paper was released on 30 October 2024 ([INC Chair Non Paper 3](#)).

The Chair's Non-Paper (Non-Paper) has been offered as a proposed alternative negotiating text to guide progress toward efforts at completing a full ILBI text during INC-5. From a legal procedure standpoint, the Non-Paper terminology has been used because, unlike the Compilation Document text, this was not requested by the INC as an outcome of INC4 and thus lacks legal standing to be used as the basis for INC5 negotiations unless the INC specifically agrees to adopt it for such a purpose.

Unlike the previous Zero Draft and Revised Zero Draft, and the current iteration of the Compilation Document, the Non-Paper is structured in Articles rather than Parts. Where relevant, the Non-Paper asserts that there could be space for the development of additional annex and similar texts to implement the ILBI during the interim period between Diplomatic Conference (DipCON) and the COP-1 (for adoption by the COP at its first meeting). It has been developed by the Chair as an effort to bridge some of the areas where he believes consensus could be possible.

While the Non-Paper uses some aspects of proposals in the Compilation Document, it also omits a number of provisions from the Compilation Document, such as International Cooperation, primary plastic polymers, many elements of the plastic products and design, subsidies, Extended Producer Responsibility and transparency.

Further, despite proposals for inclusion in several places in the Compilation Document and recent decisions of the Conference of the Parties to the Convention on Biological Diversity stressing the need for cross-cutting measures between treaty regimes, biodiversity and references to it have been entirely removed from the Non-Paper. Similarly, references to and provisions addressing Indigenous peoples, local communities and human rights aspects of plastic pollution and associated impacts have been curtailed in the Non-Paper.

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Other critical areas for the ILBI which were contained in the Revised Zero Draft, are currently contained in the Compilation Document and have been removed, dramatically reduced or left to the periods between the Diplomatic Conference and the first Conference of the Parties in the Non-Paper include:

- principles,
- scope,
- plastic emissions,
- plastic leakage,
- programmes of work,
- microplastics,
- non-plastic substitutes,
- trade,
- fishing gear,
- periodic assessment,
- and stakeholder engagement.

It should also be noted that there are some areas, such as the financial mechanism provisions, in which the Non-Paper simply lists some proposed options but does not provide specific proposed text.

If the Non-Paper is adopted as the framework for INC5 negotiations, Parties will have the ability to make textual proposals at any time in the negotiations as they relate to the specific articles, meaning that they could propose or endorse the use of elements from the Compilation Document as well as other potential new proposals. In each scenario for INC5 practice and outcomes, the INC must be guided by and work in conjunction with the full mandate established in the parameters of UNEA Resolution 5/14 and standard tenets of international law. Thus, beside the content of the INC-5 outcome, it will be important to identify clearly the work that is envisaged during the interim period between DipCON and COP-1 and provide all necessary authorizations to facilitate this, including deciding on the Rules of Procedure to be used for these meetings

The **Annex** presents an **overview of the Non-Paper**, following the structure Article per Article, as well as areas that represent fundamental challenges to the successful use of the Non-Paper to achieve the terms and objectives of UNEA Resolution 5/14. This includes, where relevant, **textual options – based on the Compilation Document language – aimed at advancing ambition in the ILBI context** and also **ensuring a clear nexus with critical topics such as biodiversity and circular economy solutions** (including upstream/midstream measures such as reuse, refill; primary plastic production, circularity and nature positive business models for SMEs, and subsidies), considering the latest outcomes of the [Biodiversity COP 16 Convention on Biological Diversity](#), e.g. on “Biodiversity and Health” or on “Strengthening the role of indigenous peoples and local communities”, where relevant.

In particular, IUCN presents three options for entry points to integrate biodiversity language in the ILBI¹:

- **Option 1.** At a minimum, maintain specific language in articles to draw out biodiversity protection and community inclusion, and mainstream the term “Biodiversity” and/or “Ecosystems” across a number of relevant articles, based on the Compilation Text. This is important, as commonly the term “Environment” is not specific enough to acknowledge the scientifically established characteristics and interdependence of ecosystems and species that is reflected in the term “biodiversity.” Thus, the legal text would benefit of more clarity, by mentioning the term Biodiversity explicitly in order to ensure that the scope of the ILBI clearly includes biodiversity concerns and that future Conferences of the Parties (COP) are able to adapt implementation of the ILBI to address changes in the relationship between plastic pollution and biodiversity over time.
- **Option 2.** Add specific biodiversity language in the “International Cooperation” Article to further strengthen coherence with other MEAs.
- **Option 3.** Insert a dedicated, new article on “Biodiversity Aspects” that promotes implementation and compliance to advance nature positive approaches under international and national laws (and/or add specific language in the “Health Aspects Article”, embracing a holistic *One Health approach*).

To allow future COP decisions and resulting implementation actions considering biodiversity aspects, it is recommended that the future Treaty contain as entry points at a minimum the text as noted for Option 1, for instance in the Preambular text, Scope, Objective, Principles, and further key operative terms, in combination with respective language in the International Cooperation Article (Option 2), to ensure synergies on governance, contributions from other MEAs and reporting burdens.

These and other above mentioned **omitted sections of the Compilation Document that are fundamentally linked to the terms and objectives of UNEA Resolution 5/14** and international treaty law practice, **have been added as “New” textual options/entry points in the analysis**, following the article per article structure of the Non-Paper.

The overarching concern underlining this analysis and the accompanying textual options is to ensure that the ILBI be a legally significant treaty that addresses all phases of plastic pollution and the plastics lifecycle, encourages convergence and coherence with existing international treaty law, recognizes the core connections between biodiversity protection and plastic pollution, and ensures that all States, stakeholders and civil society members will be represented in its terms.

¹ IUCN, WCEL, Fauna&Flora and ZSL have issued a legal brief with concrete textual options and entry points based on the Compilation Document, which can be consulted on [Biodiversity in the Future Global Plastics Treaty - resource | IUCN](#).

Annex

Legal Analysis of the Chairs Non-Paper ([INC Chair Non Paper 3](#))

It should be noted that the following **textual options** of legal language are based on the text of the Compilation Document unless otherwise noted, and that textual options for new text from IUCN are further highlighted in **green**.

Additionally, while it will be essential that work will be done between the Diplomatic Conference and COP1, it should be noted that this will have to be carefully prescribed in the decisions made by the Diplomatic Conference and that State participation in these efforts will correlate to their ratification of the ILBI.

Preamble (cf. Part I.1 of the Compilation Document)

Overall, the preamble proposal in the Non-Paper is based on the suggestion of “a preamble text that could facilitate further development.” As is standard practice in international law, the preamble is intended to provide an extensive understanding of the background against which the treaty is being adopted, including the motivations and the existing hard and soft law regimes which interact with it. To establish this, there are many existing sources of guidance in MEAs and other treaty regimes **although they have not been reflected in most of the preambular textual proposal in the Non-Paper.**

At the same time, the references made to the interaction of treaty regimes are legally without meaning and fail to address the potential challenges and opportunities posed by regime convergence in plastics and related topic areas. This is problematic because a lack of clarity in the preamble could be seen to constrain the future activities of the COPs and could be the source of disagreement between the Parties in the implementation of the ILBI and other treaty obligations.

The language proposed in reference to the UN Charter is not the standard used to address and include the growth of international law from the UN Charter onward, and there are many examples of text that has been used in other treaty regimes to more accurately reflect the development of international law in this regard. Similarly, the use of references to the Rio Declaration is incomplete and would benefit from specificity in the applicable and prioritized Rio Principles, as is often standard treaty practice. Additionally, the proposed preamble lacks references to the very instruments which form its history and inform the INC process, such as UNEA Resolution 5/14.

The proposed preamble lacks language relating to legal and regulatory topics that are critical to addressing plastic pollution, including biodiversity, subsidies, a clearly articulated system for imports and exports of plastics products and wastes, and extended producer responsibility. Further the language “recognizing also the important role played by plastic in human society” does not reflect the provisions of Resolution 5/14 or the legal justifications for convening the INC process and generating the ILBI.

In terms of equity and justice issues, many of the proposed preambular terms are not drafted using standard international law language, resulting in a lack of clarity as to their meaning and future utility, while also failing to reference integral hard and soft law regimes, such as the United Nations Declaration on the Rights of Indigenous Peoples, which are critical addressing plastic pollution and associated impacts across the full plastics lifecycle. Similar issues can be found in the text attempting to address the nexus between labour concerns and plastic, where the language proposed is not standard and is also quite limiting in scope and understanding of the rights of workers and communities throughout the plastics lifecycle.

Textual option

Part I.1 of the Compilation Document

[The Parties to this instrument*,

Noting with concern that the high and rapidly increasing levels of plastic pollution represent a serious environmental problem, **negatively impact biodiversity**, and **pose risks to human health** at a global scale, negatively impacting the environmental, social and economic dimensions of sustainable development,

Recognizing the global, regional and national challenges stemming from accumulated legacy plastics, especially in developing countries,

Noting with concern the specific impact of plastic pollution on the marine environment, including biodiversity and connected aquatic ecosystems,

Recognizing the intersections between plastic pollution, circular economy solutions and innovations across the full lifecycle of plastics and impact on biodiversity,

Noting that plastic pollution, in marine, aquatic, terrestrial and other environments, is transboundary in nature and must be addressed, together with its impacts, through a full-life-cycle approach,

Recognizing the special circumstances of developing countries, least developed countries, and small island developing States, especially those impacted by downstream effects of the plastics lifecycle,

Reaffirming General Assembly resolution 70/1 of 25 September 2015, by which the General Assembly adopted the 2030 Agenda for Sustainable Development,

Reaffirming also the principles of the Rio Declaration on Environment and Development, adopted in Rio de Janeiro, Brazil, in 1992,

Recalling General Assembly resolution 76/300 of 28 July 2022 **recognizing** the human right to a clean, healthy and sustainable environment,

Recalling General Assembly resolution 41/128 of 4th December 1986 which recognized the right to development as an inalienable human right, **as well as the connections between plastic pollution, the plastics lifecycle and the United Nations Sustainable Development Goals,**

Recalling the Addis Ababa Action Agenda of the Third International Conference on Financing for development, and **recognizing the need developing countries and least developed countries to access financial assistance and technology transfer mechanisms,**

Recalling the United Nations Declaration on the Rights of Indigenous Peoples,

Stressing the urgent need to strengthen the science-policy interface at all levels, improve understanding of the global impact of plastic pollution and measures to address them, on the

environment and biodiversity, and promote effective and progressive action at the local, regional and global levels,

Recalling United Nations Environment Assembly resolutions 1/6, 2/11, 3/7, 4/6, 4/7 and 4/91 and 5/14 and affirming the urgent need to strengthen global coordination, cooperation and governance to take immediate action towards the long-term elimination of plastic pollution, including in the marine environment, and to avoid harms from plastic pollution to ecosystems, biodiversity and human activities dependent on them,

Underlining the importance of promoting sustainable design of products and materials so as to encourage their ability to be reused, remanufactured or recycled and thus retained in the economy for as long as possible, and [of minimizing the generation of waste,

Reaffirming the importance of cooperation, coordination and complementarity among relevant regional and international conventions and instruments, with due respect for their respective mandates, to prevent plastic pollution and its related risks to human health and adverse effects on human well-being, the environment and biodiversity, including the International Convention for the Prevention of Pollution from Ships of 1973, as modified by the Protocol of 1978 relating thereto and as further amended by the Protocol of 1997; the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal; the Rotterdam Convention on the Prior Informed Consent Procedure for certain Hazardous Chemicals and Pesticides in International Trade; the Stockholm Convention on Persistent Organic Pollutants; the United Nations Convention on the Law of the Sea; the High Seas Treaty addressing areas of biodiversity beyond national jurisdiction; the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter of 1972 and the Protocol thereto; the Global Framework on Chemicals; the United Nations Framework Convention on Climate Change; the Paris Agreement; the Convention on Biological Diversity; the Kunming-Montreal Global Biodiversity Framework; the World Health Organization Framework Convention on Tobacco Control; the GATT, Marrakesh Agreement and associated legal obligations under the World Trade Organization, and other international organizations, regional instruments and programmes, and recognizing efforts led by non-governmental organizations and the private sector,

Recognizing the importance of incorporating the best available science, including traditional knowledge, Indigenous and local knowledge, in to measures to address plastic pollution and associated harms to the environment, biodiversity and human health,

Stressing the imperatives of a just transition to circular economies as part of efforts to control the full lifecycle of plastics and plastic pollution that incorporates all aspects of the formal and informal workforce, and the creation of decent work and quality jobs, and recognizing the role of international organizations, including the International Labor Organization, and regional organizations in advancing just transitions in the plastics and plastic lifecycle context,

Reaffirming States commitment to respect, protect and fulfil human rights in the context of efforts to address plastic pollution for the benefit of present and future generations,

Noting with concern that plastic pollution has its disproportionate impacts on peoples in vulnerable situations such as children, women, Indigenous Peoples, coastal communities, and workers at heightened risk of occupational exposure including workers in informal and cooperative settings and waste pickers in collecting, sorting and recycling of plastics,

Affirming the importance of education, training, public awareness, public participation, public access to information and cooperation at all levels on the matter addressed in this instrument,

Recognizing that subsidies can play an environmentally harmful role throughout the lifecycle of plastics and in the plastic pollution crisis,

Have agreed as follows:]

Article 1 of the Non-Paper (Part I.2 of the Compilation Document) Objective

The proposed Objectives in the Compilation Document – and throughout the history of the Zero Draft and Revised Zero Draft – demonstrate a commitment by many States to the idea of using terminology derived from UNEA Resolution 5/14. As a matter of international law practice, especially in the MEA context, the use of an Objective is an important method of framing the current and potential future trajectory of the ILBI in implementation, thus including these terms is important. However, the concern is that the Objective can also be used to limit the application of the ILBI depending on the phrasing used. In the current instance, the proposed Objective in the Non-Paper does not bridge the proposals which were suggested as being the most widely accepted among the States. Instead, by using the language “with the ambition of ending plastic pollution,” the proposed text weakens the idea of ending plastic pollution that can be found in UNEA Resolution 5/14 itself.

Textual option

The objective of this instrument is to end plastic pollution, including in the marine environment, in order to protect human health, **biodiversity** and the environment from the adverse effects of plastic pollution.

Article 2 of the Non-Paper (Part I.3 of the Compilation Document) Definitions

The utility and legal value of having a limited number of defined terms as part of the ILBI is potentially problematic because it will generate imprecision in the context of treaty implementation and development. Additionally, the idea of listing terms upon which there has been no agreement is not standard international law practice and does not reflect the ways in which treaties use definition sections. Rather than including these terms in the text, it is suggested that they be added to a dedicated annex of potential terms, which could be subject to intersessional work between INC5 and the Diplomatic Conference, as well as between the Diplomatic Conference and COP1. It should be noted that the two terms for which a definition has been proposed in the Non-Paper are terms that also appear in the Rules of Procedure adopted for the INC process.

Article XX - not included in the Non-Paper, Part I.4 of the Compilation Document Principles

At present, the Non-Paper does not contain textual proposals for the inclusion of an article on Principles, although these have been discussed from the outset of the INC process and proposals for potential elements are included in the Zero Draft, Revised Zero Draft and Compilation Document. Although the use of a dedicated article on principles is not a uniform element in international treaty law, such articles are commonly used when establishing an entirely new treaty and regulatory system, as evidenced by their inclusion in the UNFCCC, CBD, UNCCD and, most recently, the BBNJ Agreement. Additionally, given the few articulated principles in the Non-Paper's preamble proposal, the inclusion of a dedicated article on Principles becomes more legally relevant.

It should be noted that Principles sections can be valuable in terms of understanding the meaning of terms and obligations within the ILBI, establishing connections with accepted international legal practice, and allowing for a basis upon which future Conferences of the Parties can contour the implementation and parameters of implementation for the ILBI. Thus, the retention of the Principles section can be seen as legally useful. At the same time, where a Principles article is used in international treaty law it is typically not accompanied by the use of language on approaches. This is an important distinction since many approaches are suggested in the CompDoc but most are not universally accepted or clear in terms of applicability at the regional or international levels. Indeed, there are a number of proposals which are not articulated in legal language and which are of unclear legal and practical origins.

Textual option

In their actions to achieve the objective of the instrument* and to implement its provisions, the Parties shall be guided, inter alia, by the following principles:

- a. The principles set out in the Rio Declaration on Environment and Development (Rio Principles), as referred to in resolution UNEA 5/14, in general or with reference to specific Principles;
- b. The promotion, respect and protection of human rights, **including the human right to a clean, healthy and sustainable environment and the right to development;**
- c. The polluter pays principle;
- d. The precautionary approach;
- e. The principle of prevention;
- f. The principle of sustainable development;
- g. Respect for **State** sovereignty over the use of its natural resources;
- h. Just transitions **across all aspects of the plastics life cycle, including the formal and informal sectors;**
- i. Intergenerational equity and intragenerational equity;
- j. **Principle of non-regression;**
- k. Extended Producer Responsibility;
- l. Non-discrimination **across all levels of application;**
- m. **Use of best-available science;**

- n. Incorporation of and respect for Indigenous knowledge, traditional knowledge and local community knowledge, including the rights recognized in the United Nations Declaration on the Rights of Indigenous Peoples;
- o. Waste hierarchy;
- p. Public participation in environmental decision making, including full and effective participation by Indigenous peoples and local communities, public access to information and transparency.

Article XX – not included in the Non-Paper, Part I.5 of the Compilation Document

Scope

At present, the Non-Paper does not contain textual proposals for the inclusion of an article on Scope, although these have been discussed from the outset of the INC process and proposals for potential elements are included in the Zero Draft, Revised Zero Draft and Compilation Document. Although the use of a dedicated article on scope is not a uniform element in international treaty law, such articles are commonly used when establishing an entirely new treaty and regulatory system, as evidenced by their inclusion in the Basel Convention, Rotterdam Convention, BBNJ Agreement, CBD and the associated Cartagena Protocol and Nagoya Protocol.

To ensure the holistic incorporation of biodiversity as a cross-cutting element of the ILBI, IUCN suggests use of Option 1 from the Compilation Document and retention of the language, that recognizes the risks from and effects of plastic pollution to the environment, biodiversity and human health as well as being a driver of climate change and associated impacts.”

Textual option

The scope of the instrument* is to address plastic pollution, including in the marine environment, throughout the full life cycle, from extraction to production, design, use, and consumption of plastic products to disposal and remediation of plastic waste. It addresses all sources of plastic pollution and leakage, including legacy plastic pollution, and covers plastic materials and products, and plastic waste as well as plastic related chemicals and microplastics. It recognizes and addresses the impacts of plastic pollution on the environment, biodiversity and human health. The instrument also addresses the elimination of problematic, harmful and high-risk plastic categories, sustainable production and consumption of plastics and plastic products, including environmentally sound management of plastic waste, resource efficiency and circular economy.

Article 3 of the Non-Paper (Combined Parts II.1, II.2 and II.3 of the Compilation Document)

Plastic Products and Chemicals of Concern as Used in Plastic Products

The inclusion of primary, and potentially secondary, plastic polymers in the ILBI has been the subject of much discussion from INC1 onward, including during some portions of the Bangkok intersessional meetings. While there has been debate in the definition and inclusion of polymers in the ILBI context, a significant body of States and scientific experts have made strong arguments for the need to include them in

the main text of the ILBI's legal requirements as well as associated annexes. This would also give precision to efforts at fostering regime convergence between the ILBI and other relevant treaty regimes, such as the BRS Conventions and Minamata Convention, as well as soft law instruments, such as the Global Chemicals Framework and the Global Biodiversity Framework, and the expansive work on chemicals of concern by the UNEP. Given the scientific importance of polymers to all phases of the plastic lifecycle, retaining a dedicated article on this topic would strengthen the legal and policy impacts of the ILBI in practice. Similar concerns can be expressed in relation to chemicals of concern and plastic products, which have been envisioned in separate, dedicated article of the ILBI throughout the treaty drafting and negotiations process, and were discussed in this manner during the Bangkok intersessional work as well. Additionally, the inclusion of plastic polymers, as well as chemicals of concern, reflects the commitments made by many States that are members of the INC process as members of IUCN, which has adopted Resolutions relating to the elimination of plastic pollution, including but not limited to single use plastics. Scientific evidence on effects on human health/ecosystems, most vulnerable, indigenous peoples, local communities, including information from the UNEP, demonstrates that there are clear and undeniable connections between harms. Thus, to fully address the lifecycle of plastic pollution and its impacts, it is essential that the ILBI contain robust language addressing the chemicals of concern in plastic products as well as plastic products themselves.

Additionally, while it will be essential that work will be done between the Diplomatic Conference and COP1, it should be noted that this will have to be carefully prescribed in the decisions made by the Diplomatic Conference and that State participation in these efforts will correlate to their ratification of the ILBI.

Textual options

Re-insert Article on Primary plastic polymers, Part II.1 of the Compilation Document

1. Each Party shall take **all** necessary measures to prevent and mitigate the impacts and potential **for impacts on the environment, biodiversity and** human health from the production and use of primary plastic polymers and **from** secondary plastics polymers, including their feedstock and precursors to manage **and** promote sustainable production and consumption of plastics through product design and environmentally sound waste management, including through resource efficiency and circular economy approaches.
2. Each Party shall not allow its level of production and supply of primary plastic polymers and secondary plastic polymers to exceed the reduction target specified by the governing body and updated each [x years]. **Each Party shall** cooperate to manage, reduce, **and** promote sustainable production and consumption of plastics, reduce the demand for global production and supply of primary plastic polymers, and secondary plastic polymers that present a risk to the **environment, biodiversity and human health**, and take **all** necessary measures to achieve them.
3. **To facilitate the application of this article**, each Party shall establish science and risk based public procurement policies or guidelines to reduce waste and adverse environmental impacts related to procured plastic products, including requirement related to the items produced with recovered materials.

4. Each Party shall take measures to reduce and manage the demand for and production of primary plastic polymers and secondary plastic polymers, including measures that are based on the best available science, Indigenous knowledge, traditional knowledge and local knowledge. In implementing the terms of this section, Parties shall adopt measures addressing, but not limited to, demonstrated risks to the environment, biodiversity and human health, including:
 - a. Market and price-based measures;
 - b. Neither granting nor maintaining subsidies and other fiscal incentives to the production of primary plastic polymers and secondary plastic polymers;
 - c. The establishment, as applicable, of regulatory requirements for primary plastic polymer and secondary plastic polymer producers;
 - d. The incorporation of the sound management of chemicals used in the production of primary plastic polymer and secondary plastic polymer production;
 - e. The use of renewable raw materials, of energy efficiency, and recycling of plastic polymers.
5. Each Party shall conduct a technical assessment that incorporates the needs of each country, considering the availability of alternative materials in each country and their on economic, environmental, biodiversity, human health and social impacts. These assessments shall be included in the national action plan requirements under [Part IV.1] and the national reporting requirements under [Part IV.].
6. Each Party shall reflect the measures taken to implement this provision in their national plans communicated pursuant to [Part IV.1] on national plans, which shall include their intended level of domestic supply of primary plastic polymers and secondary plastics, domestic production levels, and the measures taken to manage and reduce this, expressed in percentage terms in relation to the baseline set out in [Part I of annex A], for each reporting period specified in [Part IV.3] on reporting on progress.

Re-insert Chemicals and polymers of concern, Part II.2 of the Compilation Document

1. Each Party shall take all necessary measures to prohibit, to the extent appropriate, regulate, and to eliminate the use and presence of chemicals, groups of chemicals and polymers of concern in plastics and plastic products throughout the full lifecycle of plastics. Such chemicals, groups of chemicals and polymers of concern shall include those with the potential for adverse impacts on the environment, biodiversity and human rights, as well as those having properties that may hinder their safe and environmentally sound management.
2. Where chemicals, groups of chemicals and polymers of concern referred to in (1) of this article and [Part II of Annex A] of this instrument are present, each Party shall:
 - a. Ensure that, across the full lifecycle of plastics, any such production, manufacture or use is carried out in a manner that reduces the prevents and minimizes environmental, biodiversity and human exposure or releases into the environment of chemicals, groups of chemicals and polymers of concern, as well as plastics and plastic products that present a risk or concern to the environment, biodiversity and human rights, and fosters the safe and environmentally sound management, of such chemicals, groups of chemicals and polymers of concern, including their recyclability and the recyclability of plastics and plastic products that contain them;
 - b. Ensure that all such chemicals, groups of chemicals and polymers of concern, as well as plastics and plastic products which contain them, are used in a manner

- consistent with [Part II of annex A] and managed in a safe and environmentally sound manner throughout their life cycle, including for their reusability, repairability, recyclability and final disposal;
- c. Require producers, exporters and importers of chemicals, groups of chemicals and polymers of concern, as well as plastics and plastic products which contain them, covered under this article, to provide to governmental authorities **complete and harmonized information about the impacts of such substances on the environment, biodiversity and human health**, and related implications for their safe use, reuse, repair, refurbishment, recyclability and final disposal, based on the provisions of [Part II of Annex A] of this instrument;
 - d. Require producers, exporters and importers of chemicals, groups of chemicals and polymers of concern, as well as plastics and plastic products which contain them, covered under this article, to mark and label them using the designations for marking and labelling set forth in [Part II.13] of this instrument, and in accordance with the terms of [Part II of Annex A], to facilitate their safe and environmentally sound management, use and handling throughout their lifecycle, including their reusability, repairability, recyclability and final disposal.
3. Each Party **shall** include in its reporting pursuant to [Part IV.3] on reporting on progress any measures it has taken to prohibit or to regulate the use of chemicals, groups of chemicals and polymers of concern that have the potential for adverse impacts on the **environment, biodiversity and human health** throughout the product life cycle, or to hinder the safe and environmentally sound management, including recyclability and final disposal, of the product.

Re-insert Problematic and avoidable plastics, including single use plastics, and products containing intentionally added microplastics, Part II.3 of the Compilation Document

- a. Problematic and avoidable plastics, including single use plastics
 1. Each Party shall take **all** necessary measures to regulate, not allow and phase out the use of problematic and avoidable plastics and plastic products, including single-use plastics, and take measures to reduce and **eliminate** their manufacture, use, production, sale, distribution, import or export **within the Party's territorial jurisdiction**.
 2. The measures taken to implement this provision shall be reflected in the national plan communicated pursuant to [Part IV.1] on national plans.
 3. The governing body shall develop guidance on the regulation of problematic and avoidable plastics and plastic products, **based on information including but not limited to that derived from** scientific criteria, Indigenous knowledge, traditional knowledge, local community knowledge, and the availability and accessibility of sustainable alternatives.
 4. **Each Party shall promote** the safe, environmentally sound and sustainable alternatives to problematic and avoidable plastics and plastic products, including single-use plastics.
- b. Intentionally added microplastics
 1. Each Party shall not allow the production, use in manufacturing, sale, distribution, import or export of plastics and products containing intentionally added microplastics,

as provided for in [Part V of Annex B]. Each Party shall take all necessary measures to prevent the leak of unintentionally released microplastics into the environment.

2. The measures taken to implement this provision shall be reflected in the national plan communicated pursuant to [Part IV.1] on national plans.
3. Each Party shall share information on the measures taken pursuant to paragraph 1 through the online registry established under [Part IV.6] on information exchange with the aim of promoting transparency.

Re-insert Micro and Nanoplastics, Part II.3 bis alt of the Compilation Document

1. Each party shall promote research on the scale and scope of leakage of micro and nanoplastics across the full lifecycle of plastics and plastic products and their impacts on the environment, biodiversity and human health.
2. Each party shall promote transparency and reduce emissions of intentionally added microplastic ingredients and all other forms of microplastics and microplastic pollution.

Article 4 of the Non-Paper (Part II.4 of the Compilation Document) Exemptions

As is noted in the Non-Paper, this article would only be necessary and operational in the event the INC process results in a version of the ILBI relating to regulated plastic products, chemicals of concern and related elements. Thus, the inclusion of this article with specific text potentially prejudices the legal contents of the laws from which exemptions would be sought and, arguably, these provisions should be tailored to the adopted control measures. It should also be noted that there is not uniformity on the use of exemptions in relevant international treaties. Thus, the Minamata Convention and the Stockholm Convention contain provisions to authorize limited exemptions, however there are no exemptions in the Basel Convention, the Rotterdam Convention, or most other MEAs.

Article 5 of the Non-Paper (Part II.5 of the Compilation Document) Plastic product design

The proposed text for this article in the Non-Paper suffers from several critical weaknesses which do not correlate to the discussions at the Bangkok intersessional meetings on the topic and which do not directly support the terms of UNEA Resolution 5/14. These gaps begin with the use of voluntary language, under which “Each Party is encouraged to take measures.” In (1)(a), the language used regarding the appropriate standards to be potentially implemented by State Parties is quite vague and fails to contain any binding elements. This can lead to legal uncertainty and uneven application of norms and standards across jurisdictions as well as concerns regarding uniformity in the application of reporting and evaluation requirements under the ILBI. The language used in (1)(b) is similarly non-specific as a matter of law and the links with reporting, national action plans, capacity building, financing and other intersecting elements of the ILBI are not clarified. Overall, the proposal would leave significant gaps in the forms of products to be regulated and

the legal entrenchment of circularity and the plastic lifecycle within the binding elements of the ILBI.

It should also be emphasized that there are no standards provided for performance of plastic product design and very little on the use of recycled contents in subsequent plastic product design. In particular, provisions and measures to promote and enable the reduction of plastics and plastic products, the performance of design throughout the value chain and the safe and environmentally sound management of reuse, refill, repair, refurbishing, repurposing as well as recycling of plastics and plastic products and on alternatives/substitutes, that are nature positive and/or nature based solutions, will be critical for circular economy solutions. Extended Producer Responsibility Schemes should also be addressed under this Part to ensure that there is equity and inclusion in the plastics lifecycle, and that the communities most impacted by plastic pollution – including indigenous people, local communities, women and youth – are provided options for financial support of endeavours to protect themselves and engage in safe and sustainable innovation regarding plastic products across all stages of the plastics lifecycle.

Further, the ILBI text should be clear that recycling is the last stage of waste management options for product design and that efforts should be made to promote the use of reduction, redesign, reuse, refill and repair as measures of first resort.

Textual options

Re-insert Product design and performance, including Reuse, Refill, Repair, Recycling, Part II.5 of the Compilation Document

- a. Product design and performance
 1. Each Party shall take **all** necessary measures to ensure the promotion and enhancement of product design, performance, circularity and composition of plastics and plastic products, including product marking, packaging, **in order to:**
 - a. Reduce demand for and use of primary plastic polymers, plastics, chemicals **and groups of chemicals identified in Annex A**, and plastic products across the value chain, including product packaging;
 - b. **Improve the circularity of plastics and plastic products, including measures to reduce plastic waste and address the end of the plastics lifecycle, as well as the release of plastics, microplastics and nanoplastics across the full lifecycle of plastics and plastic products;**
 - c. Increase the safety, sustainability, circularity, durability, reusability, referability, repairability, refurbishability, recoverability, recyclability and disposal of plastics and plastic products, **in a safe and environmentally sound manner and in accordance with the waste hierarchy; and**
 - d. **Minimize releases, leakages and emissions of microplastics, intentionally added microplastics, chemicals and groups of chemicals identified in Annex A.**
 2. Each Party shall require plastics and plastic products produced within its territory and those available on its market to comply with minimum design and performance criteria **that aim to increase their** durability, reuseability, refillability, repairability refurbishability and recyclability, if applicable, including and product-specific criteria.

These criteria shall be harmonized to distinguish, as appropriate, between stages in the full lifecycle of plastics, including packaging design, reduction, reuse and recycling of plastic products.

3. The governing body* shall establish and maintain certification procedures and labelling requirements for plastics and plastic products based on the design and performance criteria and other related elements contained in [Part I of annex C], including, where relevant, sector- or product-specific criteria and elements, and shall require plastics and plastic products to be appropriately labelled in accordance with these criteria and elements.
 4. Each Party shall cooperate with international and national organizations towards the development of standards and guidelines to reduce the use of plastics in products across the value chain, including in packaging, to optimize the design of plastic products and increase their overall safety, durability, reuseability, refillability, repairability refurbishability and recyclability, in a safe and environmentally sound manner, including those standards and guidelines adopted for specific sectors.
- b. Reduce, reuse, refill, repair, refurbishing, repurposing and recycling of plastics and plastic products
1. Each Party shall, based on guidance to be adopted by the governing body* at its first session, take measures to promote and enable the reduction of plastics and plastic products throughout the value chain that are produced within its jurisdiction, transfer through its territory and are available on its market, and to promote the safe and environmentally sound management of reuse, refill, repair, refurbishing, repurposing and recycling of plastics and plastic products within its territory.
 2. Each Party shall take effective measures to achieve minimum recycling, reduction, reuse, refill and repair criteria for plastics and plastic products, as set forth [in Annex C], within its territorial jurisdiction and for plastics and plastic products available in its markets.
 3. The measures used by Parties to implement the provisions of this article may include, but not be limited to, the use of regulatory and economic instruments, public procurement policies, the establishment or extension of Extended Producer Responsibility systems, as set forth in [Part II---], the promotion of changes to the value chain and supply chain that promote reuse, refill and repair systems and recycling infrastructure, and the promotion of sustainable production and consumption as well as sustainable consumer behaviour.
 4. Each Party shall cooperate with international organizations, international treaty bodies, regional organizations and other entities, as appropriate, to promote the development and implementation of standards, guidelines and other relevant tools for reuse, recycling, refill, repair, refurbishing and repurposing systems in order to ensure harmonization, including at the sectoral level.
 5. The measures taken to implement this provision shall be reflected in the national plan communicated pursuant to [Part IV.1] on national plans.
- c. Use of recycled plastic contents
1. Each Party shall take effective measures to promote and encourage the use of recycled plastics in plastics and plastic products produced within its territorial jurisdiction as well as in plastics and plastic products available in its markets. These measures shall

include the adoption of and use of minimum percentage standards for the incorporation of recycled plastics into plastics and plastic products, and the adoption of time bound targets for the inclusion of safe and environmentally sound post-consumer recycled plastics to be incorporated into plastics and plastic products produced or available within its territorial jurisdiction.

2. To facilitate the commitments in (1), the governing body* shall adopt harmonized time-bound targets for transitioning all forms of plastics and plastic products toward recyclability.
3. Each Party shall take effective measures to ensure that primary plastic polymers and materials used in plastics and plastic products are replaced by safe and environmentally sound recycled plastic contents. These measures may include, but shall not be limited to, the use of regulatory and economic instruments, public procurement activities, certification schemes, the establishment of Extended Producer Responsibility systems, as set forth in Part II.7, promotion of systems and infrastructure for reuse, reduce, refill, repair, and recycle, promotion of sustainable production and consumption, and promotion of sustainable consumer behaviour.
4. The measures taken to implement this provision shall be reflected in the national plan communicated pursuant to [Part IV.1] on national plans.

d. Plastics and plastic product alternatives

1. Each Party shall ensure that alternatives to plastics and plastic products produced, manufactured, used, exported, imported and present within its markets are safe and environmentally sound. To assist Parties, the governing body* shall adopt and periodically review and update criteria for permitted forms of plastic and plastic product alternatives, including their impacts on the environment, biodiversity and human health.
2. Each Party shall encourage and promote the development and use of safe, environmentally sound and sustainable plastic and plastic product alternatives, taking into account their impacts on the environment.
3. The measures taken to implement this provision shall be reflected in the national plan communicated pursuant to [Part IV.1] on national plans.

Re-insert Non-plastic substitutes, Part II.6 of the Compilation Document

e. Non-plastic substitutes

1. Each Party shall take effective measures to encourage and promote research and innovation regarding the development and use of safe, environmentally sound and sustainable non-plastic substitutes, taking into account their impacts on the environment, biodiversity and human health, as well as applicable best available science, Indigenous knowledge, traditional knowledge and local knowledge. To assist Parties in implementing their obligations under this article, the international cooperation mechanism established in [Part ---] may be used to provide guidance and support.
2. Each Party shall ensure the use of regulatory and economic instruments, as well as public procurement measures, to promote the development and use of safe, environmentally sound and sustainable non-plastic substitutes, products, technologies and services.

3. The measures taken to implement this provision shall be reflected in the national plan communicated pursuant to Part IV.1 on national plans.

Re-insert Extended Producer Responsibility, Part II.7 of the Compilation Document

f. Extended Producer Responsibility

1. Each Party shall ensure that all plastic and plastic product producers operating within its territorial jurisdiction are part of mandatory Extended Producer Responsibility systems and that multinational and international corporations who introduce plastics and plastic products into their territorial jurisdiction are subject to Extended Producer Responsibility systems.
2. Where a Party lacks the legal and regulatory framework for a mandatory Extended Producer Responsibility system, it shall adopt and ensure the functioning of such system(s) within 3 years of ratifying this instrument using, *inter alia*, the terms of [Annex D] as a baseline.
3. The governing body* shall, at its first session, adopt guidance, guidelines and standards for national Extended Producer Responsibility systems, based on the provisions of [Annex D], identify the essential legal and regulatory elements of such systems, and encourage harmonization between national Extended Producer Responsibility systems.
4. Each Party shall ensure that its Extended Producer Responsibility systems include efficient and effective traceability, compliance and accountability mechanisms along with measures to monitor and oversee the application of these systems at the national level.
5. The measures taken to implement this provision shall be reflected in the national plan communicated pursuant to [Part IV.1] on national plans.

Article 6 of the Non-Paper (Combination of some elements of the Compilation Document) Supply

This proposed section in the Non-Paper highlights a fundamental point about the need for information across the plastics supply chain and the concomitant importance of having legal terms which address this as part of the core ILBI terms. It should be noted that one area which is currently omitted from the articulated options for this article is the use of subsidies in the plastics production and supply context. The inclusion of language addressing subsidies is necessary here to provide regulatory measures for the plastic lifecycle and to promote circularity in plastic product design and supply in addition to potentially being used to incentivize the development of safe and sustainable plastic alternatives and substitutes.

To address the issue of plastic supply chain, including circularity, sustainability and nature-based solutions aspects, it is proposed that the following text, based on the primary plastic polymers text under Part II.2 of the Compilation Document be used: To ensure implementation of these measures, and similar to the proposals in the Compilation Document, it is also suggested that these measures be included in reporting mechanisms and transparency measures adopted under the ILBI text.

Textual option

Each Party shall take measures to reduce and manage the demand for and production of plastic products, their constituent elements, and plastic pollution, including measures that are based on the best available science, nature based solutions, circularity, sustainability, Indigenous knowledge, traditional knowledge and local knowledge and which promote circularity. In implementing the terms of this section, Parties shall adopt measures addressing, but not limited to, demonstrated risks to the environment, biodiversity and human health, including:

1. Market and price-based measures;
2. Neither granting nor maintaining subsidies and other fiscal incentives to the production of plastic products, their constituent elements and/or plastic pollution;
3. The establishment, as applicable, of regulatory requirements for primary plastic polymer and secondary plastic polymer producers;
4. The incorporation of the sound management of chemicals used in the production of primary plastic polymer and secondary plastic polymer production;
5. The use of renewable raw materials, of energy efficiency, and recycling of plastic polymers.

Article 7 of the Non-Paper (Part II.8 of the Compilation Document) Emissions and Releases

In (1) of this proposed article, there is a regulatory issue because some of the listed entities are still contingent on being included in the ILBI at all, as is the case for chemicals of concern and plastic products. At the same time, others are precisely referenced, such as “plastic pellets, flakes and powder from the supply chain” although there is no express agreement on what these terms mean in the ILBI or link to a proposed annex, which could create legal uncertainty and enforcement issues.

Further, the Non-Paper iteration of emissions and releases provisions does not address the issue of leakages per se, although this has consistently been raised as an issue by States and stakeholders throughout the INC process.

Textual option

Re-insert Emissions and releases of plastic throughout its lifecycle, Part II.8 of the Compilation Document

1. Each Party shall take effective measures to regulate, **phase out** and eliminate the emission, release **and leakage** of plastic waste, including but not limited to **primary** plastic polymers, chemicals and groups **of chemicals of concern**, plastics and plastic products across their full lifecycle, microplastics and nanoplastics. **In taking such measures, each Party shall take into consideration the** technical feasibility and accessibility of plastic and plastic product alternatives, **and the impacts on the environment, biodiversity and human health.**
2. The emissions and releases covered under this article shall include, but not be limited to:

- a. Emissions and releases of any form of plastic pollution, including microplastics and nanoplastics into the air, water, soil, environment and key biodiversity areas;
 - b. Emissions and releases of any form of plastic pollution, including microplastics and nanoplastics, from the production, transportation and use of chemicals, groups of chemicals and polymers of concern, plastics and plastic products, as set forth in [Annex A];
 - c. Emissions and releases of any form of plastic pollution, including microplastics and nanoplastics, from the production, transportation and use of chemicals, groups of chemicals and polymers of concern, plastics and plastic products, as set forth in [Annex A], into the air, water, soil, environment and key biodiversity areas.
3. Each Party shall take effective measures to regulate, phase out and eliminate the emission and release of all forms of plastic pollution, including but not limited to plastic pellets, plastic flakes and plastic powder, from all aspects of the full plastics lifecycle, including but not limited to production, manufacturing, handling, storage, use and transportation.
 4. Each Party shall promote scientific and technical innovation to prevent and capture any emission or release of primary plastic polymer
 5. The governing body*, at its first session, shall adopt guidance and guidelines to facilitate the implementation of this is article, including but not limited to emissions and effluent standards, sector-specific standards, best available techniques and best environmental practices, to prevent emissions and releases of plastic pollution and, where appropriate, to remediate all forms of plastic pollution, including but not limited to microplastics, nanoplastics found in the environment, marine resources and key biodiversity areas.
 6. The measures taken to implement this provision shall be reflected in the national plan communicated pursuant to [Part IV.1] on national plans.

Article 8 in the Non-Paper (Part II.9 of the Compilation Document) Plastic Waste Management

This article of the Non-Paper is essential for the ILBI to meet the full lifecycle task mandated by UNEA Resolution 5/14 and it is important that the proposal begins with a binding requirement in (1). Thus, it is clear that the intention of the UNEA Resolution is for the ILBI to include legal provisions on waste management along with those at the upstream and mid-stream levels, in order to address the full plastics lifecycle. The specific tie between this article “taking into account the waste hierarchy and relevant guidelines developed under the Basel Convention” is legally problematic, however, because it can be seen to link the terms of the ILBI to the decisions of another treaty regime. This is not standard practice in international law, unless the ILBI COP were to expressly adopt such guidelines for use, and even then there have been debates in other MEA contexts regarding the legality of this practice. It should also be remembered that the (non) terms of the Non-Paper regarding preamble and international cooperation will potentially be difficult to implement at present and certainly in the context of this Article.

The proposed commitments in (2) are entirely voluntary, which is problematic for a number of reasons, including the need for certainty in terms of connected financing, as well as the engagement of sub-national and local communities, and the need to adopt ESM across the plastics lifecycle. The efforts to address trade in plastic waste

products under (3) and (4) do not meet the necessary specificity for these measures to be applied in a uniform way or to ensure that they will be used in compliance with existing WTO and other trade law commitments on the part of State Parties. The lack of specificity is also problematic in the sense that they do not use the legal model established in most MEAS which contain trade provisions. This includes the omission of trade-related measures such as subsidies.

Re-insert Waste management, fishing gear, trade related provisions, Part II.9, Part II.XX, Part II.10 of the Compilation Document

a. Waste management

1. Each Party shall take effective measures to ensure that all forms of plastic waste are managed in a safe and environmentally sound manner throughout the full plastics lifecycle, including but not limited to collection, handling, sorting, transportation, storage, recycling, treatment, other forms of recovery and final disposal of plastic waste. To achieve the requirements of this article, Each Party shall apply the waste hierarchy and the provisions set forth in [Part I of Annex F] across all applicable sectors.
2. Each Party shall take effective measures to prevent waste management practices that may lead to the emission and release of hazardous substances, including but not limited to open dumping, open burning, ocean dumping and littering of plastic waste and the practices set out in [Part and Part IV of Annex F].
3. Each Party shall take effective measures to further address plastic waste management issues, including but not limited to:
 - a. Adopting comprehensive approaches to incentivize increased recyclability, promote higher recycling rates, and increase the accountability of producers, importers and exporters for the safe and environmentally sound management of plastics and plastic products throughout the full lifecycle, including the use of Extended Producer Responsibility systems set out in [Part XX];
 - b. Promoting investment and mobilization of resources for waste management systems and infrastructure, including through financial and technical support to subnational governments, that enables safe and environmentally sound management of plastic waste and increases waste management capacity;
 - c. Encouraging behavioural changes throughout the value change and increasing public awareness of sustainable production and consumption practices, the reduction of plastic waste, and the roles of stakeholders in reducing plastic waste.
4. The governing body* shall adopt, at its first session, requirements, guidance and guidelines for the implementation of this article, and shall subsequently update these requirements, guidance and guidelines after performing a periodic review of their effectiveness, including to ensure that they promote and facilitate the safe and environmentally sound management of plastic waste.
5. The measures taken to implement this provision shall be reflected in the national plan communicated pursuant to [Part IV.1] on national plans.

As a waste-related product, re-insert Fishing gear, Part II.XX of the Compilation Document

b. Fishing gear

1. Each Party shall take effective measures to address abandoned, lost or otherwise discarded fishing gear and reduce, and where possible eliminate, plastic pollution from all forms of fishing gear and prevent fishing gear from becoming abandoned, lost or otherwise discarded. Such measures shall include, but not be limited to:
 - a. Promotion and encouragement of enhanced design and technological capacities for circularity of fishing and aquaculture gear, including as addressed in [Part I of Annex C], to reduce their environmental and biodiversity impacts, increase durability, reusability, repairability and refurbishability as well as their ability to be dismantled, repurposed, and disposed of in a safe and environmentally sound manner;
 - b. Implementation of marking of all aspects of fishing gear, tracing, tracking, retrieval and the creation of a database for monitoring and reporting regarding these measures;
 - c. Facilitation of collection and environmentally sound waste management for fishing and aquaculture gear, including recovered gear, enhancement of the management of fishing gear at the end of its lifecycle, including reuse, repair and recycling, and the incorporation of all applicable sectors and stakeholders in these measures.
 - d. Establishment of mechanisms and incentives for regular, safe and environmentally sound retrieval of derelict gear, including through methods that minimize damage to the environment and biodiversity and recognize the role of Indigenous knowledge, traditional knowledge and local knowledge.
2. Each Party shall promote and facilitate complementarity with appropriate international organizations, international treaty bodies, regional organizations, regional treaty bodies and other relevant entities regarding the safe disposal of and prevention of pollution from all forms of fishing gear. Such complementarity may include cooperation and information exchanges and sharing of best practices relating to safe and environmentally sound collection disposal and recycling of all forms of fishing gear.
3. The measures taken to implement this provision shall be reflected in the national plan communicated pursuant to [Part IV.] on national plans.

To address the trade issues and the waste trade and transportation issues associated with plastics, re-insert Trade in listed chemicals, groups of chemicals, polymers and products, cf. Part II.10 of the Compilation Document²

- c. Trade in listed chemicals, polymers and products
 1. Except where the production and use of a covered chemical, group of chemicals, polymer or product is permitted under this instrument, and with the prior informed consent of the importing State, each Party shall not export:

² IUCN, WCEL and CIEL jointly developed a brief on “WTO Rules and Key Elements for Consideration in the Context of a Treaty to End Plastic Pollution”, outlining that trade policies be designed inclusively to foster non-discrimination and assistance to developing countries to allow them to tackle plastic pollution in a way that meets their obligations both under trade law and MEAs, while advancing on the SDGs ([WTO-Rules-and-Key-Elements_May25_V2-3.pdf](#)).

- a. A chemical, group of chemicals or polymer, as set forth on [Part II.2] of this instrument and associated Annexes, for use in plastic production or incorporation into a plastic product;
 - b. A plastic product containing such chemical, group of chemicals or polymer set forth in (a) of this article;
 - c. A microplastic, problematic and avoidable plastic product, single-use plastic or product containing intentionally added microplastics, as set forth in [Part II.3] of this instrument and associated Annexes,
2. Each Party exporting a chemical, group of chemicals, polymer or product referred to in paragraph (1) of this article shall establish an export permit requirement for such exports, obtain the written prior informed consent of the importing State, together with assurances that the chemical, group of chemicals, polymer or product, once imported, will be used in a manner consistent with [Part II of Annex A and Annex B], and managed in a safe and environmentally sound manner throughout the full lifecycle, including in final disposal. Exporting Parties shall also establish and implement methods of tracking the types, volumes and destinations of all exports covered by this article.
 3. Each Party exporting a chemical, group of chemicals, polymer listed in [Part II of Annex A], a microplastic or product listed in Annex B, or a product containing any of these shall require the exporter to:
 - a. Provide to the importing State and the importer complete harmonized information about the composition of the exported chemical, group of chemicals, polymer, microplastic or product and the associated hazards to the environment, biodiversity and human health, based on the harmonized disclosure requirements contained in [annex A], including safety data sheets, as relevant;
 - b. Mark and label the exported chemical, group of chemicals, polymer, microplastics or product in accordance with relevant harmonized labelling requirements contained in [annex A]; and
 - c. Comply with the relevant generally accepted and recognized international rules, standards and practices for packaging, labelling and transport.
 4. Where a customs code under the Harmonized Commodity Description and Coding System is available for a chemical, group of chemicals, polymer, microplastic or product listed in [annex A or B], each Party shall require its shipping document to bear that code when exported.
 5. Except where for permitted use of a covered chemical, group of chemicals, polymer or product is permitted under this instrument, each Party shall not import:
 - a. A chemical, group of chemicals or polymer referred to in [Part II.2] on chemicals and polymers of concern;
 - b. A plastic product or other product containing any such chemical, group of chemicals or polymer;
 - c. A microplastic or product addressed in [Part II.3] on problematic and avoidable plastic products, including short-lived and single-use product, and intentionally added microplastics; or
 - d. A product, or products, not fulfilling the standards for product design established in [Part II.5 and associated Annexes].
 6. The measures taken to implement this provision shall be reflected in the national plan communicated pursuant to [Part IV.1] on national plans.
- d. Transboundary movement of plastic waste

1. Each Party shall not allow transboundary movement of plastic waste, except for the purpose of its safe and environmentally sound management, with the prior informed consent of the importing State, and in a manner consistent with obligations under this instrument*.
2. Where transboundary movement of plastic waste is permitted pursuant to paragraph 1, each Party exporting plastic waste shall establish and implement an export permit requirement for such exports and track the types, volumes and destination of all its exports of plastic waste.
3. Where transboundary movement of plastic waste is permitted pursuant to paragraph 1, each exporting Party shall:
 - a. not allow the transboundary movement to commence until it has received the written consent of the importing State, which shall include that State's assurances that the exported plastic waste will be managed in an environmentally sound manner;
 - b. require the exporter to:
 - i. Provide to the importing State and the importer complete information about the composition of the exported waste, including its contents in chemicals, **groups of chemicals, polymers, microplastics** and plastics, and any associated **impacts on the environment, biodiversity and human health**, based on the relevant harmonized disclosure requirements contained in annex A, including safety data sheets, as relevant;
 - ii. Mark and label the exported waste in accordance with the relevant harmonized labelling requirements contained in annex A; and
 - iii. Comply with generally accepted and recognized international rules, standards and practices for packaging, labelling and transport.
4. The governing body* shall, at its first session, adopt guidance for the implementation of this article, taking into account as appropriate relevant arrangements under other multilateral environmental agreements.
5. **Each Party shall prevent and prohibit the illegal trade in plastic waste within its territorial jurisdiction, including in marine territories and flag vessels.**
6. Each Party shall promote synergy and complementarity with relevant **international organizations, international treaty bodies, regional organizations, regional treaty bodies** and intergovernmental bodies and cooperate towards the adoption and implementation of effective measures to prevent and eliminate illegal exports, **imports, trade and dumping of plastic waste pursuant to paragraph 5.**
7. **The measures taken to implement this provision shall be reflected in the national plan communicated pursuant to Part IV.1 on national plans.**

Article 9 of the Non-Paper (Part II.11 of the Compilation Document) Existing Plastic Pollution

The proposed (1) in the Non-Paper is concerning because it removes many of the bracketed options which would have included stakeholders, international organizations, non-governmental actors, academics, scientific and research institutes, various forms of financing institutions and other institutions in the process

of identifying and mitigating legacy plastics. By shifting the focus to only State Parties, a number of the constituencies which UNEA Resolution 5/14 identified as essential to the generation of a meaningful ILBI have been removed from this role. The provisions of (3) weaken efforts to bring in these voices as well.

In (2), the language used is legally imprecise and it would be more accurate to include something such as “Parties shall take into account their obligations under relevant international agreements, including but not limited to the BBNJ Agreement.”

Textual option

Re-insert Existing plastic pollution, including in the marine environment, Part II.11 of the Compilation Document

1. Each Party shall mobilize resources from multi-stakeholders, including international organizations, international treaty bodies, regional organizations, regional treaty bodies, intergovernmental bodies, non-governmental organizations, academic and scientific research institutes, international finance institutions and multilateral development banks, non-profit organizations and other entities, including through the international cooperation mechanism established in [Part II], to:
 - a. Assess, evaluate, identify and prioritize accumulation zones and hotspots, as well as critical points and sectors:
 - i. Most affected by existing plastic pollution, including in the terrestrial and freshwater resources, the marine environment and areas beyond national jurisdiction; and
 - ii. Where that evaluations identify accumulation areas with] quantities and types of pollution that pose a threat to the environment, biodiversity and human health, taking into account the full lifecycle of plastics.
 - b. Take effective mitigation and remediation measures, including clean-up activities in identified accumulation zones, hotspots and critical sectors, taking into account the applicable provisions of international agreements, including those relating to the conservation and sustainable use of the environment and biodiversity, including in areas beyond national jurisdiction, and manage and dispose of removed plastic pollution in a safe and environmentally sound manner.
2. In order to raise public awareness and prevent further plastic pollution, each Party shall make publicly available information collected on common plastic pollution types and trends, as well as on the practices and behaviors that lead to plastic pollution.
3. The governing body* shall, at its first session, adopt:
 - a. Indicators to identify accumulation zones, hotspots and sectors; and
 - b. Guidance on best available techniques and best environmental practices, developed on the basis of best available science, including Indigenous knowledge, traditional knowledge and local knowledge, to address existing plastic pollution, with a view to ensuring that effective mitigation and remediation measures, including clean-up activities do not negatively impact the environment, biodiversity and human health.
4. The measures taken to implement this provision shall be reflected in the national plan communicated pursuant to [Part IV.1] on national plans.

Article 10 of the Non-Paper (Part II.12 of the Compilation Document)

Just Transition

The retention of the just transition article is an essential element for ensuring that the ILBI functions in an equitable way that benefits people and the planet. The iteration of just transition in the Non-Paper is legally problematic, however, because it does not use a definition of just transition that has been accepted in international or regional settings.

This version of just transition also obliquely references workers who are not waste pickers or otherwise in the informal sector and yet will still be impacted by the application of the ILBI. The voluntary nature of State commitments in (2) and (3) can lead to this provision being weak from a legal, regulatory and enforcement perspective as well.

Textual option

Re-insert Just transition, Part II.12 of the Compilation Document

1. In the implementation of this instrument **and its obligations**, each Party shall **take effective measures** to facilitate just transitions **for impacted sectors and communities**, particularly waste pickers, those engaged in the informal sector, women, children and youth, communities in positions of vulnerability, and affected persons of the formal sector. These measures may include, but not be limited to:
 - a. The creation or designation of a national coordinating mechanism for engagement and collaboration with stakeholders, **including all forms of impacted communities and persons, private sector actors, civil society and public authorities, with the aim of generating dialogue, data collection, monitoring evaluation and national reporting on implementation of just transitions**;
 - b. The adoption of policies and regulations to ensure access to commensurate income opportunities and livelihoods for all impacted communities and persons, including but not limited to through workforce training, development and social programmes, and enhancement of applicable health and safety measures;
 - c. The promotion of a safe working environment and the promotion of fundamental human rights for communities and workers across the plastics value chain, including workers in the waste management sector; and
 - d. The use of a portion of the fees collected through Extended Producer Responsibility systems, where applicable, to be used to improve infrastructure and opportunities for, and develop the skills of, workers in the waste sector.
2. **The measures taken to implement this provision shall be reflected in the national plan communicated pursuant to [Part IV.1] on national plans.**

Article 11 of the Non-Paper (Part III.1 of the Compilation Document) Finance, Including the Establishment of a Financial Mechanism

While this provision of the Non-Paper does not contain textual proposals, it does succinctly summarize the discussions regarding financing and the potential for a financing mechanism that have been advanced throughout the INC process and especially at the Bangkok intersessional meeting. Thus, IUCN would recommend the

following measures be taken regardless of the format used for the creation of a dedicated Financial Mechanism for the ILBI:

First, it will be critical to ensure that the ILBI text provides that the Financing Mechanism includes not only a funding entity but also the process of mobilizing finance from all sources, including bilateral cooperation and the inclusion of the private sector, as quickly and effectively as possible. This entity must also be able to work with States from the outset to provide financial assistance for States throughout the process of domestic ratification of the ILBI and the steps necessary to begin its implementation once ratification is accomplished.

Second, a clear mandate, purpose and objective for the financing mechanism is critical to facilitate an effective funding structure and operationalize funding in a transparent and sustainable manner that is compliance driven. Compliance should include science based approaches as well as legal and regulatory elements. At the same time, the financial mechanism should utilize a system of flexibility, time and cost for evaluation and decision-making, including predictability of financing and coherence with relevant frameworks.

Third, the ILBI terms establishing the financial mechanisms must ensure that there are clear and sufficient terms in the ILBI entrenching Privileges and Immunities for the financial mechanism and any subsidiary bodies, preferably based on existing United Nations rules for Privileges and Immunities. This is essential to allow the financial mechanism to function in a responsive and transparent manner while also providing predictability to its actions and reassurance to public-private and private sector financing collaborators.

Fourth, the ILBI should encourage funding and other measures that promote capacity-building, technology transfer and public awareness and education on the ILBI, the risks of plastic pollution, the use of alternatives and other matters connected to the implementation of the ILBI in law, policy, science and practice.

Beyond this, it will be essential that, regardless which financing mechanism approach is recommended for use in the ILBI, the contents of the financing criteria include not only science-based elements and socio-economic elements but also directly include evaluative elements connecting to short, medium and long-term impacts on biodiversity, ecosystems and the environment at the international, regional and local levels and respective circular economy solutions. The inclusion of these elements within the approach(es) selected would bridge the interlinkages between pollution, biodiversity and climate change and would ensure that there is greater convergence and coherence between treaties regulating pollution and international treaty regimes more broadly. This would advance transparency and information-sharing as well as providing States and stakeholders with an option to connect knowledge from other, related sectors, helping to ensure that financing and reporting requirements are less onerous for States and that stakeholders can have their perspectives included across a wide range of related international treaty regimes.

**Article 12 of the Non-Paper (Part III.2 of the Compilation Document)
Capacity Building, Technological Assistance and Technology Transfer,
including International Cooperation**

This proposal in the Non-Paper would combine multiple articles in the Compilation Document into one short and condensed set of both binding and voluntary measures between State Parties. Absent from this proposal is the potential for a dedicated cooperation mechanism for technology transfer within the governance structure of the ILBI, as is currently proposed in the CompDoc. Provisions to ensure that technology transfer is accomplished in a way that is agreeable to all sides, which has been stressed by developing countries, LCDs and SIDS in particular, is similarly omitted from these provisions.

Further, international cooperation, which provided significant potential legal authority for the Secretariat and the COP to work with other relevant treaty regimes, international agreements, international and regional organizations, and stakeholders has been omitted. Given the cross-cutting and transboundary nature of plastic pollution, omitting this authorization will potentially limit the ability of the ILBI's governance structure to fully function.

Textual option

Re-insert Capacity-building, technical assistance and technology transfer, Part III.2, Part III.3 of the Compilation Document

To facilitate capacity-building and technical assistance measures necessary for the implementation of this instrument:

1. Each Party shall **facilitate** the provision of timely, sustainable and comprehensive capacity-building and technical assistance, including for research and development, for developing countries, Small Island Developing States and least developed countries to assist them in implementing their obligations under this instrument*. Capacity-building should be country-driven, based on and responsive to national needs, and foster country ownership of Parties, in particular, for developing country Parties.
2. The governing body* shall, no later than at its third meeting and thereafter on a regular basis, review capacity building and technical assistance to support the implementation of this instrument and shall seek to promote coordination with and cooperation between other multilateral environmental agreements and other relevant initiatives to increase the effectiveness of capacity-building and technical assistance.
3. Each Party shall promote and facilitate the development, transfer on mutually agreed terms, diffusion and access to up-to-date, **safe and** environmentally sound technologies to address plastic pollution, including through reduce, reuse, recycle, refill, repair, and the development and use of safe, environmentally sound and sustainable non-plastic alternatives and substitutes. In implementing this provision, Parties shall promote and facilitate innovation and investment in pursuit of new technologies and innovative solutions, and shall facilitate access to essential technologies, including with respect to financial resources and proprietary rights.
4. **The measures taken to implement this provision shall be reflected in the national plan communicated pursuant to [Part IV.1] on national plans.**

To facilitate technology transfer measures necessary for the implementation of this instrument:

1. Each Party shall promote and facilitate the development, transfer on mutually agreed upon terms, diffusion of and access to up-to-date, **safe and environmentally sound technologies relating to** plastic pollution, including those related to collecting, sorting, processing and recycling of plastic waste as well as those related to safe, **environmentally sound** and sustainable non-plastic alternatives and substitutes. In implementing this provision, Parties shall promote and facilitate investment and innovation in pursuit of new technologies and solutions, and shall facilitate access to essential technologies.
2. A cooperation mechanism* is hereby established. The cooperation mechanism* shall provide for:
 - a. A clearing-house platform to enable Parties to access, provide and disseminate information with respect to activities taking place pursuant to the provisions of this instrument*;
 - b. Assist Parties to identify their needs for cooperation in science, technology and innovation regarding the provisions of this instrument*;
 - c. Facilitate the matching of capacity building needs with the support available and with providers for the transfer of technology, including governmental, non-governmental or private entities interested in participating as donors in the transfer of technology, and facilitate access to related know-how and expertise;
 - d. Facilitate scientific, technical and technological cooperation to meet these identified needs;
 - e. Promote training activities for the benefits of Parties that are developing countries;
 - f. Facilitate and monitor other multilateral, regional and bilateral cooperation available to Parties that are developing countries;
 - g. Perform such other functions as may be determined by the governing body* or assigned to it under this instrument*.
3. **The governing body*** shall coordinate the functioning and supervise the efficiency and effectiveness of the cooperation mechanism*, **including by making recommendations and taking actions it deems appropriate.**

Article XX Re-insert International Cooperation (Part IV.5 of the Compilation Document)

1. Parties shall cooperate on a global basis with relevant intergovernmental organizations and other entities, including relevant scientific organizations and bodies, to support the effective implementation of this instrument* and the achievement of its objective, including through strengthening and enhancing cooperation with and among relevant legal instruments and frameworks, as well as global, regional, subregional and sectoral bodies.
2. Parties shall promote international cooperation in support of the objective of this instrument* through:
 - a. The development, transfer, diffusion of and access to technology on mutually agreed terms and technical innovation on mutually agreed terms, consistent with [Part III.2] on capacity-building, technical assistance and technology transfer;
 - b. The development of research and exchange of information to improve the understanding of plastic pollution and advance technological innovation, consistent with [Part IV.6] on information exchange and [Part IV.7] on awareness-raising, education and research;

- c. The promotion of technical and scientific cooperation, including regional platforms or databases, technical-scientific cooperation projects, and networks of technical centres;
 - d. The implementation of the monitoring obligations including the monitoring of plastics in the environment and the identification of sources of their leakage;
 - e. The use of existing information exchange mechanisms to promote knowledge, best environmental practices and alternative technologies that are environmentally, technically, socially and economically viable.
 - f. Any other kind of cooperation that may be relevant to the objective of the instrument*.
3. Recognizing the connections between biodiversity, climate change and plastic pollution and all phases of the plastics lifecycle, the governing body shall:
- a. With the aim to enhance mutual supportiveness and increase the effectiveness of addressing plastic pollution, consult and collaborate with the governing bodies of relevant international and regional treaty regimes, including the Convention on Biological Diversity and its Kunming-Montreal Global Biodiversity Framework, the UN Framework Convention on Climate Change, the Paris Agreement, the UN Convention to Combat Desertification, the Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction (BBNJ Agreement), the Convention on Migratory Species, the Sendai Framework for Disaster Risk Reduction 2015-2030, the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, the Stockholm Convention on Persistent Organic Pollutants, the Minamata Convention and the Global Chemicals Framework;
 - b. invite, as appropriate, input from relevant scientific and technical bodies, including the Science Policy Panel to be established in accordance with UNEA resolution 5/8, the Intergovernmental Panel on Climate Change or the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services, and other relevant bodies on matters relevant to the fulfilment of its mandate. [The governing body* may also consider relevant outcomes from the work of the above mentioned scientific and technical bodies.]
 - c. Promote cooperation and exchange of information with intergovernmental organisations, and other relevant stakeholders as appropriate.

Article 13 of the Non-Paper (Part III.2 of the Compilation Document) Implementation and Compliance

As a preliminary matter, from a chronological legal perspective, this section would be better placed after the reporting requirements as set out in the core obligations of the ILBI, as in the Compilation Document, since these are the instruments which will be used for many aspects of the Committee's functions. In terms of the matters over which the Committee would have jurisdiction, it is important to preserve the option of

considering submissions from other Parties and requests from the Secretariat in order to create a meaningful and transparent compliance system.

Textual option

Re-insert Implementation and compliance, Part III.2 of the Compilation Document

1. A review mechanism to facilitate and promote the implementation of and compliance with this instrument is hereby established as a subsidiary body of the governing body*.
2. The mechanism referred to in paragraph (1) shall consist of a committee **that shall function** as a transparent, facilitative and expert-based **body** and shall take into account the respective national circumstances and capacities of Parties.
3. The mechanism shall operate under the modalities and procedures adopted by the governing body* at its first session and shall report to the governing body. The governing body* shall consider the reports received from the Mechanism and advise on the need to create further guidelines or recommendations for its functions.
4. The committee shall consist of members nominated by the Parties, who shall have recognized competence in fields **relating** to this instrument, including legal or technical expertise. **In the selection of committee members, the governing body* shall strive for a balance of expertise with due consideration to equitable geographical representation and taking into account gender balance.** The committee and its members shall be independent, transparent and **subject to a conflict of interest policy.**
5. Members shall be elected to the committee to serve for a period of [X] years and for a maximum of two consecutive terms. The governing body*, at its first session, shall elect [X] members to the committee for an initial term of [X] years and [X] members for a term of [half of X] years. Thereafter, the governing body* shall elect at its relevant regular sessions [x] members for a term of [X] years. The members and alternate members shall remain in office until their successors are elected.
6. The committee may consider issues on the basis of:
 - a. Written submissions from any Party with respect to its own compliance;
 - b. Written submission from any Party regarding another Party's compliance;
 - c. Requests from the governing body*;
 - d. Information provided by the secretariat with respect to the status of submission of information under [Part IV.3] on reporting on progress;
 - e. Requests from the secretariat, based on information available to it, inter alia from national reports;
 - f. Information available to the committee, inter alia from national reports.
7. The committee shall make every effort to adopt its recommendations by consensus. If all efforts at consensus have been exhausted and no consensus is reached, such recommendations shall as a last resort be adopted by a two thirds majority vote of the **State Parties** present and voting, based on a quorum of half of the **State Parties**.

Article 14 of the Non-Paper (Part IV.1 of the Compilation Document) National Plans

The proposed language for national plans in the Non-Paper would create an entirely voluntary reporting system in this context, which is in many ways weaker than the

nationally determined contributions used in the Paris Agreement as well as several other forms of reporting such as that used for the CBD³. It lacks a set timeframe for the filing of national plans as well as required elements of them or other details on their contents as well as on how the COP would review and assess them.

Textual option

Re-insert National [Action] Plans, Part IV.1 of the Compilation Document

1. Each Party shall prepare and implement national action plans in order to comply with the obligations created under this instrument and to describe the measures it is taking and intends to take to implement these obligations, as well as any further measures it is taking or intends to take to achieve the objectives of this instrument. National action plans shall be based on and address the impacts of plastic pollution on **the environment, biodiversity and human health** and shall include, but not be limited to, relevant elements and measures related to the obligations under this instrument **and the terms of the [Annexes] thereto, which shall be developed by the governing body* at its subsequent meetings, as well as the need for various forms of support to implement these obligations and measures.**
2. Each Party shall prepare the national action plan through domestic **consultative processes that include the participation of relevant** partners and stakeholders, as well as the use of quantitative, measurable **and verifiable** targets, and shall be based on the modalities and guidance contained in [Annex G]. The national action plans should include targets and actions for the short, medium and long-term implementation of this instrument.
3. Each Party may at any time incorporate new elements or measures and adjust its national action plan in order to enhance its level of ambition, in accordance with guidance adopted by the governing body*.
4. Each Party shall communicate its initial national action plan to the governing body*, through the Secretariat, within 1 year of the date upon which this instrument enters into force for the Party. Thereafter, each Party shall review, update and communicate its national action plans to the governing body*, through the Secretariat, every 5 years from the date upon which this instrument entered into effect.
5. **At their option**, Parties may collaborate on the development and implementation of regional and sub-regional plans to facilitate implementation of this instrument. **Any such regional or sub-regional plans shall be communicated using the same procedures and timelines applicable to individual Parties.**
6. **The governing body* shall, at its first meeting, adopt the format and procedures for the communication of initial national action plans and subsequent national action plans. It shall periodically review and, as it deems appropriate, update these communication requirements.**
7. Each Party shall include information on the implementation of its national action plan towards achieving the objective of this instrument* in its national reports pursuant to [Part IV.3] on reporting on progress. [In order to assess the progress made in the achievement of the objective, the Parties shall establish a baseline, i.e. a year of reference, to assess the starting situation with regard to plastic pollution and progress towards achieving the objective of this instrument*.

³ See IUCN/CIEL publication on [National-Implementation-Plans-and-National-Action-Plans-Key-Elements-to-Consider-in-the-Context-of-a-Treaty-to-End-Plastic-Pollution August-2023.pdf](#)

Article 15 of the Non-Paper (Part IV.3 of the Compilation Document) Reporting

These provisions leave much open in terms of creating a timeframe for reporting measures and for determining what to do with the information provided.

Textual option

Re-insert Reporting on progress, Part IV.3 of the Compilation Document

1. Each Party shall report to the governing body* on the measures taken to implement the provisions of this instrument*, the effectiveness of such measures and possible challenges in meeting the objective of the instrument*.
2. Each Party shall submit its report referred to in paragraph 1 of this article to the secretariat, **which** will make it publicly available. The secretariat shall keep under review and regularly communicate to the governing body* the status of submissions by Parties of information in accordance with paragraphs 1 of this article.
3. Each Party shall include in its reporting information provided in accordance with [Part II.13] on transparency, tracking, monitoring and labelling, including statistical data on types and volumes of its production, imports and exports of plastic polymers and products. Such data and its evidence **may** include numerical information on production and consumption, leakage along the value chain, waste generation, collection of waste, recycling (quantity/rates), collection of discharged plastics into the marine and other environments, policy targets and goals reflecting the global goal, detailed roadmap towards the realization of the targets and goals, and their achievements, **as well as other quantifiable benchmarks at the discretion of the Party**.
4. The governing body* shall, at its first session, adopt the reporting intervals modalities and format for national reporting, referred to in paragraph 1 of this article, which shall take into consideration the full life cycle of plastics and plastic products, including ways and means to ensure that reporting is specific, measurable, achievable, relevant and timebound while ensuring complementarity with relevant international instruments and organizations, as appropriate.
5. The governing body* shall, at its first session, adopt the modalities and procedures for review of information communicated in accordance with this article.

Article 16 of the Non-Paper (Part IV.4(b) of the Compilation Document) Effectiveness Evaluation and Monitoring

These provisions would create a strong legal framework that is also in line with those used by other MEAs.

Article 17 of the Non-Paper (Part IV.6 of the Compilation Document) Information exchange

In the proposed text, there are many strong elements. However, several proposals which would facilitate additional forms of information exchange, such as that of

workers in various sectors and also throughout the lifecycle, and that are present in the Compilation Document, would make for a stronger legal text.

Textual option

Re-insert Information exchange, Part IV.6

Recognizing the connections between biodiversity, climate change and plastic pollution and all phases of the plastics lifecycle,

1. Each Party shall facilitate the exchange of information relevant to the implementation of this instrument, including on:
 - a. Best practices and policies on sustainable consumption and production;
 - b. Research and technologies, innovation, and green chemistry on voluntary and mutually agreed terms related to plastic;
 - c. Knowledge, including Indigenous knowledge, traditional knowledge and local knowledge obtained with their free, prior and informed consent and the knowledge of workers in the informal plastic sector, inter alia, on environmentally sound waste management of plastics and plastic waste, sources of plastic pollution, exposure of the environment, biodiversity and human health to plastic pollution and the associated risk management and pollution reduction policies, actions and other options;
 - d. Studies and experiences on circular economy and zero waste initiatives; and
 - e. Other innovative solutions.
2. Parties may exchange the information referred to in paragraph directly, through an online registry, to a clearinghouse mechanism to be maintained by the secretariat or in cooperation with other relevant international instruments and organizations, as appropriate through the cooperation mechanism* to be established under this instrument*, particularly through its clearing-house platform. The Secretariat shall serve as a clearinghouse mechanism for information provided by Parties, intergovernmental organizations, regional organizations, partners and other stakeholders related to the implementation of the instrument*.
3. Each Party shall designate a national focal point for the exchange of information under this instrument*, including with regard to the prior informed consent of importing States under [Part II.10] on trade in plastics and plastic products.

Article 18 of the Non-Paper (Part IV.7 of the Compilation Document) Awareness, Education and Research

These provisions would create a strong legal framework that is also in line with those used by other MEAs.

Article 19 of the Non-Paper (Part IV.8 of the Compilation Document) Health

These provisions are the same as the proposal in the Compilation Document, which would create only a voluntary, non-binding system for the development of national and international measures aimed at addressing the intersections between health

and plastic pollution concerns. Given the importance of the connections between health, biodiversity and plastic pollution, it is critical that this article be retained and strengthened through the use of binding language as well as the incorporation of OneHealth throughout its text.

This is reflective of calls made by negotiators that the health provisions of the ILBI be made more legally robust and include OneHealth as a specific area of concern. Importantly, at COP 16, CBD Parties approved a Global Action Plan on Biodiversity and Health designed to help curb the emergence of zoonotic diseases, prevent non-communicable diseases, and promote sustainable ecosystems. The strategy embraces a holistic “One Health” approach that recognizes the health of ecosystems, animals, and humans as interconnected. Recognizing that biodiversity loss and poor health often share common drivers - including plastic pollution and climate change - the Plan emphasizes the urgency of tackling these threats to benefit both ecosystems and humans.

In that sense, IUCN would recommend adding specific language in the “Health Aspects Article”, in line with the latest decisions on Biodiversity and Health at COP 16, embracing a holistic *One Health* approach.

Article XX

Biodiversity Aspects

Throughout the Intergovernmental Negotiating Committee (INC) process, States and stakeholders have emphasised the connections between criteria for the regulation of plastic production and products, chemicals of concern, product design, reuse, repair, recycle and ultimately waste management and biodiversity protection needs and obligations, as evidenced in other Multilateral Environmental Agreements (MEA).

Despite proposals for inclusion of Biodiversity in several places in the Compilation Document, and considering latest [Biodiversity COP 16 decisions](#), stressing the need for cross-cutting measures between treaty regimes, biodiversity has been entirely removed from the Non-Paper. But specific language supporting coherence and authorising international cooperation between the Treaty’s governance system, and those of other treaty regimes, especially the [Convention on Biological Diversity \(CBD\)](#) and the [Kunming-Montreal Global Biodiversity Framework \(GBF\)](#), the [Ramsar Convention on Wetlands](#), and the [High Seas Treaty/BBNJ](#) will be critical for biodiversity, people, and fighting plastic pollution synergies. This includes the need for financing and private sector investments, engagement and partnerships, including subsidies, taxes and Extended Producer Responsibility (EPR) Schemes, that support biodiversity and address legacy plastic pollution to prevent further harm to biodiversity and indigenous people, women, youth or local communities most at risk as well as enhancing circular business opportunities for the formal and informal sector and SMEs.

Thus, and to allow future COP decisions and resulting implementation actions considering biodiversity aspects, it is recommended that the ILBI contain as entry points at a minimum biodiversity related text as noted above, for instance in the Preambular text, Scope, Objective, International Cooperation or other articles.

In addition, to give the necessary legal visibility, and to make linkages to existing obligations under other MEAs, to allow for inclusion of related scientific advancements and facilitate countries monitoring and reporting on nature positiveness, the insertion of a dedicated, new article on “Biodiversity Aspects” that promotes implementation and compliance to advance nature positive approaches under international and national laws, is critical to the overall principles of UNEA Resolution 5/14 in the ILBI.

Textual option

New Article XX Biodiversity Aspects

Recognizing the critical intersections between plastic pollution, all phases of the plastic lifecycle and impacts on biodiversity at the international, regional, and national levels, Parties shall address the circularity of production and consumption patterns in line with biodiversity goals and targets and take action to tackle threats to biodiversity and to protect and restore nature, to, inter alia:

1. Develop and implement strategies and policies and legal measures to identify risks and protect the integrity, connectivity and resilience of biodiversity, particularly species, ecosystems, terrestrial, freshwater and marine resources, from the short- , medium- and long-term impacts of plastic pollution across the plastics lifecycle. These measures shall include strategies and programmes relating to the impacts of and risks posed by plastics, including legacy plastics;
2. Develop and implement science-based educational and preventive and riskinformed programmes on the intersections between plastic pollution and circular economy solutions, and innovations across all phases of the plastic lifecycle and impacts on biodiversity;
3. Ensure that biodiversity impact, risk and assessment are included throughout the national plan communicated pursuant to [Part IV.1] and national reports communicated pursuant to [Part IV.3];
4. Promote, as appropriate, cooperation and exchange of information with intergovernmental organizations, and other relevant stakeholders pursuant to [Part IV.5].
5. Restore biodiversity, as far as possible, where the impact of plastic pollution has caused significant harm.