



LEGAL BRIEF

Gaps and synergies between proposals for a Global Plastics Treaty and existing Multilateral Environmental Agreements – Policy and Legal analysis

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Legal Brief on Gaps and Synergies across existing Multilateral Environmental Agreements and other international Treaty Regimes to address Plastic Pollution and the interplay of the proposals for a Plastics Treaty with those Treaty regimes

Briefing for NORAD funded¹ Plastics Experts and Delegates attending UNEA7 and for INC negotiators in preparations for upcoming Plastics Treaty Negotiations, including INC 5.3.

¹ NORAD Project Component “Capacity building package for negotiators in the Plastics Treaty process (INC negotiations), including a legal/policy negotiator clinic, taking advantage of the timing of UNEA7”

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I – Introduction of state of Plastics Treaty negotiations

In 2022, UNEA 5 adopted a historical Resolution, the UNEA Resolution 5/14 entitled “End plastic pollution: Towards an international legally binding instrument”, which mandates the development of an international legally binding instrument on plastic pollution, including in the marine environment. The second part of the fifth session of the Intergovernmental Negotiating Committee (INC) to develop an international legally binding instrument on plastic pollution (INC 5.2.), took place from 5 to 14 August 2025 in Geneva, Switzerland, and adjourned early on 15 August without consensus on a text of the instrument. The Committee agreed to resume negotiations, and a one-day INC 5.3. on procedural matters, including the election of a new Chair, is scheduled to take place on 7 February 2026, Geneva, Switzerland.

Many multilateral environmental agreements (MEAs), such as the [Basel Convention](#), the [Rotterdam Convention](#) and the [Stockholm Convention](#), the [Minamata Convention on Mercury](#) and the [Montreal Protocol on Substances that Deplete the Ozone Layer](#), as well as the “[Global Framework on Chemicals](#)” and the recently established new “[Science-Policy Panel on chemicals, waste and pollution \(ISP-CWP\)](#)”, and other global and regional Conventions, address parts of the plastic pollution crisis. Several Resolutions adopted by the United Nations Environment Assembly (UNEA) at their past sessions, and some that have been proposed and finally adopted at UNEA7 reflect widely held concerns about the

impact of pollution on human health and the environment.

Further to mention, at its 2025 World Congress, IUCN Members have adopted a new IUCN resolution on Plastic Pollution ([WCC-2025-Res-058 | IUCN Library System](#)) which asks for continued engagement to end plastic pollution across the full life cycle, on local, national, regional and international level, including for the concluding of the negotiations for a future Plastics Treaty.

Since the August 2025 5th resumed session of the INC (INC – 5.2), ended without producing a treaty instrument, some have suggested that a way forward could be to expand the regulation of plastic pollution elements under existing international agreements. Throughout the INC process, States and stakeholders have further 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 MEAs. Thus, this process leaves many questions open: on procedural aspects as well as on content, e.g. where the gaps are in existing international agreements, the connections or lack thereof, between existing MEAs relating to chemicals and wastes, the 1st December 2024 INC [Chair's Text](#) (still the text being used as the basis for negotiations) and the 15th August 2025 proposed [Chairs revised draft text proposal](#), as well as the consequences for national legislation and implementation¹.

1 An overview of analyses of the process:

- IISD [IISD Guide to the Global Agreement to End Plastic Pollution](#);
- CIEL [Preparatory Materials for the Fifth Plastics Treaty Negotiations \(INC-5\) - Center for International Environmental Law](#);
- [IUCN key work on Plastic Pollution Search | IUCN](#);
- [En route to INC 5.2: IUCN and IUCN WCEL provide comparative legal analysis for negotiators of the three Chair's Non-Papers - Story | IUCN](#);
- [Legal analysis of the INC Chair's Non-Paper for INC-5 - resource | IUCN](#); [INC5.2 Policy Brief: International Cooperation model for the future Plastics Treaty with a focus on biodiversity and OneHealth - resource | IUCN](#);
- [IUCN and IUCN WCEL analysis of the Chair's Text proposal of 13 August 2025 - resource | IUCN](#).

This legal briefing is intended to explain where these gaps and potential synergies are across existing MEAs and other international Treaty Regimes, that have been argued to have the potential to address sub-elements of the larger plastic pollution issue, and how they are related to the above mentioned Chair's text proposals. The briefing also stresses the general need for a comprehensive, dedicated and binding international instrument on plastic pollution to address this increasingly dangerous threat to human health, biodiversity and the environment and be compliant with UNEA mandate Resolution 5/14 as well as with other MEAs, including their implementation on regional, national and local level.

Before addressing the specific issues with the use of a cobbled together system of existing MEAs to attempt to address the many legal areas that would need to be updated in the plastic pollution context, it should be highlighted that there is a difference between needing a dedicated Global Plastics Treaty and the ability of that Treaty to work with existing MEAs moving forward. Indeed, recent decisions by the Conferences of the Parties (COPs) for the MEAs discussed in this briefing have specifically adopted resolutions endorsing increased working synergies between MEAs on areas of shared interest. For instance, the Basel, Rotterdam and Stockholm Conventions and the Minamata Convention COPs have adopted resolutions regarding the promotion of synergies with the terms of the Kunming-Montreal Global Biodiversity Framework (GBF) adopted under the auspices of the Convention on Biological Diversity (CBD). The recognition of these synergies has extended to substantive areas of obligations as well as overlapping generation of data for reporting requirements and action plans as well as financing requirements. The importance of recognizing and establishing the legal synergies between

MEAs was most recently noted in the adoption of the Resolution on Promoting synergies, cooperation or collaboration for national implementation of multilateral environmental agreements and other relevant environmental instruments from UNEA6 in 2024 and UNEA7 in 2025. In the chemicals and wastes context, UNEA7 further noted the key role of synergies between MEAs while maintaining their individual legal standing and jurisdiction.

It must be noted, however, that the explicit recognition of these synergies does not mean that there is a legal conflict between MEAs nor that one MEA should take precedence over the others in a content area. Instead, this recognition emphasizes the importance of each MEA as a separate legal instrument that is part of the broader landscape of addressing cross-cutting environmental issues. This is an important point to understand for existing MEAs and is also necessary for insights into the need for a dedicated Global Plastics Treaty that would be able to fill an existing gap in MEA synergies as they relate to the full lifecycle of plastics and plastic pollution. Further, a survey of the existing MEA system emphasizes the need for a dedicated Global Plastics Treaty because it makes clear the fact that there is no existing constellation of MEA provisions that would allow for the international regulation of the full lifecycle of plastics and plastic pollution, including elements of human and environmental health, applicable scientific knowledge and its generation, and circular economy measures, in the way that was envisioned and authorized by UNEA Resolution 5.14. Thus, the Global Plastics Treaty has a clear role to play as a bridge between the existing MEAs as well as critical related topics, such as OneHealth, just transitions, the intersections between policy and science, and circular economy promotion across the full lifecycle of plastics and plastic pollution².

2 As a general reference on negotiations and process on Multilateral Environmental Agreements: [Multilateral Environmental Agreements Negotiator's Handbook: Third Edition | UNEP - UN Environment Programme](#).



II – Gaps and Issues in Using Existing MEA landscape for plastics regulation

A. Issues of Jurisdiction

i. Basel Convention

The Basel Convention is limited in jurisdiction from the outset since it relates to the transboundary movement and associated disposal of hazardous waste, which fails to address aspects of production and consumption throughout the plastics life cycle.³ Thus, only a limited amount of plastic pollution could be regulated through the Basel Convention system since it would have to be classified as hazardous waste and, even further, be placed in the stream of transboundary movement and disposal. This would not address upstream or mid-stream aspects of the full lifecycle of plastics as contained in UNEA Resolution 5/14. Additionally, since neither the 1st December 2024 nor the 15 August 2025 Chair's Texts contain definitions of plastics, hazardous wastes, or related terms, it is difficult to understand what the exact nexus with the Basel Convention would be. Further, the transboundary movement elements of the Basel Convention do not address the underlying issues of the full plastic lifecycle and would instead limit international regulation – although important – to a very restricted element of the downstream phase of the plastics lifecycle.

Examining the scope demonstrates the limitations of the Convention on the creation of a unified system for addressing the many stages and components of plastic pollution as

envisioned in UNEA Resolution 5/14 and in the statement made by nearly all Members of the INC process. Even if there were a COP decision addressing aspects of this, to incorporate the full range of issues associated with plastics in this context it would be necessary to amend aspects of the Basel Convention text and potentially the Annexes, as well as the terms of the Plastic Waste Amendments. While Articles 7 and 8 of the 1st December 2024 Chair's Text have connections to waste management and the end of the plastic lifecycle, they also have different focuses which would not be addressed through the terms of the Basel Convention. Article 7 addresses releases and leakages and is far broader in scope than the transportation of hazardous wastes and their disposal. Indeed, many of the envisioned releases and leakages occur during the upstream process, placing them outside the jurisdiction of the Basel Convention. Further, while Article 8 references the potential use of some standards from the Basel Convention in its application, the terms are applicable to all forms of plastic waste management, domestic and transboundary, ensuring that State Parties which have domestic capacity issues would also be eligible for support in a way that they cannot be under the terms of the Basel Convention.

ii. Rotterdam Convention

The Rotterdam Convention has jurisdiction over only some aspects of chemicals which may be present in certain plastics or plastic products.⁴

3 Basel art 1.

4 Rotterdam arts 1, 3.

Thus, without significant amendments to its text, the Rotterdam Convention would not allow for measures to address plastic polymers, other forms of non-qualifying chemicals found in plastics, or the consumption and waste management elements of the plastic life cycle. Thus, the provisions of Articles 3 and 5 of the 1st December 2024 Chair's Text addressing plastic products and plastic production design would not fall within the terms of the Rotterdam Convention and its jurisdiction. Even if there were a COP decision addressing aspects of this, to incorporate the full range of issues associated with plastics in this context it would be necessary to amend aspects of the Rotterdam Convention text and potentially the Annexes. As noted above, both Chair's Texts contain uncertainty regarding what the definitions of key terms might be, and thus it is unclear how they might relate to the Rotterdam Convention text, though it is clear that the current definitions used in the Rotterdam Convention and the terms of its Annexes only encompass a small subset of chemicals used in the full plastic lifecycle. Additionally, given the limitation of the Rotterdam Convention to the context of prior informed consent on international trade, attempts to use the Convention as an alternate method of regulating the full lifecycle of plastics and plastic pollution, as seen in UNEA Resolution 5/14 and the Chair's Texts, would be curtailed.

iii. Stockholm Convention

The Stockholm Convention is limited in jurisdiction to persistent organic pollutants (POPs), which is problematic since plastics are not themselves POPs but rather serve in some instances to carry or facilitate the transfer of POPs.⁵ Thus, the Stockholm Convention is circumscribed in applicability to addressing all phases of the plastic life cycle and the issues associated with plastic pollution. Even if there were a COP decision addressing aspects of this,

to incorporate the full range of issues associated with plastics in this context it would be necessary to amend aspects of the Stockholm Convention text and potentially the Annexes. While the Chair's Texts do set out ability to establish lists of banned products and product design elements which could potentially include some elements of POPs, in Articles 3 and 4, it is clear from the scope of UNEA Resolution 5/15 and the negotiating texts that the full lifecycle of plastics and plastic pollution is more expansive than the regulation of POPs.

iv. Minamata Convention

While there is some intersection between plastics and mercury products, such products would not fall under the jurisdiction of the Minamata Convention on Mercury for several reasons. First, the articulated objective of the Minamata Convention is narrowly confined to "protect the human health and the environment from anthropogenic emissions and releases of mercury and mercury compounds."⁶ This is instructive since it is anchored in the inclusion of a dedicated article in the treaty text on health aspects of mercury, which was used as the basis for the health article that was proposed as part of the 1st December 2024 Chair's Text, though subsequently removed from the 15 August 2025 draft. Second, even if this limited scope were not the case, the control measures within the Minamata Convention would not be applicable to the full lifecycle of plastics and plastic pollution. Third, it should be noted that although there is an inferential ability for the Minamata Convention State Parties to adopt a new Protocol in the future, it would still only be available for plastics with connections to mercury. Even if there were a COP decision addressing aspects of this, to incorporate the full range of issues associated with plastics in this context it would be necessary to amend aspects of the Minamata Convention text and potentially the Annexes.

5 Stockholm art 1.

6 Minamata art 1

v. Global Framework on Chemicals

The Global Framework on Chemicals (GFC) was agreed to in 2023 at the end of the SAICM process. It is a soft law instrument, meaning that its provisions are not binding as a matter of law, and much of the language used reflects this quite clearly, particularly through the consistent use of voluntary terms.⁷ The GFC is intended to work as part of efforts to combat each element of the triple planetary crisis although the text is quite clear that even the application of these voluntary measures is limited to chemicals and waste.⁸ It should be noted that the inclusion of chemicals in the Global Plastics Treaty has been the subject of intense and fraught debate throughout the INC process and continued to divide the INC Members at INC5.2. Limited references are made to chemicals in the 1st December 2024 Chair's Text and are contained in one provision under Article 3, although some Member States did make proposals to include more forceful chemicals language during INC5.2. Given that much of the implementation decision-making for the GFC will only start in November 2026, it is still difficult to know much of the structural elements, although it is clear that these will be less stringent than in the binding law context. The focus of the GFC is, first and foremost, chemicals regulation and management, and it should be stressed that the terms of the GFC do not specifically reference plastics or plastic pollution. Under the terms of the GFC, in order to include chemicals that are connected to plastic pollution there would need to be a specific listing of each chemical rather than as a group of chemicals associated with plastics and plastic products. Given the requirements for these chemicals to be listed under the GFC and the time periods between GFC meetings, relying on this system as an alternative means of addressing the chemicals in plastics would be difficult. Thus, when it

is implemented the GFC would need to take steps to incorporate the chemicals contained in plastics as those covered within its Annexes. Even this, however, would not address the many other constituent elements of plastics and circular economy solutions.

vi. BBNJ Agreement

In the preamble, the BBNJ Agreement expressly references plastic pollution, "Recognizing the need to address, in a coherent and cooperative manner, biological diversity loss and degradation of ecosystems of the ocean, due, in particular, to climate change impacts on marine ecosystems, such as warming and ocean deoxygenation, as well as ocean acidification, pollution, including plastic pollution, and unsustainable use."⁹ Thus, the BBNJ Agreement reinforces many of the marine-focused terms of the Chair's Texts, including in the preamble, however would not fully apply to the core issues of legacy plastic waste found in the 1st December 2024 Chair's Text. In terms of legal commitments, however, the connections between the BBNJ Agreement and the regulation of plastic pollution are tenuous at best. From the outset, the objective of the BBNJ Agreement is quite broad however also tailored to the specific preservation and protection of biological diversity, giving a smaller entrance point for connections with plastic pollution.¹⁰ Additionally, the limited jurisdictional scope of the BBNJ Agreement should be highlighted, as it only extends to areas beyond national jurisdiction (ABNJ) and certain nationally based actions that have impacts on the ABNJ.¹¹ It should also be noted that there are express reservations for the applicability of the BBNJ Agreement to most forms of fishing and fishing-related activities, which would create a gap in the potential to use the BBNJ Agreement to regulate fishing gear and associated issues

7 See generally GFC.

8 GFC art 4.

9 BBNJ preamble

10 BBNJ art 2

11 BBNJ art 3



that are of concern in the plastic pollution context without an amendment to specifically address these issues.¹²

One of the factors that can justify the creation of a Marine Protected Area or similar designation under Part III of the BBNJ Agreement is to “Protect, preserve, restore and maintain biological diversity and ecosystems, including with a view to enhancing their productivity and health, and strengthen resilience to stressors, including those related to climate change, ocean acidification and marine pollution.”¹³ Again, however, there are extensive jurisdictional limitations for the creation and recognition of Marine Protected Areas under the BBNJ Agreement and there is also an open ended question as to what types of “marine pollution”

would be regulated. The BBNJ Agreement also includes obligations for State Parties to conduct Environmental Impact Assessments (EIAs) when there is a planned activity within its jurisdiction that “may have more than a minor or transitory effect on the marine environment, or the effects of the activity are unknown or poorly understood,” and would impact on the ABNJ.¹⁴ Such activities are expressly noted to trigger these requirements “If it is determined on the basis of the screening that the Party has reasonable grounds for believing that the activity may cause substantial pollution of or significant and harmful changes to the marine environment,” although this is a general recognition of pollution concerns and does not necessarily apply to standard aspects of the plastics lifecycle or to legacy plastic pollution.¹⁵

12 See BBNJ art 10(2)

13 BBNJ art 17

14 BBNJ Article 30

15 Article 30(1)(b)

vii. Convention on Biological Diversity, Protocols and the Kunming-Montreal Global Biodiversity Framework

The objectives of the Convention on Biological Diversity are broadly stated, namely “the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding.”¹⁶ Thus, there is no immediate textual nexus between the terms of the CBD and pollution issues, especially those relating to plastic pollution, unless there are arguments that certain aspects of plastic pollution would impact on the conservation of biological diversity. Similarly, while there could be arguments made that aspects of plastic pollution impact on biological diversity in a way that triggers the in-situ conservation provisions of CBD Article 8 and the ex-situ conservation provisions in Article 9, these protections would be quite limited in terms of scope and overall applicability at an international obligation level.¹⁷

One point of overlap to note is that the CBD and the GBF have incorporated and endorsed the use of OneHealth as a guiding method. Over the course of the INC process to date, there has been a progression from a Health Aspects article proposal largely modeled on that used in the Minamata Convention to a general placeholder in the 1st December 2024 Chair’s Text to proposals that explicitly reference and include OneHealth. While the use of OneHealth in the context of the CBD and GBF systems is important to validate its wider use in the MEA context, it should be emphasized that this usage

would not cause a conflict should OneHealth be included in the Global Plastics Treaty.

There are two Protocols to the CBD, both of which have circumscribed jurisdictions that do not clearly allow for intersections with plastic pollution regulation. The Cartagena Protocol on Biosafety to the Convention on Biological Diversity is expressly limited to “ensuring an adequate level of protection in the field of the safe transfer, handling and use of living modified organisms resulting from modern biotechnology that may have adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, and specifically focusing on transboundary movements.”¹⁸ The Scope provisions of the Cartagena Protocol further narrow the potential for intersections with plastic pollution because they are focused on the health and safety elements of the transboundary transfer.¹⁹ The Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits from their Utilization is limited to the larger issues surrounding the transfer of genetic resources and equity in benefit allocations rather than pollution. Although the preamble references food security, which has some ties to plastic pollution, this does not shift the focus of the Protocol enough to clearly bring plastic pollution within its jurisdiction.²⁰

The 2022 Kunming-Montreal Global Biodiversity Framework (GBF) more explicitly addresses pollution, including plastic pollution, as a threat to biological diversity.²¹ A cautionary note must be made, however, as the GBF is not legally binding as a matter of international law and is instead soft law, thus limiting the potential for establishing binding obligations in the pollution

16 CBD art 1

17 See CBD arts 8, 9

18 Cartagena art 1

19 Cartagena art 4

20 See generally

21 See generally GBF

context. Arguably the most important Target for the nexus with plastic pollution is Target 7.

Reduce pollution risks and the negative impact of pollution from all sources by 2030, to levels that are not harmful to biodiversity and ecosystem functions and services, considering cumulative effects, including: (a) by reducing excess nutrients lost to the environment by at least half, including through more efficient nutrient cycling and use; (b) by reducing the overall risk from pesticides and highly hazardous chemicals by at least half, including through integrated pest management, based on science, taking into account food security and livelihoods; and (c) by preventing, reducing, and working towards eliminating plastic pollution.

Given the broad nature of the terms of Target 7, especially Target 7(c), this would still be problematic in terms of connecting the regulation of the full lifecycle of plastic pollution even in the context of soft law commitments because it is unclear from the text whether this provision is intended to work across the full lifecycle of plastics and plastic pollution.

In terms of targets that could be connected to aspects of plastic pollution, Targets 2 and 3 relating to restoration of degraded terrestrial, inland, marine and coastal ecosystems are important, Targets 14, 15 and 16 relating to national measures as well as sustainable consumption practices and Target 18 relating to the phasing out and potential for reform of subsidies that impact on biodiversity.

viii. World Trade Organization

The regulation of the full life cycle of plastic pollution as envisioned in UNEA Resolution 5/14 will necessarily include measures relating to trade. During the course of the INC process thus far, there have been clear divisions regarding whether trade provisions should be included in the Global Plastic Treaty – as they are in the Basel, Rotterdam and Stockholm Conventions, the Minamata Convention and many other multilateral environmental agreements – or be under the jurisdiction of the World Trade Organization (WTO) system instead.

While there is no legal bar to including trade provisions in a largely environmental treaty²², the WTO has been offered as a suggestion for an alternate venue in which to adopt global measures relating to plastic pollution. To support this, some have referenced the existence of the WTO Dialogue on Plastic Pollution and Environmentally Sustainable Trade (DPP).²³ It should be noted, however, that the DPP system is an entirely voluntary one and that the ultimate goal of the DPP is not to generate a set of binding obligations for participants. Thus, it plays an important facilitative and information exchange role but does not serve the same role or function as the INC process and this could only be changed by an official mandate, which would need to be negotiated without a guarantee of the inclusion of the full life cycle of plastic pollution being included in its remit.

In the WTO context, some have pointed to the recently operationalized Agreement on Fisheries Subsidies as an example to follow for plastics regulation.²⁴ It is true that a similar arrangement could be created for subsidies to plastics and plastic products and would be legally binding on WTO Member States that ratify it. However, there are several counter points which make this option less than ideal in

22 Cf. CIEL/IUCN publication on [WTO Rules and Key Elements for Consideration in the Context of a Treaty to End Plastic Pollution - Center for International Environmental Law](#).

23 https://www.wto.org/english/tratop_e/ppesp_e/ppesp_e.htm.

24 See https://www.wto.org/english/tratop_e/rulesneg_e/fish_e/fish_e.htm.



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the plastic pollution sphere. First, the history of the Agreement on Fisheries Subsidies is long and highly contentious, and a replication of this would mean years of negotiation for a similar document. Second, any such Agreement would be limited to States that are Members of the WTO, which would exclude some Members of the INC process. Given the structure of the WTO, efforts to open such an Agreement to Non-Members for agreement, even of a voluntary nature, would likely be unsuccessful. Third, any such Agreement would only govern one set of issues associated with the production elements of the full life cycle of plastic pollution and would be governed solely by WTO law, including the dedicated WTO Dispute Settlement Body for related disagreements.

B. Voting Issues

Under the terms of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (Basel Convention), Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (Rotterdam Convention), Stockholm Convention on Persistent Organic Pollutants (Stockholm Convention), and the Minamata Convention on Mercury, it is possible for there to be an amendment if it is adopted with either consensus or, where that is not possible, with a 3/4 majority vote.²⁵ For the Convention on Biological Diversity and its associated Protocols, a 2/3 majority vote is required for an amendment to be adopted, assuming efforts to reach consensus have failed.²⁶ However, as is required under

25 Basel Convention article 17; Rotterdam Convention article 21; Stockholm Convention article 21; Minamata Convention article 26.

26 CBD article 29(3)

international law, an amendment to a treaty must be ratified by each State Party before it can be legally bound to it.²⁷ The BBNJ Agreement is also notable in these discussions because it establishes separate voting processes and procedures for each of the main focus areas of its regulation. For instance, the designation of Marine Protected Areas under Part II of the BBNJ Agreement is to be conducted by the Conference of the Parties through consensus where possible, however, there is the ability to have a vote on the substantive issue when all measures to reach consensus have been exhausted.²⁸ This process would require an initial 2/3 majority vote to indicate that all efforts had been exhausted first and then, if successful, a 3/4 majority vote on the substantive issue.²⁹ The same voting requirement is used for overall decisions of the Conference of the Parties.³⁰

This creates a scenario in which amendment of an underlying treaty – to the extent this would connect to efforts at addressing plastic pollution – could be insufficient to ensure that the treaty applies to plastic issues in a more advantageous manner since it would be possible for a lower ambition State Party to avoid increased obligations by failing to ratify the amendment. At the same time, given the ways in which each Convention addresses State Party obligations regarding other State Parties and Non-Party States, there would be a question of uneven scope of application where a State Party failed to ratify an amendment to the Convention.³¹ A further concern is that only the Stockholm and Minamata Conventions grant exemptions for compliance purposes, typically relating to phasing out or phasing down listed substances or products. Efforts to regulate plastics under

these Conventions alone would thus face the potential for uneven evaluations and timeframes for consideration of requests for exemptions.³²

C. Issues of Adopting Amendments and Annexes

Additionally, each of these Conventions allows for the Conference of the Parties to adopt an Annex or to amend the terms of an existing Annex. However, these Annexes are directly connected to the control measures of each Convention, necessarily limiting their scope, and are further limited by the unifying qualifier that Annexes can only be adopted for “procedural, scientific, technical or administrative matters.”³³ Thus, efforts to expand the scope of any or all of these Conventions to address a fuller version of the full life cycle of plastic pollution through the Annex route would be necessarily circumscribed. Additionally, it should be noted that the amendment of the BBNJ Agreement and the ability to adopt annexes are governed by the same voting rules used for the Conference of the Parties generally and, specifically, for the designation of marine protected areas, thus triggering a different procedure than used in the Basel, Rotterdam and Stockholm Conventions and the Minamata Convention.³⁴ In the CBD context, both amendments and annexes to the main Convention or its Protocols do not have as strict limitations on the topics that could be included. Additionally, the procedure of any of these proposals involved the use of consensus as preferable and then, if efforts to reach consensus have been exhausted a 2/3 majority vote would be the standard.³⁵ Further, it should be highlighted that, as a soft law instrument,

27 See *ibid.*

28 BBNJ Agreement Part II, Article 23(1) – (2)

29 BBNJ Article 23(2)

30 BBNJ Article 47

31 Basel Convention articles 3, 7; Rotterdam Convention articles 10 – 11; Stockholm Conventions articles 6 – 7; Minamata Convention article 3.

32 Stockholm Convention article 4; Minamata Convention article 6.

33 Basel Convention article 18; Rotterdam Convention article 22; Stockholm Convention article 22; Minamata Convention article 27.

34 BBNJ Agreement Art 72

35 CBD arts 29, 30

the Global Framework on Chemicals does not contain the same legally established elements for amendments, but rather makes it optional for the governing International Conference to consider revisions as part of the stocktaking options.³⁶ Similarly, the process for listing various substances in the designated Annex structure is far more fluid in the GFC context.³⁷

D. Issues Regarding Financing and Financial Mechanisms

A further consideration relates to concerns regarding financial mechanisms and efforts to ensure that there is adequate, sustainable and reliable financing available to States in the context of plastic pollution and efforts to address it rather than as part of smaller projects under the specific remit of existing Convention financing practices.³⁸ Each of the treaty regimes discussed in this brief, as well as the soft law elements of the GBF and the GFC, have separate provisions regarding the raising of financial resources and financing mechanisms.³⁹ It is important to highlight that each of the mechanisms provided for is, ultimately, under the guidance of the respective COP for the applicable treaty or instrument.⁴⁰ This means that there is no uniform standard that would be applicable for decisions regarding funding of measures relating to plastic pollution unless each of the COPs individually agreed to be bound by such a standard. Such concerns would apply even where the Global Environment Facility is used as a designated financial implementation mechanism and, since the GEF operates through the use of a Memorandum of Understanding with treaties for which it is an implementing mechanism, these would constitute another area of potential uneven

terms for funding of plastics pollution and related activities if applied through separate treaties and instruments rather than in a dedicated treaty.⁴¹

E. Issues of Governance

Finally, it should be highlighted that, even in instances where treaties or subsequent decisions of a COP might authorize cooperation between the COP and/or Secretariat and those of other treaty bodies, these measures do not allow for the extension of practices from or between treaty bodies without express authorization of their respective governing bodies. Thus, coordination alone would not be sufficient to ensure that agreements between treaty bodies would be applied evenly or within the same timeframe.

F. Conclusions and overarching need for a dedicated Plastics Treaty, including for funding and reporting coherence and OneHealth Approach

The INC process has extended beyond the timeframe envisioned in UNEA Resolution 5/14 and it is clear that there are challenges with the current pace of the negotiation process. However, while attempting to address the growing plastic pollution problem and regulate the full lifecycle of plastic pollution across various aspects of existing Multilateral Environmental Agreements and other international instruments might offer a path forward, this would be a very narrow path fraught with inconsistencies and legal challenges. It would also be a path that would

36 GFC art 93

37 GFC Annexes I - III

38 See Basel Convention article 14; Stockholm Convention article 13; Minamata Convention article 13.

39 CBD arts 20, 21

40 CBD art 21; Cartagena art 28; Nagoya art 25; GBF Goal D; GBF Target 19; BBNJ Agreement Part VII; GFC Part IX; Basel art 14; Stockholm Convention art 13; Minamata art 13;

41 Cf. IUCN brief on financial mechanism (link to be added)

address a limited number of issues that relate to plastic pollution and leave the rest outside of an international legally binding instrument. This highlights the need for an ambitious, robust and comprehensive Global Plastics Treaty. With this understanding, it is essential to advocate for a future Plastic Treaty to ensure that the textual proposals enshrine the growing trend of cooperation and coordination between different MEAs and other international treaty regimes, including those on biodiversity and ecosystems⁴², and this also on regional, national and local level.

Evaluating essential areas of concern in using multiple existing instruments to address aspects of the plastic pollution problems facing the international community demonstrates that there are fundamental flaws of law, procedure, cohesion and funding, particularly in terms of:

- Appropriate jurisdiction;
- Fairness and legal consistency in voting practices;
- Legal consistency in the ability to add amendments and/or annexes to instruments;
- Availability, governance and coherence of funding and financing mechanisms; and
- Consistency in governance and oversight.

More fundamentally, science has demonstrated that plastic pollution is a complex and multisectoral problem that requires a coordinated legal and regulatory system. It will be imperative that the future Global Plastic

Treaty includes provisions to endorse and allow international cooperation with other treaty bodies and international instruments, as well as regional bodies, intergovernmental organizations and civil society. However, to fully address the threats from plastic pollution for current and future generations it is essential that there be one coordinating treaty regime rather than dependence on multiple existing treaty regimes to cobble together a response.

This would also ensure that the governance bodies of the future Plastics Treaty would be empowered to engage with other secretariats and MEA governance bodies in a way that has become commonplace between existing MEAs and increasingly has been mandated by the COPs of MEAs enacted before these intersections were commonly acknowledged in operationalizing treaty requirements. While not of the status of MEAs, the establishment of the new Intergovernmental Science Policy Panel on Chemicals, Waste and Pollution (ISP-CWP) and the Global Framework on Chemicals also highlight the importance of establishing means of international cooperation in the pollution regulation sectors to avoid legal, scientific, and regulatory overlaps and, potentially, inconsistencies. Given the likely role of the Plastics Treaty in the sphere of pollution and chemicals management law, policy, and implementation, it will be essential that its governing bodies have the ability to engage with the governing bodies of other MEAs and related international entities from the outset.

42 Cf. [UNEP key entry points for mutually supportive action on biodiversity, chemicals, waste](#) and proposals made by IUCN and partners:

- [A global plastics treaty and biodiversity: converging or conflicting regimes? - resource | IUCN](#);
- [one-page-biodiversity-brief-fauna-flora-zsl-iucn-wcel_1-pager-final.pdf](#);
- [A future plastics treaty needs a specific article on biodiversity: IUCN's proposal - Story | IUCN](#).



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Within the future Plastics Treaty, IUCN advocates for:

- Biodiversity protection reference as standalone article or combined with an Article on Health following a biodiversity and health linked approach (One Health).
- Specific language on “International Cooperation” between the treaty’s governance body and related MEAs (Basel, Rotterdam, Stockholm Conventions, GBF, BBNJ), that is keeping with previous proposals made by Members of the INC process and with elements of existing MEAs, their subsequently adopted

Conference of the Parties decisions and implementing frameworks⁴³.

- Furthermore, doing this work requires significant support. It should be noted that the GBF and BBNJ act as funding catalysts, as will the future Plastics Treaty, bridging climate/biodiversity finance with chemicals/waste funding and implementation, e.g. regarding national action plans⁴⁴. Countries will need support in identifying innovative financing and aligning treaty implementation requirements and capacity building for their (legal) regional, national and local implementation.

43 Cf. specific language proposal [INC5.2 Policy Brief: International Cooperation model for the future Plastics Treaty, with a focus on biodiversity and OneHealth - resource | IUCN](#)

44 Cf. CIEL/IUCN 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](#)

IUCN and IUCN WCEL Recommendations

- In advance of and during INC-5.3, understanding the procedural elements for electing a new INC Chair, along with other possible issues that may arise, is critical for INC Member States⁴⁵. In addition to this, it is important that States consider fundamental issues for the Global Plastics Treaty and the international regulation of the full lifecycle of plastics and plastic pollution as well since these issues will be at the centre of the mandate given to the new Chair and to the progress needed before an anticipated INC-5.4 session.
- The Global Plastic Treaty is essential to ensuring that the full lifecycle of plastics and plastic pollution is comprehensively and holistically regulated as a matter of international law and the national law it subsequently fosters. Despite some areas of overlap and synergy between existing MEAs and other international instruments, it is impossible to cobble together a comprehensive set of regulations of plastics at the global level without a dedicated, standalone treaty.
- Moving forward in the INC process, it is essential that the Global Plastic Treaty include provisions allowing for international cooperation with existing MEAs, their secretariats, and intergovernmental organizations, especially those discussed in this brief, in order to advance the synergies that will exist in their mandates while recognizing that the full lifecycle of plastics and plastic pollution would solely be governed by the Treaty.
- The Global Plastics Treaty must include governance structures that include a dedicated Scientific and Technical Advisory Body as well as other bodies which the COP finds necessary to advance the science-policy interface.
- For the future of the Global Plastics Treaty, it will be important for States and all participating in the INC process, to consider the incorporation of science-based criteria approaches and the science-policy nexus in the terms of the Treaty.
- 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.

⁴⁵ Cf. separate IUCN WCEL legal brief ([add link](#))

- In order to address the cross-cutting impacts of plastic pollution on human health and environmental health, it is imperative that the Global Plastic Treaty include provisions mainstreaming OneHealth throughout its terms in addition to the potential for a dedicated Health article.
- The Global Plastics Treaty must provide for a Financing Mechanism that meets the needs of all Member States, especially developing countries, Least Developed Countries and SIDS, and that mobilizes finance from all sources, including bilateral cooperation, and the inclusion of the private sector with appropriate oversight and conflict of interest measures.
- A future Treaty should thus ensure a compliance driven financing mechanism, with activities designed to achieve compliance targets and involvement of all countries through the governing body and using science based approach.
- Identifying and addressing national implementation/legislation and policy gaps could help to bridge the existing challenges in the INC process and the need for national measures that address underlying plastic pollution issues while also complying with existing requirements under international law. The Global Plastics Treaty must therefore include provisions for supporting the development of national and-sub national planning instruments; providing technical advice; tailoring guidance and tools to local context (i.e. translating into local languages); building capacity, supporting legal reform, and convening cross-ministerial dialogues for improved communication.

For enquiries, please contact
centreforpolicyandlaw@iucn.org

Authors

Dr. Karine Siegwart

Senior Policy Advisor, IUCN Centre for Policy and Law

Dr. Alexandra R. Harrington

Chair, IUCN WCEL Pollution Law Specialist Group

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**INTERNATIONAL UNION
FOR CONSERVATION OF NATURE**

Rue Mauverney 28
1196 Gland
Switzerland
Tel +41 22 999 0000
Fax +41 22 999 0002
www.iucn.org