

INC-5: LANGUAGE SUGGESTIONS

NOVEMBER 25, 2024



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Policy Analysis and Legal Analysis

A) Article 4- Exemptions available to a Party upon request.

In this section, the Parties propose several options which incur in exemptions or relief from possible regulatory controls that the instrument would provide. Within the language of this obligation, we have four subsections under a single option, which provides a length of 5 year terms per exemption registration, including short-lived and single-use plastic products and intentionally added microplastics on phase out dates that would differ per Party, and Parties must justify the reason for said exemption. Under the OP bis (subsection to the subsection under treaty work) the negotiating Parties justify the need for exemptions on developing states, small developing islands, and states that are dependent on polymer and plastic transatlantic trade. However, it is important to note that none of these delegations have expressed the need for exemptions under the objective of this instrument.

B) PPP (added to Article 5: Product Design and Article 6: Supply)

(a) Each Party shall take effective measures to regulate and reduce the use of primary plastic polymers in products, with a focus on minimizing the inclusion of chemicals of concern. These measures shall promote the enhancement of plastic product design and performance, ensuring that products are more durable, reusable, repairable, and recyclable. Parties shall ensure that the chemical composition of plastic products is transparent and aligned with relevant international standards and guidelines, including sector-specific regulations, to reduce the environmental impact of plastic products and promote their safe disposal upon becoming waste.

(b) Each Party shall foster research, innovation, and development of sustainable alternatives to plastic products, including non-plastic substitutes, products, technologies, and services. This shall be done in accordance with the best available science, incorporating traditional knowledge, knowledge of Indigenous Peoples, and local knowledge systems. The Parties are obliged to assess the potential of these alternatives to reduce waste, enhance reuse, and minimize environmental, socio-economic, and human health impacts across their life cycle.

Guidance by the Conference of the Parties

The Conference of the Parties (COP) shall adopt, at its first meeting, binding guidance to assist Parties in the implementation of the obligations set out in paragraph 1 of this Article. The COP shall regularly review and update this guidance as necessary, ensuring that it remains aligned with new scientific developments and emerging best practices. This guidance shall include sector-specific recommendations, where appropriate, to assist Parties in targeting priority areas for action.

C) Article 7- Emissions and releases of plastics through its life cycle.

Objective and Obligations of Parties

Each Party to this Treaty shall base their efforts to eliminate plastic pollution and emissions on comprehensive vulnerability studies and assessments of contamination systems. These studies shall specifically assess the potential risks and impacts of plastic pollution on human health and the environment. Based on these findings, each Party is required to take proactive measures to prevent and eliminate all emissions that pose a threat to human health, including the release of plastics into the environment. The elimination of such emissions must be achieved through binding and enforceable regulatory actions at the national and international levels.

Regulatory Language and International Cooperation

The Parties shall refrain from using ambiguous or non-binding language in their national plans or regulations that could undermine the objective of eliminating emissions globally. Specifically, the reference to national plans, regulations, or legislation, as seen in Options 3 and 4, shall not serve as an excuse for failing to adopt enforceable measures at the international level. Instead, Parties must implement concrete, binding obligations under this Treaty that directly address emissions and plastic pollution. National plans and legislation should serve as tools to complement, but not replace, international regulations. The focus must be on coordinated, effective, and legally binding global action, rather than relying on individual national discretion.

Commitment to Global, Binding Regulation

The Treaty's objectives must not be undermined by language that avoids the adoption of direct regulatory measures applicable to all Parties. While acknowledging that countries may have different capacities and circumstances, the Treaty must bind all Parties to actively seek the elimination of emissions on an international scale. The Department of State has indicated that a "cookie-cutter" approach is not feasible, but this should not be interpreted as an excuse to avoid binding international commitments. Each Party is obligated to align its actions with the global goal of emission elimination and plastic pollution reduction.

Support for Option 1 Without OP Bis

Azul supports Option 1 without any additional sub-options (OP Bis), as it offers a clear, enforceable framework for Parties to proactively eliminate emissions and plastic pollution in a manner that is consistent with the Treaty's overarching goals. This approach ensures that each Party contributes to the global effort while respecting the collective responsibility to protect human health and the environment.

D) (Standalone provision) Trade [in listed chemicals[, polymers] and products, and in plastic waste][related measures]

Each Party to this Treaty shall adopt binding measures to regulate the production, use, and disposal of fishing gear, including nets, rods, traps, pots, and fishing lines, to prevent marine pollution and ensure sustainable practices within the fisheries and aquaculture industries. Parties are obligated to implement mandatory waste management systems for the recovery, recycling, and safe disposal of lost or discarded fishing gear. They shall require the development and deployment of technologies to recover and recycle such gear, ensuring that these technologies are accessible to stakeholders in the fishing and aquaculture sectors.

Parties shall also regulate the trade and importation of fishing gear to prevent overproduction and environmental harm, mandating sustainable production practices for producers, importers, and retailers. Each Party is required to establish financial penalties for the improper disposal of fishing gear, incentivizing compliance with sustainable waste management practices. These penalties will fund recovery and recycling efforts and will be accompanied by incentives, such as tax credits or subsidies, for industries that adhere to sustainable standards.

In addition, Parties shall work collaboratively to close regulatory loopholes and establish binding controls to prevent the illegal transboundary movement of plastic waste, including fishing gear. They are obligated to create systems for monitoring and regulating the movement of waste across borders to ensure compliance with the provisions of this Treaty and to prevent dumping in violation of international standards.

By ratifying this Treaty, each Party commits to taking legislative and regulatory actions that will reduce the environmental impact of fishing gear waste, thereby supporting the broader goals of the Global Plastics Treaty and establishing themselves as leaders in ocean sustainability and plastic waste reduction.

E) Article 11: Financing Mechanism

This Article establishes binding obligations for each Party to mobilize resources, within their capabilities, to implement national activities that are in line with the provisions of the Convention. Each Party will be required to take concrete actions to align their national policies, priorities, plans, and programs with the objectives of the Convention, ensuring that these activities are adequately resourced and supported. Recognizing the differing capacities of Parties, particularly those in the Global South, the Article mandates that those Parties be provided with obligatory capacity-building, technical assistance, and financial support to enable them to meet their obligations under the treaty effectively.

In this context, the Article requires the creation of a financial and technical cooperation mechanism that will provide binding assistance to Parties in need of support. This mechanism must include one or more funds that are operated by designated entities and drawn from multilateral, regional, and bilateral financial institutions, in addition to mandatory contributions from the private sector. The financial mechanism

will be designed to provide new and additional resources for Parties to meet their treaty obligations, supplementing existing financial flows from domestic finance, multilateral entities, and private sector sources. This ensures that all Parties, especially those facing significant economic and technical barriers, receive the support necessary for full implementation of the Convention.

The financing mechanism established under this Article will operate as a mandatory system designed to ensure that all Parties, particularly those with limited resources, can meet their obligations under the Convention. The mechanism will be composed of one or more funds, managed by designated entities, that will provide financial and technical assistance to Parties in need. These funds will be replenished through mandatory contributions from multiple sources: first, from multilateral, regional, and bilateral financial institutions; second, through obligatory contributions from the private sector; and third, by ensuring the inclusion of additional resources from domestic finance within each Party. The funds will be specifically earmarked for capacity-building activities, technical support, and the implementation of the treaty's obligations, particularly in developing countries and countries with economies in transition. The financial mechanism will be monitored by the Conference of the Parties (COP), which will provide ongoing guidance and review the allocation of resources to ensure that financial flows are effectively directed toward fulfilling the Convention's objectives. The mechanism will also have built-in provisions for periodic assessments to evaluate its efficiency and the impact of the resources provided, ensuring that the financial support aligns with the evolving needs of the Parties and contributes to their long-term capacity to comply with the treaty's requirements.

The Conference of the Parties (COP) will be responsible for overseeing the financial mechanism, providing binding policies and guidance for its operation. At the first meeting of the COP, Parties will be required to review the effectiveness of the mechanism and assess whether it is adequately addressing the needs of developing countries and countries with economies in transition. The COP will evaluate the effectiveness of the funding, the performance of the entities managing the mechanism, and determine whether the mechanism is delivering on its obligations to assist Parties in fulfilling their commitments under the Convention. Additionally, the COP will ensure that the financial mechanism is aligned with the overarching goals of the Convention, which include human rights, sustainable development, and public health.

In the interim period between the adoption of the Convention (DipCON) and the first meeting of the COP (COP1), the Article mandates the establishment of transitional arrangements. These arrangements will include clear guidance on the financial mechanism's operational modalities and will outline any additional measures required to ensure the effective implementation of the provisions. The COP will be responsible for ensuring that these obligations are met during this interim period, ensuring a seamless transition to full implementation once the Convention enters into force.

F) Standalone provision- Fishing Gear

Regulation of Production, Use, and Disposal

Each Party to this Treaty shall adopt and enforce effective measures to regulate the production, use, and disposal of fishing gear, including nets, rods, traps, pots, and fishing lines, to prevent environmental pollution and promote sustainable practices within the fisheries and aquaculture sectors. Parties are obligated to ensure that the production and use of such gear does not result in excessive waste or contribute to marine pollution. In addition, Parties must establish and maintain appropriate waste management systems to address the accumulation of discarded or lost fishing gear.

Mandatory Recovery and Recycling Systems

Each Party shall implement mandatory systems for the recovery, recycling, and safe disposal of lost or discarded fishing gear. These systems must include the development and deployment of technologies designed to retrieve and recycle fishing gear. Parties shall promote the development of sustainable technologies that support the collection and recycling of fishing gear waste, ensuring these technologies are accessible and available to relevant stakeholders within the fishing and aquaculture industries.

Regulation of Import and Trade

To address the environmental challenges caused by overproduction and unsustainable trade practices, each Party shall regulate the import and trade of fishing and aquaculture gear. Parties are required to implement binding regulations that mandate sustainable production practices, waste management standards, and environmental safeguards for producers, importers, and retailers of fishing gear. This includes ensuring that imported gear does not contribute to excessive waste or harm to the environment.

Financial Penalties and Incentives

Each Party shall establish a financial penalty system for the improper disposal of fishing gear. The imposition of fines shall incentivize compliance with sustainable waste management practices. These penalties will support the creation of funding mechanisms dedicated to the recovery and recycling of fishing gear, while also providing positive incentives, such as tax credits or subsidies, for industries and stakeholders that adopt sustainable practices.

Cooperation and International Regulations

Parties shall cooperate in the development and implementation of both national and international regulations designed to reduce the environmental impact of fishing and aquaculture gear. Parties are required to align their national policies with the global objectives of this Treaty. This includes ensuring that national policies contribute to the global reduction of plastic pollution and support sustainable practices in fisheries and aquaculture sectors worldwide.

Transboundary Movement and Monitoring

Each Party shall take all necessary measures to close any regulatory loopholes that facilitate the unregulated or illegal transboundary movement of fishing gear and plastic waste. Parties must implement monitoring and tracking systems to control and manage the flow of plastic materials across borders. Binding regulations governing the transboundary movement of plastic waste, including fishing gear, shall be established to prevent illegal dumping and ensure that international standards for waste management are met.

By signing this Treaty, each Party reaffirms its commitment to leadership in global ocean conservation and pledges to take the necessary legislative and regulatory actions to reduce the environmental impact of fishing gear waste. Through these collective obligations, Parties shall contribute to the broader goals of the Global Plastics Treaty, positioning themselves as global leaders in ocean sustainability and plastic waste reduction.

G) (Standalone provision) National Action Plans

A governing body shall be established to oversee the implementation of the Treaty's objectives and approve each Party's national plan for eliminating plastic pollution. The governing body's responsibilities shall include:

- (a) Reviewing and approving national plans submitted by Parties, ensuring they align with the Treaty's goals and principles.
- (b) Providing guidance to Parties on the development and execution of national plans, while considering the specific economic and developmental needs of each Party, particularly those from developing countries and small island states.
- (c) Ensuring that no punitive measures are imposed on developing countries for non-compliance, allowing flexibility for Parties facing economic or structural challenges in meeting the Treaty's obligations.
- (d) Facilitating the implementation of mechanisms that enable Parties to progress toward the global goal of zero plastic pollution and net-zero emissions, with due consideration for the economic impacts on microeconomies.

Responsibilities of the Governing Body

The governing body shall:

- (a) Provide strategic oversight and guidance to Parties on their national efforts to eliminate plastic pollution.
- (b) Avoid duplication of efforts by coordinating resources and recommendations for national plans, ensuring efficient and effective action toward the Treaty's objectives.

- (c) Report to the Secretariat any issues, challenges, or nuances that arise during implementation, and make recommendations for improvements.
- (d) Foster international cooperation by ensuring that the implementation of national plans does not interfere with the broader objectives of the Treaty, particularly in promoting global cooperation and regulatory harmonization.

National Plans as a Tool for Implementation

- (a) The national plan shall be the primary tool through which each Party will outline its strategy to eliminate plastic pollution. The plan shall be submitted to the governing body for review and approval.
- (b) The use of national plans shall be confined to this section of the Treaty. National plans, committees, and the governing body shall not be referenced or incorporated into other sections of the Treaty to avoid shifting the focus of regulation from multilateral obligations to individual national responsibilities.
- (c) The Treaty's overarching objectives and obligations shall not be diluted or subordinated to the implementation of national plans. The regulation of plastic pollution shall remain within the framework of the Treaty itself, ensuring the integrity and efficacy of the multilateral approach.

Avoidance of Friction with International Cooperation

The reference to national plans, committees, and the governing body shall be limited to this section to prevent the diversion of the Treaty's core mission and objectives toward intergovernmental affairs. The implementation of national plans shall not undermine the global framework or interfere with the collective, binding obligations established by the Treaty. The focus shall remain on international cooperation, with national plans serving as a means to support, not replace, multilateral regulation and action.