

INC-3 Submissions

Aotearoa Plastic Pollution Alliance (APPA)

Tāngata Whenua Coalition for an Effective Plastics Treaty (TWC)

- This collaborative submission represents the views of both the APPA and the TWC.
- [APPA](#) is a collaborative forum of researchers, educators, artists, activists, community leaders, and more in Aotearoa (New Zealand) and Te Moananui-a-Kiwa (the Pacific) working to end plastic pollution through holistic systemic transformation.
- [TWC](#) is a collective of Māori plastic pollution experts including community leaders, educators, scientists, businesspeople, and researchers committed to honouring Te Tiriti o Waitangi and ensuring the effective participation and representation of Tāngata Whenua throughout the United Nations Global Plastics Treaty (GPT) process.
- In this submission, we place more emphasis on Submission B, noting in Submission A that precious time should not be spent on substantially renegotiating the scope and principles of the treaty.
- In Submission A, we reiterate that the scope of the treaty is largely already in place, only adding detail for clarity and accuracy, and we recommend additional principles, focusing on the need to enact the principles and other relevant international, regional, and local declarations, agreements, and reports through the Treaty’s control measures.
- In Submission B, we detail recommended control measures and other intersessional work (Contact Group 1) that prioritise prevention and ‘polluter pays’ principles, underpinned by the precautionary principle, including: capping production and eliminating fossil-fuel subsidies; harmonised reporting requirements; licensing schemes; non-party trade measures; ‘safety’, ‘sustainability’ and ‘essentiality’ criteria; transparency and traceability; and a hybrid regulatory approach using Prohibited, Restricted, Permitted, and Exemption lists. We also comment on intersessional work for Contact Group 2, including: expert groups; science-policy interface; National Implementation Plans; a dedicated finance mechanism; and determining Members’ required financial support.

SUBMISSION A

Name of country (for Members of the committee)	New Zealand (Aotearoa)
Name of organization (for observers to the committee)	Aotearoa Plastic Pollution Alliance (APPA)
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Date	15 August 2023

Scope

[UNEA Resolution 5/14](#) already sets the scope of the treaty as “**plastic pollution including microplastics**” along the **full life cycle of plastics**. Since plastics are a complex mix of chemicals

and diverse physical properties, the chemical and physical properties of plastics are included in the scope of Res 5/14.

Plastics are a broad category of synthetic polymers including thermosets, thermoplastics, elastomers, liquid and semi-liquid polymers and bioplastics (including biodegradables, bio-compostables, and biobased), and the feedstocks, monomers, additives, and other chemicals they are made from. Plastics also include chemicals, monomers, and polymers and products either wholly or partly made of synthetic polymers (i.e. composite products/materials). All plastics will eventually fragment into micro- and nano-sized fragments. Therefore, nanoplastics also sit within the scope of the treaty.

The scope in Res 5/14 is explicit: the **full life cycle of plastics** including **binding and voluntary approaches, based on a comprehensive approach that addresses the full life cycle of plastic.** ¶15 of Appendix II of UNEP/PP/INC.2/4 (Options Paper) captures the scope of 'life cycle':

"A life cycle approach to plastic considers the impact of all the activities and outcomes associated with the production and consumption of plastic materials, products and related services – from raw material extraction and processing (refining, processing, cracking, polymerization) to design, manufacturing, packaging, distribution, use (and reuse), maintenance and end of life management, including segregation, collection, sorting, recycling and disposal. Transportation and trade of plastic products also occur at each stage of the life cycle".

Therefore, full life cycle would also include the following detail: extraction or acquisition of raw materials, including feedstocks for synthetic and bio-based plastics alternatives and substitutes; chemicals and feedstocks used in the production of monomers, polymers, and products and the pollution caused during production and manufacturing of plastics and plastic products; transportation, distribution, use, and consumption of synthetic polymers, chemicals destined for plastic production, and plastic products, and midstream pollution; plastic waste, emissions, and residuals and products manufactured or resulting from the treatment of plastic waste; all pollution from downstream plastics, chemicals, and residual treatment, disposal, and activity; and removal of plastic pollution from the environment and remediation of polluted ecosystems.

Member States should not expend limited time revising the agreed scope and diverting the attention needed for defining and negotiating control measures critical to preventing and ending plastic pollution.

Principles

[UNEA Resolution 5/14](#) has already agreed that the treaty be underpinned by the [1992 Rio Declaration on Environment and Development](#) Principles including, inter alia:

- **The principle of common but differentiated responsibilities (CBDR) (Principle 7) that should apply to finance under the global plastics treaty.** We recommend caution in the application of this principle and recommend that it be applied to financing but not to technology transfer (even on mutually agreed terms). The principle of common but differentiated responsibilities should not be deployed to support a weak and ineffective voluntary national action plan-driven instrument.

- **Public participation in environmental decision-making (Principle 10)**
- **Access to information (Principle 10)**
- **Liability and compensation (Principle 13)**
- **Transboundary environmental justice, also known as the “no harm rule” protecting states from transboundary harm (Principle 14)**
- **The precautionary principle (Principle 15)**
- **The ‘polluter pays’ principle (Principle 16)** should not be applied in the treaty text as giving polluters the right to pay to pollute; but rather that the polluter (as polluting industry) should bear the full cost of pollution (starting with polluting product) prevention and minimisation, management, mitigation, removal, remediation and compensation for loss and damage.

We recommend the following additional principles should be reflected in the treaty specific to ending plastic pollution:

- **Principle of prevention.** If we are to end global plastic pollution, this principle must be the priority. Prevention is about turning off the tap of toxic, unsustainable plastics that cannot be safely and sustainably recirculated within the economy. The principle should ensure assessment of potentially harmful activities underpinned by the **precautionary principle** such as environmental and social, cultural, and economic impact assessments, and obtaining free, prior, and informed consent from communities (see also UNDRIP)
- **Zero waste hierarchy principles.** The principle of prevention sits at the top of the Zero Waste Hierarchy Principles (not the outdated waste hierarchy): refuse, rethink, and redesign, reduce, reuse, and repair.
- **Principle of non-regression.** States must not weaken the environmental protections that they have created in their domestic or national regulations, and the decisions of the prospective Conference of the Parties must not regress on matters that have already been established.
- **Human rights obligations relating to the enjoyment of a safe, clean, healthy, and sustainable environment.**
- **Key rights set forth under the United Nations Declaration for the Rights of Indigenous Peoples (UNDRIP):** the right to be free from discrimination; self-determination, be recognised as distinct peoples, and free prior, and informed consent.
- **Rights-based approach that centers Indigenous Peoples.** The instrument must advance Indigenous Peoples’ sovereignty and free self-determination, their right to protect their spaces, and their science and knowledge systems must be clearly recognised throughout the Treaty design, negotiations, and implementation processes. These knowledge systems protect lands, oceans, treasured and keystone species, language and intergenerational well-being.
- **Indigenous justice:** The Treaty must recognise that Indigenous Peoples are disproportionately impacted throughout the full life-span of plastics. Indigenous Peoples’ sovereignty, their right to protect their spaces, and their science and knowledge systems must be clearly recognised throughout the Treaty design, negotiations, and implementation processes.
- **Justice, equity, and community-led transition away from plastics.** The instrument should ensure that those most disproportionately impacted by plastic pollution, including waste pickers, Indigenous Peoples, high mountain and coastal communities, youth, and children, are properly resourced to lead and facilitate these transitions in their spaces.

- **Inter- and intra-generational equity**
- **Gender equity**
- **Justice and equity for children and youth**

The Treaty’s control measures and the Treaty preamble should clearly state how the instrument aligns with and plans to implement the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the Convention on Biological Diversity (CBD), and other relevant international, regional, and local declarations, agreements, and reports that uphold Indigenous Peoples rights to self-determination, to protect their spaces and knowledge systems, and to a healthy environment. Examples of relevance for Aotearoa (New Zealand) include He Whakaputanga (1835), Te Tiriti o Waitangi (1840), claims made through the Waitangi Tribunal (i.e. WAI262), Matike Mai Aotearoa (2016), and He Puapua (2019).

Principles of international human rights and environmental law must drive the implementation of the treaty’s control measures. To ensure that these principles are realized in the implementation of the future instrument, we urge the **Member States to focus on establishing control measures that will manifest these principles instead of solely addressing them in the preamble of the future instrument and avoid spending substantial negotiating time on principles.**



SUBMISSION B

Name of country (for Members of the committee)	New Zealand (Aotearoa)
Name of organization (for observers to the committee)	Aotearoa Plastic Pollution Alliance (APPA)
Contact person and contact information for the submission	Liam Prince, APPA Chair (nzappa.org@gmail.com)
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Potential areas for intersessional work

Contact group 1:

APPA strongly supports the simplification, reduction, and detoxification of polymers and products and the chemicals associated with polymers and products along the **full life cycle of plastics**. APPA recommends control measures that prioritise **prevention** and **'polluter pays' principles**, underpinned by the **precautionary principle**. The following recommendations for intersessional work will serve to prioritise extraction, chemicals, polymers, substitutes and alternatives, and products/product design while also responding to the need for safe and sustainable EPR, waste management and removal and remediation technologies as well as **material and product transparency** representative of a **full life cycle approach**.

Caps on primary (virgin) fossil-fuel based polymer production and elimination of fossil fuel subsidies

APPA supports intersessional work dedicated to **caps on aggregate production of primary (virgin) fossil-fuel based polymers**. As noted in APPA's recommendation for intersessional work for Contact Group 2, we support [Ghana's](#) proposal for a **levy on fossil-fuel polymer production** to reduce demand and supply. APPA also supports the **removal of subsidies** on fossil fuel extraction, and petrochemical and plastics production.

Harmonised reporting requirements

APPA also recommends the intersessional work includes identifying **harmonised reporting requirements** for all parties from national volumes and types of extracted biomass and fossil fuel-based sources for plastics production; production volumes and types; consumption (calculated as production plus imports minus exports); use per sector; volumes and types destined for a range of waste management technologies; and volumes and types of plastic waste exports. We also recommend exploring possible measures for reporting on plastics prevention and reduction, such as where reusable products/packaging displace single-use plastics. For the **financial and technical support** needed for compliance and enforcement measures, see discussion on Contact Group 2 below.

Licensing schemes

Related to harmonised reporting requirements, APPA also recommends intersessional opportunities to discuss **licensing schemes** designed to prevent illegal extraction, production, consumption, use, trade, and disposal.

Non-party trade measures

APPA recommends intersessional considerations of **non-party trade measures** to incentivise ratification and promote the treaty's objectives with countries not party to the instrument. For example, by

implementing trade bans or restrictions with non-parties. Non-party trade measures ensure fair trading terms on a non-discriminatory basis.

Definitions

APPA suggests that it is premature to dedicate intersessional or INC negotiating time to agreement on definitions. However, we recommend that the Secretariat compile a preliminary list of terms requiring definition. Definitions should be developed and approved by technical groups during the early COPs and adopted as an Annex to provide the clarity needed for the implementation of the treaty. Many of these definitions should only emerge out of the expert group work on criteria. For example, essential/non-essentiality, safe, sustainable, circular economy, circularity, recovery, environmentally responsible management, compostable, reusable, durable, and just transition.

'Safety', 'Sustainability', and 'Essentiality' Criteria

APPA proposes that the criteria to be developed are '**safety**', '**sustainability**', and '**essentiality**' criteria to assess plastics feedstock acquisition (including fossil-fuel-based and biomass extraction); polymers and plastics-associated chemicals; substitutes and alternatives; product design; management; removal and remediation technologies; and EPR schemes. A separate process will be needed to determine **transparency criteria and standards**.

Safe and sustainable criteria

An expert group may consider using the safe and sustainability criteria as proposed by the Nordic Council (2022) as a starting point from which to develop sub-criteria for each of the materials and technologies. *Chemicals and Plastics: A technical report* (UNEP 2022) also provides guidance on sustainable chemicals and polymers and management options for plastics containing hazardous chemicals.

Essentiality criteria

An expert group may base essentiality criteria on the Montreal Protocol definition from which to develop sub-criteria for the groups of materials and technologies listed above: "necessary for health, safety or is critical for the functioning of society". Essential uses specific to chemicals may be guided by *Chemicals and Plastics: A technical report* (UNEP 2022).

Transparency, traceability, and reporting

An expert group should be established to ensure manufacturers, retailers, wholesalers, distributors, consumers, and waste handlers have the information required to safely and sustainably use and manage polymers, products, and waste. Information required by supply chain participants may include the following: polymer type, chemicals including monomers and additives, recycled content, safe use, and safe and sustainable disposal. Harmonised reporting (as noted above) allows products trackability/traceability including illegal movement of products and waste across borders. This information is needed to support the **human right to information and science** so that all participants across the full life cycle of plastics can make fully informed decisions to assess human and environmental hazards.

APPA requests that the expert group considers developing these three broad criteria and that they develop additional sub-criteria specific to the following: extraction, polymers and plastics-associated chemicals, plastic products, product design, management, and removal and remediation technologies.

A hybrid regulatory approach (Prohibited, Restricted, Permitted, and Exemption lists)

APPA recommends a hybrid regulatory approach in which four lists (prohibited, restricted, permitted, and exempt) emerge from rigorous hybrid safety, sustainability, and essentiality criteria. This hybrid regulatory approach, resonant of the BRS [Global Governance of Plastics](#) report, would allow for the development of what could potentially be used to develop a regulatory and classification system that is both responsive to the urgency of the problem while also respecting the need for more data to inform the process in some

cases. This approach would also accommodate countries' common but differentiated responsibilities and circumstances enabling just transition.

The criteria and the lists generated out of those criteria will be essential in guiding decision-making, standards, and control measures. A prohibited list would include all materials and technologies that should be immediately banned; a permitted list would permit continued use "until new knowledge on harmful effects is uncovered" potentially with conditions; a restricted list for materials and technologies that require further evaluation/are data deficient; and a petition process and criteria for specific exemptions. Assessments should be based on the **precautionary principle** which underlines that where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing measures to prevent environmental degradation. Assessments should also be based on the **prevention principle** inherent in the **zero-waste hierarchy**, and should give consideration to products, materials and chemicals with the potential to contaminate organic materials intended for beneficial reuse (e.g. source-separated food and garden organics, agricultural residues, sewage sludge). Assessments must prioritise cultural value(s) that alternative and/or traditional materials/products have for Indigenous Peoples to protect taonga (ecologically/culturally significant) species.

Preliminary recommendations for the Prohibited list

Scientific consensus recommends three polymers for immediate inclusion in the prohibited list due to their lack of safety, sustainability and non-essentiality: (Poly)vinyl chloride, PVC; Polystyrene, PS; and Fluoropolymers. Scientific consensus also recommends the following substances of concern for the prohibited list: Bisphenols, Phthalates and PFAS.

Contact Group 2:

Intersessional expert groups

Intersessional expert groups should draw on the best independent multidisciplinary expertise, Indigenous science and knowledge, and community expert input. Due to lack of time, we do not believe that a formal, Member State and UNEP-authorized scientific INC advisory body is required in the short-term (however, we do believe a scientific advisory body should be established to support the ongoing implementation and development of the Instrument beyond the negotiations). The intersessional time would be more effectively spent prioritising and developing concrete control measures on which to base the instrument. Likewise, we should not wait for the establishment of the Science Policy Panel on Chemicals and Waste (SPP).

The Scientists' Coalition for an Effective Plastics Treaty represents the independent, coordinated, and multidisciplinary expertise needed to develop safety, sustainability, and essentiality criteria for feedstock acquisition; polymers and plastics-associated chemicals; products; substitutes and alternatives; product design; management and removal and remediation technologies, and EPR schemes. A separate process will be needed to determine transparency standards. The Scientists' Coalition will need to ensure it has adequate regional representation from Indigenous Scientists, knowledge and rights holders, community experts, economists, social scientists, and across the natural sciences.

Indigenous scientists and knowledge holders are available to Member States for information and advice at all times, including intersessional periods. The Indigenous Peoples Major Group has formed as a point of contact between Indigenous Peoples and others involved in treaty negotiations. Indigenous representatives are also available in regional Indigenous groups such as the Tāngata Whenua Coalition for an Effective Plastics Treaty, the Inuit Circumpolar Council, and the Society of Native Nations. Indigenous scientists and knowledge holders are also active in the Scientists' Coalition for an Effective Plastics Treaty.

Any independent science and technical body supporting treaty negotiations must be resourced to ensure effective communication of scientific evidence to Member States so that they can make informed interventions about the design of the instrument. Indigenous sciences and knowledge systems should be equitably and appropriately represented in any such technical body, with consideration for the unique socio-political positionality of Indigenous Peoples

Science-policy interface (COPs)

With respect to the science-policy interface (SPI) of the treaty itself, we draw inspiration from the 2021 Nordic Report '*Strengthen the global science and knowledge base to reduce marine plastic pollution*' to meet four key requirements. These are credibility (transparency, openness to critique and scientific independence), legitimacy (broad participation and ownership), salience (tailored outputs) and agility (built-in review and scientific flexibility). We believe the best option to achieve this is through the establishment of a dedicated scientific body under the new treaty, one tasked with supporting the achievement of its objectives and the needs of the governing body, ensuring relevance and responsiveness. The dedicated SPI governed under the instrument requires societal and regional representation including independent multidisciplinary scientific expertise, Indigenous science and knowledge, and community experts.

National Implementation Plans

APPA urges the delegation to develop a National Implementation Plan (NIP)-led instrument rather than an instrument led by nationally determined targets, commitments, and contributions such as an instrument whose success is determined solely by the effectiveness of National Action Plans (NAPs). NIP requirements include the policies, legislation, and resources the member state implements to ensure it effectively meets its obligations in the implementation of the instrument including enforcement (the compliance measures of a member state). NAPs are voluntary in nature (e.g., they may be developed to foster partnerships), while NIPs are legally binding. A combination of these two may be required to ensure the effectiveness of a member state's compliance to the instrument.

NAPs and Nationally Determined Contributions (NDCs) can support low ambition, and lack the monitoring, reporting, compliance, and enforcement measures needed in an effective legally binding instrument. The failure of the Paris Agreement exemplifies the risks associated with environmental instruments based solely on national voluntary goals and commitments.

Dedicated finance mechanism

APPA supports a dedicated multilateral fund potentially modelled on the Multilateral Fund for the Implementation of the Montreal Protocol to enable timely and accessible, sustainable, and adequate funding to member states, particularly to developing states, economies in transition, and small island developing states (SIDS), and communities most detrimentally impacted by plastic pollution including Indigenous, frontline and fence line communities.

APPA supports community-level waste prevention education, training and resources, and targeted investment in Indigenous-led waste prevention initiatives and other local-led systems of circularity (reuse, refill, repair) to support the uptake and accessibility of waste prevention practices at the top of the Zero Waste Hierarchy.

Additionally, APPA supports [Ghana's](#) proposal for the price-based Global Plastic Pollution Fee (GPPF) to operationalise the '**polluter pays**' principle. The GPPF would guarantee significant and predictable revenue to finance the treaty control and implementation measures. The Ghanaian proposal extends that of the [Minderoo Foundation](#) recommendation for a levy on fossil-fuel polymer production and/or consumption to

generate funds for scaling plastics collection, sorting, and recycling to include a legacy fund to remove legacy pollution.

Determine need for financial support for each Member

Given limited time, APPA recommends the intersessional work be dedicated to determining the specific activities that will require financial support to enable Members to meet their obligations to the treaty, and not on mapping, considering mapping of current funding and finance has already been completed (see UNEP/AHEG/2019/3/3; UNEP/AHEG/4/3; UNEP/PP/INC.1/9; UNEP/PP/INC.1/INF/10). These activities may include institutional strengthening; reporting and monitoring; policy development and implementation including national implementation plans; and capacity building.

