

# Rebuttal to Non-Paper 3

## Objectives for INC5



Ocean Conservancy believes that Member States must continue to advocate for greater ambition beyond the current proposals in the Chair's non-paper as negotiations on the plastic pollution treaty advance toward Busan. The final treaty must provide an ambitious pathway to ending plastic pollution, including in the marine environment, that provides a holistic approach covering the full life cycle of plastics, which we find alarmingly absent in the recently released non-paper. Of particular concern is the absence of global targets for source reduction and the lack of recognition of sea-based sources of pollution including abandoned, lost or otherwise discarded fishing gear (ALDFG, or "ghost gear").

Provisions should include *binding* requirements to address the full lifecycle of plastics to limit the environmental and human health impact of plastic pollution. Further, the lack of strong trade provisions in the non-paper will lead to unequal implementation and trade distortions that can undermine the economic and environmental interests of countries that decide to join the treaty. Moreover, the non-paper places a disproportionate focus on downstream measures including waste management, which—the best available science shows—alone will fail to address the plastic pollution crisis.

Without strong provisions across the full life cycle of plastics, the treaty risks being ineffective and insufficient in fulfilling the mandate to end plastic pollution, including in the marine environment.

Below we outline recommendations for some of the articles presented in the non-paper as well as a proposed additional article on plastic fishing and aquaculture gear (see page 3) to inform the negotiations and work towards a strong and ambitious plastics treaty.

### Preamble

- The addition of text that recognizes the need for comprehensive action to address the *full life cycle of plastics* from land-based and sea-based sources is essential, especially in light of the removal of the "scope" article from the non-paper.
- With the removal of the principles article in the non-paper, we recommend additional language recognizing the importance of science and Indigenous knowledge.

### Article 2 Definitions

- We recognize the importance of including clear definitions and acknowledge that the list provided in the non-paper is not exhaustive. We recommend that negotiators spend the valuable and limited time at INC5 negotiating obligations that are core to the treaty and can finalize definitions at the Conference of the Parties.

### Article 3 Plastic Products and Chemicals of Concern as Used in Plastic Products

- We encourage negotiators to include a mandatory phase-out of problematic and avoidable single-use plastics and chemicals of concern (e.g., certain additives that are harmful to human or environmental health and/or make plastics non-reusable or recyclable) within specified timelines.
- In the absence of a separate article governing non-party trade agreements and restrictions, we recommend negotiators include trade restrictions for listed plastic products and chemicals of concern both among Parties and between Parties and non-Parties.

## Article 5 Plastic Product Design

- We encourage the obligations in this article to be mandatory, rather than voluntary measures.
- We encourage the addition of text to the non-paper that calls for the development of globally harmonized standards for this article, specifically:
  - o Standardized product design requirements that eliminate hazardous substances and improve reusability or recyclability;
  - o Standardize designs for reuse and refill.
- We recommend a cautious approach when it comes to “non-plastic substitutes” as we do not want to simply move from one single-use problem to another, we recommend including language emphasizing reuse and refill or other locally relevant solutions for plastic reduction when discussing plastic alternatives.

## Article 6 Supply

- We recommend the title be changed to “Production” to better capture the intent of the article.
- A global time bound reduction target, or process to use the best available science and knowledge to determine a global time bound reduction target, for plastic production is essential to the success of the plastics treaty.
  - o A process to address current information gaps, as put forward currently in the non-paper, will fail to meet the mandate to end plastic pollution. Knowledge gaps can be identified and overcome through a process to determine a target or in work at a future COP.
- Reporting on production, imports, and exports of primary and secondary plastic polymers should be included as a binding obligation.
- We encourage negotiators to include language for countries to remove existing subsidies and other fiscal incentives that support plastic production as part of their obligation under this article.

## Article 7 Emissions and Releases

- This article should encompass *all* plastics across their *full life cycle* rather than be limited to specific plastic plastics and/or products.
- We appreciate the inclusion of microplastics in this article, and support the inclusion of specific text regarding the emissions of microplastics and nanoplastics with the following language suggestions that better align with the science of how microplastics are generated and released:
  - o Primary microplastics including plastic pellets, flakes, powder, and other intentionally manufactured microplastics
  - o Secondary microplastics and nanoplastics including microplastics and nanoplastics generated during use, wearing (e.g., paint), or disposal of larger plastic products

## Article 8 Plastic Waste Management

- We support the inclusion of national EPR schemes as a tried and tested solution to hold producers accountable for the full life cycle of their products and recognize that there are other policy schemes that may be more locally relevant. As such, we recommend the following language for 2(d) “such as extended producer responsibility (EPR) schemes or other polluter pay policy models”.
- This is the only article that specifically calls out the need for investment. We encourage negotiators to take a full life cycle approach when thinking about the needed investments to address this crisis. Investments in upstream interventions are more efficient and effective and can complement investments in improving the waste management system.



## Article 9 Existing Plastic Pollution

- The text should also take into account the cost-effectiveness of mitigation and remediation measures, including clean-up activities, as well as any negative, ancillary impacts on human or environmental health associated with these measures.

## Article 11 Finance, Including the Establishment of a Financial Mechanism

- A robust financial mechanism should be clearly defined that supports the successful implementation of the treaty and specifically identifies support for less developed countries (LDCs) and small island developing states (SIDS).

## Article 14 National Plans

- The text should be revised to ensure the development of national plans are mandatory rather than optional.
- This obligation should also include a specific timeline for submission to the COP in addition to requirements for periodic reviews and updates.

## Article 15 Reporting

- Consistent and standardized data is essential for individual Parties, the COP, and other observers to measure the efficacy of the instrument. We encourage the text to include requirements for standardized quantitative reporting and monitoring.

## Article 20 Conference of the Parties, Including the Ability to Establish Subsidiary Groups

- Depending on if and where the addition of text pursuant to the proposed addition of a standalone article for plastic fishing and aquaculture gear or a standalone article for Dedicated Programmes of Work (see section below on recommendations of provisions for plastic fishing and aquaculture gear), we suggest the addition of text to article 20 that specifies the establishment of Dedicated Programmes of Work for the implementation of provisions across key sectors including, but not limited to, fisheries and aquaculture.

## *Recommendations for Provisions for Plastic Fishing and Aquaculture Gear*

The recommendations presented here are not intended to provide legal text but rather provide technical guidance for ensuring abandoned, lost or otherwise discarded fishing gear (ALDFG, or “ghost gear”) is specifically included in the final treaty given it is the most harmful form of marine plastic pollution and has significant negative environmental and socio-economic impacts, in addition to having disproportionate impacts on less developed countries (LDCs) and small island developing states (SIDS).

We believe the final treaty should include text that:

- Addresses the entire lifecycle of plastic fishing and aquaculture gear from production through to end of life in order to prevent, mitigate and remediate the occurrence and impacts of ALDFG.
- Clearly states that any provisions for plastic fishing and aquaculture gear should be in addition to plastic fishing and aquaculture gear being inherently considered a plastic commodity under all elements in the ILBI. This could be achieved through the establishment of dedicated programmes of work (through a standalone article and addition of text to article 20) that considers key sectors including fisheries and aquaculture.
- Mandatory provisions should cover the full life cycle of plastic fishing and aquaculture gear, including gear design standards and criteria, gear marking, lost gear reporting, end-of-life gear management, sound disposal, and the safe and effective collection and retrieval of ALDFG and would be underpinned by voluntary measures including in national plans of action.
- Work in the interim period between the DipCON and COP1 (for adoption by the COP at its first meeting) could include:

- Defining the obligations as set out in the (relevant) article to facilitate implementation of the obligations.

In terms of placement, we suggest the addition of text pertaining to the points provided above are included in the final treaty through one of the following options (listed in order of preference with number 1 being the preferred option):

1. Addition of a standalone article on plastic fishing and aquaculture gear.
2. Addition of a standalone article on “Dedicated Programmes of Work” that specifies the fishing and aquaculture sector (among others).
3. Addition of elements to address the *full life cycle* of plastic fishing and aquaculture gear considered under *Article 7 Emissions and Releases*.

In addition to including language pertaining to the points provided above, we would recommend the addition of text to article 20 that specifies the establishment of dedicated programmes of work, including but not limited to, the fishing and aquaculture sector.

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