



A BRIEFING PAPER

Will the world be able to end global plastic pollution through a legally binding treaty?

United Nations Environment Assembly
Intergovernmental Negotiation Committee (INC) – 2 Meeting Paris, France

May 29-June 2, 2023



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The problem with plastics

Plastic is a non-renewable product; it is just another form of fossil fuel, and responsible in equal measure for environmental pollution and climate crisis. Every aspect of its life cycle — from extraction to final disposal — has the potential to fuel climate change.

For decades, plastic pollution has been misunderstood and underestimated to be a waste mismanagement issue — a problem to be solved through technological interventions. The petroleum and petrochemicals industry argues that it is not a part of this problem, and most of our national legislations have been taken in by this argument. As a result, all our efforts have been directed towards the downstream end of the plastic life cycle. Governments have mobilised funds to ‘manage plastic waste’, while the production has kept on increasing exponentially. We have produced more plastics in the last 10 years than in the last century!

The UNEA and the Global Plastics Treaty

The United Nations Environment Assembly (UNEA) was formed in 2012 to create an effective system of international environmental governance. Every two years, its 193 member states come together with businesses and civil society bodies to set priorities for global environmental policies, develop international environmental laws, and agree on steps to address the planet’s most pressing environmental challenges. As the key decision-making body on environmental issues, the UNEA’s resolutions also define the work of the United Nations Environment Programme (UNEP).

The momentum for a global agreement on plastic pollution has been building up for years. Plastics have been discussed consistently in UNEA’s sessions and meetings, with the discussions mostly revolving around downstream issues like marine litter and micro-plastics (see *Table 1: UNEA resolutions*). In 2017, at UNEA 3, countries agreed to constitute an ad-hoc expert group to study the global landscape of efforts to address plastic pollution. The member states concluded that there was a need for an international instrument — a legally binding global treaty — as the world did not have enough regulatory responses to the crisis.

In fact, the idea of a global plastic treaty was set in motion after India’s call for a world-wide ban on single-use plastics at UNEA 4 in 2019. In UNEA 5.2, a historic resolution was adopted to “End Plastic Pollution” keeping in mind the entire life cycle of plastics.

Table 1: UNEA resolutions

Meeting	Resolution number	Title of the resolution
UNEA 1	1/6	Marine plastic debris and micro-plastics
UNEA 2	2/11	Marine plastic litter and micro-plastics
UNEA 3	3/7	Marine litter and micro-plastics
UNEA 4	4/6	Marine litter and micro-plastics
UNEA 5.2	5/14	End plastic pollution: Towards an international legally binding instrument

Source: UNEA and Governing Council sessions

The UNEA resolution 5/14 is a mandate to create “an international legally binding instrument” to “end plastic pollution”. It calls for convening of an Open ended Working Group (OEWG) and an Intergovernmental Negotiating Committee (INC). The Open-Ended Working Group was duly convened and it met from May 30-June 2, 2022 in Dakar, Senegal. The deliberations of the OEWG eventually fed into the INC meetings. The INC is the body of Member States of the UN that will be negotiating the Treaty.

It was decided that the INC will meet four times over a period of two years to finalise the text of the international legally binding instrument.

In INC 5, scheduled in 2025, the member states will decide whether or not to ratify the legally binding instrument. If the timeline is kept, this will be the fastest-developed text for a treaty.

The first meeting of the Intergovernmental Negotiation Committee

INC 1, held in Punta del Este, Uruguay in 2022, was the first formal meeting of the body tasked with preparing the future legal instrument on plastics. Agenda items focused on the administration and organisation of the negotiating body, including the election of the Bureau (a body that will provide guidance to the Secretariat in organising the meetings of the INC) and adoption of the Rules of Procedure (a document that sets forth the ‘rules’ on how the Committee will operate and is critical to the long-term success of the negotiations and the treaty).

INC 1 ended without a resolution: the negotiating body could not reach an agreement on these items. Voting on them is at the top of the agenda for INC 2.

Preparations for INC 2

In December 2022, the Secretariat invited written submissions from all the member states on the various elements of the treaty. A template was circulated that could be followed by the member states and other stakeholders (like civil society organisations) to propose what the global plastic treaty should entail.

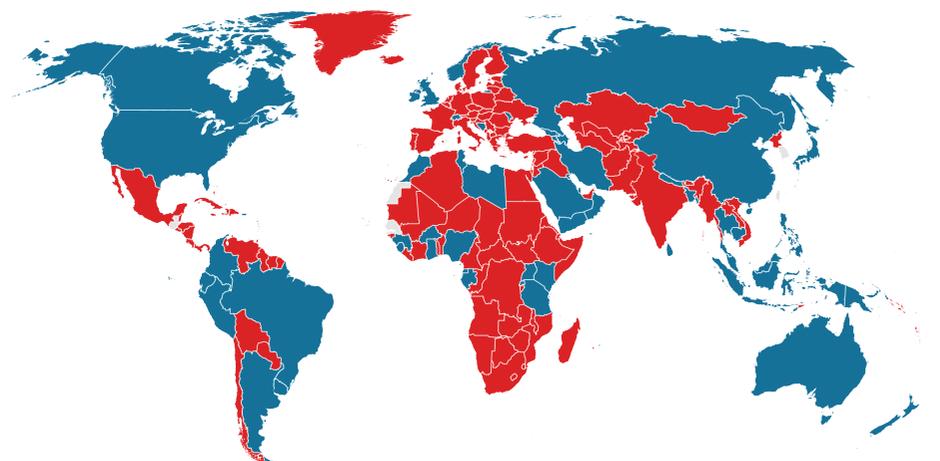
Of the 193 member states, 67 have made the written submission — India is one of the countries which has not done so yet (see *Map 1: Member states and the status of their submissions*). Most African countries also did not make a submission; however, the African Group (one of the five United Nations regional groups composed of 54 African countries that have collectively made a written submission) has, which proposes what Africa would like to see in the text of the draft treaty.

Based on the written submissions, the UNEP has released an options paper — a consolidated version of the inputs that member states have given in their written submissions.

The elements and provisions in this options paper include:

- Objectives of the treaty
- Core obligations, control measures and voluntary actions
- Implementation measures
- Means of implementation

Map 1: Member states and the status of their submissions



Countries that have ■ Submitted and ■ Not submitted their written submissions for Global Plastic Treaty

Source: Second session of the Intergovernmental Negotiating Committee, UNEP

In INC 2, which will begin in Paris on May 29 and conclude on June 2, 2023, the discussions are expected to largely revolve around this paper. The Committee will attempt to arrive at a zero draft text by the end of the meeting. The zero draft text will then become the basis for discussions in INC 3.

Submissions of member states

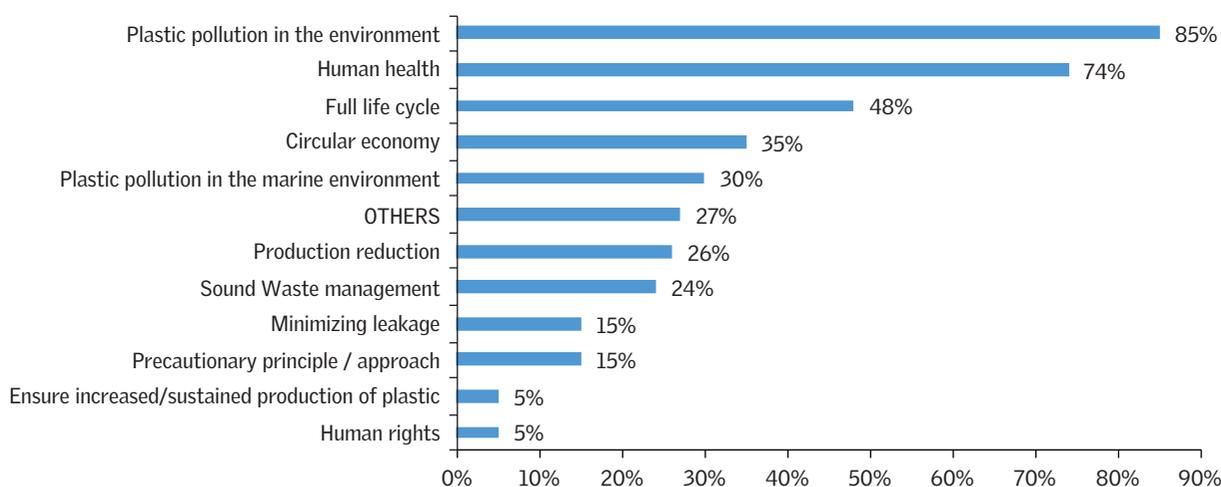
Objectives

The following Objectives have been put forth on the table for negotiations by the options paper:

- End plastic pollution; protect human health and the environment from its adverse effects throughout the life cycle of plastic.
- Protect human health and the environment from the adverse effects throughout the life cycle of plastic.
- Reduce the production, use and discharge of plastics across their life cycle, including through the promotion of a circular plastics economy with a view to ending plastic pollution by X year and protecting human health and the environment from its adverse effects.

Graph 1: Submissions by member states: The issues raised

The written submissions from the member states referenced issues such as 'plastic pollution in the environment' (85 per cent), 'human health' (74 per cent), 'full life cycle of plastic' (48 per cent), and 'production reduction' (26 per cent)



Source: Second session of the Intergovernmental Negotiating Committee, UNEP

Core obligations, control measures and voluntary approaches

The options paper proposes 12 possible core obligations, with potential control measures and voluntary approaches that could be adopted. These will be negotiated in the INC 2 meeting. The 12 proposed obligations are as follows:

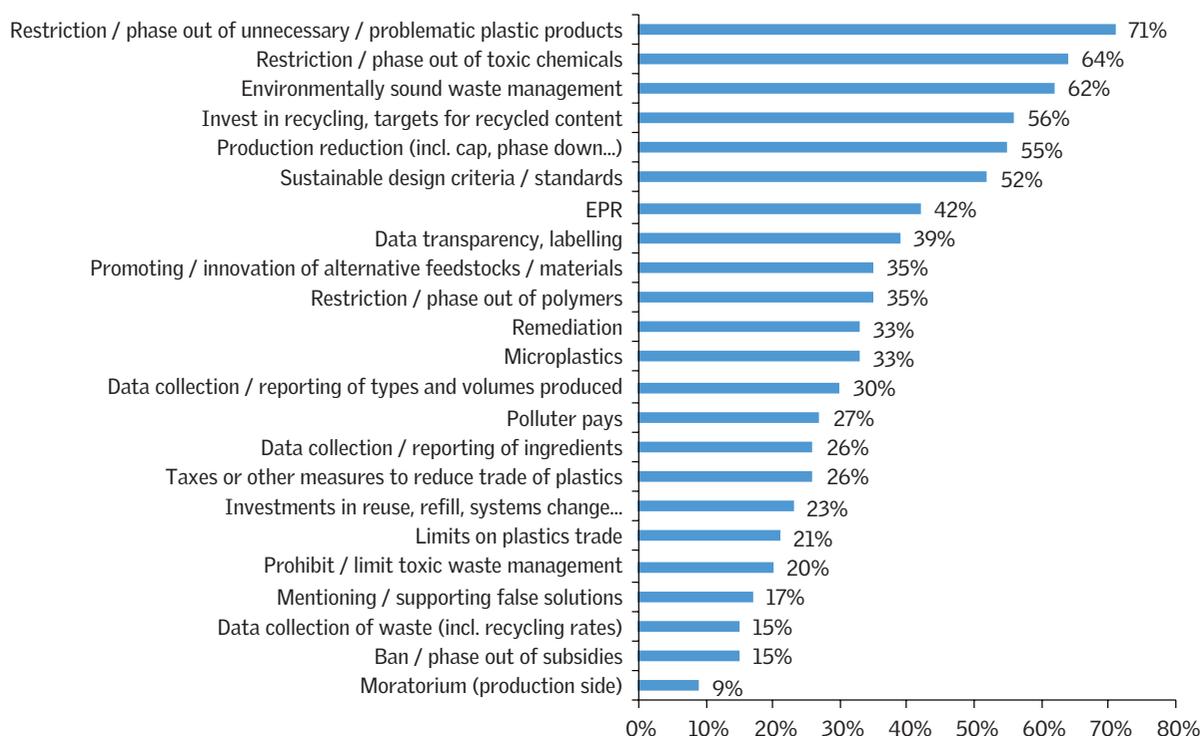
1. Phasing out and/or reducing the supply of, demand for, and use of primary plastic polymers.
2. Banning/phasing out and/or reducing the use of problematic and avoidable plastic products.
3. Banning, phasing out, and/or reducing the production, consumption, and use of chemicals and polymers of concern.
4. Reducing micro-plastics.
5. Strengthening waste management.
6. Fostering design for circularity.
7. Encouraging reduce, reuse and repair of plastic products and packaging.
8. Promoting the use of safe, sustainable alternatives and substitutes.
9. Eliminating the release and emission of plastics into water, soil and air.
10. Addressing existing plastic pollution.
11. Facilitating a just transition, including an inclusive transition, of the informal waste sector.
12. Protecting human health from the adverse effects of plastic pollution

In their written submissions, 71 per cent of the member states have said that there has to be a restriction on/phase out of unnecessary and problematic plastics, while 64 per cent have mentioned that the toxic chemicals used in the manufacture of polymers need to be restricted or phased out; 62 per cent have said that waste management systems need to be strengthened, 56 per cent have stressed on providing more investments in recycling systems, while 55 per cent have pointed towards the need to reduce unsustainable production of plastics. (see *Graph 2: Core obligations – what member states say*)

The submissions and the options paper cover all the stages of the life cycle of plastics. For instance, the upstream is covered in options such as reducing the supply of primary polymers, and banning the use of chemicals in polymer production. The midstream is covered in options like designing for circularity and re-use, while the downstream is covered by options such as strengthening waste management systems and addressing existing plastic pollution.

The core obligations in the UNEP options paper seem to be well balanced, with about 30 per cent weightage being given to each stage of the plastic life cycle.

Graph 2: Core obligations — what member states say



Source: Second session of the Intergovernmental Negotiating Committee, UNEP

Means of implementation and implementation measures

‘Means of implementation’ refer to the resources, policies and actions needed to implement the provisions of a legally binding instrument. They contribute to ensuring that the instrument’s goals are achieved and that all parties are able to meet their obligations. In the context of an international agreement, the ‘means’ typically refer to the financial, technological and capacity-building support required to enable developing countries to meet their obligations under the agreement.

The following means of implementation have been put on the table for further negotiations:

1. Financial assistance
2. Capacity building
3. Technical assistance
4. Technology transfer on mutually agreed terms

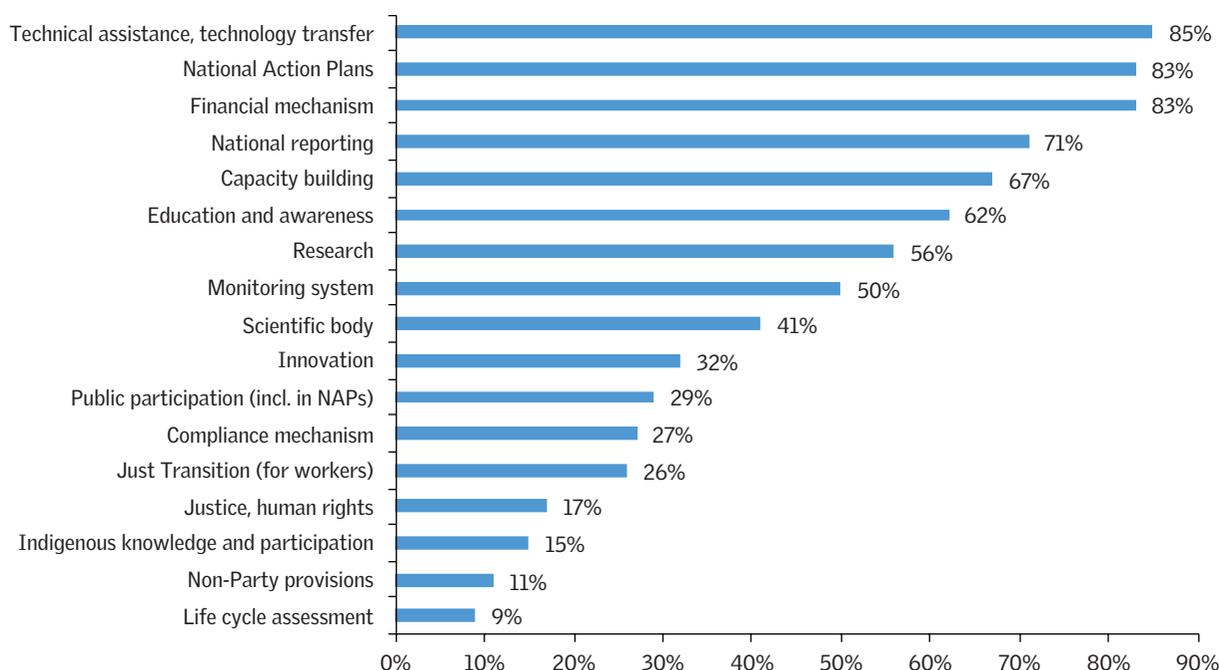
‘Implementation measures’ is an element that discusses the implementation modalities of the instrument. It covers provisions such as national action plans (NAPs) and reporting at the national level, and also proposes measures to address compliance and ensure periodic monitoring.

The following means of implementation have been put on the table for further negotiations:

1. National Action Plans
2. National reporting
3. Compliance
4. Periodic assessment and monitoring of the progress of implementation of the instrument and effectiveness evaluation

Graph 3: Means of implementation — what member states say

An analysis of written submissions has revealed that 85 per cent of the member states suggested technical assistance and technology transfer as the most important means of implementation; 83 per cent mentioned national action plans and financial assistance, while compliance mechanism and just transition were mentioned by a meagre 26 per cent



Source: Second session of the Intergovernmental Negotiating Committee, UNEP

How are member states positioning themselves?

Deliberations in global negotiating platforms and agencies (such as the United Nations Environment Assembly) can only succeed if there is agreement between the member states. Sometimes this agreement is reached by consensus, and at other times, by a majority vote.

However, different regions and countries often have varying interests. For instance, the oil-producing countries have been emphasising on the fact that their economic interests have to be kept in mind during the negotiations. Five groups have made submissions to the Secretariat — a look at what they say in their submissions can throw light on the positions taken by them.

Group submissions

The African group has emerged as the most progressive, and has been advocating for a strong legally binding treaty. The written submission by the group covers the full life cycle, including reduction in production of polymers as well as toxic chemicals. It talks about product design and prohibiting waste management strategies like incineration.

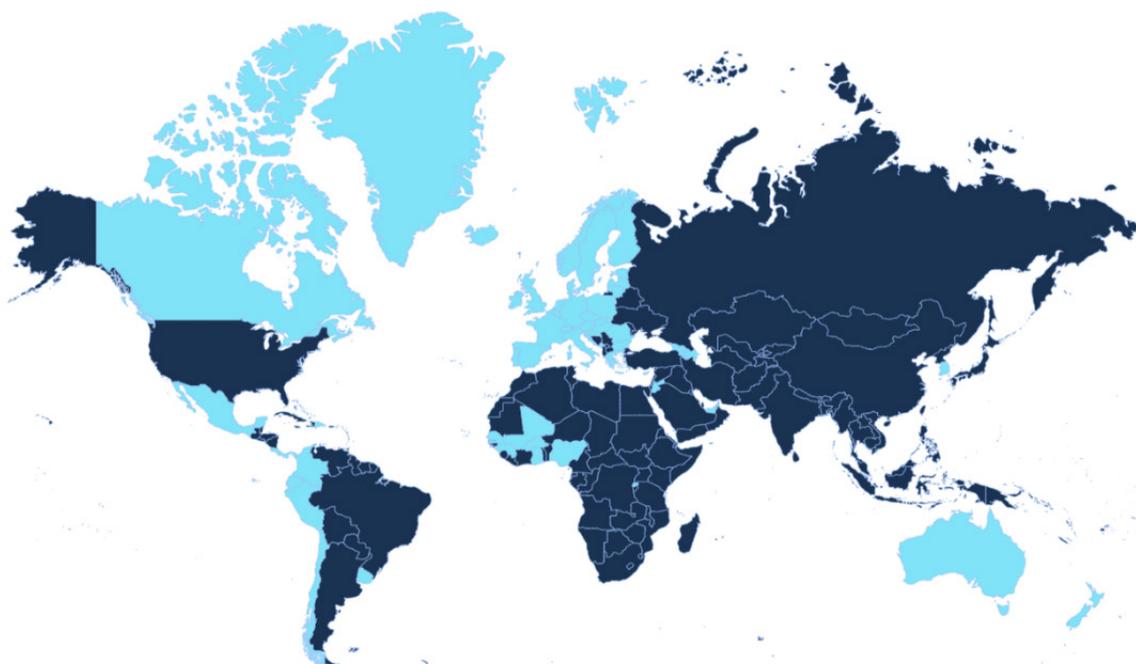
The Alliance of Small Island States (AOSIS) contain member states that are severely affected by plastic pollution. In its submission, the AOSIS has mentioned the need to consider the disproportionate impact of plastic pollution. Apart from talking about the elimination of hazardous chemicals, problematic and unnecessary plastics, and plastics that are difficult to recycle, it also talks about a global, harmonised system for design standards.

The European Union has made a detailed submission, covering the full life cycle of plastics. Over and above reduction of primary polymers and unnecessary plastics, it talks about trade-related imports from non-Parties. It also refers to transparency of information on chemical composition, but does not focus on the elimination or restriction of chemicals used for making polymers.

The submission from the **Group of Latin American Countries (GRULAC)** is heavily focused on the means of implementation and emphasises that this element should be treated at par with the core obligations and control measures of the treaty.

The **High Ambition Coalition (HAC)** led by Norway and Rwanda is a group of countries demanding a strong plastic treaty. The Coalition is supported by 53 member states who will attend INC 2 as HAC members (see *Map 2: Members*

Map 2: Members of the High Ambition Coalition (shown in light blue)



Source: High Ambition Coalition

of the High Ambition Coalition). The EU is the only group which is part of this Coalition. The HAC members demand the following:

1. Restrain plastic consumption and production to sustainable levels.
2. Enable a circular economy for plastics that protects the environment and human health.
3. Achieve environmentally sound management and recycling of plastic waste

Submissions from member states

Fifteen African countries (excluding the African group), 22 Asian countries, 10 European countries (including the UK), six from Oceania, two from North America, and six countries from South America have made written submissions to the UNEA. There are variations in these suggestions and submissions.

More often than not, member states have prioritised their national economic interests. It is also observed that a lot of countries lack an understanding of the deep-rooted problem associated with plastic pollution and are vouching for solutions that may shift the pollution from one form to another, without addressing it at source.

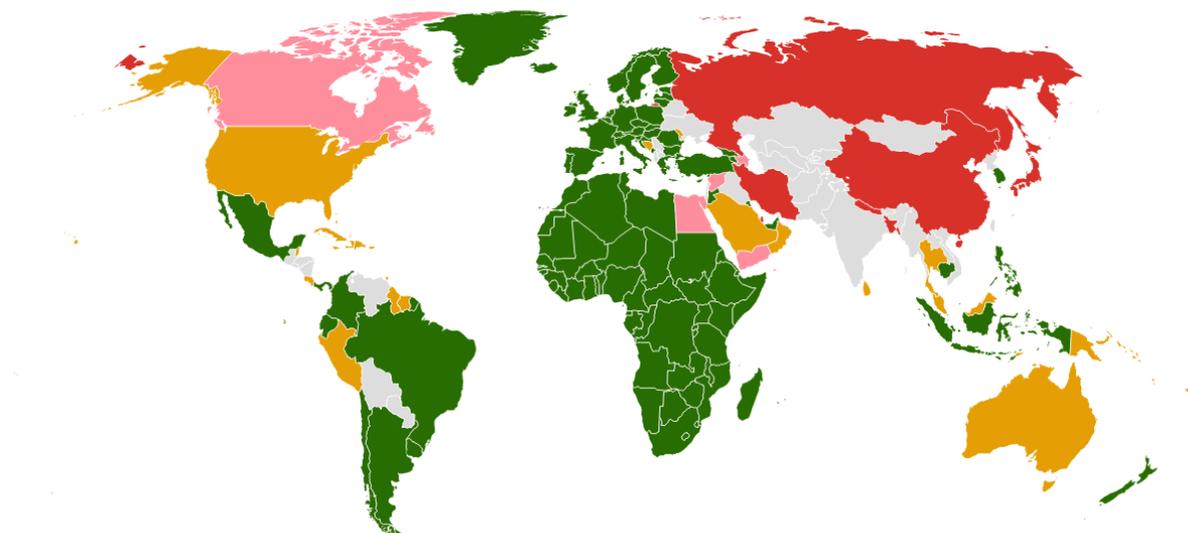
Countries from the West Asian region — Saudi Arabia, Qatar, Bahrain and Iran — have emphasised on improving waste management systems for combatting the issue. For instance, the submission by the Ministry of Oil and Environment of the Kingdom of Bahrain focuses heavily on downstream (waste management) part of the plastic life cycle while mentioning that “(Plastic) is not a hazardous material if it is designed, produced, and consumed in a sustainable way and managed properly when it becomes waste”. The submission opposes any ban on plastic and emphasises on the need for improved collection of plastic waste.

Other oil-producing nations like the US, Russia and China have also submitted low-ambition writs. The submission by Russia is focused on monitoring and evaluating risks associated with plastic pollution and suggests developing new technologies for recycling and clean-up. China has put a stress on downstream interventions like plastic waste collection, recycling and energy recovery. Both USA and China have mentioned that “Promoting sustainable production and consumption of plastic” should be one of the core obligations.

It should be noted that all these countries are among the top 10 oil and gas producers across the globe and along with their counterparts in western Asia, contribute to 73 per cent of the total oil production in the world. (see *Map 3: Restrict polymer production — where do the countries stand?* and *Map 4: Restrictions on chemicals — where do countries stand*).

Map 3: Restrict polymer production — where do the countries stand?

■ Explicitly calls for
 ■ References sustainable production levels or reduction of toxic polymers
 ■ Does not call for
 ■ Specific mention against
 ■ No submission



of the submission reads: “Effective and sustainable management of plastics will contribute to addressing the triple planetary crisis by reducing greenhouse gas emissions, conserve nature and biodiversity, and reduce pollution to protect environmental and human health. It will also elevate new opportunities, grow economies and jobs, and strengthen communities.” While it does mention the triple planetary crisis, it smartly implies that plastic pollution is not a cause of the triple planetary crisis, but can be dealt with by “effective and sustainable management of plastics”.

Another member of the HAC, Australia’s submission is broadly aligned with that of the rest of the Coalition; however, it also cites bio-plastics and chemical recycling as solutions to the plastic crisis. It mentions trade-related measures as well, but none of the measures are specific in nature. On the other hand, in the run up to the INC 2 meeting in Paris, the Australian government has decided to re-open plastic waste exports after a five year ban introduced by the previous federal government. Countries that Australia has previously exported plastic waste to, such as Indonesia, Thailand, Malaysia and the Philippines, struggle to manage their plastic waste pollution, resulting in significant harm to vulnerable communities and sensitive marine environments. Australia’s role and its commitment to the UNEA High Ambition Coalition is questionable as it fails to demonstrate real action.

Several other countries have chosen not to make a written submission under citing the fact that making the submissions is a voluntary exercise. For instance, India has not made a submission; This is despite the fact that India has recently introduced a ban on selected single-use plastic items and also put forth an Extended Producer’s Responsibility (EPR) regime for plastic packaging.

It is imperative to understand that we cannot recycle or incinerate our way out of the plastic pollution crisis. A 2022 report by Greenpeace has claimed that only 5 per cent of the plastic waste generated by the households in USA is recycled. Multiple reports claim that the global plastic recycling rate is a meagre 9 per cent. Most developed countries rely on landfilling and incineration as a strategy to deal with plastic pollution. A lot of what cannot be recycled is shipped to countries in the Global South under the pretext of sustainable recycling and energy recovery. (see *Graph 4: How is our plastic waste handled?*)

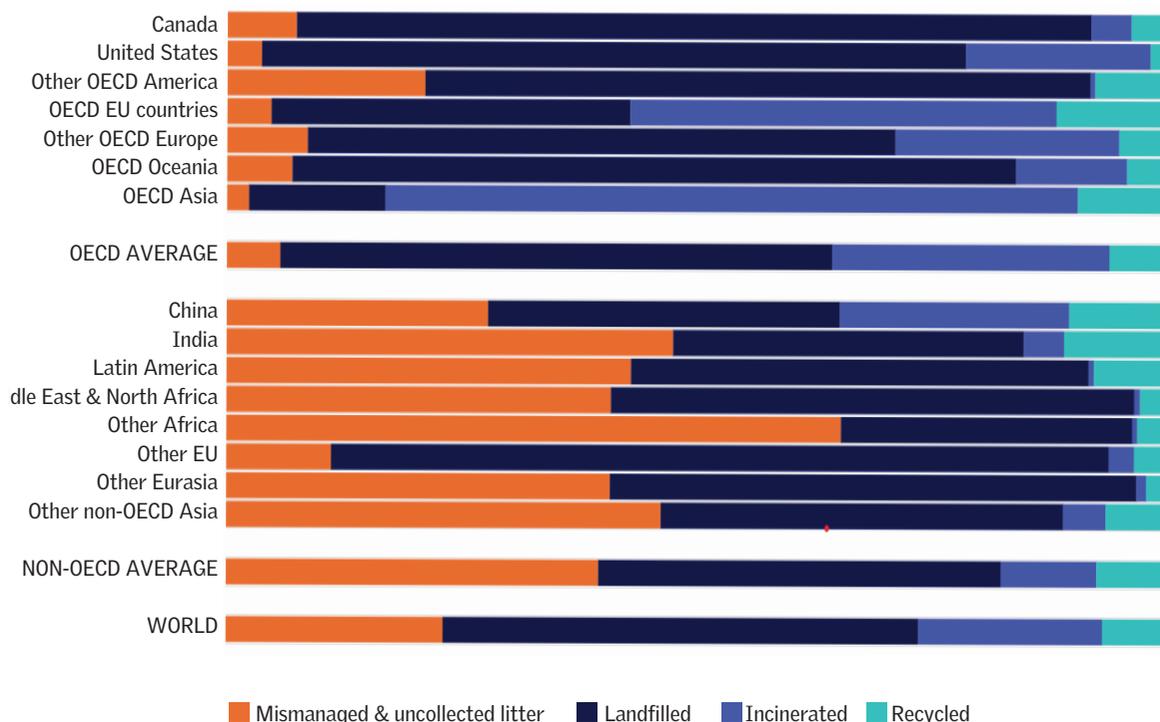
CSE'S SUBMISSION TO UNEP SECRETARIAT

The Secretariat, after the INC-1 had also invited written submissions from Major groups and stakeholders. CSE being one of the accredited NGOs with the United Nations Environment Programme made a written submission which was acknowledged by the INC Secretariat and uploaded in the UNEP portal for public information.

CSE's written submission focuses on the objectives and the core obligations, control measures and voluntary approaches. The submission says:

- The objective of the instrument should clearly define its scope to end plastic pollution, and plan to reduce (over a period of 'X' years) production and consumption of plastics and chemicals used in plastics, especially by businesses.
- It is important to identify and stop the production of **non-recyclable** (terminologies used in the UNEA options paper are problematic/unnecessary/avoidable) plastics like carry (carrier) bags and multi-layered packaging material.
- Certain priority sectors like packaging have been using an unsustainable quantum of plastics (typically, single-use) — they should be regulated and have to be incorporated in the National Action Plans (NAPs) and the national reporting system under implementation measures, says the CSE submission.
- Under core obligations, transparency with respect to production, consumption and import/export of plastic and plastic waste has to be created and nurtured at a global level.
- Control measures have to be focused on differentiating between recycling and disposal (waste-to-energy and co-incineration) technologies.
- Many countries have expressed that compostable and biodegradable plastics are the solutions to the plastic crisis. However, it should be brought to the knowledge of the member states that bio-plastics come with their own set of challenges and do little to tackle the plastic problem at source.

Graph 4: How is our plastic waste handled?



Source: OECD Global Plastics Outlook Database (<https://www.oecd.org/environment/plastic-pollution-is-growing-relentlessly-as-waste-management-and-recycling-fall-short.htm>)

Expectations from INC 2

As mentioned earlier, there are still some procedural issues from INC 1 that need to be resolved at INC 2.

- **The Bureau:** All regions of the Bureau have been finalised barring the Eastern European region, where there are four candidates including Russia and Ukraine. A voting is expected to close this on the first day of INC 2.
- **Rules of Procedure:** There is one rule in the Rules of Procedure that is still under discussion. However, the Rules have been already provisionally adopted for the INCs. There is a possibility that the Rules might be discussed on the first day of the meeting.
- **Future INCs:** There will be a discussion about future INCs and where they should be held.

At INC 2, apart from the plenary, there will be two contact groups running in parallel — one to discuss substance (objective, core obligations, control measures,

voluntary approaches), and the other to discuss means of implementation. Contact groups are smaller groups set up during the meeting to work out specific textual issues, moderated by a designated chair. These are more informal than plenary and allow delegates an opportunity for more direct discussions for coming to an agreement on the text. The contact groups are intended to be confidential and sensitive, and the member states reserve the right to reject the presence of observers in the room.

Two important possible outcomes for INC 2 are:

- Agreement on a mandate for a zero-draft text of the treaty for INC 3. The key question, however, is who will write the draft.
- Agreement on any inter-sessional work between INC 2 and INC 3 — this includes the possibility of setting up expert groups which will feed into INC 3.

What are the issues we seek an answer to in the INC-2 meeting?

The roadmap to end plastic pollution should encompass the entire life cycle of plastic. We list some big issues and the politics in the life cycle of plastic that will need to be addressed

Upstream

- **Focus:** what kind of plastic gets manufactured or produced and what chemicals are used for production?
- **Politics:** Oil & gas majors and their interest in increased production of polymers.

Midstream

- **Focus:** Plastic products should be designed for reuse and recyclability. This would mean Phasing out all the non-recyclable plastics. What are problematic/unnecessary avoidable plastics?
- **Politics:** Disposal (incineration) and mechanical recycling are used interchangeably. Opacity in chemicals used by the polymer industry.

Downstream

- **Focus:** Reuse and recycling are the technological solutions – stay away from compostable and bio-degradable plastics.
- **Politics:** The so-called recycling symbol on all plastic products (even on non-recyclable plastics). Plastic crisis is strictly a “waste management problem”

To find out what INC 2 is discussing and agreeing on a daily basis, check out Down To Earth's regular and detailed coverage of the Meeting, starting May 28: www.downtoearth.org.in

Journalists are welcome to join CSE's media briefing on the subject and the Meeting: <https://www.cseindia.org/online-media-briefing-a-world-environment-day-special-tackling-plastic-pollution-11727>



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