

Informal Briefing Note

Considerations for ensuring the protection of human health through international cooperation in the global plastics treaty: Building on the Chair's Third Non-Paper

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As the process to develop a new legally-binding instrument on plastic pollution has advanced, there has been growing convergence among a diversity of governments that the objectives of the instrument should include the protection of the environment and human health from the adverse impacts of plastic pollution. To achieve this, it is key that the instrument's objective is operationalized throughout the treaty text and in all core treaty obligations. This policy brief offers high level reflections on areas that Members could consider for ensuring the protection of human health, building on the Chair's Third Non-Paper.

I. Introduction

Plastic pollution is found in all environments and impacts human health across the life cycle of plastics, significantly undermining progress on all three dimensions of sustainable development—environmental, social, and economic. An integrated approach to the protection of human health across all treaty obligations can support measures that are both environmentally effective and pursue the highest attainable standard of health in the context of sustainable development priorities.

INC-5 is an opportunity for the international community to establish the protection of human health and the environment as an objective of the treaty, and to ensure that the treaty's provisions adequately integrate and reflect human health priorities together with environmental protection. Inclusion of a dedicated provision on health is an important element in the treaty to support achievement of the objective of protection of human health, but more essential will be that human health considerations, together with environmental protection considerations, are reflected in all core treaty obligations. This policy brief offers high level reflections on key areas that Members could consider for ensuring the protection of human health, building on the Chair's Third Non-Paper (NP3).

II. Considerations for an integrated approach to ensure the protection of human health

Preamble

It will be important that the preamble reflects recognition of the adverse impacts of plastic pollution to human health and the environment across the full life cycle of plastics. The draft text in NP3 notes with concern that increasing levels of plastic pollution represents a serious environmental and human health problem at a global scale, negatively impacting the environmental, social and economic dimensions of sustainable development. This could be strengthened by recognizing that adverse impacts to the environment and human health occur across the full life cycle of plastics, recognizing the need to respond to plastic pollution at the global scale by prioritizing the protection of the environment and human health in the context of sustainable development priorities, and recognizing that the health impacts of plastic pollution are disproportionately experienced by some groups and populations.

Objective (Article 1)

There has been growing convergence among a diversity of governments that the objectives of the instrument should include the protection of the environment and human health from the adverse impacts of plastic pollution, which the draft text in NP3 reflects. For effective implementation of the future instrument, it is key that the objective – including the protection of human health – is operationalized throughout the treaty text and in all core treaty obligations.

Plastic products and chemicals of concern as used in plastic products, and exemptions (Articles 3 and 4)

- Key for discussions ahead of and during INC-5 will be to strike the balance between approaches to plastic products and chemicals of concern as used in plastic products that are common and global, while considering national circumstances and implementation challenges. Global binding requirements, such as elimination of certain products and chemical components, can take national circumstances into account in a number of ways, including by providing for appropriate specific and time-bound exemptions – as reflected in the draft text in Article 4 – as well as financial and non-financial support for implementation, including to support transition to safer alternatives. Other possibilities for defining a level of common action and direction at the global level with flexibility for more tailored measures at the national level could include global binding criteria and lists coupled with national risk management approaches.
- Considering the known range of human health impacts associated with chemicals of concern across the full life cycle of plastics, addressing chemical of concern in plastics and plastic products (rather than only in plastic product phase) would offer more comprehensive protection of human health, and be consistent with adopting a comprehensive approach that addresses the full life cycle of plastic (Resolution 5/14).
- It will be important that the criteria that inform identification and classification of both plastic products and chemicals of concern in plastics and plastic products consider adverse health impacts. As the issues relevant to the identification, classification and management of plastic products versus chemicals in plastics and plastic products are distinct, these differences may be

best reflected in tailored approaches for each - including distinct criteria and distinct lists for each plastic products and chemicals of concern in plastics and plastic products.

- Transparency and traceability requirements are mentioned in NP3 as an element under Article 3. As Members progress on how to elaborate this element at INC-5, a key consideration will be how transparency and disclosure will apply and to what. Transparency in relation to chemicals of concern in plastics is widely recognized as essential in order to effectively manage health and environmental impacts across the full life cycle of plastics. However, much of the information to enable effective management is currently lacking. Members could consider opportunities to address information gaps with transparency and disclosure requirements that extend to all chemicals of concern in plastics and plastic products, not only listed chemicals. This would also support the effectiveness of other measures, such as those on product design, as well as Parties' consideration of additional measures to address chemicals of concern that could be applied nationally.
- Consideration of appropriate models for drawing on and taking account of the best available scientific and expert input and information, including independent expertise that is free of conflicts of interest, is key in this highly technical area and could be incorporated in the work for the interim period ahead of the first meeting of the Conference of the Parties (COP1). This could include considering the role for an expert or subsidiary body, including to inform periodic review of criteria and lists and listing proposals.

Plastic product design (Article 5)

- In balancing similar considerations to those discussed above with respect to plastic products and chemicals of concern in plastics, Members could consider global obligations for minimum requirements for product design that prioritize safety and sustainability and prevent adverse impacts to human health and the environment throughout the full life cycle, with technical implementation detail to be determined in the interim period and considered by the Conference of the Parties (COP) at COP1. These common global requirements could be complemented by guidance and support for implementation at the national level as well as guidance on additional voluntary measures that Parties could take.
- To ensure that product design requirements prioritize both safety and sustainability and the protection of human health and the environment throughout the full life cycle, the important elements already reflected in the draft text in NP3 should additionally be complemented with consideration of health and safety through multiple use cycles, which many Members highlighted as key during intersessional discussions.¹
- To protect against regrettable substitution - a concern raised by a number of Members² - alternatives and non-plastic substitutes could be subject to the same mandatory minimum standards and health and safety considerations as plastic products, including criteria elaborated in relation to plastic products and chemicals of concern in plastics under Article 3.

¹ Including in Member responses to a questionnaire in connection with the work of ad hoc intersessional open-ended expert group 2, available at: https://wedocs.unep.org/bitstream/handle/20.500.11822/46005/Compilation_of_EG2_questionnaire_responses.pdf.

² See footnote 1.

- As with criteria and lists for plastic products and chemicals of concern in plastics, a clear process for review and updates of requirements and technical guidelines will be necessary. The role of an expert or science, technical and socio-economic subsidiary body could also be considered here.

Supply (Article 6)

Reducing primary plastic polymer production and consumption will mitigate adverse health impacts associated with plastic pollution throughout the life cycle. Building on elements noted in NP3, Members could consider the following to further support the protection of the environment and human health:

- a commitment to cooperate to reduce primary plastic polymer production and consumption to a sustainable level that protects the environment and human health from the adverse impacts of plastic pollution throughout the life cycle. This could include a commitment to cooperate on and implement measures to achieve a global objective, through action taken collectively and at national level; and
- reporting on primary plastic polymer imports and exports (as well as production).

Emissions and releases (Article 7)

The draft text in NP3 could be strengthened by express reference to the emissions, leakage and releases of:

- hazardous substances (not only listed chemicals) throughout the full life cycle;
- macroplastics (not only listed plastic products) throughout the full life cycle;
- microplastics throughout the full life cycle (not only during production and use);
- nanoplastics throughout the full life cycle (not only during use); and
- GHG emissions and other air pollutants throughout the full life cycle (GHG emissions and air pollutants are not yet mentioned).

Plastic waste management (Article 8)

To support the protection of human health, the draft text in NP3 could additionally:

- make express references to health and safety, including to the safe and environmentally sound management of plastic waste;
- include an obligation similar to Stockholm Convention Article 6 (1)(d)(iii), ensuring that plastic wastes containing hazardous substances are not subject to disposal operations that may lead to recovery, recycling, reclamation, direct reuse or alternative uses; and
- include measures for the protection of the occupational health and safety of workers (formal and informal) involved in the management of plastic waste.

Existing plastic pollution (Article 9)

The draft text in NP3 includes consideration of sites where the quantities and types of plastic pollution pose a threat to human health, species or habitats. The draft text could be further strengthened for the protection of human health by specifying that remediation shall be pursued in a safe and environmentally sound manner and in accordance with scientific and evidence-based social,

economic and environmental impact assessments, which can take into account national circumstances.

Work in the interim period ahead of COP1 could include identification of existing hotspots and further development of prioritization considerations, taking into account health protection and equity considerations. The development of guidance could include guidelines on best available techniques and practices that take into account socio-economic considerations and relevant health, safety standards and requirements including for the treatment of recovered plastic waste.

Just transition (Article 10)

The draft text in NP3 could be strengthened for the protection of human health by inclusion of an obligation to take measures to promote and protect the occupational health and safety of workers, formal and informal, involved in the plastics value chain (across the full life cycle of plastics). This could include a mandate to develop technical guidance for best practices consistent with the protection of human health, including for health and environmental protection in production processes, treatment processes and end-of-life management processes.

Finance, including the establishment of a financial mechanism (Article 10)

There is an overall recognition among INC members that effective treaty implementation by all countries – and thus the success of the treaty – depends upon ensuring ambitious cooperation, financing, and support for implementation of the treaty in ways that are sensitive to differences in national circumstances. Consistent with this, implementation support for measures to protect human health across the full life cycle of plastics are one of the needs to be addressed and that may require dedicated resources in some areas, for example to support monitoring of health indicators to inform effectiveness evaluation.

Capacity building, technology assistance and technology transfer, including international cooperation (Article 12)

The draft text in NP3 could be strengthened for the protection of human health by:

- providing that Parties shall cooperate and promote the objective of protecting human health and the environment;
- including a specific reference to collaboration with WHO on issues related to health in the implementation of the treaty; and
- in subsection (3), including express references to human health and safety – for example, facilitating the development, transfer, diffusion of and access to technologies addressing plastic pollution that protect human health and the environment and are safe and environmentally sound. (The draft text in NP3 currently only considers technologies that address plastic pollution in an environmentally sound manner, and promotes and facilitates research, innovation and investment in pursuit of new environmentally sound technologies).

National Plans (Article 14)

To support protection of human health, the draft text in NP3 could be strengthened by requiring or encouraging Parties to involve Ministries of Health, and facilitate the meaningful participation of health sector stakeholders, in the development and implementation of National Plans, to ensure that health issues and risks are appropriately considered and actions appropriately implemented from a health perspective.

Reporting (Article 15)

The draft text in NP3 requires reporting on implementation measures taken by a Party and includes a placeholder for reference to specific reporting obligations in other provisions. These specific reporting requirements could include reporting under Article 6 (Supply), of the types and quantities of plastic chemicals used in the production of plastics and plastic products (under Article 3), and of emissions related to plastics (under Article 8). Members could additionally consider the possibility that reporting on implementation measures taken would include explicit consideration of how the measures are in accordance with achieving the instrument's objective (including of protecting human health).

Effectiveness evaluation and monitoring (Article 16)

The draft text in the NP3 contemplates that the COP will, at its first meeting, initiate the establishment of arrangements for providing itself with relevant data and information on plastic pollution, and adopt the modalities for the evaluation of effectiveness and monitoring of the treaty. Reflecting the essential elements for monitoring to be conducted by Parties, as well as critical reporting metrics relevant to the protection of human health, in the initial treaty text will be important.

The COP could then consider at COP1 the additional sources of data and information or reports that will be relevant to informing effectiveness evaluation, and adopt effective modalities for obtaining this data and information and the best available scientific and technical information. This decision could be informed by work conducted in the interim period, involving the input of relevant stakeholders including independent scientists, experts and Indigenous groups.

Information exchange (Article 17)

The draft text in NP3 includes references to exchange of information relating to health impacts, including human exposure to plastic pollution and health impacts and the associated risk management options. This could be strengthened by requiring exchange of information more generally on health and safety considerations, risks and impacts to human health and associated prevention or mitigation strategies or emerging issues of concern for health, in cooperation with WHO (similar to Article 17, Minamata Convention).

The information exchange could include information on the hazards and risks of plastic materials, plastic products and their chemical components. Consistent with other multilateral environmental agreements, the provision could provide that information regarding health and safety shall not be regarded as confidential (as in Article 9, Stockholm Convention and Article 17, Minamata Convention).

Awareness, education and research (Article 18)

The draft text in NP3 includes references to advancing research on health impacts and health protection in some areas. It could be strengthened by inclusion of catch-all references to undertaking the activities covered in this Article with the purpose of furthering the implementation of the treaty and achieving its objective, with specific examples in each case being non-exhaustive. For example, in Subsection (3), that “Parties shall endeavour to advance scientific and technological research, development and innovation that furthers implementation of the instrument and supports achievement of its objective, including by [...]”.

Health (Article 19)

Inclusion of text like that in NP3 Article 19 is additive to, and not a replacement for, integration of the protection of human health throughout all treaty measures.

The draft text in NP3 could be strengthened by including chemicals of concern (in all places where the text references “in particular microplastics and related issues”) and requiring that the governing body and each Party consider potential health risks and benefits in decision-making under, and implementation of, the treaty.

To ensure the instrument is coherent with and not duplicative of WHO programs of work, Members could consider inclusion of a provision requiring that the COP take account of relevant WHO norms, standards, decisions and resolutions. This Article could also more generally reflect the importance of learning from and building on existing ongoing processes, initiatives and networks to share knowledge related to health risks, issues and successes.

III. Conclusion

The upcoming negotiations in Busan, Republic of Korea, are an opportunity for Members to come together and reflect the priorities that a diversity of governments have expressed: that the objectives of the plastics instrument should include the protection of the environment and human health from the adverse impacts of plastic pollution. To achieve this objective and ensure measures to address plastic pollution that are both environmentally effective and pursue the highest attainable standard of health, an integrated approach to the protection of human health and the environment throughout all treaty measures will be key. As outlined in this policy brief, NP3 provides a sound basis upon which Members can build.

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