



TOWARDS A NEW TREATY ON PLASTIC POLLUTION: ENSURING AN AMBITIOUS NEGOTIATION MANDATE AT UNEA 5.2

GROWING GLOBAL MOMENTUM

- **95% of UN Member States** now support the development of a new treaty on marine plastic pollution. It is increasingly likely that a decision to start formal negotiations will be taken at the resumed session of the fifth UNEA (UNEA 5.2).
- **More than 2.2 million individuals have voiced their support** for a new legally binding global agreement on plastic pollution through WWF's global petition.
- **More than 40 financial institutions and more than 80 companies globally** have called for negotiations of a new treaty.
- **WWF, together with almost 1000 groups and organizations in 113 countries**, joined a collective call for UN Member States to negotiate a legally binding global instrument on plastic pollution.
- **A draft resolution submitted by Peru and Rwanda**, to establish an Intergovernmental Negotiating Committee for the negotiation of a legally binding global agreement on plastic pollution, has been co-sponsored by nearly 60 UN Member States.

The decision to start formal negotiations is a critical milestone in the process towards the new treaty and could, to a large extent, determine whether the international community will succeed in addressing plastic pollution. The eventual outcome of the negotiations, a legally binding treaty text, will lay the foundation for actions and activities on all levels for decades to come. It is therefore of utmost importance that the negotiation mandate is clear and

To protect nature and people from the harmful impacts of plastic pollution, we cannot afford to miss the opportunity at UNEA 5.2 to start negotiations on a new legally binding global agreement – one that mandates the highest level of political commitment and ambitious actions across the lifecycle of plastic, to match the scale and seriousness of the plastic pollution crisis.

WWF calls on governments to unite around a decision at UNEA 5.2 to start formal negotiations of a new global treaty to combat plastic pollution. To ensure that the negotiation mandate paves the way towards a successful future treaty, it should:

- **Unambiguously confirm the legally binding nature of the agreement** to be negotiated;
- **Allow for negotiations on specific, common rules, applicable to all states** and for the negotiators to consider **all relevant measures** to effectively stop plastic pollution, **including a global ban on certain single-use plastic products.**



unambiguous, and that it allows the negotiating committee to consider all relevant measures. Following are the five criteria identified by WWF as critical conditions to ensure that the negotiation mandate paves the way towards a successful future treaty on plastic pollution:

1. MAKE IT A LEGALLY BINDING GLOBAL AGREEMENT

To make sure States' commitments to tackling the problem are anchored at the highest possible political level, the new global agreement on plastic pollution must be legally binding. It is vital that this is made very clear in the decision to start negotiations. **The negotiation mandate should specify that the instrument to be prepared is a “legally binding global agreement”.** Failing to do so would create ambiguity, which might cause delays in the process further down the line. Several voluntary frameworks to tackle marine plastic pollution already exist and adding a new one without starting negotiations on a legally binding agreement would be a step backwards.

2. AIM TO SET A HIGH COMMON STANDARD OF ACTION

The rules, standards and requirements included in the new treaty should be specific and unambiguous, and they should be applicable to all parties. The mandate must allow States to develop, through the negotiations, a high common standard of action, by considering **the full range of possible regulatory measures, throughout the plastic life cycle**—from prohibitions on the production, use and/or sale of plastic products to technical requirements for recycling and waste management. Even if some response measures will need to be tailored to national and local circumstances, **the mandate must not prevent negotiations on common global rules, such as a global ban on certain single-use plastic products and global product design standards.**

3. PREPARE FOR GRADUAL STRENGTHENING

The new treaty should set up a mechanism for monitoring progress and evaluating efforts. It should also specify procedures that allow the regime to be gradually strengthened over time. **The mandate must not prevent negotiators from discussing the new regime's mechanisms for gradual strengthening**, such as a dedicated scientific panel to continue improving knowledge and corresponding measures. Ideally, **the mandate should contain language to promote discussion of such mechanisms** as part of the negotiations.

4. CONSIDER INCENTIVES FOR PARTICIPATION AND COMPLIANCE

The new treaty should provide a robust structure for promoting participation and compliance, and for supporting States in their implementation of the treaty's core provisions. The decision to start negotiations should **ensure legitimacy, by focusing on transboundary aspects of the issue.** The mandate should **promote consideration of measures to provide positive incentives for all States to participate** and minimize long-term grievances.

“States should consider the full range of possible regulatory measures, throughout the plastic life cycle and they should prioritize those regulatory measures with the highest expected effect on reducing the negative impact of transboundary plastic pollution.”

Success criteria for a new treaty on plastic pollution, p.10, WWF, 2021

5. ALLOW FOR THE HIGHEST LEVEL OF AMBITION

An effective response to the plastic pollution crisis will require significant changes in the policies and practices of all States. The task ahead is considerable, and the level of ambition contained in a new treaty must reflect that. Importantly, the mandate should not restrict negotiators in their efforts to develop such a treaty; **and at UNEA 5.2, Member States must therefore not allow the mandate text to be watered down in the name of compromise.** The pace of progress should not be set by the least interested States. It is better to put a strong resolution text to a vote than to let one disinclined State hinder collective effort and global progress towards a future free of plastic pollution.

THE NEW TREATY ON PLASTIC POLLUTION

The new treaty on plastic pollution must be binding, ambitious and hold states to a common standard of action. The treaty should contain specific, clear, and universally applicable rules and obligations that allow for an effective response to the global plastic pollution crisis. It must include provisions to ensure that those rules can be evaluated and gradually strengthened over time and shaped in a way that promotes equity and incentivizes participation and compliance. Following are some suggested elements in a new treaty on plastic pollution:

- A clearly formulated, time-bound global goal of eliminating direct and indirect discharge of plastic into nature, based on the precautionary principle and in recognition of the devastating impacts of plastic pollution
- Clear, measurable, and time-bound national reduction targets, that are sufficient on aggregate, to achieve the global goal
- An obligation to develop and implement ambitious and effective national action plans, on prevention, control, and removal of plastic pollution
- Common definitions, methods, standards, and regulations for an efficient and harmonized global effort to combat plastic pollution across the lifecycle of plastic, including specific bans on certain plastic products deemed to pose a particular risk to the environment, or products considered unreasonably difficult to safely collect and manage
- Explicit bans on certain acts considered to defeat the object and purpose of the treaty, including deliberate dumping of plastic waste in river systems and internal waters
- An agreed measurement, reporting and verification scheme for tracking plastic pollution discharges and the progress made to eliminate them at a national and international level
- A specialized and inclusive international scientific body with a mandate to assess and track the scale, scope, and sources of plastic pollution, harmonize scientific methodologies, and collate state-of-the-art knowledge to provide inputs for decision-making and implementation
- A global financial and technical arrangement, as well as technology transfer assistance, to support the effective implementation of the treaty by all parties
- A commitment to update, revise and develop these measures and obligations over time

TOO OFTEN, THE ASPIRATIONS AND AIMS OF THE MOST PROGRESSIVE STATES END UP BEING SACRIFICED IN THE NAME OF COMPROMISE.

SUCCESS CRITERIA FOR A NEW TREATY ON PLASTIC POLLUTION

To ensure that the new plastic pollution regime gets off to the best possible start, the development of the new treaty should be guided by extensive mapping and solid analysis of existing treaties and regimes, with a view to better understanding how past success might be replicated and past mistakes avoided. Accordingly, [WWF recommends the following success criteria](#), for the design of the new agreement.

1. **Make it legally binding**
2. **Be specific about what states must do**
3. **Prepare for gradual strengthening**
4. **Incentivise participation and compliance**
5. **Be ambitious**

ANNEX: ASSESSMENT OF AVAILABLE RESOLUTION TEXTS AGAINST SUCCESS CRITERIA FOR AN AMBITIOUS NEGOTIATION MANDATE AT UNEA 5.2

The table below shows key texts from available Draft Resolutions, submitted by Japan and by Peru and Rwanda, and provides WWF's assessment against the five criteria to ensure that the negotiation mandate paves the way towards a successful future treaty on plastic pollution:

- Criterion 1. Make it a legally binding global agreement
- Criterion 2. Aim to set a high common standard of action
- Criterion 3. Prepare for gradual strengthening

- Criterion 4. Consider incentives for participation and compliance
- Criterion 5. Allow for the highest level of ambition

KEY RESOLUTION TEXTS		SUCCESS CRITERIA FOR CONSIDERATION IN RELATION TO KEY TEXTS
Draft Resolution submitted by Peru and Rwanda (updated version, 10 January 2022)	Draft Resolution submitted by Japan (updated version, 01 February 2022)	
<p>[PP1] <i>Noting</i> with concern that the high and rapidly increasing levels of plastic pollution, including microplastics, represent a serious environmental problem at a global scale, negatively impacting all three dimensions of sustainable development, [...]</p> <p>[PP4] <i>Recognizing</i> the inherent transboundary nature of the issue of plastic pollution and the need to tackle it at its sources, [...]</p>	<p>[PP1] <i>Noting</i> with concern that the high and rapidly increasing levels of marine plastic pollution, which is of a transboundary nature, represent a serious environmental problem at a global scale, negatively impacting the environmental, social and economic dimensions of sustainable development, [...]</p>	Criterion 4
<p>Assessment: The primary purpose of international law is to solve transboundary problems, and this suggests that the scope of the new treaty should be focused on the transboundary part of the problem. In the long term, this can be expected to improve the prospects for implementation and compliance. It does not, however, mean that the term 'marine' necessarily must be included in the articulation of the treaty's scope. As noted in PP4 of the Rwanda/Peru draft, plastic pollution can be seen as inherently transboundary, since any piece of plastic could potentially end up beyond national jurisdiction or on the shores of another country. If the term 'marine' is dropped, however, it would be important to highlight that the overarching objective of the treaty should still be to tackle the transboundary aspects of the problem, in particular (but not exclusively) in the marine environment. It is also important to note that the inclusion of the term 'marine' would not, and should not, prevent negotiators from considering effective measures all across the life cycle of plastics, from production to disposal, and even clean-up.</p>		
<p>[OP1] 1. <i>Requests</i> the Executive Director to convene an intergovernmental negotiating committee under the auspices of the United Nations Environment Assembly with the mandate to prepare an international legally binding instrument to address plastic pollution, commencing its work in 2022 with the goal of completing by the sixth session of the Environment Assembly;</p>	<p>[OP1] 1. <i>Requests</i> the Executive Director to convene an intergovernmental negotiating committee with the mandate to prepare an international legally binding instrument to address marine plastic pollution, commencing its work in 2022 with the goal of completing by the sixth session of the Environment Assembly;</p>	Criterion 1
<p>[OP2] 2. <i>Agrees</i> that the intergovernmental negotiating committee is to develop an international legally binding agreement based on a comprehensive approach to prevent and reduce plastic pollution in the environment, including microplastics, by promoting a circular economy and addressing the full lifecycle of plastics from production,</p>	<p>[OP2] 2. <i>Decides</i> that the intergovernmental negotiating committee is to develop an international legally binding instrument based on comprehensive approach to address marine plastic pollution covering the whole life cycle and promoting resource efficiency and circular economy, including provisions:</p>	Criterion 1, Criterion 2, Criterion 3, Criterion 4



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<p>consumption and design to waste prevention, management and treatment, including provisions:</p> <ul style="list-style-type: none"> (a) To specify the objectives of the instrument and establish as necessary targets, definitions, methodologies, formats, and obligations; (b) To achieve sustainable production and consumption of plastics, including the uptake of secondary and alternative raw materials; (c) To address product design and use, including compounds, additives and harmful substances as well as intentionally added microplastics; (d) To promote national action plans to prevent, reduce and remediate plastic pollution, tailored to local and national circumstances and the characteristics of specific sectors, and to support regional and international cooperation and coordination; (e) To increase knowledge through awareness-raising and information exchange on best practices to prevent plastic pollution and promote behavioural change; (f) To monitor and report on national and international progress on implementation of the agreement; (g) To provide scientific and socio-economic assessments and to monitor and report on plastic pollution in the environment; (h) To cooperate and coordinate with relevant regional and international conventions, instruments and organisations; (i) To specify financial and technical arrangements, as well as technology transfer assistance, to support implementation of the convention (j) To address implementation and compliance issues; (k) To promote research and development into innovative solutions; 	<ul style="list-style-type: none"> (a) To set a common objective to reduce marine plastic pollution; (b) To develop and report national action plans to contribute to the common objective, taking into account the respective national circumstances; (c) To periodically review global progress on reducing marine plastic pollution towards the common objective; (d) To increase knowledge through awareness-raising and scientific information exchange; (e) To promote cooperation and coordination with relevant regional and international conventions, instruments and organisations, while recognizing their respective mandates and avoiding duplication; (f) To encourage action by all stakeholders including the private sector and to promote cooperation at the global, regional, national and local levels; (g) To specify arrangements for capacity building and technical and financial assistance, to developing countries most in need; (h) To promote research and development into innovative solution (i) To address implementation and compliance issues; 	
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Assessment: In the operative paragraph that requests the Executive Director to convene a negotiating committee with a mandate to prepare a new treaty, it should be made very clear that the new agreement is to be legally binding. Wordings such as ‘legally binding agreement’, ‘legally binding instrument’, ‘convention’, ‘framework convention’, ‘treaty’ or similar would achieve this effect. Both drafts contain similar language that satisfy Criterion 1, specifying explicitly the mandate of the intergovernmental negotiating committee (INC) is to “prepare an international legally binding instrument” / “develop an international legally binding agreement” in OP1 and OP2.

Related to Criterion 2, the two drafts both contain a list of tentative issues for discussion in their OP2, which in effect will serve as a guide to discussions for the INC. Elements that are not on that list will be difficult to introduce during negotiations, or at least pushed down on the list of priorities. In the draft proposed by Japan, there is no mention of global rules, standards, or requirements, whereas the Peru/Rwanda draft has some language that would allow for discussions on global rules (points (a), (b), and (c) in OP2). Arguably, it is better to have no list (i.e., to remove bullet points from OP2) than to have a list that does not specify the need for common global rules. As a test-question when reviewing the list, Member States should consider whether the tentative list of provisions and/or elements would allow for a discussion on banning certain single-use plastic products (microbeads in cosmetics, plastic bags or similar).



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Points (f) and (g) in OP2 of the Peru/Rwanda draft also partly address Criterion 3, as monitoring, reporting, and conducting scientific and socio-economic assessments would be essential to prepare the new global treaty for gradual strengthening. In comparison, a measure that is less specific and narrower in scope — periodic review of global progress on reducing marine plastic pollution — is included at point (c) in OP2 of the Japan draft.

Regarding Criterion 4, points (i) and (j) in OP2 of the Draft submitted by Peru and Rwanda, and points (g) and (i) in OP2 of the Draft submitted by Japan both refer to an element to incentivise participation and compliance, though with differences in scope. The Draft by Japan specifies the incentives as capacity building, technical and financial assistance to developing countries most in need; whereas the Peru and Rwanda Draft includes financial and technical arrangement, and technology transfer assistance, without specifying the countries to receive this assistance.

<p>[OP3] 3. <i>Also agrees</i> that the intergovernmental negotiating committee, in its deliberations on the instrument that it develops, should:</p> <p>(a) consider the need for a financial mechanism to support the implementation of the priorities and objectives of the agreement, including the option of a dedicated multilateral fund;</p> <p>(b) consider the need for a mechanism to provide scientific and socio-economic advice and guidance, including the option of a dedicated body;</p> <p>(c) promote cooperation and coordination with relevant regional and international instruments and existing technical and scientific bodies to ensure synergies and avoid duplication;</p> <p>(d) consider any other aspects that the intergovernmental negotiating committee may consider relevant;</p> <p>[OP4] 4. <i>Recognizes</i> that the mandate of the intergovernmental negotiating committee may be supplemented by further decisions of the Environment Assembly;</p>	<p>[comparable provisions can be found in OP2 above]</p> <p>[OP3] 3. <i>Recognizes</i> that the mandate of the intergovernmental negotiating committee may be supplemented and updated by further decisions of the Environment Assembly;</p> <p>[...]</p> <p>[OP7] 7. <i>Requests</i> the Executive Director to continue to support and advance the ongoing work of the Global Partnership on Marine Litter and its multi-stakeholder platform, while strengthening scientific and technological knowledge regarding marine plastic pollution, inter alia, on methodologies for monitoring, and sharing available scientific and other relevant data and information;</p>	<p>Criterion 2, Criterion 3, Criterion 4</p>
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Assessment: The Peru and Rwanda Draft further elaborates, in OP3, elements of the INC’s deliberations on the legally binding instrument, whereas comparable provisions are included in OP2 of the Japan’s draft. In addition, both drafts include identical wordings on the potential for supplementing the INC’s mandate through further decisions by UNEA, (OP4 of the Peru/Rwanda draft and OP3 of the Japan’s draft).

On Criterion 2, in order to set a high common standard of action for States parties to the new global treaty, the mandate resolution must allow the INC to consider the full range of possible regulatory measures, throughout the plastic life cycle — from prohibitions on the production, use and/or sale of plastic products to technical requirements for recycling and waste management. Whereas both drafts



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include a provision on supplementing the INC's mandate through further UNEA decisions, it is only the Peru/Rwanda Draft that clearly ensures that the INC is free to consider any and all aspects that might be of relevance to efficiently address the plastic pollution crisis (through point (d) of OP3).

In relation to Criterion 3, the mandate resolution should spell out (or at least not exclude discussions on) the need for coordinated scientific research, with a view to setting up systematic global monitoring, harmonisation of measurements and metrics, and reporting routines. In this regard, the Peru/Rwanda draft includes the option of developing a dedicated scientific body, as well as promoting coordination of existing technical and scientific bodies, as part of the INC's deliberations. Japan's draft, on the other hand, first mentions scientific information exchange as part of the core provisions of the new global treaty, and then further requests the Executive Director to continue strengthening scientific and technological knowledge in addition to advancing the ongoing work of the Global Partnership on Marine Litter (OP7). The request at OP7 of Japan's draft, however, is not directly linked to the INC's mandate as specified in OP2.

To prepare for gradual strengthening, it is also worth considering whether the mandate resolution should make it clear that the new treaty is intended as a 'framework convention' – which would have several benefits, including the potential to adopt specific protocols, after the treaty is signed, to strengthen the treaty and improve its effectiveness. Additionally, the INC mandate can also include deliberations on regular meetings of the Conference of the Parties to ensure frequent reviews, discussions, and improvements of necessary interventions. Currently, neither of the drafts include any text on these matters.

Lastly, further texts answering to Criterion 4 can be found in OP3 of the Peru/Rwanda draft, including the option of a dedicated multilateral fund as part of the financial mechanism to support implementation and incentivise participation of the new global treaty, in addition to points (i) and (j) in OP2 as previously discussed.

[N/A]	[N/A]	Criterion 5
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Assessment: The mandate should not restrict negotiators in their efforts to develop an ambitious treaty to match with the scale and impact of the problem, and with the considerable task to effectively address the problem. The resolution should not, in any way, indicate that the new treaty should be negotiated by (formal) consensus. None of the drafts currently contain any language on this, so this is not a critical issue at this point.

Should there be a need to further clarify an instruction for the INC in its deliberations, decision-making procedures as specified by the Vienna Convention on the Law of Treaties can be explicitly stated in the mandate resolution.

For more information, contact:

Eirik Lindebjerg

Global Plastics Policy Lead
 elindebjerg@wwf.no



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together possible panda.org

WWF, 28 rue Mauverney, 1196 Gland, Switzerland. Tel. +41 22 364 9111

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