



## ICC Business Recommendations: Potential Elements To Be Considered For An International Legally Binding Instrument To End Plastic Pollution

### INTRODUCTION

The International Chamber of Commerce (ICC) – as the institutional representative of more than 45 million companies in over 150 countries – applauded the landmark decision at the resumed fifth session of the UN Environment Assembly (UNEA5.2) to develop an international legally binding instrument (ILBI) to end plastic pollution.

ICC remains deeply committed to support the INC Secretariat's and Members States' efforts and forthcoming work to secure an ambitious, effective and workable agreement by 2024 – that rallies all actors of governments and society in the collective charge of addressing plastic pollution – including setting the frame and direction for accelerated business action. In doing so, ICC emphasises the need for an agreement that ensures the broadest possible uptake across the global business community and is implementable by all actors, taking into account businesses of all sizes, sectors and from all geographies; and in particular the capabilities of micro, small and medium enterprises (MSMEs); the lynchpin of the global economy.

ICC welcomes global efforts to establish a common goal and critical path for a global treaty to end plastic pollution and involve all stakeholders and, in particular, the business community, in the process. We recognise the important steps already taken to advance these efforts and build on discussions of the first session of the Intergovernmental Negotiating Committee (INC1), and submissions by Member States and stakeholders on the potential options for elements towards an international legally binding instrument.

We welcome the INC Secretariat's release of the [potential options for elements paper](#) which draws on this input, providing potential options for elements and direction for the legally binding instrument, based on a comprehensive approach that addresses the full life cycle of plastics as called for by United Nations Environment Assembly resolution 5/14, including identifying the objective, substantive provisions including core obligations, control measures, and voluntary approaches, implementation measures, and means of implementation.

We believe the document provides a helpful basis for deliberations by Member States at the upcoming second session of the Intergovernmental Negotiating Committee (INC2) to be held in Paris from 29 May – 2 June. In this regard, ICC on behalf of the global business community, would like to put forward some initial recommendations for potential elements to be reflected in the future agreement for consideration by Member States as they deliberate on the potential elements of the future treaty.

**Business recommendations for potential elements that should be reflected in the future instrument**

Whilst the options paper addresses a broad range of core obligations, control measures, and voluntary approaches, implementation measures, and means of implementation, ICC highlights the following specific key priorities which we consider should be reflected in the future instrument. These priorities reflect perspectives from member companies and experts from sectors across the plastics value chain, as well as from across jurisdictions in the five global regions.

**KEY ICC PRIORITIES:**

- 1. Agree on a clear overarching goal to end plastic pollution by 2040 and establish enabling frameworks and means of implementation that set a workable pathway to get there.**
- 2. Enable a fully circular economy for plastics with principles, practices and measures for circularity engrained at the core of the legally binding instrument.**
- 3. Establish consistent global rules, and provide enabling frameworks and policies, taking into account national circumstances and approaches for their effective implementation.**
- 4. Create the right conditions to scale up investments and innovation in solutions to address plastic pollution.**
- 5. Strengthen processes for effective stakeholder engagement, recognising the critical role of business in implementing the instrument’s objectives.**

**A: Objectives & Scope**

**ICC PRIORITY 1: Agree on a clear overarching goal to end plastic pollution by 2040 and establish enabling frameworks and means of implementation that set a workable pathway to get there.**

**Key messages**

- **It is imperative to agree on a clearly defined objective for the legally binding instrument, an overarching goal and a collective, realistic target to end plastic pollution by 2040.**
- **It is equally important that the instrument establishes the relevant policy measures, enabling frameworks and means for implementation that provide a workable pathway to get there.**
- **In doing so, the instrument should set a level playing field and a common framework that also takes into account national circumstances and priorities as well as opportunities and challenges in different economic sectors, including the limited capabilities of MSMEs for implementation.**

## Objectives

ICC particularly welcomes the fact that all three proposed objectives include the environmental, social, and health dimensions and considers that all three options contain important elements that should be built upon and retained in the final objective(s), most importantly (i) to end plastic pollution by X year; (ii) to protect human health and the environment from its adverse effects; and (iii) to promote a circular plastics economy.

ICC particularly emphasises the importance of clearly identifying an overarching goal and shared objective(s) which will be essential in charting the direction for collective action and ambition and providing an overarching frame and alignment for future work. Consideration should also be given to include a realistic overarching target to end plastic pollution by an agreed date - a clear goal and timeline will be critical to align all stakeholders on a common trajectory and provide signals for collective action. **ICC therefore supports a proposed strategic goal expressed by the High Ambition Coalition to end plastic pollution by 2040.**

An ambitious and implementable legally binding agreement with a clear overarching objective, and a common framework for national action plans, will be key to help countries translate the provisions into clear national targets and action plans that aggregate delivery on the treaty's objective. It will also be critical as it sends clear timelines for businesses to act.

It is important to underline in this regard the crucial role that governments play in creating an enabling environment and coherent policy frameworks that incentivise and support business action from across different sectors, sizes and jurisdictions. The ambitious goal to end plastic pollution by 2040 can only be achieved if it is accompanied and supported by enabling frameworks and necessary means for implementation.

It will be equally important to give particular consideration to MSMEs – the lynchpin of our economies; given their limited capacities and resources. This will be essential in bringing all stakeholders along a common path, with a workable trajectory to achieve the broader objectives of the instrument.

## Scope

ICC highlights the need for the scope to focus on a comprehensive approach that addresses the full life cycle of plastics, including production processes, design options, the use of chemicals, additives and polymers, waste management and recycling, whilst also taking into account national circumstances, challenges, capacities, capabilities and feasibility in different economic sectors. In this respect, ICC members encourage Parties to build on elements outlined in options 4a and 4b in Appendix 1C on scope related aspects for inclusion in the instrument. In tandem, it is imperative for the ILBI to provide clear definitions and clarity on key terms and concepts, as well as the types of plastics and substances identified as potentially harmful (through exposure-based risk assessments) that will be addressed by the instrument in an effort to tackle the sources/drivers of plastic pollution. It is imperative that the future instrument is underpinned and informed by science and effectively harnesses scientific

knowledge and technological innovation to inform ongoing work, including the goal, objectives and actions across the plastics value chain.

**B: Core Obligations**

**ICC PRIORITY 2: Enable a fully circular economy for plastics with principles, practices and measures for circularity engrained at the core of the legally binding instrument**

**Key messages:**

- **A fully circular approach looking at the entire plastics life cycle – with principles and practices for circularity engrained at the core of the instrument – will be critical in ensuring the systems change needed to end plastic pollution.**
- **The instrument should support actions to help close the loop of plastics in the economy to ensure that products and materials are designed for circularity and are circulated in practice, while taking appropriate steps to tackle leaked plastic waste especially in high leakage economies.**
- **It is equally important to give special consideration for developing countries’ proportionally different needs and capabilities, as well as those of MSMEs.**

- **Include principles, practices and measures for circularity**

Relevant elements in the options paper:

ICC supports the following options for core obligations that are considered essential in adopting circular economy approaches:

*B6: Fostering design for circularity, including a global harmonized system and methodologies to promote circularity of plastics.*

*B7: Encouraging reduce, reuse and repair of plastic products and packaging*

*B8: Promoting the use of safe, sustainable alternatives and substitutes*

In this regard, we support the following possible options:

*(B6a) establish circularity criteria and guidance for design and production of plastic products and packaging to encourage, enhance and enable value recovery processes and systems;*

*(B6c) based on global harmonized systems and methodologies to promote circularity of plastics,*

*(B6d) establish labelling measures for plastic products and packaging in the light of the criteria and guidance to allow informed choices by consumers.*

*B7, 16 iv) Apply harmonized product design standards, certifications and requirements, including for certain plastic products and packaging.*

A fully circular approach looking at the entire plastics life cycle will be absolutely critical to achieve a plastic pollution free economy by 2040. In addition to the reflection of achieving a fully circular economy for plastics in the overall objective(s) of the ILBI, principles and practices for circularity should be included at the core of the instrument to support the necessary shift in the design, use and reuse of plastic; as well as include measures to strengthen plastic waste management.

The instrument should support actions to help close the loop of plastics in the economy to ensure that products and materials are designed for circularity and are circulated in practice, while taking appropriate steps to tackle leaked plastic waste especially in high leakage economies. It would be equally important to include measures across the plastics value chain to address plastic waste, end-of life management including collection, sorting and recycling, in an effort to ensure waste minimisation and remediation, as well as actions related to managing plastics that cannot be reused or recycled in an environmentally sound manner.

This will be essential in supporting a global transition to a circular economy that creates coherent, enabling policy frameworks and conditions to incentivise and support business action, and facilitates an effective circular economy that works in practice and at scale. It would also be useful to give special consideration for developing countries' proportionally different needs and capabilities regarding plastic use and waste management. All design for circularity and reuse/refill obligations should be sector specific, and consider the unique challenges and solutions found in each sector. Even without government mandates, the business community has been voluntarily developing circular principles that the instrument can lean on.

Regulations should also be created that establish a supportive environment, taking into account local socio-economic contexts, for the growth of design for circularity and reuse/refill, such as more consumer education on refill and reuse systems and incentives.<sup>1</sup>

It would also be useful for the instrument to be grounded on best practice standards and definitions to foster greater harmonisation, enhance circularity and environmentally sound management of waste. These could include, for example, considerations regarding product design for circularity and labelling. Existing work, definitions and international standards can provide a useful base and reference for consideration in this respect.

Consideration should also be given to increase the demand and use of recycled plastic, for example including public procurement measures or providing financial incentives to promote the secondary feedstock market. Increased cost

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<sup>1</sup> The principles developed by the [Ellen MacArthur Foundation \(Global Commitments\)](#) related to a circular economy for plastics could serve as a useful guide in this regard.

competitiveness for recycled plastic would consequentially reduce the amount of virgin fossil-fuel plastic in the environment.

Many businesses have already developed targets to increase the use of recycled plastics in their products. Businesses are also reducing the use of primary polymers through reduction strategies (e.g., light weighting, adding more refill/reuse onto catalogues), material substitution, or completely phasing out plastics that are hard to recycle (e.g., single-use plastics). Some businesses have also already made commitments to reduce virgin fossil-based plastic, particularly in the consumer goods sector.

The related core obligation B1 to *phase out and reduce the supply of, demand for, and use of primary plastic polymers* is possible when the supply side for recycled materials is supported by a regulatory framework, with the right balance of push and pull mechanisms and strengthened waste management infrastructures. Policies like Extended producer responsibility (EPR), recycled content targets, recycling targets, incentives for recycling industries, and investment in municipal recycling infrastructure can help boost the supply of recycled plastic content. Lifecycle and impact assessments should be used to inform policy makers and to reduce the risk of any implementation of restrictions, bans of primary plastic polymers or use of plastic substitutions causing inadvertent negative consequences for the intended use or impact.

Businesses also support the safe and sustainable use of additives, the elimination of hazardous chemicals in plastic (based on exposure-based risk assessments), as well as the reduction of intentionally added microplastics and the prevention of the unintentional release of microplastics as referenced in Core Obligations B4 and B8.

- **Address existing plastic pollution and including measures for strengthened waste management**

**Key messages:**

- **Policy options to strengthen waste management will be an essential element in promoting a circular economy for plastics**
- **It is essential to address existing plastic pollution including policy measures to regulate plastic waste, as well as promote EPR as a useful tool to strengthen and enable recycling infrastructure.**

Relevant elements in options paper

*B5: Strengthening waste management*

*B10: Addressing existing plastic pollution*

Addressing existing plastic pollution (B10), represents an important core obligation with:

B10, 19a) i) measures to remediate plastic pollution in the environment, including in the marine environment and areas beyond national jurisdictions, in particular:

(B10, 19a), ii); strategies to identify, prioritize and address areas of legacy waste;

(B10, 19b) as well as potential options for sector/context-specific measures.

Waste management is intrinsically linked to addressing existing and reducing additional plastic pollution. ICC supports options for enhancing waste management capacity and promoting innovation. The core obligation options highlighted above will be useful in determining context-specific measures that also take into account national circumstances and capabilities. Policies such as collection targets and EPR can strengthen waste management. EPR is a promising policy tool that can help partially finance improvements in local recycling infrastructure and establish performance standards for all actors across the value chain.

However, it is critical that the EPR system is constructed in a way that maximizes its potential. For instance, the funds generated by an EPR program need to be ring-fenced and circled to strengthen the local recycling infrastructure. We believe that pooling national or sub-sovereign EPR funds for a global EPR fund would defeat that purpose. Many organizations have developed resources to guide countries on EPR, such as the [Ellen MacArthur Foundation EPR Program](#).

### **ICC PRIORITY 3: Establish consistent global rules, enabling frameworks and policies taking into account national circumstances and approaches for their effective implementation.**

#### **Key messages:**

- **Consistent global rules and enabling policy frameworks are key to setting a level playing field for businesses to operate. In this regard, it is important for the instrument to provide global, harmonised standards, definitions and rules to strengthen global coordination and implementation as well guidance for effective and coherent policy frameworks that will provide incentives and support action for all businesses.**
- **It will be important to balance legally binding and voluntary elements for effective implementation, as well as consider national action plans, taking into account country-specific circumstances, priorities and needs.**

- **Provide global rules with a clear framework for national action plans, including guidance for effective policies and incentives**

Relevant elements in the options paper

*Appendix III: Paragraph 3 & 4 of the United Nations Environment Assembly Resolution 5/14*

*Paragraph 3: **Decides** that the intergovernmental negotiating committee is to develop an international legally binding instrument on plastic pollution, including in the marine environment, henceforth referred to as “the instrument”, which could include both binding and voluntary approaches, based on a comprehensive approach that addresses the full life cycle of plastic, taking into account, among other things, the principles of the Rio Declaration on Environment and Development, as well as national circumstances and capabilities, and including provisions:*

*(d) To develop, implement and update national action plans reflecting country-driven approaches to contribute to the objectives of the instrument;*

*(e) To promote national action plans to work towards the prevention, reduction and elimination of plastic pollution, and to support regional and international cooperation;*

*Core Obligation 7, 16 b) iv) Apply harmonized product design standards, certifications and requirements, including for certain plastic products and packaging.*

*Means of Implementation 2 b) i) promote the development, transfer and dissemination of environmentally sound technologies, best practices, guidelines, and standards on issues related to the instrument.*

- **Balance legally binding and voluntary elements and consider national actions plans as key mechanisms for effective implementation**

It is imperative that the ILBI is based on consistent global rules to create a level playing field for businesses to operate and a harmonised global landscape for plastic regulation in order to avoid barriers, compliance burdens and incumbent costs for businesses trading or operating across borders when complying with different national regulations.

ICC believes that it is important to balance legally binding and voluntary elements for effective implementation, to facilitate workable solutions that can be applied broadly, as well as encourage better standards and greater business participation. In the immediate term, a mix of complementary measures is required, that will be comprised of mandatory and voluntary elements, as well as include procedures to adapt these elements over time to help strengthen objectives and targets. Whilst ICC is fully supportive of ambitious action to end plastic pollution, ICC reiterates the importance of an ILBI that is both effective and implementable for all countries and stakeholders in driving global action to meet the common objective of the instrument. As highlighted previously, the instrument should set a workable pathway for all actors – leaving no-one behind – in the collective charge to end plastic pollution.

The instrument should also consider national action plans and business contributions for the prevention and elimination of plastic pollution as a key pillar of the instrument,



taking into account country-specific circumstances and needs, to ensure that measures are fit for implementation at national level. An ambitious and implementable legally binding agreement with a clear overarching objective, and a common framework for national action plans, will be key to help countries translate the provisions into clear national targets and action plans that aggregate delivery on the treaty's objective. It would be useful to provide direction and clarity on how business contributions will be taken into account in national efforts towards the achievement of the treaty's goals and targets.

ICC recommends that any future treaty recommends EPR as a viable policy solution wherever it may be feasible. Most markets with high recycling rates and low levels of plastic pollution have adopted EPR, even in places with robust Deposit Return Systems (DRS). EPR has many benefits, including accounting for all material in the waste stream, maximising consumer convenience, generating significant funding for recycling infrastructure, and establishing performance standards for all actors across the value chain. In some markets, EPR has developed a supplementary beverage container return program to capture high value material and create an informal waste sector. While EPR may not be feasible in all markets at this time, it is the most successful policy to improve recycling and address plastic waste.

- **Provide harmonised standards, definitions and rules**

ICC believes that providing global, harmonized standards, definitions and rules will be key in for the successful implementation of any core obligations and control measures and to strengthen global coordination and align stakeholders behind a common understanding and a shared approach to end plastic pollution and help drive the transition to a fully circular economy for plastic. Building on global standards and definitions will foster greater harmonisation – drawing from existing standards will be useful in this regard and avoid the risk of duplication or overlap with existing policies/standards. On the contrary, the lack of a common approach and harmonised standards could hamper efforts for increased cooperation, collaboration and unified action. Standards should evolve over time in-line with global technological developments and best practices.

- **Provide a robust and workable mechanism for governments to report and disclose data, contribution and progress**

In order to be effective and to build trust and confidence that all countries are contributing their share to the global effort to end plastic pollution by 2040, the ILBI must be built on an effective and workable monitoring and reporting system with a clear set of modalities, procedures and guidelines for governments to track progress towards national and global objectives. The reporting and transparency framework should provide built-in flexibility for developing countries in accordance with their national capacities and should provide capacity-building mechanisms to facilitate improvement in reporting over time.

Clarity on how business contributions will be taken into account in countries' reporting towards the achievement of national and global goals and targets as well as tools, metrics and mechanisms required to assess and report corporate action and progress is needed. ICC believes that governments could learn from experiences and best practices with the Nationally Determined Contributions process as well as take into account other internal and national efforts and agreed reference systems. Experience from the international climate change process has shown that business in-country engagement in the development and implementation of national action plans is critical in order for governments to further ramp-up the ambition of their national contributions.

While effective and workable reporting and disclosure requirements have an important role to play in the new ILBI, prioritising support and incentives for concrete action, in particular for SMEs is essential to ensure successful implementation of the ILBI. Leveraging and incorporating learnings from existing measurement and monitoring mechanisms into future frameworks should be preferred to establishing new structures.

#### **ICC PRIORITY 4: Create the right conditions to support investment and innovation in solutions to address plastic pollution.**

##### **Key messages:**

- **As the private sector will play a critical role in implementing the instrument's objectives, it will be key to adopt policies and incentives that enable and encourage additional private sector financing, and to create the right conditions for business to invest and innovate, including in developing countries.**
- **It will be useful to strengthen measures to support investment in scalable innovative technologies across the plastics economy; and particularly for MSMEs that will be key drivers for an economy-wide transition to a circular economy for plastics.**

- **Support investment in scalable technologies and solutions across the plastics economy and provide enabling policies and incentives to scale up the development and deployment of existing and breakthrough technologies**

The private sector will play a critical role in the implementation of the instrument's objectives including in the context of mobilizing financial resources. Supporting investment in scalable technologies and solutions across the plastics economy will key to help drive action at all levels across the value chain towards a plastic pollution free economy. Effective government policies that genuinely incentivize MSMEs to invest in

innovation and technologies will also be key. The instrument should be a key enabler of the development and deployment of breakthrough and existing technologies.

Currently many of the innovative technologies capable of addressing plastic circularity, such as advanced recycling and innovation in collection and sorting (e.g. optical sorting, [digital watermarks](#)), are still at a relatively early stage of development and require supportive enabling frameworks to be deployed at scale. It is integral to support these innovative new technologies to help drive action at all levels across the value chain towards a plastic pollution free economy.

MSMEs, in particular in emerging and developing economies will be the lynchpin in any economy-wide transition to a circular economy for plastics and can play a crucial role in driving the innovation needed to tackle the plastic pollution crisis. Effective government policies that genuinely incentivize MSMEs to invest in innovation and technologies will be critical. Setting clear standards that specify strict criteria will encourage innovation by providing the goalposts against which companies can innovate.

The INC options paper includes important options that recognise the importance of investing in and supporting innovation (Core Obligation 5, 14 a) that should be retained and build upon, with options for enhancing waste management capacity and promoting innovation, such as fostering the development of technologies for the collection, recycling and disposal of plastic waste as well as investment in waste management infrastructure.

The paper also suggests promoting innovation and open new sustainable market opportunities with respect to the use of safe, sustainable alternatives and substitutes (Core Obligation 8). More particularly within the context of Means of Implementation, the paper suggests supporting innovation through financial assistance to support efforts towards the development of new technologies or the adoption of innovative solutions to address complex issues, by providing resources to support research and development, adoption of new technologies and dissemination of information and best practices.

- **Establish capacity building mechanisms**

ICC emphasizes the need to establish capacity building mechanisms, including education and awareness raising, in particular for developing and emerging economies with (i) funding to build waste collection and management capabilities in key markets and countries located on the coastline; (ii) support for technology, government and consumer knowledge transfers; and (iii) an innovation fund to scale viable initiatives. Taking into account national contexts will be essential for successful implementation, as well as the need to strengthen and support existing initiatives to increase impact with respect to education and awareness.

It would also be critical to remove barriers on access to finance and encourage the development of specific and targeted mechanisms that ensure a stable and predictable funding in support of less developed countries in their journey towards a circular economy.

ICC emphasises the need to strengthen global partnerships between the public and private sector to mobilise implementation needs. In terms of activities that could be prioritized for financing and resource mobilisation we note the following of particular importance:

- Building collection and sorting Infrastructure in developing economies
- Scaling up existing recycling infrastructure
- Technological innovation in for recycling of existing plastic waste

### **ICC PRIORITY 5: Strengthen processes for effective stakeholder engagement, recognising the critical role of business in implementing the instrument's objectives**

#### **Key messages:**

- **The business community has a critical role to play in achieving the goal and objectives of the ILBI**
- **Aligning and engaging all stakeholders and businesses, in all their diversity, on a common understanding of, and approaches to, address plastic pollution will be critical to achieve an ambitious, actionable and workable ILBI.**
- **In order to achieve a fully open, transparent and inclusive process, a formalised stakeholder process (including business engagement) should be explored.**

ICC recognises existing efforts by the INC Secretariat to involve all stakeholders and particularly the business community, in all its diversity, in the process, as a critical step in setting the stage for an open, transparent and inclusive process. ICC further welcomes reference to the importance of a multi-stakeholder action agenda in the options paper.

Business engagement, in all its diversity, is indispensable to achieving a circular economy for plastics. Business is not only a central agent of innovation and technological development but also a key engine of sustainable economic growth, employment and just transition, and a source of finance, technical expertise and real-world insights.

Whilst ICC welcome references to a multi-stakeholder action agenda and promotion of cooperation amongst all stakeholders, ICC members believe that consideration should be given by the INC Secretariat and Parties to models and systems that can reflect private sector and stakeholder expertise more formally and substantively in order to strengthen the envisioned outcomes of the process. Existing models, platforms and initiatives under different other UN bodies, such as the nine Constituency Groups and the Marrakech Partnership for

Global Climate Action under the UN Framework Convention on Climate Change and international organizations can provide helpful examples for strong business and stakeholder involvement.

To access greater business input and technical expertise, the creation of a technical business advisory channel could be further envisioned, that would operate in close collaboration with the existing business initiatives and organizations engaged in the process. Through a recognised channel, business could more effectively and consistently provide information on its actions (including on research and development, innovative financial mechanisms, and sectoral opportunities); analysis of the impact of its actions (particularly subnational governments, businesses, and investors); and provide direct technical input and advice to discussions throughout the INC process.

Bringing all stakeholders across society, including governments, the private sector, academia, consumers, informal waste sector, etc alongside the journey will be integral to ensure a holistic approach and effective implementation of the treaty to end plastic pollution.