TESS Forum on Trade, Environment, & the SDGs

Informal Briefing Note

Reflections on submissions relevant to the protection of human health by INC members ahead of in-person intersessional meetings in Bangkok

August 2024

This briefing note compiles and analyses contributions by INC members to ad hoc intersessional open-ended expert groups to inform and advance the work of the Intergovernmental Negotiating Committee (INC) to develop an international legally binding instrument on plastic pollution, including in the marine environment. INC member contributions were made ahead of the in-person meeting of the ad hoc intersessional open-ended expert groups to be held in Bangkok, Thailand, from 24–28 August 2024 and are synthesised in synthesis documents made available by the Co-Chairs of Expert Groups 1 and 2 and reflected in a full compilation of responses to a questionnaire issued by the Co-Chairs of Expert Group 2. This briefing note does not represent an exhaustive analysis or compilation of all the views expressed on this issue by INC members. Rather, it aims to provide an overview of ways INC members have pointed to the protection of human health during the intersessional technical work thus far and to identify opportunities to advance convergence on an integrated approach for the protection of human health and the environment in the treaty.

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I. Background: Calls to include the protection of human health in the objective of the future treaty

The plastics treaty is an unmissable opportunity for the international community to protect human health and the environment. As the process to develop a new international legally binding instrument to end plastic pollution has advanced, there has been growing convergence among a diversity of governments that its objectives should focus on the protection of the environment *and* human health from plastic pollution. A call to action is also rising from health experts and environmental justice communities that the plastics crisis is a health crisis.

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. As scientists continue their work to research how plastics and plastic pollution impact human health, the mounting body of alarming scientific evidence is already capturing the attention and concern of governments across the world. For instance, recent studies by leading international scientists and health experts highlight that:

- Plastic and chemicals of concern present across the life cycle of plastics are entering human bodies as plastic leaches into our environment, food, and water.
- The adverse implications that chemicals used in plastics and plastic pollution have for human health are wide-ranging, including neurotoxic, carcinogenic, immune- and endocrine-disrupting impacts. Notably, those chemicals used in plastics that have been studied to date for impacts to human health are only a small fraction of the chemicals known to be present across the life cycle of plastics.
- Nano- and micro-plastics accumulate in the human body, including the brain, potentially causing inflammation, organ damage, and immune system disruption.
- Plastic pollution interferes with critical systems and conditions to support human health, including infrastructure for delivering clean water and sanitation, and soil quality, resulting in water and food contamination, and exacerbating the spread of a range of diseases.
- Further risks to human health exist across the life cycle of plastics, including during the production phase and downstream processes (such as recycling, open burning and incineration of plastics).
- Plastic pollution pose risks and adverse impacts to the human health of nearly all populations, but people and communities in vulnerable situations are disproportionately affected and at risk. Especially impacted communities include workers (both formal and informal) engaged in waste management, waste picking and clean-up processes as well as fence line communities, including indigenous peoples, living near extraction, production, and conversion facilities and in proximity to dumping, open burning, incineration, and landfill sites.

While there is general support among an overwhelming majority of governments involved in the negotiation process that health protection should be included as a key component of the treaty's objective, consideration of *how* to advance an integrated approach to the protection of human health across the treaty's core obligations, including control measures and means of implementation, has received less attention.

In the lead-up to the final negotiation session to conclude the treaty negotiations in Busan, South Korea in November 2024, ensuring that the treaty's provisions adequately integrate human health priorities is a key area for the Intergovernmental Negotiating Committee (INC) to consider, including during intersessional technical work taking place from 24-28 August in Bangkok.

This background briefing note provides an overview of ways that INC members have pointed to the protection of human health in their inputs into the intersessional technical work thus far and identifies opportunities to advance convergence on an integrated approach for the protection of human health in the treaty on the road to INC-5.

II. Summary of INC members' submissions to intersessional work relevant to the protection of human health in the treaty

At the fourth round of negotiations in Ottawa in April 2024,the INC agreed to establish two ad hoc intersessional open-ended expert groups to inform and advance the work of the INC. The expert groups each have mandates to conduct technical work that can contribute to developing an integrated approach for the protection of human health in the treaty. In preparation for the in-person intersessional meeting in Bangkok in late August, the Co-Chairs of the two expert groups shared synthesis documents on the work of the expert groups thus far, including priorities identified amongst INC members, and key areas for further discussion.

a. Expert Group 1: Means of implementation

The first ad hoc intersessional open-ended expert group (Expert Group 1) has been tasked with developing "an analysis of potential sources, and means that could be mobilized, for implementation of the objectives of the instrument, including options for the establishment of a financial mechanism, alignment of financial flows, and catalysing finance," for consideration at the final negotiation meeting in November (INC-5). Adequate means of implementation, including financing, technology transfer, capacity building and technical assistance will be vital for effective implementation of the treaty, and are relevant to the objectives of protecting both human health and the environment.

The Co-Chairs' Synthesis Paper for Expert Group 1 references the substantial health and environmental costs associated with plastic pollution and notes that integrated financial strategies will be required to mitigate these costs. Notably, each of the four categories of activities that the report pointed to as requiring financing to effectively address plastic pollution is also relevant for reaching human health objectives (e.g. comprehensive analytics, supportive policies, targeted investments, and readiness for accessing funds). Further, a number of the clusters of financing needs noted in the paper would also be relevant to the protection of human health under the treaty, including: supporting a circular economy, ensuring a just transition for waste workers, and enacting measures to address the human health impacts of plastic pollution, including effective transparency and monitoring regimes, and the development of safe alternatives. Furthermore, the Synthesis Paper draws upon experiences in global health funds to mobilize innovative sources of financing.

While the key focus of Expert Group 1 is on financial means for supporting implementation, its mandate also encompasses the other measures that will be key for an effective response to plastic pollution that protects human health and the environment, including technology transfer, capacity building, and technical assistance. Non-financial means of implementation will also be vital to promote coordinated action and knowledge exchange and to ensure measures taken to meet the obligations of the treaty are environmentally sound while protecting human health in the context of sustainable development priorities.

b. Expert Group 2: Chemicals, polymers, plastic products and product design

The mandate of the second ad hoc intersessional open-ended expert group (Expert Group 2) is to "identify and analyse criteria- and non criteria-based approaches regarding plastic products and chemicals of concern in plastic products, and product design focusing on recyclability and reusability of plastic products, considering their uses and applications," for consideration at INC-5.

Responses from a number of members to a questionnaire in relation to the work of Expert Group 2 reflect a strong recognition of the need to address human health in the treaty obligations, with a broad diversity of

members identifying health protection considerations and measures as key components of addressing chemicals and polymers of concern, problematic plastic products, and product design in the treaty.

The questionnaire responses and the Co-Chairs' Synthesis Document reveal a number of key areas relevant to advancing an integrated response to the protection of human health in the plastics treaty, including:

1. The importance of global action being guided by objective, science-based criteria.

In their questionnaire responses, many members highlight the importance of the treaty including science-based criteria to ensure an objective, evidence-based approach to addressing plastic pollution, with a number referencing this as central to avoiding a disjointed global response. Many also emphasize the importance of the clarity, consistency, and transparency that science-based criteria would offer.

In considering criteria, some members pointed to the need to consider national circumstances and capabilities, including with regard to waste management capacity and infrastructure, socio-economic and environmental impacts. This was especially the case in respect of the identification of problematic products, with some members pointing to the need to consider the availability of alternatives, consumption patterns and waste management systems at national level, and the wider context of sustainable development challenges and priorities.

2. Hazard criteria can support the identification and classification of chemicals and polymers of concern.

A significant majority of members highlight that science-based criteria should include consideration of intrinsic hazards of chemicals used in plastics to human health and the environment. Responses pointed to the panoply of hazards associated with chemicals used in plastics, including persistence, bioaccumulation, long range transport potential, carcinogenicity, mutagenicity, reproductive toxicity, and specific target organ toxicity on repeated exposure and endocrine disruption, among others.

3. Human exposure factors are relevant for identifying chemicals and polymers of concern in plastics.

As well as considering intrinsic hazard properties in chemicals, some members suggested that human exposure factors (including production volume, usage patterns, population vulnerability, release pathways, and potential for leaching) could also be considered to identify and classify chemicals and polymers of concern. Among these responses, some point to the potential that hazard criteria could be used for identifying chemicals of concern, supported by risk assessment (considering exposure) to determine appropriate regulatory responses. Others noted that where exposure data is lacking, or where introducing exposure considerations would unnecessarily slow action, this should not prevent a global response.

4. Health impacts are relevant to the identification and classification of problematic and avoidable plastic products, alongside environmental harm and circularity factors.

Among the range of potential elements for identification of problematic and avoidable plastic products raised by members and described in the Synthesis Document, a number relate directly to the protection of human health, such as: "Likelihood of harm to human health or the environment"; "Properties that may hinder safe and environmentally sound management, including their reusability, repairability, recyclability and disposability"; and "Criteria based on safety, sustainability, essentiality and transparency". In addition, the Synthesis Document notes the following more specific potential elements referenced by members: product composition that includes a harmful substance or that hinders safe and environmentally sound management throughout the life cycle, leakage or emissions potential (including emission of harmful by-products, release of microplastics, propensity to degrade into microplastics), and the release of toxic substances during production, use, or disposal.

5. Health protection, in addition to improved reusability and recyclability, should be considered in product design criteria and requirements.

A strong chorus of members raised protection of human health and safety as a potential attribute to be considered in criteria- and non criteria-based approaches for plastic product design. Possibilities put forward include requiring that products do not contain chemicals of high concern, that the material and chemical composition is appropriate for the relevant applications (including the composition of sensitive applications), and that polymers used be chemically stable (not leaching harmful materials or readily forming microplastics over time). Some responses also raised consideration of the protection of human health not just in relation to the design of products or product components themselves, but also to the processes used to produce or manage products throughout the life cycle.

Exposure to chemicals harmful to human health in recycled plastics specifically was a key concern for many members and was raised in responses to each of the areas under consideration by Expert Group 2: chemicals and polymers of concern, problematic and avoidable plastic products, and product design. In relation to product design, many members commented that criteria should support recycling or reuse through multiple use cycles in safe and environmentally sound ways.

6. Preventing regrettable substitution will be key.

The Synthesis Document identifies "ensuring availability, affordability, accessibility, feasibility of safe and environmentally sound alternatives or substitutes and avoidance of regrettable substitutions" as a cross-cutting issue relevant to the ways that chemicals and polymers of concern, problematic and avoidable plastic products, and product design are addressed in the treaty. In their questionnaire responses, some Members pointed to the potential for adopting 'grouping' approaches for considering chemicals of concern, such that chemicals with similar structures (and potentially similar intrinsic hazard properties or modes of action) are assessed together, and for considering the potential impacts of alternative (substitute) chemicals, polymers, and products throughout the life cycle, as ways of preventing regrettable substitution.

7. The critical role of transparency.

"Ensuring transparency and facilitating monitoring" is identified in the Synthesis Document as being of potential relevance to all parts of Expert Group 2's mandate. A range of member questionnaire responses highlight and stress the importance of mandatory material transparency and traceability requirements for plastics and plastic products, including recycled plastics and recycled plastic products, as essential to enabling the effective management of the human health and environmental impacts of plastic pollution across the life cycle. Criteria based on transparency were also considered by members for identifying chemicals and polymers of concern and problematic and avoidable plastic products.

8. Designing appropriate processes and governance structures.

The processes and governance mechanisms that the treaty adopts, including the ways in which expert and scientific input are integrated, and the efficiency of processes for assessing candidate chemicals, polymers, and products against criteria, were considered in some member responses. The potential role of a science technical body, including to assess candidates and to support the evolution of the treaty in response to new and emerging evidence, was raised; others pointed to stakeholder engagement and expert input as a potential "non criteria-based measure" relevant to supporting action on chemicals and polymers of concern.

III. Opportunities to progress discussions towards an integrated approach to the protection of human health in the treaty ahead of INC-5

As experts and members of the INC embark upon in-person expert group meetings in Bangkok, they have an immense opportunity to advance technical understanding and information relevant to how the treaty can effectively deliver on the protection of human health.

On the road to Busan, as members seek convergence on the final treaty text, high in their minds should be how to ensure that its obligations, control measures, and means of implementation effectively address human health. In good news, the contributions of members to date highlight a strong and widely shared commitment to the objective of protecting human health. Contributions to date also show recognition of the linkages between the technical issues under consideration by Expert Group 2, effective means of implementation, and a range of the other proposed core obligations and control measures that feature in the Compilation draft treaty text, including those on primary polymer production, emissions, waste management, and microplastics. Such an integrated approach is key to ensuring the protection of human health and the environment in the treaty.

Further good news is that there is already a considerable and growing body of scientific evidence, technical information, and proposals on the table. The upcoming intersessional meetings provide a critical opportunity for governments to exchange, consolidate and expand technical information and understandings that can support the crucial work of aligning on *how* the protection of human health as well as the environment can be addressed in the treaty.

For more information on opportunities to align the protection of human health in the plastics treaty, watch the TESS roundtable, The Plastics Crisis as a Health Crisis: How Can the International Health Community Support the Global Response to Plastic Pollution & the Plastics Treaty?

This briefing note was prepared by the Forum on Trade, Environment & the SDGs (TESS), with contributions from Lizzie Fuller, Senior Policy Advisor, Olivia Bonner, Policy Advisor - Plastics Treaty and MEAs and Carolyn Deere Birkbeck, Founder and Director.