



BLOG POST May 25th 2023

Future plastics treaty: diving into the heart of the negotiations

Authors

Lucien Chabason

Senior Advisor

Julien Rochette

Director, Ocean programme

Irene Pérez-Beltrán

IDDRI intern

🕒 Reading time: 10 min



The second round of negotiations for a future "plastics treaty" will be held in Paris from May 29 to June 2. While interest in the subject has been growing^{[1](#)} in the international public sphere, the scientific community, particularly in the oceanic community, and in professional spheres since the United Nations General Assembly resolution of March 2022 inviting States to launch the negotiation of an "international legally binding instrument on plastic pollution, including in the marine environment", the discussions could prove to be tricky. This blog post identifies the divergent approaches and potential sticking points, and outlines the political and technical framework within which the negotiation should take place in order to make effective progress towards the adoption of a treaty.

The first working session of the Intergovernmental Negotiating Committee (INC1), under the aegis of the United Nations Environment Programme (UNEP), launched the negotiation process at its [meeting in Punta del Este \(Uruguay\) in December 2022](#). The meeting adopted the work plan, which should lead to the adoption of a treaty in 2025, inviting States and their groupings as well as stakeholders to express their views on the issues at stake in the future treaty: objectives, obligations, regulations, and implementation and accompanying measures. 69 Parties representing more than 100 countries and 175 stakeholders submitted their views during the intersessional period, and the UNEP-INC Secretariat produced a [synthesis document](#) from this consultation that will serve as a basis for the Paris session.

Divergent positions on the framing of the negotiations

The very strict and precise negotiating framework set out in the UN General Assembly (UNEA) resolution should, on paper, leave little room for a minimalist or restrictive approach to the content of the treaty. The mandate calls for the whole life cycle of plastics to be addressed and should therefore lead to a focus on the full range of issues, from the production of plastics to the use and recycling and disposal of waste. However, in view of the first round of negotiations and the positions expressed by the stakeholders, the question of the substantive and legal scope of the future treaty remains unclear.

For probably different reasons, the United States and China, which would be the largest emitters of plastic waste in 2060 on a business-as-usual trajectory,² are in agreement in advocating the adoption of a treaty with general obligations; these would refer concrete measures to national action plans deemed to allow for the adaptation and flexibility that they consider indispensable in the case of a multi-dimensional economic activity mobilising extremely varied and evolving substances. Moreover, China seems to want to deal only with the downstream part of the cycle, i.e. plastic waste, thus excluding the economic issues of production and use, and therefore of reduction at source. And the US is reluctant to adopt overly precise international norms and standards which, moreover, are likely to be opposed by the American Senate at the time of ratification. Moreover, China (like Russia and many Asian countries) does not intend to deal with economic issues in environmental treaties. In a way, the syndrome of the Climate Convention, namely its inability, despite scientific evidence, to integrate the issue of fossil fuels into the core of the Parties' commitments, could be repeated in the plastics negotiations.

In contrast, the European Union, a member of the High Ambition Coalition led by Norway and Rwanda, advocates the vision of a treaty addressing the whole life cycle of plastics and which would provide for the reduction of primary plastic production at source through global targets included in the treaty, accompanied by market instruments and supporting the insertion of stringent obligations such as:

- The elimination or restriction of the use of substances such as hazardous or toxic additives;
- The elimination of "problematic, avoidable or unnecessary" plastic products; single-use plastics would obviously be included in this category;
- Concrete measures to limit microplastic pollution;
- Encouragement of the circular economy, including eco-design of products;
- Specific measures on collection, reuse and recycling and generally sound waste management;
- The reduction of existing stocks of plastic waste in the ocean;
- Standards for the use of bio-based plastics;
- Information requirements on the composition of plastics;

- The adoption of the principle of extended producer responsibility (EPR).

Annexes, flexibilities: what form could the treaty take?

In order to bridge this gap in positions on what could be included in the treaty, majority-approved annexes could establish lists of prohibited substances or products to be regulated, including deadlines, or detail certain obligations. This system, which has been tried and tested in the [Marpol \(ship pollution\)](#) and [CITES \(wildlife\)](#) conventions, could meet the need to manage complexity and the need for adaptability over time, while guaranteeing the legal scope of the mechanism and its applicability on a global scale. Another option would be to provide for specialised protocols such as for the Convention on Biological Diversity or the Vienna Convention on Transboundary Air Pollution; but these protocols have the character of treaties and need to be ratified, which is cumbersome and time consuming.

Whatever legal framework is chosen, there may be differences in the pace of pollution reduction and the level of commitments. For example, could Asian countries, which contribute significantly to pollution due to a high rate of poorly managed plastics³ (40.8%, compared with 5.5% in Europe), and which are home to the three most emitting rivers in the oceans (the Pasig in the Philippines, the Kelang in Malaysia and the Ulhas in India), accept global commitments and reduction rates identical to those of the European Union or the OECD, some of which are far from showing positive results? Here again, the issue of differentiated targets and timeframes for nationally determined contributions under the Paris Climate Agreement could become an issue in the plastic negotiations. A balance will have to be found between the need to set global targets and the possibility of modulation at national level.

Regarding implementation measures, in addition to the question of the scope and content of national plans, the question of voluntary commitments and monitoring and the necessary technical and financial support to developing countries should be discussed, as in other environmental negotiations (financing of biodiversity, financing of loss and damage related to climate change). Indeed, sound waste management, as foreseen in [Sustainable Development Goal 12](#), is low in the development aid agenda and should be reassessed. In parallel, the question of the financial involvement of the private sector based, if necessary, on an application of the polluter-pays principle at the international level, should be raised despite the probable reluctance of professional organisations. On this point, we await the position of permanent business groups ([World Plastics Council](#) and [Plastics Europe](#)) or those linked to the negotiations, such as the [Business Coalition for a Global Plastic Treaty](#).⁴

The "myth of infinite circularity"

However, it is doubtful that approaches such as the circular economy including a high level of recycling can, on their own and given the starting point, answer all the questions posed by plastic pollution and lead to a waste-free plastic economy. In a recent article,⁵ Franck Aggeri points to the "myth of infinite circularity", while the current ratio of recycled materials to those produced has fallen to 7.2%, according to the [Global Circularity Gap Report](#). Two difficulties can be pointed out: 1) if we want to reduce the flow of plastics in absolute terms, which seems essential in the long term, the difficulty of transforming our uses and production methods towards a real reduction at source of plastics, which have become essential in many uses (for example, for food safety), this transition necessarily implies a long time to not only substitute technologies, but also to rethink more profoundly the services, industrial goods and business models that underpin them; 2) even without reducing this flow of plastics, the impossibility of completely closing the diversity of cycles, despite the promises of industrial channels, an impossibility inherent in the very great heterogeneity of plastics and their technical characteristics. For these two reasons, the effort to be made to promote the circular economy, however essential and positive, is therefore necessarily progressive and can only partly meet the objective of eliminating plastic pollution; thus, there is still room for sound waste management.

As for recycling—the limits of which some researchers have already shown⁶—and with the exception of some OECD countries, we are also starting from a very low base. To take the example of one of the most economically developed regions in Europe, the Région Île-de-France, some 860,000 tonnes of plastic waste are produced there each year, of which 14% (compared to a national average of 24%) is collected for recycling, ¾ being packaging, whereas the region has set itself the target of 50% of plastics recycled by 2025, which seems unattainable.⁷ In other words, a high GDP per capita does not necessarily lead to a high level of circularity and a decrease in waste production, contrary to the hopes of the Kuznets curve's thurifers.⁸ The future plastics treaty should be an opportunity to give up setting targets that are a collective illusion and do not predispose to the commitment of the actors, and to take into account the capacities and potential of countries in terms of plastics management. Consequently, and as the negotiation mandate invites, it is important to mobilise all the tools available to reduce and eliminate plastic pollution, both in terms of rules and means of implementation, from reduction at source to recycling and the rational management of final waste.

How should the future treaty be articulated with existing arrangements?

Another issue that did not feature prominently in the contributions was the relationship between the future treaty and existing international mechanisms such as the chemical conventions, the Basel and Marpol conventions, as well as regional seas conventions such as Oskar and Barcelona. The joint secretariat of the chemical conventions has produced an initial analysis of the way in which these conventions deal with the issue of plastics, including the chemical substances used in their composition: the potential overlaps or interferences with the plastics treaty appear to be worrying.⁹ There is also the issue of international trade in plastic waste, which has shifted geographically following China's decision in 2017 to ban the import of plastic waste. This trade should therefore fall under both the Basel Convention, the WTO and the future plastics treaty. The question of trade equity between countries that treat their waste properly and avoid dumping at sea and the others is bound to arise in the future. This question of the link between the various mechanisms cannot be avoided, especially as the secretariat of all the conventions, with the exception of Marpol, is under the responsibility of UNEP.

Finally, although their contributions have not been summarised by UNEP, it is worth noting the activity of global environmental NGOs (Ellen Mac Arthur Foundation, WWF, IUCN, Council for International Environmental Law) or specialised NGOs (Zero Plastic Waste, No Plastic in my Sea) and scientific communities (Scientists Coalition for an Effective Plastics Treaty, for example), which should help move the debate forward.

As a conclusion, after the adoption of the Kunming-Montreal Agreement on Biodiversity and the High Seas Treaty, the willingness of the international community to maintain its cooperation for the management of global environmental goods, despite the climate of skepticism surrounding multilateralism, must be noted. However, the negotiation of the future plastics treaty is technically, legally and politically challenging, and can only achieve an ambitious outcome if it remains based on science and a common environmental ethic.e éthique commune de l'environnement.

¹ Avis du Conseil économique, social et environnemental (CESE) français (avril 2023) : https://www.lecese.fr/sites/default/files/pdf/Avis/2023/2023_07_pollution_plastiques.pdf ; communiqué des ministres de l'Environnement du G7 réuni au Japon avril 2023) : <https://www.env.go.jp/content/000128270.pdf> ; rapport du PNUE (mai 2023) : <https://www.unep.org/fr/resources/turning-off-tap-end-plastic-pollution-create-circular-economy> ; Perspectives mondiales des plastiques de l'OCDE (juin 2022) : <https://www.oecd.org/fr/environnement/plastiques/>

² OECD (2022). Global Plastics Outlook: Policy Scenarios to 2060, OECD Publishing, Paris, <https://doi.org/10.1787/aa1edf33-en> .

3 C'est-à-dire « non collectés, jetés sur la voie publique ou gérés dans des décharges non contrôlées », Université de Lyon, Pop'Sciences, novembre 2022.

4 Cette coalition initiée par le WWF et la Fondation Ellen MacArthur, se distingue par une large confiance accordée à la vision d'une économie circulaire conduisant à zéro déchet.

5 « L'Économie circulaire, un modèle véritablement soutenable ? », in La Gazette de la société et des techniques, Annales des Mines, mars 2023.

6 Gontard, N., Seinger, H. (2020). Plastiques, le grand emballement, Stock.

7 Note de l'Institut Paris Région : « Déchets plastiques en IdF : une production dispersée et un recyclage insuffisant », novembre 2021.

8 Cf Grossman et Krueger (1995). "Economic Growth and the Environment", The Quarterly Journal of Economics, vol. 110, No. 2.

9 Secretariat of the Basel, Rotterdam and Stockholm Conventions (2023). "Global Governance of plastics and associated chemicals".

BIODIVERSITÉ**OCEAN****GOUVERNANCE****NÉGOCIATIONS INTERNATIONALES****PLASTIQUE**