



GALLIFREY
FOUNDATION



#Break
Free
From
Plastic

To the kind attention of:

Federal Councillor, Mr. Albert Rösti

Head of DETEC

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Subject: Civil society calling for ambition and transparency in the Plastics Treaty negotiations

Dear Federal Councillor, Mr. Rösti,

In view of the upcoming fourth round of negotiations on an international legally binding instrument (ILBI) on plastic pollution (INC-4) in April, the Center for International Environmental Law (CIEL), the Gallifrey Foundation, OceanCare, the Quaker United Nations Office (QUNO), Trash Hero World, Swiss-based members of the Break Free From Plastic global movement, and Greenpeace Switzerland, would like to reiterate the importance of an ambitious position of Switzerland in these negotiations, especially with regards to critical pillars of an effective plastics treaty:

- supply and demand controls on plastic production,
- strong regulations on chemicals and microplastics,
- support to reuse and system redesign,
- mandatory trade permits to ensure that the transboundary movement of covered products and substances comply with the ILBI,

- effective non-Party trade measures,
- effective implementation and compliance mechanisms, and
- adequate financing to support implementation.

Switzerland has already shown its leadership on many of these core obligations, and we are grateful for Switzerland's progressive mandate for the Plastics Treaty negotiations. As a member of the High Ambition Coalition (HAC), we hope you will continue and show leadership and encourage and inspire other countries in the wake of your ambitious position.

Primary Plastic Production

We stand at a critical juncture for protecting and advancing the provisions on primary plastic polymers production in the treaty text, and we urge you to be more vocal advocates for the legally binding provisions that freeze and phase down production both at the global and national levels - not just of plastics known to be problematic but all plastics - to sustainable levels as a priority. We urge you to support provisions that build upon existing successful models, such as the Montreal Protocol.

Our planet just recorded the hottest year (2023) on record — with devastating environmental, economic and social impacts worldwide. In 2019, plastics generated 1.8 billion metric tonnes of greenhouse gas (GHG) emissions—3.4 percent of global emissions—with 90 percent associated with feedstock extraction and plastic polymers production and by 2050, these emissions could quadruple to 15 percent of global emissions.

It is imperative that the new instrument is designed not only to protect human health and the environment from plastic pollution but that it is also crafted to keep us on track for a 1.5°C world. The current levels of GHG emissions are undermining the attainment of the Paris Agreement, and recent studies have demonstrated that without legally binding measures to freeze and phase-down the production of primary polymers, our best-case scenario is merely a stabilisation of emissions at their current levels. Therefore, it is critical the Treaty include legally binding production reduction measures.

Countries need also to end subsidies that support the creation of new primary plastic manufacturing capacity and the production of primary plastic polymers. These take the form of grants or government-mediated credit for manufacturing plants, administered prices for chemical feedstocks (such as ethane or propane), and below-market prices for energy. Switzerland, as an original member of the Friends of Fossil Fuel Subsidy Reform (FFFSR) group, participates in the Fossil Fuel Subsidy Reform working group at the World Trade Organization, and is party to the on-going negotiations to conclude an Agreement on Climate Change, Trade and Sustainability (ACCTS), which is expected to include disciplines on fossil fuel subsidies. Although none of these initiatives appear (yet) to cover subsidies to primary plastic production, we call Switzerland to support the reform of subsidies downstream of the fossil fuel industry, especially considering that 99% of the world's plastics are derived from petrochemicals and are manufactured using energy derived from fossil fuels. It would also be incoherent of the Plastics Treaty to include fees on plastic polymers while also allowing subsidies that stimulate their production. We therefore call upon Switzerland to actively and publicly support the inclusion of language in the Plastics Treaty that curbs subsidies that benefit primary plastic production.

A freeze and phase-down in production to sustainable levels is also a necessary part of the holistic approach and it is the enabler for comprehensive and effective measures in the rest of the life cycle of plastic. Despite demand reduction measures and massive investments in end-of-life infrastructures, waste management systems are completely overwhelmed and cannot be solely relied on to resolve this crisis.

Chemicals and polymers of concern

Beyond the need to reduce overall primary plastic production of all polymer types to sustainable levels, the Treaty must include harmonised measures to protect human health and the environment from chemicals, monomers and polymers of concern. We are grateful for Switzerland's role in leading the discussions and push to advance the restrictions of toxics in plastics.

Studies have identified more than 16,000 chemicals used in plastics of which 4,105 are identified as chemicals of potential concern based on existing hazard types and of which 10,839 have no hazard data, many of them could also be chemicals of potential concern. Only 128 chemicals of concern are regulated under the Stockholm Convention, Minamata Convention and Montreal Protocol, representing around 3% of all identified chemicals of potential concern and less than 1% of all chemicals in plastics.

The precautionary principle must be applied with regard to the use of chemicals in plastics. Knowing this is a cornerstone for Switzerland, we encourage your continued leadership in developing requirements (including elimination) on certain groups of chemicals, monomers and polymers and formal intersessional work to develop criteria for listing specific substances and polymers to advance between INC-4 and INC-5 to ensure expeditious implementation when the Treaty enters force.

Mandatory trade permits to ensure that the transboundary movement of covered products and substances comply with the ILBI

Global trade in plastic is immense. Plastic feedstocks, polymers, additives, plastic pellets, plastic products, and waste are largely traded internationally¹ and represent US\$1 trillion in 2018 or 5% of the total value of global trade.² The liberalisation³ of trade in plastics and their feedstocks supports the rise in production and consumption of plastics, accelerating the plastic crisis. Trade in plastics acts as a conveyor belt for the spread of products, packing and packaging responsible for plastic pollution, including micro- and nanoplastics around the world;⁴ and trade in plastics products and products packaged in plastic adds to the waste management burden that importing countries face.

We urge you to support a comprehensive trade system and permitting mechanism in the ILBI. A comprehensive permitting system would provide a verifiable trail of compliance, allowing importing parties to confidently verify that the traded materials and products meet the established criteria in harmonized manner. Additionally, this would protect importing countries from potential harm but also discourage illicit trade practices and promote a culture of responsibility and transparency in the global supply chain. These elements are key to the practical effectiveness of the Instrument.

¹ Diana Barrowclough, Carolyn Deere Birkbeck, Julien Christen, *Global trade in plastics: insights from the first life-cycle trade database*, (UNCTAD Research Paper No. 53 UNCTAD/SER.RP/2020/12), pp. 19-23, accessible [here](#).

² Diana Barrowclough, Carolyn Deere Birkbeck, Julien Christen, *Global trade in plastics: insights from the first life-cycle trade database*, p. 1. When the rising trade in plastic feedstocks, precursors, and 'hidden plastics' is taken into account, the scale of the trade grows even larger.

³ Trade liberalization refers to eliminating or easing trade barriers between countries to promote free trade of goods and services. Examples of trade barriers are tariffs, import quotas, embargoes, and non-tariff barriers.

⁴ Diana Barrowclough, Carolyn Deere Birkbeck, Julien Christen, *Global trade in plastics: insights from the first life-cycle trade database*, pp. 5-6.

We also urge you to support provisions to eliminate illegal trade to preserve the integrity of regulated materials and products. The ILBI should set a strong normative framework that discourages parties from engaging in activities that could undermine treaty obligations.

Finally, the identification or establishment by each party of a responsible national authority for regulating exports and imports is essential for the practical enforcement of the Instrument.

The INC has clear mandate and authority to establish such trade measures, which all comply with WTO Law and other international trade legal frameworks. Do not fall victim to false arguments claiming that the ILBI cannot adopt trade measures, indeed regulation of trade is a cornerstone of numerous international environmental agreements, including the Minamata Convention, CITES, the Montreal Protocol, and the Basel Convention. Without adequate trade measures, the ILBI would risk being largely inefficient.

Non-Party trade provisions

Currently, non-Party trade provisions are missing from the zero-draft. These provisions are essential to ensure that parties to the treaty can work together to protect people and the planet without their actions and their economies being undermined by countries that do not join the agreement. We urge you to support robust trade provisions that provide a level playing field for industries everywhere that plastic is produced, safeguard progress made by treaty parties from being undermined by non-parties, and ensure that industries in countries that cannot or will not join the treaty must play by the same rules as everyone else. At a minimum, such provisions should:

- i) Recall that any export, re-export, or import measures and obligations relating to products and materials covered by the ILBI shall apply also between Parties and non-Parties, on a non-discriminatory basis.
- ii) Require that in the case of export or import from a non-Party to a Party, the obligation for the non-Party to provide comparable documentation issued by the competent authorities that substantially conforms with the requirements of the ILBI.
- iii) Provide that the non-Party State has adopted and implemented measures to phase out such materials and substances in conformity with the Instrument and its accompanying Annexes.

Reuse and system redesign to support reduction

Despite significant investment from national governments over many decades, only 9% of plastic waste is recycled globally, while plastic consumption has quadrupled over the past 30 years. Relying on recyclability is insufficient to address the plastic crisis; the negotiations should prioritise exploring and emphasising reduction and prevention solutions, including a transition to safe and accessible reuse and refill systems.

We call on Switzerland to strongly support clear and enforceable definitions, overall and sector-specific targets and indicators on reuse, accompanied by harmonised approaches for regular reporting obligations to monitor implementation and guidelines for implementing reuse systems. The Treaty should also promote refill as a practice to reduce resource use and waste and explore legal approaches for guidance to support this.

The reCIRCLE system has proven to be greatly successful in Switzerland for several years, thus demonstrating that ambition on reuse is within everyone's reach and the value of expanding the reuse system beyond what it currently covers. Switzerland has shown to be avant-garde and surely the country's expertise can be a source of inspiration to others.

Measures to support the development of a reuse sector, together with provisions to phase down plastic production, bans on single use plastics, and restrictions on plastic polymers and chemicals of concern, would work together to enshrine the waste hierarchy in the treaty and protect human and environmental health.

Microplastics

Microplastics have now been found everywhere scientists have looked for them. From the high glaciers and “pristine” alpine lakes, to deep trenches of the ocean, and into the placenta and other human organs of every human tested. The Treaty will require effective control measures addressing microplastic pollution along the life-cycle of plastics. Mounting scientific evidence reveals the adverse impact of microplastics (and nanoplastics) on the environment and human health, sparking growing concern. Embracing a precautionary approach is imperative. Comprehensive measures need to address all microplastics, including but not limited to those intentionally added to products and those emitted during use from sources like tyres, paints, and textiles.

In December 2023, yet another container laden with plastic pellets, was lost at sea. The pellets, manufactured in India by a Polish company, fell off the Liberian-flagged vessel chartered by a Danish shipping company. The accident occurred in Portuguese waters while en route from Spain to the Netherlands. Tragically, innocent coastline communities in Spain - detached from the supply chain - bear the disastrous consequences of the loss incurred by just one container. This unfortunate event underscores the urgent necessity for global regulations to avert pellet loss across the entire supply chain.

An effective implementation mechanism

States are responsible for complying with their obligations under international treaties to which they are party.⁵ Complying with such obligations requires national implementation measures and monitoring, with these efforts then being reported to the appropriate treaty body.⁶ We ask Switzerland to strengthen the design of implementation and compliance-related provisions, and push back against any form of nationally determined targets, obligations, or commitments. National Plans should proactively identify gaps in compliance and outline the necessary actions to address them, thereby ensuring deliberate efforts toward fulfilling the State's obligations under the ILBI. National Plans should include assessments of methods for addressing gaps, monitoring mechanisms for implementation, and identification of available resources for plan execution. National Plans under the ILBI should be developed in consultation with relevant national stakeholders, such as civil society organisations, local authorities, licensing agencies, and other entities, to ensure alignment with national priorities and perspectives.

Inclusion of robust compliance procedures

The inclusion of compliance procedures in the plastics treaty can support the implementation of binding obligations and progress towards shared goals. Treaty text should establish the initial framework for compliance, and provide the governing body with a broad mandate for future decisions to streamline compliance procedures and respond to identified challenges. Switzerland should support an approach to compliance that allows for the

⁵ Article 26 of the Vienna Convention on the Law of Treaties (VCLT) refers to the principle of *Pacta Sunt Servanda* ('every treaty in force is binding upon the parties to it and must be performed by them in good faith').

⁶ Koirvurova, T., "Introduction to International Environmental Law", Routledge, (2014), at p. 18. Generally speaking, States may implement their international environmental obligations in three distinct phases. First, by adopting national implementing measures; second, by ensuring that national measures are complied with by those subject to their jurisdiction and control; and third, by fulfilling obligations to the relevant international organizations, such as reporting the measures taken to give effect to international obligations.

development of non-compliance response measures and the creation of an Implementation and Compliance Committee with a diverse range of trigger mechanisms so that non-compliance can be identified by a range of actors and sources, and acted upon expeditiously to ensure countries come into compliance as soon as possible.

We also ask that Switzerland requires an obligation for parties to provide two separate reports: one more frequent on legal obligations and another, less frequent on broader issues of implementation, impacts, and challenges. Clear compliance and reporting frameworks in the ILBI are essential for the effective implementation and operation of the Treaty.

Financial Mechanism

We believe a newly established dedicated multilateral fund created alongside the new ILBI will be required to deliver new, additional, stable, accessible, adequate, timely and predictable financial assistance, particularly for “enabling activities” and “incremental costs of compliance”. The dedicated multilateral fund should be the crown jewel of the new instrument, without which the objectives are set up to fail before implementation begins. To supplement core external donor funding, additional funds should be mobilised from a range of sources, including the private sector, to operationalise the polluter pays principle. In addition, the means of implementation should be aligned with the zero waste hierarchy, i.e. ensuring resources to support the delivery of treaty measures prioritise dealing with the problem at source - e.g. flows of funding in the treaty’s financial instrument support reduction, reuse and refill systems as opposed to funding expensive recycling infrastructure or other even worse measures further down the hierarchy, e.g. incineration or cement kilns. The financial mechanisms should furthermore be structured to complement and facilitate access to existing funds such as the Global Environment Facility (GEF).

Additional discussions are required on the nature of the new fund or funds, the operationalisation of the polluter pays principle and how to ensure equitable and stable access, particularly for most impacted countries. Similarly, more detailed conversations on the types of activities requiring funding need to be further explored. Given its complexity, this should be a priority topic for INC-4, with dedicated negotiating time set aside to explore these issues and with a clear plan to continue formal discussions intersessionally.

Need for ambition and transparency

We are worried to see that a handful of predominantly plastic producing countries have derailed negotiations at previous INCs with serious consequences. The lack of a mandate for intersessional work has hampered progress, and it is now imperative that negotiations on matters of substance can advance, including in view of the timeline set out in Resolution 5/14.

We are also very concerned to witness the increased influence of fossil fuel and chemical industries on the negotiations, and the lack of implementation of strong conflict of interest policies in the INC process. An analysis by CIEL supported by the Break Free From Plastic movement counted 143 fossil fuel and chemical company lobbyists registered at INC-3 (a 36% increase from INC-2); that is more than the 70 smallest Member States delegations at the INC-3 negotiations and more than three times the number of participants from the Scientists’ Coalition for an Effective Plastics Treaty.

We recommend that Switzerland takes a strong position to oppose tactics that delay and derail the negotiations and works with other countries to uphold the High Ambition Coalition’s long-standing ambition without falling prey to the low-ambition countries and companies’ coordinated intimidation strategies. We call on Switzerland to

be unwavering advocates for a strong, effective and ambitious Treaty rooted in science and transparent negotiations and for the outcomes to be met.

We appreciated previous consultations organised by the FOEN and we would welcome the opportunity to exchange further on those topics.

Yours sincerely,

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Gallifrey Foundation, Laurianne Trimoulla, Communications & Project Manager

Greenpeace Switzerland, Joëlle Hérin, Expert and Campaigner, Consumption Systems Circle

OceanCare, Fabienne McLellan, Managing Director

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Trash Hero World, Roman Peter, Managing Director