

In 2022, the **IUCN World Commission on Environmental Law (WCEL)** created the Plastic Pollution Task Force to provide insights and support to the Treaty negotiation process. The following is one of a series of ten targeted legal briefs that are part of the present IUCN Submission for the third Intergovernmental Negotiating Committee to develop an international legally binding instrument on plastic pollution, including in the marine environment.

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[IUCN WCEL Briefings for Negotiators for INC-3](#)

These are updated briefings of the INC-1 and INC-2 submissions, please note, and are considered version 3 – for submission to INC-3 as annexes for Forms A and B from IUCN. Further information can be found on <https://www.iucn.org/incplastics> - or by searching <https://www.iucn.org/search?key=plastics>.

BRIEFING 5 of 10: Regime Convergence and the International Legally Binding Instrument

**IUCN WCEL BRIEFING FOR NEGOTIATORS
International Legally Binding Instrument INC-3 Session
Regime Convergence and the International Legally Binding Instrument**

Key Messages:

A core theme in United Nations Environment Assembly (UNEA) resolution 5/14 and subsequent discussions at INC-1 and INC-2 was the impact of treaty regime interactions upon the International Legally Binding Instrument (ILBI). In this context, comprehensive, integrated regulatory response to the ever-growing challenge of waste plastics in the environment requires a complex mix of legal measures applied in a coherent manner at the global, regional and domestic levels of administration to a range of environmental media and related activities, including sustainable production and consumption, circular economy, waste management, freshwater resources management, biodiversity protection, and marine pollution. Measures to address the problem of plastic pollution are to be found across several sub-fields of international law, biodiversity law, natural resources law, international wildlife law, fisheries and oceans laws, and international freshwater law. Outside the context of multilateral environmental agreements (MEAs), there are inherent connections between efforts to adopt the ILBI and international trade law, multiple aspects of human rights law, and human health law treaties, as well as soft law instruments such as the Sustainable Development Goals (SDGs). Regional treaties across a variety of legal areas are also important to the idea of treaty regime convergence necessary for a holistic ILBI.

Therefore, a clear need for effective mechanisms of interaction between any new plastics treaty and other pertinent international regimes exists. This reflects recent efforts of Conferences of

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the Parties for various MEAs to create synergies and mechanisms of coordination between treaty regimes with overlapping terms and areas of regulation. It builds on a steadily evolving understanding of these many forms of international legal regimes as interdependent and able to function together to reinforce their areas of shared overlap rather than as potential areas of conflict or a reason for not taking strong legal and regulatory action in these areas as part of the ILBI.

1. Utilize an expansive scope of understanding the impacts of plastic pollution

What? Plastic pollution effects nearly every aspect of life at the individual, community, national, regional and international level. During INC- 1 and INC-2, States and stakeholders emphasized these impacts and stressed that the ILBI should be responsive to the multiple levels of effects caused by plastic production, consumption and pollution. This includes the lives of producers and consumers as well as those working in the formal and informal economies. These impacts are environmental and also span a variety of other areas, implicating many forms of legal rights and obligations at the international and regional levels. In addition to the regimes discussed in the UNEP briefing note 10 in advance of INC-1, many other regimes should be considered when designing the potential interactions with the ILBI because plastic pollution has wide-ranging legal, regulatory, economic and social connections.

How? In recognition of the many forms of **human rights** that are fundamentally connected to plastic pollution and its impacts, the negotiations should examine regime interactions with the core international human rights law treaties, including topics such as just transitions, non-discrimination, the right to life, food rights, water rights, labour and employment rights, adequate standard of living, women's rights, children's rights, Indigenous and traditional communities rights, and protections for rural communities. These linkages were affirmed by a number of States during discussions at INC-1 and INC-2, especially regarding the need for just transitions as part of the terms and application of the ILBI and the need to incorporate traditionally marginalized communities in the creation of the ILBI. Specific treaty regimes of relevance:

- International Covenant on Civil and Political Rights (ICCPR) – including the right to life (Art 6) and non-discrimination (Art 2, 26), equality between genders (Art 3), freedom of association and the right to join trade unions (Art 22), rights of children generally (Art 24), and the rights of minority communities (Art 27).

In General Comment 36 on the right to life, the Committee on Civil and Political Rights addressed the impacts of environmental harms and noted that “environmental degradation, climate change and unsustainable development constitute some of the most pressing and serious threats to the ability of present and future generations to enjoy the right to life. . . Implementation of the obligation to respect and ensure the right to life, and in particular life with dignity, depends, inter alia, on measures taken by States parties to preserve the environment and protect it against harm, pollution and climate change caused by public and private actors. States parties should therefore ensure sustainable use of natural resources, develop and implement substantive environmental standards, conduct environmental impact assessments and consult with relevant States about activities likely to have a significant impact on the environment, provide notification to other States concerned about natural disasters and emergencies and cooperate with them, provide appropriate access to information on environmental hazards and pay due regard to the precautionary approach.”

- International Covenant on Economic, Social and Cultural Rights (ICESCR) – including non-discrimination (Art 2), the right to work (Art 6) (including ongoing State obligations to provide opportunities for vocational, technical and educational training “to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual”), the right to just working conditions (Art 7) (including equality in pay and “safe and healthy working conditions”), the right to an adequate standard of living (Art 11), the right to health (Art 12) (including State obligations to ensure “the improvement of all aspects of environmental and industrial hygiene”), housing rights (Art 11), the right to food (Art 11), and adequate standard of living rights (Art 11).

Of note, in General Comment 26 on Land and Economic, Social and Cultural Rights (2022), the Committee on Economic, Social and Cultural Rights (CESCR) links land rights and sustainable land use to right to clean, healthy and sustainable environment, climate change and land use stresses, as well as right to food, water, agricultural production capacities, and an adequate standard of living. The General Comment further stresses the need for free, prior and informed consent to comply with the requisite participation, transparency and consultation elements of the ICESCR in its implementation. These are issues that have also emerged in the first stages of the ILBI negotiations.

In General Comment 23 on the right to just and favourable conditions of work (2016) the CESCR notes that the scope of covered work under the ICESCR has evolved to include the informal sector as well as those who are self-employed. The informal sector is critical to many aspects of the plastics life-cycle and, as highlighted by States and stakeholders during INC-1 and INC-2, it is vital that the workers in this sector be included in the terms of the ILBI.

- Convention on the Rights of the Child (CRC) – including non-discrimination against children (Art 2), the right to life (Art 7), the right to health (Art 24) (including State obligations to advance this “through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution”), the right to food (Art 24), the right to education including State obligations to ensure “the development of respect for the natural environment” (Art 29), the right to State action providing for protections of working children (Art 32), incorporation of the evolving capacities and best interests of the child standard in all aspects of law and policy that affect them (Arts 3, 5), and the rights to involvement in legislative and other decision-making (Arts 3, 4). Children and future generations have a fundamental connection to the outcomes of the ILBI from a health and human rights perspective, including those working in the informal sector and facing increased risks of potential harm as a result.

The May 2023 General Comment 26 on children’s rights and the environment with a special focus on climate change adopted by the Committee on the Rights of the Child emphasizes that pollution and waste have contributed to and exacerbated climate change, as well as the impacts of pollution on all aspects of children’s lives and experiences. It emphasizes the concerns of future generations in this context, noting that there are intragenerational and intergenerational effects that can take several generations to manifest. Critically, it highlights the ways in which pollution and environmental degradation can impact all aspects of the child’s right to health. Additionally, the General Comment highlights the impacts of environmental damage and pollution on Indigenous children, including through efforts to implement adaptation and mitigation at the national level.

- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) – including multiple elements of non-discrimination rights (Arts 1, 2), labour and employment rights (Arts 11, 14), specialized rights and requirements of rural women (Art 13), rights to participation in public life (Art 15), and the right to health (Art 12).

In General Comment 39 (2022) on the rights of Indigenous women and girls, the Committee on the Elimination of All Forms of Discrimination against Women emphasized the critical and intersectional role of women and girls in Indigenous communities and in society overall. The Committee’s assessment focused in relevant part on the role of Indigenous women as holders and guardians of Indigenous and traditional knowledge. Further, the Committee noted that “environmental degradation, including biodiversity loss, pollution and climate change, are direct threats to the self-determination, cultural integrity and survival of Indigenous women and girls, as are the unauthorized use and appropriation of their technical knowledge, spiritual practice, and cultural heritage by State actors and third parties. States should protect and preserve Indigenous languages, culture and knowledge, including through the use of digital tools; sanction the unauthorized appropriation and use of such languages, culture and knowledge; and respect and protect the lands, territories and sacred places of Indigenous Peoples.”

General Comment 39 also stresses that “human-caused pollution, contamination, deforestation, burning of fossil fuels and loss of biodiversity threaten that link. The failure of States to take adequate action to prevent, adapt to and remediate these serious instances of environmental harm constitutes a form of discrimination and violence against Indigenous women and girls that needs to be promptly addressed. Moreover, States should take steps to recognize the contribution of Indigenous women through their technical knowledge of biodiversity conservation and restoration, including them in decision-making, negotiations and discussions concerning climate action and mitigation and adaptation measures.”

General Comment 37 (2018) on the gender-related dimensions of disaster risk reduction in the context of climate change is also important because it highlights the inherent threat posed by transboundary pollution and toxic waste pollution to all populations, especially women and marginalized communities. It stresses the ways in which the triple planetary crisis can be seen as contributing to increasingly severe disasters and threats in the future and the need for the international community and State Parties to take steps toward mitigating this.

In General Comment 27 on older women and protection of their human rights (2010), the Committee on the Elimination of All Forms of Discrimination against Women emphasizes that climate change and natural disasters pose a special and significant threat to older women across the world because of status as women, elderly, and often marginalized. Pollution plays a role in these harms. Further, in General Comment 34 on the rights of rural women (2016), the Committee stresses the varied identities of rural women, including as part of the fishing industry as well as agricultural sectors, and the need for them to be specifically addressed as such under international and national laws. Given the connections between plastic pollution of the seas and in the agricultural sectors, these are critical considerations for the ILBI as well.

- International Convention on the Elimination of All Forms of Racial Discrimination (CERD) – including rights to be implemented free from racial discrimination in working rights and employment (Art 5), payment (Art 5), and the right to health and medical care (Art 5). In the First draft General recommendation No. 37 (2023) on Racial discrimination in the enjoyment of the right to health, the Committee on the Elimination of All Forms of Racial Discrimination emphasized the ways in which racial discrimination



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is linked to exposure to environmental harms across the world, harms which ultimately result in health issues.

- Convention on the Rights of Persons with Disabilities (CRPD) – including the participation and non-discrimination rights (Art 3), the right to health (Art 3, 25), the rights of women with disabilities (Art 6), the rights of children with disabilities (Art 7), the right to employment and adequate standards of living (Art 27, 28), and State obligations during times of risk and emergencies (Art 11).
- International Labour Organization Convention 182 - Worst Forms of Child Labour Convention – including forms of employment and activities that are likely to cause harms to the health and safety of children as a one of the worst forms of child labour within the covered definition of the Convention.
- International Labour Organization Convention 169 – Indigenous and Tribal Peoples Convention – including requirements that “special measures shall be adopted as appropriate for safeguarding the persons, institutions, property, labour, cultures and environment of the peoples concerned” within State Parties. This is further reflected in terms relating to the nexus between Indigenous community rights and interests in land as being critical from a cultural, environmental and economic perspective, as well as the obligations of State Parties to recognize and protect Indigenous ownership and forms of ownership. Given the repeated emphasis by States and stakeholders at INC-1 and INC-2 on the impacts of plastic pollution on Indigenous communities and the need to incorporate traditional knowledge as part of the ILBI, the terms of Convention 169 serve a critical point of regime overlap.
- United Nations Declarations on the Rights of Indigenous Peoples – including essential land and natural resource rights for Indigenous peoples and communities, requirements for consultation and free, prior and informed consent. Given the repeated emphasis by States and stakeholders at INC-1 and INC-2 on the impacts of plastic pollution on Indigenous communities and the need to incorporate traditional knowledge as part of the ILBI, the terms of UNDRIP serve a critical point of regime overlap.
- United Nation General Assembly Resolution on the Right to a Clean, Healthy and Sustainable Environment (2021) – while not binding international law, the recognition of this right represents an important and evolving trend that has been reflected in the policies and decisions of many international treaty bodies.
- ILO Convention 170 – Chemicals Convention (1990) – containing significant provisions for State Parties’ obligations to regulate and provide safe working conditions for those workers exposed to chemicals and hazardous chemicals. Included in the categories of exposure and working conditions covered by the Chemicals Convention are “(i) the production of chemicals; (ii) the handling of chemicals; (iii) the storage of chemicals; (iv) the transport of chemicals; (v) the disposal and treatment of waste chemicals; (vi) the release of chemicals resulting from work activities; and (vii) the maintenance, repair and cleaning of equipment and containers for chemicals.” Other relevant provisions are requirements for the labelling of chemicals, and especially hazardous chemicals. While much of the onus of the Chemicals Convention is on employers and States as regulators of employers, it also contains disclosure requirements for chemical exporting States.

At the regional level, synergies may be found with the Inter-American Human Rights system, the European Charter of Human Rights, and the African Charter of Human Rights as well as

the associated court systems. Indeed, these courts have created case law that can be quite critical to support elements of the ILBI in terms of environmental protection and the nexus between human rights and the environment.

- African Charter of Human and Peoples' Rights – contains employment rights, namely “every individual shall have the right to work under equitable and satisfactory conditions, and shall receive equal pay for equal work” (Art 15), the right to health (Art 16), the right to education, and State recognition that “the promotion and protection of morals and traditional values recognized by the community shall be the duty of the State” (Art 17), and the rights of women and children (Art 18(3)).
- Inter-American Charter of Human Rights – contains freedom of association rights, including for labour or economic purposes (Art 16), and the right of the child to protection based on minority status in law (Art 19). Additionally, in 2017 the Inter-American Court of Human Rights issued its Advisory Opinion on “the Environment and Human Rights,” recognizing the existence of a regional human right to a healthy environment.
- Charter of Fundamental Rights of the European Union – includes freedom of association rights for trade unions and other purposes (Art 12), the right to education, including vocational and technical training (Art 14), the right to freedom of choice for occupation as well as the core right to work (Arts 15, 27), the right to equality and non-discrimination as a matter of law (Arts 20, 21, 23), the rights of the child (Art 24), and the right to health (Art 35), and the right to environmental protection (Art 37) (providing that “a high level of environmental protection and the improvement of the quality of the environment must be integrated into the policies of the Union and ensured in accordance with the principle of sustainable development”). Using these fundamental rights, the European Court of Human Rights has heard seminal cases involving the concept of environmental pollution as constituting a human rights violation and has created case law which enshrines this connection.

How? In recognition of the connections between regulation of plastic pollution and **international trade**, the negotiations should examine regime interactions with several forms of trade agreements, including:

- World Trade Organization system – there are foundational connections between the treaties comprising WTO law and the regulation of plastic pollution. In the joint IUCN, IUCN WCEL and QUNO submission for INC-3, it has been highlighted that subsidies will represent an area of significant overlap in terms of plastics and related products and the potential for substitutes and alternatives to fall within the parameters of substitute elements. What should be further emphasized is the need to ensure that the terms and implementation of the ILBI do not pose a threat of non-compliance with the WTO legal system to the point where a State Party to both regimes would face compliance issues and potential Dispute Settlement Body claims while seeking to comply with obligations under the Treaty. In this context, the requirement of a potential waiver from the WTO, similar to that issued to facilitate implementation of the Kimberley Certification Process, should be considered from an early point in the negotiation process. For more on these issues, see the joint IUCN, IUCN WCEL and CIEL brief on trade issues made prior to INC-2.
- Free Trade Agreements/Regional Trade Agreements – there are currently more than 250 free trade agreements and regional trade agreements between members of the international community. An increasing number of these agreements contain

environmental protection, sustainable development, labour law, intellectual property law, labelling requirements, biological diversity protections, and climate change related provisions and some have created environmental compliance oversight organizations under their auspices. For more on these connections, please see the IUCN Briefing for Negotiators on Free Trade Agreement Convergence with the ILBI ahead of INC-3.

How? In recognition of the connections between regulation of plastic pollution and **sustainable development**, the negotiations should examine regime interactions with multiple elements of the Sustainable Development Goals (SDGs). Although the SDGs are soft law, they have been incorporated across a spectrum of treaty body implementation measures and targets, and have a number of connections to plastic pollution, including:

- SDG 1 – end poverty in all its forms, everywhere – the inclusion of just transitions elements in the Plastic Pollution Treaty offers the ability to ensure economic opportunity and inclusion for all, which could provide a pathway to reduce national and global rates of poverty for men and women.
- SDG 2 – end hunger, achieve food security and improved nutrition and promote sustainable agriculture – targeting plastic pollution for elimination, along with recognition of and efforts to address the connections between plastic pollution and agriculture in the ILBI would offer an opportunity to advance the targets relating to food security and agricultural advancement.
- SDG 3 – ensure healthy lives and promote well-being for all at all ages - In Target 3.9, States commit to “substantially reduce the number of deaths and illnesses from hazardous chemicals and air, water and soil pollution and contamination” by 2030. The reduction of plastic pollution is inherently linked to achievement of Target 3.9 both in terms of the emissions needed to produce plastic and the increasingly understood connections between plastic contamination and human health issues.
- SDG 6 - ensure availability and sustainable management of water and sanitation for all – eliminating plastic pollution would substantially impact the achievement of most aspects of SDG 6, especially Target 6.3, in which States undertake to “improve water quality by reducing pollution, eliminating dumping and minimizing release of hazardous chemicals and materials, halving the proportion of untreated wastewater and substantially increasing recycling and safe reuse globally.”
- SDG 8 – promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all – the inclusion of just transitions elements in the ILBI, as well as reductions in harmful elements of plastics and plastics-containing products, would advance multiple elements of SDG 8. Additionally, the inclusion of circularity and the plastics life-cycle in the ILBI would assist in accomplishing Target 8.4 to “endeavour to decouple economic growth from environmental degradation.”
- SDG 9 – build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation – Target 9.4, “upgrade infrastructure and retrofit industries to make them sustainable, with increased resource-use efficiency and greater adoption of clean and environmentally sound technologies and industrial processes, with all countries taking action in accordance with their respective capabilities,” is linked to the issue of plastics pollution across all levels of the plastics lifecycle. From infrastructural and industrial practices at the production level to consumption level to disposal and end of the product lifecycle, the elimination of single use plastic pollution and plastic pollution generally will require inherent changes.
- SDG 11 – make cities and human settlements inclusive, safe, resilient and sustainable – given the reality of plastic pollution concentration in and caused by urban settlements, there is a connection between the elimination of plastic pollution and the requirements of Target 11.6 and Target 11.7. At a general level, eliminating plastic pollution on an



ambitious timeline could have a supporting effect for State commitments to “protect and safeguard the world’s cultural and natural heritage” in line with Target 11.4.

- SDG 12 – ensure sustainable consumption and production patterns – eliminating plastic pollution and regulating the plastics lifecycle could assist States with achieving many commitments under SDG 12.
- SDG 13 – take urgent action to combat climate change and its impacts – the connection between aspects of plastic production and carbon emissions, as well as the fossil fuels used in plastics, creates a nexus between efforts to regulate climate change and to eliminate plastic pollution generally.
- SDG 14 - conserve and sustainably use the oceans, seas and marine resources for sustainable development – in Target 14.1, the importance of combatting marine pollution on a more advanced timeframe is clear, providing that “by 2025, prevent and significantly reduce marine pollution of all kinds, in particular from land-based activities, including marine debris and nutrient pollution.” Relatedly, including ghost gear and similar products within the scope of plastic pollution to be eliminated in the Plastic Treaty would allow States to further the elements of Target 14.7, “by 2030, increase the economic benefits to Small Island developing States and least developed countries from the sustainable use of marine resources, including through sustainable management of fisheries, aquaculture and tourism,” when combined with an ambitious timeline for the elimination of plastic pollution.
- SDG 15 – protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss – given the potential impacts of eliminating single use plastic pollution, and plastic pollution generally, on preventing degradation of multiple ecosystems through soil, water and associated damage, the ILBI offers the potential for States to take steps toward their commitments in Target 15.3 (“By 2030, combat desertification, restore degraded land and soil, including land affected by desertification, drought and floods, and strive to achieve a land degradation-neutral world”) and Target 15.4 (“By 2030, ensure the conservation of mountain ecosystems, including their biodiversity, in order to enhance their capacity to provide benefits that are essential for sustainable development).

2. Develop synergies between existing treaty regime governance systems and the proposed Plastic Pollution Treaty

What? The issue of plastic pollution intersects with a number of multilateral environmental agreements (MEAs), as highlighted by the discussion in UNEP briefing note 10 in advance of INC-1 and during elements of discussions during INC-1 and INC-2. Similarly, a number of bi-lateral and regional agreements regarding transboundary pollution and shared natural resources exist and there will be correlations between them and the proposed ILBI.

How? In recognition of the many forms of **multilateral environmental agreements** that are fundamentally connected to pollution, plastic pollution and its impacts, the negotiations should examine regime interactions, including terms relating to transboundary impacts and harms, impacts on vulnerable communities, impacts on Indigenous communities, impacts on women and children, reporting and oversight mechanisms potentially overlapping with the National Action Plans foreseen for ILBI. Additionally, negotiations should consider the several treaties which have already designated certain plastics, plastic waste and plasticizers as hazardous or otherwise problematic substances under their terms. Specific treaty regimes of relevance:

- Ramsar Convention on Wetlands of International Importance Especially as Waterfowl Habitat – including requirements for the listing of national wetlands and associated



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habitats on the List of Wetlands of International Importance, and recognizing the transboundary impacts of harms to wetlands and associated habitats. Given the extent of plastic pollution harms and potential damage to wetlands nationally and internationally, there is an important connection between the Ramsar Convention and the ILBI.

- Stockholm Convention on Persistent Organic Pollutants – including several forms of plastics and plasticizers in covered and excepted lists of pollutants. The preamble includes awareness “of the health concerns, especially in developing countries, resulting from local exposure to persistent organic pollutants, in particular impacts upon women and, through them, upon future generations.” Core terms of the Stockholm Convention involve identifying, banning and regulating the lifecycle of POPs. The Stockholm Convention also contains reporting and evaluation requirements at the national levels.
- Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade – core objectives show layers of responses and measures needed to address the issue of transboundary transportation (Art 1) (“The objective of this Convention is to promote shared responsibility and cooperative efforts among Parties in the international trade of certain hazardous chemicals in order to protect human health and the environment from potential harm and to contribute to their environmentally sound use, by facilitating information exchange about their characteristics, by providing for a national decision-making process on their import and export and by disseminating these decisions to Parties”). The Rotterdam Convention creates information sharing/gathering requirements, information review, permission and permitting system that could be replicated for ILBI and also could require consultation when there are cross-regulated substances.
- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal & Protocol – the preamble and general terms stress the interconnected nature of hazardous waste practice and human health concerns as well as environmental protections. The Basel Convention contains requirements to ban the transport of certain listed wastes, limit the production and transport of restricted wastes, regulating and targeting illegal trafficking of wastes. The Annexes include multiple forms of plastics and plasticizers in covered and excepted lists of pollutants.
- Minamata Convention on Mercury – stressing the transboundary nature of mercury as a pollutant and agent of harm to human health and the environment, links to sustainable development, stresses impacts of mercury pollution on multiple vulnerable communities, particularly women, children, and future generations, includes similar elements to persistent organic pollutants regarding Indigenous communities and Arctic impacts of mercury, and emphasizes the ways in which mercury pollution issues intersect with other treaty regimes. These elements overlap with issues raised for inclusion in the ILBI discussions.
- Convention on Long-Range Transboundary Air Pollution – within the ILBI context, it is important to acknowledge the intersections given scientific parameters of plastic pollution and particles being found in the air that can become transboundary pollution.
- Vienna Convention for the Protection of the Ozone Layer and Montreal Protocol on Substances that Deplete the Ozone Layer – within the ILBI context, it is important to consider as part of regime convergence because of increasing scientific

data demonstrating the impacts of some plastics production methods and waste disposal, especially involving incineration, on the ozone layer.

- Convention on the Conservation of Migratory Species of Wild Animals – including provisions recognizing State Party obligation to adopt measures relating to pollution and other safety threats to migratory species. It should be noted that many of these interlinkages are amplified in the CMS Strategic Plan for Migratory Species 2015 – 2023. Given the impacts of plastic pollution on multiple migratory species, the potential overlaps with the ILBI are numerous.
- International Treaty on Plant Genetic Resources for Food and Agriculture – including State Party requirements for “the conservation and sustainable use of plant genetic resources for food and agriculture and the fair and equitable sharing of the benefits arising out of their use, in harmony with the Convention on Biological Diversity, for sustainable agriculture and food security.” Given the impacts of plastic pollution on groundwater, soil, and agriculture, the potential overlaps with the ILBI are numerous.
- United Nations Convention to Combat Desertification – including involvement of Indigenous and local communities in order to facilitate entrenchment across all levels of government and society, use of National Action Plans as reporting tools for State Parties, which could lead to some overlaps with plastics pollution in terms of terrestrial sources, and capacity-building, technology transfer and community engagement.

In COP 15 (2022) Decision 20, State Parties adopted measures recognizing the intertwinement of desertification and drought issues with sustainable land management terms more broadly and cross-cutting treaty regimes. This was expanded in Decision 8 from COP 15, highlighting the ways in which reporting requirements under the UNCCD and other related treaty regimes could be beneficial to each other through information sharing and data collection practices.

- Convention on International Trade in Endangered Species of Wild Flora and Fauna – notably, the Strategic Vision for 2021 – 2030 stresses the potential opportunity for advancing the principles of CITES through collaboration with other related treaty regimes. Given the impacts of plastic pollution on all species, including endangered species, the potential overlaps with the ILBI are numerous.
- United Nations Framework Agreement on Climate Change & Paris Agreement on Climate Change – including a stress on the role of human activity in generating greenhouse gas emissions, which would cover plastic production, and damage to the environment as well as threats to humankind. The UNFCCC’s terms and functioning directly connect with the understanding that the science of climate change and greenhouse gas emission impacts will expand and change, requiring flexibility in legal and regulatory responses. Principles used include equity, precaution, future generations protection and sustainable development.

The Paris Agreement includes just transitions, food security, human rights, Indigenous communities and local communities, gender equity and the rights of children and future generations. It establishes Nationally Determined Contribution reporting requirements, which could represent areas of significant overlap with National Action Plans in the plastics context. Similar overlaps and potential for complementarity are provided for in terms of mitigation and adaptation, as well as loss and damage, capacity-building, and transparency framework.

Recent decisions from COP 27 (2022) have focused on the expansion of just transitions and highlighting of intersections between UNFCCC and other treaty regimes for achieving this, the connections with the Sustainable Development Goals, creation of increased goals for global levels of adaptation, recognition of impacts of climate change on agriculture, soil health and food security along with cross-connections to Sustainable Development Goals and biodiversity issues, and financing for loss and damage with a focus on climate vulnerable States.

Taken together, there are important areas of overlap between the UNFCCC, Paris Agreement and subsequent decisions of the Conferences of the Parties that will be critical to maximizing the effectiveness of the ILBI.

- United Nations Convention on Biological Diversity (CBD) & Protocols – including the importance of biodiversity to the global environment, and damage to biodiversity as a threat to humankind. The CBD's terms and functioning directly connect with the understanding that the science of biodiversity loss and conservation will expand and change, requiring flexibility in legal and regulatory responses. Principles used include equity, future generations protection and sustainable development. There is also an express recognition of the connections between Indigenous and traditional communities and biodiversity.

Requires the adoption and reporting of national biodiversity strategies and action plans by State Parties. Provisions address in situ conservation, which is of importance for the plastics context, and sustainable use measures for biological diversity at the national level. Includes provisions for impact assessments that include potential damage to biological diversity including in emergency circumstances. Additional elements include technology transfer, scientific cooperation, and financing.

During COP 15 State Parties and adopted decision stressed connections with ocean degradation, land degradation, pollution and health concerns, mainstreaming biodiversity issues across all elements of law and policy at the national level of State Parties, gaps in information and compliance after a stocktake of the latest national biodiversity strategies and action plans submissions and implementation of Aichi Targets, sustainable wildlife management and regime convergence to support this, expansion of Indigenous and local community inclusion and participation, connections between biodiversity, natural resources and cultural heritage, connections between the conservation and sustainable use of marine and coastal resources, scientific knowledge, and oceans protection, connections between biodiversity and agricultural practices, including sustainable use of soils, highlighting pollution as one of the key threats in this area, connections between biodiversity conservation and human health, inclusion of sub-national governments in the development and implementation of national laws and policies relating to biodiversity, and implementation of a Gender Plan of Action to address responses to biodiversity threats and associated impacts.

The core decision taken during COP 15 was the adoption of the Kunming-Montreal Global biodiversity protections. The new Kunming-Montreal Global Biodiversity Framework alongside the 2050 Vision for Biodiversity. Many of these goals and targets are reflective of pollution-related harms and concomitant protections as well as those relating to marine resources and biodiversity protections. These include GBF Target 7, addressing the reduction of pollution and negative pollution impacts by 2030. The GBF includes an updated reporting requirement for national biodiversity strategies and action plans.

Taken together, there are important areas of overlap between the CBD regime and subsequent decisions of the Conferences of the Parties that will be critical to maximizing the effectiveness of the ILBI.

How? In recognition of the many forms of **environmental impact assessment agreements** that are fundamentally connected to plastic pollution and its impacts, the negotiations should examine regime interactions, including terms relating to access to information, public participation, free, prior and informed consent, the precautionary principle, prevention, the polluter pays principle, interlinkages with human rights, interlinkages with sustainable development, non-discrimination in environmental rights, entrenching the rule of law, environmental justice, rights of future generations, and capacity-building, and the creation of information clearing house mechanism for information sharing. Specific treaty regimes of relevance:

- Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazu Convention) – including specific obligations for State Parties to include access to justice elements in law and policy regarding environmental protection and environmental matters, with a special focus on human rights defenders in terms of access to information as well as protection from harm. General principles include “Each Party shall guarantee the right of every person to live in a healthy environment and any other universally-recognized human right related to the present Agreement” (Art 4(1)). During INC-1 and INC-2, many Escazu Convention State Parties emphasized the connections between efforts to combat plastic pollution and the terms of the Convention.
- Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) – including obligations for notification and consultation between States where there is an expected transboundary impact as well as mechanisms through which this is to be achieved and the results are to be communicated.
- Protocol on Strategic Environmental Assessment to the Convention on Environmental Impact Assessment in a Transboundary Context – including provisions that frame issues such as pollution in a broader context of strategic environmental assessment.
- UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) – including a significant emphasis on transparency, public participation and access to information, and the links between development and health for present and future generations (Art 1). Includes certain chemicals related to plastics and plastics containing products within the scope of annexes of activities requiring information disclosures and impact assessments.

How? In recognition of the many forms of **marine and fisheries agreements** that are fundamentally connected to plastic pollution and its impacts, the negotiations should examine regime interactions, including terms relating to pollution prevention, control and prohibitions, sustainable development, the rights of future generations, control measures for wastes, restrictions on activities in State Party territorial waters including those that could extend to plastic pollution, fishing gear-related pollution and methods of disposal, groundwater and freshwater resource protections, restrictions on activities of State Party flag ships including those that could extend to plastic pollution, and training and technology transfer. Specific treaty regimes of relevance include:



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- United Nations Convention on the Law of the Sea – enshrining the prevention of maritime pollution as one of the duties of a Flag State (Art 94), State Party obligations regarding conservation and management of living resources within their maritime territories (Sect 2), obligation to protect the marine environment, including in relation to pollution (Art 145), and obligation to protect human health (Art 146). Additionally, UNCLOS includes discharge prevention as part of the duties of ships and aircraft in transit (Art 39), cooperation and mutual requirement of States bordering in Straits to prevent pollution (Art 43), the general obligation of States to protect the marine environment (Art 192), State obligations for prevention and reduction of marine pollution (Art 194, 195), State duties to share information on actual or potential transboundary marine pollution and to develop contingency plans to address this pollution (Art 198, 199), State undertakings on knowledge sharing regarding marine pollution (Art 202), State monitoring obligations that include pollution (Art 204), and State obligations to generate laws and rules relating to marine pollution, sources and impacts (Sect 5).
- Agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (High Seas Treaty) – in the preamble, reinforcing State Party obligations under UNCLOS, incorporating Indigenous communities and traditional knowledge (Art 13), also “recognizing the need to address, in a coherent and cooperative manner, biological diversity loss and degradation of ecosystems of the ocean, due, in particular, to climate change impacts on marine ecosystems, such as warming and ocean deoxygenation, as well as ocean acidification, pollution, including plastic pollution, and unsustainable use.” The High Seas Treaty contains general principles (Art 7) including “the non-transfer, directly or indirectly, of damage or hazards from one area to another and the non-transformation of one type of pollution into another in taking measures to prevent, reduce and control pollution of the marine environment,” as well as requirements to protect and restore the Area as well as Marine Protected Areas from harms including marine pollution (Art 17), and the inclusion of pollution evaluations as part of environmental impact assessment practice (Arts 28, 30),
- International Convention for the Prevention of Pollution from Ships & Protocol (MARPOL) – including terms in the annexes addressing restricted wastes that could cover plastics. Protocol provisions include prohibitions on the dumping of hazardous substances at sea as well as the incineration of wastes at sea, charging State Parties with enforcing these measures. State Party obligations under the Protocol extend to activities in their territorial waters as well as flag ships and ships loading and unloading in their waters. However, the Protocol is optional for States to enforce in purely internal waters such as lakes. Places classifications of covered wastes for the purposes of triggering the Protocol in the annexes. Annex III establishes examples of criteria that could be used in evaluating permit applications, including environmental and human health, and could extend to various forms of plastic pollution.
- Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas – including requirements that State Parties acting as flag states for ships to adopt and enforce measures that ensure “fishing vessels entitled to fly its flag do not engage in any activity that undermines the effectiveness of international conservation and management measures.”
- Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing – including a focus on the need to promote food security, and

generally including a focus on the designation of allowable fishing gear and practices as well as inspections and sanctions for prohibited forms of fishing gear.

- Agreement for the Establishment of the Regional Commission for Fisheries – through which State Parties are tasked with providing for conservation and species management, including through the regulation of fishing gear used in the region (Art III).
- Asia-Pacific Fishery Commission – creating the Commission, which is tasked with oversight and protection of marine resources from pollution (Art IV), “to keep under review the economic and social aspects of fishing and aquaculture industries and recommend measures aimed at improving the living and working conditions of fishermen and other workers in these industries and otherwise at improving the contribution of each fishery to social and economic goals” (Art IV (c)).
- Agreement for the Establishment of the General Fisheries Commission for the Mediterranean – preamble including “recognizing the economic, social and nutritional benefits deriving from the sustainable use of living marine resources in the area of application,” and an overall objective to “to ensure the conservation and sustainable use, at the biological, social, economic and environmental level, of living marine resources, as well as the sustainable development of aquaculture in the area of application” (Art 2).
- Agreement of the Central Asian and Caucasus Regional Fisheries and Aquaculture Commission – including a wide range of focus areas for activity and regulation, many relating to fishing operations and practices in relation to environmental and natural resource protection.
- Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR) – including pollution from land-based sources (Art 3), pollution generated by dumping or incineration (Art 4), pollution from offshore sources (Art 5) and pollution from other sources (Art 7), as well as efforts to address and combat transboundary pollution in the marine environment (Art 21). Notably, OSPAR has generated annexes that key to each of the main pollution provisions and provide lists of processes for designating qualifying pollutants.
- Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean – preamble noting the importance of conservation generally and also for food security, biodiversity, Principles and measures for conservation and management (Art 5) (“(e) adopt measures to minimize waste, discards, catch by lost or abandoned gear, pollution originating from fishing vessels, catch of non-target species, both fish and non-fish species, (hereinafter referred to as non-target species) and impacts on associated or dependent species, in particular endangered species and promote the development and use of selective, environmentally safe and cost-effective fishing gear and techniques; (f) protect biodiversity in the marine environment”.
- Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region & Protocols – including pollution caused by ships, pollution from dumping, land-based pollution, pollution stemming from sea-bed activities, “airborne pollution,” and the creation of certain forms of protected areas under national jurisdiction. Further, there are environmental impact assessment provisions that focus on pollution and associated impacts. The latter was subsequently expanded in the

dedicated Protocol Concerning Specifically Protected Areas and Wildlife and the Protocol Concerning Pollution from Land-Based Sources and Activities.

- Convention on the South East Atlantic Fisheries Organization (SEAFO) – containing commitments to sustainable use and management of fish and marine resources (Art 2), precautionary approach (Art 2), and regulation of fishing gear as part of Commission function (Art 6).
- Convention for the Co-operation in the Protection and Development of the Marine and Coastal Environment of the West and Central African Region (Abidjan Convention) – including pollution caused by ships, pollution from dumping, land-based pollution, pollution stemming from sea-bed activities, “airborne pollution,” and the creation of certain forms of protected areas under national jurisdiction.
- Convention was amended by the Convention for the Protection of the Marine Environment and the Coastal Region – including dumping and pollution by aircraft, ships, and incineration at sea, pollution from sea-bed activities, pollution from terrestrial sources, and pollution caused by transboundary shipment of hazardous materials.
- Bamako Convention – including restrictions for wastes resulting from plastics and certain forms of plasticizers as covered hazardous substances (Art 1), waste importation bans for identified hazardous wastes (Art 4), transportation and transboundary pollution restrictions (Art 4(3)), notification and approval requirements for transboundary shipments of hazardous wastes in the African context (Art 6).
- Convention on the Protection and Use of Transboundary Watercourses and International Lakes & Protocol on Water and Health to the Convention on the Protection and Use of Transboundary Watercourses and International Lakes – general provisions include “(a) To prevent, control and reduce pollution of waters causing or likely to cause transboundary impact; (b) To ensure that transboundary waters are used with the aim of ecologically sound and rational water management, conservation of water resources and environmental protection”, incorporating polluter pays, precaution, and the rights of future generations (Art 2), and cooperation in research and development to combat pollution and its effects (Art 5).

Measures to foster prevention, control and reduction of “(a) The emission of pollutants is prevented, controlled and reduced at source through the application of, inter alia, low- and non-waste technology; (b) Transboundary waters are protected against pollution from point sources through the prior licensing of waste-water discharges by the competent national authorities, and that the authorized discharges are monitored and controlled; (g) Appropriate measures and best environmental practices are developed and implemented for the reduction of inputs of nutrients and hazardous substances from diffuse sources, especially where the main sources are from agriculture (guidelines for developing best environmental practices are given in annex II to this Convention); (h) Environmental impact assessment and other means of assessment are applied; (k) Additional specific measures are taken to prevent the pollution of groundwaters; (l) The risk of accidental pollution is minimized.” (Art 4(1)).

- Convention for the Strengthening of the Inter-American Tropical Tuna Commission – including requirements that conservation and management are to be governed with transboundary impact and the precautionary approach in mind.



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- Waigani Convention – including wastes resulting from plastics and certain forms of plasticizers as covered hazardous substances.
- Convention on the Protection of the Marine Environment of the Baltic Sea Area (Helsinki Convention/HELCOM) – providing extensive definitions of pollution (Art 2) (“1. ‘Pollution’ means introduction by man, directly or indirectly, of substances or energy into the sea, including estuaries, which are liable to create hazards to human health, to harm living resources and marine ecosystems, to cause hindrance to legitimate uses of the sea including fishing, to impair the quality for use of sea water, and to lead to a reduction of amenities”), and pollution from land based sources (Art 2) (“‘Pollution from land-based sources’ means pollution of the sea by point or diffuse inputs from all sources on land reaching the sea waterborne, airborne or directly from the coast. It includes pollution from any deliberate disposal under the seabed with access from land by tunnel, pipeline or other means”).

Using the precautionary principle and polluter pays, the general principles include “the Contracting Parties shall individually or jointly take all appropriate legislative, administrative or other relevant measures to prevent and eliminate pollution in order to promote the ecological restoration of the Baltic Sea Area and the preservation of its ecological balance.” (Art 3). Incorporates best available technology and best environmental practices as standards and guidelines for addressing pollution (Art 3). Uses annexes to set out harmful and banned substances, as well as elements for best available technology and best environmental practices, prevention of pollution from land-based sources, prevention of pollution from ships.

- Convention on Cooperation for the Protection and Sustainable Use of the Danube River – including pollution and other impacts from fishing activities and focusing on groundwater and drinking water impacts as well as pollution of the Danube itself. Several forms of plastics and plastic compounds are identified as being within the industrial sectors and industries contributing to pollution and waste issues in the Danube Region.
- Convention on the Protection of the Rhine – committing Parties to sustainable development of the Rhine (Art 3), “(a) maintaining and improving the quality of the Rhine’s waters, including the quality of suspended matter, sediments and groundwater, notably by — preventing, reducing or eliminating as far as possible pollution caused by noxious substances and by nutrients from point sources (e.g. industry and municipalities) and diffuse sources (e.g. agriculture and traffic) — including that from groundwater —and pollution from shipping, (e) ensuring environmentally sound and rational management of water resources”.
- Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin – including provisions “to protect the environment, natural resources, aquatic life and conditions, and ecological balance of the Mekong River Basin from pollution or other harmful effects resulting from any development plans and uses of water and related resources in the Basin” (Art 3).

How? In recognition of the many forms of **cultural and natural heritage** that are fundamentally connected to plastic pollution and its impacts, the negotiations should examine regime interactions, including terms relating to cultural heritage protections, traditional knowledge protection, underwater cultural heritage protection and preservation, and rights of and duties toward future generations. Specific treaty regimes of relevance include:



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- UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage – beginning with a preamble statement “noting that the cultural heritage and the natural heritage are increasingly threatened with destruction not only by the traditional causes of decay, but also by changing social and economic conditions which aggravate the situation with even more formidable phenomena of damage or destruction.” From this point, the Convention places the onus on State Parties to create primary legal and regulatory protections for the designated areas and parallel international oversight (Art 5, 7).
- UNESCO Convention for the Safeguarding of Intangible Cultural Heritage – including protections for and recognition of Indigenous and traditional knowledge as a form of intangible cultural heritage.
- UNESCO Convention on the Protection of the Underwater Cultural Heritage – providing definitions of underwater cultural heritage (Art 1), regulating State-based activities that impact on underwater cultural heritage (Art 5) (“Each State Party shall use the best practicable means at its disposal to prevent or mitigate any adverse effects that might arise from activities under its jurisdiction incidentally affecting underwater cultural heritage”), and extending the rules stemming from the Convention to State territorial waters and the contiguous zone and continental shelf (Art 8).
- UNESCO Declaration on the Responsibilities of the Present Generations Toward Future Generations – including the interlinkages between environmental health and protection and the rights of future generations, notably the need to “ensure that future generations are not exposed to pollution which may endanger their health or their existence itself” (Art 5) as well as obligations of current generations as stewards of natural resources for future generations (Art 4). Also providing that “the present generations have the responsibility to identify, protect and safeguard the tangible and intangible cultural heritage and to transmit this common heritage to future generations.” (Art 7).

What? A core part of most international and regional treaty regimes is the existence of one or more governance mechanisms for the implementation of the treaty. Often, these mechanisms include sub-committees or other structures that specialize in regime convergence and allow for coordination between treaty regimes with overlapping or similar interest areas. For example, the Food and Agriculture Organization (FAO) and World Health Organization (WHO) have a dedicated, shared governance entity for the adoption, review and periodic updating of the Codex Alimentarius, the internationally accepted standards for food practices. These systems offer a formal structure within which to discuss and take decisions on critical issues of shared knowledge.

How? Consider the inclusion of these forms of governance systems within the ILBI from the beginning of the negotiations, bearing in mind the many different types of treaty regimes that are implicated in efforts to address plastic pollution.