

Briefing paper

INC3 - Review of the Zero Draft Treaty:

Tearfund NZ recommendations

November 2023

About Tearfund NZ

Tearfund New Zealand is a faith-based international development organisation that works to alleviate poverty among the world's most vulnerable communities.

Introduction

We welcome the work by the United Nations to form an international binding agreement (the treaty) to tackle the global problem of plastic pollution and are encouraged that the New Zealand government is supporting and engaging in this work.

Tearfund's primary concern in relation to the treaty is the effect of plastic pollution on people in poverty. The treaty must serve as a means to address the devastating impact of plastic pollution especially on those living in poverty. We believe that the treaty provides an excellent opportunity to make real progress in tackling poverty. A robust treaty will reduce the negative impacts of plastic pollution on people living in poverty through a global reduction in the use of plastics. Furthermore, a treaty that prioritizes just transitions for communities whose livelihoods rely on plastic pollution will create an opportunity for improved livelihoods within a circular economy in plastics.

Tearfund's Position on the INC Zero Draft

Tearfund has reviewed the document by the Intergovernmental Negotiating Committee (INC), published in October 2023, *'Zero draft text of the international legally binding instrument on plastic pollution, including in the marine environment'*.

Tearfund believe that the zero draft is a balanced document that serves as a solid basis for negotiations moving forward. We welcome the inclusion of several of our key recommendations as options including key sections on waste management and just transition. It is crucial that negotiations progress through a full reading of the draft at INC3 and that negotiations focus on this draft and do not get waylaid by any stakeholders calling for a new draft to be prepared. Tearfund is aware that INC3 is a key time in the treaty process and if a first full reading of the zero draft does not occur, it could have a negative impact on the negotiations moving forward especially if we are unable to secure a mandate following INC3 to update the zero draft ahead of INC4.

This paper outlines our comments on several key areas within the zero draft and our recommendations for the New Zealand delegates present at INC3 to ensure that the most ambitious treaty possible is developed and supported.

Substantive Issues in the Zero Draft

Reduction

- Tearfund supports the development of an ambitious common target on reduction which is both mandatory and time bound. A substantial reduction in the amount of plastic produced is fundamental both to bringing about an end to plastic pollution and to the eradication of poverty. Reduction measures must be in conjunction with strong, legally binding measures within the Treaty to protect many countries from continuing to be severely impacted by plastic pollution.

As detailed in Part II of the zero draft, the production and supply of primary plastic polymers (II.1) reduction targets need to be subject to an ambitious, common target for reduction which is both mandatory and time bound. Furthermore, discussions around essential use exemptions for problematic and avoidable plastic products (II.3) must ensure these measures protect the needs of the most vulnerable but do not allow space for lack of ambition or protection of profits. Tearfund also recommends that the criteria for identifying problematic and avoidable products to be controlled under the treaty (II.3) must allow for sachets to be in scope. The criteria should be ambitious and expansive and should not be focused solely on the usage phase of the products (i.e. high risk of littering, easily replaceable) but also on downstream concerns (i.e. waste management issues and recyclability).

Consideration during negotiations should also be given to the recommendations made by CIEL¹. These include agreeing a global legally binding obligation to phase down the production of primary plastic polymers and precursors. We support the recommendation that a phasedown target and specific schedules to meet it should be included in an Annex to the Treaty, to allow regular review and updating from the governing body of the Treaty. Further, the Annex should include a baseline, a freeze in the levels of production by a determined year, and a phasedown schedule until reaching determined production levels. Discussions should also consider the inclusion of a mechanism to allocate differentiated timelines per defined groups of countries and an obligation for plastic production to comply with requirements to protect human and environmental health and human rights.

Waste Management

- Tearfund believes the Treaty must also consider ‘downstream’ measures to ensure the widest possible protection for the most vulnerable to the impacts of plastic pollution. Our focus on downstream measures does not ally us with petrochemicals or plastic-producing nations but rather with the poorest and most vulnerable among us who are suffering the devastating impacts of plastic pollution daily. To bring an end to plastic pollution by 2040 we need to both reduce demand and improve collection and safe disposal rates. There is no “*either...or...*”, we need “*both...and...*” if we are to make this treaty the life changing instrument it needs to be.

Tearfund support the need for strengthened waste management to ensure that plastic that is produced can be collected and recycled safely and responsibly. Tearfund wants to emphasize our view that improvements in collection should integrate the informal waste sector. New formal systems of waste management that are created should build on the strengths of waste pickers’ existing systems for collection, sorting and recycling. Furthermore, their meaningful participation in new systems should be prioritized.

The Treaty must defend against any lowering of standards or ambitions regarding either waste management practices or collection recycling rates for LMICs (II.9), recognising the universal human right to a clean, healthy and sustainable environment. A key concern for Tearfund is protecting human health especially in low and middle-income countries, where the impact of plastic pollution on health is

¹ Reducing-Plastic-Production-to-Achieve-Climate-Goals_Sept21_V5.pdf (ciel.org)

being experienced by the world's poorest and most vulnerable people. Plastic pollution harms people's lives in low- and middle-income countries in numerous ways. Plastic pollutes the water, the air and the soil creating a growing public health emergency in many towns and cities around the world. Dumped plastic prevents drainage, causes flooding and creates breeding grounds for disease vectors such as mosquitoes, flies and vermin. The incidence of diarrhoeal disease is twice as high for people living among mismanaged waste. Open burning increases the risk of heart disease, cancer, respiratory infection and other health conditions. Research shows that the burning of waste is responsible for a significant fraction of outdoor air pollution, which collectively accounts for 4.2 million deaths a year. While Tearfund seeks the strongest possible protections for low to middle income countries we believe this can only be achieved by a universal approach to obligations within the Treaty and therefore no language which allows for a differentiation of ambition by geographical context should be permitted.

Under Option 1.2 the wording should be changed from “for minimum safe and environmentally sound collection, recycling and disposal rates” to “for *universal* safe and environmentally sound collection, recycling and disposal rates” with regards to domestic collection, as the only way to guarantee the human right to a clean, healthy and sustainable environment, recognising this may need to be achieved through a phased approach over a period of time. A similar approach is needed under Option 2.1. Tearfund also recommend that behavioural change and consumer awareness under [6][5]5c should be “on sustainable consumption *and environmentally sound waste management practices*”.

Just Transition & the Rights of Informal Waste Workers

- Tearfund believes the Treaty must ensure a just transition for workers in the informal waste sector and communities in low- and middle-income countries who depend on plastic. It must ensure that where livelihoods are affected, plans are in place to support workers to make the transition to better livelihood opportunities. To mitigate this, Tearfund wish to emphasize the importance of the participation of the Waste Pickers Alliance and other groups in the negotiation process. Their inclusion will ensure that outcomes designed to support a just transition for waste do, in fact, do so. Tearfund calls on the NZ delegates to support the inclusion of waste picker representation at all points in the negotiations.

In order to aid the inclusion of waste pickers within all aspects of the Treaty, a definition within the zero draft is required for the phrase 'workers in informal and cooperative settings'. Tearfund recommend that 'waste pickers' be added to the list of vulnerable groups (II.12), to strengthen the reference to 'workers in informal and cooperative settings' later in the section.

Further, the recommendations on *how* to promote and facilitate a just transition (II.12) must be mandatory, not optional/suggestive as in the zero draft. At present, facilitating a just transition is mandatory in the zero draft, but the specific options are not. To address this, Tearfund calls for the wording 'this may include' to be altered to 'this shall include', 'this should include' and 'where relevant, this should include'. Tearfund also recommend that a cross-cutting reference to just transition needs to be added to the provisions common for both options under II.9 (under [6][5]a) given the importance of waste pickers taking on door-to-door collection as a just transition strategy.

Both the Just Transition (II.12) and/or the Extended Producer Responsibility (EPR) (II.7) sections of the zero draft need to mandate the integration of waste pickers into the development of EPR policies. Tearfund believes that it is crucial that EPR schemes integrate the waste pickers who are already operating informally within the jurisdiction of the EPR scheme. If not included, waste pickers will face severe human rights impacts and a threat to their livelihoods. This is an area where the treaty has the potential to make a real impact by establishing legally binding targets on EPR and ensuring waste picker integration is mandated and Tearfund would welcome the New Zealand government's support in this area.

We support the cross-cutting reference to just transition in the section on EPR although the precise wording may need adjusting depending on the option that is chosen for the EPR text. Tearfund also welcome the reference to using fees collected through EPR schemes to improve livelihoods and opportunities for waste pickers (or waste workers in informal and cooperative settings as they are described in the zero draft). However, a measure needs to be added and a link established between the Just Transition and EPR sections of the treaty text to require parties to integrate waste pickers into the development of EPR policies.

The New Zealand government should note that in several countries, initiatives working with waste pickers have resulted in an expansion in waste collection as well as improving their livelihoods, workplace safety and sense of dignity. Waste pickers are making a tremendous contribution to the fight against plastic pollution, cleaning up their communities and enabling companies to meet their collection targets. Tearfund asks that the New Zealand government support the recognition and valuable input those in the informal waste sector bring to the development of the treaty.

Operational Elements

- Tearfund calls for the operational elements within the zero draft to include waste management solutions and just transition within their scope, where relevant. We want countries to have to report on the measures they are taking under Just Transition. This will demonstrate to parties the importance of the just transition and encourage them to put resources into achieving it. Further, we believe only ambitious, legally binding obligations will ensure successful achievement of the treaty's goals. Tearfund ask that the New Zealand government support the inclusion of robust measures within the treaty (not just an 'encouragement to submit national implementation reports') so as not to leave any room for governments (or companies) to renege on promises, miss targets or avoid the consequences of doing so.

Within the zero draft the text on funding (III.1), capacity building, technical assistance and technology transfer (III.2), information exchange (III.6), and awareness raising, education and research (III.7) and reporting (IV.3) must all include waste management solutions and just transition within their scope, where relevant. Further, the reference to Just Transition under IV.1.l is important and needs to stay.

A vital part of the zero draft, that has yet to be defined is the format for National Action Plans (NAPs) (Annex G). Tearfund recommends that states should rely on legally binding targets and commitments, translated into robust plans based on National Implementation Plans (NIPs), and including elements traditionally associated with NAPs that take into account individual national circumstances. We support the recommendations made CIEL and IUCN² that NAPs and NIPs are neither equivalent in nature nor necessarily exclusive in their use, rather they are complementary forms of implementation. National plans that combine the specificity and legal characteristics of NIPs with measures traditionally associated with NAPs (i.e. flexibility for national circumstances) could be key for the success of the treaty.

Tearfund recognises that the solution to the problem of plastic pollution is complex and will not look the same in all contexts. For a low- or middle-income country where the use of single-use plastic enables access to critical health and sanitation goods, the journey will look different to that of a high-income country where habit and convenience are the main drivers of plastics consumption. Tearfund believes NAPs can help inspire and guide States to include measures that go beyond what is required under the plastics treaty, ensuring other voluntary approaches are also implemented and assessed in terms of compliance.

² https://www.ciel.org/wp-content/uploads/2023/08/National-Implementation-Plans-and-National-Action-Plans-Key-Elements-to-Consider-in-the-Context-of-a-Treaty-to-End-Plastic-Pollution_August-2023.pdf

Conclusion

Tearfund strongly believes that closing the pollution gap for people living in poverty requires a treaty which deals with both the volume of waste produced and the capacity to manage it. The scale and magnitude of the problem that is plastic pollution problem requires a bottom-up and top-down approach at the upstream, midstream and downstream stages. Moving towards a binary approach is concerning and too much focus may result in negotiations stalling or being derailed. A comprehensive universal approach to reducing plastic production and waste management must be negotiated.

Plastic waste is not just a threat to our planet but also to its inhabitants. As with the climate emergency, the impacts of plastic pollution are being felt first and felt hardest by the world's poorest and most vulnerable people: those who are the least well-equipped to deal with the consequences. Tearfund is encouraged by the depth and breadth of the zero draft and believe it is a good starting point for negotiations moving forward.

Our comments above reflect the key areas of concern and engagement for Tearfund. In summary we support a draft of the Treaty which:

- includes a comprehensive plan to tackle the impacts of waste and plastic pollution on people living in poverty;
- puts in place strong, legally-binding targets for reductions in plastic production, provision of waste management and support for waste pickers;
- makes adequate financial provision to build capacity for a just transition for workers in the informal waste sector and communities in low- and middle-income countries who depend on plastic;
- establishes a strong mechanism that holds both governments and companies to account and brings real change, quickly