

# Critical issues to consider at INC 3

## 1. In part II of the Zero draft, circular economy approaches for plastics are among key considerations whether the delegates address product design or plastic waste management.

When discussing the circularity of plastics, it is important to keep in mind that recycling of toxic chemicals in plastics results in their appearance in new products so that the dirty circle never breaks. To start addressing the issue, we, first of all, must agree on what product design, plastic recycling and, eventually, plastic circular economy we talk about.

### Toxics-free versus non-toxic versus safe product design, recycling and circular economy: does it matter what epithet to choose in the Plastic Treaty?

In discussions around product design and waste management, including recycling and circular economy, negotiators often use the epithets "toxics-free", "non-toxic," or "safe". None of these epithets is approved globally, resulting in the situation when one can read "safe" as including toxicity considerations. However, others may think it is about general occupational safety.

The definition of "non-toxic" products, recycling or circular economy opens up for lengthy and complicated discussions on what levels of toxic chemicals in materials, products and waste are "safe" to human health and the environment. If each party will have to decide in their jurisdiction what "safe" levels are, we end up with parallel standards. That will complicate international trade, create different levels of safety to human health and the environment in various jurisdictions, and put countries weak in resources to control imports at risk of becoming dumping grounds for materials and products considered "non-safe" in the exporting countries.

The epithet of "toxics-free" materials, products, and waste signals a high ambition level. That is precisely what a global agreement needs. It defines a trajectory that the negotiators should strive for, namely, to phase out hazardous chemicals from plastic material flows to the highest extent possible. It is clear, though, that some hazardous chemicals cannot be phased out immediately, and recycling them in strictly controlled systems keeps them from contaminating the environment or cross-contaminating other material flows bound for recycling. Therefore, a footnote to the definition is helpful to explain that "toxics-free" embodies the high ambition trajectory rather than being strictly prescriptive. The epithet "toxics-free" is used in regional and national policies and legislation in several jurisdictions today to describe the circular economy, such as in the [EU Chemicals Strategy for Sustainability](#).

Suppose no definition of plastic materials, products, recycling and circular economy is applied. In that case, proponents signal that economic and resource efficiency considerations precede health and environment considerations. That is a very bad signal in a global agreement.

A clear and well-understood epithet of recycling was agreed in the text of the High Level Declaration to the Global Framework on Chemicals adopted at the fifth session of the International Conference on Chemicals Management in September 2023. Countries and stakeholders agreed to highlight the importance of "recycling free from harmful chemicals", as a well-understood explanation of recycling.

A multilateral agreement on chemicals and waste should create the best possible conditions for equal safety to human health and the environment, irrespective of jurisdictions. The more we play around with epithets to water down ambition levels, the more we put the most vulnerable at risk. Countries weak in resources, their populations and the environment are at the highest risk. Therefore, it matters what definition we choose in the Plastic Treaty to describe materials, products, recycling and circular economy.

## 2. In part II, article 13 of the Zero draft, transparency, tracking, monitoring and labeling of chemicals in plastics are discussed as the basis for the purposes of the safe and environmentally sound use, recycling and disposal of plastics and plastic products explanatory Text

The Zero draft demonstrates that after INC2 there is a growing understanding among countries that plastics is not just an issue of waste but a chemical issue. Informed decisions concerning the chemical and polymeric composition of plastics help achieve a resource-efficient circular economy that is toxic-free and does not cause harm to human health and the environment.

Transparency and traceability for the chemical composition of materials and products (in the context of plastics, chemicals composition means monomers, polymers, processing aids and additives), and sharing of disclosed information throughout their [value chains](#), allows:

- Regulators to make informed decisions on legislative measures;
- Manufacturers to make informed decisions on substitutions of hazardous chemicals or materials, products, and product components containing them, and work systematically for toxics-free material and product design;
- Importers, retailers, consumers and public institutions to make informed decisions on purchases/procurements, and handle materials, products and their waste correctly, or reuse it appropriately;
- Recyclers to make informed decisions for supplying toxics-free and useful secondary raw materials back to manufacturers.

However, all stakeholders in a value chain do not necessarily have the same information needs.

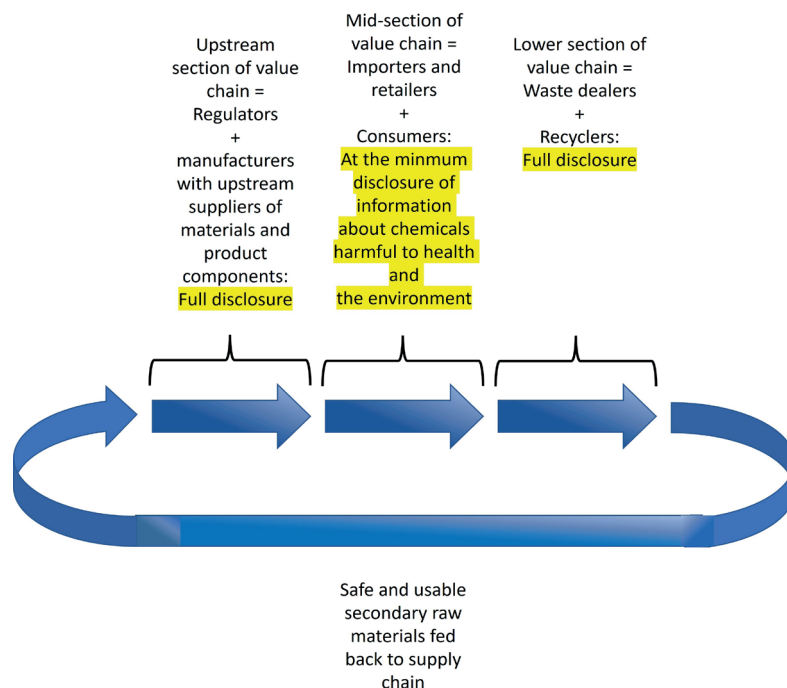


Fig. 1: Sharing information with different stakeholders in the value chain

### Full information: access to the complete chemical composition

Regulators need non-restricted data access. Chemicals considered safe today may tomorrow become the chemicals of concern. Non-restricted data access will help regulators track the chemicals in question in value chains and launch appropriate regulatory actions as needed.

Waste dismantlers, sorters and recyclers also need non-restricted data access. Even harmless chemicals may interfere with recycling processes and impact the quality of the recycled materials.

### At the minimum, access to information about the presence of chemicals harmful to health and the environment should be publicly available

At the minimum, stakeholders in the mid-section of the value chain, such as importers, retailers, and consumers, need information about the presence of chemicals of concern and their respective hazard classes for plastic materials and products. Such information is explicitly linked to health and environment and cannot be considered confidential as outlined in paragraph 22 of the [Dubai Declaration](#).

### Data availability in a centralized database/databases

Differential access to the level of detail of disclosed information on the chemical and polymeric composition of plastic materials and products can be organized in the centralized database/databases to be established by the governing body of the Treaty. Information on harmful chemicals in individual plastic materials and products in the database should be available and accessible to the public.

Companies will be continuously required to provide information to the centralized database/databases according to the treaty provisions to disclose chemical composition data for plastic materials and products that they produce. Parties should regularly review the database/databases to ensure information is correct and up to date.

### How to achieve traceability for chemicals and polymers in individual materials/products?

Traceability systems for chemical composition data for materials and products are technically doable. They are under development in some jurisdictions, [e.g. the proposal for a regulation of the European Parliament and of the council on the safety of toys and repealing Directive 2009/48/EC and other pieces of EU legislation under development](#). So by the time a prospective Plastic Treaty provision on transparency and traceability comes into play, there will be real-life examples from which countries can draw practical experiences.

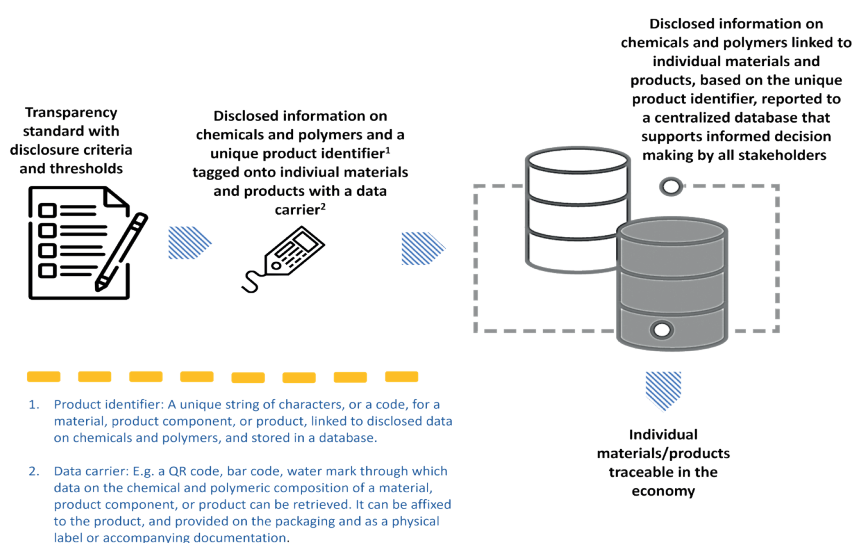


Fig. 2: How to achieve traceability for chemical composition of plastics, by tagging materials and products with data carriers with unique product identifiers, linked to entries in the centralized database

### Challenges and benefits with setting up a centralized traceability system

- Setting up a centralized traceability system incurs an initial cost for all parties of the Treaty and then maintenance costs. However, it saves money from costly compliance checks once it is up and running. It is to the advantage of countries and companies weak in resources, as the obligation to tag disclosed data on the chemical and polymeric composition of plastics onto individual materials and products will fall on manufacturers through the Treaty provisions on transparency and traceability transposed into national legislation.
- A centralized traceability system will help those involved in waste dismantling, sorting and recycling to ensure recyclates are free from harmful chemicals. However, it will require close coordination between all stakeholders involved in end of life product management to ensure that information about chemicals in materials and products from data carriers is not lost during shredding or otherwise dismantling.

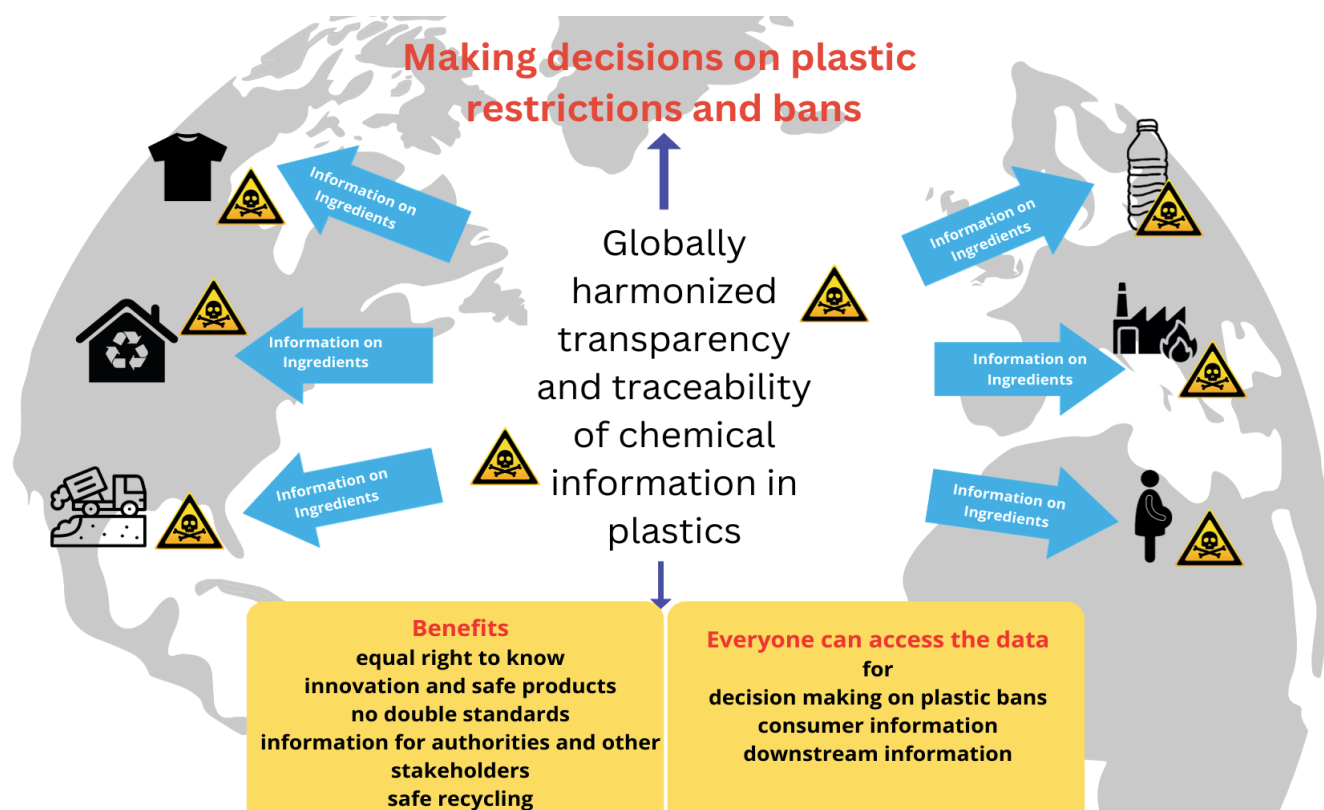
### 3. Zero draft, paragraph 5 on Product design, composition and performance, Option Two, talks about product design and performance criteria in accordance with international standards, including transparency, labelling and certification procedures and requirements for plastics and plastic products that conform to the design and performance criteria.

It is important to note that many industry associations create standards, often with no external quality control oversight, which could potentially result in weak standards that could affect the effectiveness of the Treaty. To avoid this, there needs to be some quality control mechanism in place, by which the Conference of Parties approves the standards to be used for the Treaty.

Additionally, multiple parallel industry or national standards are costly to comply with or verify, and could create non-comparable data, for example, based on different chemicals disclosed at different thresholds, and this complicates international trade.

Therefore, the Plastics Treaty should have globally harmonized provisions on product design, including transparency and traceability for the chemical composition of plastic materials and products. A Treaty annex for how to operationalize this can be developed. This will support efficient control measures in the Treaty, ensure an equal level of safety to all, irrespective of jurisdiction, and reduce costs for companies, custom services and agencies responsible for compliance checks and market surveillance.

## Transparency and traceability of chemicals in plastics form the foundation of the plastic treaty to support its goal to reduce plastic pollution



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