

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.

Contact:

Karine Siegwart, IUCN Head of Delegation, IUCN Senior Policy Advisor, International Policy Centre, karine.siegwart@iucn.org

Alexandra R. Harrington, Lancaster University Law School and Chair, IUCN WCEL Agreement on Plastic Pollution Task Force, a.harrington1@lancaster.ac.uk

IUCN WCEL Briefings for Negotiators for INC-3

These are updated briefings of the INC-1 and INC-1 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 4 of 10: Just Transition and the International Legally Binding Instrument

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

Key messages:

The International Legally Binding Instrument (ILBI)'s scope, as articulated by United Nations Environment Assembly (UNEA) resolution 5/14, includes the circular economy and elements of the plastic life-cycle as vital elements for addressing plastic pollution and production. The fundamental connections between the circular economy, plastic life-cycle and global efforts to address plastic pollution were affirmed by States and stakeholders throughout the INC-1 and INC-2 discussions. At the same time, a number of States and stakeholders expressly referenced the need to include just transition as part of the ILBI during INC-1 and by the end of INC-2 this became a significant area of focus. In the plastics context, the transition away from plastic production as well as plastic-intensive industries and the informal sector can be seen as essential yet also carries with it the potential to cause unemployment and poverty. Just transition could offer a bridge through which to address the immediate issues of job loss as well as underlying socio-economic barriers and achieve synergies with other treaty systems. This should be done by including just transition terms in the core measures of the ILBI, the governance system adopted for the ILBI, and the amendments, annexes or protocols adopted depending on the structural choice made for the ILBI.

1. Basic background on Just Transition

Just transition is most often equated with labour rights movements. This is with good reason, since the origins of just transition philosophies are firmly rooted in labour union efforts to counter impacts of coal mine closures in the United States during the 1980s and 1990s. From that point onward, just transition has spread and moved beyond one country or industry. While it is still tied to the coal sector, it has been diversified to include fossil fuels generally, and to balance efforts at transitioning away from high-carbon fuels. Just transition is a larger concept, however, and can be translated across a variety of sectors and issue areas with thorough legal and regulatory measures.¹

Just transition should also be understood as a necessary legal and policy tool through which to facilitate labour and employment transitions at all levels of an industry or entity produced. In the context of the ILBI negotiations, there has been an emphasis on the need to include waste pickers and members of the informal sector. These workers are critical to the implementation of a ILBI that is environmentally effective, protects biodiversity and human health, and advances the rights of those in vulnerable and marginalized community. At the same time, it must be remembered that just transition in the plastic pollution context is a broader issue and includes workers at all phases of the plastics life-cycle, from the engineers and chemists who are specialized in plastic production to those producing plastics and plastics-containing elements to those using plastic products in the course of their employment and, ultimately, to those who work in waste management. These are some of the many forms of intersection between labour and employment and the plastics life-cycle and each requires a nuanced understanding of what a just transition would entail in the appropriate context. This highlights the need for the ILBI to include legally binding terms to ensure that just transition is a required element in Treaty obligations as well as in national action plans and other reporting practices and in evaluation of compliance with the Treaty.²

2. Just Transition in the plastics life-cycle and circular economy

What? In the plastics context, the transition away from plastic production as well as plastic-intensive industries and the informal sector can be seen as essential yet also carries with it the potential to cause unemployment, underemployment and poverty. A number of States and stakeholders expressly referenced the need to include just transition as part of the ILBI during INC-1 and this became more prominent as a call for inclusion in the ILBI during INC-2. As has been seen in efforts to transition away from coal and fossil fuel extraction sectors due to climate change law, transitions must be done carefully and inclusively, involving not only the workers themselves but also their families and communities.

How? A just transition in the context of the plastics life-cycle and circular economy will depend on the national or sub-national setting in which it occurs but also will require international law to guide and oversee full implementation in the legal and regulatory realm as well as in policy and economic practice.

Based on experiences with transitions in other industries, it has become clear that legal and regulatory efforts should focus on not only the individuals losing their jobs but also their families and communities since there are impacts across these layers. In the plastics context, this will

¹ See Alexandra R Harrington, *Just Transitions and the Future of Law and Regulation* (Palgrave MacMillan 2022).

² For proposed language for several elements of the Plastic Pollution Treaty that include just transition provisions see the IUCN Submission Form A and Form B in advance of INC-3.

IUCN WCEL Briefings for Negotiators for INC-3 (Intergovernmental Negotiating Committee to develop an international legally binding instrument on plastic pollution)

be particularly critical for those engaged in the informal economy, such as waste pickers, who are often at the margins of society to begin with and frequently are women, children, those in extreme poverty or Indigenous peoples. Thus, they already face structural barriers to education, career choice and career advancement without the added stress of transitioning to another sector or job. To address this, the ILBI could include wide-ranging provisions for coordination with and engagement of affected stakeholders, educational assistance with a focus on vocational training, and transitions to green and blue jobs. This would be benefitted by a funding mechanism to provide assistance to States and stakeholders engaged in these efforts as well as capacity-building and technology transfer provisions.

Further, transitions and responses to them will require tailoring to the communities in which they are taking place to avoid entrenching discrimination against women, the poor, and members of marginalized communities. Understanding the social and economic issues facing those who are engaged in the plastics industry would be key to facilitating transitions that are realistic for the communities in which these workers live while also advancing equity, non-discrimination and justice. Previous just transitions efforts in the coal sector have demonstrated the need to address issues not directly connected with re-education or training, especially domestic violence and abuse that can come with economic stress in a household.

At the same time, care must be taken to ensure that the legal requirements of the ILBI are beneficial for all sectors of labour and employment in the plastics life-cycle, as noted above. This would include educational and vocational assistance but also protections for those who would transition to working with plastic substitutes and alternatives, for example those in the production and waste management sectors.

Additionally, efforts at just transition in the context of the ILBI could benefit from exploring synergies with other treaty systems addressing transitions. In this context, the obvious connection would be with the United Nations Framework Convention on Climate Change and Paris Agreement. However, just transition has become an issue in a number of areas, including in the marine context, the energy context and the healthcare context, to name a few. Cooperation with international organizations, such as the International Labour Organization, the International Maritime Organization, and the World Health Organizations, as well as the applicable core human rights treaty bodies would offer an additional method to strengthen the implementation of just transition requirements in the ILBI. Thus, a broad view of just transition and the sectors that will be impacted by efforts to regulate plastic pollution under the ILBI could facilitate significant shifts that assist multiple treaties in achieving their goals.