

CADWALADER  
**CLIMATE**  
Connecting Climate Change and the Law



## UN-Convened Plastic Pollution Committee Proposes Zero Plastics Treaty

October 31, 2023



**By Sukhvir Basran**  
Partner | Financial Services



**By Sara Bussiere**  
Special Counsel | Global Litigation

On September 4, 2023, the Intergovernmental Negotiating Committee on Plastic Pollution (INCPP) released a draft proposal on the reduction of global plastic pollution. The so-called “**Zero Draft**” proposes measures to address issues associated with plastic pollution, with a specific focus on reducing production and minimizing the use of dangerous chemicals.

The draft treaty outlines several key strategies for countering plastic pollution:

- **Reduction of Production:** Encouraging countries to set targets for reducing plastic production and considering bans on certain types of plastics.
- **Economic Measures:** Recommending the elimination of subsidies for plastic production and introducing plastic taxes to discourage its use.
- **Microplastics:** Focusing on the eradication of microplastics and suggesting strategies for reusing, repairing, repurposing, and refurbishing plastic products.
- **Chemical Control:** Proposing enhanced transparency and restrictions on the export of materials containing hazardous substances used in plastic production.

The Zero Draft has been subject to criticism on the grounds that it contains options for action ranging from what organizations have characterized as “strongest” to “weakest,” the apprehension being that countries will opt for the “weakest” options. There has long been a call to introduce regulation around plastic pollution, and in 2022, 175 countries endorsed a resolution at the UN Environment Assembly to end plastic pollution and sign an international

legally binding agreement by 2024. The draft treaty is set to undergo detailed discussions during the upcoming International Negotiating Committee on Plastic Pollution negotiations in Nairobi, Kenya, in November.

Among the detrimental effects of plastics production, [the UN Environment Programme cites](#) harm to human health, affecting fertility, hormonal, metabolic and neurological activity; harm to more than 800 marine and coastal species through ingestion, entanglement and other dangers; and 11 million tonnes of plastic waste flowing into oceans annually. By 2050, absent change, GHG emissions associated with plastics production, use and disposal would account for 15% of allowed emissions under the Paris Agreement 1.50C goal.

The current emphasis on recycling, while important, is regarded as insufficient to combat the plastic problem. A significant proportion of plastics remains unrecyclable due to diverse composition and additives. Chemical recycling technologies are still in their infancy, making the transition to a circular plastic lifecycle challenging. Recycling is more cost-intensive than producing new plastic, making it an unsustainable solution. Only 2% of plastic is recycled more than once, emphasizing that most plastic is ultimately destined to become waste.

**Taking the Temperature: Organizations increasingly are seeking to address climate-related challenges associated with plastics. In May this year, the Dutch Association of Investors for Sustainable Development [called for companies](#) to take action to reduce plastics and the CDP [introduced plastics-related disclosure guidance](#). Environmental advocacy groups also have launched challenges, creating potential legal and reputational consequences of inaction. For instance, we previously reported on a [case involving Danone](#), where environmental nonprofit ClientEarth, with support from other activist groups, commenced litigation in a Paris court claiming that Danone breached France's Corporate Duty of Vigilance Law in that the company does not have an adequate plan to reduce its plastic footprint. Prior to filing the claim in Paris, ClientEarth served "legal warnings" on Danone and certain other French companies, including Auchan, Carrefour, Casino, Lactalis, McDonald's France, Les Mousquetaires, Picard, and Nestlé France.**