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**Intergovernmental negotiating committee to develop
an international legally binding instrument on plastic
pollution, including in the marine environment**

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Item 4 of the provisional agenda

**Preparation of an international legally binding instrument on
plastic pollution, including in the marine environment**

**Information submitted by the Office of the United Nations High
Commissioner for Human Rights**

Note by the secretariat

1. The Office of the United Nations High Commissioner for Human Rights has submitted a briefing note titled “aligning States Duties and Business Responsibilities Related to Plastics with the Guiding Principles on Business and Human Rights” that that could be of relevance to the intergovernmental negotiating committee.
2. Further information can be found in the annex to the present note. The present note, including its annex, has not been formally edited.

* UNEP/PP/INC.4/1.

Annex

Information that could be of relevance to the intergovernmental negotiating committee submitted by the Office of the United Nations High Commissioner for Human Rights

Aligning States Duties and Business Responsibilities Related to Plastics with the Guiding Principles on Business and Human Rights

I. Introduction

1. Current patterns of plastic production, use, and disposal are causing a global health, environmental and human rights crisis. Businesses could play a crucial role to curb plastic pollution, in particular to identify, prevent, mitigate and account for how they address their adverse human rights impacts connected to the health and environmental consequences of plastics across their activities and value chain.
2. There has been much attention paid to how the business sector can help address the plastic crisis but much less to their role in creating the crisis. This note explores how human rights laws, norms and standards, including the UN Guiding Principles on Business and Human Rights, can contribute to enhancing accountability and governance in the context of the International Legally Binding Instrument (ILBI) on Plastics. This may include: requiring business enterprises to put in place policies and processes to identify, prevent, mitigate and account for how they address their adverse human rights impacts associated with the lifecycle of plastics such as human rights due diligence processes involving full disclosure of the chemical composition of their plastic materials and products; and clear provisions on transparency, traceability and conflict of interest to ensure that corporate political engagement is responsible and rights-respecting.
3. The ILBI provides an opportunity to shape more legitimate, effective and coherent international cooperation on ending plastics pollution by putting the UNGPs into practice.

II. Plastics industry value chains and human rights harms

4. Each stage of the full life cycle of plastics, from extraction through disposal, adversely impacts human rights, especially the human rights to life, health, a healthy environment, food, water, sanitation, cultural rights, and access to information. Environmental degradation and exposure to harmful chemicals can cause chronic or acute illness, developmental problems, or premature death, interfering with individuals' rights to the highest attainable health and to life. Plastics affect the human rights to water sanitation, and adequate food because their production, use, and waste contaminates waterways and food sources. Plastics, mainly at the production stage, also contribute to climate change, which is a major driver of human displacement and housing insecurity.
5. Individuals have a right to information about the known and suspected health and environmental hazards, harms, and risks caused by chemicals, including additives, used in and released throughout the plastics lifecycle, but there is little transparency about these hazards and risks, so individuals are unable to make informed decisions. The lack of information hampers their right to participate in the development of plastics pollution mitigation policies and interferes with their right to effective remedy due to the adverse impacts they suffer from plastics.¹
6. Plastics can cross several national boundaries and link to multiple different corporate value chains during their lifespan. According to a recent World Wildlife Fund report, the real cost of plastics, accounting for the impacts of its production and waste, is at least 10 times higher than the market price paid by primary consumers. These costs have simply been externalized to the public and deferred to future generations.²
7. Extraction, refinement and primary plastic/polymer production facilities are often built in poorer areas, creating "sacrifice zones," which are extremely contaminated areas where groups in situations of vulnerability and marginalization bear disproportionate health, human rights, and environmental consequences of exposure to

¹ Participation also includes the right to information and participation in controlling the risks involved in particular scientific processes and its applications. In this context, the precautionary principle plays an important role. See, Committee on Economic, Social and Cultural Rights, General Comment 25 on science and economic, social and cultural rights, UN Doc E/C.12/GC/25, paras. 56 - 57

² Wijnand DeWit, Erin Towers Burns, Jean-Charles Guinhard and Nour Ahmed, *Plastics: The Cost to Society, Environment and the Economy*, World Wildlife Fund (2021), available at: <https://www.wwfca.org/en/plasticsthecosttosociety/>

pollution and hazardous substances.³ Workers and frontline communities face chronic and acute exposures to chemicals. Female workers may be assigned more dangerous work than their male counterparts, and women and children are particularly vulnerable to reproductive and developmental harms.⁴

8. Plastics remain unsafe during their use. They leach and absorb toxic chemicals and break into particulates, which are associated with adverse health impacts.⁵ Once released, these chemicals persist and accumulate within tissues and food webs.⁶ There is currently information on adverse impacts of only about 4000 of the more than 16,000 chemicals identified in manufacturing and/or present in final packaging.⁷ The scope of known harms to human health caused by plastics use is significant and likely to expand as scientific knowledge grows. These risks are exacerbated by the lack of transparency and inaccessibility of information. Plastics, as materials or products, are rarely labeled to indicate their hazards, and in many cases, plastic-free alternatives are unavailable or have not been assessed for their impacts. Lower quality plastics are marketed to low-income communities and are more susceptible to breakage and chemical leaching.⁸

9. At the end of their lifecycle, plastics are recycled, incinerated or discarded. Plastics recycling has been falsely characterized as safe and effective. In fact, only a small fraction of plastics is ultimately recycled. “Recycled” plastics from the Global North are often merely shipped to the Global South, where they are ultimately incinerated.⁹ Incineration includes both open burning and burning to generate energy or fuel. In either case, incineration pollutes the air with heavy metals, greenhouse gases, and carbon monoxide, and pollutes water and soil with toxic particulates, which disrupt ecosystems, cause biodiversity loss, and contaminate plants and animals, including food sources. Recycled plastics often contain higher levels of chemicals that can poison people and contaminate communities.¹⁰

10. Where trash is not routinely collected, waste pickers collect, sort, reuse and recycle some dumped valuable materials and plastics. Although waste pickers collect up to 60% of all recycled plastics globally, their backbreaking work is undervalued. Waste pickers work within the informal sector; their rights are not respected or protected, and they often struggle to earn a decent living.¹¹ They are vulnerable to food insecurity, exploitation by intermediaries, child labor and high occupational health risks. Women, migrants, Indigenous Peoples, or those who belong to ethnic minorities or castes are especially at risk.¹² Waste pickers also bear disproportionate pollution burdens; breathing air, and drinking water that is heavily contaminated with chemicals and microplastics.¹³

11. States are bound by human rights law to take actions that respect, protect, and fulfill human rights. There is sufficient knowledge about adverse environmental and health impacts of plastics to require action. Even where there is uncertainty about the precise nature and scope of potential harms, when the risks are high States are obliged to exercise precaution.¹⁴ These obligations are not limited to a State’s geographic borders. Each State is bound by human rights law to prevent or reduce environmental degradation and exposure to harmful chemicals caused by business activities or decisions made within its jurisdiction, even if the impacts are felt by individuals beyond its borders. States’ human rights obligations are synergistic with existing environmental law requiring

³ For more information about sacrifice zones, see Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, *The right to a clean, healthy and sustainable environment: non-toxic environment*, A/HRC/49/53. See also *Inhabitants of La Oroya v Peru* (Preliminary Exceptions, Merits, Reparations and Costs), Judgment of 27 November 2023, Inter-Am Ct HR, Series C No 511, in which the Inter-American Court of Human Rights found Peru had violated its peoples’ human rights by allowing a metallurgical facility to create a sacrifice zone by polluting a small mountain community. The Court held Peru responsible for the human rights impacts on rights’ holders physical and mental health. See also USA: The Cost of Doing Business? The Petrochemical Industry’s Toxic Pollution in the USA, available at: <https://www.amnesty.org/en/documents/AMR51/7566/2024/en/>.

⁴ Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, *The stages of the plastics cycle and their impacts on human rights*, A/76/150, para 46 - 47 and 51 – 52.

⁵ Hamley, Graham and Switzer, Stephanie, *Plastics and (The Right to) Health* (May 22, 2023). Edward Elgar Research Handbook on Plastics, citing Stephanie L Wright and Frank J Kelly, *Plastic and Human Health: A Micro Issue?* (2017) 51 *Environ Sci Technol* 6634.

⁶ BPA, which leaches from some plastics, is linked to cancer, obesity, immune system impairment, and neurological impairment in children. Phthalates, which are reproductive toxicants, are used in children’s toys, food packaging, and cosmetics, can be ingested, inhaled, or absorbed through skin.

⁷ Wagner, M., Monclús, L., Arp, H. P. H., Groh, K. J., Løseth, M. E., Muncke, J., Wang, Z., Wolf, R., & Zimmermann, L. (2024). State of the science on plastic chemicals - Identifying and addressing chemicals and polymers of concern, available at: <http://dx.doi.org/10.5281/zenodo.10701706>

⁸ SR Toxics and HRs, *supra* note 4, para. 20.

⁹ See, Center for Climate Integrity, *The Fraud of Plastic Recycling*, available at <https://climateintegrity.org/plastics-fraud>.

¹⁰ Eric Carmona, Elisa Rojo-Nieto, Christoph D. Rummel, Martin Krauss, Kristian Syberg, Tiffany M Ramos, Sara Brosche, Thomas Backhaus, Bethanie Carney Almroth, *A dataset of organic pollutants identified and quantified in recycled polyethylene pellets*, available at: <https://doi.org/10.1016/j.dib.2023.109740>.

¹¹ Morais, Jandira et al., *Global review of human waste-picking and its contribution to poverty alleviation and a circular economy*, *Environmental Research Letters* 17, no. 6 (24 May 2022), available at: <https://iopscience.iop.org/article/10.1088/1748-9326/ac6b49>.

¹² Ferronato N, Torretta V. *Waste Mismanagement in Developing Countries: A Review of Global Issues*. *Int J Environ Res Public Health*. 2019 Mar 24;16(6):1060.

¹³ See, for example, OHCHR and ILO, *Key Messages on a just transition and human rights*, available at: <https://www.ohchr.org/sites/default/files/documents/issues/climatechange/information-materials/v4-key-messages-just-transition-human.pdf>.

¹⁴ Rio Declaration Principle 15, and SR Toxics and HRs, *supra* note 4, paras 11 and 110(k)(v).

States to ensure that polluting activities within their jurisdiction do not harm the environment or people beyond their national limits.¹⁵

III. The United Nations Guiding Principles on Business and Human Rights (UNGPs)¹⁶

12. The UNGPs outline steps for States to foster business respect for human rights and provide a blueprint for companies to manage the risk of having an adverse impact on human rights. They were unanimously endorsed by the UN Human Rights Council in 2011 after years of multi-stakeholder consultations, research, and workshops and are now recognized as the global authority on preventing and addressing the risk of adverse impacts on human rights involving business activity.

13. The UNGPs are based on three interrelated pillars: (1) the State duty to protect against human rights abuses by third parties, including businesses, (2) the corporate responsibility to respect human rights, by avoiding infringing on human rights and addressing their adverse impacts on human rights, and (3) the need for rights holders to have access to effective remedy. These pillars work together to fill governance gaps and clarify responsibilities of States and businesses.

A. *Pillar 1: The State duty to protect human rights*

14. States can work toward meeting their obligation to protect human rights from adverse impacts from business activities in the context of plastics pollution in a number of ways. While this note does not aim to be exhaustive, the following list illustrates steps that States might take under the UNGPs to protect human rights:

- Ensuring a global response, comprised of coherent domestic and international legislation,¹⁷ including the ILBI, that clearly and meaningfully regulates plastics companies throughout their value chains and throughout the entire life cycle of plastics.
- Enacting mandatory human rights due diligence laws that are aligned with the UNGPs.
- Enacting mandatory transparency laws, which require business enterprises to disclose the full chemical composition of their plastic materials and products, including additives.
- Requiring accessible labeling and information disclosure to the public, especially to groups in vulnerable situations, such as workers.
- Incentivizing rapid scaling up of reuse systems while observing the waste hierarchy approach (i.e. prevention, followed by minimization, re-use, recycling, recovery and disposal).¹⁸
- Guaranteeing the right to participation of all stakeholders, including affected communities, civil society organizations, and groups in vulnerable situations, in decision-making processes related to the regulation and management of plastics. This includes ensuring access to relevant information, opportunities for meaningful engagement, and mechanisms for feedback and redress.
- Protecting scientific inquiry against conflicts of interest, greenwashing and misleading claims related to plastic pollution.¹⁹
- Requiring timely disclosure by business entities of political expenditures and activities, including spending on lobbying, political contributions, political advertising and third-party non-profit groups; ensure independently monitored conflict of interest laws and income and asset disclosure systems for government officials and regulators; and ensure that State-based judicial and non-judicial grievance mechanisms are free from undue influence by all actors, including business enterprises.²⁰
- Establishing laws that ensure that those responsible for plastics pollution pay for the costs of the damages it causes, including through Extended Producer Responsibility schemes to be funded by plastics producers (including those producing plastic precursors, primary plastics polymers, converters, among others) with provisions for a just transition and inclusion of workers, including in the informal sector.
- Establishing clear and comprehensive regulatory frameworks to create an environment that supports and enhances the resilience of sustainable businesses, in particular micro, small and medium enterprises, including

¹⁵ Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, Human rights depend on a healthy biosphere, UN Doc A/75/161, para 73, citing *Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, Judgment, I.C.J. Reports 2010, p. 14.

¹⁶ <https://www.ohchr.org/en/publications/reference-publications/guiding-principles-business-and-human-rights>.

¹⁷ ESCR Committee, *General Comment No. 14: The Right to the Highest Attainable Standard of Health (art 12)* (n 8) para 36.

¹⁸ UNEP, *Waste Management Hierarchy*, citing UNEP/World Resources Institute (2021). Tackling Plastic Pollution: Legislative Guide for the Regulation of Single-Use Plastic Products. p.19. Available at: <https://leap.unep.org/en/taxonomy/term/5774>.

¹⁹ High Commissioner for Human Rights, Protect the 'right to science' for people and the planet, in *Nature* 623, 9 (2023), available at: <https://doi.org/10.1038/d41586-023-03332-8>.

²⁰ Report of the Working Group on Business and Human Rights, Corporate influence in the political and regulatory sphere: Ensuring business practice in line with the Guiding Principles on Business and Human Rights, UN Doc A/77/201.

cooperatives, social and solidarity economy and entrepreneurs in their transition endeavors.²¹ This means also factoring in the human rights impacts of shifts to new economic models while safeguarding the rights of workers, including in informal sectors, their communities, Indigenous Peoples and people in vulnerable situations.²²

B. Pillar 2: The corporate responsibility to respect human rights

15. Businesses have a responsibility to respect human rights, regardless of States' regulation of their activities. Businesses should go beyond mere compliance with law to avoid infringing human rights and take proactive measures to identify, prevent, mitigate and account for how they address their human rights impacts.²³

16. Even if a product provides important benefits, its producer is still responsible for addressing the adverse impacts on human rights connected to the material and the product with which the producer is involved. Crucially, business' responsibilities extend beyond the direct human rights impacts that they cause or contribute to through their own activities to those impacts that are directly linked to their operations, materials, products or services by their business relationships across their value chain.²⁴ This means that business enterprises operating at any stage of the plastics life cycle continue to bear responsibility for the upstream and downstream consequences they are connected to through their participation.²⁵

17. While the responsibility of business enterprises to respect human rights applies to all enterprises regardless of their size, sector, operational context, ownership and structure, the scale and complexity of the means through which enterprises meet that responsibility may vary according to these factors and with the severity of the enterprise's adverse human rights impacts.²⁶

18. Plastics-industry actors can work toward fulfilling their human rights responsibilities in accordance with the UNGPs in a number of ways, including, but not limited to:

- Engaging in ongoing human rights due diligence to identify, prevent, mitigate and account for how they address their impacts on human rights, and, where appropriate, remedying those impacts.
- Engaging with potentially affected rights holders, including frontline communities, Indigenous Peoples, consumers, and workers in both the formal and informal sectors, including waste pickers, to assess their human rights impacts and track the effectiveness of responses more accurately.²⁷
- Fully disclosing the chemical compositions and the known and suspected adverse impacts of the compounds, including plastics replacements, to which people, including their workers and consumers, are exposed. This also requires taking a precautionary approach when introducing new chemicals, products and materials whose human health impacts or lack thereof have not yet been clearly established.
- Actively work to eliminate the presence of toxics additives in plastics and the practice of recycling plastics containing hazardous substances;²⁸
- Ensuring any corporate political engagement is done in a transparent, responsible and rights-respecting way.²⁹
- Participating in Extended Producer Responsibility (EPR) mechanisms that internalize the costs associated with plastics and that take into account each stage of the plastics life cycle from raw material extraction to plastic waste disposal.³⁰ EPR mechanisms should include prevention of pollution and not only recyclability.
- Establishing or participating in effective operational-level grievance mechanisms in line with the UNGPs.³¹

²¹ OHCHR and ILO, *supra* note 13.

²² See also, SR Toxics and HRs, *supra* note 4, para. 110.

²³ UNGPs 11- 15, 17-21.

²⁴ UNEP, "Plastics, Human Rights, and Business Responsibilities, Issue Brief". UNEP Regional Office for Asia and the Pacific, Bangkok, available at: https://wedocs.unep.org/bitstream/handle/20.500.11822/41851/Plastics_human_rights.pdf at 6.

²⁵ UNGP 18.

²⁶ UNGP 14; OHCHR, *The Corporate Responsibility to Respect Human Rights: an interpretative guide*, available at: https://www.ohchr.org/sites/default/files/Documents/Publications/HR.PUB.12.2_En.pdf.

²⁷ UNGP 18. In situations where such consultation is not possible, business enterprises should consider reasonable alternatives such as consulting credible, independent expert resources, including human rights defenders and others from civil society. Some businesses have recently joined a voluntary initiative working to respect informal waste workers. See <https://faircircularity.org/>.

²⁸ SR Toxics and HRs, *supra* note 4, para. 111

²⁹ UNGP 17. See also Andreas Schäffer and others, *Conflicts of Interest in the Assessment of Chemicals, Waste, and Pollution, Environmental Science & Technology* 2023 57 (48), 19066-19077.

³⁰ UNEP, *supra* note 18, at 7. Emma Watkins and Susana Gionfra, *How to Implement Extended Producer Responsibility (EPR), A Briefing for Governments and Businesses*, World Wildlife Fund and Institute European Environmental Policy (2020), available at: https://wwfint.awsassets.panda.org/downloads/how_to_implement_epr_briefing_for_government_and_business.pdf.

³¹ UNGP 31. See also, OHCHR Accountability and Remedy Project: Meeting the UNGPs' Effectiveness Criteria, available at: <https://www.ohchr.org/sites/default/files/2022-01/arp-note-meeting-effectiveness-criteria.pdf>.

- Ensuring that the progress and benefits created during a transition to more sustainable societies and economies are accessible to and shared with the people and communities on which they depend.³²

C. Pillar 3: Access to remedy³³

19. All people have the right to access to justice and remedy including with respect to environmental matters. As recognized in the UNGPs, States must take appropriate steps to protect against business related human rights harms. This includes harms related to plastics. Where such harms occur, States and businesses have obligations and responsibilities to ensure access to effective remedies, including through judicial and non-judicial processes. This applies to environmental remediation, and access to effective remedies in all cases, including cross-border ones. Where business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes.³⁴

20. Substantive remedies can include many different forms, and in the context of plastics, guarantees of non-repetition are particularly important (i.e. prevention of exposure at both the individual and population levels). A significant challenge to accountability and access to remedies is the cross-border nature of harms given the global dimension of the plastics industry along the various stages of the plastics life cycle. In line with the polluter pays principle, the Special Rapporteur on toxics and human rights has called for global liability and compensation mechanisms for pollution from plastics, including mechanisms to tax global plastic producers, traders and other businesses that profit from plastics.³⁵

IV. Case study: single use plastic sachets

21. In the 1980s, multinational corporations began aggressively marketing micro-portions of goods to low-income consumers, packaged in unrecyclable, low quality plastic sachets. Initially, this was hailed as a “pro-poor” way to profitably make consumer products more accessible, particularly in the Global South,³⁶ even though traditional retail already offered alternative means of purchasing small quantities of goods. Sachets did not suddenly make goods more accessible, but they did allow multinational companies to penetrate hard to reach markets. An estimated 855 billion plastic sachets are now sold annually, enough to cover the Earth’s entire surface.³⁷

22. The use stage of a sachet’s lifecycle is short, but the waste stage nearly indefinite. Designed for a single use, sachets are neither refillable nor resealable. Once empty, they are trashed. Sachets are often sold in countries with weak formal waste management infrastructure that rely heavily on waste picker labor. But there is no incentive for waste pickers to collect sachets because the layers of cheap materials and adhesive render them unrecyclable and worthless. Much-touted corporate recycling efforts have been quietly abandoned, and corporate refilling programs have also been largely ineffective and poorly designed.³⁸ As a result, corporate efforts to address sachet waste typically focus on funding waste picker collection.³⁹ Collected sachets are then incinerated in cement kilns, converting visible litter into air pollution and releasing chemicals that adversely affect human and environmental health. Cement kilns are among the most carbon-intensive energy sources in the world. Nonetheless, these projects are sometimes marketed by corporations as “recycling.”⁴⁰

23. Discarded sachets leach chemicals into the soil and water, threatening drinking water, agricultural land and food safety. In urban areas, they clog drains and waterways, causing flooding and associated adverse health

³² OHCHR and ILO, *supra note 13*.

³³ For more information, see OHCHR, *Access to Remedy in Cases of Business-Related Human Rights Abuse: an interpretative guide (advance version)*, available at: <https://www.ohchr.org/sites/default/files/documents/issues/business/access-to-remedy-bhr-interpretive-guide-advance-version.pdf>.

³⁴ UNGP 22. For an explanation of what kinds of “legitimate processes” could provide remediation, see pages 65-66 of OHCHR, *The Corporate Responsibility to Respect Human Rights: an interpretative guide*, available at: https://www.ohchr.org/sites/default/files/Documents/Publications/HR.PUB.12.2_En.pdf.

³⁵ SR Toxics and HRs, *supra note 4*.

³⁶ *How to Reduce the Impacts of Single-Use Plastic Products*, UNEP, 23 November, 2021, available at: <https://www.unep.org/news-and-stories/story/how-reduce-impacts-single-use-plastic-products>.

³⁷ Joe Brock and John Geddie, *Special Report: Unilever vowed to scrap polluting plastic packets, then fought to keep them*, 22 June 2022, Reuters, available at: <https://www.reuters.com/article/idUSL8N2Y74K2/>. Joe Brock and John Geddie, *Explainer: Plastic sachets: As big brands cashed in, a waste crisis spiraled*, Reuters, 22 June 2022, available at: <https://www.reuters.com/business/environment/plastic-sachets-big-brands-cashed-waste-crisis-spiraled-2022-06-22/>.

³⁸ *Rethinking Single-Use Sachets: Why companies need to think ahead*, Zero Waste Living, available at: <https://zerowastelivinglab.enviu.org/blogs/rethinking-single-use-sachets-why-companies-need-to-think-ahead/>. Joe Brock and John Geddie, *Explainer: Plastic sachets: As big brands cashed in, a waste crisis spiraled*, Reuters, 22 June 2022, available at: <https://www.reuters.com/business/environment/plastic-sachets-big-brands-cashed-waste-crisis-spiraled-2022-06-22/>.

³⁹ Karen McVeigh and Gemma Holliani Cahya, *Single servings at low prices: how Unilever’s sachets became an environmental scourge*, *the Guardian* (1 August 2022), available at: <https://www.theguardian.com/environment/2022/aug/01/how-unilever-plastic-sachets-became-a-toxic-scourge-oceans>.

⁴⁰ Environment and Social Development Organization (ESDO), *Plastic sachets: Small packets with huge environmental destruction*, (2022), available at: <https://esdo.org/2023/03/plastic-sachets-small-packets-with-huge-environmental-destruction/>. Greenpeace, *Unilever’s complicity in the plastics crisis and its power to solve it* (2023), available at: <https://www.greenpeace.org.uk/resources/uncovered-unilevers-complicity-in-the-plastics-crisis-and-its-power-to-solve-it/>.

outcomes.⁴¹ At sea, marine animals mistake sachets for natural prey or ingest microplastics from their breakdown, accelerating the biomagnification of microplastics throughout the food web.⁴²

24. Major corporations have publicly acknowledged that sachets are unsustainable.⁴³ However, having externalized the costs of plastic sachets to people and communities, businesses have little incentive to curb their use. The global sachet packaging market is projected to nearly double between 2023 and 2033.⁴⁴ Voluntary, business-led solutions have proven inadequate to address the breadth and scale of the sachet crisis and thereby have their limitations. A comprehensive global strategy aligned with the UNGPs and that combines binding law with more responsible corporate value chains is needed.⁴⁵

V. UNGPs In Global, Regional, and National Law and Policy

25. Purely voluntary corporate efforts have been insufficient to solve complex problems like the global plastics crisis. As a result, there are increasing numbers of legal and policy initiatives seeking to implement the UNGPs framework, for instance through mandatory human rights due diligence and transparency requirements. These initiatives focused on binding rules, are illustrative of how concepts from the UNGPs can be utilized in the ILBI Plastics. They also show how other international and national processes have sought to operationalize the UNGPs in different contexts.

26. The OECD Guidelines for Multinational Enterprises on Responsible Business Conduct consist of joint recommendations by governments to multinational enterprises “to enhance the business contribution to sustainable development and address adverse impacts associated with business activities on people, planet, and society.”⁴⁶ They explicitly align with the UNGPs⁴⁷ and recommend human rights and environmental disclosure,⁴⁸ due diligence,⁴⁹ and remediation.⁵⁰ The ILO’s Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy also aligns with the UNGPs and calls on enterprises to conduct human rights due diligence.⁵¹

27. Recent international chemicals regulation also incorporates the UNGPs. In 2023, the International Conference on Chemicals Management (ICCM5) adopted the Global Framework on Chemicals, which calls on businesses to conduct human rights due diligence throughout their value chains. Further, “the private sector, throughout the value chain, should increase its efforts to internalize costs” and “commit to innovation, training, safety and sustainability initiatives.”⁵² In 2020, the European Commission published the EU’s “Chemicals Strategy for Sustainability,” in which it commits to “promote due diligence for the production and use of chemicals.”⁵³

⁴¹ *The impact of plastic pollution on urban flooding events*, Tearfund (2023), available at: <https://learn.tearfund.org/en/resources/research-report/plastic-pollution-and-flooding>.

⁴² ESDO, supra note 40.

⁴³ Paul Polman, *Plastics are in our air, food, and water. A reckoning is coming and smart businesses can see it*, Fortune Magazine, (24 May 2023) available at: <https://fortune.com/europe/2023/05/24/plastics-air-food-water-reckoning-business-environment-paul-polman/>

⁴⁴ “The global sachet packaging market is expected to be valued at US\$ 9,814.3 million in 2023. From 2023 to 2033, this demand is ... projected to reach US\$ 17,381.9 million,” Sachet Packaging Market Snapshot (2023 to 2033), available at: <https://www.futuremarketinsights.com/reports/sachet-packaging-market>.

⁴⁵ Phelan A(Anya), Ross H, Setianto NA, Fielding K, Pradipta L (2020) *Ocean plastic crisis—Mental models of plastic pollution from remote Indonesian coastal communities*. PLoS ONE 15(7):e0236149. <https://doi.org/10.1371/journal.pone.0236149>. See also the Ellen MacArthur Foundation (EMF), which spearheaded the Global Commitment in partnership with the UNEP, in which over 1,000 signatories pledged that 100% of their plastic packaging would be reusable, recyclable or compostable by 2025. EMF’s latest progress report acknowledged the signatories, representing 20% of the industry, would likely miss this target. Available at: <https://emf.thirdlight.com/file/24/K6LONlrK6TiV5CaK63uPKX6taWr/The%20Global%20Commitment%202023%20Progress%20Report.pdf>.

⁴⁶ Introduced in 1976, they were updated most recently in 2023 to “respond[] to urgent social, environmental, and technological priorities facing societies and businesses.” OECD (2023), OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, OECD Publishing, Paris, available at <https://doi.org/10.1787/81f92357-en>.

⁴⁷ The OECD guidelines explicitly state that they “draw[] upon the United Nations ‘Protect, Respect and Remedy Framework for Business and Human Rights’ and [are] in line with the Guiding Principles on Business and Human Rights.” Id., Commentary para. 41.

⁴⁸ Part III, para. 1, commentary para 30, 32 Part VI (1)(d) Part VI (1)(d), Part VIII (2).

⁴⁹ Part II, Paras. 4, 11, 15, Commentary on Part II, para 15, 16, Part IV para 5 (HR DD), commentary para. 50, Part VI (1) (Environmental DD). See also OECD (2018), *OECD Due Diligence Guidance for Responsible Business Conduct*.

⁵⁰ Part II, Para. 12, Commentary on Part II, para 15, 16 Part VI (1)(e). The OECD guidelines also embed the precautionary principle, Part VI (3).

⁵¹ The ILO Tripartite Declaration provides guidelines to multinational enterprises, governments, and employers’ and workers’ organizations. Introduction, General Policies (10(a, b and d)).

⁵² See, for example, Annex II, Principles and Approaches (k), available at: https://www.chemicalsframework.org/sites/default/files/documents/K2323124E-SAICM-ICCM.5-4_REPORT.pdf. See also IV (c), para 15, and (g) para 20, V and VIII. Capacity-building, paras. 59 and 67. See also para 68.

⁵³ European Union Chemicals Strategy for Sustainability, available at: <https://circabc.europa.eu/ui/group/8ee3c69a-bccb-4f22-89ca-277e35de7c63/library/dd074f3d-0cc9-4df2-b056-dabcacf99b6/details?download=true>.

28. Current or proposed national laws and policies in a number of States also incorporate or mirror the UNGPs or otherwise require compliance with existing Multilateral Environmental Agreements.⁵⁴ Taken together, these developments show a growing interest in strengthening businesses' accountability for human rights. But further harmonization of responsibilities, particularly within the plastics industry, is needed. This would allow for good practices to emerge that are specific to the relevant harms in the sector, as distinct from a more general call for businesses to conduct human rights due diligence.

⁵⁴ The French Vigilance Law requires vigilance plans as to human rights due diligence. The German Supply Chain Due Diligence Act requires companies to develop risk management and report on their compliance with environmental and human rights standards throughout their supply chains. The Norwegian Transparency Act calls for mandatory due diligence consistent and publication of annual human rights reports. Individuals have the right to request information. <https://sustainablefutures.linklaters.com/post/102i833/the-netherlands-a-dutch-initiative-for-a-value-chain-due-diligence>. In 2023, South Korean lawmakers proposed the Act on Human Rights and Environmental Protection for Sustainable Management of Companies, which would require companies to assess and address human rights and environmental risks throughout their supply chains, publish information on their due diligence and respond to information requests. <https://www.ropesgray.com/en/insights/viewpoints/102iu8h/is-mandatory-human-rights-due-diligence-coming-to-asia>. In 2022, the Japanese government published Guidelines on Respecting Human Rights in Responsible Supply Chains, which mirror the UNGPs. Available at: <https://www.shrm.org/topics-tools/news/japan-publishes-guidelines-corporate-human-rights-due-diligence#:~:text=%E2%80%8BOn%20Sept.,their%20operations%20and%20supply%20chains>.