



HOW TO INCORPORATE A PLASTIC POLLUTION FEE INTO BRAZILIAN LAW?

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TABLE OF CONTENTS

01 Introduction

02 A Plastic Fee as proposed in the Draft UN Plastics Treaty

03 The Minderoo Foundation's proposal for a Plastic Fee

04 Legislative Framework on Plastic Pollution in Brazil

05 A Plastic Fee for Brazil

06 Conclusion

1. INTRODUCTION

On 2 March 2022, the **UNEA** adopted **Resolution 5/14** to develop an international legally binding instrument on plastic pollution.¹ An Intergovernmental Negotiating Committee (INC) has since been involved in drafting a new treaty on plastic pollution.² The draft texts propose, amongst other, the imposition of a **plastic pollution fee**, to be paid by plastic polymer producers in order to generate revenue to cover the costs of treaty implementation in developing countries like Brazil,³ which would profit from net economic benefits.

Dr. Luisa Cortat is an expert legal researcher on plastic and plastic governance, including a member of an advisory group on a plastic fee, organized by the Minderoo Foundation. In her position, Dr. Cortat is currently facilitating contacts with Brazilian key players to support the incorporation of a plastic fee into the new Plastics Treaty. The **Brazilian government** currently states a neutral position, and seems to be open to exploring the benefits of a fee to Brazil. How to introduce changes to its highly complex taxation system⁴ are worth a closer look, also on help ensuring that stakeholders such as civil society and companies also support the transition.

he question arising from this context is:



How to incorporate a plastic fee provision, as suggested in the draft texts of the UN Plastics Treaty, into Brazil's national legislation?

To answer this question, research was conducted into (1) the various proposals for a plastic fee made during the INCs and the Minderoo Foundation, (2) the current legislative framework on plastic and environmental taxes & fees in Brazil, and (3) how different countries - the UK and Argentina - have incorporated a plastic packaging fee / tax into their national systems. These analyses then enabled the author to draft a **plastic fee provision for Brazil** and make recommendations for its incorporation into Brazilian law.

This report summarizes the findings from this research project, which concluded on different feasible paths, such as through amendments to the National Solid Waste Management Policy.

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[1] United Nations Environment Assembly of the United Nations Environment Programme '5/14. End Plastic Pollution: Towards a Legally Binding Instrument' (2 March 2022) UNEP/EA.5/Res.14.

[2] United Nations Environment Programme 'Report of the intergovernmental negotiating committee to develop an international legally binding instrument on plastic pollution, including the marine environment, on the work of its first session' (2 December 2022) UNEP/PP/INC.1/14.

[3] United Nations Environment Programme, 'Zero draft text of the international legally binding instrument on plastic pollution, including in the marine environment' (4 September 2023) UNEP/PP/INC.3/4, 21 (Part III, 1.9.).

[4] In Renan Pimentel, 'A Taxing Process: Brazilian Tax Reform' (Harvard Political Review, 9 June 2021) <<https://harvardpolitics.com/a-taxing-process-brazilian-tax-reform/>> accessed 22 March 2024; Pimentel explains how the tripartition of the Brazilian tax system creates a highly complex tax environment. See also 'Reforma tributária: entenda em 5 pontos mudança histórica nos impostos' BBC NEWS Brasil (15 December 2023) <<https://www.bbc.com/portuguese/articles/c3gyxr2znzxo>> accessed 14 May 2024; where the BBC highlights the 30 years of discussion and controversies on a new tax reform, showing the difficulties of changing the Brazilian tax system.

2. A PLASTIC FEE AS PROPOSED IN THE DRAFT UN PLASTICS TREATY



The first occasion at which a plastic fee is mentioned during the UN Plastics Treaty negotiations is in **Document INC.2/4** during INC-2 in April 2023. A “fee, tariff or tax on virgin plastic production” is mentioned as economic tool to reduce the demand and use of primary plastic polymers. Fees charged to plastic manufacturers and importers of plastic polymers and products are also suggested as innovative financing instrument for treaty implementation, able to fund for instance recycling programs, product redesign etc.

The **Zero Draft** of the UN Plastics Treaty provides the first⁷ concrete provision introducing a plastic fee, stating that:

“Each Party shall establish a plastic pollution fee, to be paid by plastic polymer producers (...).”

The aim of this fee is to “hold polymer producers accountable for the pollution costs of all their plastic” and generate revenue to “finance environmentally sound waste management and clean-up activities”.⁹

The decision on the modalities of fee collection is left to the states,¹⁰ while the

amount of the fee is not discussed at all, neither are exemptions or fee modulations.

The **Revised Zero Draft** repeats the provision suggested in the Zero Draft, except for leaving it open whether it will be mandatory or voluntary:

“Each Party [shall] [is encouraged to] establish [where appropriate] a plastic pollution fee, to be paid by plastic polymer producers (...).”¹¹

It proposes that revenues “should flow into a funding mechanism for the implementation of the instrument” without further describing the characteristics of such mechanism.¹²

A list of options for the use of revenues is provided, which all relate to treaty implementation and support the goal of ending plastic pollution. The list includes a) investment into waste management infrastructure, b) remedying legacy pollution, c) aspects of treaty implementation including, technology transfer, capacity building, innovation, education and development, d) aiding the establishment, operationalization and scaling up of EPR schemes, and e) ensuring sufficient funding for a just transition.¹³

[5] United Nations Environment Program, 'Potential options for elements towards an international legally binding instrument, based on a comprehensive approach that addresses the full life cycle of plastics as called for by United Nations Environment Assembly resolution 5/14' (13 April 2023) UNEP/PP/INC.2/4.

[6] *ibid*; Fees, taxes or tariffs are suggested as economic tools to support the 'phasing out and/or reducing the supply of, demand for and use of primary plastic polymers' under core obligation 1 (see p 5, para 10 c)), as means to 'encourage reduction and reuse of plastic products' under core obligation 7 (see p 9, para 16 b) v)).

[7] *ibid*, p 14, para 24 e) i).

[8] United Nations Environment Programme, 'Zero draft text of the international legally binding instrument on plastic pollution, including in the marine environment' (4 September 2023) UNEP/PP/INC.3/4, 21 (see para 9).

[9] *ibid*, 21 (see footnote 74).

[10] *ibid*, 21 (see para 9).

[11] United Nations Environment Programme, 'Revised draft text of the international legally binding instrument on plastic pollution, including in the marine environment' (28 December 2023) UNEP/PP/INC.4/3, 47 (see para 9).

[12] *ibid*, 44 (see para 4).

[13] *ibid*, 48 (see para OP9 bis)

3. THE MINDEROO FOUNDATION'S PROPOSAL FOR A PLASTIC FEE (1/2)



Objectives and Role of the Fee

A plastic fee is a **financing instrument**, which can complement traditional treaty financing and cover costs such as the creation of waste management infrastructures, developing plastic alternatives addressing legacy pollution. At the same time,¹⁴ the fee has the potential to have an economic effect encouraging producers and consumers to progressively switch to non-plastic alternatives and reduce demand for plastic in general.¹⁵

Legal Force and Legal Character

The introduction of a plastic fee should be **legally binding**. It will be more effective, create stable and predictable revenues and a level competitive playing field for paying companies. A fiscal charge intended to contribute to ending plastic pollution, is properly designated as a **fee** (not as a tax) intended to provide revenues to meet pollution costs. The fee will be levied based on a specific, per-unit basis (per tonne primary¹⁸ plastic produced).

Entities subject to the Fee

The fee should be paid by all **primary plastic polymer producers** in their national jurisdictions.¹⁹ Levying the fee at this stage of the production chain increases feasibility and efficiency in implementation as the number of plastic polymer producers is relatively small and concentrated, reducing the cost of collection and enforcement.²⁰ It is also in line with the polluter pays principle, as primary polymer production is the ultimate source of all plastic pollution.²¹

Calculation & Amount of the Fee

When acting as financing instrument for treaty implementation, fee revenues should be able to cover the treaty financing gap, i.e. the total expected costs of treaty implementation which, cannot be covered by existing sources of funding.²² This method is called target-based approach.²³ According to the Minderoo Foundation, a fee of **60-90 USD per tonne** primary plastic would be sufficient to close the "financing gap" and enable successful treaty implementation, without having any meaningful adverse social & economic impacts.²⁴

[14] D Charles and M Dons, 'The Plastic Pollution Fee: outlining the options ahead of INC-3' (Minderoo Foundation 2023)

<[04 March 2024, 8, 10-11.](https://cdn.minderoo.org/assets/documents/orphans/OCEANS-Plastic-Pollution-Fee.pdf?__gl=1*lpwx4y*_ga*MzcyMDYyNjk1jE3MDk1NTU1Njk.*_ga_MFMM3WMMTC*MTcwOTkwODAxNy4yLjAuMTcwOTkwODAxNy42MC4wLjA.> accessed</p></div><div data-bbox=)

[15] *ibid.*, 8-9, 10-11. [16] *ibid.*, 10-11. [17] *ibid.*, 19. [18] *ibid.*

[19] *ibid.*, 11; D Charles & P Cumming, 'The Polymer Premium: A Fee on Plastic Pollution' (Minderoo Foundation, April 2024) <<https://cdn.minderoo.org/content/uploads/2024/04/21232940/The-Polymer-Premium-a-Fee-on-Plastic-Pollution.pdf>> accessed 09 May 2024, 19, 42.

[20] Charles and Dons (n 14), 11; Charles & Cumming (n 19), 11, 19.

[21] Charles and Dons (n 14), 12; Charles & Cumming (n 19), 19.

[22] Charles and Dons (n 14), 12;

[23] Jonas J. Monast & John Virdin, 'Pricing Plastics Pollution: lessons from three decades of climate policy' (2022) 54(2) Connecticut L Review 345, 380-383.

[24] Charles & Cumming (n 19), 11-12, 36-37, 42-43.

3. THE MINDEROO FOUNDATION'S PROPOSAL FOR A PLASTIC FEE (2/2)

Modulations & Exemptions

While a complex system of eco-modulation, considering factors such as pollution costs, safety, end-of-life treatment, etc. would in theory be preferable, this would introduce a high degree of complexity and uncertainty in execution and management.²⁵ Instead a **list of exemptions** from the fee could be discussed. This would help induce switching from primary to alternatives to (mainly primary) polymers and solve practical problems, as the production of recycled polymers is highly fragmented (higher administrative costs).²⁶

Use of revenues

Countries collecting the fee should retain 10% of the revenues to cover administrative costs for fee collection and incentivise participation.²⁷ The remaining revenue should be pooled with fee revenues from all participating countries and then be **redistributed** among 'eligible parties' - low- and middle-income countries to help them with **financing treaty implementation**.²⁸ 5% should be retained to cover costs for administrating the redistribution of funds.²⁹

Procedure for Collection

The **national authorities** of the country of production should impose, collect and enforce the fee, according to their modalities, which aligns with the principle of national fiscal sovereignty. Collection could be aligned with existing fiscal/regulatory measures to enhance administrative efficiency.³⁰

Transparency

An international entity should oversee transparency obligations and producing parties should report on polymer production by its producers, enforcement activities, total revenues and amount of redistributed revenues.³¹

Administration of revenues

The Minderoo Foundation suggests various options. Fee revenues could exist alongside traditional sources of funding, focusing on the more unique costs of ending plastic pollution, or the fee could be pooled with traditional sources of treaty funding.³² Further, a **funding mechanism** for the plastic fee could be integrated into an existing international institution e.g. the Global Environment Fund (GEF). Alternatively, a new funding mechanism could be created dedicated solely to funding treaty implementation. Lastly, a specialised financial entity could be created within an existing framework e.g. the Green Climate Fund (GCF) within the World Bank.

33

[25] Charles and Dons (n 14), 14.

[26] Charles and Dons (n 14), 14-15; Charles & Cumming (n 19), 11.

[27] Charles and Dons (n 14), 15; Charles & Cumming (n 19), 11, 20.

[28] Charles and Dons (n 14), 15; Charles & Cumming (n 19) 20.

[29] Charles & Cumming (n 19), 43.

[30] Charles and Dons (n 14), 19; Charles & Cumming (n 19), 22.

[31] Charles and Dons (n 14), 19.

[32] Charles and Dons (n 14), 16-17; Charles & Cumming (n 19), 21.

[33] Charles and Dons (n 14), 20.

4. LEGISLATIVE FRAMEWORK ON PLASTIC POLLUTION IN BRAZIL (1/2)



Brazil is one of the world's most important producers & consumers of plastic, polluting the ocean with at least 325.000 tons of plastic each year.³⁴ Nevertheless, Brazil's legislation still lacks when it comes to regulating the production, use and disposal of plastic.

Brazil is a **Federative Republic** formed by 4 autonomous entities:

- the Union
- 26 States
- 5570 Municipalities
- and the Federal District (Brasilia)

each with their own legislative, governmental and administrative capacity.³⁵

Legislation

The Federal Constitution establishes concurrent powers for the federal, state and municipal governments to legislate on environmental protection.³⁶

Brazil does not have any federal laws specifically dealing with plastic pollution, but plastic waste is regulated through its **National Solid Waste Management Policy** in Federal Law 12.305/2010. This law imposes the responsibility for proper storage, transportation and disposal of solid waste on the waste generators.³⁷

At state level, there are various laws prohibiting the distribution and sale of disposable plastic bags and straws.³⁸ Proposals for a federal law banning plastic bags and other single-use plastics have been blocked due to a strong plastic lobby.³⁹

[34] Larisse Faroni-Perez, 'Overcoming Plastic Pollution: Challenges faced by Brazilian policies and perspectives for stakeholder engagement and global governance opportunities' (2023) 22(2) J of Science Policy & Governance <https://www.sciencepolicyjournal.org/article_1038126_jspg220204.html> accessed 7 March 2024.

[35] Enrique Gomez Ramirez, 'Brazil's Parliament and other political institutions' (European Parliamentary Research Service, 2021) <<https://www.bing.com/ck/a?!&&p=0db01360f49f71a3JmldHM9MTcxMDI4ODAwMCZpZ3VpZD0xNGlyYWM2MCMmODNjLTYNjQtdMU3NSIhZTA2Zj k5NjY0YWYmaW5zaWQ9NTMwMw&ptn=3&ver=2&hsh=3&fclid=14b2ac60-f83c-6564-0575-be06f99664af&psq=legislative+system+brazil&u=alaHR0cHM6Ly93d3cuZX>> accessed 23 March 2024, 2-3.

[36] Leonardo Lamego, 'Environmental Law 2023 - Law and Practice' (Chambers and Partners, 30 November 2023) <<https://practiceguides.chambers.com/practice-guides/environmental-law-2023/brazil/trends-and-developments>> accessed 22 March 2024; Constituição Federal de 1988, arts 23, 24, 39, 225.

[37] Lei No 12.305 de 02.08.2010, art 27.

[38] Lei Estadual No 9.896 de 29.08.2012; Lei Estadual No 3.820 de 17.09.2021; Lei Estadual No 10.942 de 04.12.2018; Lei Estadual No 17.110 de 12.07.2019; Lei Estadual No 4.070 de 26.12.2022.

[39] Carlos Sampaio, Projeto de Lei No 10.504 de 2018 (Camara dos Deputados, 2018)

<https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra?codteor=1676142&filename=Avulso%20PL%2010504/2018> accessed 11 April 2024; Jonathan Lopez, 'Brazil's chemicals, plastics intensify lobbying against single-use plastics ban proposals' (Independent Commodity Intelligence Services, 31 October 2023) <<https://www.icis.com/explore/resources/news/2023/10/31/10939391/brazil-s-chemicals-plastics-intensify-lobbying-against-single-use-plastics-ban-proposals/>> accessed 19 March 2024.

4. LEGISLATIVE FRAMEWORK ON PLASTIC POLLUTION IN BRAZIL (2/2)



Environmental Taxes and Fees

Environmental provisions of the Brazilian Constitution were clearly written with a **Command & Control (C&C) approach** in mind, which is deeply embedded in Brazil's bureaucratic practices.⁴⁰ However, there are no major constitutional or legal impediments to the adoption of **market-based instruments** of environmental policy. While not explicitly mentioned in the Constitution, nor in the National Environmental Policy Law, market-based instruments are not prohibited either.⁴¹

A plastic fee has to comply with **principles of (international and Brazilian) environmental law & tax law:**

- non-existence of a right to pollute
- impossibility of marketing the environment
- division of legislative and administrative competences between federal, state and municipal governments
- Amount of fee must be proportionate to respective taxable event⁴³

The Brazilian tax system distinguishes between three basic types of tributes:

- **Impostos** (taxes imposed on capital, income and consumption)
- **Taxas** (Fees levied by virtue of the use of police power or a public service provided by the state)
- **Contribuicoes de melhoria** (betterment assessments levied on appreciation of private real estate property due to public works in vicinage)⁴²

Market-based instruments currently in place in Brazil:

- **Ecological ICMS:** tax incentive for creation of wildlife preserves and protection of watersheds⁴⁴
- **TCFA:** Environmental Control and Inspection Fee of the IBAMA (Environmental and Natural Resource Institute)⁴⁵

[40] Antonio Herman Benjamin & Charles Weiss Jr, 'Economic and Market Incentives as Instruments of Environmental Policy in Brazil and the US' (1997) 32 Texas Int'l L J 67, 69.

[41] *ibid*, 73; Constituição Federal de 1988, art 225; Lei No 6.938 de 31.08.1981.

[42] José Marcos Domingues, 'Environmental Fees and Compensatory Tax in Brazil' (2007) 13(2) L and Business Review of the Americas 179, 282-283.

[43] Benjamin & Weiss Jr (n 40), 72; Domingues (n 42), 288-290;

Constituição Federal de 1988, arts 145-156, see also arts 21-22 (federal competences), 30 (municipal competences) and 25(1) (state competences).

[44] Lei Complementar No 59 do Estado do Paraná de 01.12.1991.

[45] Lei No 6.938 de 31.08.1981, art 17-B.

5.1 A PLASTIC FEE FOR BRAZIL - CHARACTERISTICS



A **plastic pollution fee for Brazil** will be based on the proposal made by the Minderoo Foundation.⁵⁰ It would have the **primary objective of financing treaty implementation**, while addressing a range of economic, social and environmental goals. This approach complies with the Brazilian principle of non-existence of a right to pollute,⁵¹ and is less costly and more transparent than a fee with exclusive economic role.⁵²

The fee will be **legally binding** and should clearly be formulated as a **fee** with the purpose to cover costs for treaty implementation (following the Brazilian definition of 'fee').⁵³ Using a fee is also more likely to be accepted by politicians and the public, considering the sensitivity around taxes.⁵⁴ The fee will be paid by **primary plastic polymer producers** as this will be the most effective, cost-efficient.⁵⁵

The fee will be calculated based on the Minderoo Foundation's suggestion, using a **target-based approach** (based on the fee's financing goal). This produces less uncertainties and complexities, is more transparent and directly relates to the goal of the fee, in contrast to a social cost-approach. In the context of limited resources, an approved list of exemptions is preferred to a complex system of eco-modulation.⁵⁶

The procedure for **fee collection** will be determined by Brazil's environmental and/or tax authorities, and ideally aligned with an existing fiscal or regulatory measure already applicable to polymer producers, to enhance efficiency. Using a state organ for fee collection saves costs, while a new independent entity could ensure more independence and transparency.⁵⁷

The revenues from fee collection will be used to **support treaty implementation in Brazil and reinvested** into projects bringing environmental and social benefits and **supporting the Brazilian industry to transition to a sustainable circular economy** and to create economic opportunities in the waste management economy.⁵⁸

A share of 10-15% should be retained by the collecting authority to ensure the fee is sustainable. The **administration of revenues** could be done by an existing or a new entity or a mix of both, similar to the GEF which serves as funding mechanism for the UNFCCC for instance.⁵⁹ On a national level, a range of existing funds could be used, such as the National Environmental Fund and the National Scientific and Technological Development Fund.

[50] Charles and Dons (n 14); Charles & Cumming (n 19).

[51] Charles and Dons (n 14), 10-11; Charles & Cumming (n 19); El Senado y Cámara de Diputados de la Nación Argentina (n 47), art 24; Legasa (n 48).

[52] Benjamin & Weiss Jr (n 40), 72.

[53] Domingues (n 42), 282-283.

[54] Pimentel (n 4); André Folloni & Renata Brindaroli Zelinski, 'Environmentally oriented Tax Law and the Brazilian Tax Species' (2016) 13 *Veredas do Direito* 93, 103.

[55] See proposal by the Minderoo Foundation in section 3.

[56] *ibid.*

[57] *ibid.*

[58] *ibid.*

[59] *ibid.*; 'Introduction to Climate Finance' (United Nations Climate Change) <<https://unfccc.int/topics/introduction-to-climate-finance>> accessed 10 June 2024.

5.2 A PLASTIC FEE FOR BRAZIL - COMPLIANCE WITH BRAZIL'S POSITION AND PRINCIPLES OF ENVIRONMENTAL AND TAX LAW



The adoption of a plastic pollution fee would be in line with the environmental principles and approaches that Brazil adopts and supports both internationally and nationally, including the **principle of common but differentiated responsibilities (CBDR)** and the **polluter pays principle (PPP)**.

The principle of **CBDR** seeks to 'achieve equity, justice and fairness in international environmental relations by balancing nations responsibilities to address transboundary and global environmental problems with their right to develop'. According to CBDR, while all countries are responsible for global environmental problems, for instance global warming, diversity loss etc, states' degree of responsibility and capacity to redress them varies significantly. CBDR establishes a common responsibility of states for the protection of the global environment, but lays down different standards of conduct for developed and developing nations, according to their degree of responsibility and capacity to redress the problems.⁶⁰

The introduction of a plastic pollution fee as proposed in this report is a manifestation of the CBDR principle.

While the fee is levied on all plastic polymer producers uniformly, no matter in which country they reside (common

responsibility), fee revenues are distributed on a needs-basis, with developing countries in need of financial assistance for treaty implementation receiving a higher share of revenues than developed countries (different capacity to redress). This means, that Brazil, as a developing country, would most likely receive a higher amount of funds through the redistribution system, than the amount it levied.

The **PPP** stipulates that the party responsible for environmental pollution should bear its environmental and social costs.⁶¹ Again, a global plastic fee, as proposed here, will be in line with this principle. Primary plastic polymer producers, are the ultimate source of all plastic pollution and thus should be the ones held responsible for bearing the costs of remedying existing, and preventing future plastic pollution. A global plastic fee would do exactly that.

A plastic fee complies with **the Brazilian principles of environmental law & tax law:**

- non-existence of a right to pollute
- impossibility of marketing the environment
- division of legislative and administrative competences between federal, state and municipal governments
- Amount of fee must be proportionate to respective taxable event

[60] Empire Hechime Nyekwere and Ngozi Chinwe Ole, 'Understanding the Principle of Common but Differentiated Responsibilities and its Manifestations in Multilateral Environmental Agreements (MEAS)' (2021) 11 Nnamdi Azikiwe University, Awka Journal of Public and Private Law 262, 262-264.

[61] Charles and Dons (n 14), 12; Charles & Cumming (n 19), 19.

5.3 A PLASTIC FEE FOR BRAZIL - INCORPORATING THE FEE INTO BRAZIL'S LEGAL SYSTEM



Legislation

The introduction of a plastic fee is possible in different ways. Our research shows that the easier and quicker would be to bring it as an extension of a familiar concept or procedure and doesn't demand major changes in legal frameworks or competences of public institutions.⁶²

Accordingly, a plastic fee for Brazil could be integrated into the **National Solid Waste Management Policy** (Lei 12.305/2010).⁶³ The law supports many objectives of the above proposed plastic fee for Brazil, such as promoting the use of recycled and recyclable material and the integration of waste pickers and recyclers, and lists market-based instruments, namely tax, financial and credit incentives, as means of achieving those objectives. The law also already⁶⁴ imposes responsibility for proper (plastic) waste management and disposal on the waste generators.⁶⁵

Supporting Measures

To help predict how businesses and citizens will respond to the new plastic fee, the Brazilian government can use the **Plastic Policy Simulator** of the World Bank which will allow it to estimate the costs, revenues and other effects associated with the plastic fee.⁶⁶ To build consensus, ensure public support and political approval, the government should **engage all stakeholders** - plastic industry, industry associations, waste picker unions, etc. - from step one of the process of drafting the new plastic fee.⁶⁷ Additionally, the government could make use of **public awareness campaigns** to raise awareness of the benefits of this new policy within the population and thereby gain their support.⁶⁸

[62] Benjamin & Weiss Jr (n 40), 69.

[63] Lei No 12.305 de 02.08.2010.

[64] Lei No 12.305 de 02.08.2010, arts 7, 8.

[65] Lei No 12.305 de 02.08.2010, art 27.

[66] Faroni-Perez (n 34); PRO BLUE, World Bank Group, 'Choosing Policy Instruments: Plastic Policy Simulator (PPS)' (PRO BLUE, The World Bank) <<https://thedocs.worldbank.org/en/doc/32f3b154066680ace6bf7edb985918ed-0320062022/original/3P-PPS-Summary-web.pdf>> accessed 22 May 2024.

[67] Bhuvanesh Awasthi et al, 'Closing the Intention-Action Gap: Behaviorally-Aligned Strategies for Effective Plastic Pollution Reduction' (2023) 22(2) J of Science Policy & Governance <<https://www.semanticscholar.org/paper/Closing-the-Intention-Action-Gap%3A-Strategies-for-Awasthi-Birthwright/581c98617e7f03e73bb0ec715e25525d3f92dd67>> accessed 12 March 2024.

[68] *ibid.*



6. CONCLUSION

This report has explored how a plastic pollution fee, as proposed in the draft texts of the UN Plastics Treaty can be incorporated into the Brazilian legal system. It has done so by examining various proposals for a global plastic fee, made by the INC and by the Minderoo Foundation. Next, the report examined the current legislative framework around plastic pollution and environmental taxes and fees in Brazil. Based on these findings, the report suggested a plastic fee for Brazil which is mainly based on the proposals from the Minderoo Foundation. This fee will be primarily a financing instrument. It will be legally binding, **designed as a fee**, and apply to primary polymer producers. The fee will be calculated using a target-based approach similar to the Minderoo's calculation method, linking the fee directly to the financing goal. Procedures for collection will be determined by the Brazilian authorities and ideally aligned with existing regulatory measures.

Fee revenues will be administered by an international entity and locally distributed by various existing Brazilian funds and will be used to fund projects of treaty implementation, such as remedying legacy pollution, and building sustainable waste management infrastructure. While further research into this topic is required, it is suggested that the fee could be incorporated into Brazil's National Solid Waste Management Policy, by amending Law 12.305/2010. All stakeholders should be engaged and the government should make use of awareness raising campaigns.

From a legal perspective, **the incorporation of a global plastic fee is feasible and will be in compliance with the principle of CBDR and the polluter pays principles, bringing multiple environmental, social, and economic benefits to the country and its stakeholders.**

