

Proposal by the EU and its Member States for amendments to Article 8 of the Chair's text

Article 8

1. Each Party shall take measures to ensure that plastic waste is managed in an environmentally sound manner, **in line with the waste hierarchy and** taking into account relevant guidelines developed under the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal and other relevant agreements and organizations and guidance referred to in paragraph **6-5.**

2. In implementing paragraph 1, each Party shall, taking into account national circumstances and capabilities, take measures, including to:

(a) Establish appropriate systems and disaster-resilient infrastructure at the national and subnational levels for the **environmentally sound management** ~~safe handling, sorting, collection, transportation, storage, recycling, and disposal including with energy recovery~~ of plastic waste;

(b) Promote **the** circular economy **approaches**;

(c) Set objectives and targets at the national level to increase the collection and recycling rates of plastic waste;

(d) Prevent littering, and prohibit open dumping, open burning and ocean dumping of plastic waste, taking into account internationally agreed rules;

(e) Prevent and reduce abandoned, lost, or otherwise discarded **plastic** fishing gear **containing plastic**;

(f) Promote a just transition for plastic waste management workers, especially waste pickers and other informal workers, including women, youth and small and artisanal fishers; ~~or and~~

(g) Promote behavioural changes to prevent and minimize plastic waste, including by raising public awareness.

[3. Each Party shall take appropriate measures to ensure that transboundary movement of plastic waste is allowed only for the purpose of environmentally sound management. Parties that are also Parties to the Basel Convention shall take appropriate measures to ensure that transboundary movement of plastic waste is carried out in accordance with the obligations of the Basel Convention ~~and developed country Parties shall take measures to prohibit the export of plastic to developing country Parties~~. In circumstances where the Basel Convention does not apply, a Party shall take appropriate measures to ensure that transboundary movement of plastic waste is allowed only after taking into account relevant national and international rules, standards, guidelines and guidance referred to in paragraph **6-5.]**

4. Each Party ~~is encouraged to~~ **shall** take measures to establish or promote the development of extended producer responsibility approaches and, as appropriate, other economic instruments within its jurisdiction, taking into account the shared responsibilities of relevant stakeholders to ensure the environmentally sound management of plastics, throughout their life cycle.

5. The Conference of the Parties, to support the implementation of this article, may establish programmes of work and develop guidance in cooperation, as appropriate, with the Conference of the Parties to the Basel Convention on the control of transboundary movement of hazardous waste and their disposal and other relevant agreements and organizations. **The Conference of the Parties shall cooperate, where necessary, with the Conference of the Parties of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal to ensure that transboundary movement of plastic waste is allowed only for the purpose of environmentally sound waste management.**

Rationale for the proposed changes

The rationale for the main changes is the following:

- Paragraph 1: the waste hierarchy is a key guiding principle for the environmental sound management of waste, which encourages treatment options that deliver the best overall environmental outcome. This principle is enshrined in the various guidance and framework documents adopted under UNEP and the Basel Convention. It is therefore essential that the waste hierarchy is explicitly referred to in paragraph 1 of Article 8.
- Paragraph 2: the list in this paragraph should contain complementary measures, as all these measures are needed to implement the objective set out in paragraph 1 (hence the proposal to replace “or” with “and” in paragraph (f)). Other proposed changes to paragraph 2 are designed to streamline the paragraph or clarify the terminology: 2(a), to refer to systems and infrastructure for the environmentally sound waste management, rather than a list of operations which risks to be incomplete; 2(b), to refer to circular economy as a concept rather than “circular economy approaches” which is not very precise; 2(e), to facilitate the practical implementation at sea.
- Paragraphs 3 and 5: The future instrument on plastic pollution should not duplicate with the Basel Convention in respect of the transboundary movements of plastic waste, as this would undermine legal clarity and create confusion for Parties and stakeholders. As the Basel Convention already regulates the transboundary movements of plastic waste, the content of paragraph 3 does not seem to be needed and some of its provisions are clearly not consistent with the Basel Convention. Our preferred proposal is to delete paragraph 3 and include a new sentence instead in paragraph 5 on the cooperation with the Basel Convention on transboundary movements of plastic waste.
- Paragraph 4: The proposed change is to align the wording in this paragraph with other paragraphs in Article 8, by replacing “are encouraged” with “shall”. This would reinforce and clarify the nature of the requirements in paragraph 4 on Extended Producer Responsibility (EPR). EPR schemes have been used successfully in many countries to increase waste collection, waste recycling and awareness-raising, as well as to ensure sustainable funding for waste collection and treatment and to incentivize producers to shift to more circular products. It is therefore critical that the future instrument on plastic pollution contains clear provisions on EPR. At the same time, the paragraph leaves an important degree of flexibility on the type of measures that each Party would be required to undertake, as it does not prescribe Parties to set up EPR schemes and indicate that measures under such schemes can take different forms (“establish or promote the development of EPR approaches”). The reference to “the shared responsibilities of relevant stakeholders” also indicates that the responsibility under EPR schemes can be exercised by other economic operators (for example importers) than strictly the producers, as is the case already in many EPR schemes. This flexibility has been stressed as an important element by some Parties.