

Further development of Article 3 on Plastic Products

Context regarding the work on Article 3

In order to substantially reduce plastic pollution and achieve the objective outlined in UNEA Resolution 5/14, it is necessary that the agreement contains measures to ensure an environmentally sound management of plastic products and plastic products containing chemicals of concern. This means to deliver a predictable regulatory framework that states, businesses, civil society need to stimulate the market and encourage research and innovation taking into account environmental and health considerations.

At INC-5.1, 94 countries supported this request in a joint [statement](#) and expressed that without such an obligation, the instrument will not be able to deliver the needed outcomes. A group of 58 member states also submitted a concrete Proposal for Article 3 that is functional and leaves flexibility to account for national circumstances. The Proposal contained an initial list of plastic products and chemicals of concern in plastic products to be globally phased-out. The supporting countries are from different regions and different economic situations, which illustrates that this reflects a need by a large number of countries and that it is possible to come together and define meaningful provisions. In June, 95 countries have endorsed the ministerial statement "[The Nice wake up call for an ambitious plastics treaty](#)" and have renewed their commitment for an effective Article 3.

An informal Core Group with country representatives from all UN regions, co-chaired by Mexico and Switzerland, continued the work and further developed the following core text proposal for Article 3 on the basis of the Chair's Text, taking into account a number of suggestions and comments made by Parties. The Proposal aims to deliver the elements that allow Parties to identify relevant plastic products, and plastic products containing chemicals that have to be managed and controlled. The proposal contains measures on the national and the global level:

- at the national level, an obligation for each Party to identify, reduce, and where feasible phase out particularly problematic or harmful plastic products, including those containing chemicals of concern. The proposal contains criteria to identify such plastic products.
- at the global level, a list of plastic products, including those containing chemicals of concern to be phased out. Noting the need to account for national circumstances, we support the possibility of defining exceptions for essential use, or extended time frames, and the ability for a Party to opt-out. The Proposal outlines the nomination process by Parties for such products and the work of the subsidiary body that analyzes the nomination and may deliver a recommendation for listing the plastic product. The work of the subsidiary body would be based on science, and include the analysis of alternatives or possible socio-economic impacts.

The Proposal foresees the development of further guidance and the requirements on reporting about the undertaken measures on a national level.

The process for amending the Annex that contains a list of products is defined in the Article on Adoption and Amendment of Annexes to the Convention. The decision making process for the amendment of the Annex strikes a balance between the flexibilities for Parties provided to ensure that specific national contexts can be taken into account and the possibility of the COP to take a decision if a broad consensus among Parties exists. This means preventing a "veto-right" by a single Party, in the sense that if all efforts to achieve consensus are exhausted, the COP can, as a last resort, vote on amending the Annex. To ensure an inclusive process, the vote would require not just a simple majority, but a two-thirds majority of the Parties present and voting at the meeting. In addition, Parties would have the possibility to opt-out of any amendment of the Annex.

The Proposal that the signing countries have developed for INC-5.2 is based on the understanding that a treaty that aims to reduce plastic pollution substantially has to contain a provision to target plastic products, including those containing chemicals of particular concern.

Text Proposal for Article 3 on Plastic Products

Supported by

Antigua and Barbuda, Canada, Chile, Colombia, Cook Islands, Côte d'Ivoire, Costa Rica, Democratic Republic of the Congo, Dominican Republic, EU and its 27 Member States (Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden), Ethiopia, Fiji, Gabon, Georgia, Ghana, Grenada, Guatemala, Guinea, Iceland, Israel, Jamaica, Mexico, Micronesia, Moldova, Monaco, Namibia, New Zealand, Norway, Panama, Peru, Philippines, Senegal, Serbia, Somalia, Switzerland, Thailand, Tuvalu, the UK, Uruguay

1. Each Party shall reduce, and where feasible not allow, the manufacture, export or import of
 - a. plastic products not listed in Annex [Y] that meet one or more of the following criteria:
 - i. are likely to be littered or to enter the environment or pose a risk to human health or the environment;
 - ii. contain a chemical or chemicals of concern to human health or the environment;
 - iii. are not capable of being reused or recycled in practice and at scale;
 - iv. may disrupt the circular economy on a large scale; or
 - b. other products not listed in Annex [Y], if they contain plastics that fulfil one or more of the criteria in letter a.
2. Each Party shall not allow the manufacture, export and import of plastic products and products containing plastics listed in Annex [Y] after the phase out date for that product in Annex [Y], except where an exclusion is specified in Annex [Y] or the Party has a registered exemption pursuant to Article [4 on Exemptions].
3. Any Party may submit a proposal to the Secretariat for the inclusion of a plastic product or a product containing plastics in Annex [Y] for consideration by the Conference of the Parties in accordance with Article [24 Adoption and Amendment of Annexes]. In developing a proposal, a Party may be assisted by other Parties and/or by the Secretariat. Such a proposal shall include:
 - a. a justification demonstrating how the product meets one or more of the criteria set out in paragraph 1, and
 - b. technical and scientific data in support of the proposal, including, if relevant, alternatives which may be utilized should the proposal be adopted.
4. Any proposal submitted pursuant to paragraph 3 shall be evaluated by a [subsidiary body] to be established by the Conference of the Parties at its first meeting, in accordance with Article [20 bis Subsidiary Bodies], to assist in the implementation of this Article.
5. The [subsidiary body] shall evaluate the proposal in a transparent manner taking into account the best available science, applicable international standards and guidance and relevant traditional knowledge of Indigenous Peoples and local communities. The [subsidiary body] may recommend to the COP that the product be added to the appropriate part of Annex Y, taking into account the criteria in paragraph 1 and the following factors:
 - a. The necessity of the plastic product or the plastic in other products and its intended use;
 - b. The safety, health and environmental impacts and technical feasibility of alternative products or methods;
 - c. The risk posed by chemicals of concern contained in the plastic product; and
 - d. The socio-economic impacts of the proposed control measures.

6. The Conference of the Parties shall take into account the recommendations of the [subsidiary body], in deciding whether to include any plastic products or products containing plastics in Annex [Y].
7. Each Party shall endeavour to ensure the availability of information on plastic products, on chemicals in plastic products and on products containing plastics along the various value chains, and ensure the traceability of prioritised chemicals used in plastic products, taking into account guidelines to be adopted by the Conference of the Parties at its second meeting.
8. The Conference of the Parties shall adopt at its first meeting guidance to assist Parties in their implementation of this article and update as appropriate thereafter. Parties shall take the guidance into account in implementing the relevant provisions of this Article.
9. Each Party shall include information on its implementation of this Article in its reports submitted pursuant to Article [15 on Reporting], in particular information on measures adopted in implementing paragraphs 1, 2 and 7 of this Article, the outcomes achieved, and any challenges encountered. The Secretariat shall make such reported information publicly available.

Annex [Y]: Plastic Products and Products containing plastics

Exclusions: to be decided

[Part I] Plastic Products or product groups	Phase out date
Single use plastic sticks to be attached to and to support balloons	[203X]
Single use plastic straws	[203X]
Single use plastic beverage stirrers	[203X]
Single use plastic cutlery/ utensils (forks, knives, spoons, chopsticks)	[203X]
Single use plastic-stemmed cotton bud sticks	[203X]
Single use plastic carrier bags	[203X]
[Part II] Plastic Products or product groups containing chemicals:¹	Phase out date
Toys, children's products, and food contact material containing: • DEHP (CAS number 117-81-7) • DBP (CAS number 84-74-2) • BBP (CAS number 85-68-7) • DIBP (CAS number 84-69-5)	[203X]
Toys, children's products, and food contact material containing: • Lead and lead compounds • Cadmium and cadmium compounds	[203X]
Toys, children's products, and food contact material intended for children under 3 years of age containing: • BPA (CAS number 80-05-7)	[203X]
[Part III] Products or product groups containing plastics	Phase out date
Rinse-off cosmetics containing intentionally added microplastics	[203X]
Personal care products containing intentionally added microplastics	[203X]

¹ "Except as otherwise specified in this Treaty, products containing chemicals occurring as unintentional trace contaminants shall not be considered to be subject to this Annex".