Call for written submissions – Proposed response template on the potential options for elements towards an international legally binding instrument

On 9 December 2022, the Executive Secretary of the INC Plastic Pollution Secretariat sent a notification inviting written submissions from members of the committee and from observers. The template below is intended to provide guidance to members of the committee and observers in structuring the written submissions.

As requested by INC-1, written submissions will inform the secretariat in the preparation of a document with potential options for elements towards an international legally binding instrument, for consideration at the second session of the INC, without in any way prejudging what the committee might decide regarding the structure and provisions of the instrument. The document is to be based on a comprehensive approach that addresses the full life cycle of plastics as called for by UNEA resolution 5/14, including identifying the objective, substantive provisions including core obligations, control measures, and voluntary approaches, implementation measures, and means of implementation.

The template below is meant to assist Members and Observers to prepare their written submission as a guide. A number of documents prepared for INC-1 are of relevance, notably UNEP/PP/INC.1/5 on ‘Potential elements, based on provisions in paragraphs 3 and 4 of United Nations Environment Assembly resolution 5/14, including key concepts, procedures and mechanisms of legally binding multilateral agreements that may be relevant to furthering implementation and compliance under the future international legally binding instrument on plastic pollution, including in the marine environment’.

The template is divided into three sections:

I. Substantive elements
II. Implementation elements
III. Additional input

All written submissions must be sent to unep-incplastic.secretariat@un.org. The statements received will be compiled and made available the INC webpage.

Please note that it is not required for all fields to be answered in the template for submission.

Deadline for submissions:

• 6 January 2023 for written submissions from observers.
• 10 February 2023 for written submissions from Members of the Committee.
I. Substantive elements

1. Objective(s)

a) What objective(s) could be set out in the instrument?

**Proposed Objective:** Protect human health and the environment from plastic pollution and its contributions to the triple planetary crisis

**Explanatory Text:** Plastic pollution is reaching its tipping point, therefore there is a need to reduce the total production of plastics to sustainable levels and eliminate plastics that are toxic. The key drivers behind plastic pollution crisis and its aftermaths on climate change and biodiversity lost should be addressed through ambitious global concerted and differentiated action. The future plastic treaty called by all to be ambitious must be a top-down prescriptive agreement that addresses the three policy narratives on plastic crisis: dependence on fossil fuel, inefficiency of resources, pollution and chemical toxicity.

2. Core obligations, control measures and voluntary approaches

a) What core obligations, control measures and voluntary approaches would provide a comprehensive approach to addressing plastic pollution, including in the marine environment, throughout the full life cycle in line with the future objective(s) of the instrument?

- The plastic treaty needs to impose strict control provisions on the life cycle of plastic: Caps on production, ban on subsidies for fuel and natural gas for plastic production, ban on problematic plastics, ban on toxic chemicals in plastics, it needs to be dynamic instrument by providing a mechanism to phase out other types of plastic, and measure to design and produce nontoxic and recyclable plastics for some essential uses;
The plastic treaty needs to impose individual obligations for Parties;
The plastic treaty needs to comprise differentiation (the principle of common but differentiated responsibilities and respective capabilities should be at the heart of the treaty) measures and responsibilities to equalize implementation capacities between developed and developing countries;
The plastic treaty needs to have a robust mechanism for transparency and accountability for action and support provided and received by Parties (developed countries must be required to provide information on financial, technology and capacity building support they provide to developing countries and developing countries must be required to provide information on the support they need and receive);
The plastic treaty needs to have provisions to tackle the plastic pollution legacy.
The plastic treaty further needs to adopt incremental processes through which measures are strengthened over time.

II. Implementation elements

1. Implementation measures

   a) How to ensure implementation of the instrument at the national level (eg. role national action plans contribute to meeting the objectives and obligations of the instrument?)

   b) How to ensure effectiveness of the instrument and have efficient national reporting?

   c) Please provide any other relevant proposals or priorities here on implementation measures (for example for scientific and technical cooperation and coordination as well as compliance).

   a) The implementation of the instrument at the national level should be ensured through national binding domestications laws enacted after the country situation analyze and development of the national “PLASTIC PROFILE”, a document that includes all relevant aspects of the life cycle of plastic (raw materials, feedstocks, design, production, use, importation/exportation, recycling, elimination etc.) and ratification/adhesion.

   b) Have a transparent and efficient monitoring and national reporting mechanism

   c) Enhanced provisions of finance, technology and capacity-building needed by developing countries based on their lion share of the plastic pollution crisis, polluter pays principle, common but differentiated responsibility, equity, human rights. Data sharing of human health and environmental data on plastic materials and their ingredients, including a principle that such data should not be confidential.
2. Means of Implementation

With respect to means of implementation, document UNEP/PP/INC.1/5 covers the following elements: capacity-building, technical assistance, technology transfer on mutually agreed terms and financial assistance.

a) What measures will be required to support the implementation of the instrument?

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<th>On Finance particularly, ensure:</th>
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<tr>
<td>✓ The provision of new, additional, adequate and predictable finance, including transparency on level of support;</td>
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<td>✓ The need for adequate financial flows mobilization from industry and donor countries at international level into a dedicated multilateral financial mechanism;</td>
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<td>✓ Global fee on virgin plastics and plastic products produced and traded to support the implementation of the treaty and provide a disincentive to plastic production.</td>
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<td>✓ Simplification, transparency, improvement and rationalization of access, including direct access to funding by eligible Parties</td>
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| o Strong political wills at national and global levels; |
| o Financially supported national dedicated team (Plastic Taskforce) responsible for national reporting; |
| o All stakeholder participation and engagement |
III. Additional input

Please provide any other relevant proposals or priorities here (for example introductory elements; awareness-raising, education and exchange of information; research; stakeholder engagement; institutional arrangements and final provisions).

AMBITIOUS TREATY
The future plastic treaty should have a broad commitment to end the use of problematic plastic types and then introduce regulations to ban particular types of plastic over time. This approach has an immediate appeal—it sends a signal to industry that they must change their behaviors and products, while giving time to adapt to the new regulation and develop alternative materials or process.

A ban on plastic products might focus either on certain types of plastic based on their chemical composition, or on certain uses. In some ways it might be the easier approach for industry to respond to in that there is clarity as to what chemical formulations can be used in plastics production.

Single-use plastics such as bags and bottles might be the first items subject to a ban, as already seen in so many countries, with bans then extending to the use of plastics in other products such as computers or cars in subsequent years. The process would likely take decades to reach the point of an almost complete ban of plastic products, leaving only essential health-related plastic products, which would be subject to strict design and recycling requirements.

Going beyond the plastic waste amendment, most problematic plastics need to be classified as hazardous plastics/materials not just because of the toxic chemicals they contain, but also of their potential to absorb pollutants in their environment when they breakdown (polyethylene). History shows that this approach works. For instance, Chlorofluorocarbons (CFCs) and persistent organic pollutants were reclassified as hazardous under the Montreal Protocol in 1989 and the Stockholm Convention in 2004, respectively. This led, in each case, to nearly 200 countries stopping the production of some 30 dangerous chemical groups and replacing them with safer ones. For CFCs, all production stopped within seven years.

PLASTIC POLLUTION LEGACY
One thing is clear, simply stopping production of plastics will not lead to removal of the problem of existing plastics pollution. Lesson learning from practice in relation to oil pollution as addressed in the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (Fund Convention) financed through contributions from oil importers and exporters to provide compensation in the event of an oil spill to those who would not otherwise receive full compensation. Plastics treaty could establish a Plastics (Legacy) Fund through contributions (determined on the basis of production and use of plastics or simply import and export) from treaty parties. The Plastics Fund could then be used to support clean-up of plastics pollution in the oceans.