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 below 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:**

The instrument should aim to achieve the following:

- To eliminate and mitigate the harm and pollution caused by plastic as a product and substance from cradle to grave to the environment, human, animal and marine health.
- To put in place remedial mechanisms for social, economic, environmental and climate impacts already caused to people, especially those who have been directly affected including local communities & informal workers and the planet due to unhindered plastics production, consumption and unsustainable disposal particularly for non-essential uses and their associated chemicals.
- To build a truly circular economy, which actively eliminates single-use based product design and promotes reuse and refill mechanisms.

Explanatory Text:
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?

Core obligations

1. Continuously reduce global plastic production to guarantee that generated plastic waste has a high market demand and is fed back repetitively into the system.
2. Ensure that polluters assume full responsibility for the sustainable management of plastic waste including microplastics and nurdle pollution in the marine environment while including the informal sector in the recovery (in a just & equitable way).
3. Reduce the size of the plastic crisis by imposing caps on newer production of virgin plastic and hazardous additives.
4. Ensure that false solutions such as waste to energy, incineration and biodegradable plastics are strictly prohibited and upstream and midstream producers indulging in greenwashing (such as beach clean ups) are held accountable and penalised.
5. Ensure that upstream and midstream producers design and use eco-alternatives to plastic and stop using unnecessary plastic packaging, particularly food packaging and e-commerce packaging.
6. Impose a complete and strict ban on all/non-essential Single-Use Plastic (Exemptions may be given for medical use).
7. Ensure phase out of non-recyclable, non-reusable and hard to recycle plastics such as multi-layered plastics, especially sachets.
8. Member States shall pledge to follow the waste hierarchy of Refuse, Reduce, Repair, Reuse in that order and turn to recycling as the last resort.
9. Ensure midstream manufacturers invest 10% for redesigning their products and packaging to be plastic free.
10. Ensure the ‘polluter pays’ principle is followed through the effective implementation of EPR mechanism to recover the full environmental and social cost of plastics.
11. Ensure the producers take full responsibility for direct and indirect leakage and pollution caused by plastic ending up on the coastline and in oceans.

Control measures

1. Capping/Reduction: Reduce virgin plastic production annually by 10% compared to 2018 baseline through taxes or bans.
2. Bans: Ban the production and use of highly polluting plastics (material and products), microbeads and toxic additives as per annex X (Items in the Annex will be continuously updated following scientific research on environmental discharge or harm to health)
3. Circularity: Each member State shall allow the use of only those polymers and plastic products which are proven to be circular, meaning, safe and technologically viable to be transformed repetitively into the same product.
4. Member states agree to promote, subsidise and/or enforce reuse and refill mechanisms to complement the phase down of plastics.
5. Member states agree that the construction of plastic production facilities must be discouraged and that financial institutions are prohibited to fund any new project in breach with the objective or obligations.
6. Increase lifespan of products to ensure the right to repair and they are made to last; products made primarily from plastic are required to have a guaranteed lifespan.

7. Member states agree that a sectoral approach is most appropriate to address plastic usage in a phased priority manner.
   a. The retail sector makes refill and reuse the standard business practice reducing package annually by 15%.
   b. Online and offline retail must use reused package as secondary packaging starting with 50% after one year the treaty enters into force and increase reused package annually by 10%.
   c. Industries switch to reusable packaging in B to B.
   d. The FMCG sector is required to commit to 50% reuse by 20XX and from there growing reuse by 10% annually.
   e. Industries like textile, automotive, agriculture, food processing, cosmetics, e-commerce have to reduce their reliance on virgin plastic annually by 10%.

8. INC needs to set a standard for the maximum amount of virgin plastic that could be used in textiles.

9. Impose tax on manufacturers who produce non-reusable, non-recyclable and hard to recycle plastics such as multi-layered plastics, especially sachets.

10. Producers are required to accurately and clearly label the type(s) of plastic and hazardous chemicals in a product and provide additional details such as recyclability, composition of plastic in the case of '7-Other' plastics.

11. Member states shall recognise the importance of the informal sector in mitigating and combatting plastic pollution including waste pickers, scrap workers, recyclers and transporters and provide them formal identification/licence for operation to ensure they benefit from social welfare measures.

12. Member states/producers shall provide incentives to informal waste workers for collection of low value plastics.

13. Member states are required to ensure the safety and health of informal workers by providing adequate safety equipment and conducting regular medical camps.

14. Member states of the Global North must ensure that their plastic waste is not illegally or indirectly traded to the Global South in accordance with the Basel Convention.

15. Eliminating leakage: Producers are responsible to clearly label each of their products with a unique identification number (bar code) and to safely recover all their plastics from the environment globally.

16. Member states have to report on all fishing gears used in their country while recovering the same amount in weight of Abandoned, Lost, or Discarded Fishing Gear (ALDFG).

17. Identify and list hazardous polymers and chemicals to be banned and update the list annually.

18. The cost of provision of reusable PPE and other safety equipment to informal waste workers shall be borne by the Producers through the EPR mechanism.

19. All private entities need to report on the amount of plastic generated, collected post-consumption through EPR, reused, recycled, disposed and methods of disposal. This data shall be updated on an annual basis and made available to the government and public and need to be in line with global reduction targets.

20. Member states shall promote biodegradable/compostable/reusable traditional materials as alternatives to plastic packaging.
Voluntary approaches

- **Upstream**
  - High income countries should recognize their predominant responsibility in the creation of plastic pollution by being the driver of a linear economy and therefore install circular mechanisms as the highest priority.
  - Oil producing countries should recognize their additional gain from plastic production while externalising the costs of adaptation to other countries. They therefore should be the ones responsible for the damage already caused and commit to clean up legacy plastic.

- **Midstream**
  - Promote local production and consumption: wet markets, street food, handicraft
  - Promote traditional packaging (biodegradable but not bioplastics, reusable)
  - Progressively eliminate/phase out the production of multi-layered plastics, especially sachets, through a ratchet mechanism

- **Downstream**
  - Ensure producers increase the number of recycling centres by 25% based on the population size and market sales in any geographical location.
  - Member states and producers shall promote sale of FMCG products ‘in loose’ to avoid unnecessary plastic waste and to encourage refill mechanism.

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) Role of NAP:

i. The NAP shall be the national mechanism of implementing the treaty and has to be submitted for approval to the treaties secretariat.

ii. The NAP shall be written and/or updated to fully reflect the objective, obligations and measures of the treaty one year after the treaty went into force.

iii. The NAP shall include a roadmap on ways to reduce plastic generation, consumption and environmentally sound management of end-of-life plastic and the same shall be updated every 2 years.

iv. The NAP shall reflect the specific country’s indigenous/local knowledge and practices to approach the objective and obligations.

v. The NAP shall be evaluated and approved by the scientific body under the secretariat.

vi. The NAP shall promote traditional practices which largely do not/least rely on plastics such as wet markets, local production and consumption, etc.

Obligations:

vii. NAP shall report on the total quantum of plastic generated, collected and disposed in a country. The NAP shall reflect the annual reduction in production and consumption in accordance with global targets.

b) Effectiveness of the instrument and have efficient national reporting

Effectiveness:

i. Member States shall set up a national nodal agency for the effective implementation of the instrument which consists of members from various government agencies dealing with environment, consumer affairs, health & food, science & technology, urban governance, sanitation, commerce, corporate affairs etc. The nodal agency shall also have a balanced representation of CSOs, academia, urban local bodies, industries and relevant experts.

ii. The nodal agency shall hold regular regional and national consultations every quarter.

iii. Member States shall develop guidance manuals for achieving Zero Waste Management systems/models to be implemented at the local level.

Efficient national reporting:

iv. Member states update NAPs in line with global measures and obligations on a regular and periodic basis also reflecting Annexes added later to the treaty.

v. Member states shall report the status of implementation of EPR mechanism in the NAP.
c) Other relevant proposals or priorities

Scientific and technical cooperation:

i. A global plastic leakage identification methodology has to be adopted and practised. Results will be fed into national and global statistics with the aim of extending the list of banned and restricted products, materials and chemicals.

ii. Producers relying on similar package have to synergize and standardize their methods and package in the return for refill/reuse

iii. INC shall develop standards for the maximum amount of virgin plastic that could be used in textiles.

iv. INC shall develop appropriate testing methodologies and standard operating procedures to detect contamination and leaching of plastic in food, water and soil.

Compliance:

i. Member states shall enact an exclusive national legislation in accordance with the international legally binding instrument on plastic pollution including in the marine environment.

ii. Member states shall publish a list of defaulters of EPR targets annually, which is to be submitted to the INC secretariat. Member states shall enforce the national legislation to the fullest extent against defaulters.

iii. Member states shall ensure that producers indulging in greenwashing and false solutions such as waste to energy, incineration, bioplastics and mislabelling plastics as compostable and biodegradable are held accountable under appropriate national laws.

iv. Member states shall monitor and check for any Single-Use Plastic in circulation post the ban and hold the producers accountable under respective national laws.

v. The INC may develop a rating mechanism to annually review the performance of member states in plastic waste management after the treaty comes into force.

vi. The INC may also develop a guide for ‘green rating’ based on certain pre-defined parameters to be adopted by the member states. The member states may award green ratings to the midstream manufacturers based on their compliance with the national standards.

vi. Polymer and plastic product producers shall be made fully accountable for the full recovery and damage caused by their products, leaked to the soil, water, food or air. They shall also be made liable for POPs in air linked to open burning of their plastic waste causing damage to human health.
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?*

**Capacity-building:**

- Reuse/ refill /nature based solution mechanisms which were widespread before the hostile takeover of plastic require a better understanding from authorities.
- Local authorities require a better understanding of circular economy up and mid-stream solutions and cross-cutting issues between plastic pollution and sustainable production/consumption (specific to job loss, centralization of profit, etc.), poverty reduction.
- Facilitate the formation of associations of informal waste-pickers in each city and disseminate IEC materials and provide training on types of plastic, recyclability, false solutions and environmentally sound management of plastic waste.

**Technology transfer on mutually agreed term :**

- Circular economy technologies in reuse/refill as well as in indigenous knowledge/local nature based solutions have to be at the core of technology transfer (specifically from south to north).

**Financial assistance :**

- Promoting/reviving indigenous, local circular practices.
- Set up/upgrade/subsidise reuse/refill and local production/consumption.
- Source segregation and organic waste treatment.
- High-income countries should acknowledge their disproportionate plastic production, consumption and contribution to the plastic crisis and provide financial assistance to low-income and small island nations for green (alternatives to plastic) investments and strictly prohibit funding plastic or polymer production.
- High-income countries shall provide financial assistance for low & middle-income economies to decentralise their waste management infrastructure capacities.
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).

- Clearly define polluters/producers to include upstream oil & petrochemical manufacturers and midstream producers particularly FMCG companies, fashion and cosmetics brands, etc.
- Clearly define false solutions and greenwashing activities.