EU AND ITS MEMBER STATES VIEWS ON OBJECTIVES OF THE FUTURE LEGALLY BINDING INSTRUMENT TO END PLASTIC POLLUTION

The options paper shared by UNEP presents three sets of options for consideration related to objectives:

(a) End plastic pollution; protect human health and the environment from its adverse effects throughout the life cycle of plastic.

(b) Protect human health and the environment from the adverse effects of plastic pollution throughout the life cycle.

(c) Reduce the production, use and discharge of plastics across their life cycle, including through the promotion of a circular plastics economy with a view to ending plastic pollution by X year and protecting human health and the environment from its adverse effects.

- The UNEA resolution 5/14 provides a general outline for the objective(s), and any final text on the objective must be in accordance with it.
- The EU and its MS believe that the new instrument should include one overarching objective in a dedicated article that resonates and reflects the title of Resolution 5/14, namely End plastic pollution: towards an international legally binding instrument.
- The EU and its MS see merit in having a broad overarching objective, since this will enable a broad scope.
- The EU and its MS prefer option a) in the options paper since it resonates with the title of UNEA resolution 5/14 “End Plastic Pollution” and includes elements the EU and its MS want in an overarching objective:
  - To end plastic pollution from all sources to protect the environment and human health and,
  - To enable sustainable production and consumption and circular economy for plastics.
- Option a) would benefit from being slightly amended to form a single sentence: “End plastic pollution and protect human health and the environment from its adverse effects throughout the life cycle of plastic.”
- The EU and its MS propose to also add to option a) “including in the marine environment”, which is also in coherence with the UNEA resolution 5/14.
- The EU and its MS could support option b), provided that the phrase “end plastic pollution” is incorporated.
- Both options a) and b) are short, succinct, pertinent, and is easy to communicate. Further, these options clearly address what the future instrument aims to achieve.
• While option c) includes elements that the EU and its MS find important such as circular economy, this option is too descriptive and includes a mixture of measures, actions and outcomes. This option risks getting diluted and difficult to communicate. The EU and its MS would prefer not to include a timeframe or specific year in the overarching objective, but rather have the temporal ambition, reflected in the concrete goals and targets of the instrument, and, potentially, in a preamble. Not including a specific year in the objective of the instrument would ensure its continued relevance.

• Overall, the EU and its MS propose to include a reference to “marine environment” related to environmental compartments particularly affected by plastic pollution in the overarching objective, as long as it is clear that all environmental compartments are included in the scope of the instrument.

• The overarching objective should be supplemented with sub-objectives covering the different stages of the life-cycle of plastics, to enable sustainable production and consumption and a circular economy for plastics.

• The overarching objective and the subobjectives should be set out in one or two substantive article(s) of the instrument. This/these article(s) could also emphasize why there is a need to end plastic pollution, namely, to protect human health, plant and animal health and the environment.

• The sub-objectives should be supported by targets and measures which should be both as ambitious and SMART (Specific, Measurable, Achievable, Relevant and Time-bound) as possible. These subobjectives, targets and measures should be set out in the operative articles of the instrument and be legally binding.

• The EU and its MS recognize the need to consider specified targets and measures such as, for example:
  - sector specific (for example packaging, textiles, construction, automotives, medical and healthcare, agriculture, fishing and fisheries)
  - or product/application specific (for example single use plastic packaging or beverage bottles)

• The EU and its MS favor an overarching objective not aiming for a specific end year, but rather an objective that is supplemented by subobjectives and time-bound targets, to ensure the enduring relevance and flexibility of the instrument. Time-bound commitments to ending (certain kinds of) plastic pollution should be reflected in the concrete goals and targets of the instrument.
**Detailed views on subobjectives**

- The EU and its MS support having an overarching objective with sub-objectives that could build on the Global Strategic Goals proposed by the High Ambition Coalition (these are: 1. Restrain plastic consumption and production to sustainable levels 2. Enable a circular economy for plastics that protects human health and the environment 3. Achieve environmentally sound management and recycling of plastic waste).
- The subobjectives should also be legally binding.
- The subobjectives should be of a limited number to avoid over-complexification of the instrument. Circular economy is an important means to achieve the overarching objective, and it will be imperative that these sub-objectives aim at circular economy for plastics throughout the life-cycle of plastics.
- There should be a specific subobjective for microplastic.
- The overarching objective and subobjectives should be strategic as well as operational.

**Detailed views on target and supporting measures and provisions**

- The sub-objectives should themselves be linked to specific quantitative targets that should be time-bound to the extent possible. They and should in all cases be possible to monitor. The targets will bring tangibility to the instrument. Targets such as, for example:
  - to reduce the discharge of plastic pollution to the environment, including in the marine environment,
  - to limit or reduce the production of plastics, especially primary plastic raw material (virgin plastics) to avoid hazardous substances from being added to plastic products,
  - to establish reuse systems,
  - to set minimum rates of collection and recycling,
  - to increase recycled content in plastic products, as well as
  - to limit the releases of microplastics etc.

- Targets should be applicable to Parties globally, where appropriate complemented by national targets and be implemented through national action plans.
- Examples of global targets could be the following but are not limited to:
  - a target to reach a specific percentage of secondary raw materials in plastic products,
  - a target to reduce the production of primary plastic raw material
• a target to reach specific recycling rate.

• The EU and its MS are open to discuss and include sustainable production and consumption as a subobjective or as a qualitative target.

• Measures to be taken to achieve the targets and objectives should be included in the operational provisions of the instrument. These could be core obligations or control measures, design for circularity criteria, technical guidelines and requirements for transparency, information and labelling, as well as provisions for monitoring and reporting. Measures should be global, regional, or formulated broadly to be further operationalized at national level. Where appropriate and useful the measures could be implemented through national action plans, and may also be complemented by national or regional targets.

• Provisions on reviewing progress towards achieving the objectives and targets should be included in the instrument. For instance, by [2030] and every [5] years thereafter, with a view to adjust the targets or take effective measures, where relevant, to meet the objectives. Also, a baseline needs to be agreed to determine if any progress has been made towards achieving objective(s) and targets, for instance 2019, using the OECD Global Plastic Outlook database.
EU AND ITS MEMBER STATES VIEWS ON POSSIBLE CORE OBLIGATION 1: PHASING OUT AND/OR REDUCING THE SUPPLY OF, DEMAND FOR AND USE OF PRIMARY PLASTIC POLYMERS

The options paper presents three sets of options for consideration related to setting targets and regulating primary plastic polymers:

10 a) Options for targets
   i) Establish global targets to reduce production of primary plastic raw material. ii) Establish nationally determined commitments or targets.

10b) Options for regulating primary plastic polymers:
   i) Impose a moratorium on primary production of plastic polymers or ban, limit or reduce the manufacture, export and import of virgin plastic polymers
   ii) Apply import and export requirements to parties and non-parties on a non-discriminatory basis.
   iii) Track types and volumes of plastic polymers, precursors, and feedstocks manufactured, imported, and exported as well as the quantities and type of chemicals applied in production through transparency and reporting requirements.
   iv) Establish licensing schemes for production, import and export of virgin and secondary plastic polymers.

c) Option for economic tools: Set market-based measures such as price-based measures, production permits, licenses, removal of fiscal incentives and a mandatory fee, tariff or tax on virgin plastic production.

- Plastic is a useful material and is essential for many uses. However, we have also heard of many reports that predicted growth of production is going to be unsustainable. Therefore, the EU and its Member States (MS) stress the need for all Parties to the future instrument to reduce the overall production of primary plastics, with a view of making production and consumption sustainable. Therefore, we support option 10.a.(i). as a starting point for further discussions, as the establishment of a global target can enhance the transition towards sustainable consumption and production of plastic. The core obligations and measures included in the future instrument and implemented should lead to attaining this global target.

- The global target to reduce production of primary plastic raw material in the future legally binding instrument could be formulated for example as “From the year xx onward the annual global primary polymer plastic production shall not exceed an identified baseline year xx.”

- Further, the EU and its MS emphasize the need to differentiate between primary plastic production from primary feedstock, in particular from fossil fuels and the overall plastic production regardless of the feedstock. Reducing primary plastic production will decrease resource use, especially of fossil fuels, and associated pollution and emission of greenhouse gases.

- The EU and its MS also believe that the obligations in the legally binding instrument should be sufficiently ambitious so as to ensure that their full implementation leads to
attaining a global target. We therefore do not support option 10.a.(ii) as an alternative commitment to 10.a(i). However, the EU and its MS consider national commitments and targets as complementary measures that would help move towards the global target, where we see option 10.a (ii) as a mandatory element to be included in National Action Plans.

- The EU and its MS would like to highlight that the road to full achievement of proposed targets need to be followed by a monitoring framework or relevant indicators, which should include national reporting. Setting up a monitoring framework for specifically objectives and targets could support countries to develop the best possible implementation strategies and allocate resources accordingly.

- Regarding options for regulating primary plastic polymers, the EU and its MS support option 10.b (iii), but as this option is rather a prerequisite for assessing effectiveness and compliance than a control measure as such, it needs to be complemented with other measures.

- Regarding option 10.b.(i), the EU and its MS do not see imposing a moratorium on primary production of plastic polymers or banning manufacture of virgin plastic polymers as realistic.

- The EU and its MS are open to consider import and export requirements, as referred to in option 10.b. (ii). However, our view is that trade measures are complementary to any core obligation in the future instrument and might better be covered under core obligations 2 (on problematic and avoidable products) and 3 (on specific polymers and chemicals of concern). The EU and its MS would also like to stress the importance to ensure a level playing field and see that trade measures could be one way to achieve this.

- In addition, all trade measures should be in line with WTO rules and applied to parties and non-parties on a non-discriminatory basis.

- The EU and its MS support option 1.c in general regarding market-based measures. We are generally supportive of market-based measures on primary plastic production, while leaving Parties to the future instrument some flexibility on which national measures they choose to implement. However, those measures should be compatible, comparable and able to reach respective obligations, without prejudicing potential global measures. Removing fiscal incentives is supportable. While the national measures should be in line with the WTO non-discrimination principle, the future instrument should also aim to provide legal certainty for countries (e.g. by explicitly designating certain measures as non-discriminatory). Some countries may otherwise feel restricted in using their policy space. In addition, the EU and its Member States would support elimination of subsidies to producers of primary plastic polymers.
EU AND ITS MEMBER STATES VIEWS ON POSSIBLE CORE OBLIGATION 2: BANNING, PHASING OUT AND/OR REDUCING THE USE OF PROBLEMATIC AND AVOIDABLE PLASTIC PRODUCTS

<table>
<thead>
<tr>
<th>The options paper presents five options for consideration related to the use of problematic and avoidable plastic products</th>
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<tr>
<td>11.</td>
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<tr>
<td>a) Inventory and monitor production of raw materials, including those used in plastic commodities, and establish a global baseline.</td>
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<tr>
<td>b) Establish criteria to determine and prioritize problematic and avoidable plastic products, including unnecessary or short-lived products.</td>
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<tr>
<td>c) Ban, phase out, reduce or control the production, sale, distribution, trade and use of specific problematic and avoidable plastic products by identified dates (the criteria under (b) above and the list and phase-out dates hereunder could be identified in an annex to the instrument);</td>
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<tr>
<td>d) Apply import and export requirements for listed products to parties and non-parties on a non-discriminatory basis;</td>
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<tr>
<td>e) Apply import and export requirements to parties and non-parties on a non-discriminatory basis</td>
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* The EU and its MS support option 11(c) as the key element of this obligation. Both problematic as well as avoidable plastic products should be tackled. Indeed, certain products are particularly prone to littering due to their intended use; are considered especially harmful to human health and the environment due to their characteristics, e.g., persistence; or are avoidable (because its use does not represent an essential functionality). The instrument itself, should therefore require eliminating or restricting the production, consumption and use of such products, as referred to in option (c). *

* In addition, the EU and its MS support option 11(b), as we see it as a necessary complement to option 11(c). *

* Taking the points above into account, the EU and its Member States consider the combination of option 11(b), and 11(c), to be essential in making the instrument effective. We also support option 11(d), as complementary to option 11(b) and 11(c). *

* Regarding the banning of problematic and avoidable plastic products, it should be distinguished whether a product in this category is considered “problematic” and/or “avoidable”. Avoidable plastic products should be banned if the efforts to avoid them are proportional. *

* The decision whether to ban a plastic product that is problematic should be based on an assessment of (i) the severity of the problem (according to the criteria to be established under option b) in combination with (ii) the availability and affordability of alternative products that are less problematic. *

* The establishment of criteria and the identification of problematic products, is a priority for intersessional work for the EU and its MS, especially option 11 (b) and 11 (c). Such intersessional work will be imperative to identify the criteria to allow to differentiate between the types of problematic plastics/sectors/products which will have to be subject to various sets of measures including bans, phase-out, reduction and/or control measures. We
also, stress the need for defining “problematic” and “avoidable” plastic products in the context of zero draft discussions, whereby working definitions could be outcomes of intersessional work.

- The following criteria for problematic and avoidable (including unnecessary) plastic products could be considered when identifying plastic products that need to be eliminated or restricted:
  - Plastic products that are most frequently found in the environment (due to mismanaged waste, littering, inappropriate use etc.) for example, cutlery, plates, and cotton bud sticks.
  - Plastic products that pose a significant risk to human health and/or the environment (applying the precautionary principle) for example plastic carrier bags.
  - Plastic products that can be avoided or replaced, because its use does not represent an essential functionality (including unnecessary single-use plastics which are prone to becoming litter) for example single-use plastic straws, stirrers, sticks for balloons, single-use EPS (expanded polystyrene) food and beverage containers.
  - Plastic products that are not reusable or recyclable in accordance with design criteria.

- With regard to option 11 (c), these products could be listed in one or several annexes depending on the category “problematic” and/or “avoidable” plastics and type of measure. The EU and its MS are supportive of all types of measures suggested in option 11 (c) (bans, phase-out, reduction and control measures). Indeed, the annexes can further specify whether the provision for the listed plastic products applies to certain uses or sectors, also specifying if there are uses or sectors that might be exempted or excluded. The purpose of this provision is to facilitate a shift in supply and demand to enable prevention and a transition to more sustainable products and consumption patterns.

- The EU and its MS see option 11(a) as a duplication of option 10.b(iii), and therefore believe it should be handled under core obligation 1. We see high administrative burdens and possible conflicts in setting a global baseline, option 11(b) and 11(c) would deliver the same effects and are at the same time more realistic to implement and monitor for MS.

- The EU and its MS support trade measures for listed (problematic and avoidable, including unnecessary or short-lived) plastic products, as referred to in option 11 (d). The EU and its MS prefer option 11 (d) over 11 (e), since option 11(d) is more detailed, making it easier to implement. The trade measures should go hand in hand with the core obligations and be applied to parties and non-parties on a non-discriminatory basis. Further, all trade measures should be in line with WTO rules, bearing in mind that they allow for the protection of human health, and of the environment.
EU AND ITS MEMBER STATES VIEWS ON POSSIBLE CORE OBLIGATION 3:
BANNING, PHASING OUT AND/OR REDUCING THE PRODUCTION,
CONSUMPTION AND USE OF CHEMICALS AND POLYMERS OF CONCERN

The options paper presents three sets of options for consideration related to the production, consumption and use of chemicals and polymers of concern

12 a) Options for regulating chemicals and polymers of concern:

i) Ban, phase out, reduce or control specific polymers and chemicals of concern, or groups of chemicals, based on criteria identified to determine polymers and chemicals of concern (list, phase-out date and criteria could be included in an annex to the instrument).

ii) Apply import and export requirements for listed polymers and chemicals to parties and non-parties on a non-discriminatory basis.

iii) Apply import and export requirements to parties and non-parties on a non-discriminatory basis.

b) Options for increasing transparency:

i) Track types and volumes of polymers and chemicals applied in production, including through disclosure requirements for plastics throughout the supply chain, and plastic production, use and additives, consistent with national laws.

ii) Increase transparency through marking (digital watermarks, tracers) and harmonized product labelling, material safety data sheets, product passports and publicly available databases.

c) Options for accelerating and supporting the transition:

i) Establish measures to foster innovation and incentivize alternative and substitutes, including through sustainable or green chemistry and chemical simplification.

ii) Incentivize research and development of sustainable additives and polymers.

- The EU and its MS consider measures to ban, phase out, reduce and control specific polymers and chemicals of concern, together with measures to increase transparency in the value chain, to be fundamental in order to protect human health and the environment, and support the transition to sustainable consumption and production and a circular economy.

- The EU and its MS understand the term “chemicals” to also include additives and processing aids, unreacted monomers and non-intentionally added substances (such as reaction and breakdown products and contaminants) related to plastics.

- Of the proposed options on regulating specific polymers and chemicals of concern, the EU and its MS believe that option 12.a.(i) in combination with 12.a.(ii) are the best way forward to achieve the objectives of the future instrument.

- With regard to option 12.a (i), the future instrument should include legally binding obligations to eliminate (through bans and phase outs) or restrict such chemicals of concern that have been used as additives or processing aids or are un-intentionally present in plastic products as well as certain polymers itself. The EU and its Member States...
support addressing chemicals and polymers in groups, to create an efficient regulatory process and to avoid regrettable substitutions.

- The instrument should also define criteria to identify specific polymers and chemicals of concern, as referred to in option 12.a.(i). The criteria for defining specific polymers and chemicals of concern need to be science-based and could be included in an Annex of the future instrument. They should be based on existing knowledge and systems such as the Globally Harmonized System of Classification and Labelling of Chemicals (GHS).

- The following criteria could be a starting point for discussions on global measures:
  - Carcinogenicity, mutagenicity, reproductive toxicity, e.g., Tris(2-chloroethyl) phosphate (TCEP) which can be used as a flame retardant in polyurethane (PUR) and Lead and Cadmium which are used as stabilizers in PVC
  - Endocrine disruption, e.g., phthalates which are often used as plasticizers, including DEHP, DBP, BBP and DIBP.
  - Substances of equivalent concern to the above, e.g., substances that cause adverse effects on the immune system, the neurological system, the respiratory system or other organs.
  - Hazardous to the ozone layer
  - Persistent, bioaccumulative and toxic in the environment (PBT), very persistent and very bioaccumulative (vPvB), e.g., brominated flame retardants as additives in plastics
  - Persistent, mobile and toxic substances (PMT), very persistent and very mobile (vPvM) e.g., PFAS that have been found as a contaminant in plastic packaging.
  - Substances that impede recycling, e.g., brominated flame retardants

- The EU and its MS support applying trade measures for listed specific polymers and chemicals of concern, especially with regard to non-parties, and prefer option 12.a.(ii) before option 12.a.(iii) since this option is more detailed and therefore easier to apply. This measure is complementary to 12.a.(i) and is absolutely necessary to ensure its effectiveness in relation to the overall future instrument. Not having provisions that regulate trade with non-parties can lead to increase of trade with banned or restricted chemicals/polymers from non-parties to parties, thus undermining the achievement of the future instruments’ objectives.

- Regarding increased transparency, the EU and its MS support option 12.b.(i) and (ii) but call for deleting “consistent with national laws” from 12 b.(i). It is the opinion of the EU and its MS that keeping this wording would undermine the objective this measure is trying to achieve, that is increase transparency. The required reporting data may be of varying level of detail or could in some instances not be provided at all depending on the specific national law. Moreover, this would not create a level playing field as producers would be disproportionately affected, depending on the country in which they conduct their business. An unlevelled playing field and different regulatory requirements across countries would raise the producers’ compliance costs.

- It is the view of the EU and its MS that the INC should consider for the future instrument to set up a standardized framework for disclosure of information on chemical and material composition of plastic products along the value chain and to obligate Parties to the future instrument to fulfil minimum requirements in such a framework. This while taking into account existing relevant frameworks.
The EU and its MS express reservation with regard to option 12.c.(ii) and 12.c.(i), as the development of alternatives and substitutes may engender unintended consequences (see comments on obligation 8 below, regarding promoting the use of safe, sustainable alternatives and substitutes). EU and its MS support option 12.c.(ii), whereby the emphasis is on research and development.

The EU and its MS can support the principle in option 12.c.(i) but a precondition for this approach is that there is also a legally binding obligation on protection against the most harmful chemicals and chemicals of concern. In this context, the EU and its MS propose to first have option 12.a.(i) in place before we could support 12.c.(i). The EU and its MS find innovation towards less harmful substitutes and alternatives very important. However, we are concerned that incentivizing alternatives and substitutes too early could lead to regrettable solutions and unintended, underrated and harmful consequences. Chemical simplification could support a circular economy for plastics.

When the future instrument is in place, the EU and its MS foresee that a technical Review Committee, that would be a subsidiary body to the CoP (Conference of the Parties), could be responsible for further development of the criteria and for the identification of specific polymers and chemicals of concern based on those criteria.

The EU and its MS recognize the important linkages with other Multilateral Environment Agreement’s and see benefit in analysing where the new instrument can complement the existing mechanisms.

The EU and its MS see need for intersessional work with experts on criteria for listing chemicals and polymers of concern (it is presumed that criteria may differ for the two groups), and on list(s) of specific polymers and chemicals of concern. In that regard, the EU and its MS welcome the recent UNEP report entitled “Chemicals in Plastics: A Technical Report”.

EU AND ITS MEMBER STATES VIEWS ON POSSIBLE CORE OBLIGATION 4: REDUCING MICROPLASTICS

The options paper presents two sets of options for consideration related to the reduction of microplastics:

13.

(a) Options for addressing intentional use:
   i. Ban, phase out, reduce or control the use of intentionally added microplastics to avoid the potential release of microplastics into the environment from certain sources (list could be identified in an annex to the instrument).
   ii. Ban, phase out, reduce or control the production, sale, distribution, trade and use of microplastics and products containing intentionally added microplastics.

(b) Options for addressing unintentional releases:
   i. Minimize the risk of leakage of plastic pellets from production, handling, transport and the use of certain products.
   ii. Support innovative wastewater treatment mechanisms to prevent the release of microplastics into waterways.
   iii. Developing guidelines on best available technology and best environmental practices to reduce release of plastics, including for design, in the washing, textile, tyre, and road marking industries.

- The EU and its Member States believe that the future instrument should include obligations to reduce the releases of microplastics, both from the degradation of macroplastics, as well as from the intentional use and unintentional releases, focusing on the main sources of pollution to the environment.

- Once in the environment, especially in the marine environment, it is almost impossible and very costly to remove microplastics. Obligations should, therefore, preferably be tailored to prevent releases at any stage of the life cycle of plastics.

- The view of the EU and its MS is that addressing the intentional use of microplastics through legally binding obligations throughout the entire value chain would have a significant effect. Therefore, the EU and its MS are supportive of option 13.a.(ii). This option includes measures targeting production, sale, distribution, trade, and use, which makes it the most comprehensive of the proposed options.

- In relation to option 13.a.(i), cosmetics and hygiene products, artificial turf, detergents, fertilizers and plant protection products are potential product groups that could be prioritized for bans, phase outs and restrictions of products containing intentionally added microplastics.

- In addition, the EU and its MS consider a ban on production and sales of products containing intentionally added microplastics as a better alternative than banning its use (as it is suggested in the option). This is to prevent retailers keeping large stocks of products after the ban have entered into force.
• Actions to minimize unintentional releases of microplastics to the environment are needed, as these have an impact on the volumes of microplastics being released into the environment. The EU and its MS, therefore, consider policy efforts focused on tackling unintentional releases of microplastics as a necessary complement to restrictions and bans on intentionally added microplastics, which are a minor part compared to unintentional releases.

• In addition a large part of microplastics is derived from the physical degradation of macro- and micro plastic litter in the environment, thus measures against littering and leakages from the plastic life cycle are needed to reduce the releases of microplastics to the environment.

• It is our view that unintentional releases need to be addressed through a sectorial approach. This could include measures to improve product design, production and use with the objective to reduce releases. Therefore, we consider option 13.b.(i) in combination with option 13.b.(iii) as a good starting point for further discussions.

• Upstream measures regarding unintentional releases of microplastics can include product design, handling requirements, best available technique, and guidance for production and use. The EU and its MS suggest paint, tyres and road wear, synthetic textiles, and geotextiles as prioritized product groups since they make up some of the main sources of microplastics. Prioritized sources could be listed in an Annex to the instrument. Another source, which directly may emit microplastics to the marine environment are fishing and aquaculture gear, where releases can occur both during the use phase and if they are being lost in the marine environment.

• In addition to the sources mentioned above, it is important to minimize the risk of leakages of plastic pellets (including flakes and powders), as referred to in 13.b.(i) and we are open to address this here or under core obligation 9 “eliminating the release and emission of plastics to water, soil and air”.

• Also, innovation and investment in microplastic collection technologies such as membranes and filters, as referred to in option 13 b.(ii), would have an effect and could therefore be included as a voluntary measure.

• The EU and its MS support option 13 b. (iii) since the use of best available technology (BAT) and best environmental practices (BEP) can serve as essential tools to reduce unintentional releases of microplastics from the production and use phase of certain products. Therefore, the instrument should include obligations to ensure the application of BAT and BEP, for example through obligations for each Party to include national requirements on the application of BAT and BEP to address releases from listed sources in an Annex to the instrument.

• The EU and its MS proposes that the overarching general objective should be supplemented with a sub-objective for microplastics specifically. The sub-objective could then be underpinned by a target in line with for example “Reduce release of microplastics to the environment by x % by 20xx. The sub-objective should be followed by harmonized reporting and measuring of microplastics release into the environment.
EU AND ITS MEMBER STATES VIEWS ON POSSIBLE CORE OBLIGATION 5:
STRENGTHENING WASTE MANAGEMENT

The options paper presents four options related to strengthening waste management

14.

a) Options for enhancing waste management capacity and promoting innovation
   i) Deploy and foster the development of technologies for the collection, recycling and disposal of plastic waste.
   ii) Set a target for reducing the generation of plastic waste that needs final disposal operations such as landfilling and incineration.
   iii) Develop guidance for areas such as:
       a. Encouragement of investment in waste management infrastructure;
       b. Sampling, analysis, monitoring, reporting and verification of plastic waste in the environment, to support policymakers in measuring the impact of implemented targets and policies;
       c. Specifications for containers, equipment and storage sites containing plastic waste.
   iv) Promote research for innovation.

b) Options for regulating plastic waste:
   i) Regulate the movement, and end of life management of plastic waste to reduce leakage from mismanaged waste.
   ii) Prohibit the following dangerous practices: open burning, incineration, co-firing in coal-fired power plants and other waste-to-energy processes, co-processing in cement kilns, and chemical recycling.
   iii) Establish guidance and tools for decision-making on waste recycling practices (to avoid lock-ins to solutions that harm human and environmental health).
   iv) Set indicators and obligations for plastic waste collection, sorting and recycling, especially at the national level.
   v) Require producers to prepare an action plan that includes individual waste reduction targets.

c) Options related to illegal dumping and disposal of plastic waste:
   (i) Implement measures to ensure the collection, sorting, management, and disposal of plastic waste in an environmentally sound and safe manner.
   (ii) Rely on the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal where appropriate.
   (iii) Establish surveillance systems and quotas for exports of plastic waste.
   (iv) Prohibit or control transboundary movement of plastic waste, except where this ensures circularity;
   (v) Develop a streamlined permit process for transboundary movement of plastic waste to countries where recycling facilities exist with sufficient capacity;
   (vi) Apply a timetable for control measures on transboundary movements of plastic waste, in particular those from developed countries to developing countries.
d) Options for promoting EPR and enabling a market for recycling:
   i) Adopt measures to strengthen the demand for secondary plastics and facilitate environmentally sound plastic scrap recycling, including by using public procurement to drive demand for plastic products containing higher recycled content, where feasible.
   ii) Set indicators for the plastic waste recycling rate, especially at the domestic level.
   iii) Establish EPR systems to incentivize recycling, taking into account national circumstances. Options for such systems include:
       a. Action plan programmes in which fees are charged to plastic manufacturers and plastic product producers;
       b. A set of guidelines for EPR systems
   iv) Provide financial support and tax exemptions for recycling projects.
   v) Establish best available technologies for recycling to ensure alignment with the Paris Agreement (or with principles of sustainable banking and investment).
   vi) Establish a requirement that polymer producers invest in the volume of recycling facilities needed to recycle all the plastic they produce that could become plastic waste.

• The EU and its MS support legally binding provisions to be included in the instrument in view of ensuring environmentally sound management of plastic waste and to facilitate increased collection, sorting and recycling globally, reflecting the waste hierarchy and striving for a circular economy. Actions facilitating waste prevention and reuse are preferable.
• The EU and its MS welcome the adoption by the BRS COP 16 of the technical guidelines on the environmentally sound waste management of plastic wastes. The guidelines should be taken into account when discussing further on options regarding plastic waste.
• The EU and its MS support including a binding obligation to strengthen waste management. Many of the options outlined in the UNEP option paper on strengthening waste management are interlinked and could be consolidated (e.g.: options linked to the Basel Convention or other relevant Multilateral Environmental Agreements.
• EU and its MS would strongly encourage the instrument to be based on the waste hierarchy as a guiding principle or overall objective for the waste management obligations. For the EU and its MS the waste hierarchy implies that waste prevention and preparing for re-use are the most preferred options, followed by recycling, then other recovery including energy recovery, while waste disposal e.g. through landfills should be the very last resort. Introducing a hierarchy could be followed by measures to move management of plastic further up the waste hierarchy.
• Further some of the options could be made more ambitious such as by setting targets for collection and recycling, which also include options for the integration of the informal sector, including waste pickers, in the waste management systems. Collection targets would push and incentivize Parties to the future instrument to establish collection schemes and to encourage sorting of plastic waste. A recycling target would enhance and

1 Note that, under the Basel Convention, „disposal“ is defined to cover both R operations and D operations, “disposal” in this context relates to D operations only, in consistency with the definition in the EU Waste Framework Directive.
incentivize recycling and build capacity for recycling. Regarding options on guidance and research for innovation, the EU and its MS consider these to be supporting measures.

- The EU and its MS consider the principle of Extend Producer Responsibility (EPR) as an important tool to operationalize the polluter pays principle and one way for countries to strengthen waste management. Such EPR-systems can promote waste prevention by incentivizing producers to develop sustainable products and put the burden of costs for collection, sorting and recycling and littering on the private sector.

**Detailed views on (a) Options for enhancing waste management capacity and promoting innovation:**

- The EU and its MS broadly supports option 14(a), but we want to stress that measures to prevent waste should not be distinguished between wastes based on their potential (recyclable vs non recyclable) final destination and treatment. There are certain key provisions that need to be included in a zero draft, such as the need to reflect the waste hierarchy and targets on the collection and recycling of plastic waste.

- Option 14 (a) considers the need for guidance on issues such as investment, infrastructure, monitoring and storage in addition to fostering technological advancement and research for innovation, but these could be considered as ‘supporting measures’ linked to other core obligations. We would also encourage guidance on deposit return schemes.

- The EU and its MS would want to strengthen option 14 (a) by establishing the need for each Party to scale up systems for the collection and recycling of plastic waste, as well as promoting policies to increase the market demand for recycled plastic raw materials and for environmentally sound waste management.

**Detailed views on (b) Options for regulating plastic waste:**

- The EU and its MS welcome option 14(b), but there are aspects that we would aim to improve if any of these options are to be included in a zero draft.

- The EU and its MS support option 14 b(i), which has interlinkages with options 14(a) and 14(c) while duplications with the provisions under the Basel Convention should be avoided. It should be taken into account that the technical guidelines on the environmentally sound management of plastic wastes adopted on 12 May 2023 at COP16 to the Basel Convention provides guidance related to parts of option 14 b(i) (i.e. to the management of plastic waste).

- We do not support option 14 b(ii) since it uses the term ‘dangerous practices’ for certain key waste infrastructure (e.g., waste-to-energy) while acknowledging the interrelation to resource consumption, GHG emissions and global warming and other potentially harmful emissions. The EU and its MS are of the view that of the practices mentioned only ‘open burning’ can be seen as a dangerous practice.

- In regard to option 14 b(iv) EU and its MS favour requirements for each Party to set up separate collection schemes for plastic waste. It should consider options for integration of the informal waste sector, including waste pickers, in the waste management systems.
Option 14 b(iv) should be incorporated into option (a), with a preference for collection and recycling targets, but with indicators to support the effectiveness of measures.

- On option 14 b(v), we would prefer ‘action plans that include individual waste reduction targets’ to be at a national level rather than at a producer level, linked with overall targets within a possible EPR system.

**Detailed views on (c) Options related to illegal dumping and disposal of plastic waste:**

- The EU and its MS broadly welcome option 14 (c). On option 14 c(i), we are supportive, but we would advocate for stronger wording, with references to other options set out in core obligation 5 in the UNEP options paper (e.g.: EPR and market for recycling and a target for reducing the generation of plastic waste that needs final disposal operations). The Technical guidelines on the environmentally sound management of plastic wastes adopted on 12 May 2023 at COP16 to the Basel Convention are also relevant for this option. We would also encourage discussions on how to integrate bans on landfilling of plastic wastes as part of the instrument.

- The EU and its MS supports option 14 c(ii), given the linkage with the Basel Convention. As stated in the submissions paper in February 2023, the EU and its MS believe that the future instrument ‘will need to complement but not duplicate existing waste treaties, such as the Basel Convention’.

- On option 14 c(iii), the EU and its MS recall the existing provisions in the Basel Convention regarding transboundary movements of plastic wastes, including work on its effectiveness and the ongoing work of the Plastic Waste Partnership, but would not be in favour of quotas for export. The rationale behind is that export is in some cases needed for circularity reasons, in particular for small markets.

- On options 14 c(iv) – (vi), it could be contended that aspects of these options are already regulated under the Basel Convention, or work is ongoing according to Basel COP16 decisions (such as work on the functioning of the prior informed consent procedure), and some would go further than existing provisions under the Basel Convention. The EU and its MS do not support these options. However, we could see the value in adding a “catch-all” provision, subjecting all Parties that are not Parties to the Basel Convention to a prior informed consent procedure, similarly to what was done through art. 3 of the Minamata Convention, or provisions complementing the Basel Plastic Waste Amendment.

- The EU and its MS are also in favour of exploring how the instrument can prohibit the following dangerous practices: dumping on land, waterways and sea, littering, open burning.

**Detailed views on (d) Options for promoting EPR and enabling a market for recycling:**

- The EU and its MS consider that a combination of option 14.d (i)ii supplemented by 14d (i) and 14d(ii), constitute a fruitful starting point for discussions on core obligations for promoting EPR and enabling a market for recycling. The EU and its MS would also be open to discuss other economic incentives to promote recycled plastics such as levies, taxes or subsidies.
• We also find the other proposed options under option 14 d (iv, v, vi) interesting and we are flexible to discuss these, but we need a better understanding of the details and context of the options.

• More generally, the EU and its MS support the application of the polluter-pays principle (PPP) and believe that the new instrument should enact this, to incentivize collection and recycling. Provisions in the new instrument that aim to effectively implement the PPP should be established, allowing flexibility to account for national circumstances and should be considered part of national obligations and action plans. However, we believe that the responsibilities of the polluters should be more far reaching than recycling and also include e.g., waste prevention, product design for, awareness raising and littering.

• EPR systems, being one of the ways to implement the polluter-pays principle, are, in this regard, an essential instrument to:
  1. finance the collection and environmentally sound treatment of waste including dismantling and recycling,
  2. support the design and production of goods are resource-efficient throughout their life cycle, including their repairability and reuseability
  3. raise awareness of citizen and stakeholders.

• The global market may in many ways benefit from EPR systems that are coordinated. However, one must keep in mind that there is not one single EPR model and that each Party will have to build its own EPR scheme, adapted to its national circumstances. National EPR systems could build on a set of guidelines that can be annexed. The guidelines could specify the essential minimum requirements to be included in such schemes. These could include the minimal cost that are covered by the producers (collection, transport, treatment, information, data gathering…) for each plastic products placed on the market; the obligation to define a series of targets for collection, reuse, recycling or recovery; the use of eco-modulated fees and others.

• EPR also requires that plastic waste that cannot be recycled is being collected and recovered in an environmentally sound manner by the producers or on their behalf. It is crucial, that EPR makes producers responsible for the collection and recycling, or other management of its products upon becoming waste. This also provides an incentive to make plastic products, including packaging, recyclable or reusable.

• The implementation of an EPR scheme should seek mutual benefits with the informal sector and should not be done at its disadvantage. To the extent possible, the informal sector is to be an integral part of such scheme.

• We are supportive of both options to support development of EPR schemes in 14d(iii), a) Action Plan Programs and b) development of guidelines or minimum requirements. However, we should be mindful not duplicating already existing initiatives to promote and support establishment of EPR e.g., UNEP tool-box for EPR-schemes and The Basel Convention Guidance for EPR.

• Option 14d(i) highlights public procurement, which we consider to be an effective measure to drive demand for more sustainable plastic products, including products with recycled content. We are therefore supportive of public procurement as a supplement to other binding obligations to increase recycled content such as targets and design criteria.
• The EU and its MS also support option 14d(ii) as we consider indicators for plastic waste recycling as a necessary means to follow up targets for recycling proposed.

• The EU and its MS are supportive of option 14d(iv) but the scope should be broadened and/or modified and include options related to the whole waste hierarchy.

• On option 14d(v) we would again, also like to highlight the link to the Technical guidelines on the environmentally sound management of plastic wastes adopted on 12 May 2023 at COP16 to the Basel Convention.

• The EU and its MS consider option 14d(vi) as an interesting way to implement the polluter pays principle that could be worth exploring. However, we see that it might be difficult to implement and control and we therefore need more information and further assessment of the proposal. The scope of the obligation should be broadened to include options related to the whole waste hierarchy but also other actors such as plastic product producers.
EU AND ITS MEMBER STATES VIEWS ON POSSIBLE CORE OBLIGATION 6: FOSTERING DESIGN FOR CIRCULARITY

The options paper presents six options for consideration related to circular design of plastics:

15. (a) Establish circularity criteria and guidance for design and production of plastic products and packaging to encourage, enhance and enable value recovery processes and systems; high volume and problematic product categories could be prioritized, using a “start and strengthen” approach (criteria and guidance could be included in an annex to the instrument).

(b) Introduce a requirement for plastic products and packaging put on the market to conform to circularity design criteria.

(c) Establish national requirements for design criteria based on a global harmonized system and methodologies to promote circularity of plastics.

(d) Establish labelling measures for plastic products and packaging in the light of the criteria and guidance to allow informed choices by consumers.

(e) Set a target for the required minimum recycled content of plastic products on the market.

(f) Establish a central data exchange registry where the secretariat can make related information available.

• It is a priority for the EU and its MS that the future instrument includes a provision that addresses circular product design and a legally binding obligation for parties to only put on the market plastic products that meet certain minimum requirements. This provision could be included as obligations in the main text of the instrument, supported by annexes and other measures in the instrument. The objective of introducing such obligation(s) is to promote plastics that through their entire life cycle contribute to the prevention of plastic pollution and to the protection of human health and the environment.

• As regards to the options paper, the EU and its MS consider that a combination of options 15(a), (b) and (e), possibly supplemented by 15(d), constitute a fruitful starting point for discussions on obligations related to circular design in the new instrument.

• The establishment of circularity criteria outlined in option 15(a) is a priority for the EU and its MS. The criteria should be developed by an intersessional working group and/or a subsidiary body to the Conference of the Parties (CoP), e.g., a Technical Review Committee. The EU and its MS believe that the criteria should be developed and included in an annex of the future instrument as a start and prioritize high volume and problematic product categories in targeted sectors such as packaging, construction, textiles, mobility and electronics.

• The EU and its MS believe that the criteria should be supported by targets for collection, reuse and recycling, as well as for recycled content (option e). The criteria should, as appropriate, be addressed to relevant product groups and with due consideration of all stages of their life cycle and be based on the following circularity aspects:

   a) Durability
   b) Upgradability, reparability, as well as the possibility for and availability of maintenance and refurbishment.
   c) Reusability and refillability
   d) Suitability for collection, sorting and recycling.
e) Chemical composition, and in particular the absence of chemicals of concern, emphasizing avoidance of all hazardous additives and problematic monomers/polymers with the objective of reducing the complexity of chemicals in plastic.

f) Material composition, with an emphasis on improving the content of recycled materials, as well low complexity. This could be included as a general minimum requirement for recycled content that cover all products complimented by stricter and/or specified requirements (or exemptions) for certain product groups and/or sectors and particularly in high impact sectors such as packaging, vehicles, textiles, construction and electronics and also specific materials.

g) Reduction of the expected waste generation, such as avoidance of excessive use of materials and void space in packaging

h) No losses/leakages of (parts of) plastic products or microplastic into the environment

• A mandate should be given to an intersessional working group in view of preparing the first draft of such annex(es) for the consideration of INC.

• The EU and its MS are supportive to the requirement proposed in option 15 (b). We believe that the operative part of the future instrument should include legally binding provisions ensuring that parties shall only allow for placing on the market plastic products that are in line with these circularity criteria.

• On national requirements as reflected in option (c), the EU and its MS don’t consider the establishment of national requirements to be the most efficient approach on fostering circular design. However, we recognize that countries may wish to implement standardization and methodologies to make sure they comply with the obligations in the new instrument. This should be done with a view to create a level playing-field in global trade.

• The EU and its MS consider labelling measures (d) as an appropriate supplementing measure that should be considered as an obligation in the instrument (mindful that transparency requirements and product labelling are also addressed in other parts of the option paper, such as the possible core obligation 3). The EU and its MS remain open to further discuss this issue since this may be an appropriate way of harmonizing product information as well as preventing misleading of the consumer through regulatory measures on environmental claims.

• The EU and its MS believe that a target for minimum content of recycled (plastic) materials as described in option (e) is necessary. The target should be included in the core text of the future instrument and set at the global level; one general target for the use of secondary raw materials and individual targets for the identified high impact sectors and products. It is important to note that, when using recycled content, also other legislations, and standards for e.g., food safety, should be taken into account.

• The target for minimum content could be supplemented with incentivizing measures pushing sectors to use their own recycled materials aiming for efficient closed loop recycling, similar to the PET model, which has shown to be successful.

• The target for minimum content, as well as other targets in the instrument, can be set for different years with the view of strengthening over time and should be SMART (Specific, Measurable, Achievable, Realistic and Time-bound).

• It is important for the EU and its MS to emphasize that measures on design criteria have a direct impact on the availability and quality of secondary raw materials in the future market. Supporting measures, such as incentives for closed loop recycling, should therefore also be considered. We also find appropriate that the timeframe for possible
targets are closely linked with the other obligation for design criteria and collection in the instrument to support availability of high-quality recycled plastics.

- The EU and its MS are flexible to discuss the data exchange registry (f), notably to support other measures such as labelling (d), but we would request further clarifications on the rationale behind this option.
EU AND ITS MEMBER STATES VIEWS ON POSSIBLE CORE OBLIGATION 7: ENCOURAGING REDUCE, REUSE AND REPAIR FOR PLASTIC PRODUCTS AND PACKAGING

The options paper presents two sets of options for consideration related to encouraging reduce, reuse and repair plastic products and packaging

16.

(a) Option for targets: Set targets for the reduction, reuse and repair of plastic products.

(b) Options for regulating and encouraging reduction and reuse of plastics:
   i. Request the governing body to develop and adopt general and sectoral guidelines for reduction and reuse.
   ii. Encourage reduction and reuse of plastic products, such as containers and bottles, including through service delivery systems.
   iii. Recommend that parties promote reuse through collection of used plastics by production sector.
   iv. Apply harmonized product design standards, certifications and requirements, including for certain plastic products and packaging.
   v. Encourage reduction and reuse of plastic products, including fees, tariffs or tax incentives, EPR schemes, deposit refund schemes and product take-back, right-to-repair requirements and remove trade barriers.

- Enabling circular economy and building on the waste hierarchy constitute a crosscutting priority for the EU and its Member states. It is key that plastic products are kept in the economic cycle with the highest possible value for as long as possible.

- Reducing primary plastic production will decrease resource use, especially of fossil fuels, and associated pollution and emission of greenhouse gases - from excavation/mining to final product. This in turn would increase and encourage reduce, reuse and repair of plastic products and packaging.

- The EU and its MS therefore support an obligation to promote reduce, reuse and repair of plastic products and packaging. Priority should be given to reduction, reuse, and repair which can all be facilitated through the product design stage and designing for circularity, and through promotion of circular business models.

- The EU and its MS see merit in a combination of a target on reuse - option 16 (a) - and a mix of regulatory measures and voluntary approaches as expressed in options 16(b) - to be taken by Parties to encourage reuse of plastics.

- To begin with, the EU and its MS support option 16 (a) with the introduction of a global target to reach a certain % (to be defined and discussed) of reusable plastic products placed on the market. Reduction targets are addressed elsewhere in the options paper (please see for example under possible core obligation 1), while repair targets are not considered as a priority to the EU and its MS since we believe there are other more effective measures, such as economic incentives, to promote repair.
• To support the achievement of a reuse target and enable a positive effect on the market where reusable products and systems are incentivized, the EU and its MS are also willing to consider including an obligation for each Party to encourage the development and expansion of systems for reuse of plastic products as well as policies to increase the market demand for reusable products. In this regard, the EU and its MS are ready to discuss a combination of instruments/tools listed in options 16 (b)(ii) and 16 (b)(v)) such as deposit-return schemes, the promotion of bulk sales and schemes.

• The EU and its MS strongly believe that the global market would benefit from reuse systems that are harmonized or standardized at the regional or global level. At the same time, we believe that some flexibility shall be given to Parties in setting up reuse systems to allow for national circumstances. We are also of the view that sectorial measures/approaches may be preferred as not all proposed options are fit for all sectors or types of products.

• The EU and its MS are supportive of option 16(b)(iv) since we are confident that the establishment of specific design criteria for reusability will also support the private sector in the transition to a circular economy and create a level-playing field. Today most of the plastic products are designed for short-term use. Therefore, design requirements related to composition, durability and reusability will inevitably contribute to extension of the lifespan of new products as producers will be encouraged to design products that are meant to be reusable and recyclable. For example, a common set of design criteria for reusable packaging for certain sectors may facilitate upscale of reuse and recyclable systems.

• Lastly, other cross-cutting measures aimed at keeping plastics in the economy for longer (such as measures regarding refill, maintenance and repair schemes) should be considered as well as measures to change consumer behaviour.
EU AND ITS MEMBER STATES VIEWS ON POSSIBLE CORE OBLIGATION 8: 
PROMOTING THE USE OF SAFE, SUSTAINABLE ALTERNATIVES AND
SUBSTITUTES

The options paper presents two sets of options for consideration related to promoting the 
use of safe, sustainable alternatives and substitutes

17.

(a) Options for enhancing research and development:
   i. Provide platforms for sharing information on the development of safe, sustainable alternatives and 
      substitutes.
   ii. Establish market tools (or fiscal policy incentives) for enhancing research and development of 
       alternative products and technologies.

(b) Options for reviewing and enabling the use of safe, sustainable alternatives and substitutes:
   i. Establish a certification scheme for plastic products.
   ii. Task a technical review committee (comparable to the Technology and Economic Assessment Panel 
       under the Montreal Protocol on Substances that Deplete the Ozone Layer) with assessing criteria for 
       the sustainable production and use of plastics and the availability of safe alternatives and substitutes, 
       set out the criteria in annexes to the instrument, and recommend possible adjustments to such 
       annexes or amendments to the instrument (including new annexes).
   iii. Develop clear mechanisms for funding, technical support and transfer of technology for the 
        development of natural alternatives to plastics, in particular in small island developing States.
   iv. Use economic instruments, such as fees, tariffs, taxes, subsidies, and tradable permit systems, to 
       incentivize a reduction of plastic use and the adoption of sustainable alternatives.

• The EU and its MS are open to discuss the options presented under core obligation 
  8. However, we believe it is too early in the process to decide on promoting the use of 
  safe, sustainable alternatives and substitutes. It needs to be further elaborated, studied and 
  discussed.

• It is important to ensure that the non-fossil alternatives and substitutes are produced 
  sustainably, that their use does not have negative impacts on biodiversity, ecosystems, 
  food security or land and water use, and that they are reusable and recyclable, as much as 
  possible.

• For the EU and its MS it is important to include the waste hierarchy and the 3R principle 
  (reduce, reuse and recycle) in the future legally binding instrument, to encourage options 
  that deliver the best overall environmental outcome. Also, a system where raw material is 
  valued and reused and where take-back and as many rotations as possible are incentivized. 
  We prefer for instance not to develop alternative single use materials to replace single use 
  plastics but instead promote new business models focused on reuse and refill systems.

• Where the use of primary raw materials cannot be avoided, the use of safe and sustainable 
  non-fossil alternatives and substitutes might be promoted under certain conditions 
  including of strict sustainable criteria for their feedstock, considering environmental, 
  economic, social and health aspects. It is also important to ensure that alternatives and 
  substitutes contribute to the circular economy, and that they do not lead to any unintended
harmful consequences. This way the future legally binding instrument can also maximize its contribution to the Kunming Montreal Global Biodiversity Framework.

- Although not presented as an option, the EU and its MS could consider a non-fossil carbon target in the instrument. This as one way to promote safe, sustainable non-fossil alternatives and substitutes. This way the future legally binding instrument can also maximize its contribution to Paris climate goals and the transition to a non-fossil economy.

- The EU and its MS also believe that the future instrument should include precautionary provisions on green claims for alternatives and substitutes to avoid greenwashing, such as, provisions for when a plastic product can be labelled as biodegradable, compostable or biobased and how the labelling should be designed.

- With regards to non-plastic alternatives, the comparative life cycle analysis with fossil based plastics should take into account not only GHG emissions but also impacts on biodiversity, pollution and health. The non-plastic alternatives should not be put at a disadvantage with regards to fossil based plastics.

- Regarding the specific options in the option paper and considering that this topic needs to be further explored, the EU and its MS could envisage options under 17a concerning research and development. Option 17a (i) concerning platforms could be linked to the work of the envisaged technical review committee. Concerning the other options under 17b, option (i) is not entirely clear, and EU and its MS would welcome more information, similarly for option 17b (iii).

- The establishment of sustainability criteria for feedstock by a technical review committee outlined in option 17b (ii) is an option that the EU and its MS can support. These criteria should apply for all types of feedstock.

- More specifically the instrument should:
  - Task the technical review committee to establish sustainability criteria and evaluate the relevance and safety of alternatives and substitutes compared to conventional plastics. The precautionary principle should prevail to avoid the proliferation of potentially unsustainable, alternatives or substitutes on the market.
  - Include global sustainability criteria for biomass used to produce biobased plastics. A list could be developed by a technical review committee and annexed to the core text.
  - Ensure that biobased plastics and other materials comply with the same ecodesign/circularity criteria as fossil-based plastics, including recyclability.
  - Incentivize Parties to prioritize the use of organic waste and by-products as feedstock, thus minimizing the use of primary biomass and avoiding significant environmental impacts. This can be achieved by integrating the cascading use of biomass principle in national policies, according to which biomass should be used where it has higher economic added value. In line with this principle, biomass should be preferably used to produce materials, including plastics, instead of for bioenergy (products over fuel).
  - Incentivize Parties to promote the use of those non-fossil alternative and substitute materials that can fulfil all (to be agreed) criteria, and investments in
relevant recycling infrastructure, in order to reach a fossil-free sustainable economy in the long run.

- The EU and its MS would welcome option 17b (iv) concerning economic instruments to incentivize a reduction of plastics and the use of those alternatives that can genuinely be considered safe and sustainable. In general, also the combination of other options under 17a and b could be envisaged, on condition that the waste hierarchy is included.

- The EU and its MS would like to draw attention to the boxed comment for core obligation 8 in the option paper, which has left the EU and its MS concerned. In the boxed comment biodegradable and compostable material are referred to as materials that could reduce health risks associated with plastic pollution and promote circularity in the plastics industry. We would be cautious to make such a statement already now in a paper as we do not know yet what impact these materials could have on for example biodiversity, ecosystem or how reusable and recyclable they are.
EU AND ITS MEMBER STATES VIEWS ON POSSIBLE CORE OBLIGATION 9: ELIMINATING THE RELEASE AND EMISSION OF PLASTICS TO WATER, SOIL AND AIR

The options paper presents four options for consideration related to eliminating the release and emission of plastics:

18. (a) Reduce and, where feasible, eliminate releases of plastics to water, soil and air (general and sectoral measures could be listed in an annex to the instrument, including wastewater, industrial facilities, aquaculture, agriculture and the fishing industry, and transport).

(b) Develop and use the best available technology and best environmental practices, including environmental and emission/effluent standards, to minimize and eliminate pollution from all stages of the plastic life cycle.

(c) Prohibit dangerous practices to prevent the production and releases of toxic emissions from plastic waste management.

(d) Take effective measures to prevent and reduce loss of fishing gear containing plastic and leverage existing efforts, including those of the Food and Agriculture Organization of the United Nations, and the International Maritime Organization.

• The EU and its MS believe the future instrument should be tailored to prevent releases and emissions of plastics to the environment through obligations targeting production, shipping, storage, consumption and use, as this is proven to be the most effective and cost-efficient way to end plastic pollution.

• However, to achieve a comprehensive instrument there is a need to also include downstream measures that directly target emissions of plastic pollution and that are complementary to the upstream measures.

• It is the view of the EU and its MS that obligations targeting releases and emissions to water, soil and air are best carried out through a sectorial approach, starting with the most prioritized sources, and strengthening over time.

• The EU and its MS believes that adequate monitoring, including in the coastal and marine environment, of plastic litter quantities, pathways and impacts is essential for designing and implementing measures which will reduce impacts of plastic pollution in an efficient way.

• The EU and its MS see the combination of options 18 a, b, c and d as a good starting point for the negotiations of measures to eliminate the release and emission of plastics.

• The EU and its MS generally support option 18 a. We especially see potential for sectorial measures that could be developed over time and included in annexes of the instrument.

• The release of plastic pellets from production sites and shipping is one important source of plastic pollution with the potential to be effectively reduced through targeted measures. Therefore, the EU and its MS consider that measures regarding the release of plastic pellets should be included in the instrument, taking into account the ongoing IMO initiatives on regulating shipping requirements at sea.
• The fishing industry, agriculture and aquaculture as well as industrial wastewater treatment facilities, are other sectors that could be prioritized for sector specific measures considering efforts of the Food and Agriculture Organization of the United Nations and the International Maritime Organization, as referred to in option 18.d.

• Other important sectors to be covered are emissions from agriculture (fertilizers, films etc.) and transport (traffic and its infrastructure) to be addressed with specific control measures. However, we consider these sectors are best handled under other core obligations that address microplastics and circular design i.e. possible core obligations 4 and 6.

• The EU and its MS also support option 18.b, as we consider the use of best available technology (BAT) and best environmental practices (BEP), to be essential tools to reduce emissions throughout the life cycle of plastics.

• We believe that the instrument should include obligations to ensure the application of BAT and BEP and standards therein. This could be done through obligations for each Party to require the use of BAT and BEP practices to control and, as feasible, eliminate emissions of plastics. The wording of e.g., Article 8 of the Minamata Convention could be used as a starting point.

• The EU and its MS are also in favour of option 18.c. However, it is our view that releases of toxic emissions from plastic waste management are best dealt with under core obligation 5 “Strengthening waste management” and that not only “toxic” emissions should be covered.

• The EU and its MS are in favour of introducing a core obligation for monitoring plastic pollution in the relevant environmental compartments, and of working towards compatibility of various monitoring methodologies for enabling exchange and optimal use of the obtained monitoring data.

• Ongoing and future work under the Regional Seas Conventions can contribute to fulfilment of the abovementioned core obligation.

• The abandonment, loss and discarding of gear (ALDG), including fishing and aquaculture gear, or parts thereof, is a significant source of plastic pollution and a priority for the EU and its MS. We are therefore supportive of option 18.d. while emphasizing that the loss of gear ALDGF must also be addressed through other core obligations that handle the design and use phase, i.e., obligations on banning, phasing out and/or reducing the use of problematic and avoidable plastic, products and design for circularity.
EU AND ITS MEMBER STATES VIEWS ON POSSIBLE CORE OBLIGATION 10: ADRESSING EXISTING PLASTIC POLLUTION

The options paper presents two sets of options for consideration related to how to address existing plastic pollution including abandoned, lost, or discarded fishing gear:

19.

a) Options for addressing existing plastic pollution:
   i. Take measures to remediate plastic pollution in the environment, including in the marine environment and areas beyond national jurisdiction, taking into account the draft agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.
   ii. Cooperate to develop strategies to identify, prioritize and address areas of legacy waste.

b) Options for sector/context-specific measures:
   i. Eliminate ghost gear pollution in the environment, particularly the marine environment, in collaboration with the Food and Agriculture Organization of the United Nations and the International Maritime Organization.
   ii. Conduct remediation activities in specific contexts such as accumulation sites on coasts, rivers and estuaries, urban mining and unregulated landfills, as feasible and justified from a socioeconomic perspective. Priority could be given to plastic pollution hotspots and measures that could have a positive local or regional impact on human health or the environment and to minimizing negative effects to ecosystems.
   iii. Develop criteria and guidelines on best available techniques and best environmental practices, including to ensure that clean-up activities respect biodiversity. Option include:
       a) Identifying indicators for hot spots where quantities and types of litter endanger marine or other species or habitats;
       b) Encouraging the adoption of targeted removal measures in national action plans (NAPs) on a voluntary basis (e.g., clean-up activities and awareness-raising initiatives)

• The EU and its Member States are of the opinion that preventive measures are essential to end plastic pollution. However, we also recognize that addressing the issue of existing plastic pollution, including abandoned, lost, or discarded fishing gear (ALDG), and fishing and aquaculture gear, is also urgent, and that dedicated measures should be part of the future instrument. The EU and its MS support, that fishing gear as source to marine plastic pollution, is included in the future instrument and that fishing gear need to be addressed through its entire life-cycle.

• The EU and its MS believe existing plastic pollution could be addressed through remediation measures and activities in specific contexts, such as accumulation of plastic litter in sites on coasts, rivers including riverine areas, estuaries, floodplains, urban mining and unregulated landfills. Priority should be given to plastic pollution hotspots and measures that can have a local or regional positive impact on human health and the environment and minimizing negative effects to ecosystems, considering also other potential environmental impacts such as energy/fuel consumption or emissions from remediation activities.

• As a related and highly damaging issue, measures for the removal of abandoned, lost, or discarded fishing gear, including litter from aquaculture, should be included in the future
instrument, in collaboration with the Food and Agriculture Organization of the United Nations and the International Maritime Organization, which has adopted an Action Plan to address marine plastic litter from ships.

- The EU and its MS propose that Parties to the future instrument could, as part of their national action plans, develop and implement measures to monitor, identify and address existing plastic pollution, where there is a risk of harm to human health, the environment, biodiversity, maritime navigation and safety, fisheries and tourism, according to a priority assessment.

- The EU and its MS find it important to promote actions beyond national jurisdiction. These actions should be complementary to and not duplicate efforts/actions which are under the draft agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ).

- Considering the points above, the EU and its MS believe that the combination of most of the options under 19.a and 19.b is a good starting point for the negotiations of measures to address existing plastic pollution. We especially support option 19.b.(ii) in combination with 19.b.(i), while we see option 19.b. (iii) as essential tools for conducting this work.

- Regarding option 19 b.(iii), a Technical Review Committee, a subsidiary body to the future Conference of Parties (CoP), or an ad hoc expert group, could be established and mandated to develop guidelines for monitoring, identifying and remediating existing plastic pollution in an environmentally sound manner, including best practices for voluntary clean-up and awareness-raising activities. However, such a Committee would need to consider existing guidelines and best practices.

- The EU and its MS are supportive of option 19 a.(ii). It is our opinion that Parties to the future instrument should be encouraged to exchange best practices on identifying and remediating existing plastic pollution and to engage in knowledge and technology sharing and capacity building in that regard. Such activities would support and strengthen the measures under option 19 b.(iii).

- Parties could also be encouraged to monitor, identify and address, where practically, economically and environmentally feasible, abandoned, lost, or discarded gear (ALDG), including fishing and aquaculture gear within their jurisdiction, and to cooperate to monitor, identify and address it in marine areas beyond national jurisdictions. Further, Parties should be encouraged to cooperate in this regard as suggested in option 19 a.(ii).

- In addition, the EU and its MS consider measures to prevent and reduce the loss of ALDG containing plastic, to be essential in order to address marine plastic pollution, emphasizing that such measures need to be handled under other core obligations that addresses releases to water as well as the whole value chain including design, use and disposal.

- It is the EU and its MS view that Parties to the future instrument should be encouraged to engage in voluntary clean-up and awareness-raising activities, where such activities have not been undertaken yet by Parties.
## EU AND ITS MEMBER STATES VIEWS ON POSSIBLE CORE OBLIGATIONS 11: FACILITATING A JUST TRANSITION, INCLUDING AN INCLUSIVE TRANSITION OF THE INFORMAL WASTE SECTOR

20. The committee may wish to consider including some or all of the following potential options for control measures and voluntary approaches:

<table>
<thead>
<tr>
<th>Option</th>
<th>Description</th>
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<tbody>
<tr>
<td>a)</td>
<td>Establish a mechanism to ensure a fair, equitable and inclusive transition for the industry and affected workers, informal waste workers and affected communities, particularly in developing countries;</td>
</tr>
<tr>
<td>b)</td>
<td>Establish a requirement for private waste management companies to collect plastic waste from informal waste picker cooperatives or associations, where relevant, and establish gradual schemes for their formalization. As these cooperatives or associations formalise, the requirement for companies to collect from waste picker cooperatives or associations should be geared toward the formal ones.</td>
</tr>
<tr>
<td>c)</td>
<td>Improve working conditions for workers, including waste pickers, including by providing legal recognition and support for informal waste pickers, such as access to health care, education and social security benefits.</td>
</tr>
<tr>
<td>d)</td>
<td>Integrate the informal waste sector into the plastics value chain and promote a circular economy through a “just transition programme”.</td>
</tr>
<tr>
<td>e)</td>
<td>Establish a requirement to use fees derived from EPR schemes to fund an upgrade of infrastructure and technical and management skills for informal waste pickers to function as waste collection and sorting companies.</td>
</tr>
</tbody>
</table>

- The EU and its MS recognize that ending plastic pollution will not be possible without ensuring a just, inclusive and sustainable transition. As such, a human rights based approach shall be a cross-cutting priority guiding the implementation of the instrument.
- Even though it is not presented as a specific option in the option paper we would therefore like to propose including a reference to the human right to a clean, healthy and sustainable environment, as recognized by the UN General Assembly in the instrument.
- The EU and its MS recognize and acknowledge the role of the informal waste sector and waste pickers in plastic waste management. It will be important to improve the working conditions for this sector and make sure that measures included in the future instrument will not negatively affect their livelihoods.
- The EU and its MS could also consider the inclusion of a subobjective for just transition in the future legally binding instrument to end plastic pollution.
- The EU and its MS are supportive and open to discuss all options presented under this obligation although taking into account that not all options may be relevant for all Parties to the future legally binding instrument.
- Regarding option 20 a), The EU and its MS are sceptical, and we seek further clarification on what role the mechanism should play and how the other options, for example option on proposal of a work program 20 (d) relate to such a proposed mechanism. We would see it
useful to spend some time to discuss the function of a possible mechanism and how it relates to the other options.

• The possible implementation of option 20 e) needs to be further discussed. We need to make sure that option e will not be too complicated and burdensome to establish and make sure that waste pickers are not excluded when setting up new formal waste management systems for plastic waste.

• Option 20(c) outlines an important principle of a legal recognition which we find interesting. It would be beneficial to better understand how this would be formulated and how it relates to other fora where this is discussed. Our preliminary position is that we do not find it appropriate to directly regulate the working conditions of informal sector workers in the future legally binding instrument. But we look forward to further engaging in this discussion.

• Lastly, The EU and its MS are generally open to discuss option 20 (d), especially if the programme is targeted to the informal waste sector and other vulnerable groups such as women, youth and Indigenous Peoples and Local Communities (IPLC).
The options paper presents two options regarding assessing and evaluating risks regarding human health and two options regarding cooperation to be considered at INC2:

(a) Options for assessing and evaluating risks:
   i. Evaluate risks caused by plastic and plastic pollution for human health
   ii. Conduct further research on the adverse effects of plastic and plastic pollution on human health

(b) Options for cooperation:
   i. Promote cooperation, collaboration and exchange of information with the World Health Organization, the International Labour Organization and other intergovernmental organizations.
   ii. Improve the One Health approach

- The EU and its MS support and are open to discuss and consider all options presented under core obligation 12. However, the EU and its MS would have a strong preference for the future legally binding instrument to address the risks related to plastic pollution in an integrated approach where the adverse effects to both human health and the environment are considered.

- Regarding potential options for assessing and evaluating risks, the EU and its MS are supportive to both options. To assess and evaluate risks to human health but also the environment will need to be science based. Therefore, a subsidiary body to the future legally binding instrument or the future science policy panel could be tasked to gather more knowledge on these topics.

- The EU and its MS recognise the importance of cooperation, collaboration and exchange of information with WHO, International Labour Organisation and other intergovernmental organisations to avoid duplication. Cooperation will also be important in regard to communication and awareness raising. Further the EU and its MS are supportive of the One Health approach and would be interested in engaging in a conversation of how the instrument can contribute to the One Health approach.