Proposed response template on written submissions prior to INC-3 (part a)

At its second session, the intergovernmental negotiating committee (INC) requested the secretariat to invite written submissions on:

- Elements not discussed at INC-2, such as principles and scope of the instrument.

INC-2 further requested the secretariat to post any submissions received on the INC website and to prepare a synthesis report of the submissions.

The template below was prepared by the secretariat, in consultation with the Chair, and is meant as a guide to assist Members and Observers in preparing their written submissions.

A number of documents prepared by the secretariat for INC-1 and INC-2 are of relevance to this submission, including:

**UNEA resolution 5/14** on ‘End plastic pollution: towards an international legally binding instrument’

**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’.

**UNEP/PP/INC.1/6** on ‘Glossary of key terms’

**UNEP/PP/INC.1/8** on ‘Description of standard articles on final provisions that are typically included in multilateral environmental agreements’.

**UNEP/PP/INC.2/4** on ‘Potential options for elements towards an international legally binding instrument, based on a comprehensive approach that addresses the full life cycle of plastics as called for by United Nations Environment Assembly resolution 5/14’

**UNEP/PP/INC.2/INF/4** on ‘Additional information linked to the options for the potential elements towards an international legally binding instrument’.

**UNEP/PP/INC.2/INF/7/REV.1** on ‘Information submitted by the Secretariat of the Basel, Rotterdam and Stockholm conventions’.

All written submissions must be sent to unep-incplastic.secretariat@un.org. As detailed in the mandate, the submissions received will be made available on the INC webpage, a synthesis report of the submissions will also be developed in advance of INC-3.

Please note that not all fields in the template need to be answered in the submission.

**Deadline for submissions:**

I. By **15 August 2023** for written submissions from **observer** organizations.

II. By **15 September 2023** for written submissions from **Members** of the Committee.
Elements not discussed at INC-2

1. Scope

*What is the proposed scope for the future instrument?*

*Which types of substances, materials, products and behaviors should be covered by the future instrument?*

**Proposed scope:**

In line with UNEP/EA.5/Res.14, we support governments’ efforts to craft an international legally binding instrument to end plastic pollution, that aims:

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

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

(c) Promote waste management to keep plastic waste out of the environment, protect human health and reduce the use of fossil raw materials.

The problem currently in place is related to the leakage of plastic waste into the environment. In this sense, the instrument should prioritize actions to advance circularity and address leakage of plastic waste into the environment, while recognizing the benefits of plastics to society and the need to consider the social and economic impacts of measures to address leakage of certain plastics, utilizing a science-based approach. The global instrument should enhance and not duplicate existing efforts and MEAs, for example, the regulation of chemical additives.

Additionally, the instrument should include the social aspects and challenges around production and consumption, considering the informal sector as a social stakeholder integrated into the production process, as they end up being responsible for effectively managing a significant part of the waste, which is still disposed of improperly.
Explanatory Text:

Abiquim supports a global agreement to achieve the goal of eliminating plastic pollution while retaining the societal benefits of plastics and accelerate a circular economy for plastics, focusing on waste management, design for circularity and innovation. We recognize the importance of sustainable consumption and production in these discussions and believe that smart policies can greatly benefit from science-based analysis on products’ environmental impact.

2. Principles

*What principles could be set out in the future instrument to guide its implementation?*

Proposed principles:

The instrument should be constructed in way that allows all necessary context for the interpretation of its provisions, based not only in the principles mentioned below, but also in relation to international law, principles of interpretation and other concepts relevant to the subject matter of the instrument. All together with preambular paragraphs and text on the scope and objective, the principles of an instrument may provide context for interpreting the operative provisions to ensure effective implementation and guide parties while accommodating the commitments under their national legal framework.

Continuing to the mentioned above, although it is an international legally binding instrument, it is important that the instrument coexists with non-binding provisions. As examples of non-binding acts, the Rio 92 Declaration, and the Stockholm Declaration stand out.

Please find below some Principles to be adopted in the future instrument:

(a) Sustainable development. This principle is concerned with the interdependence of all human activities. It requires that the environment is considered as part of all policies and activities, including those intended to promote economic and social development. The most widely-used definition of sustainable development is that of the Brundtland Commission of 1987: ‘Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs.’ The principle is mentioned in several multilateral environmental agreements.

(b) Common but differentiated responsibilities. This principle provides that all States have common responsibilities to protect the environment and promote sustainable development, but the actions required from different States vary with their different social, economic, and ecological situations. It weakens requirements for developing country Parties, considering their social-environmental realities, especially regarding the status and maturity of take back schemes and waste collection systems, which are non-existent in some regions. This principle is stated in numerous multilateral environmental agreements, for example, the foundation for
different commitments under the UN Framework Convention on Climate Change and the Paris Agreement. [Note to the draft:

(c) Polluter pays principle. This principle seeks to ensure that the full environmental costs are reflected in the ultimate market price for goods and services. It has been incorporated in many multilateral environmental agreements. It is reflected in Principle 16 of the Rio Declaration.

(d) Public policies must be in place to address social and economic inclusion of recycling workers, promoting more formalization, capacity building and guaranteeing the respect of the human rights. Supportive polices and actions promoted by all stakeholders should be considered as part of the solution in the treaty to guarantee the respect of human rights in the value chain.

Additionally, the future instrument should be considered:

(a) Transparency and reliance on best available science.

(b) Risk-based approach.

(c) The need for a range of solutions based on the waste hierarchy and what is most appropriate given national and regional circumstances.

(d) Plastic application-based approach to determine the risk of leakage of plastic into the environment.

(e) The need for waste management and recycling solutions to meet industrial emissions limits and comply with local regulations.

(f) Innovation principle which promotes smart, future-oriented regulations and policies designed to encourage innovation to deliver socially and environmentally beneficial progress.

Explanatory Text:

1- According to the 1969 Vienna Convention on the Law of Treaties, “[t]he provisions of a treaty regulating the authentication of its text, the establishment of the consent of States to be bound by the treaty, the manner or date of its entry into force, reservations, the functions of the depositary and other matters arising necessarily before the entry into force of the treaty apply from the time of adoption of its text” (art. 24, para. 4). This means that, upon adoption of the treaty and before its entry into force, because of their nature and objective, certain final clauses produce legal effects.

2- To help end additional plastic pollution and accelerate a circular economy for plastics, the agreement should incentivize actions by all stakeholders, include specific global measures supporting effective implementation, foster multistakeholder participation in financing, and enable flexibility for national action plans while holding countries accountable.
3. Additional considerations

Provide any other relevant inputs, proposals or priorities here that have not been discussed at INC-2 (e.g. preamble; institutional arrangements, including governing body, subsidiary bodies, scientific and technical cooperation and coordination, and secretariat; final provisions including dispute settlements; and if appropriate annexes).

Proposed inputs:

1- To increase the effectiveness of the instrument, governments should consider establishing an interim science body with participation by a range of scientists, including from industry. Such a group can support a science-based approach by facilitating scientific and technical information exchange to inform implementation of the instrument.

2- The draft standard articles set out in the appendix of the UNEP/PP/INC. 1/8 are based on similar provisions in existing global multilateral treaties in the field of the environment, often referred to as multilateral environmental agreements, including the following (listed chronologically, in the order of their adoption, starting with the most recent):


Explanatory Text: