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:

The objective of the instrument should be achieved as a means to reach sustainable development in its three dimensions (economic, social and environmental) in a balanced and comprehensive manner, and the eradication of poverty, in line with the Agenda 2030 (paragraph 2). It is necessary that the suggested measures should be the least restrictive of trade and the most effective to achieve the legitimate objective of addressing plastic pollution, avoiding those measures that might constitute disguised restrictions on international trade, in accordance with WTO rules.

The instrument should aim at reducing plastic pollution throughout the promotion of a circular economy to protect human health and the environment from its potential adverse effects.

Regarding the scope of the instrument, the whole life cycle of plastics, from extraction to their production and design to their use, consumption and disposal, and address all sources of plastic pollution.

Since plastics might contain toxic chemical contaminants, the scope of application should cover plastic pollution, including in the marine environment, with plastic pollution understood to include microplastics, without being duplicative or prejudice other multilateral efforts. To that effect, scope should involve possible discharge of plastics into the marine environment, but also encompass measures at the moment of packaging, stowage and transportation.

In doing so, special attention should be paid to the development and strengthening of local governance in plastic waste management.
Explanatory Text:

Plastic pollution should not be only regarded as a matter of waste, but also to the capacity of a country to find substitutes and adapt its production.

Local governments are fundamental actors in the design and implementation of the future instrument. Strengthening them requires a multisectoral and multilevel approach, as well as training for the development of regulatory frameworks and information systems as well as National Action Plans.

2. Principles

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

Proposed principles:

The instrument should be guided by the principles of the Rio Declaration on Environment and Development, in particular the principle of common but differentiated responsibilities (principle 7). Also, due regard should be paid to other principles coming from Rio Declaration, such as the principle that measures should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade (principle 12).

Also important is that the principle of extended producer responsibility is incorporated into the text.

Throughout the whole text a human rights approach and labour rights approach must be applied in order to achieve the expected objective(s).

Cooperation and coordination with other MEAs also would be paramount to avoid duplications and efforts and to focus on the objective(s) of the new treaty.

Other principles that are worth of mentioning here are: just transition for all recyclers and waste pickers in the plastic value chain respecting the waste management hierarchy; the pro-environment principle; the non-regression; gender perspective; and the principle that all measures should be applied on the basis of scientific evidence.

Explanatory Text:

The principles of the Rio Declaration on Environment and Development have been reaffirmed in the Agenda 2030 for Sustainable Development (paragraph 12), including, among others, that of common but differentiated responsibilities. For this reason, the Rio principles remain in force at the international level, while the 2030 Agenda should be regarded as the general “umbrella” of the entire instrument on plastic pollution. Therefore, the consistency of the instrument with the 2030 Agenda should be ensured, in particular with its objectives and principles.
The creation of arbitrary or unjustifiable discrimination or of covert restrictions on international trade, should be avoided. Furthermore, this becomes especially relevant given that many of the measures currently proposed to address plastic pollution are of commercial nature.

It is important to consider different national circumstances, capacities and priorities, avoiding unique and uniformed solutions. In this context, development priorities should be taken into account, including those related to poverty eradication, in line with the 2030 Agenda.

EPRs systems require plastic producers and importers to take responsibility for their products throughout their life cycle, from production until disposal, to encourage collection and classification, including by waste pickers, to initiate investment in recycling facilities and to finance studies of advanced recycling and material recovery methodologies, all of which, in turn, will help address the problem of plastic pollution in a more efficient manner.

Just transition must be a core obligation, a principle and a cross-cutting issue within the means and measures of implementation debate. The purpose of it should be to propose recommendations on how to implement just transition through the national action plans, with enforceable obligations to integrate recyclers and waste pickers in the plastic management systems, to promote coordination with local governments, and to achieve monitoring and compliance with established goals. Just transition should be understood as a means to end plastic pollution in a fair and inclusive way for all stakeholders, creating decent work opportunities, and leaving no one behind.

Human rights must be applied to ensure just transition and to address the consequences of the measures of the future instrument, as they might fall disproportionately on groups marginalized by racial or ethnic or national origin grounds. Also, labour rights of waste pickers require support and incentives for the formalization of their work, taking into account those experiences that provide useful just transition examples in informal economies. In addition, labour rights of formal plastic workers, in particular plastic waste workers, should be protected and promoted in order to achieve a just transition.

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:

It would be valued if the preamble incorporates the following: the recognition that plastic pollution has adverse physical, chemical and biological impacts on the environment and human health; the special vulnerability of aquatic ecosystems; the importance of financial, technical, technological, and capacity-building support, especially for developing countries and countries; the role of other relevant MEAs; the recognition that the future treaty would not prevent Parties from adopting other national measures.
that are consistent with the provisions of this Agreement, as part of the efforts to protect the environment and human health from the adverse effects of plastic pollution.

Regarding the financing mechanism, it is important to consider the creation of a specific fund to help implement the new treaty. It is also relevant to consider the possibility of additional resources that might come from other sources, such as GEF and the Special Program.

The Convention should establish a Scientific Committee as a subsidiary body. It will contribute to the research and scientific development. It might propose restrictions on the use, manufacture and international trade of: - Substances addressed by other MEAs, in particular Stockholm; - Single-use plastics; - Products containing microplastics. The Scientific Committee could carry out the risk assessments of new and existing plastic products.

As per the efficacy evaluation, it would be important to take the framework of the Minamata Convention as a reference. For the preparation of the effectiveness evaluation, the development of clear objectives, goals that are related to them and indicators that demonstrate compliance with the obligations of the Agreement must be taken into account. These must follow SMART criteria so that their results have value to address plastic pollution.

Capacity building for developing countries needs to be reflected adequately, to enable technical assistance in relation with best available techniques and practices, as well as the transfer of best available technologies. Information flow between developed and developing countries must be ensured in this sense.

Dispositions regarding national reports might entail the possibility of carrying out a short and a long one, as is the case with the Minamata Convention.

Regarding voluntary commitments, they may refer to elaboration of plans, programmes, and national strategies to support the implementation of some of the obligations that may stem from the agreed text. Also, plastic inventories should be encouraged.

Participation of interested and non-governmental stake holders will be necessary to enforce the obligations agreed upon. Minamata Convention could be taken as a basis.

Restrictions/prohibitions must be incorporated in annexes, subject to the review of the technical advisory body.

Explanatory Text: