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?*

UNEA resolution 5/4 reaffirms the importance of cooperation, coordination and complementarity among relevant regional and international conventions and instruments, while respecting their respective mandates, to prevent plastic pollution and its related risks to human health and adverse effects on human well-being and the environment. The INC is to develop international legally binding instrument on plastic pollution, including in the marine environment, with provisions to promote cooperation and coordination with relevant regional and international conventions, instruments and organizations, while recognizing their respective mandates, avoiding duplication, and promoting complementarity of action.

When considering the scope for the future instrument, it is also important to recognize the obligations, control measures and voluntary approaches in the Basel, Rotterdam and Stockholm conventions summarized below.

**The scope of the Basel Convention** extends to hazardous wastes and to other wastes requiring special consideration, including plastic wastes that are problematic for human health and the environment. The Convention includes a definition of “wastes” and of other key terms associated with the management of wastes throughout their life-cycle, and lists the specific waste streams and waste constituents falling within its scope. The Convention also provides measures to reduce the generation and promote the environmentally sound management of hazardous wastes and other wastes requiring special consideration, to restrict transboundary movements of such wastes except where it is perceived to be in accordance with the principles of environmentally sound management; and sets up a regulatory system (prior informed consent procedure) applying to cases where transboundary movements are permissible.

As amended in 2019, all plastic waste covered by the Convention, including mixture of plastic waste not destined to recycling, is subject to the provisions on waste minimization, environmentally sound
management, and the prior informed consent procedure. The technical guidelines on environmentally sound management of plastic waste were adopted by the Conference of the Parties at its sixteenth meeting in May 2023.

The following Articles provide obligations and control measures:

- Articles 4 and 4A: General obligations regarding waste minimization, environmentally sound management of wastes and transboundary movements of wastes;
- Article 6: The detailed prior informed consent procedure applying to transboundary movements;
- Article 9: defines illegal traffic and provides for the consequences of illegal traffic in order to ensure that wastes illegally trafficked are ultimately managed in an environmentally sound management and that conduct contrary to the Convention is punished.

The framework for the environmentally sound management (ESM) of hazardous wastes and other wastes was adopted by the COP in its decision BC-11/1. Intended as a practical guide for all stakeholders, the Framework identifies what can be done to address the challenges of implementing the ESM of hazardous wastes and other wastes. The Framework is composed of three sections:

- A common understanding of what ESM encompasses;
- Tools to support and promote the implementation of ESM;
- Strategies to implement ESM.

The ESM Framework is supplemented by the ESM Toolkit which provides guidance to Parties and others on practical approaches to implementing ESM, specific guidance on aspects such as EPR and prevention and minimization and on how to address ESM in the informal sector.

The Conference of the Parties has a long-standing practice of establishing public-private partnerships to collectively address issues. There are currently four such Partnerships under the Convention:

- Plastic Waste Partnership;
- Partnership for Action on Challenges Relating to E-waste (PACE II);
- Environmental Network for Optimizing Regulatory Compliance on Illegal Traffic (ENFORCE);
- Household Waste Partnership.

The Stockholm Convention provides measures to reduce releases of persistent organic pollutants, including plastic additives and by-products, from intentional production and use, unintentional production, and stockpiles and wastes. Following the COP-11 in May 2023, there are 34 entries of chemicals or groups of chemicals listed under the Convention, of which 17 are either plastic additives or contaminants or byproducts of plastics.

The following Articles provide obligations and control measures:

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3. [http://www.basel.int/tabid/5839](http://www.basel.int/tabid/5839).
• Article 3: Measures to reduce or eliminate releases from intentional production and use;
• Article 5: Measures to reduce or eliminate releases from unintentional production;
• Article 6: Measures to reduce or eliminate releases from stockpiles and wastes.

The Stockholm Convention does not have labelling requirements (except for PCB, pentachlorophenol and hexabromocyclododecane) but it requires each Party to develop appropriate strategies for identifying stockpiles, products and articles in use and wastes consisting of, containing or contaminated with a chemical listed in Annex A, B or C.

The Rotterdam Convention promotes shared responsibility and cooperative efforts among Parties in the international trade of certain hazardous chemicals and pesticides, and contributes to the environmentally sound use of those hazardous chemicals and pesticides. Of the 55 chemicals listed in Annex III to the Convention following the COP-11 in May 2023, 15 are plastic additives.

The following Articles set out applicable procedures and obligations:
• Article 5: Procedures for banned or severely restricted chemicals;
• Article 10: Obligations in relation to imports of chemicals listed in Annex III;
• Article 11: Obligations in relation to exports of chemicals listed in Annex III;
• Article 12: Export notification.

2. Principles

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

As mentioned in the preamble of the Stockholm Convention, precaution underlies the concerns of all the Parties and is embedded within the Convention. Article 1 of the Stockholm Convention, titled “Objective” states: “Mindful of the precautionary approach as set forth in Principle 15 of the Rio Declaration on Environment and Development, the objective of this Convention is to protect human health and the environment from persistent organic pollutants.” Paragraph 9 of Article 8 states: “…The Conference of the Parties, taking due account of the recommendations of the Committee, including any scientific uncertainty, shall decide, in a precautionary manner, whether to list the chemical, and specify its related control measures, in Annexes A, B and/or C.” Part V of Annex C to the Convention states: “…In determining best available techniques, special consideration should be given, generally or in specific cases, to the following factors, bearing in mind the likely costs and benefits of a measure and consideration of precaution and prevention;”
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).*

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**Inclusion of provisions specifying the functions of the governing body, subsidiary bodies and secretariat of the new instrument:** The inclusion of provisions directing the new instrument on plastic pollution to cooperate and coordinate with other multilateral environmental agreements, such as the Basel, Rotterdam, and Stockholm conventions, is important in ensuring effective global efforts to combat plastic pollution. This collaborative approach is based on the recognition that plastic pollution is a transboundary issue, affecting diverse ecosystems, human health, and socio-economic aspects. By fostering cooperation and coordination, the new instrument can synergize with the existing instruments and initiatives, pooling resources, expertise, and strategies to attain policy coherence and prevent duplication of efforts.

Plastic pollution is a multifaceted challenge that demands a comprehensive response. The integration of the new instrument’s governance structure with those of established environmental agreements amplifies the potential for knowledge sharing, technology transfer, and best practices. It allows for the harmonization of policies, data collection methodologies, and capacity-building initiatives, thereby maximizing the efficiency and impact of global efforts.

**Multistakeholder platforms:** The Plastic Waste Partnership has been established under the Basel Convention to mobilize business, government, academic and civil society resources, interests and expertise to improve and promote the environmentally sound management of plastic waste at the global, regional and national levels and to prevent and minimize its generation. The third meeting of the working group of the Plastic Waste Partnership was held back-to-back with the first session of the intergovernmental negotiating committee in November 2022 in Uruguay. Together with the Global Partnership on Marine Litter under the UNEP, the Basel Convention’s Plastic Waste Partnership plays a key role in stakeholder engagement. It would be important that the multistakeholder action agenda build on and maximize the cooperation and coordination among existing multistakeholder platforms, and avoid further duplication of similar efforts.