**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:**

1. **By 15 August 2023** for written submissions from observer organizations.
2. **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 following plastic that are subject to pollution fall within the scope of this Treaty: PET / PETE used for single use bottles; HDPE with many uses including packaging; PVC (polyvinyl chloride) and V (vinyl) is a tough material, so it’s usually used to make things like drain pipes or playground equipment; LDPE is a flexible plastic which is used in lots of different products; PP has a high melting point, so it’s often chosen for containers that will hold hot liquid.; PP has a high melting point, so it’s often chosen for containers that will hold hot liquid and other plastic not falling into the above category listed in the Annex to the Treaty.

The Treaty shall apply to any plastic waste considered to be hazardous, toxic

The Treaty shall apply to any kind of waste subject to transboundary movement.

The Treaty shall apply to any kind of plastic containing hazardous or toxic chemicals

The Treaty shall address convergence between climate change and plastic

The scope of the treaty should be determined with reference to the need to regulate plastics strictly and the Treaty shall be binding upon each party and extend to their entire territory including State’s land, territorial waters and air space and areas over which a party exercises sovereignty,

The Scope of the treaty shall create the opportunity for the general obligation to flow into the following areas:

- The Treaty shall commit to cooperation in dissemination of information on the transboundary movement of hazardous plastic wastes in order to achieve the prevention of illegal traffic.
• The scope of the Treaty shall commit to integration of the legal, social, technological and economic aspects.

• The scope of the Treaty shall commit to enhancement of the ambition of Member States, private sector and stakeholders to prevent and address plastic pollution.

• Definition and categorizing of plastic waste identifying plastic waste classified in several categories including hazardous plastic waste, toxic plastic waste and plastic waste subject to transboundary movement.

• Special protection for those particularly vulnerable, such as women, children, indigenous people and those with disabilities. These is possible by integrating a Rights and gender perspective.

• General obligation of states

• Obligation to commit to integration of the legal, social, technological and economic aspects.

• The scope of the Treaty shall commit to strengthening leadership of UNEP and multi-stakeholder partnerships.

• The scope of the Treaty shall commit to increased commitment to expending funding ecosystem for implementation.

• The Proposed Treat should effective deal with Remedies.

• The State also could legislate to ensure that business enterprises in the plastic life cycle undertake due diligence and include grievance mechanisms in national, regional and international judicial institutions.

• It might also be possible to consider joint liability of a State and the business enterprise where jointly responsible for the breach of human rights.

• The proposed treaty should include oversight and supervisory Mechanisms including periodic reporting, pair review, assessments and global stock taking and self-assessment of their implementation of National Action Plans.

• International organizations and international financial institutions should be included within the scope of the treaty.

• The proposed treat should include the international obligation and responsibility of States for actions of its agents, including all business enterprises within its jurisdiction.

• The treaty should allow for capacity building support for States and institutions.

• Identify the types of corporate entity whose conduct results in plastic pollution

• Identify the impact of plastic pollution on human rights.
• The treaty should not only mention aligned with other international law and treaties in its preamble but this must be integrated into its general provisions and Annexure.

Explanatory Text:

2. Principles

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

Proposed principles:

Plastic pollution is a global problem. The principles that should guide the development of a legally binding instrument on plastics is enshrined in several international instruments including the Stockholm and Rio Declaration. They include:

- Common Concern of human kind
- Duty Not to Cause Environmental Harm.
- Common but Differentiated Responsibilities.
- The “Polluter Pays” Principle.
- The Precautionary Principle.
- Public Participation.
- Transparency and Accountability
- State responsibility
- Good neighbourliness and international cooperation
- Principle of Preventive Action
- State Sovereignty
- Environmental Rights
- Extended Producer Responsibility (EPR)
- Sustainable Development
- The Principle of Intra-Generational Equity
- Principle of Inter-Generational Equity
- Subsidiarity Principle
- Integration and Inclusiveness
- Equality and non-discrimination equality and non-discrimination

The treaty should build on the existing international law and not to move back from it.
The treaty should include respect for Human Rights and responsible business practices by corporations and business enterprises.

There should be access to a remedy. These are vital and important conceptual steps that have been made and accepted by most States, business enterprises and civil society organizations.

Note—International law includes existing international legal obligations on States with respect to human rights. This includes all human rights: economic, social, cultural, civil, political, labour, individual and collective rights

-International law also requires that, under human rights treaties there is an obligation on States to provide access to a remedy for victims and to protect against future breaches.

The purpose of the Proposed Legally Binding Treaty on Plastics should cover the gaps in current international Environmental Laws related to principles, sustainable waste management, transboundary waste and other gaps recognized and not create new gaps.

The proposed treaty should be recognize and align with the need for inclusion and ensure that there is special protection for those particularly vulnerable, such as women, children, indigenous people and those with disabilities. These is possible by integrating a Rights and gender perspective.

These international legal principles should be placed in the preamble of the instrument and reflected in the treaty provisions.

Explanatory Text:

In the Report of the Secretary-General titled, ‘Gaps in international environmental law and environment-related instruments: towards a global pact for the environment’ it was stated that international environmental law and its effective implementation could be strengthened through such actions as the clarification and reinforcement of principles of international environmental law. This could be done through a comprehensive and unifying international instrument that gathers all the principles of environmental law. The negotiation of this legally binding treaty on plastics creates the opportunity to clarify and reinforce principles of international environmental law.

General obligation of states including obligation that puts into text the principles mentioned above.

The precautionary and preventive principles by a commitment to ban hazardous waste and the use of hazardous chemicals in waste production; inclusion of legal provision that ensures that transboundary movement of hazardous plastic wastes is reduced to the minimum.

Inclusion of the principle of international and regional cooperation by development of a guideline and inter regional mechanism to prevent the import of hazardous wastes and other wastes if it has reason to believe that the wastes in question will not be managed in an
environmentally sound manner or that the receiving state do not have the capacity to dispose in an environmentally sound manner or has no capacity to recycle the waste.

Commit to cooperation dissemination of information on the transboundary movement of hazardous plastic wastes in order to achieve the prevention of illegal traffic.

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:

- The Implementation mechanism for the Convention should include provision for administration, enforcement and compliance, subsequent decision-making, oversight and means of implementation.
- For each of the elements, we have set out some preliminary building blocks

**EFFECTIVE IMPLEMENTATION MECHANISM**

**ADMINISTRATIVE** institutional strengthening frameworks and coordination mechanism

- Data/ Information Tools

**MEANS OF IMPLEMENTATION** (Financial Resources, transfer of technology & Strengthening of Technical Knowledge

- Capacity Development

**OVERSIGHT**

- Peer review
- Expert review
- Self-assessment

**SUBSEQUENT DECISION-MAKING**

- Participation in decision making
- Method of making decision (voting without voting
- consensus
- Responsibility

**ENFORCEMENT/COMPLIANCE**

- State Responsibility & Intl Liability
- Ratification
- Development of Work programme/Guideline/National Implementation Plan
- Judicial Enfacement
- Enforcement training
- Compliance procedure
- Dispute Settlement
The following recommendations are from the Global Interactive 1 organized by the Centre for Human Rights and Climate Change Research in collaboration with the Alliance on Implementation of Multilateral Environmental Agreements (MEA), MUSARP and other participants drawn from coalitions and other Stakeholders,

The issue of political will should be reinstated, lack of political can cause reversal of progress.

Recommendations from presentations: that came up from the presentations:
1/ Include core principles in Stockholm and Rio Declaration and other core international law and environmental law principles/
2/ Integrate human rights,
3/ Priorities for Africa should include trade in plastics and, accountability of the Business sector.,
4/ These provides the opportunity for making international law and governance coherent,
5/ The treaty should include strong enforcement mechanism.

We could also look at corporate and extended producers responsibility as a means of encouraging businesses to adopt sustainable practices and reduce plastics waste throughout their supply chains in accordance with the principles of human rights and business established by member states in existing human rights processes.

The treaty should address the need to protect whistle blowers and environmental defenders who are advocating for plastics.

Members States should investment and support aggressive environmental advocacy with the focus on local communities in a language they understand to effectively address the long term negative effect of plastic pollution to the environment. The advocacy must include access to basic education and continuous learning referred to as lifelong learning in the SDGs.

Establishing networks at country levels to propel the issue of plastic waste pollution would ensure the following:
- **Mechanism for implementing the Convention would be inclusive, integrated and innovative with components of desirable elements and building blocks listed above.**
- **Mechanism for implementation should integrate existing international and national framework for waste including transboundary movement of waste, chemical management and action to prevent pollution .**
- **Promote better policy coherence, mutual supportiveness and synergies in implementation.**

**Finally,** the proposed Treaty should be focused on the importance of recognizing that plastic pollution involves environmental law as well as human rights law, trade law and laws of regional fisheries management organizations. Set against this backdrop, it is important to understand the need to discuss and provide for regime convergence in these areas as a positive mechanism for reinforcing the terms rather than viewing these as potential hurdles for an international treaty system that addresses plastic pollution as a holistic concept.