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.
TEMPLATE FOR SUBMISSIONS (part a)

<table>
<thead>
<tr>
<th>Name of country (for Members of the committee)</th>
<th>Ecuador</th>
</tr>
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</table>
| Name of organization (for observers to the committee) | Walter Schuldt  
Director de Ambiente y Desarrollo Sostenible – Ministerio de Relaciones Exteriores y Movilidad Humana  
dads@cancilleria.gob.ec  
wschuldt@cancilleria.gob.ec  
asalvador@cancilleria.gob.ec |
| Contact person and contact information for the submission | Geovanna Polo  
Gerente del Proyecto de Gestión de Residuos y Economía Circular Inclusiva - Ministerio del Ambiente, Agua y Transición Ecológica  
geovanna.polo@ambiente.gob.ec  
valeria.salazar@ambiente.gob.ec  
andres.silva@ambiente.gob.ec |
| Date | 29-09-2023 |

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?*

Ending plastic pollution requires the establishment of a legally binding global framework containing common international obligations across the entire lifecycle of plastics to bring about the system change that is required to end plastic pollution, to protect the environment and human health.

This will demand the provision and mobilization of commensurate, predictable, and adequate means of implementation to developing countries, particularly finance, technology transfer and development, and capacity building to implement the future legally binding instrument, informed by the best available science, as well as socioeconomic information and assessment related to plastic pollution.

Ecuador reaffirms its submission of 13 February 2023, that provided our input for options for elements of the instrument, such as its objective, and substantive provisions including core obligations, control measures, voluntary approaches, and means of implementation, towards INC2.
In response to the invitation to provide additional written elements such as principles and scope of the instrument, Ecuador presents this submission. Ecuador will continue to develop its position on the above-mentioned and other parts of the treaty, as the negotiations unfold.

**Note:** Submissions by GRULAC and the High Ambition Coalition, which can be found in the website of INC3, reflect also the views of Ecuador. Other written submissions referred to in this written submission can also be found in the website of INC3.

**Proposed scope:**
Regarding the scope, Ecuador considers that UNEA Resolution 5/14 provides a sufficiently broad scope for the negotiations, through the mandate established in its operative paragraph 3 “...to develop an international legally binding instrument on plastic pollution, including in the marine environment,..., based on a comprehensive approach that addresses the full life cycle of plastic,...”

The future legally binding instrument needs to allow for its evolution and strengthening over time. Thus, it is important to have a broad general scope, with annexes that could be updated and develop guidance for implementing its obligations.

**Explanatory Text:**
The clear mandate of UNEA Resolution 5/14 to address the full life cycle of plastic, implies that the scope of the future instrument should cover the entire value chain of plastics, from its design and production to its disposal and waste management, as well as all types of substances, materials and products (including chemicals of concern) that are used or added throughout its value chain, and that are relevant to the specific impacts of plastic pollution on the environment, health and human rights.

With respect to behaviors, UNEA Resolution 5/14 also provides a sufficiently broad scope for the future instrument to address the full life cycle of plastic, including with provisions to promote sustainable production and consumption, as well as prevention, reduction and elimination of plastic pollution, knowledge, transfer, awareness-raising, education, exchange of information, research, multi-stakeholder engagement, scientific and socioeconomic information and assessment, cooperation at all levels, and compliance.

In that regard, the establishment of a scope for the future instrument based on the types of substances, materials, products and behaviors, could result in a narrowed scope that goes against the cross-cutting progressive approach of the measures and actions envisaged in UNEA Resolution 5/14 for the future instrument, and could limit their effectiveness, by leaving some pollutant plastics, substances, including chemicals, polymers, materials and products of concern, outside of the scope of implementation of such measures and actions at all levels.

Best available and independent science and knowledge in diverse areas across the life cycle of plastics, and taking into consideration the environmental, socio and economic dimensions are needed for this process will be instrumental, for the ongoing negotiations and also for the implementation.

We need to have both in the negotiations and in the implementation, mechanisms where a diverse range of scientific evidence including qualitative and quantitative, social, natural, and life sciences, knowledge, innovations, and practices of indigenous and local communities embodying Indigenous sciences and methodologies, and citizen science, are represented.
2. Principles

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

General consideration:
Ecuador considers that the first guidance for the principles of the future instrument is provided in UNEA Resolution 5/14 which “reaffirms the principles of the Rio Declaration on Environment and Development, adopted in Rio de Janeiro, Brazil, in 1992”. Such principles are also recognized or reaffirmed in other international instruments and in most multilateral environmental agreements and frameworks. In that regard, Ecuador considers that it is important that the future instrument on plastic pollution includes such principles, together with others that are relevant for its implementation, in a comprehensive, consistent and non-hierarchical manner.

Proposed principles:
- Polluter pays principle
- Precautionary approach
- Prevention
- Progressivity
- Common but differentiated responsibilities and respective capabilities
- Human rights approach
- Gender approach
- Rights of indigenous peoples and local communities
- Access to information, public participation and justice in environmental matters
- Intergenerational equity
- Just transition
- The ecosystem approach
- Science-based policy and decision making
- Cooperation
- Inclusion of waste pickers and other informal workers

Explanatory Text:
- **Polluter pays principle**: Whoever carries out or promotes an activity that pollutes or does so in the future, must bear all costs of the necessary measures to avoid, prevent, combat, reduce or remediate it.
- **Precautionary approach**: When there are threats of serious or irreversible damage, the lack of scientific certainty about the impact or damage caused to the environment by any action or omission shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation and human health risks, and the State, through its competent authorities, will adopt effective and timely measures aimed at avoiding, reducing, mitigating and stopping the impact. This principle will reinforce the principle of prevention. (see BRS Secretariat submission)
- **Prevention**: When there is certainty about the risks of environmental or human health impact or damage that an activity or product may generate during any part of the full lifecycle of plastics, the State will require the person or company responsible of that activity or production, to comply with provisions, standards, procedures and measures aimed primarily at eliminating, avoid, reduce, mitigate, cease and remediate such impact or damage. (see BRS
Secretariat submission)

- **Progressivity**: The future instrument should include and promote a progressive transformation, restricting avoidable and problematic plastics, alongside with the development, when necessary, of safe and environmentally sound alternatives and non-plastic substitutes, including systems, schemes and incentives. The obligations should be established or required progressively, without any regression on environmental and human health protection. Means of implementation, including technologies are of importance for this transition.

- **Common but differentiated responsibilities and respective capabilities**: Through this principle the international community have recognized that in view of the different contributions to global environmental degradation, States have common but differentiated responsibilities, and developed countries have acknowledged the responsibility that they bear in the international pursuit of sustainable development in view of the pressure their societies place on the global environment and of the technologies and financial resources they command.

- **Human rights approach**: The future instrument should also be implemented in a manner that respect, promote and protect all human rights, including, inter alia, the right to a clean, healthy and sustainable environment, and the right to the enjoyment of the highest attainable standard of physical and mental health.

- **Gender approach**: Women continue to face exclusion, discrimination and disproportionate exposure to socioeconomic vulnerabilities. Therefore, the legally binding treaty should take into account the gender dimension of many environmental, health and labour challenges across the plastics life-cycle as well as the opportunities that legally binding decision-making can offer for the implementation of gender-responsive policies. The future instrument should also include provisions and promote legal and policy tools that are gender-responsive to the specific impacts of plastic pollution on women, reduce and eliminate all gender-based inequalities, contribute to the empowerment of women and girls, and improve their health, participation and access to information and environmental justice.

- **Rights of indigenous peoples and local communities**: The future instrument should also take into account the recognitions, protection and promotion of the rights of indigenous peoples, facilitating the reduction and elimination of all forms of discrimination against indigenous peoples and local communities and ensuring their full and effective participation in all matters that concern them.

- **Access to information, public participation, and justice in environmental matters**: The future instrument should include or promote measures that guarantee the rights to access to information, public participation in decision-making processes, as well as the right to access to justice in environmental matters, as recognized in different legal and policy frameworks at all levels.

- **Intergenerational equity**: The future instrument should address the impacts of plastic pollution, including in the marine environment, taking into consideration the needs of present and future generations.

- **Just transition**: The future instrument should promote policies and measures that protect the rights at work and employment, create job opportunities for all, and ensure that the transformation of unsustainable patterns of production and consumption contributes to the goals of decent work for all, social inclusion and the eradication of poverty.

- **The ecosystem approach**: The future instrument should include or promote measures that contribute to the conservation and sustainable use of land, water and living resources, in an
equitable and integrated manner.

- **Science-based policy and decision making:** As reflected in several provisions of UNEA Resolution 5/14, the legal and policy measures included or promoted in the future instrument should be based on the best available science, and include a mechanism to provide policy-relevant scientific and socioeconomic information and assessment related to plastic pollution, with a view to strengthen the science-policy interface at all levels. Indigenous knowledge and participation of indigenous communities should be taken into consideration for the whole decision-making process.

- **Cooperation:** Also as reflected in UNEA Resolution 5/14, the negotiation and implementation of the future instrument, should be guided by recognition of the need and the commitment to strengthen global coordination and cooperation to take immediate action towards the long-term elimination of plastic pollution and its impacts, and the need to enhance international collaboration to facilitate access to technology, finance, capacity building, and scientific and technical cooperation, taking into account that some legal obligation arising out of the future instrument will require such assistance in order to be effectively implemented by developing countries and countries with economies in transition.

- **Inclusion of waste pickers and other informal workers:** The future instrument should include or promote public policy mechanisms and instruments aimed at promoting the full integration of waste pickers and grassroots recyclers in waste management, taking into account their particular needs, including through assessment, formalization, training, project financing, among others, in which their participation in management systems will be prioritized within the framework of the producer’s extended responsibility.

### 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).*

**Additional considerations and approaches:**

Submissions by GRULAC and the High Ambition Coalition reflect also the views of Ecuador. Additionally, suggestions for elements in our technical work are as follows:

- Environmental education and awareness raising
- Hierarchy in waste management
- Safe Circularity
- Traceability
- Extended producer responsibility
- Eco-design
- Clean production and energy efficiency
- Inclusive Digitalization

**Explanatory Text:**

- **Environmental education and awareness raising:** The future instrument should include or promote at all levels, environmental education and awareness raising of the impacts of plastic pollution, facilitating social inclusion in the design and implementation of adequate
responses, and strengthening the consumers and the entire community in the decision-making to prevent the generation of waste and promote its recovery, through educational programs and information campaigns, encouraging responsible consumption practices and promoting a culture of respect for the environment throughout the society.

- **Hierarchy in waste management:** As recognized in several instruments, norms and policies at different levels, the future instrument should incorporate the priority of treatment that plastic waste must receive, starting by up-stream measures to finally consider their environmentally sound and safe disposal, Specific criteria should be established to prioritize problematic plastics, including polymers and substances (chemicals and additives), those with greater adverse impacts on the environment or human health and those that can be easily substituted.

- **Safe Circular economy:** The future instrument should result in plastics and recyclable materials, to be maintained for more time in the economy, safe and inclusive circular economy approaches could contribute to achieve sustainable production and consumption, while recognizing that there is no single approach to this matter.

- **Traceability:** The future instrument should promote pre-established and self-sufficient procedures that allow determining the quantity, location and trajectory of a product and its subsequent waste or batch of waste throughout the management chain, as well as information and traceability systems on the types of plastics that leak into ecosystems.

- **Extended Producer Responsibility:** Reducing the use of plastics through substitution and reuse, and improving management by implementing extended producer responsibility schemes and policies, focusing on large commercial and industrial users, and developing business models and incentives for re-collection and management by producers.

- **Ecodesign:** It consists of carrying out life cycle analysis of products from the design, promoting their long useful life, integrating the use of clean energy and non-polluting raw materials, that are easily recoverable, and that at the end of their life cycle generate preferably usable waste.

- **Clean production and energy efficiency:** Promote clean production programs, through the optimization of production processes and savings in the consumption of material and energy resources.

- **Digitalization:** digitalization plays a crucial role in improving the management of plastic waste by providing accurate data, optimizing operations, promoting recycling and the circular economy, and raising public awareness of the importance of reducing plastic pollution.

**Other considerations:**

**Safe circular approaches:**

- The future instrument can include measures that result in and facilitate a safe circular economy, including the implementation of safe management of plastics and recyclable materials, starting for example, from the determination of clean materials according to their recycling potential in the national industry, considering their impacts on the environment and human health, analyzing the feasibility of certifying (labeling) the materials, to inform consumers about their components and characteristics and provide clear instructions on their handling, indicating that the components of the materials are not only recyclable and separable, but are in demand in the national market. The process must include a detailed diagnosis of the packaging value chain in the country.

- Likewise, criteria for companies to modify their packaging (i.e eco-design) so that they are effectively recyclable or reduced when practicable, thus generating a process that don’t pose
risks for the environment, in particular biodiversity and for human health.

- The future instrument should also include measures that facilitates the effective implementation of practices of reduce refill, reuse, recycle of plastics and recyclable materials, separation at the source, inclusive recycling and use, with a focus based on extended producer responsibility (EPR). This component allows increasing the mobilization of resources at the local level, for the conservation and protection of biodiversity. Also, the use of waste, the eco-design of products, the responsibility of the producers on areas such as transparency and traceability, safe and environmentally sound waste management and disposal, and, when applicable, some degree of co-responsibility of consumers. Additionally, it should seek to develop safe and environmental sound alternatives and non-plastic products towards a safe sustainable economy, contributing to the sustainability of ecosystems, taking advantage of the opportunities provided by new approaches based on safe circular economy (see BRS Secretariat submission on multistakeholder platforms).

- **Customs controls on plastic waste:** The future instrument should include measures that promote the establishment or strengthening of customs controls on plastic waste, in order to make it possible to verify the correct classification and disposal of materials, avoiding the illegal export of polluting plastic waste, ensuring the adoption of sustainable and traceability practices in the industry.