

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)

Name of country (for Members of the committee)	
Name of organization (for observers to the committee)	International Pollutants Elimination Network (IPEN)
Contact person and contact information for the submission	Vito A. Buonsante, technical and policy advisor vitobuonsante@ipen.org
Date	15/08/2023

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?

Proposed scope:

The scope is already defined in paragraph 3 of the UNEA Resolution 5/14 which states that the international legally binding instrument on plastic pollution, including in the marine environment, should be based on a comprehensive approach that addresses the full life cycle of plastic. The plastics treaty should be centered around the protection of human health and the environment from all impacts from plastics throughout their lifecycle and should therefore include the impacts of the chemicals associated to the plastics lifecycle and be reflected throughout the control measures of the treaty.

Explanatory Text:

Many chemicals that are released throughout the plastics life cycle are hazardous and have been shown to pose threats to human health and the environment. Evidence suggests that we are already seeing serious health and environmental problems from hazardous chemical exposures from plastics.

Plastics are a combination of chemicals and carbon. They contain chemical monomers, chemical polymers, chemical additives, and non-intentionally added substances (NIAS). For both fossil-fuel based plastics and biobased plastics many of these chemicals are released at all stages of the plastics life cycle. Chemical additives are often not bound to the plastics and may leach more readily, but other hazardous or potentially hazardous substances, including monomers, can also leach from plastic polymers. In addition to chemicals that are used in plastics, toxic emissions also happen during feedstock extraction and plastic production, affecting workers and fenceline communities. Additionally, chemicals are known to be produced and released during end of life-treatment of the plastics, for example during open burning or incineration of plastic waste. A key step towards reducing the impact of plastics throughout its lifecycle is to reduce production.

The term lifecycle approach is further defined in in the options paper (UNEP/PP/INC.2/4 Appendix 2, para 5). To protect human health and the environment from the impacts of plastic pollution it is crucial to address hazardous chemicals throughout the plastics lifecycle:

- During the **sourcing/extraction phase** this could include controls on hazardous substances used and released in the process, such as polyaromatic hydrocarbons (PAHs) which are often released during the sourcing, as well as controls on the use of hazardous chemicals used in the sourcing processes such as mercury and PFAS.
- During the **production phase** controls should include eliminating non-essential uses of plastics. Controls should also ensure that the plastics that are produced are free from hazardous chemicals, wherefore it is important that the treaty includes controls on the use and unintentional production of hazardous chemicals, including polymers.
- During **material recycling** controls should ensure that plastics containing hazardous chemicals are not recycled into new products.
- During **final disposal** controls should ensure that the methods used are recognized as environmentally sound management of plastic wastes and that they are in line with the Basel convention.

These controls measures would need to be coupled with requirements for transparency and reporting measures that allow for tracing the chemical content of plastic materials throughout their lifecycles and value chains.

Assessing and identifying chemicals in groups of similar or related substances, rather than attempting to identify and regulate individual chemicals one at a time (a project that would take many decades to complete), would be an effective and efficient way to address the large number of chemicals associated with plastics.

Controls of hazardous chemicals should be guided with a set of criteria, and it would be suitable to evaluate the relevance for suitable criteria for chemicals, including polymers, during intersessional work. Additionally, it would be suitable to have an initial list of chemicals, for which there is already substantial scientific evidence that they harm human health and the environment, to be controlled under the treaty in the annex of the treaty. Which chemicals and groups of chemicals that would be suitable to include in such a list could be explored through intersessional work.

2. Principles

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

Resolution 5/14 decided to start negotiating a plastics treaty taking into account, among other, the Rio principles for environment and development. IPEN believes the following Rio principles are essential to be included in the plastics treaty text and integrated in the control measures:

- **Principle 2, the prevention principle:** the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction. Under this principle states should be required to control the production of plastics and phase out or phase down the production of plastics and associated substances that are the most hazardous.
- **Principle 3: intergenerational equity:** The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations. The principle of intergenerational equity is central to the concept of sustainable development. Resolution 5/14 aims to promote sustainable production and consumption of plastics. Under this principle states should be required to assess the impacts of plastic production and use and their potential for irreversible damage on human health and the environment.
- **Principle 10, the principle of public participation in environmental matters:** the principle requires transparency and access to information, including on hazardous materials. The principle is embedded in several environmental agreements including the Aarhus Convention and the Escazú Agreement. The elements underlying principle 10 are also necessary to implement several Human Rights, including a human right to a clean, healthy and sustainable environment.
- **Principle 15, the precautionary principle:** Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation. Under the precautionary principle the treaty should phase out plastic products, materials and associated substances and without requiring full scientific certainty.
- **Principle 16, the polluter pays principle:** the principle promotes the internalization of environmental costs and the use of economic instruments, considering the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment. Under this principle the treaty should ensure that polluters bear the cost of implementing the treaty as well as the remediation of legacy pollution.

Additionally, the following principles may be necessary to implement a successful agreement to end plastic pollution.

- **The Substitution principle:** The principle requires to substitute hazardous substances to less dangerous ones when possible. The principle is implemented in certain chemical legislation, and it requires the substitution of hazardous substances when technically and economically feasible. The implementation of the principle also leads to enhanced innovation. When implementing the substitution principle under the Treaty, chemicals, polymers and plastic materials that represent a threat to health and the environment, should be substituted with more sustainable alternatives.
- **Waste hierarchy:** The waste hierarchy is a priority order in waste management in which, prevention, reduction and reuse take priority over recycling and recovery and disposal. The hierarchy articulates the need to prioritize (a) prevention; (b) preparing for reuse; (c) recycling; (d) other recovery; (e) disposal and can be applied throughout all the stages of plastics' life cycle. Within the Treaty, the waste hierarchy should promote the resource efficiency and circular economy approaches in line with UNEA resolution 5/14.

Therefore, control measures should focus on the elimination of unnecessary and harmful plastics and associated hazardous chemicals through design for safety and durability.

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:

Subsidiary bodies and scientific and technical coordination:

A subsidiary review committee/scientific body or bodies, should be established to evaluate chemicals (including polymers) to be controlled under the treaty. The body should have robust policies to prevent conflict of interest, assessments should be public and transparent, and the assessments should help guide decision makers in updating the annexes of chemicals to be banned and/or controlled under the treaty and in updating future annexes.

These processes should be open for input from observers to ensure that the subsidiary body has access to scientific expertise, local contexts, and input from a variety of knowledge-holders. The Stockholm Convention offers an example of a well-functioning and transparent scientific subsidiary body that the INC could use as a model.

Annexes:

The treaty should include annexes that can be updated based on evolving scientific evidence. The annexes should include:

- An Annex with criteria for which chemicals, including polymers and NIAS, that are to be controlled under the treaty.
- Annexes with lists of chemicals, including polymers and NIAS, that are listed for elimination or regulation under the treaty.