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?

This scope shall provide a roadmap for developing a treaty to tackle the challenge of plastic pollution in the lifecycle of plastic waste using innovative and advanced technologies.

- To promote sustainable production and consumption of plastics, including, among others, product design, and environmentally sound waste management, through resource efficiency and circular economy approaches
- To develop, implement and update national action plans reflecting country-driven approaches to contribute to the objectives of the instrument.
- To specify national reporting, as appropriate.
- To provide scientific and socio-economic assessments to address & understand the impacts related to plastic pollution policies.
- 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.
- To specify arrangements for capacity-building and technical assistance, technology transfer on mutually agreed terms, and financial assistance, recognizing that the effective implementation of some legal obligations under the instrument is dependent on the availability of capacity building and technical and adequate financial assistance.
• To encourage inclusive action by all stakeholders to take measures aiming for ambitious plastic pollution solutions including the private sector with associated industries and informal sector workers as key players to solutions.

Recalling the UNEA Resolution 5/14, the State of Kuwait is in the position to compact plastic pollution and understanding the importance of promoting sustainable design of products and materials in order that they can be reused, remanufactured, recycled, or remove plastic waste from the environment thereby retaining value in the economy for as long as possible along with the resources they are made of, with adaptation of one of the circularity approaches. Such as:

1. Highlight the importance of supporting research and development in finding technical solutions that adopt circular approaches and investigate sustainable technical solutions.

2. Assessing, and understanding the socio-economic impacts of the implementation of response measures, and the principle of limiting the harm to the economy and environment.

In order to develop the scope of the instrument, the objective of the treaty should be based on ending plastic pollution per resolution 5/14, resulting from plastic waste. This can be achieved when tackling the root cause of the Pollution, which is ineffective management of waste. Core obligations shall be solely focused on promoting, environmentally sound management (ESM) with consideration of all stages of plastic as stated in decision 5/14. to achieve a comprehensive and an inclusive treaty, these specific obligations, shall be based on national circumstances, with special flexibility provisions to developing countries, underpinned by bottom-up approaches. These specific obligations shall refer to the objective of the treaty as mandated and by the scope of the treaty.

Regarding the second part of the scope section, prior to answering the types of substances, materials, products and behaviors that should be covered by the future instrument, there are key areas needs to be taken into considerations:

- Primary plastics have become a cornerstone of modern society, driving innovation in many industries. Phasing out their supply or demand would not only stifle technological advancements but also risk economic growth and stability, as they have proven to be versatile, durable and cost effective. Therefore, focusing on responsible production, consumption, and recycling should be our priority, rather than eliminating a material that has proven indispensable for countless applications.

- Banning certain types of plastics can have negative effects on the global recycling industry.

- The State of Kuwait would like to note that plastic products continue to provide durable, cost-effective, and efficient options to global delivery services compared to other alternatives, including but not limited to large scale shipments and movement of goods and food. The State of Kuwait reiterates its commitment to exploring sustainable means to reuse plastic products.
- Plastic plays a significant role in safeguarding human health, and the entire world has seen a clear example during the COVID-19 pandemic. Plastics also play a major role in medical equipment, food safety, protective gear, temporary and permanent housing.

- Recognizing the benefits of promoting the circularity of plastic waste, we believe that it is crucial for each member state to establish their own National Action Plans while considering their unique circumstances and capacities. The need for design criteria to enable circularity under national circumstances, which includes efforts to investigate means to reuse and repair plastic products and prioritizes for the reduction of environmental harms, including marine life.

- Awareness is an important aspect tackling plastic pollution as the main source of plastic pollution arrives from mismanagement of plastic waste during the consumption phase.

The Scope of the Treaty Should Include the Following Activities:

Trade: Import and Export Requirements to Parties and Non-Parties on a Non-Discriminatory Basis.

- Implementing non-discriminatory trade practices can motivate industry to diversify its product offerings and invest in innovative solutions to maintain competitiveness in the global market. This can drive the industry to develop new, environmentally friendly products or processes, opening up new market opportunities.

- Trade requirements should consider the varying levels of development, capabilities, and domestic policies of countries. Therefore, the future instrument should not make it difficult for some nations to comply with the requirements, in order to not hinder their economic growth or hampering their efforts to address domestic priorities.

- Potential conflicts with WTO rules: Non-discriminatory approaches could potentially come into conflict with World Trade Organization’s rules, particularly if they are perceived as protectionist or unfairly disadvantaging certain countries. This could lead to disputes and undermine the stability of international trade.

- Prevent favoritism policies in all import and export requirements for a certain product that can play an economic changing effect, as a result of having a special policy for one material and ignoring others.

2. Principles

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

Proposed Principles:

Recall the UNEA Resolution 5/14 Preamble:

Reaffirming United Nations General Assembly resolution 70/1 of 25 September 2015, by which the United Nations General Assembly adopted the 2030 Agenda for Sustainable Development.

Reaffirming also the principles of the Rio Declaration on environment and development adopted in Rio de Janeiro in 1992,
Also Recall Para 3:

Decides that the intergovernmental negotiating committee is to develop an international legally binding instrument on plastic pollution, including in the marine environment henceforth referred to as the instrument, which could include both binding and voluntary approaches, based on a comprehensive approach that addresses the full lifecycle of plastic, taking into account among other things, the principles of the Rio Declaration on Environment and Development, as well as national circumstances and capabilities,

**Principles for us to call on:**

1. The Parties have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and 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.

2. The Parties in particular developed countries should respect the principle of sovereignty of States in international cooperation to address the issue of plastics pollution in a facilitative, non-instructive and non-punitive manner, and avoiding any undue burden being placed on Parties.

3. The Parties should protect the environmental system for the benefit of present and future generations of humankind, on the basis of historical responsibility, equity and in accordance with their common but differentiated responsibilities and respective capabilities (CBDR+RC). Accordingly, developed countries should take the lead in addressing the adverse effects of plastic pollution and the impacts of the implementation of response measures on developing countries.

4. Parties should respect the right to development to equitably meet the environmental needs of present and future generations, in particular for developing and least developed country Parties.

5. The specific needs, priorities and special circumstances of developing country Parties, especially those that are particularly vulnerable to the adverse impacts of plastic pollution, and of those Parties, especially developing country Parties, which would have to bear a disproportionate or abnormal burden under the instrument, should be given full consideration.

6. The Parties should ensure environmental integrity by building on and enhancing the environmental agreements under other UN bodies respecting the decisions and agreements under the UN and to avoid any contradictions or inconsistent elements.

7. In order to protect the environment from plastics pollution, the precautionary approach shall be widely applied by Parties according to their capabilities and responsibilities based on the CBDR principle, & national circumstances.

8. Developing countries have the right to promote sustainable development. Policies and measures to protect the environmental system should be appropriate for the specific conditions of each Party and should be integrated with national development programs, taking into account that economic development is essential for adopting measures to address plastic pollution.
9. The Parties should cooperate to promote a supportive and open international economic system that would lead to sustainable economic growth and development in all Parties, particularly developing countries, including the least developed Parties and those most environmentally vulnerable, thus enabling them to better address the problems of plastic pollution. Measures taken to combat plastic pollution, including unilateral ones, should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade.

10. All efforts should be made to reach an international consensus agreement on plastic pollution, informed by scientific certainty in a manner that is implementable by all Parties according to their respective capacities and to the extent of the support received from developed Parties.

11. Parties shall co-operate in good faith and in a spirit of partnership in the fulfillment of the principles embodied in the Rio Declaration and in the further development of international law to combat plastics pollution based on full scientific certainty.

12. Developed countries shall recognize the importance of integrated and holistic approaches when providing means of implementation.

13. Developing countries should not carry the burden of means of implementation and their required needs by themselves.

14. Means of implementation shall address the concerns of developing countries on the impacts of the implementation of response measures.

15. Developing countries shall be enabled to communicate their required needs for effective implementation of the future treaty.

16. Means of implementation shall be treated equally and in parallel with control measures.

17. Acknowledging the role of plastic to meet sustainable development goals.

18. Plastic pollution and the leakage of plastic and plastic wastes into the environment can occur from a variety of land-based and ocean-based sources, and mainly from mismanagement of plastic waste. The sources include, but are not limited to illegal traffic, historical dumping of plastic waste to the developing countries, the uncontrolled dumping of waste, and litter.

19. Bottom-up approach should be the main principle of any works of this treaty, considering national circumstances and capacity.

20. It is important to honor the common but differentiated responsibilities as set out in Principle 7 of The Rio Declaration, with financial flows from developed to developing countries. Regarding the polluter pay principle and Extended producer responsibility, we believe that this is not a substitute to financial obligations of developed countries.

21. Research and development are important to advance our ability to manage this significant challenge. But the development of technical solutions to our plastic waste challenge will only be as strong as the technical assistance and cooperation provided to allow equitable access to these technologies. Furthermore, technological solutions must be comprehensive without limiting them to certain types, since the capabilities and infrastructure differ from one country to another.
22. Socio-economic impacts of the implementation of response measures, and the principle of limiting the harm to the economy and environment of developing countries should be a key part of any agreement.

3. Additional considerations

- Legacy plastic across the globe.
- Detailed means of implementation from developed to developing countries, including financial support provided from developed to developing countries, capacity building, and technology transfer.
- INC is a party driven proves, however multi-stakeholder dialogue (MSD) provides a venue for deeper discussion. It must include experts such as scientists from all relevant disciplines such as engineers, researchers, manufacturers, and businesses with diverse backgrounds (geographic, cultural, socio-economic etc.)
- This instrument should not dive into the scope of existing treaties or instrument that have been approved under the UN, if negotiating parties identify gaps in other treaties, than a recommendation will be made to amend the existing treaties and not include them in the instrument.
- Reporting and monitoring provision as well standardization should be developed nationally. There is no one size and no common standards that fit all as individual countries economic circumstance and available infrastructure defer significantly. Reporting and monitoring must not burden countries, particularly developing countries, and should not affect their right to develop their economies. Countries can build their reporting on national action plans and strategies, allowing the freedom of the countries to report the progress using the format of reporting they select. Having acknowledged plastic pollution as a challenge, reporting instruments are to focus on pollution originated mainly from mismanagement of waste aspect and strengthening those elements.

A designed mechanism on plastic waste monitoring, reporting and verification would support policy makers to further measure impacts of implemented targets and policies.

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, some elements are premature to be discussed or could have the issue of duplication of work, such as:

Definitions:

It is premature to define any specific terms in legal documents as it will greatly depends on the context where it be used. This approach ensures definitions directly correlate with their use, enhancing the document's clarity. It also facilitates smoother implementation by ensuring each term serves a
relevant purpose and creates a more streamlined and efficient document by eliminating unnecessary, unused terms.

**Standards:**

There are existing standards and regulations in place globally that address plastic waste and pollution. Therefore, the instrument should not develop new standards to avoid duplicating the work with existing international standard-setting bodies in addition to the complexity and time-consuming nature of this issue in addition to the fact that new standards might hinder innovation and adaptability.

**Additional Matters:**

**Preamble:**

The preamble of the instrument shall include the following:

- Reaffirming the importance of plastic production in contributing to the Sustainable Development Goals.
- Acknowledgment of the Problem of plastic pollution caused by the mismanagement of plastic waste.
- Reference to the importance of the Principles of the Rio Declaration on Environment and Development, as well as national circumstances and capabilities.
- These policies and measures shall demonstrate that developed countries are taking the lead in modifying longer-term trends in ending plastic pollution, and taking into account the differences in these Parties’ starting points and approaches, economic structures and resource bases, the need to maintain strong and sustainable economic growth, available technologies and other individual circumstances, as well as the need for equitable and appropriate contributions by each of these Parties to the global effort regarding that objective.
- **Circular approaches:** the instrument could advocate for a shift away from the linear model of production and consumption. Instead, it could promote a circular economy that minimizes waste and makes the most of resources. This might involve measures like improved product design for easier recycling, promoting repurpose and reuse.
- **Means of Implementation:** action on control measures to shall be commensurate to the ambitious levels of compliance; it is equally important to have equally ambitious levels means of implementation, including financial resources, capacity-building, and technology transfer to support developing countries. As this would be the only way to ensure that our ambitions to address the challenge of plastic pollution can be achieved.
- **Commitment to Action:** The preamble may conclude an ambition and inspiring call to action plastic pollution and a global commitment to work collectively and decisively to achieve this goal on gradual basis.
- Reaffirming 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.

**Flexibility:**

Flexibility that provisions allow countries discretion in the implementation of their commitments, taking into account their national circumstances.

**Governing Body:**

- **Remaining Parts:** A dedicated workstreams/groups, preferably 2 bodies are established: one overarching body that maintains oversight and is capable of pushing interests, and one small experts’ group where technical exchange, case studies and modalities discussions can take place.

These two bodies are to be mandated clearly to identify and provide recommendations on inclusive solutions, approaches and technologies to address the “plastic waste/pollution”. Focusing the work on plastics without recognizing the waste problem will lead to further blame on plastics without recognition of its value. Another important concept/theme is the diversity in actions according to regions and economies: the costs of treating plastics waste differ greatly between developed and emerging markets (even within developing economies we see big differences in terms of costs, employments etc.) and a unified approach will distort the feasibility of these solutions for everyone.

**Effectiveness Evaluation:**

After the treaty is established, it is crucial to implement a robust system for evaluation, monitoring, reporting, and periodic review. This ensures that the treaty’s objectives are being met, and any necessary adjustments can be made. Compliance with the treaty's terms is equally vital, as it maintains the integrity and effectiveness of the agreement, ultimately promoting its long-term success.