Contact Group 1 - Co-facilitators compilation of revised zero draft text

This document captures the co-facilitators’ compilation of the contact group’s revised zero draft text for the following sections of the zero draft:

| Part II | 10. Trade in listed chemicals, polymers and products in plastic waste |

Option 1

10. Trade in listed chemicals, polymers and products, and in plastic waste

a. Trade in listed chemicals, polymers and products

Subsection 10.a. Option 1

1. Each Party shall not export:

   a. a chemical, group of chemicals or polymer referred to in [part II.2 on chemicals and polymers of concern], for use in plastic production or incorporation into a plastic product;

   b. a plastic product containing any such chemical or polymer; or

   OP 1b Alt. a plastic product containing any such chemical or polymer as outlined in a) above; or

   c. a microplastic or product addressed in [part II.3 on problematic and avoidable plastic products, including short-lived and single-use product, and intentionally added microplastics];

   except where the production and use of such chemical, polymer or product is permitted under this instrument\(^3\) and with the prior informed consent\(^4\) of the importing State.\(^5\)

OP 1 Alt. Each Party shall not export:

a microplastic, product or problematic and avoidable plastic products, including short-lived and single-use product, and intentionally added microplastics];

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\(^1\) Note: Due to the significant number of submissions received, there may be some missing submissions in this version.

\(^2\) Note: The inserted proposals are not listed in any order of priority.

\(^3\) Note: This language assumes that under the relevant annex, some uses may be permitted, for example during a phase-out period or for specific purposes. Where relevant, permitted use might also arise from an exemption. The language in this provision may need to be adapted to the nature and extent of the specific control measures associated with listed substances or products under the relevant annex.

\(^4\) Note: The prior informed consent procedure proposed pursuant to this provision could be facilitated and made operational through the establishment of detailed harmonized procedures, and through the online registry proposed to be established under “Information exchange” (see part IV.6).

\(^5\) Note: Additional language may be required with a view to promoting coherence and avoiding duplication of procedures if a chemical or polymer listed in part II of annex A is also subject to requirements under another MEA, such as the Stockholm Convention or the Rotterdam Convention.
except where the use of such chemical, or product is permitted under this instrument*6 and with the prior informed consent7 of the importing State.

2. Each Party exporting a chemical, polymer or product referred to in paragraph 1 pursuant to this provision shall establish an export permit requirement for such exports, and obtain the prior informed consent of the importing State in writing, together with its assurances that the chemical, polymer, microplastic or product, once imported, will be used in a manner consistent with the conditions contained in part II of annex A or in Annex B, as relevant, and managed in a safe and environmentally sound manner throughout its life cycle, including for final disposal.8

**OP2 Alt 1.** Each Party exporting a chemical, polymer or product referred to in paragraph 1 pursuant to this provision shall establish an export permit requirement for such exports and track the types, volumes and destinations of all its exports, and obtain the prior informed consent of the importing State in writing, together with its assurances that the chemical, polymer, microplastic or product, once imported, will be used in a manner consistent with the conditions contained in part II of annex A or in Annex B, as relevant, and managed in a safe and environmentally sound manner throughout its life cycle, including for final disposal.

**OP2 Alt 2.** No text

3. Each Party exporting pursuant to this provision a chemical or polymer listed in part II of annex A, a product containing any of these, or a microplastic or product listed in annex B, shall require the exporter to:

a. provide to the importing State and the importer complete harmonized information about the composition of the exported polymer, chemical or product and the associated hazards to human health or the environment, based on the harmonized disclosure requirements contained in annex A, including safety data sheets, as relevant;9

b. mark and label the exported chemical, polymer or product in accordance with relevant harmonized labelling requirements contained in annex A, as relevant; and

c. comply with the relevant generally accepted and recognized international rules, standards and practices for packaging, labelling and transport.10

**OP 3 Alt.**

Each Party exporting pursuant to this provision a chemical or a product containing any of these, or a microplastic, shall require the exporter to:

a. provide to the importing State and the importer complete harmonized information about the composition of the exported chemical or product and the associated hazards to human health or the environment, based on the harmonized disclosure requirements, including safety data sheets, as relevant;

b. mark and label the exported chemical, product in accordance with relevant harmonized labelling requirements, as relevant; and

c. comply with the relevant generally accepted and recognized international rules, standards and practices for packaging, labelling and transport.

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6 **Note:** This language assumes that under the relevant annex, some uses may be permitted, for example during a phase-out period or for specific purposes. Where relevant, permitted use might also arise from an exemption. The language in this provision may need to be adapted to the nature and extent of the specific control measures associated with listed substances or products under the relevant annex.

7 **Note:** The prior informed consent procedure proposed pursuant to this provision could be facilitated and made operational through the establishment of detailed harmonized procedures, and through the online registry proposed to be established under “Information exchange” (see part IV.6).

8 **Note:** The committee may wish to develop, or provide for the governing body to develop, standardized processes and documentation to facilitate the operation of this procedure.

9 **Note:** Adapted from the Rotterdam Convention, Article 13.2.

10 **Note:** Adapted from the Minamata Convention, Article 11.
4. Where a customs code under the Harmonized Commodity Description and Coding System is available for a chemical, polymer, microplastic or product listed in annex A or B, each Party shall require its shipping document to bear that code when exported.\(^{11}\)

**OP 4 Alt.**

Where a customs code under the Harmonized Commodity Description and Coding System is available for a chemical, microplastic or product, each Party shall require its shipping document to bear that code when exported.

5. Each Party shall not import:

   a. a chemical, group of chemicals or polymer referred to in [part II.2 on chemicals and polymers of concern];
   
   b. a plastic product containing any such chemical or polymer; or
   
   c. a microplastic or product addressed in [part II.3 on problematic and avoidable plastic products, including short-lived and single-use product, and intentionally added microplastics];

   except for the purposes of use permitted under this instrument*, or for the purpose of their safe and environmentally sound disposal in accordance with the requirements of [part II.9 on waste management].\(^{12}\)

**OP 5 Alt.**

Each Party shall not import:

   a. a chemical, group of chemicals of concern;  
   
   b. a plastic product containing any such chemical; or
   
   c. a microplastic or problematic and avoidable plastic products, including short-lived and single-use product, and intentionally added microplastics;

   except for the purposes of use permitted under this instrument*, or for the purpose of their safe and environmentally sound disposal.

**OP 5 bis.** In case of export to, or import from a non-Party to this instrument, each Party shall apply the provisions of this article, on a non-discriminatory basis.

**Subsection 10.a. Option 2**

Each Party 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 country Parties, thus enabling them better to address the problems of plastic pollution

**Subsection 10.a. Option 3**

Each Party shall regulate trade in listed chemicals, polymers and products as per relevant national regulations and in accordance with the principles of the internationally binding multilateral trading system enshrined in the WTO law.

**Subsection 10.a. Option 4**

\(^{11}\) **Note:** Adapted from the Rotterdam Convention, Article 13.1. The committee may wish to consider establishing a framework for cooperation with the World Customs Organization as appropriate to facilitate the monitoring of plastic trade flows under the instrument, including for the assignment, as relevant, of specific Harmonized System customs codes to chemicals, polymers or products listed in annexes and subject to control measures under the instrument.

\(^{12}\) **Note:** This language assumes that under the relevant annex, some uses may be permitted, for example during a phase-out period or for specific purposes. Where relevant, permitted use might also arise from an exemption. The language in this provision may need to be adapted to the nature and extent of the specific control measures associated with listed substances or products under the relevant annex. Adapted from Stockholm Convention, Article 3.2.b.
b. Transboundary movement of plastic waste

**Subsection 10.b. Option 1**

1. Each Party shall not allow transboundary movement of plastic waste, except for the purpose of its safe and environmentally sound management, with the prior informed consent of the importing State, and in a manner consistent with obligations under this instrument.

2. Each Party exporting plastic waste pursuant to this provision shall establish and implement an export permit requirement for such exports and track the types, volumes and destination of all its exports of plastic waste.

3. Where transboundary movement of plastic waste is permitted pursuant to paragraph 1, each exporting Party shall:
   
   a. not allow the transboundary movement to commence until it has received the written consent of the importing State, which shall include that State’s assurances that the exported plastic waste will be managed in an environmentally sound manner;
   
   b. require the exporter to:
      
      i. provide to the importing State and the importer complete information about the composition of the exported waste, including its contents in polymers, chemicals and plastics, and any associated hazards to human health or the environment, based on the relevant harmonized disclosure requirements contained in annex A, including safety data sheets, as relevant;
      
      ii. mark and label the exported waste in accordance with the relevant harmonized labelling requirements contained in annex A, as relevant; and
      
      iii. comply with generally accepted and recognized international rules, standards and practices for packaging, labelling and transport.

4. The governing body shall, at its first session, adopt guidance for the implementation of the provision set out in paragraph 3, taking into account as appropriate relevant arrangements under other multilateral environmental agreements.

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13 **Note:** For the purposes of this text, the term “transboundary movement of plastic waste” is used to refer to any movement of plastic waste from an area under the national jurisdiction of one Party to or through an area under the national jurisdiction of another State or to or through an area not under the national jurisdiction of any State, provided at least two States are involved in the movement (adapted from Article 3.3 of the Basel Convention). This definition is used without prejudice to how Members may define this term as needed in the instrument.

14 The reference to “environmentally sound management” of plastic waste in this provision shall be understood to refer to plastic waste management, including final disposal, consistent with the requirements of [part II.9 on waste management].

**Note:** The language of this provision may need to be adapted to the exact scope and content of the relevant requirements to be adopted in respect of plastic waste management under part II.9.

15 The reference to “environmentally sound management” of plastic waste in this provision shall be understood to refer to plastic waste management, including final disposal, consistent with the requirements of [part II.9 on waste management].

**Note:** The exact language of this provision may need to be adapted to the exact scope and content of the relevant requirements to be adopted in respect of plastic waste management in the instrument.

16 **Note:** Adapted from the Rotterdam Convention, Article 13.

17 **Note:** Adapted from Minamata Convention, Article 11.

18 **Note:** The specific modalities for the application of this provision, including the operation of the prior informed consent (PIC) procedure, could be further elaborated in an annex or the governing body, taking into account in particular relevant provisions under the Basel Convention. See, for example, Article 11.3.c. of the Minamata Convention, addressing transboundary movement of mercury waste for Parties to the Basel Convention. On the treatment of plastic waste under the Basel Convention, see https://www.basel.int/Implementation/Plasticwaste/PlasticWasteAmendments/FAQs/tabid/8427/Default.aspx.
5. Each Party shall prevent and eliminate illegal trade\(^{19}\) in plastic waste.

6. Parties shall promote synergy and complementarity with relevant organizations and intergovernmental bodies and cooperate towards the adoption and implementation of effective measures to prevent and eliminate illegal exports and dumping of plastic waste.

**Subsection 10.b. Option 2**

Each Party shall take appropriate measures to ensure that transboundary movements of plastic waste, as defined by the Basel Convention, is only allowed for the purpose of environmentally sound disposal. Parties to the Basel Convention shall take appropriate measures to ensure that transboundary movements of plastic waste is done in accordance with the obligations of that Convention. In circumstances where the Basel Convention does not apply, a Party shall ensure that transboundary movements of plastic waste is allowed only after taking into account relevant domestic and international rules, standards, and guidelines.

**Subsection 10.b. Option 3**

Each Party shall prevent and eliminate illegal trade, traffic and dumping of plastic waste as sets in Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, recognizing its respective mandates, avoiding duplication of efforts and works and promoting cooperation and coordination with relevant regional and international conventions.

**Subsection 10.b. Option 4**

Parties shall cooperate towards the adoption and implementation of effective measures to prevent and eliminate illegal exports and dumping of plastic waste.

**Subsection 10.b. Option 5**

No text

**Subsection 10.b. Option 6 (THA)**

1. Each Party shall not allow transboundary movement of plastic waste,\(^{20}\) except for the purpose of its safe and environmentally sound management,\(^{21}\) with the prior informed consent of the importing State, and in a manner consistent with obligations under this instrument*, and relevant arrangements under other multilateral environmental agreements, inter alia, the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, as appropriate.

2. Where transboundary movement of plastic waste is permitted pursuant to paragraph 1, each Party exporting plastic waste shall establish and implement an export permit requirement for such exports and track the types, volumes and destination of all its exports of plastic waste.

3. Where transboundary movement of plastic waste is permitted pursuant to paragraph 1, each exporting Party shall:

\(^{19}\) **Note:** The term “illegal trade” is used in this text to refer to importation or exportation that would violate domestic legislation of the exporting Party or of the importing State. This is without prejudice to how Members may define this term as needed in the instrument.

\(^{20}\) **Note:** For the purposes of this text, the term “transboundary movement of plastic waste” is used to refer to any movement of plastic waste from an area under the national jurisdiction of one Party to or through an area under the national jurisdiction of another State or to or through an area not under the national jurisdiction of any State, provided at least two States are involved in the movement (adapted from Article 3.3 of the Basel Convention). This definition is used without prejudice to how Members may define this term as needed in the instrument.

\(^{21}\) The reference to “environmentally sound management” of plastic waste in this provision shall be understood to refer to plastic waste management, including final disposal, consistent with the requirements of [part II.9 on waste management].

**Note:** The language of this provision may need to be adapted to the exact scope and content of the relevant requirements to be adopted in respect of plastic waste management under part II.9.
a. not allow the transboundary movement to commence until it has received the written consent of the importing State, which shall include that State’s assurances that the exported plastic waste will be managed in an environmentally sound manner;  

b. require the exporter to:
   i. provide to the importing State and the importer complete information about the composition of the exported waste, including its contents in polymers, chemicals and plastics, and any associated hazards to human health or the environment, based on the relevant harmonized disclosure requirements contained in annex A, including safety data sheets, as relevant;
   ii. mark and label the exported waste in accordance with the relevant harmonized labelling requirements contained in annex A, as relevant; and
   iii. comply with generally accepted and recognized international rules, standards and practices for packaging, labelling and transport.

3. The governing body shall, at its first session, adopt guidance for the purpose of this provision, taking into account as appropriate relevant arrangements under other multilateral environmental agreements, inter alia, the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.

4. Each Party shall take effective measures to prevent and eliminate illegal trade and dumping of plastic waste.

5. Parties shall promote synergy and complementarity with relevant organizations and intergovernmental bodies and cooperate towards the adoption and implementation of effective measures to prevent and eliminate illegal trade and dumping of plastic waste pursuant to paragraph 5.

**Element 10 Option 2**

1. This instrument applies insofar as its provisions do not contradict the provisions of the Marrakesh Agreement Establishing the World Trade Organization, and its Annexes.

2. Any measures established by the Parties for the implementation of this instrument shall be in full conformity with the Marrakesh Agreement Establishing the World Trade Organization.

**Element 10 Option 3**

No provision on this matter

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22 The reference to “environmentally sound management” of plastic waste in this provision shall be understood to refer to plastic waste management, including final disposal, consistent with the requirements of [part II.9 on waste management].

Note: The exact language of this provision may need to be adapted to the exact scope and content of the relevant requirements to be adopted in respect of plastic waste management in the instrument.

23 Note: Adapted from the Rotterdam Convention, Article 13.

24 Note: Adapted from Minamata Convention, Article 11.

25 Note: The specific modalities for the application of this provision, including the operation of the prior informed consent (PIC) procedure, could be further elaborated in an annex or the governing body, taking into account in particular relevant provisions under the Basel Convention. See, for example, Article 11.3.c. of the Minamata Convention, addressing transboundary movement of mercury waste for Parties to the Basel Convention. On the treatment of plastic waste under the Basel Convention, see https://www.basel.int/Implementation/Plasticwaste/PlasticWasteAmendments/FAQs/tabid/8427/Default.aspx.

26 Note: The term “illegal trade” is used in this text to refer to importation or exportation that would violate domestic legislation of the exporting Party or of the importing State. This is without prejudice to how Members may define this term as needed in the instrument.