Submission of the United Kingdom of Great Britain and Northern Ireland: Part A

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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 of the future instrument was considered as part of UNEA Resolution 5/14 and this resolution should act as the framework for the scope of the instrument. In broad terms, the instrument should be based on a comprehensive approach that addresses the full life cycle of plastic as outlined in UNEA Res. 5/14, and is inclusive of microplastics.
- With this in mind, we agree with all three options for scope listed in Section C of Appendix I of UNEP/PP/INC.2/4, with the exception of “extraction” phase as the source materials have multiple applications beyond plastics and extraction is not referenced in UNEA Resolution 5/14.

Definitions:

- Agreed definitions will be required for the instrument. We should, as far as possible, use definitions that have been adopted or endorsed by other intergovernmental processes, at least as working definitions, which will allow negotiations to focus on substantive discussions, as set out in UNEP/PP/INC.1/6. Definitions cannot be considered in isolation and should be related to the provisions in the text.
- The options paper identified a number of terms that the committee may wish to define. Of these terms, we believe that the following should be defined during the INC process, for which we have proposed definitions:
  - Plastic: The definition of plastic will be crucial. We think that some international definitions, e.g., those under MARPOL and the Technical guidelines of Basel Convention for the identification and Environmentally Sound Management of plastic wastes and for their disposal, will provide a suitable starting point for discussions. However, the definition used in this instrument will require greater specificity. The UK believes the definition of plastic used for this instrument
should encompass fossil-based and bio-based plastic. We also consider both elastomers and textiles, unless made from non-chemically modified natural polymers, to be made from plastic and therefore the definition should encompass this. It will also be important to define related terms, such as “natural polymer”, “polymer”, “monomer”, and additives.

- Plastic pollution: The treaty should include a definition for plastic pollution. That definition should make clear that the term ‘plastic pollution’ includes pollution arising from plastics production, use, waste management and leakage. The UK believes it is important to have globally understood definitions for bio-based, biodegradable, and compostable plastics to minimise misunderstandings and the potential for greenwashing.

Explanatory text:

- UNEA Resolution 5/14 states mandates the Intergovernmental Negotiating Committee (INC) to develop an international legally binding instrument, including in the marine environment. The resolution also states that the instrument should be based on a comprehensive approach that addresses the full life cycle of plastic. We believe the resolution provides the basis for the scope and discussions should focus on how best to reflect the resolution in the future instrument.

2. Principles

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

Proposed principles:

The UK note Section D of Appendix I of UNEP/PP/INC.2/4 and believe the following principles could be useful to guide the implementation of the future instrument.

- **Precautionary principle** - where there are threats of serious or irreversible environmental damage, a lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

- **Prevention principle** - measures should aim to prevent environmental harm and impacts to human health. This principle underpins many aspects of environmental policy to ensure that environmental damage, such as CO2 emissions, pollution, or biodiversity loss, is avoided.

- **Polluter pays** - where possible, the costs of pollution should be borne by those causing it, rather than the person who suffers the effects of the resulting environmental damage, or the wider community. Defining the polluter is a key consideration in this principle and Extended Producer Responsibility (EPR) is an approach that can be used in certain sectors to apply the polluter pays principle, and therefore do not believe it is appropriate to consider EPR as a separate principle.

- **Rectification at source** - that environmental damage should, as a priority, be addressed at its origin to avoid the need to remedy its effects later. Rectification at source should result in approaches that are more cost-effective, efficient, and equitable in the long-term.

- **Non-discrimination and inclusion** – that any measures under the instrument are inclusive and should not discriminate on any grounds, including on the basis of sexual
orientation and/or gender identity, ensuring that we leave no one behind and that the policies are gender responsive and disability inclusive.

Explanatory Text:

**Precautionary principle**
The precautionary principle assists the decision-making process in the face of a lack of scientific certainty. The principle helps decision makers deal with risks which may not be precisely calculable in advance. A risk-based, or science-based, approach to the precautionary principle seeks to manage the likelihood and severity of environmental harm occurring based on exposure to a specific hazard. This is distinct from an approach that solely considers hazards that can cause environmental harm.

**Prevention principle**
The prevention principle promotes measures that prevent environmental damage either before it has occurred (e.g. through policy design), or to contain existing damage. This can have economic benefits as it prevents additional costs and complexities that arise when environmental damage occurs. The prevention principle should generally be used in preference over the rectification at source principle or polluter pays principle, as these principles are used in instances when prevention cannot be achieved.

**Polluter pays**
The polluter pays principle can be used in the design of a measure (before the damage has occurred) to prevent or deter environmental damage. In cases where pollution cannot be avoided or is caused by accident, the polluter pays principle can be used to restore or redistribute the costs of environmental damage. Applying this principle helps to incentivise individuals or groups to avoid causing environmental damage and encourage sustainable practices.

**Rectification at source**
The rectification at source principle should be used to guide the design of measures towards addressing or managing environmental damage, or potential environmental damage. It may not always be possible to identify or address all environmental damage at its origin. Where it is not possible to address it at source, there should be consideration of trying to contain or limit the environmental harm as much as possible.

**Non-discrimination and inclusion**
Recognising that plastic pollution disproportionately affects women, as well as marginalised and vulnerable people and communities, these principles would promote non-discrimination and inclusivity in the development of national, regional and international measures.

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).
Preamble
The UK believes that the preamble in Section A of Appendix I of UNEP/PP/INC.2/4 provides a good basis for further negotiation.

Institutional arrangements

Conference of the parties (COP)
The future instrument should contain a provision or set of provisions establishing a main decision-making authority in the form of a COP. The COP should take decisions on convening meetings, review and evaluate the implementation of the instrument, and establish subsidiary bodies, as it considers necessary for the implementation of the instrument and oversight of their work.

The COP should review information submitted to it from the subsidiary bodies, and cooperate where appropriate with competent international organisations, intergovernmental and non-governmental bodies.

The baseline year against which to measure progress of the treaty should be agreed by the first COP based on technical input to provide reliable data against which to measure progress.

Evidence and Technical Body
We believe that an Evidence and Technical Body should be established by the instrument, noting the associated, relevant bodies that already exist, and the need to avoid duplication. The technical body should produce reports appraising the most up to date science and evidence, and evaluate socioeconomic data, which should include research into the impacts of plastic pollution on human health and the environment. The technical body should work at the direction of and be accountable to the future the Conferences of the Parties.

Future Conferences of the Parties should have the power to direct the technical body to perform the following functions:

- Reviewing and assessing the effectiveness of the obligations and control measures within the instrument.
- Reviewing and recommending chemicals and polymers of concern and problematic plastic products for potential listing in the instrument's annexes.
- Review and assess the latest evidence regarding plastic alternatives and substitutes.
- Review and assess the impacts of plastic pollution on the environment and human health.
- Reviewing and supporting the development of technical guidelines such as circular design criteria.
- Review and assess socioeconomic impacts of plastic pollution and measures to address it

This body would provide policy-relevant scientific, technical and socio-economic information and assessment to the parties on a proactive and reactive basis. The technical body should include scientific and technical experts, as well as social scientists and economists and its membership should have due regard for balanced geographical and gender representation.
National reporting and action plans, and national and global targets, will need to be informed by standardised monitoring data and baselines. The Evidence and Technical Body, or another related subsidiary body such, should compile the work of parties to the instrument and comprehensively assess trends in implementation and monitor progress towards objectives and goals.

Coordination and cooperation
The instrument should contain provisions to encourage cooperation and coordination with competent international organisations to meet the objectives of the instrument. This could include the coordination of national reporting and action under national action plans at a regional level by appropriate bodies, such as Regional Seas Conventions. Many Regional Seas Conventions have existing monitoring programmes and regional action plans, such as those of the OSPAR Convention. Provisions in the instrument should allow for the harmonisation of reporting of monitoring data at the national, regional and global scale, and coordination between regional and national action plans.

The Global Partnership on Marine Litter and Plastic Pollution could provide the basis for facilitating knowledge sharing and supporting cooperation, particularly through its digital platform.

Annexes
Annexes will be dependent on the agreed text in the obligations, and without prejudging the outcome of the obligations, or whether these should be mandatory or voluntary at this stage, the UK believes the following annexes could be required.

- The year by which the objective of the instrument is to be achieved. In this respect, the UK supports a target year of 2040 for achieving the objective of ending plastic pollution.
- Criteria and list of polymers and chemicals of concern that should be regulated, based on a sectoral approach
- criteria and list of problematic plastic products to be regulated
- Design criteria that promote a more circular economy of plastic
- Template and requirements for national action plans
- Arbitration and conciliation procedures