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:**

1. **By 15 August 2023** for written submissions from observer organizations.
2. **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?*

**Proposed scope:**

UNODC proposes to include as an integral part of the scope of the instrument of ending plastic pollution trafficking and unauthorized disposal of plastic waste on land and at sea. INTERPOL’s Operation 30 Days at Sea 3.0, which tackled maritime pollution crimes (2021), found more than 1,000 pollution offences across 67 countries that all included the illegal discharge of plastic waste. This is a global issue currently not adequately and sufficiently addressed. The instrument can cover provisions for addressing mislabeling, mixing of plastic waste, contaminated plastic waste and its reintroduction into the supply chain as clean, dumping, burning that can be considered an administrative and criminal offence and a serious crime, when meeting the criteria of UN Convention against Transnational Organized Crime (UNTOC). The instrument will be complementary with existing international legal instruments and will include provisions and sanctions that can ensure effective enforcement, prevention of trafficking and disposal and measures that can address illegal acts and consider possible criminal sanctions for illegal acts with significant environmental harm.

**Explanatory Text:**

Plastic waste is one of the most common types of substances unlawfully disposed of. According to a EUROPOL report of 2022, criminal networks are prospering across the world by exploiting the higher demand for plastic waste management and the bureaucracy of international trade legislation. Criminal networks are involved in the global trafficking of plastic waste using legal businesses (usually companies dealing with waste collection and recycling). They cooperate with legitimate businesses that facilitate export, recycling of plastics for illegal operations. An example of a common modus operandi is the...
reintroduction of contaminated plastics into the recovery processes, declared as clean, used plastics ready for recycling. According to INTERPOL, criminal networks are widely involved in plastic waste trafficking by forging documents and mislabeling the contents of waste containers, which are expected to carry ready-to-recycle plastic but instead contain forms of unrecyclable plastic. Illegal shipments are often found to be coordinated, with criminal groups controlling the entire supply chain, rerouting plastic waste through special economic zones while laundering money.¹ Some aspects of plastic waste trafficking, land and sea-based sources of plastic waste and marine litter have been regulated for many decades, such as through MARPOL Annex V (shipping), London Convention/Protocol (dumping), and Basel and Bamako Conventions (transboundary movements). However more efforts are needed to strengthen the implementation and enforcement at national level. The treaty should therefore consider possible provisions related to the standardisation of national legal frameworks to target plastic waste trafficking, illegal disposal of plastic waste on land and at sea, coupled with evaluation of enforcement measures, including possible criminal sanctions in case of serious offences. For example, it is necessary to include the importance of criminalizing waste trafficking and define what would constitute a criminal offence, for example, illegal dumping on land and at sea, mislabeling and the trafficking that can be classified as a serious crime in line with the UNTOC.

2. Principles

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

Proposed principles:

The following principles could be set out in the future instrument to guide its implementation:

1. **Standardisation of National Legal Frameworks**: One principle could involve the standardization of national legal frameworks to specifically address the issue of illegal trade, transport, storage, burning, mislabeling, recycling of contaminated/untreated plastics, unauthorized disposal of plastic waste on land and at sea. This would ensure that countries adopt consistent laws and regulations aimed at preventing and penalizing such activities, their movement across borders, creating a unified approach to combat the problem on an international scale.

2. **Evaluation of Enforcement Measures**: This would involve assessing the effectiveness of various mechanisms to ensure compliance with the new instrument. In cases of serious offences related to plastic waste trade, transport, storage, burning disposal on land or at sea, the principle could explore the consideration of criminal sanctions as a means to deter and address such actions effectively.

These principles aim to provide a structured approach to the implementation of the future instrument, fostering global cooperation and accountability in tackling the issue of plastic waste pollution in the marine environment.

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:

N/A

Explanatory Text:

N/A