

## **Call for written submissions – Proposed response template on the potential options for elements towards an international legally binding instrument**

On 9 December 2022, the Executive Secretary of the INC Plastic Pollution Secretariat sent a notification inviting written submissions from members of the committee and from observers. The template below is intended to provide guidance to members of the committee and observers in structuring the written submissions.

As requested by INC-1, written submissions will inform the secretariat in the preparation of a document with potential options for elements towards an international legally binding instrument, for consideration at the second session of the INC, without in any way prejudging what the committee might decide regarding the structure and provisions of the instrument. The document is to be based on a comprehensive approach that addresses the full life cycle of plastics as called for by UNEA resolution 5/14, including identifying the objective, substantive provisions including core obligations, control measures, and voluntary approaches, implementation measures, and means of implementation.

The template below is meant to assist Members and Observers to prepare their written submission as a guide. A number of documents prepared for INC-1 are of relevance, notably 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'.

The template is divided into three sections:

- I. Substantive elements
- II. Implementation elements
- III. Additional input

All written submissions must be sent to [unep-incplastic.secretariat@un.org](mailto:unep-incplastic.secretariat@un.org). The statements received will be compiled and made available the INC webpage.

Please note that it is not required for all fields to be answered in the template for submission.

### **Deadline for submissions:**

- 6 January 2023 for written submissions from observers.
- 10 February 2023 for written submissions from Members of the Committee.

## TEMPLATE FOR SUBMISSIONS

Name of country (for Members of the committee)	New Zealand
Name of organization (for observers to the committee)	N/A
Contact person and contact information for the submission	Renée Yap <a href="mailto:renee.yap@mfat.govt.nz">renee.yap@mfat.govt.nz</a>  <i>Copied to Daisy Croft at <a href="mailto:daisy.croft@mfe.govt.nz">daisy.croft@mfe.govt.nz</a></i>
Date	13 February 2023

### I. Substantive elements

#### 1. Objective(s)

a) *What objective(s) could be set out in the instrument?*

**Proposed objective:**

The primary objective of the instrument should reflect an ambition to eliminate plastic pollution, including microplastics, by reducing plastic waste overall and recognising the need to reduce the impact of plastic pollution on human and ecosystem health.

The objective(s) should:

- Cover the full lifespan of plastics from extraction and production to disposal.
- Recognise the need to address the problems caused by plastic both as a material with any associated chemicals and additives, and a product (with plastic as the main material).

New Zealand recognises the role of indigenous and Western sciences, wisdom and traditional knowledge in addressing plastic pollution, and could support a sub-objective that reflected this. We also recognise the policy linkages between the global plastic pollution and climate change crises, and support a low emissions approach from a global perspective through this instrument. We could support sub-objectives to recognise such linkages.

**Explanatory Text:**

New Zealand wishes to see the establishment of an effective global regime to reduce plastic waste and eliminate plastic pollution on a global scale. To achieve this, the objective(s) of the instrument should clearly and plainly communicate the broad scope of the instrument and the objective(s) should support a coordinated and aligned response to the issues, providing a common strategic direction. This

approach would help to strengthen the collective will to address plastic pollution and help drive uptake of initiatives that will make a tangible impact.

## 2. Core obligations, control measures and voluntary approaches

a) *What core obligations, control measures and voluntary approaches would provide a comprehensive approach to addressing plastic pollution, including in the marine environment, throughout the full life cycle in line with the future objective(s) of the instrument?*

New Zealand supports the use of core obligations, control measures and voluntary measures to address plastic pollution.

### **Core obligations**

As part of core obligations, New Zealand sees a need for the use of timebound and measurable global rules and targets, while ensuring implementation is supported at a national level through mandatory national action plans. Global rules are needed to create a level playing field for industry and businesses globally and harmonise approaches, which will both reduce plastic pollution and enable efficiencies for industry and businesses. Global rules or targets will be useful in some areas, for example for eliminating unnecessary, single use and/or problematic plastic types, product design requirements, definitions and standards. New Zealand is looking to see both coordinated national and global action reflected in the instrument.

We would like to underscore the importance of eliminating plastic pollution to indigenous peoples, and the importance that traditional knowledge plays in the sustainable management and protection of the environment. For this reason, it will be important to ensure the views of indigenous peoples are reflected in the instrument, and the instrument should reflect the need for indigenous peoples to be engaged in implementation of the instrument at the national and/or subnational level.

In summary, New Zealand supports the following core obligations:

- Global rules and targets, where appropriate
- Develop and implement coordinated national action plans
- Reporting and compliance

### **Control measures (including voluntary measures)**

New Zealand supports the need for a combination of mandatory control measures and voluntary measures, given the different starting points, capacities and contexts for different countries. New Zealand considers that the instrument should clearly identify the mandatory controls and targets that must be contained in all national action plans, while also providing guidance on a range of voluntary controls and targets that could be contained in national action plans.

New Zealand supports an instrument with control measures that are focused on the waste hierarchy and a regenerative circular economy, promoting economic activity that restores and regenerates natural systems. For the purposes of this submission, we have grouped measures as *upstream*, *midstream* and *downstream* categories. New Zealand considers that action at the top of the waste hierarchy (upstream) will have the greatest impact and should be prioritised in the instrument, while downstream measures will also play an important role in the instrument. We have included a non-exhaustive list of possible measures supported by New Zealand and we have signalled where associated timebound and measurable targets could be appropriate for consideration throughout the negotiations too.

We also note that different types of plastic (eg microplastics vs plastic products) and different sectors (eg fisheries, textiles, construction) may require different control measures and different expertise to input into designing such measures. Specific provisions may be required to manage the issues associated with primary and secondary microplastics. While material standardisation and recycling can play a role in improving the circularity of plastic products, this may not be sufficient to address issues around microplastics or meaningfully reduce emissions.

New Zealand supports countries adopting harmonised definitions and metrics for reporting. Using existing standards and definitions where possible will be useful in this regard and will avoid duplication of existing work/standards.

*Non-exhaustive list of upstream control measures supported by New Zealand (avoid, reduce, reuse, repurpose)*

- Eliminating materials and additives that are unnecessary, impact human and/or ecosystem health, or affect reusability/recyclability (associated targets could be appropriate)
- Moving away from single-use plastics (associated targets could be appropriate)
- Product design – for example through developing sustainable design criteria
- System design (reuse, repair, refill systems)
- Fossil fuel subsidy reform
- Reduced production of virgin plastic (associated targets could be appropriate)
- Reduced consumption of plastic products and plastic as a material (associated targets could be appropriate)
- Removing hazardous chemicals used in plastic

*Non-exhaustive list of midstream control measures supported by New Zealand (recycle, recover for a more regenerative circular global economy)*

- Standardisation of labelling
- Standardisation of materials for recyclability
- Investigating alternatives and where those alternatives would be appropriate (avoid undesirable outcomes of alternatives, including through any new additives)
- Product stewardship models, this could include 'polluter pays' measures

- Improving infrastructure (associated targets could be appropriate)
- Improving collection rates and actual recycling rates (associated targets could be appropriate)
- Increasing the volume and quantity of recycled content material (and data) (associated targets could be appropriate)
- Less disposal to landfill, incineration (associated targets could be appropriate)

*Non-exhaustive list of downstream control measures supported by New Zealand (dispose, treat, remediate, prevent leakage)*

- Coordinated global, national and local efforts to address damage caused by ongoing plastic pollution, including clean-up and remediation activities
- Inclusive transition of the informal waste sector (including individuals and groups who collect and sell waste materials)
- Education and awareness campaigns

## **II. Implementation elements**

### **1. Implementation measures**

- a) How to ensure implementation of the instrument at the national level (eg. Role national action plans contribute to meeting the objectives and obligations of the instrument?)*
- b) How to ensure effectiveness of the instrument and have efficient national reporting?*
- c) Please provide any other relevant proposals or priorities here on implementation measures (for example for scientific and technical cooperation and coordination as well as compliance)*

#### **Implementation at the national level**

- New Zealand considers national action plans will play a key role (if not be the main mechanism) to implement the instrument's core obligations and control measures at a national level. Common, core obligations will be essential to achieve global change, and countries should also use national action plans to build on these actions, targeting national and local issues with more tailored approaches.
- New Zealand has a revised national waste strategy and legislation currently under development and a National Plastics Action Plan. Setting national targets in some areas will ensure that the unique needs of domestic economies can be considered, including populations, geographies, infrastructure and capabilities. A requirement to establish national action plans will also prevent duplication of work when policies, strategies and domestic, regional and/or global commitments may already exist.

#### **Effectiveness of the instrument and national reporting**

- New Zealand supports transparent reporting requirements and periodic assessment of the progress of implementation and effectiveness of the instrument. It is important that reporting

requirements are not divorced from, but build on and add value to, what we already report on (for example, as a Party to the Basel Convention (including the regional Waigani Convention), the Stockholm Convention, the G20 Report on Actions Against Marine Plastic Litter, and reporting on the Ellen MacArthur Foundation Plastics Global Commitment,). This will also enable better information about plastic flows over time. New Zealand also considers that standardised data collection, evaluation and reporting, together with standardised definitions, will help to strengthen the usefulness of the reporting.

**Other relevant implementation measures**

- Decision-making needs to be based on the best available information at the time, including scientific and traditional knowledge sources, guided by the precautionary approach. There could be a need for a scientific advisory function that will support impact assessments, data collection and standardisation.
- New Zealand notes that a Science Policy Panel has recently been established by UNEA to support action on chemicals, waste and pollution. There should be consideration of which functions the Science Policy Panel will be better placed to support and which functions will need to be supported through other means, before consideration of what form this function should take.
- New Zealand suggests regular conference of parties to govern the instrument (for example biennially), given the technical nature of plastics that may require frequent decision-making.

**2. Means of Implementation**

With respect to means of implementation, document UNEP/PP/INC.1/5 covers the following elements: capacity-building, technical assistance, technology transfer on mutually agreed terms and financial assistance.

*a) What measures will be required to support the implementation of the instrument?*

Financial support; education, awareness and capacity building; technical support; and other means of implementation are needed to ensure that all Parties can meet their obligations under the instrument. The full implementation of the instrument will require the provision of adequate, predictable and easily accessible financial resources. Any financial mechanism needs to be efficient and effective, able to operate from the outset of entry into force of the instrument, and in line with what is required to address the high and rapidly increasing levels of plastic pollution. Full implementation will also require cooperation and collaboration in building the necessary capacity and transfer of technologies to allow parties, especially developing country parties, to fully implement the instrument.

New Zealand recognises the importance to tangata whenua (indigenous peoples) of reducing plastic waste and eliminating pollution, and the importance traditional knowledge plays in the sustainable management and protection of the environment. Mātauranga Māori (Māori knowledge) demonstrates a deep relationship Māori have with the whenua (land) and moana (water). Implementation of the instrument must ensure indigenous peoples’ rights and knowledge, including traditional knowledge,

are respected, documented, and preserved with their free, prior and informed consent, including through their full and effective participation in decision-making. Implementation of the instrument must be in accordance with relevant national legislation, international instruments, including the United Nations Declaration on the Rights of Indigenous Peoples, and human rights law. Nothing in the instrument should be construed as diminishing or extinguishing the rights that indigenous peoples currently have or may acquire in the future.

### III. Additional input

Please provide any other relevant proposals or priorities here (for example introductory elements; awareness-raising, education and exchange of information; research; stakeholder engagement; institutional arrangements and final provisions).

Te Tiriti o Waitangi/the Treaty of Waitangi is a foundational document of constitutional importance to New Zealand. New Zealand recognises the importance of cooperation in a manner consistent with Te Tiriti o Waitangi/the Treaty of Waitangi and where appropriate informed by Te Ao Māori (Māori worldview), Mātauranga Māori (Māori knowledge), and tikanga Māori (Māori protocols and customs).

New Zealand believes that the instrument should recognise and consider diverse value systems and concepts, including the rights of nature and rights of Papatūānuku or Mother Earth (for those countries that recognise these rights). This might be best placed in the preambular or introductory section of the instrument.

Nature embodies different concepts for different people, including biodiversity, ecosystems, Papatūānuku or Mother Earth, and systems of life. Nature's contributions to people also embody different concepts, such as ecosystem goods and services and nature's gifts. Both nature and nature's contributions to people are vital for human existence and good quality of life, including human well-being, living in harmony with nature, living well in balance and harmony with Papatūānuku or Mother Earth.

We must acknowledge the importance to indigenous peoples of reducing plastic waste and eliminating plastic pollution, and facilitate indigenous perspectives into our discussions. We must also recognise the role that traditional knowledge plays in the sustainable management and protection of the environment.

New Zealand considers it is essential for the instrument to contain measures that will facilitate indigenous perspectives given the importance of eliminating plastic pollution to indigenous peoples.

New Zealand also recognises the importance of the engagement of stakeholders and indigenous peoples in the development of this instrument, and we support multiple mechanisms for doing so.

The following text can be attributed to a small group of tāngata whenua (Māori people) with an interest in plastic pollution and an effective instrument on plastic pollution:

*“The full, just, and meaningful participation of rights holders (including Indigenous Peoples) throughout this process should be supported by all involved institutions, both to realise the instrument’s full potential and to align with the UNDRIP.*



*The following whakataukī (proverb) encapsulates the interconnected relationships that Māori have with the natural world and the importance of maintaining our mutual health (such as by proactively preventing toxic pollution):*

*‘Te toto o te tangata, he kai; te oranga o te tangata, he whenua.’ (while food provides the blood in our veins, our health is drawn from the land).*

*Since our creation, the Indigenous Māori people of Aotearoa New Zealand have maintained a unique relationship with the Earth, as their ancestors had done for millennia. Through whakapapa (genealogy), Māori are connected to the natural environment through social relations. Papatūānuku is the ancestral mother and Ranginui is the father. As the people of Whanganui say, "Ko au te awa. Ko te awa ko au" (I am the River. The River is me). Iwi and hapū (Māori tribal communities) across Aotearoa similarly recognise the natural world as alive and full of beings with personhood (e.g. Mountains and Rivers) and share ancestral connections with them. Connections to the places, people, landforms, and waterways shape values, culture, and worldview.*

*Within te ao Māori (the Māori worldview), people are a part of nature and are not set apart from or against nature in the way in which many non-Indigenous interventions and submissions at the United Nations Environment Assemblies and INC1 suggest. For Indigenous peoples’ there is no such thing as an ‘environmental compartment/s’ or discrete/semi-discrete ecosystems or environments (atmospheric, terrestrial, aquatic, and so on). The transboundary chemical, physical and biological impacts of plastic pollution on global biodiversity, climate change, human health and human rights should be evidence enough to know that we are all connected.*

*Forces of global and localized forms of colonization including global market forces have incentivized industries to hyperproduce toxic and non-regenerative materials and products (such as plastics). Plastic pollution has since become a critical threat to all living things. There is now clear evidence that plastics as a complex mix of chemicals have transgressed the safe planetary boundary for novel entities. A defined focus on a global transition away from dangerous plastics is therefore necessary.*

*The Māori concept of kaitiakitanga acknowledges a broad set of inalienable responsibilities, duties, and obligations to Aotearoa New Zealand’s lands, sky, and waters. Prior to colonisation, Māori lived according to ecologically regenerative and holistic values that respected the environment. Consequently, there was no problematic waste – and no need for a plastic pollution instrument. If we have any hope of ending plastic pollution, we must decolonise the science of plastic pollution and learn from the wisdom of Indigenous systems approaches, holism, and relational ontologies and epistemologies, methodologies, and practices. Conceptually classifying our world into discrete units and ignoring complex relationships as non-indigenous sciences do, will continue to fail to provide effective solutions to global threat multipliers including plastic pollution. “*