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. 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.
I. Substantive elements

1. Objective(s)

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

**Proposed Objective:**

To end plastic pollution and protect the environment and human health from the impacts of plastic pollution.

**Explanatory Text:**

- A broad, simple, and easy to understand objective will contribute to the implementation of the instrument and will remain valid in the future with a clear core purpose. We recognize the urgency of the problem and that the only way to put an end to plastic pollution is to act now through a comprehensive approach that addresses the full life cycle of plastic and all forms and sources of plastic pollution while promoting a non-toxic circular economy.

- Plastic pollution contributes to the triple planetary crisis and already has devastating impacts on ecosystems and biodiversity while contributing to the climate change crisis and has significant adverse effects on human health.

- This global plastics crisis needs a worldwide, integrated human rights-based approach while applying the precautionary principle in the transition to a non-toxic circular economy. The Special Rapporteur on toxics and human rights has examined in his report A/76/207 the current and future negative implications of the various stages of the plastics cycle for the enjoyment of human rights. The world is polluted by plastics containing hazardous chemicals, causing serious risks, harm and damaging consequences for human health and the environment.
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?

Explanatory Note

To meet the objective set in the UNEA resolution 5/14 an ambitious, organized, and well-structured intersessional work plan needs to be established to complement the INC meetings and reach our common goal.

Our ambition as a result of this process is to obtain a Multilateral Environmental Agreement that has core obligations and specific control measures and is complemented by annexes, in order to maintain a certain flexibility and being able to adapt to new challenges that could arise as well as to the new scientific findings and innovation.

In that respect, negotiations should focus on mandatory provisions establishing global obligations and control measures while addressing the means of implementation concurrently, to achieve the expected level of ambition considering the capabilities of developing countries.

Voluntary provisions should be considered at a later stage of the process to complement the core obligations and control measures.

Provisions - Core obligations and control measures

The Secretariat options paper should reflect the following provisions that address para 3b and 3c of the UNEA resolution 5/14:

1. Provision to reduce production of primary plastic polymers

Plastic consumption and production has reached unsustainable levels. Plastic production will double in the next 20 years if no action is taken. Waste generation and the release of plastics into the environment will follow suit. Measures and targets for keeping the production of primary plastic polymers (including both fossil fuel and bio-based) within sustainable levels is needed to reduce pressure on the environment globally.

Especially for developing countries there is a need to evaluate that the rate of production and consumption is within country's capacity for circularity and waste management, to avoid further leakage to the environment.

General obligation: each Party should be required to take effective measures, in alignment with the World Trade Organization (WTO) commitments and other obligations under international agreements wherever required, to reduce the production of plastics polymers to an agreed level to reach a common target. In addition, each Party should be required to report on the quantities and type of plastic polymers produced, as well as the quantities and type of chemicals applied in production. Criteria should be developed for identifying polymers and additives chemicals of concern to be listed in an Annex.
2. **Provision to eliminate and restrict specific plastic polymers, chemicals, and plastic products of concern**

A non-toxic circular economy begins with the design of products that reduces material input, avoids the use of toxic chemicals, and enables reuse and recycling. Plastics that contain toxic additives and are recycled will create new hazardous products posing new risks to and long-term adverse effects on human health and the environment.

The plastic treaty may include obligations for effectively phasing out, or severely restricting the production and/or use of specific polymers, chemicals and plastic products that are harmful to the environment and human health, are problematic because they impede circularity or that have a high risk of release into the environment.

In addition, phase-out of intentionally added microplastics and nanoplastics should be considered. The manufacturing, import and export, and use of plastic products and intentionally added microplastics should be listed in an Annex.

At the same time, it must be secured that a potential replacement of polymers, chemicals and plastic products, including microplastics and nanoplastics, by other alternatives will not lead to any comparable kind of harm to human health or the environment.

The Secretariat paper should reflect options to eliminate and restrict specific polymers, chemicals, and plastic products of concern for the INC to be able to discuss these options further at INC-2.

**Establishment of intersessional expert working groups:**

In INC-2 the establishment of intersessional expert working groups with the aim of advancing in this area is expected. The expert group should focus its work in developing prioritization criteria to support the decision-making process related polymers, chemicals, and plastic products of concern measures to be included in the international legally binding instrument, considering the impacts or potential impacts of the use of these substances throughout the life cycle of plastics on human health and/or on the environment as well as of the difficulty of their reusing, refilling, recycling, and recovery.

Also, it should provide a draft priority list of polymers, chemicals, and plastic products of concern to be avoided, phased out or phased down to be included in an Annex of the instrument for consideration of INC-3.

Additionally, the intersessional working groups should provide the following elements, for consideration of the INC-3:

- Hazard assessment of plastics-associated chemicals, including substances used as monomers, processing aids and additives for plastic production.

- Strategies for the elimination and/or reduction of problematic plastic materials, unnecessary applications, and the intentional addition of microplastics.
- A list of alternatives or substitutes to plastics that should not be promoted due to their impact on human health or the environment.

- Overarching criteria should be developed for identifying intentionally added microplastics and nanoplastics. Possible criteria could include the high risk of ending up in the environment and/or affecting human health. Some types could be immediately banned like microbeads often found in personal care products.

- Gather information on relevant additives contained in plastics and develop criteria for listing additives and other significant products not only contained in articles and mixtures but also adjuvants that improves the performance of the final product.

**General obligation:** each Party should be required to eliminate and restrict the production and use of polymers, chemicals and plastic products listed in an annex.

**Criteria:** the treaty should set criteria for identifying polymers, chemicals of concern and plastic products to be listed in an annex as well as criteria on the high production volumes.

- *Harmful to the environment and/or human health.* Possible criteria for identifying polymers and chemicals include, based on inherent properties, persistent substances that have slow or no degradation in the environment, bioaccumulate and/or have long-term toxic effects (e.g., carcinogenic, mutagenic, reprotoxic, endocrine disruptors).

- *Impeding circularity.* Possible criteria for identifying polymers, chemicals and/or products that hinder recyclability or reuse could include composition and polymer mix (e.g., mixed polymer or mixed material packaging).

- *Risk of release to the environment.* Possible criteria for identifying plastic products could include high litter risk, high risk of releasing microplastics and/or the necessity of products and/or the possibility for recycling and/or the availability of environmentally sound substitutes and/or content of intentionally added microplastics.

3. **Provisions to increase the circularity of plastics in the economy**

Certain plastic products are often designed so that it becomes waste after single use, which added to the lack of capacity and waste management infrastructure in most developing countries, results in adverse effects on the environment and poses a risk to human health. Together with the problem of often harmful additives the complex product design poses a serious circularity barrier and is one of the main reasons for a higher demand of virgin plastics and thus the total volume of plastics in the economy.

There is a need to establish effective systems for retaining plastics in the economy, to reduce demand for primary polymers as well as the risk of plastic pollution. The treaty must ensure criteria for design of plastics to extend product lifespan, ensure durability, recyclability, and safety, to enable a non-toxic circular economy.

These provisions are meant to support the substitution of plastics, when necessary, for other systems, environmentally sound materials in products, avoidance of unnecessary plastics, as well as the
development of markets for reuse, product delivery models that reduce plastics use, and secondary non-toxic plastic materials. These provisions must also ensure transparency and availability of information on such sustainability aspects through the value chain of plastics and promote financial flows to support circularity. The options paper should reflect options to increase the circularity of plastics in the economy for the INC to be able to discuss these options further at INC-2.

**General obligation:** each Party should be required to take effective measures to ensure that plastic products already on to be put on the market are in line with the criteria listed in an annex and guidance adopted by the Conference of the Parties, with a view to either completely redesigned, phase-out or prevent those products.

**Criteria:** the Treaty should set overarching criteria in an annex. Possible criteria include durability, reliability, reusability, reparability, absence of substances of concern, microplastic content and potential for its release, minimum recycled content, possibility of remanufacturing and recycling as well as expected generation of waste. These criteria could be applied in respect of any product characteristics, such as, for example, composition, performance, shape, packaging, marking, and labeling.

**Transparency:** each Party should be required to ensure the availability of information on chemical and material composition of plastic products along the value chain for manufacturers, importers, users, consumers, and recyclers through for example marking or labeling. The Secretariat should establish a central data exchange where this information can be made available.

**Other general obligations:** each Party should be required to take effective measures to encourage the reuse of plastic products and to take effective measures so that plastic wastes are collected, sorted, and recycled in an environmentally sound manner.

4. **Provision on eliminating the release of plastics (including microplastics) to air, water and soil**

There may be a need for specific guidance to reduce microplastic release from point sources such as wastewater treatment facilities or industrial facilities. And even though innovation in product design may reduce unintentional release of microplastics, there may also be a need for further guidance targeting other specific sources of release. Both point and non-point sources of release of plastics should be identified, and additional measures implemented.

The final disposal of plastic waste will remain an area for coordinated global action to ensure that final disposal operations do not lead to the release of plastics to the environment.

Legacy waste is not only a local plastic pollution issue, but also a source of continuous spread of microplastics and chemicals of concern, and remediation may benefit from concerted coordination and guidance from the Treaty. The options paper should reflect options to reduce and eliminate the release of plastics to air, water, and land for INC to further discuss these options at INC-2.

**Establishment of intersessional working group:** an intersessional working group on marine pollution and legacy plastics should be established in INC-2 to address strategies for eliminating the existing pollution, addressing its prevention, minimization, control, monitoring and remediation of the legacy plastics.
General obligations:

- Each Party should be required to take steps to eliminate releases of plastics to water, soil and air from the source categories listed in an annex. This list of categories could include wastewater and sewage; industrial facilities; the fishing industry; transport and handling of plastic pellets; unintentional microplastics releases from e.g. roads, textiles and other sources.

- Each Party should be required to take effective measures to so that plastic waste is collected, sorted and if necessary, disposed of in an environmentally sound manner, considering the technical guidelines adopted by the Basel Convention.

- Parties should set a target for reducing the generation of plastic waste in need of final disposal operations such as landfilling and burning.

Cooperation: Parties should cooperate to develop strategies to identify, prioritize and address areas of legacy waste in an environmentally sound manner, and encourage partnerships with stakeholders in supporting efforts to implement these strategies.

II. Implementation elements

1. Implementation measures

   a) How to ensure implementation of the instrument at the national level (e.g. 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).

- National Action Plans (NAPs) is a fundamental implementation tool

- Inclusion of Gender Action Plans

- National reporting

- Monitoring & effectiveness evaluation

- Request the Secretariat a report of elements to be considered in the baseline elaboration to determine the effectiveness of the measures adopted within the framework of the instrument and include the standardized monitoring methodologies in environmental (including biodiversity) and human matrices, as well as the diverse parameters to be analyzed, and the tools for controlling the flow of plastics throughout the life cycle. In addition, traceability and
reporting mechanisms for plastic materials and products throughout the supply chain are needed.

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?

There is a need for having a global fund that has sufficient resources to implement the treaty. Provisions to replenish the fund should be based on the polluter-pays-principle. The Treaty should foresee the implementation of a Global Extended Producer Responsibility (EPR) system on plastic materials and products to ensure chemicals and plastics manufacturers contribute their fair share.

GRULAC SUBMISSION ON MEANS OF IMPLEMENTATION

An ambitious agreement to end plastic pollution, including in the marine environment, will demand that developing countries be provided with commensurate means for its implementation, informed by the best available science, traditional knowledge, knowledge of Indigenous Peoples and local knowledge systems, as well as socioeconomic information and assessment related to plastic pollution.

To do so, the INC should discuss means of implementation from an integrated perspective, including the issue of different sources and instruments. The INC should thus conceive of a robust integrated mechanism that ensures the provision and mobilization of new, additional and predictable flows of financial resources to support relevant research, development, and innovation (R&D&I) projects, promote technology transfer and know-how, and provide capacity building and technical assistance. This integrated system of implementation and the scale of the challenge ahead of us will also demand a dedicated financial mechanism.

For INC-2 discussions to reach the expected level of ambition, GRULAC reiterates that the discussions on means of implementation be initiated and addressed at the same time as other substantial elements such as obligations and control measures.

Considering the above, GRULAC kindly requests the secretariat, subject to the availability of resources, to prepare ahead of the INC-2 meeting a working document on all dimensions of means of implementation with some examples drawn from other international instruments and arrangements.
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).

- Develop of social aspects criteria for the assessments
- Take into account the important role of waste pickers and informal workers while promoting capacity building and their transition to formality, green jobs, and new roles.
- Promote the registration and disclosure of polymers and additives by plastics producers would facilitate their identification
- Consider the establishment of an Annex to include the protected plastic products that do not have a substitute or alternative yet in the health and food sector