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Synthesis report on the submissions received on elements not discussed at the second session, such as principles and scope of the instrument

Note by the secretariat

1. At its second session, the committee decided to request the secretariat to invite submissions from observers by 15 August 2023 and from Members by 15 September 2023, on elements not discussed at the second session, such as principles and scope of the instrument, to post any submissions received on the website for the third session of the committee, and to prepare a synthesis report on these submissions.[1] This information document was prepared by the secretariat pursuant to this mandate.

2. A template was shared with committee focal points via a notification on 22 June 2023 to serve as a guide for ease in preparing submissions. The template included the following categories: scope, principles and additional considerations (e.g. preamble; institutional arrangements, including governing body, subsidiary bodies, scientific and technical cooperation and coordination, and secretariat; final provisions including dispute settlement; and if appropriate annexes). Sixty-one submissions were received from Members, including four from groups of Members. The synthesis report in this document draws on those submissions. All submissions received are posted on the website for the third session of the committee.[2]

[1] See UNEP/PP/INC.2/5, Report of the intergovernmental negotiating committee to develop an international legally binding instrument on plastic pollution, including in the marine environment, on the work of its second session, para. 97(c), available at https://wedocs.unep.org/bitstream/handle/20.500.11822/42953/FinalINC2Report.pdf.

[2] The submissions of Members and of observers are available at https://www.unep.org/inc-plastic-pollution/session-3/submissions.

3. Headings and subheadings have been included in this synthesis report to provide a structure for the document, following the order of the placeholders in the Zero Draft text of the international legally binding instrument called for in United Nations Environment Assembly (UNEA) resolution 5/14 (Zero Draft), set out in document UNEP/PP/INC.3/4.3 These headings are not intended for negotiation.

4. The document also includes boxed paragraphs containing background information on relevant documents and discussions in the committee process to date. These references are meant to help readers navigate the document and are not intended for negotiation.

5. At the second session, the committee decided to convene a preparatory one-day meeting back-to-back with its third session, which would include discussions on the synthesis report. This document is aimed at facilitating discussions during that preparatory meeting as well as discussions on these matters at the third session.

6. This document and its contents are intended to facilitate and inform the committee's deliberations and are in no way intended to prejudge any decision by the committee regarding the structure or content of the future instrument.

7. This document has not been formally edited.

[3] Zero Draft text of the international legally binding instrument on plastic pollution, including in the marine environment, UNEP/PP/INC.3/4, available at https://wedocs.unep.org/bitstream/handle/20.500.11822/43239/ZERODRAFT.pdf.

Annex

Synthesis report on the submissions received on elements not discussed at the second session, such as principles and scope of the instrument

Contents

A. Part I

1. Preamble

Background

As described in document UNEP/PP/INC.1/5 (the "elements" paper prepared prior to the first session), the preamble of an instrument sets out its history and context; references relevant pre-existing conventions, instruments, institutions or principles; and may act as a repository for statements, including of objectives and recognitions, that are not included in the operative text. When read together with the objective or objectives, scope and principles, preambular text may provide context for the interpretation of operative provisions throughout the text.

Based on the submissions of Members prior to the second session, the following options were identified in Appendix 1 to document UNEP/PP/INC.2/4 (the "Options paper"), as potential preambular language for the future instrument:

a. Acknowledgement of synergies between economy, society and the environment with a view to attaining sustainable development;
b. Recognition of the need to leverage and further develop a circular economy for plastics;
c. Recognition of plastic pollution as a global and transboundary issue that requires a collective and coordinated response;
d. Recognition of the need to end plastic pollution, including through efforts aimed at eliminating the release of plastic into the environment by 2040;
e. Recognition of the important role plastic plays in society;
f. Recollection of the Rio Principles;
g. Recognition of the need for a healthy planet to preserve life for future generations;
h. Recognition of the importance of a just transition;
i. Recognition of a human-rights-based approach, including the rights of Indigenous Peoples;
j. Recognition of the precautional approach;
k. Recognition of the importance of the informal sector;
l. Recognition of the special circumstances of countries in need and of national circumstances and capabilities;
m. Recognition of the role of traditional knowledge and traditional knowledge systems, practices and innovation;
n. Recollection of the Guiding Principles on Business and Human Rights.

The elements identified in Member submissions following the second session with respect to possible preambular language for the future legally binding instrument are synthetized below.

a. Proposed elements to be considered for the preamble

1. The elements identified in Member submissions for consideration in the preamble are presented below.

2. Submissions on the preamble of the instrument were varied. A number of submissions proposed to draw on the preambular paragraphs in UNEA resolution 5/14[4] in developing the preamble of the instrument. As detailed below, a number of specific aspects were elaborated upon, including aspects that are referred to in UNEA resolution 5/14.

[4] See UNEA resolution 5/14, adopted by the United Nations Environment Assembly on 2 March 2022. End plastic pollution: towards an international legally binding instrument (esp. preamble and paragraph 3), available at https://wedocs.unep.org/bitstream/handle/20.500.11822/40597/Plastic_pollution_UNEP_EA.5_Res.14_EPP_EN.pdf?sequence=6&isAllowed=y.

3. The synthesis of inputs below is presented under broad thematic headers for ease of reading. These headers are not part of Member submissions and are included for the sole purpose of organizing the presentation of the contents of the submissions in this document and facilitating their consideration by the committee. These headers are not for negotiation and are not intended to prejudge in any way how the committee may choose to address the issues in the final instrument. Each item is listed below only once but some could potentially fall under two or more headers.

Overall context, including relevant existing resolutions, declarations and instruments

a. Reaffirming the principles of the Rio Declaration on Environment and Development (Rio Principles) and Recalling the United Nations Conference on Sustainable Development's reaffirmation of these principles;
b. Reaffirming General Assembly resolution 70/1, adopting the 2030 Agenda for Sustainable Development;
c. Recognizing in particular Sustainable Development Goals (SDGs) 3, 12 and 14;
d. Recognizing the right to a clean, healthy and sustainable environment as a human right, as reflected in resolution A/RES/76/300;
e. Recalling the United Nations Declaration on the Rights of Indigenous Peoples;
f. Recalling the Addis Ababa Action Agenda of the Third International Conference on Financing for development;
g. Recognizing the interlinkages between the triple planetary crisis of climate change, biodiversity loss and pollution;
h. Recognizing the special vulnerability of aquatic ecosystems;

Plastics and plastic pollution

a. Recognizing that plastics play important roles in society, including in contributing to the Sustainable Development Goals, and their applications, including in public health, food safety and national security;
b. Noting with concern that the high and rapidly increasing levels of plastic pollution, including in the marine environment, represent a serious environmental problem at a global scale, negatively impacting the environmental, social and economic dimensions of sustainable development, and have adverse physical, chemical and biological impacts on the environment and human health;
c. Recognizing the impact of plastic pollution on human health, livelihoods, food security, and the environment, in particular the marine environment;
d. Being aware of the health concerns, especially in developing countries, resulting from local exposure to hazardous chemicals in plastics;
e. Recognizing that plastic pollution is a global concern and cognizant of the need to protect human health and the environment from its adverse effects, with special consideration for the needs of developing countries and groups in vulnerable situations;
f. Emphasizing that plastic pollution arises from the leakage and accumulation in the environment of discarded plastic products and is caused by the mismanagement of plastic waste;
g. Recognizing the economic and social impacts of plastic pollution and of actions to address such pollution;

Cooperation, coordination and complementarity

4. With reference to acknowledging multilateral efforts and initiatives leading to the instrument, and reaffirming the importance of cooperation, coordination and complementarity among relevant regional and international conventions and instruments while respecting their respective mandates, reference was made to the following international conventions and instruments:

a. Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal and in particular its Plastic Amendments and Plastic Waste Partnership;
b. Stockholm Convention on Persistent Organic Pollutants;
c. Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade;
d. Convention on Biological Diversity;
e. United Nations Framework Convention on Climate Change (UNFCCC) and Paris Agreement;

f. International Convention for the Prevention of Pollution from Ships (MARPOL), and London Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter;
g. Global Partnership on Marine Litter;
h. Montreal Protocol and the Vienna Convention on Substances that Deplete the Ozone Layer.

Actions to be taken

a. Calling for action on plastic pollution and a global commitment to work collectively and decisively to achieve the objective on a gradual basis;
b. Acknowledging that plastic pollution is a common concern of universal and transboundary nature requiring a consolidated and urgent global response, including through efforts aimed at eliminating the release of plastic into the environment by 2040;
c. Recognizing that actions required to further understand and address the global impact of plastic pollution will be environmentally, socially and economically most effective if they are based on the best available scientific knowledge, as well as on economic and social considerations, including knowledge from Indigenous Peoples and traditional and local systems, re-evaluated continually in the light of new findings in these areas;
d. Promoting a circular economy that minimizes waste and makes the best use of resources with improved product design for easier recycling, promoting repurpose and reuse;
e. Stressing the co-benefits of control measures for climate change and biodiversity;
f. Recognizing the importance of providing incentives for emission reduction measures, including the sustainable use of biological and/or renewable feedstock;
g. Taking into account the imperatives of a fair transition of the workforce, particularly waste pickers, and the creation of decent work and quality jobs in accordance with nationally defined development priorities;
h. Underlining the importance of providing information to users, governments and the public on the properties of hazardous chemicals;
i. Recognizing that Parties should, when taking action to address plastic pollution, respect, promote and consider their respective obligations on human rights, the right to health, the rights of Indigenous Peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender and racial equality, empowerment of women and intergenerational equity;
j. Affirming the importance of education, training, public awareness, public participation, public access to information and cooperation at all levels on the matters addressed in this instrument;
k. Reaffirming that States should cooperate to strengthen endogenous capacity-building for sustainable development by improving scientific understanding through exchanges of scientific and technological knowledge, and by enhancing the development, adaptation, diffusion and transfer of technologies, including new and innovative technologies, as mutually agreed.

Respective contributions and support

a. Recognizing national circumstances and capabilities;
b. Stressing that sustainable patterns of consumption and production, with developed countries taking the lead, play an important role in addressing plastic pollution;
c. Taking into account the differences in developing Parties' starting points and approaches, economic structures and resource bases, the need to maintain strong and sustainable economic growth, available technologies and other individual circumstances, and the need for equitable and appropriate contributions by each of the developed Parties to the global effort regarding that objective;
d. Taking into account the challenges faced by developing countries to manage solid and other wastes and deploy up-to-date technologies required by circular economy approaches;
e. Recognizing the importance of addressing adverse impacts from plastic pollution disproportionately borne by vulnerable populations within Parties' respective jurisdictions;

f. Stressing that the level of ambition for obligations shall be commensurate with the level of means of implementation provided to support developing countries, including financial resources, capacity-building and technology transfer;
g. Acknowledging the need for means of implementation to be provided from developed to developing Parties;
h. Recognizing the special circumstances of Small Island Developing States (SIDS) and the support needed for SIDS to effectively implement the instrument;
i. Considering the need to mobilize new and additional financial resources and access to technology for developing countries to combat plastic pollution;
j. The measures and policies shall demonstrate that developed countries are taking the lead in modifying long-term trends in ending plastic pollution.

b. Possible approaches to preambular language

5. Some submissions addressed the nature of the contents of the preamble. Several Members suggested that the preamble could contain principles. The view was also expressed that the preamble usually relates to the background and principles of the instrument and should not include text on time frames or controls. It was suggested that a concise preamble could provide context for the operational provisions.

6. It was suggested that discussions on the elements to be included in the preamble could be initiated at the third session, and that an informal working group could be set up and continue to work during the fourth session if needed, and the group co-chairs could then present a draft with proposed elements for the preamble.

2. Definitions

Comment

As noted in document UNEP/PP/INC.1/5 (the "elements" paper), definitions are generally required for any terms that will be key to the implementation of the instrument. They may be sourced from other treaties or related processes, scientific documents or other relevant documents. Where internationally recognized definitions do not yet exist, they may be developed for the purposes of the instrument. They are usually placed in a definitions section at the beginning of the instrument, with the defined terms then used thereafter. Where certain words or phrases are used less frequently, it may be an option to provide definitions in the particular provision where those words or phrases are found. In addition, multilateral environmental agreements (MEAs) often include "procedural definitions" (e.g. "party" and "parties present and voting"),[5] as well as substantive definitions, which are terms that are key to understanding and implementing the instrument.

Documents UNEP/PP/INC.1/6 (Glossary of key terms)[5] and Appendix 1 of UNEP/PP/INC.1/7 (Plastics science)[6] provide examples of definitions of potentially relevant terms and related information, drawing on existing definitions agreed or endorsed in the context of international law or policy. These terms and definitions are reproduced in Appendix 1 of this document for ease of reference.

Based on the submissions of Members prior to the second session, the following terms were identified in Appendix 1 to document UNEP/PP/INC.2/4 (the "Options paper"), for possible definition in the future instrument:

[5] See UNEP/PP/INC.1/6, Glossary of terms, Intergovernmental negotiating committee to develop an international legally binding instrument on plastic pollution, including in the marine environment, First session, Punta del Este, Uruguay, Item 4 of the provisional agenda, Preparation of an international legally binding instrument on plastic pollution, including in the marine environment, 8 September 2022, available at https://wedocs.unep.org/bitstream/handle/20.500.11822/41266/Glossary_Key_Terms_E.pdf.
[6] See UNEP/PP/INC.1/7, Plastics science, 13 September 2022, available at: https://wedocs.unep.org/bitstream/handle/20.500.11822/41263/Plastic_Science_E.pdf.

a. Environment, including marine environment;
b. Bio-based, biodegradable and compostable plastics;
c. Biodiversity and the climate system;
d. Ecosystems;
e. Essential use;
f. Full life cycle approach;
g. Life cycle assessment;
h. Mountains and water bodies;
i. Plastic pollution;
j. Plastic substitutes and plastic alternatives;
k. Plastics, including microplastics;
l. Problematic and avoidable plastic products;
m. Short-lived plastic products;
n. Single-use plastic products.

The elements identified in Member submissions following the second session with respect to definitions for the future legally binding instrument are synthetized below.

7. The elements identified for consideration in relation to definitions are presented below. The synthesis of inputs is presented under the following thematic headers for ease of reading: (a) terms identified as potentially requiring a definition; (b) proposed definitions and (c) possible approaches to definitions.

8. These headers are not part of Member submissions and are included for the sole purpose of organizing the presentation of the contents of submissions to this document and facilitating their consideration by the committee. They are not for negotiation and are not intended to prejudge in any way how the committee may choose to address the issues in the final instrument.

a. Terms identified as potentially requiring a definition

9. The list below contains terms identified in Member submissions prior to the third session as potentially requiring a definition, presented in alphabetical order. Terms in respect of which specific definitions have been proposed in Member submissions are followed by an asterisk (*). The proposed definitions are listed in section 3 below. Terms in respect of which definitions were included in documents UNEP/PP/INC.1/6 and/or UNEP/PP/INC.1/7 are followed by a symbol (°). The definitions contained in those documents are reproduced in Appendix 1 for ease of reference.

- Additives*
- Avoidable plastics and plastic products*
- Bio-based plastics
- Biodegradable plastics
- Biodegradation*
- Chemicals of concern
- Compostable plastics
- Circular economy° and safe circular economy
- Degradation*
- Environmental impacts*°
- Excessive plastic packaging
- Extended Producer Responsibility (EPR)*°
- Fossil-based plastics*
- Legacy plastics

- (Full) life cycle*°
- (Full) life cycle approach*
- Marine debris* (or “marine litter”)
- Microplastics*°
- Monomer(s)*
- Nanoplastics (NPs)*°
- Natural polymer
- Plastic(s)*°
- Plastic alternatives
- Plastic pollution*°
- Plastic product*
- Plastic substitutes
- Polluter Pays Principle*
- Pollution*
- Polymer*
- Polymers of concern
- Primary plastic polymers
- Problematic chemicals and additives used in plastics
- Problematic plastics and plastic products*°
- Producer
- Recovery
- Recyclability*
- Recycling*°
- Reuse
- Short-lived plastic products°
- Single-use plastic products°
- Substances of concern in plastics
- Unnecessary plastic items
- Waste*° (or “litter” or “debris”)

b. Proposed definitions

10. Table 1 below contains terms from the list above for which specific definitions have been proposed in Member submissions and the associated proposed definitions, presented in alphabetical order.

Table 1: Proposed definitions

Term	Proposed definitions	Cited sources
Additives	Chemical compounds added during plastic compounding (the process of mixing or blending polymers and additives in a molten state) to fulfil specific desired functional properties in the production process or in the final plastic product, in which they can be divided into four different categories, namely functional additives, colourants, fillers and reinforcements. For example, plasticizers, flame retardants, thermal and ultraviolet (UV) light stabilizers, antioxidants, antimicrobial agents, biocides, pigments, antistatic and blowing agents, impact modifiers, lubricants, etc.	Developed and modified from Chemicals in plastics: a technical report (UNEP and BRS Secretariat 2023) and From Pollution to Solution: A global assessment of marine litter and plastic pollution (UNEP 2021).

Term	Proposed definitions	Cited sources
Avoidable plastic items	Avoidable plastic items, including unnecessary and short-lived products, could be characterized as any plastic material or product that can be avoided or replaced by less harmful alternatives.	Modified from document UNEP/PP/INC.1/7, Plastics science (UNEP, 2022).
Biodegradation	Biological process influenced by the physicochemical (temperature, humidity, pH) and microbiological variables (quantity and nature of microorganisms) of the environment that results in the formation of water, carbon dioxide (CO_2) and/or methane (CH_4), energy and by-products—including residues, new biomass.	Developed and modified from a meaning of 'degradation' contained in From Pollution to Solution: A global assessment of marine litter and plastic pollution (UNEP 2021).
Circular economy	One of the current sustainable economic models, in which products and materials are designed in such a way that they can be continuously utilized—including reused, remanufactured, recycled or recovered—at their highest value and there is no "waste" as all by-products are gainfully used and thus maintained in the economy for as long as possible, along with the consumption of resources of which they are made, and the generation of wastes, especially hazardous wastes, are avoided or minimized, and greenhouse gas emissions are prevented or reduced, can contribute significantly to sustainable consumption and production.	Document UNEP/PP/INC.1/6, Glossary of key terms and Scaling up circular strategies to achieve zero plastic waste in Thailand *(*WWF Thailand 2020) (accessible at https://wwfint.awsassets.panda.org/downloads/zero_plastic_waste_in_thailand_en.pdf).
Degradation	Partial or complete breakdown of a polymer caused by any physical, chemical and biological reactions, resulting in alteration of its properties, such as discolouration, surface cracking and fragmentation.	Developed and modified from From Pollution to Solution: A global assessment of marine litter and plastic pollution (UNEP 2021).
Environmental impacts	Harmful effects of anthropogenic activities on ecosystems.	Developed and modified from a report on policy options to eliminate additional marine plastic litter by 2050 under the G20 Osaka Blue Ocean Vision (IRP 2021).
Extended Producer Responsibility (EPR)	Environmental policy approach in which a producer's responsibility for a product is extended to the post-consumption stage of such product's life cycle for the management of its product after becoming waste, including: collection; pre- treatment, e.g. sorting, dismantling or depollution; (preparation for) reuse; recovery (including recycling and energy recovery) or final disposal.	Developed and modified from document UNEP/PP/INC.1/6, Glossary of key terms (UNEP 2022).
Fossil-based plastics	Plastics made from synthetic polymers derived from petroleum oil.	
Life cycle	The consecutive and interlinked stages of a product system, from raw material acquisition or generation from natural resources to final disposal.	ISO:14040:2006 (en) Environmental management – Life cycle assessment – Principles and framework

Term	Proposed definitions	Cited sources
(Full) life cycle approach	Considering all potential impacts of all activities and outcomes associated with the production and consumption of plastics, including raw material extraction and processing (for plastics: refining; cracking; polymerization), design and manufacturing, packaging, distribution, use and reuse, maintenance and end-of-life management, including segregation, collection, sorting, recycling and disposal.	Document UNEP/PP/INC.1/7, Plastics science (UNEP, 2022).
	Management approach that mitigates all environmental impacts throughout the consecutive and interlinked stages of a product system, from raw material acquisition or generation from natural resources to final disposal and/or to feedstocks.	Developed and modified from a meaning of 'lifecycle' contained in document UNEP/PP/INC.1/6, Glossary of key terms (UNEP 2022).
Marine debris (or "marine litter")	Any anthropogenic, manufactured or processed solid material (regardless of size) to be disposed of or intended to be disposed of or required to be disposed of by national laws or abandoned that ends up in the marine environment, in which it includes, but is not limited to, plastics, metals, glass, paper, rubber, rope, textiles, timber, hazardous materials, such as munitions, asbestos and medical wastes, etc., and any other materials.	Developed and modified from Article 2(1) of the Basel Convention (UNEP and Secretariat of the Basel Convention, 2019); From Pollution to Solution: A global assessment of marine litter and plastic pollution (UNEP 2021), and document UNEP/PP/INC.1/6, Glossary of key terms (UNEP 2022).
Microplastics (MPs)	Generic term for small plastic particles or fragments or pieces that are less than 5 mm in diameter, easily released to the environment, and which are either intentionally used in certain products and manufacturing processes, so-called 'primary MPs', or unintentionally produced from the degradation of macro scale plastic objects or wastes or litters, so-called 'secondary MPs'.	Developed and modified from Addressing single-use plastic products pollution using a life cycle approach (UNEP 2021), Chemicals in plastics: a technical report (UNEP and BRS Secretariat 2023), and From Pollution to Solution: A global assessment of marine litter and plastic pollution (UNEP 2021).
Monomers	Simple molecules that can undergo polymerization, thereby contributing constitutional units to the essential structure of a macromolecule.	Developed and modified from Chemicals in plastics: a technical report (UNEP and BRS Secretariat 2023).
Nanoplastics (NPs)	Plastic particles that are less than 1 micrometre in diameter and produced unintentionally from the degradation of microscale plastic objects or wastes or litter.	Developed and modified from Chemicals in plastics: a technical report (UNEP and BRS Secretariat 2023) and From Pollution to Solution: A global assessment of marine litter and plastic pollution (UNEP 2021).

Term	Proposed definitions	Cited sources
Plastic(s)	Complex materials based on macromolecular compounds (polymers) with possible inclusion of different additives. The most widely used plastics are based on synthetic polymers. Plastics are directly related to plastic masses, meaning that these materials are able to be moulded under the heating and/or pressure and retain a given shape after cooling or solidification. The moulding process is accompanied by transition of a plastic deformable (viscous or highly elastic) state to a solid state (glassy or crystalline).	
	Any solid materials that are made from one or more high-molecular-mass polymers and various additives (used to deliver the functionality and durability of such materials), and which are formed or shaped by heat and/or pressure during their manufacturing processes.	Developed and modified from Chemicals in plastics: a technical report (UNEP and BRS Secretariat 2023); document UNEP/PP/INC.1/6, Glossary of key terms (UNEP 2022); and From Pollution to Solution: A global assessment of marine litter and plastic pollution (UNEP 2021).
	MARPOL and Basel Convention technical guidelines as starting point + greater specificity: should encompass fossil-based and bio-based plastic, and elastomers and textiles unless made from non-chemically modified natural polymers.	MARPOL and the Technical Guidelines of Basel Convention for the Identification and Environmentally Sound Management of Plastic Waste.
	Plastic**s** (in plural): plastic products (products made predominantly of plastics) as well as plastic as a material (long chain/high molecular mass polymers) made of plastic resin codes 1, 2, 3, 4, 5, 6 or 7, singly or in combination with one or more of these plastics or any non-plastic material. This includes plastics made from any source material, including bio-based, bioplastics, biodegradable, degradable, compostable and conventional fossil-based plastics. Unmodified natural polymers (e.g. cotton and paper) which are proven to behave differently in the environment to plastics would be excluded.	With respect to the definition of polymer, European Commission guidelines on the interpretation and implementation of the European Union's Single-use Plastics Directive 2019/904 (EU SUP Directive), referring to Regulation (EC) No 1907/2006 (known as the REACH regulation) which defines polymer.
Plastic pollution	Broadly, all emissions and risks resulting from plastics production, use, waste management and leakage, both from legal and illegal activities.	
	Broadly, the negative effects and emissions resulting from the production and consumption of plastic materials and products across their entire life cycle. This definition includes plastic waste that is mismanaged (e.g. open-burned and dumped in uncontrolled dumpsites) and leakage and accumulation of plastic objects and particles	Working definition in document UNEP/PP/INC.1/7, Appendix I, Plastics science (UNEP, 2022).

Term	Proposed definitions	Cited sources
	that can adversely affect humans and the living and non-living environment.	
	Emissions and leakage of (macro and micro) plastics and chemical pollutants from plastic production, use, recycling and disposal, covering emissions and releases to all environmental compartments.	
	Any pollution that is generated or arisen or released from all stages of and/or across the entire life cycle of plastics.	Developed and modified from a meaning of 'pollutant' contained in document UNEP/PP/INC.1/6, Glossary of key terms (UNEP 2022) and adaptation of proposed definitions of "plastic" and "life cycle approach".
	Includes pollution arising from plastics production, use, waste management and leakage.	
Plastic product(s)	All kinds of products which contain or are partly or entirely made of any form of plastic materials (polymers) e.g. single-use products such as cigarette butts, packaging, consumer goods, building materials, materials and chemicals used in offshore industries, recreational boats, paints, tyres, textiles, fishing gear and items used in aquaculture or agriculture, or products with components where an essential function is determined/achieved by plastics.	Modified from UNEP/PP/INC.1/7, Plastics science (UNEP, 2022).
	an end-use product made of plastic a ~~solid material which contains an essential ingredient one or more high molecular mass polymers~~ and which is formed (shaped) ~~during either manufacture of the polymer~~ by the fabrication of ~~such solid material~~ plastic into a finished product by heat and/or pressure~~. Plastics have material properties ranging from hard and brittle to soft and elastic. For the purposes of this annex, "all plastics" means all garbage that consists of or includes plastic in any form, including synthetic ropes, synthetic fishing nets, plastic garbage bags and incinerator ashes from plastic products.~~ *(strikethrough and emphasis used to show revisions proposed)*	Based on Revised MARPOL Annex V adopted on 15 July 2011; emphasis and strikethrough added.
Polluter Pays Principle	Concept underpinning producer and user responsibilities whereby the entities that introduce products or packaging that become litter are held responsible for arranging the collection and waste management of these materials as well as additional activities to reduce waste.	Scaling up circular strategies to achieve zero plastic waste in Thailand (WWF Thailand 2020) (accessible at https://wwfint.awsassets.panda.org/downloads/zero_plastic_waste_in_thailand_en.pdf).
Pollution	Condition or state that substance, chemicals and pollutants or a group of substances, chemicals and pollutants cause	Developed and modified from a meaning of 'pollutant and

Term	Proposed definitions	Cited sources
	deleterious effects as harm to living resources and life, or human health or the environment on account of its properties and of its introduction into the environment.	pollution of the marine environment' contained in document UNEP/PP/INC.1/6, Glossary of key terms (UNEP 2022).
Polymer	A substance consisting of molecules characterized by the sequence of one or more types of monomer units. Such molecules must be distributed over a range of molecular weights wherein differences in the molecular weight are primarily attributable to differences in the number of monomer units. A polymer comprises: - a simple weight majority of molecules containing at least three monomer units which are covalently bound to at least one other monomer unit or another reactant; - less than a simple weight majority of molecules of the same molecular weight.	Regulation (EC) No 1907/2006 of the European Parliament and Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH).
	Natural or synthetic long-chain high molecular weight molecules (or so-called macromolecules) consisting of repetitive sequences of one or more types of monomers. "Primary plastic polymers": synthetic plastic polymers derived from petroleum oil or so-called fossil-based polymers. "Secondary plastic polymers": polymers made of post-consumer plastic feedstocks.	Developed and modified from Chemicals in plastics: a technical report (UNEP and BRS Secretariat 2023) and From Pollution to Solution: A global assessment of marine litter and plastic pollution (UNEP 2021)
Problematic plastics items	Problematic plastics items could be characterized as any plastic material or product: - that pose a significant risk to human health or the environment (applying the precautionary principle). - that contain or release polymers, monomers or additives or absorb substances that are hazardous to human health or the environment, or compromise their recyclability. - that are most frequently found in the environment due to their characteristics, mismanagement, littering, inappropriate use etc. - that contain intentionally added microplastics or that release high quantities of microplastics during normal use. - that are not reusable for the same use, repairable or recyclable at scale and in practice.	Modified from UNEP/PP/INC.1/7, Plastics science (UNEP, 2022).
Problematic or avoidable plastics	Plastics that are not necessary in uses and can cause plastic pollutions either by themselves or without their environmentally sound management.	
Recycling	Any recovery operation by which waste materials are reprocessed into products, materials or substances whether for the original or other purposes. It includes the	Modified from UNEP/PP/INC.1/7, Plastics science (UNEP, 2022).

Term	Proposed definitions	Cited sources
	reprocessing of organic material but does not include energy recovery and the reprocessing into materials that are to be used as fuels or for backfilling operations.	
Recyclability	A plastic product or component shall be considered recyclable when it fulfils the following conditions: a) it is designed for material recycling, according to design guidelines or standards b) when it becomes waste, it can be recycled at scale and in practice, and it can be effectively and efficiently collected and sorted c) it can be sorted into defined waste streams without affecting the recyclability of other waste streams; and d) when it becomes waste, it can be recycled so that the resulting secondary raw materials are of sufficient quality or of equivalent quality compared to the original material and can be used as a substitute to primary raw material.	Modified from UNEP/PP/INC.1/7, Plastics science (UNEP, 2022).
Waste **(considered as synonymous with "litter" and "debris")**	Any materials or objects which are disposed of or intended to be disposed of or required to be disposed of by the provisions of relevant national law.	Developed and modified from Article 2(1) of the Basel Convention (UNEP and Secretariat of the Basel Convention 2019), From Pollution to Solution: A global assessment of marine litter and plastic pollution (UNEP 2021), and document UNEP/PP/INC.1/6, Glossary of key terms (UNEP 2022).

c. Possible approaches to definitions

11. A number of submissions referred to the need to include agreed definitions or a glossary of terms in the instrument. It was suggested that clear agreed definitions of key terms could provide clarity for the negotiation as well as for the operation and implementation of the instrument. Some suggested that key technical terms could be agreed by a scientific or technical body.

12. A number of Members suggested that the focus should be on the definition of terms used in the instrument that are critical to understanding and implementing the obligations and that negotiating time need not be spent on the definition of concepts not strictly necessary for this purpose. It was also suggested that the need for specific defined terms should be determined by the content of the substantive provisions of the instrument, ensuring their clarity and facilitating implementation.

13. It was also suggested that, as far as possible, existing internationally agreed definitions, including those endorsed in other MEAs or processes, or those contained in documents UNEP/PP/INC.1/6 and UNEP/PP/INC.1/7, could be relied on or used as a starting point.

14. Some considered that the definition of specific terms will depend on the context in which they are used, and that discussion of substantive provisions of the instrument could take place before conducting technical discussions on potential definitions for inclusion in the text of the instrument.

15. It was cautioned that the understanding of some terms can evolve over time due to new scientific knowledge or otherwise, and that any agreed definitions included in the instrument might limit the flexibility of the treaty.

3. Principles

Background

As described in document UNEP/PP/INC1.5 (the "Elements" paper), beyond the scope and specific objectives of the instrument, certain guiding principles may apply to its interpretation or implementation. These may relate to principles of international law, principles of interpretation or other concepts relevant to the subject matter of the instrument, such as the "polluter pays" principle. Together with the preambular paragraphs and text on the scope and objective or objectives, the principles of an instrument may provide context for interpreting the operative provisions to ensure effective implementation.

Based on the submissions of Members prior to the second session, the following options were identified in Appendix 1 to document UNEP/PP/INC.2/4 (the "Options paper"), as potential principles for the future instrument:

a. Precautionary principle;
b. Rio Principles;
c. The principle of equity, and the specific needs and special circumstances of developing and least developed countries, including SIDS;
d. Cooperative and facilitative approach;
e. Polluter pays principle;
f. Extended producer responsibility (EPR);
g. Waste hierarchy;
h. Human rights, including the human right to a clean, healthy and sustainable environment;
i. Avoidance of adverse consequences to the climate, biodiversity and food security;
j. Transparency and reliance on best available science;
k. Social rights, particularly of informal sector workers;
l. Intergenerational responsibility;
m. Gender equality and diversified perspectives, recognizing that marginalized and vulnerable communities are disproportionately affected by plastic pollution.

The elements identified in Member submissions following the second session with respect to potential principles of the future legally binding instrument are synthetized below.

a. Proposed elements to be considered under Principles

16. Submissions on the principles of the instrument were varied. The synthesis of inputs below is presented under broad thematic headers for ease of reading.

17. These headers are not part of Member submissions and are included for the sole purpose of organizing the presentation of inputs in this document and facilitating their consideration by the committee. They are not for negotiation and are not intended to prejudge in any way how the committee may choose to address the issues in the final instrument.

18. Each item is listed below only once but some could potentially fall under two or more headers.

Rio Principles and related elements

19. Many Members supported a reference to all the principles contained in the Rio Declaration on Environment and Development[7] (Rio Principles**)** in the instrument.

20. Specific principles or approaches drawing on or related to the Rio Principles referred to included, without prejudice to their acceptability for all Members:

a. Precautionary principle or approach;
b. Polluter pays;
c. Consideration of specific needs and special circumstances of developing and least developed countries;
d. Cooperation;
e. Equity;
f. Intergenerational responsibility;
g. Sustainable development;
h. Prevention principle;
i. Respect for sovereignty over own resources and prevention of transboundary harm;
j. Common but differentiated responsibilities and taking into account respective circumstances and capacities;
k. Non-discrimination;
l. Measures taken to address plastic pollution should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade;
m. Sustainable and responsible production and consumption, with reference to SDG 12;
n. Capacity-building;
o. Technology transfer;
p. Good governance.

Human rights and related elements

21. Many Members stressed the importance of the promotion and protection of human rights and supported a human rights approach.

22. Specific related principles identified include:

a. The right to a clean, healthy and sustainable environment;
b. Protection of human health;
c. Inclusion, social diversity and gender equality perspective;
d. Indigenous Peoples and First Nations people's knowledge, perspectives and rights;
e. Just transition;
f. Transparency and access to information;
g. Public participation; and
h. Access to justice in environmental matters.

Other elements, including in relation to the principles and approaches to be adopted to address plastic pollution in the instrument

23. The elements below are presented under broad thematic headers for ease of reading. These headers are not part of Member submissions and are included for the sole purpose of organizing the presentation of Members' inputs in this document and facilitating their consideration by the committee. They are not for negotiation and are not

[7] See UNEA resolution 5/14, para. 3 and Rio Declaration on Environment and Development, accessible at https://www.cbd.int/doc/ref/rio-declaration.shtml.

intended to prejudge in any way how the committee may choose to address the issues in the final instrument. Each item is listed below only once but some could potentially fall under two or more subheaders.

24. A number of principles of a general nature were identified, including:

a. Recognition of the synergy between the economy, society and the environment in the pursuit of sustainable development;[8]
b. Recognition of the vital role of plastic, and equal treatment of plastic vis-à-vis all other materials in terms of their impact on human health, environment and climate;
c. Coherence with existing MEAs and regional agreements and building on them to create synergies and avoid duplication;
d. Protection of the environment, including avoiding creating new environmental problems, making environmental protection an integral part of the development process, and avoidance of adverse consequences on the climate, biodiversity and food security;
e. Non-regression of environmental law or existing levels of environmental protection, with reference to the UNEP@50 declaration;
f. Protection of human health and prioritizing public health and environmental concerns, including with reference to the One Health approach;
g. Reliance on the best available science and scientific information; decisions being informed by credible science and research; integrated scientific methodologies; and inclusive science-based policy, especially from developing countries;
h. Scientific cooperation, innovation and promotion of research;
i. Rational and gradual reduction, and adequate transition time to achieve the ultimate objectives of the instrument;
j. Accountability, liability and compensation, including the need for a robust financial mechanism to address legacy plastics, environmental remediation and prevention of any further pollution;
k. Transboundary environmental justice, ensuring that liabilities and impacts arising from the upstream, midstream and downstream of plastics are not transferred to other countries;
l. Recognition of the sovereignty of States in international cooperation;
m. National jurisdiction over the implementation and assessment of provisions, provided that non-discriminatory treatment is granted to other Parties and to entities or persons under their jurisdiction;
n. Full consideration of specific needs, circumstances and local capabilities of developing countries;
o. Recognition of the special circumstances of SIDS, including through provisions allowing for flexibility and priority access to necessary means of implementation;
p. Recognition that marginalized and vulnerable communities are disproportionately affected by plastic pollution;
q. Fair transition, including an inclusive transition for waste workers;
r. A bottom-up approach and the right of Parties to choose policy mixes to combat plastic pollution, considering national circumstances and capacities, including socioeconomic, health, climate and environmental circumstances;
s. Addressing plastic pollution in a facilitative and non-punitive manner and avoiding undue burden being placed on Parties;
t. Principle of integration into the domestic legal order;
u. Multisectoral and multistakeholder approach;
v. Avoiding unnecessary obstacles to international trade and arbitrary or unjustifiable discrimination, including technical barriers to trade that could threaten food security or availability of pharmaceuticals;
w. Freedom of trade and technology transfer in areas related to circular economy.

25. Many submissions further identified specific principles and approaches to be adopted in addressing plastic pollution in the instrument. This included references to:

[8] This is proposed to be placed in the preamble.

a. Recognition of the role of plastics in the economy;
b. A circular economy approach and safe circularity;
c. A full life cycle approach for resources, materials and products;
d. Shared responsibility for the life cycle of products;
e. An ecosystem approach;
f. Nature-based solutions;
g. The proximity principle;
h. Progressivity;
i. Prevention;
j. Correction or rectification at source;
k. Clean production and energy efficiency;
l. Refuse, Reduce, Reuse, Renew, Recycle ("the 5 Rs of waste management");
m. Zero waste;
n. Waste hierarchy;
o. Traceability;
p. Eco-design;
q. Minimization or reduction and reducing the production and use of plastic;
r. Chemical simplification and green chemistry;
s. Extended producer responsibility (EPR), derived from the polluter pays principle, with a shared understanding on basic concepts to harmonize EPRs, and adapting EPR schemes and Deposit Refund Schemes (DRS) to national conditions;
t. Substitution of materials with safer alternatives where they exist and avoidance of regrettable substitutions within the same class of chemicals and life-cycle analysis of the environmental impacts of alternatives;
u. With respect to waste,
    i. separation at source for collection towards recycling;
    ii. inclusive digitalization;
    iii. recognition of reusable and recyclable solid waste as an economic resource with social value;
    iv. a plastic application approach, i.e. addressing plastic product wastes taking into account the characteristics of each product type and the extent of its risk of leakage to the environment and human health;
    v. ecologically sound management of wastes, to guarantee the protection of human health and the environment against their harmful effects;
    vi. monitoring waste movements and customs controls;
    vii. supporting the informal waste sector, particularly informal waste workers, to protect the rights of people disproportionately exposed to chemicals and plastic waste;
v. Raising consumer awareness and eco-responsibility of consumers; and
w. Emphasis on removal of existing (legacy) plastic pollution.

26. A number of submissions identified principles in respect of implementation or means of implementation under the instrument. In this context, the following aspects were identified:

a. The need for the instrument to be economically and technical feasible;
b. The need for adequate transition time to fulfil the ultimate objective of the instrument;
c. Progressive implementation;
d. Country-driven approaches to implementation;
e. Integrated and holistic approaches to means of implementation;
f. Addressing means of implementation equally and in parallel with control measures;
g. Reporting of local and global plastic flow analysis, with uniform parameters/criteria, to enable the follow-up of the global virgin plastic production, and plastic waste;
h. Addressing developing country concerns on the socioeconomic impacts of the implementation of response measures and limiting harm to the economy and environment of developing countries;

i. Enabling developing countries to communicate their needs for effective implementation of the future treaty;
j. Developing countries not carrying the burden by themselves;
k. Mobilizing new, additional, adequate and predictable financial resources to support the transition to a circular economy in developing countries, including through a dedicated financial mechanism to support industry transition and transformation, and support enforcement and accountability systems for the instrument;
l. Provision of technical assistance and cooperation, including to allow equitable access to these technologies; and
m. Supporting national reporting and means of implementation, particularly baseline reports on plastic pollution along the plastic life cycle.

b. Possible approaches to principles

27. A range of views was expressed on the possible placement of principles in the instrument. Some Members expressed a preference for including principles in the preamble, while others suggested that principles could be either included in the preamble or placed in a dedicated provision. A suggestion was also made to operationalize principles throughout the provisions of the instrument.

28. It was suggested that principles would provide guidance to the negotiations. It was also suggested that, given the agreement in resolution 5/14 to take into account the Rio Principles and the limited time available, the committee should focus on the development of substantive provisions.

4. Scope

Background

As described in document UNEP/PP/INC.1/5 (the "elements" paper), in some circumstances it may be necessary to define the scope or coverage of an agreement, whether in terms of subject matter, geography or otherwise. Possible approaches to defining scope include, for example:

a. Defining the products or substances to which the instrument applies (and to which it does not);
b. Defining the jurisdictional scope of application;
c. Defining the uses of resources to which the instrument applies; and
d. Setting out a type or level of activity that will be controlled under the instrument, particularly in respect of hazardous activities.

Ultimately, the approach depends on the problem that the instrument is aimed at addressing. Combinations of approaches may also be used, such as where an activity is regulated only with respect to particular materials.

Based on the submissions of Members prior to the second session, the following options were identified in Appendix 1 to document UNEP/PP/INC.2/4 (the "Options paper"), as potential scope-related aspects for inclusion in the future instrument, individually or in combination:

a. The legally binding instrument is expected to cover the whole life cycle of plastics, from extraction to their production and design to their use, consumption and disposal, and address all sources of plastic pollution, covering materials, products, chemicals, additives and microplastics, recognizing the risk of plastic pollution to human health.
b. The legally binding instrument is to cover plastic pollution, including in the marine environment, with plastic pollution understood to include microplastics, without being duplicative of other multilateral efforts.
c. The instrument is a legally binding instrument that allows evolution and strengthening over time.

The elements identified in Member submissions following the second session with respect to the scope of the future legally binding instrument are synthetized below.

a. Proposed elements to be considered under scope

29. Submissions on scope were varied. Most submissions addressed the scope of the future instrument with reference to the elements contained in UNEA resolution 5/14.

30. A number of specific aspects were elaborated upon, as described below, including aspects that are referred to in UNEA resolution 5/14. The synthesis of inputs below is presented under thematic headers for ease of reading. These headers are not part of Member submissions and are included for the sole purpose of organizing the presentation of inputs in this document and facilitating their consideration by the committee. They are not for negotiation and are not intended to prejudge in any way how the committee may choose to address the issues in the final instrument. Each item is listed below only once but some could potentially fall under two or more headers.

Proposed scope with reference to "elimination of plastic pollution"

31. Many submissions emphasized that the scope of the instrument should focus on elimination of plastic pollution, including in the marine environment. The following specific aspects were highlighted:

a. Recognition of the important role played by plastics in society;
b. The impact of plastic pollution on land and in the marine environment, including terrestrial and freshwater ecosystems;
c. The risk of plastic pollution to human health and the environment;
d. Impacts on ecosystems, climate change and biodiversity;
e. Prevention of plastic pollution;
f. Addressing all sources of plastic pollution and leakage into the environment;
g. Greenhouse gas emissions across the life cycle of plastics;
h. Reducing releases and leakages of plastic waste to the environment.

32. Some submissions also highlighted the objective of long-term elimination of plastic pollution. It was suggested that a gradual approach could be considered, that allows evolution and strengthening of the instrument over time. It was also suggested that to ensure the longevity of the instrument, a time-bound aspiration need not be attached to its goal (while core obligations could include binding obligations with time-bound aspirations as targets to be achieved).

Proposed scope with reference to a "comprehensive approach that addresses the full life cycle of plastic"

33. Many submissions referred to the scope of the instrument being based on a comprehensive approach that addresses the full life cycle of plastic.[9]

34. Submissions varied in their description of the specific elements of the stages of the life cycle to be addressed under such approach. The list below reflects specific aspects identified in submissions of Members, without prejudice as to their acceptability for all Members:

a. With respect to the "upstream" phase:[10]

    i. Extraction of organic or inorganic materials for the production of conventional fossil-fuel based plastics, alternatives or substitutes;

[9] See UNEA resolution 5/14, preamble. A suggestion was also made to refer to the 'lifespan' of plastics, instead of their 'life cycle', to avoid confusion with life cycle approaches and analysis, and circular economy.
[10] Different items are identified in this paragraph as relating to "upstream", "midstream" or "downstream" phases of the life cycle for ease of reference only, and without prejudice to how the committee might decide to characterize any of the listed elements.

ii. Feedstock sourcing and raw materials for production of monomers and plastics;
iii. Polymerisation;
iv. Virgin plastics and products;
v. Chemicals used or released in the production of plastics, including those of concern based on relevant scientific knowledge;
vi. Additives used in the production of plastics, including fillers;
vii. All types of plastic materials, not limited to fossil fuel-based materials, such as bio-based plastics, biodegradable plastics and compostable plastics;
viii. Microplastics;
ix. Pollution resulting from upstream activities, including raw material extraction and polymer production, and the release of manufacturing waste into the environment.

b. With respect to the "midstream" phase:

i. Production and chemical processing or polymer, commodity and specialty chemicals;
ii. Materials and products made from plastics, including products made partly of plastics;
iii. Problematic and avoidable plastics;
iv. Plastic product design and manufacturing;
v. Use, sale, consumption;
vi. Reuse, repair, refurbishment;
vii. Pollution arising from packaging and market distribution of products;
viii. Pollution arising from midstream activities, including plastic product manufacturing and sale;

c. With respect to the "downstream" phase:

i. End-use plastic products that have lost their consumer properties;
ii. Recycling and reuse of end-use products, based on the principles of circular economy;
iii. Stringent recycling standards for materials and applications directly associated with medical, health, safety and hygiene purposes;
iv. All waste resulting from the use of products made from and with plastics, handling and disposal of after-use plastics, and plastic waste management;
v. All pollution resulting from the downstream phase, including littering, uncontrolled dumping, burning and landfilling, incineration, collection, sorting, recycling;
vi. Environmentally sound waste management, including collection, sorting and disposal;
vii. Rehabilitation, restoration, decontamination of sites contaminated with plastics, including removal and remediation of legacy waste.[11]

35. It was also suggested that occupational health aspects and impacts on workers should be considered, at different stages of the life cycle. It was further observed that transportation and trade take place at all stages of the life cycle.

36. Some submissions suggested that particular attention should be given to the upstream part of the life cycle. Others considered that the focus should be on addressing ineffective management of waste, as the root cause of the problem, including through responsible production, consumption and recycling. The promotion of sustainable production and consumption, including design and environmentally sound management so that products and materials can be reused, remanufactured or recycled, resource efficiency and circular economy approaches were highlighted. It was further noted that the coverage in terms of substances, materials and products should be related to addressing plastic pollution, and it was suggested that limiting the production of plastic polymers should not be part of the instrument. It was also noted that not all elements of the life cycle are present in all countries.

37. It was also suggested that solutions across the life cycle should consider an integrated combination of policy, regulatory, economic, business, technological and behavioural instruments and trade policies, and that the relevant socioeconomic implications should be taken into consideration.

[11] See also paragraph 43 below, list of substances and materials proposed to be exempted from the scope of the instrument.

Sectoral coverage

38. A number of submissions identified specific sectors to be covered in the instrument. It was suggested in this respect that uses of plastics in different sectors could be classified and treated separately.

39. Specific sectors identified included:

a. industry and related equipment;
b. medical and health care;
c. agriculture, including irrigation pipes and equipment, mulch film, plastic silage wrap, greenhouse tunnels;
d. animal husbandry, including plastic slatted floor, plastic fence, animal feeder and drinker, pet toys;
e. fisheries, including nets, lines, pots and trowels, plastic mesh, fish aggregating devices (FADs);
f. Abandoned, lost or otherwise discarded fishing gear;
g. aquaculture;
h. packaging;
i. textile;
j. transportation;
k. construction;
l. electrical and electronic materials and equipment;
m. automotive components and accessories;
n. energy and electricity sector equipment; and
o. sports equipment, recreational and camping equipment.

Types of plastics and products to be covered

40. Many submissions referred to the scope of the instrument in relation to the types of plastics and products to be covered. In this respect, many submissions considered that plastic materials (including PET, PS, PBTB, PVC) and products, as well as plastic-related chemicals and substances, including microplastics and nanoplastics should be covered. Reference was also made to addressing the activities and behaviours that contribute to plastic pollution.

41. It was also suggested that high-risk categories of plastics and plastic products be prioritized based on their potential to cause environmental pollution and pose harm to human health. It was further suggested that measures could be phased in, and that different types of measures could apply to plastics prone to leakage (such as single-use plastics), and to embedded or durable plastics, taking into account, *inter alia*, their respective purposes, lifespan and management measures. The ease with which substances, materials or products can be substituted and the availability of safe, accessible, efficient, and economically viable alternatives were also identified as relevant considerations.

42. Specific categories of plastics and plastic products that could be prioritized were identified, including:

a. Single-use plastics;
b. Synthetic fibres/textiles;
c. Plastics used in construction;
d. Consumer products, including:
    i. Absorbent hygiene products (AHP):
    ii. Children's toys;
    iii. Other consumer products;
e. Packaging, including:
    i. Food and beverage packaging;
    ii. Cosmetics and personal care;
    iii. Pharmaceutical and medical;
    iv. Other packaging;
f. Fishing gear;
g. Plastics used in health care;

h. Agricultural plastics; and
i. Microplastics (primary and secondary).

43. Some substances, materials and items were proposed to be exempted from the scope of the instrument:

a. Raw materials, such as hydrocarbons and their derivatives;
b. Intermediate products, including primary polymers, requiring further processing to serve end uses; and
c. Dual-use items.

Scope in respect of trade

44. A number of submissions also referred to the scope of the instrument with respect to trade. This included:

a. Solutions across the life cycle should consider the use of trade policies;
b. Trade requirements should consider the varying levels of development, capabilities and domestic policies of countries;
c. Import and export requirements should apply on a non-discriminatory basis and avoid favouritism;
d. Unilateral actions to deal with environmental challenges outside the jurisdiction of the importing country should be avoided, and environmental measures addressing transboundary or global environmental problems should as far as possible be based on an international consensus;
e. Trade policy measures for environmental purposes should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade and should be the least restrictive of trade and the most effective to achieve the legitimate objective of addressing plastic pollution; and
f. The instrument's rules should not contradict the provisions of the Marrakesh Agreement Establishing the World Trade Organization (WTO), and any measures by the Parties for its implementation should be in full conformity with that Agreement.

Territorial scope

45. Some submissions addressed the territorial and jurisdictional scope to be covered under the instrument. In this respect, the following proposals were made:

a. The instrument should cover all activities within areas where a Party exercises its jurisdiction or control, including the activities of marine vessels, activities in the contiguous zone, exclusive economic zone and continental shelf;
b. The treaty should apply both at the national level and in spaces and territories not falling under the sovereignty of States, specifically targeting high-risk pollution hotspots and utilizing sound, safe environmental assessments and technologies; and
c. Collaborative initiatives extending beyond national jurisdiction should be outlined in the instrument, particularly regarding legacy waste.

Additional elements

46. A number of additional elements were referred to in relation to the scope of the instrument, including:

a. Considering the Rio Principles, including Common but Differentiated Responsibility and national circumstances and capabilities;
b. Recognizing the respective mandates of other international instruments and bodies, avoiding duplication and promoting cooperation and complementarity, building on them as appropriate with flexibility to address areas that have proven challenging for other agreements;

c. Reliance on and continuous incorporation of best available science, scientific and socioeconomic assessments; and traditional knowledge, knowledge of Indigenous peoples and local knowledge systems; role of research and development in finding technical and technological solutions;
d. Inclusion of both binding and voluntary approaches;
e. Taking into account national circumstances and capabilities;
f. National action plans reflecting country-driven approaches to contribute to the objectives of the instrument;
g. Compatibility with economic and social activity, so as to guarantee a decent life for users and producers, especially in developing countries;
h. Assessing and understanding the socio-economic impacts of implementing response measures;
i. Inclusion of provisions for developing countries;
j. Adoption of incremental and just transformation of the plastics industry into a more sustainable and environmentally sound production and consumption;
k. Just transition for waste workers, including waste pickers, and small and medium enterprises;
l. Inclusive and ambitious stakeholder engagement, including of the private sector, to supplement actions by Parties;
m. Transparency and national reporting, including reporting provisions directly linked to substantial obligations and serving their effective implementation, and any requirements to submit information beyond what is necessary for this purpose to be formulated as "best endeavour" clauses and voluntary;
n. Monitoring and compliance, including national designated mechanisms for plastic waste monitoring, reporting and verification would support policymakers in measuring the impacts of implemented targets and policies;
o. Effective surveillance mechanism taking into account origin, product specifications, branding, reuse, recycling and disposal processes throughout the entire life cycle of plastic, without compromising the food chain and the aesthetic value of the ecosystem and natural habitat;
p. Increasing public awareness of the dangers of plastic to the environment on land, sea and air, education and exchange of information and behavioural change in the general public;
q. Need to address the availability, accessibility, affordability and cost implications of alternative technologies;
r. Need for sufficient flexibility to accommodate the different capacities and circumstances of countries while still being effective in addressing the global plastic pollution crisis, including provisions allowing for differentiated responsibilities and time frames for implementation; and

s. Arrangements for capacity-building, technical assistance, technology transfer and financial assistance.

b. Possible approaches to the scope of the instrument

47. Many submissions suggested that UNEA resolution 5/14 provides a basis for the scope of the future agreement, and sIt was also suggested that the scope of the instrument could be derived from resolution 5/14. It was also suggested that the scope of the instrument could provide a road map for its development, based on resolution 5/14.

48. It was also noted that a dedicated scope provision is not mandated by resolution 5/14 and some considered that such a provision was not needed. It was further suggested that the scope of the future instrument could be identified through discussions on each article or that the objective of the agreement and key definitions may indirectly serve the same purpose as a definition of the scope of the treaty. It was also suggested that discussion of control measures could provide further details to clarify the scope later, if necessary.

49. It was also cautioned that defining a scope now could prove limiting in the goal of ending plastic pollution, as scientific knowledge is still developing, and that the agreement could be strengthened over time.

B. Institutional arrangements

1. Governing body

Background

As described in document UNEP/PP/INC1.5 (the "Elements" paper), MEAs will generally contain a provision or set of provisions establishing the main decision-making authority under the instrument. For conventions, this is usually a Conference of the Parties, while protocols usually have a meeting of the Parties. Such provisions may contain stipulations on who may attend and participate in sessions or meetings of the body, the role of observers in those sessions or meetings and the authority of such bodies to draft rules of procedure. Often, there will be a provision spelling out the general authority of the body, as well as a provision on residual authority, namely the authority to take decisions on action required to meet the objective or objectives of the agreement.

Based on the submissions of Members prior to the second session, the following options were identified in Appendix 1 to document UNEP/PP/INC.2/4 (the "Options paper"), as potential functions for the governing body of the future instrument:

a. Take decisions on convening of ordinary and extraordinary meetings of the governing body;
b. Review and evaluate implementation of the instrument;
c. Establish subsidiary bodies as it considers necessary for the implementation of the instrument and oversight of their work;
d. Cooperate, where appropriate, with competent international organizations and intergovernmental and non-governmental bodies;
e. Review information made available to it, such as through national reporting and subsidiary bodies;
f. Consider any matters related to compliance.

The elements identified in Member submissions following the second session with respect to the governing body of the future legally binding instrument are synthetized below.

50. The synthesis of inputs below on the governing body is presented under the following thematic headers for ease of reading: (i) identification and establishment of a governing body; (ii) operation of the governing body; and (iii) functions of the governing body.

51. These headers are not part of Member submissions and are included for the sole purpose of organizing the presentation of inputs in this document and facilitating their consideration by the committee. They are not for negotiation and are not intended to prejudge in any way how the committee may choose to address these issues in the final instrument. Each item is listed below only once but some could potentially fall under two or more headers.

a. Identification and establishment of a governing body

52. Many submissions referred to a Conference of the Parties (COP) as the main decision body or governing body of the instrument.

53. It was further proposed that the governing body be composed of representatives of all Parties and that the instrument should provide for attendance and participation by observers in the meetings of the governing body.

54. The establishment of two governing bodies was also proposed: one that maintains oversight and a smaller experts' group for technical exchanges.

b. Operation of the governing body

55. It was suggested that the instrument should provide for the convening of ordinary and extraordinary meetings of the governing body.

56. Some Members proposed that the governing body use the rules of procedure of the committee when adopting its own rules. It was also proposed that the instrument direct the governing body to adopt its own rules of procedure.

It was also suggested that it was important to capitalize on the experience gained internationally in decision-making, including in the context of the Rotterdam Convention.

57. It was further proposed that the governing body should prioritize inclusivity, fairness and the acknowledgement of common but differentiated responsibilities among Members.

c. Functions of the governing body

58. The following potential functions were identified for the governing body:

a. Taking decisions on convening meetings;
b. Reviewing, evaluating and adopting decisions related to the implementation of the instrument;
c. Considering and taking any action necessary to achieve the objectives of the instrument;
d. Considering matters related to compliance;
e. Establishing subsidiary bodies as it considers necessary for the implementation of the instrument;[12]
f. Overseeing the work of subsidiary bodies;
g. Requesting and considering scientific and technical assessments or reviews from the subsidiary bodies to the instrument or any independent body linked to the instrument;
h. Reviewing information made available to it, including through national reporting and subsidiary bodies;
i. With the help of the subsidiary bodies, providing guidance on financial needs for the implementation of measures;
j. Cooperating, where appropriate, with competent international organizations and intergovernmental and non-governmental bodies; and
k. Considering amendments to the instrument proposed by the Parties.

59. It was also suggested that the functions of the governing body would depend on the design of the provisions.

2. Subsidiary bodies

Background

As described in document UNEP/PP/INC1/5 (the "Elements" paper), some MEAs establish or mandate the establishment of specific, permanent, subsidiary bodies. Generally, many of the essential features of these bodies are included in the instrument, including their purpose and functions, composition and decision-making processes. Even if such bodies are not established, agreements will usually confer on the governing body the authority to establish such bodies as it deems necessary for the implementation of the agreement.

In some cases, a separate delegation of decision-making authority is made to bodies that report to the conference or meeting of the Parties and that have the authority to make recommendations to that body on subjects within their mandate. Mandates often relate to technical, scientific or implementation issues. The instrument may provide for the establishment of specific subsidiary bodies or may defer such establishment to a decision of the governing body. The instrument may also include provisions related to rules of procedure that must be followed by subsidiary bodies, including whether the rules of procedure of the governing body apply *mutatis mutandis* to any subsidiary bodies.

Based on the submissions of Members prior to the second session, the following options were identified in Appendix 1 to document UNEP/PP/INC.2/4 (the "Options paper") for the establishment of subsidiary bodies under the future instrument:

(a) A general mandate for the governing body to establish subsidiary bodies to assist it on matters of implementation and governance of the instrument;

[12] On subsidiary bodies, see also section 2 below.

(b) An article of the instrument establishing one or more subsidiary bodies to support the implementation of the instrument and defining the general parameters of their mandates, with oversight by the governing body.

The elements identified in Member submissions following the second session with respect to the potential subsidiary bodies of the future legally binding instrument are synthetized below.

60. Submissions on subsidiary bodies were varied. The synthesis of inputs below is presented under the following thematic headers for ease of reading: (i) establishment of subsidiary bodies; (ii) operation of subsidiary bodies and (iii) types and functions of possible subsidiary bodies.

61. These headers are not part of Member submissions and are included for the sole purpose of organizing the presentation of inputs in this document and facilitating their consideration by the committee. They are not for negotiation and are not intended to prejudge in any way how the committee may choose to address these issues in the final instrument.

62. Each item is listed below only once but some could potentially fall under two or more headers.

a. Establishment of subsidiary bodies

63. The following approaches to the establishment of subsidiary bodies were proposed:

a. Subsidiary bodies to be established, and their functions defined, within the instrument;

b. Subsidiary bodies to be established by the governing body, which would determine whether any subsidiary body is needed, when it is needed, how its terms of reference should be developed, what duties it should be tasked with, and what duration it should have, absent a compelling reason to establish a subsidiary body in the instrument; or

c. Some subsidiary bodies to be established within the main body of the instrument in provisions that include all necessary elements to ensure that they can start their work and carry out the work effectively, while also providing for the creation of additional subsidiary bodies by the governing body.

b. Composition of and operation of subsidiary bodies

64. The following general considerations and potential approaches were identified with respect to the composition and operation of subsidiary bodies:[13]

a. Subsidiary bodies to handle specific issues under a mandate from and under the ultimate authority of the governing body, or where the governing body delegates its competence due to, for example, the technical nature of the matters;
b. Subsidiary bodies to be supported by the secretariat, with a possible representation of national focal points;
c. Composition to consider geographical and developing country representation, gender balance and racial equality;
d. Need to address conflicts of interest, including with respect to financial stakes in the life cycle of plastics;
e. Processes to be open to observers; and

[13] The elements listed in this paragraph may have been proposed in the context of a specific proposed body and may not be relevant or applicable to all types of subsidiary bodies. They are grouped here for ease of reference only, based on their potential relevance to subsidiary bodies in general.

f. Reports to be made public upon approval of the governing body.

c. Proposed types of subsidiary bodies

65. Different possible subsidiary bodies were identified in Member submissions. The proposals in this respect differ in their articulation of the exact mandate and functions that would be assigned to the relevant body or bodies.

66. For the purposes of presenting the different proposals in this document, they are grouped below around the following broad categories, based on the nature of the functions that would be assigned to a subsidiary body: (i) scientific, technical and socioeconomic assessments; (ii) monitoring and review of effectiveness; and (iii) review of implementation and compliance.

67. Some submissions envisage that more than one of the above functions would fall within the mandate of a single subsidiary body, and the exact nature and scope of the functions proposed to be assigned to a given subsidiary body differs from submission to submission. The broad categories below are therefore not mutually exclusive, and the presentation of the different elements below is not intended to prejudge in any way how many subsidiary bodies might be established or what functions might be assigned to one or another such subsidiary body under the future legal instrument.

Scientific, technical and socioeconomic assessments

68. The need for the instrument to be informed by concrete scientific, technical and technological advice was noted. Many submissions proposed, or were open to, the establishment of a scientific or technical body to address technical and scientific issues and issues relating to technological innovations. Such body was variously described as scientific body; scientific/technical body, technical review committee, evidence and technical body or technical review body.

69. In some instances, it was also proposed that this be a socioeconomic technical body with a mandate to assess and address the impacts of policy interventions, including the environmental and economic feasibility of switching to alternatives to plastics, or assess the social and economic impacts of initiatives proposed by the governing body. Alternatively, the establishment of Scientific, Technical and Economic Panels (STEPs) was proposed.

70. The descriptions of the purpose of such bodies and of the specific functions that they would be mandated to perform varied across submissions. Overall functions proposed to be assigned to such body included:

a. Facilitating compliance, implementation and increased ambition as may be necessary;
b. Supporting the governing body with scientific and technical knowledge, including by providing policy-relevant scientific, technical and socioeconomic information and assessments, on a proactive and reactive basis, to inform the decisions of Parties;
c. Providing policy-relevant scientific assessments, developing recommendations and providing guidance to the governing body on possible actions based on scientific information;
d. Facilitating proposals for updating the instrument based on the best available knowledge and technical guidance;
e. Appraising the most up-to-date science and evidence, and evaluating socioeconomic data;
f. Conducting assessments on measures, actions and approaches under the instrument, including potential economic, environmental and social implications of amendments, adjustments and proposed regulatory actions;
g. Understanding the environmental issues addressed by the instrument, assessing the impacts of human activities, or evaluating the effectiveness of proposed measures; and
h. Environmental monitoring of plastic pollution and its impacts on human health and the environment, collecting data and research and producing reports including research into the impacts of plastic pollution.

71. Specific tasks proposed to be carried out by a scientific or technical body included:

a. Providing scientific assessments and recommendations on possible actions on matters such as:

i. Identification and evaluation of chemicals and polymers of concern based on criteria to be developed;
ii. reviewing and recommending chemicals and polymers of concern and problematic plastic products for potential listing in annexes;
iii. Identification of problematic and avoidable (including unnecessary) plastic products based on criteria to be developed;
iv. The development of criteria for circular design;
v. Risk assessments of new and existing plastic products;
vi. Cost, safety, sustainability and market availability of chemicals, inputs and proposed alternatives and comparing the life cycle assessments (LCAs) of plastics and their alternatives;
vii. Evidence-based and standardized measuring methods on amounts, characteristics and impacts of plastics and microplastics in different environmental compartments;
viii. Environmental and human health impacts and costs of plastic pollution;
ix. Minimum funding requirements to the Financial Mechanism needed for the implementation of obligations;

b. Providing information on standards, guidelines, procedures and best practices;
c. Adopting baselines, standards, methodologies and definitions, and strengthening LCA standards;

d. Proposing restrictions on the use, manufacture and international trade of substances addressed by other MEAs (e.g., Stockholm Convention), such as single-use plastics, products containing microplastics;
e. Reviewing and assessing the cost of transition and socioeconomic impacts of plastic pollution and measures to address it;
f. Making recommendations for the conduct of risk assessments and environmental impact assessments for remediation activities;
g. Monitoring, reporting and verifying remediation activities;
h. Undertaking any additional action on areas of concern to the Parties.

72. The establishment of working groups was also proposed, including to:

a. provide guidance on sector-specific issues;
b. share best practices;
c. propose candidates for listing in annexes;
d. propose relevant examples on design/product requirements;
e. propose bans on specific products or polymers;
f. propose effective measures to reduce leakage and emissions of microplastics;
g. develop criteria, guidelines on key principles or minimum requirements for EPR (if not contained in an annex); and
h. design and validate scientific and technical guidelines for the management of plastic products and waste.

73. The establishment of a clearing-house mechanism, as a platform for the exchange of knowledge and technologies through which Parties would endeavour to cooperate, was also proposed.

74. It was suggested that the scientific and technical body work at the direction of, and be accountable to, the governing body, and that the governing body should have the power to direct it to perform additional functions and provide additional information as may be requested by Parties.

75. It was further proposed that access to the scientific or technical body should be open to all Parties, that it be comprised of experts qualified in the field and the study of plastic pollution, and that it include scientific and technical experts as well as social scientists and economists.[14]

[14] See also the general considerations on the composition and operation of subsidiary bodies identified above.

76. It was also noted that some relevant associated bodies already exist, and that duplication should be avoided. In this respect it was suggested that a clear relationship with other global assessment panels such as UNEP-IRP, IPBES and IPCC, and with the BRS conventions, should be established as appropriate. It was further suggested that the governing body could request the future Science Policy Panel on the sound management of chemicals and waste and to prevent pollution (SPP) to provide relevant scientific knowledge and carry out assessment work. It was also cautioned, however, that the subsidiary bodies would form an essential aspect of the institutional framework of the instrument, performing critical functions that should be incorporated into the instrument under the authority of the governing body and not outsourced to other conventions or agreements.

Effectiveness monitoring, review and evaluation

77. A number of Members proposed that an effectiveness evaluation committee be established, or a monitoring and review committee to periodically assess and evaluate collective progress in achieving the objectives of the instrument.

78. It was suggested that such assessments could be based on observed levels and trends in quantities and impacts of plastic in the environment, addressing efforts in relation to the implementation of the provisions in the instrument based on a variety of sources, including national, regional and other reporting, and information provided by the future SPP. On this basis, the committee could provide recommendations and guidance to the governing body regarding how to improve progress in achieving the objectives.

79. An alternative approach proposed was for the scientific and technical body to review and assess the effectiveness of the instrument, of the obligations and control measures within the instrument, and the actions taken by Parties for the reduction of plastic impacts.

Review of implementation and compliance

80. The establishment of an implementation and compliance committee was also proposed, to promote implementation of, and review compliance with, all obligations and provisions of the instrument. It was also suggested that the scientific body could review the implementation of the instrument. The matter of the compliance mechanism was addressed at the second session. Options reflecting Member positions in this respect are reflected in part IV of document UNEP/PP/INC.3/4 (the Zero Draft text).[15]

Multistakeholder engagement

81. Reference was also made to the importance of stakeholder engagement, including through the possible establishment of a multistakeholder dialogue, with participation of stakeholders across the value chain, and the establishment of a multi-stakeholder action agenda.

[15] See UNEP/PP/INC.3/4, Zero Draft text of the international legally binding instrument on plastic pollution, including in the marine environment, 4 September 2023, available at https://wedocs.unep.org/bitstream/handle/20.500.11822/43239/ZERODRAFT.pdf.

3. Secretariat

Background

UNEA resolution 5/14 invites the committee to consider, in its deliberations, "efficient organization and streamlined secretariat arrangements".[16]

As described in document UNEP/PP/INC1/5 (the "Elements" paper), MEAs will generally contain a provision establishing a secretariat. Such agreements generally provide that, unless the agreement has already done so, the governing body will designate the entity to administer the secretariat functions at its first meeting. The agreement will usually list the functions of the secretariat, with some of the most common functions being arranging and providing logistical support for meetings of the governing body and its subsidiary bodies, gathering and preparing background information on issues related to the development and implementation of the instrument, and assisting Parties in the exchange of information related to implementing the agreement.

Based on the submissions of Members prior to the second session, the following options were identified in Appendix 1 to document UNEP/PP/INC.2/4 (the "Options paper"), as potential functions for inclusion in a provision establishing the secretariat of the instrument:

a. Make arrangements for sessions of the governing body, subsidiary bodies, if any, and the multi-stakeholder action agenda, if any, and provide related services as required;
b. Coordinate with the secretariats of other relevant international bodies and instruments, as appropriate;
c. Assist Parties in the exchange of information related to the implementation of the instrument as required;
d. Prepare, and make available to the Parties, periodic reports based on national reporting and other sources of information, as appropriate;
e. Enter, under the overall guidance of the governing body, into administrative and contractual arrangements that may be required for the secretariat to perform its functions;
f. Perform any secretariat functions specified in the instrument and any other functions as may be determined by the governing body.

The elements identified in Member submissions following the second session with respect to the secretariat of the future legally binding instrument are synthetized below.

a. Establishment of the secretariat

82. It was proposed that the Secretariat be established in the instrument, and that its functions also be outlined in the body of the instrument.

83. It was noted that the secretariat should be independent and that it is often located at the headquarters of the respective treaty organization.

84. The establishment of a regional secretariat under the aegis of UNEP was also proposed, in addition to an international secretariat.

[16] See UNEA resolution 5/14, para. 4. In some cases, a treaty establishes an interim secretariat that operates prior to the coming into force of the treaty. For example, the committee or a Conference of Plenipotentiaries can request the Executive Director of the United Nations Environment Programme to provide interim secretariat services until the first meeting of the governing body is convened. The Convention on Biological Diversity had an interim secretariat between the entry into force of the Convention and the first meeting of the Conference of the Parties, which was established under Article 21 of the Convention. The committee or Conference of Plenipotentiaries can also request the interim secretariat to cooperate with other treaty bodies (e.g. the arrangements for the Interim Secretariat of the Minamata Convention. See (UNEP(DTIE)/Hg/INC.6/INF/7)).

b. Possible functions of the secretariat

85. Possible functions identified for the secretariat include:

a. Preparation and arrangements for meetings of the governing body and subsidiary bodies, and the multi-stakeholder action agenda, if any, and provision of related services as required;
b. Facilitating and coordinating the implementation of the instrument;
c. Assisting Parties, as required, in the exchange of information related to the implementation of the instrument;
d. Compiling and publishing national reports submitted by the Parties;
e. Preparing and making available to the Parties periodic reports based on national reporting and other sources of information, as appropriate;
f. Coordinating, as appropriate, with the secretariats of other relevant international bodies and instruments;
g. Performing any secretariat functions specified in the instrument and any other functions as may be determined by the governing body; and
h. Entering, under the overall guidance of the governing body, into administrative and contractual arrangements that may be required for the secretariat to perform its functions.

86. It was also suggested that in respect of implementation of commitments and assessments, the secretariat's functions should be limited to organizational work and facilitation of interaction between Parties and that it should not be assigned responsibility for evaluating the compliance status of Parties based on national reports submitted, or assessing their progress towards achieving the objectives of the instrument, which require highly scientific and technical knowledge, and concern the rights and obligations of Parties to the instrument.

C. Final provisions

Background

As described in document UNEP/PP/INC.1/8 ("Description of standard articles on final provisions that are typically included in multilateral environmental agreements"), prepared for the first session of the committee, "final provisions" or "final clauses" are provisions typically found at the end of a treaty, relating to procedural aspects and allowing for its easy operation.[17]

That document contained a description of standard articles on final provisions typically included in MEAs and draft standard articles on a range of potential final provisions.

Document UNEP/PP/INC.1/5 further identified the following potential elements to be addressed in final provisions:

- reservations;
- settlement of disputes;
- amendments to the instrument;
- adoption and amendment of annexes;
- entry into force; and
- withdrawal.

The elements identified in Member submissions following the second session with respect to possible final provisions of the future legally binding instrument are synthetized below.

[17] UNEP/PP/INC.1/8, Description of standard articles on final provisions that are typically included in multilateral environmental agreements, Annex, paragraph 1.

87. In the synthesis below, issues identified in document UNEP/PP/INC.1/8 are listed first, in the same order as in that document,[18] and are followed by other elements identified in Member submissions. This order of presentation is intended for ease of reference only and is not intended to prejudge in any way how the committee may choose to address any of these elements in the future instrument.

88. Reference was made to the list of potential final provisions contained in document UNEP/PP/INC.1/8.[19] It was suggested that the sample definitions contained in that document could be used as an initial basis for negotiation. It was also cautioned that the draft text of any final provisions may need to be revised once the substantive provisions are more elaborated, so that it may be premature to negotiate text for some of these final provisions at this stage.

a. Settlement of disputes

89. With respect to dispute settlement, it was suggested that negotiation or other peaceful means should be sought, and that disputes between Parties must be resolved fairly and without discrimination.

90. It was also suggested that technical and administrative guidelines on settlement of disputes be contained in an annex. The inclusion of a comprehensive arbitration procedure in the instrument was also proposed, though it was also questioned whether an annex on arbitration would be needed in the instrument.

91. It was further observed that the international judicial system lacks an autonomous body for resolving environmental disputes, including on plastic pollution, and that an International Court of Environmental Issues could be established.

b. Amendments to the instrument

92. Many submissions addressed potential provisions for the amendment of the instrument, including to enable further development and gradual strengthening of the treaty and its integrated components, and updates based on evolving scientific evidence.

93. Specific proposals in this respect included:

a. Inclusion in the instrument of clear procedures detailing how amendments could be proposed, reviewed and approved;
b. Establishment of procedures for an authorized expert committee to review and recommend amendments, and the governing body to decide on the proposed amendments;
c. Consideration and adoption of an amendment only upon a proposal by a Party, and with a clear undisputed scientific justification;
d. A three fourths majority for the adoption of amendments to the instrument;
e. Once adopted, ratification of an amendment by a threshold majority of the Parties before it enters into force; and
f. An amendment adopted by the governing body would be subject to affirmative acceptance by a Party for it to enter into force for that Party.

[18] No submission addressed the following aspects mentioned in document UNEP/PP/INC.1/8: right to vote; signature; ratification acceptance, approval or accession; depository; and authentic texts.
[19] This list includes settlement of disputes, amendments to the instrument, adoption and amendments of annexes, right to vote, signature, ratification, acceptance, approval or accession, entry into force, reservations, withdrawal, depositary and authentic texts.

c. Adoption and amendment of annexes

94. It was proposed that annexes be established on:

a. Effective implementation of the instrument;
b. Key principles and minimum requirements for Extended Producer Responsibility (EPR) systems;
c. Lists of types of additive chemicals to be controlled or restricted, and information requirements and screening criteria to list such chemicals; and
d. Dispute settlement procedures.

95. It was also suggested that certain annexes could be updated based on evolving scientific evidence. A three-fourths majority was proposed as a threshold for the adoption of amendments.

96. It was also suggested that it would be premature to debate or agree on the adoption and amendment of annexes before considering whether the instrument will have annexes.

d. Entry into force

97. The following possible requirements were identified for the entry into force of the instrument:

a. entry into force on the ninetieth day after the date of deposit of the fiftieth instrument of ratification, acceptance, approval or accession (similar to the Minamata and Stockholm Conventions); and
b. supplementary criteria relating to the estimated total volume of plastic consumption (similar to the Montreal Protocol).

98. Interest was also expressed in exploring a range of potential options, for example based on the number of Parties having ratified the instrument.[20]

e. Reservations

99. It was suggested that whether reservations should be permitted under the instrument should depend on the nature of the eventual obligations, and that reservations might be necessary or desirable, in some cases, to facilitate wider general acceptance of the final instrument, without undermining its objective.

f. Withdrawal

100. It was suggested that once a Party has decided to withdraw, it should be permitted to do so, and that there is no benefit to keeping Parties in the instrument for a three-year waiting period if they do not wish to be bound.

g. Non-Party provisions

101. It was proposed that the instrument include "non-Party" provisions to establish the relationship between Parties and non-Parties and promote the ratification of the future instrument. Relevant provisions of the Basel Convention and the Montreal Protocol for the promotion of the ratification of the instrument were cited as examples.

102. It was also suggested that such provisions could include trade restrictions on Parties in their dealing with non-Parties unless the non-Parties conform to the requirements of the treaty, bearing in mind that such provisions should not hinder trade or prevent those Parties with limited knowledge, financing and technology from exporting plastic waste that they cannot manage.

[20] See document UNEP/PP/INC.1/8 for potential options.

h. Relationship with other relevant legal instruments

103. With reference to UNEA resolution 5/14, para. 3 (k)), it was suggested that in avoiding duplication of obligations, it should be confirmed that the provisions of existing conventions should take precedence for matters stipulated in those conventions.

Appendix: Glossary of key terms[21]

I. Terms used in UNEA resolution 5/14 with definitions adopted or endorsed by an intergovernmental process

Environmentally sound waste management means taking all practicable steps to ensure that hazardous wastes or other wastes are managed in a manner which will protect human health and the environment against the adverse effects which may result from such wastes.[22]

Impact means any effect caused by a proposed activity on the environment, including on human health and safety, flora, fauna, soil, air, water, climate, landscape and historical monuments or other physical structures or the interaction among those factors. It also includes effects on cultural heritage or socioeconomic conditions resulting from alterations to those factors.[23]

Microplastics There is ongoing debate about the size limit; the definition of microplastics as particles less than 5 mm in diameter is used.[24] Microplastics are categorized into primary and secondary:

> **Primary microplastics** are manufactured to carry out a specific function[25] (e.g. cosmetics, abrasive cleaning beads).
>
> **Secondary microplastics** result from wear and tear or fragmentation of larger objects, both during use and following loss to the environment.[26]

Resource efficiency, in general terms, describes the overarching goals of decoupling,[27] increasing human well-being and economic growth while lowering the amount of resources required and negative environmental impacts associated with resource use.[28]

Sustainable production and consumption refers to the use of services and related products which respond to basic needs and bring a better quality of life while minimizing the use of natural resources and toxic materials as well as the emissions of waste and pollutants over the life cycle of the service or product so as not to jeopardize the needs of further generations.[29] **Sustainable production** concerns the supply side, focusing on the economic, social and environmental impact of production processes, while **sustainable consumption** addresses the demand side, focusing

[21] Based on document UNEP/PP/INC.1/6, Glossary of terms, Intergovernmental negotiating committee to develop an international legally binding instrument on plastic pollution, including in the marine environment, First session, Punta del Este, Uruguay, Item 4 of the provisional agenda, Preparation of an international legally binding instrument on plastic pollution, including in the marine environment, 8 September 2022, available at https://wedocs.unep.org/bitstream/handle/20.500.11822/41266/Glossary_Key_Terms_E.pdf; and UNEP/PP/INC.1/7, Plastics science, 13 September 2022, available at https://wedocs.unep.org/bitstream/handle/20.500.11822/41263/Plastic_Science_E.pdf.

[22] Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, art. 2 (8). The definition in the Basel Convention is used for environmentally sound management of hazardous wastes or other wastes.

[23] Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention), art.1 (vii).

[24] UNEP, From Pollution to Solution: A Global Assessment of Marine Litter and Plastic Pollution (Nairobi, 2021).

[25] Cole, M. *et al*., Microplastics as contaminants in the marine environment: A review, *Marine Pollution Bulletin* 62, 12 (Dec. 2011), 2588−2597.

[26] Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection, Sources, Fate and Effects of Microplastics in the Marine Environment: A Global Assessment (London, International Maritime Organization, 2015).

[27] Resource decoupling means delinking the rate of use of primary resources from economic activity. See the glossary compiled by the International Resource Panel (2021), available at https://www.resourcepanel.org/glossary.

[28] International Resource Panel glossary (2021). The secretariat notes that the report further defines this term for context-specific technical use, and that the more general definition found in the same report has been included in this document.

[29] This definition was provided by the Norwegian Ministry of Environment at the Oslo Symposium on Sustainable Consumption in 1994 and has since become the most widely accepted definition of the term "sustainable consumption and production". See document UNEP/GC.26/7 (2010), footnote 3.

on consumers' choices of goods and services, such as food, shelter, clothing, mobility and leisure, to fulfil basic needs and improve the quality of life.[30]

Technology transfer means the transmission of know-how, equipment and products to governments, organizations or other stakeholders. It usually also implies adaptation for use in a specific cultural, social, economic and environmental context.[31]

Traditional knowledge is the knowledge, innovations and practices of Indigenous [peoples] and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity.[32]

Traditional knowledge systems are based on values, beliefs, rituals and community laws and practices, as well as concepts and methods for land and ecosystem management. Some knowledge is of a highly sacred nature and therefore sensitive and not publicly available, even to members of the community or people concerned.[33]

Wastes means substances or objects which are disposed of or are intended to be disposed of or are required to be disposed of by the provisions of national law.[34]

Waste minimization includes strict avoidance, source reduction, direct reuse, reuse and recycling.[35]

II. Terms used in UNEA resolution 5/14 that do not have definitions adopted or endorsed by an intergovernmental process but that may be relevant to the development of the instrument

(Full) life-cycle approach means considering all potential impacts of all activities and outcomes associated with the production and consumption of plastics, including raw material extraction and processing (for plastics: refining; cracking; polymerization), design and manufacturing, packaging, distribution, use and reuse, maintenance and end-of-life management, including segregation, collection, sorting, recycling and disposal *(working definition, developed as a key term in document UNEP/PP/INC.1/7, entitled "Plastics science")*.[36]

Plastic pollution is defined broadly as the negative effects and emissions resulting from the production and consumption of plastic materials and products across their entire life cycle. This definition includes plastic waste that is mismanaged (e.g. open-burned and dumped in uncontrolled dumpsites) and leakage and accumulation of plastic objects and particles that can adversely affect humans and the living and non-living environment *(working definition, developed as a key term in document UNEP/PP/INC.1/7, entitled "Plastics science")*.

[30] Commission on Sustainable Development, Consumer protection: guidelines for sustainable consumption, E/CN.17/1998/5, annex, para. 7.
[31] United Nations Environment Programme, Glossary of Terms for Negotiators of Multilateral Environmental Agreements (Nairobi, 2007), p. 91.
[32] Convention on Biological Diversity, art. 8 (j); see also the ninth preambular paragraph of decision III/14 of the Conference of the Parties regarding the implementation of article 8 (j) and decision XII/12 (f), in which the Conference of the Parties decided to use the terminology "Indigenous peoples and local communities" in future decisions and secondary documents under the Convention, as appropriate. The secretariat notes that the term used in UNEA resolution 5/14 is "traditional knowledge, knowledge of Indigenous peoples and local knowledge systems".
[33] E/C.19/2019/5, p. 2. The secretariat notes that the term used in resolution 5/14 is "traditional knowledge, knowledge of Indigenous peoples and local knowledge systems".
[34] Basel Convention, art. 2 (1).
[35] Conference of Parties to the Basel Convention, Set of practical manuals for the promotion of the environmentally sound management of wastes, document UNEP/CHW.13/4/Add.1/Rev.1, p. 8. The secretariat notes that the term used in resolution 5/14 is "minimization of waste".
[36] UNEP, Life Cycle Initiative, available at https://www.lifecycleinitiative.org/life-cycle-approach-to-plasticpollution/

III. Terms not used in UNEA resolution 5/14 that may be related to those used in the resolution and that have definitions adopted or endorsed by an intergovernmental process

Best environmental practices means the application of the most appropriate combination of environmental control measures and strategies.[37]

A more **circular economy**, one of the current sustainable economic models, in which products and materials are designed in such a way that they can be reused, remanufactured[,] recycled or recovered and thus maintained in the economy for as long as possible, along with the resources of which they are made, and the generation of waste, especially hazardous waste, is avoided or minimized, and greenhouse gas emissions are prevented or reduced, can contribute significantly to sustainable consumption and production.[38]

Essential (plastic products) use refers to uses that are considered necessary for health, safety or other important purposes for which alternatives are not yet established.[39]

Extended producer responsibility (EPR) is an environmental policy approach in which a producer's responsibility for a product is extended to the waste stage of that product's life cycle. In practice, EPR involves producers taking responsibility for the management of products after they become waste, including: collection; pre-treatment, e.g. sorting, dismantling or depollution; (preparation for) reuse; recovery (including recycling and energy recovery) or final disposal. EPR systems can allow producers to exercise their responsibility by providing the financial resources required and/or by taking over the operational aspects of the process from municipalities. They assume the responsibility voluntarily or mandatorily; EPR systems can be implemented individually or collectively.[40]

Life cycle means the consecutive and interlinked stages of a product system, from raw material acquisition or generation from natural resources to final disposal.[41]

Life cycle assessment is a compilation and evaluation of the inputs, outputs and potential environmental impacts of a product system through its life cycle.[42]

Macroplastics are anything made of plastic that can be easily seen,[43] usually considered as being more than 5 mm in diameter.

Management (of wastes) means the collection, transport and disposal of hazardous wastes or other wastes, including after-care of disposal sites.[44]

Mechanical recycling means processing of plastics waste into secondary raw material or products without significantly changing the chemical structure of the material.[45]

[37] Stockholm Convention on Persistent Organic Pollutants, art. 5 (f) (v).
[38] UNEA resolution 4/1, Innovative pathways to achieve sustainable consumption and production, fourteenth preambular paragraph.
[39] Garnett, K. and Van Calster, G., The Concept of Essential Use: A Novel Approach to Regulating Chemicals in the European Union, *Transnational Environmental Law* 10, 1 (March 2021), 159–187.
[40] Conference of the Parties to the Basel Convention, Revised draft manuals on extended producer responsibility and financing systems for environmentally sound management, document UNEP/CHW.14/5/Add.1, adopted in decision BC-14/3.
[41] International Organization for Standardization, Environmental management – Life cycle assessment – Principles and framework, document ISO:14040:2006, s.3.1.
[42] Ibid., s.3.2.
[43] UNEP, From Pollution to Solution: A Global Assessment of Marine Litter and Plastic Pollution (Nairobi, 2021).
[44] Basel Convention, art. 2 (2). The secretariat notes that the definition in the Basel Convention is used for environmentally sound management of hazardous wastes or other wastes.
[45] International Organization for Standardization, Plastics – Vocabulary, document ISO:472:2013, s.2.1697.

Nanoplastic are a subset of microplastics, usually defined as being less than 100 nm in size.[46]

Plastic means a solid material which contains as an essential ingredient one or more high molecular mass polymer and which is formed (shaped) during either manufacture of the polymer or the fabrication into a finished product by heat and/or pressure. Plastics have material properties ranging from hard and brittle to soft and elastic.[47]

Plastic leakage refers to the flow of plastics into the terrestrial and aquatic environment.

Pollutant means a substance or group of substances that may be harmful to the environment or to human health on account of its properties and of its introduction into the environment.[48]

Pollution of the marine environment means the introduction by man,[49] directly or indirectly, of substances or energy into the marine environment, including estuaries, which results or is likely to result in such deleterious effects as harm to living resources and marine life, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of seawater and reduction of amenities.[50]

Problematic and unnecessary plastic items are defined by The New Plastics Economy Global Commitment which proposes the following criteria for the identification of problematic or unnecessary plastic packaging or plastic packaging components:[51]

- It is not reusable, recyclable or compostable (as per Global Commitment definitions).

- It contains, or its manufacturing requires, hazardous chemicals[52] that pose a significant risk to human health or the environment (applying the precautionary principle).

- It can be avoided (or replaced by a reuse model) while maintaining utility.

- It hinders or disrupts the recyclability or compostability of other items.

- It has a high likelihood of becoming litter or ending up in the natural environment.

Reuse means use of a product more than once in its original form.[53]

Recycling means processing of waste materials for the original purpose or for other purposes, excluding energy recovery.[54]

Short-lived plastic products refer to plastics in packaging and consumer products with the shortest average use cycles – 0.5 and 3 years.[55] The categorization is based on average lifespan, so some products will have longer life spans. This category includes single-use plastic products.

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[46] Koelmans, A.A., Besseling, E. and Shim, J.W. (2015), Nanoplastics in the Aquatic Environment: Critical Review. In M. Bergmann, L. Gutow and M. Klages, eds., Marine Anthropogenic Litter (Springer, Cham, 2015).
[47] Amendment to the annex of the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships (MARPOL), resolution MEPC.201(62), annex, "Revised MARPOL annex V", regulation 1.13.
[48] Protocol on Pollutant Release and Transfer Registers to the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Kyiv Protocol), art. II (6).
[49] The use of terms such as "man" and "mankind" to denote "humans", "humankind" or "humanity" is no longer considered acceptable in United Nations documents.
[50] United Nations Convention on the Law of the Sea, art. I (4).
[51] Based on Ellen MacArthur Foundation, New Plastics Economy Global Commitment – Commitments, Vision and Definitions (2020), available at https://emf.thirdlight.com/link/pq2algvgnv1n-uitck8/@/preview/1?o.
[52] Hazardous chemicals are those that exhibit intrinsically hazardous properties such as being persistent, bioaccumulative and toxic; very persistent and very bio-accumulative; carcinogenic, mutagenic and toxic for reproduction; or endocrine disruptors; not just those that have been regulated or restricted in other regions (source: Roadmap to Zero, glossary).
[53] International Organization for Standardization, Plastics –Vocabulary, document ISO:472:2013, s.2.1708.
[54] Ibid., s.2.1706.
[55] Geyer, R., Jambeck, R.J. and Law, K.L. Production, use, and fate of all plastics ever made, *Science Advances* 3, 7 (July 2017).

Single-use plastic products are designed and produced to be used once before being thrown away or recycled.

Sustainable, circular plastic products are designed to be reused many times, and their material recycled or composted at the end of use, in practice and at scale, minimizing their adverse environmental impacts and respecting the rights of all people involved across their life cycle *(working definition)*.

Systems change captures the idea of addressing the causes, rather than the symptoms, of a societal issue by taking a holistic (or "systemic") view. Systemic change is generally understood to require adjustments or transformations in policies, practices, power dynamics, social norms or mindsets. It often involves a diverse set of players and can take place at a local, national or global level;[56] systems change requires modifications in many of the system structures, such as the mindset or paradigm that creates the system or the system's goals or rules.[57]

[56] Ashoka *et al*., New Allies. How governments can unlock the potential of social entrepreneurs for the common good (Ashoka Deutschland GmbH and McKinsey & Company, Inc. 2021).
[57] Meadows, D. Leverage Points: Places to Intervene in a System; see also Anna Birney, What is systems change? An outcome and process, School of Systems Change, 2 September 2016.