

COMMENTS ON THE CHAIR'S SUMMARY OF 4th MEETING OF AD HOC OPEN-ENDED EXPERT GROUP

Dear Chair,

On behalf of the Center for International Environmental Law, Environmental Investigation Agency, The Center for Oceanic Awareness, Research, and Education, GAIA, HEJSupport, ESDO, and OceanCare, all members of the Break Free From Plastic movement, we respectfully submit the following comments on and suggestions for the chair's Zero Draft of the Summary of the AHEG's work.

After these general comments on the sections of the draft summary report, we also provide some possible language suggestions to address some of those comments.

- The focus of the work of the AHEG has clearly been about plastic, and many participants highlighted in AHEG 2 and 3 that our work was not limited to "marine" litter, since freshwater ecosystems are clearly an important part of our mandate. Recent scientific evidence further shows without doubts that other environmental compartments, such as air and soils, contain similar or greater concentration of microplastic than the marine environment. Thus, there are several suggestions below to harmonize mentions throughout the document to "*marine plastic litter*" or "*plastic pollution*" rather than only "*marine litter*".
- The AHEG derives its mandate from both UNEA 3 resolution 3/7 and UNEA4 resolution 4/6, and both are included as annex to the document, we therefore recommend avoiding the inclusion of one part of the AHEG mandate in the introduction.
- Item 13 should provide greater detail on the range of submissions received regarding international response options, and the constituents they represented. For example, AHEG received submissions from the African Group (on behalf of 54 countries) and European Union (on behalf of 27 countries and the European Commission) in addition to Norway, Switzerland, Philippines, Vietnam, and several civil society and academic organisations, among others, in support of various configurations of a global convention to address the issue. This demonstrates a broad contribution to this discussion by a substantial number of expert participants in the AHEG.
 - In order to accurately reflect the richness of the discussion and the opinions of experts provided during this process, which have clearly evolved the conversation since the UNEP/AHEG/2018/2/2 report, there should be further elaboration of the international response options, given the comprehensive proposals submitted on how such an international response could function. For this reason, we recommend that the Chair's summary provide some additional comparative synthesis of the detail on the international response beyond what is included here. This could be achieved by providing an overview of the essential elements and design of an international response option identified by experts, including for example: objectives; scope; monitoring and reporting; national action plans; microplastics; harmonization of labelling, product design and certification schemes; scientific and economic assessment bodies; financial resources and mechanism; technical and implementation support; and coordination with other

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multilateral agreements; among others. The current articulation doesn't reflect the level of detail provided as part of the AHEG's process.

- These elements have been repeated and reinforced in the discussions so far during AHEG4, where countries from all regions listed their thinking about potential building blocks and elements of a future global response. This demonstrates a prevalent convergence of participants towards the importance of carrying these discussions to inform the future UNEA-5 discussions.
- Conversely, response options which have only been mentioned in passing but not meaningfully discussed by the AHEG participants or in written submissions - such as "*plastic offset programmes*" - should not be highlighted in this summary.
- Some response options summarized in the table could in fact be mentioned in several categories and levels, as was discussed in the AHEG, so their restriction to particular categories or governance levels is confusing. In particular, some options like "*Redesign of plastic items and packaging*" don't seem to be placed at the right level, considering the nature of the global plastics supply chains and market. As stipulated by multiple AHEG participants in regions as diverse as the African region to the Pacific Islands, the redesign of plastic (where it cannot be eliminated) is indeed key, but can only happen at the global level.
- Target SDG14.1 matures in 2025, so identifying it as a "long-term vision" isn't quite as accurate now.
- As it was often mentioned that GPML (and to a certain extent some Basel Convention working groups) already fulfil the role of "*... a forum enabling governments, industry, academia, civil society and other stakeholders to share experiences and coordinate action on a regular or ad hoc basis*", and we have no recollection of that being discussed openly by the AHEG, we have suggested deletion of that element under Item 16.

Finally, we recommend that overall, the Chair's summary includes reference not only to the potential response option but also clarity about what specific action UNEA5 could take to achieve each response option.

Thank you for your consideration of these suggestions, along with the tracked textual change suggested below. We appreciate the attention the Chair and the Bureau are paying to faithfully reporting the 3 years of work of this AHEG to UNEA5, in our collective effort to address the growing plastic pollution crisis worldwide.

ZERO DRAFT CHAIR'S SUMMARY¹ FOR THE AD HOC OPEN-ENDED EXPERT GROUP ON

¹ This draft summary has been developed by the Acting Chair of the ad hoc open-ended expert group on marine litter and microplastics, with the support of the Bureau. It seeks to cover the work of the expert group in accordance with the mandates given

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MARINE LITTER AND MICROPLASTICS

For consideration at the 4th session of the expert group, 9-13 November 2020

A. Introduction

1. The ad hoc open-ended expert group (AHEG) was established through United Nations Environment Assembly (UNEA) resolution 3/7 paragraph 10. Its mandate was extended through UNEA resolution 4/6 paragraph 7.
2. The AHEG has met four times (three in-person and one on-line meeting) to deliver on its mandate. This summary describes how the AHEG has delivered on its mandate and provides UNEA-5 with the range of views and recommendations on potential response options for its considerations of next steps for marine plastic litter and microplastics. It will be annexed to the AHEG-4 meeting report, as well as the report of the Executive Director to UNEA-5.²

B. Review of the present situation

UNEA mandates 3/7 paragraph 10(d) (i)

3. The AHEG explored barriers to combating marine plastic litter and microplastics, including challenges related to resources in developing countries³; took stock of existing activities and action by various actors to reduce marine plastic litter and microplastics with the aim of the long-term elimination of discharge into the oceans; and identified technical and financial resources or mechanisms for supporting countries in addressing marine plastic litter and microplastics.
4. The convening of the AHEG was triggered by the consideration, by UNEA-3, of the report "Combating marine plastic litter and microplastics: an assessment of the effectiveness of relevant international, regional and subregional governance strategies and approaches"⁴ which identifies gaps in current frameworks and options for addressing marine plastic litter and microplastics and outlines three options: status quo (which the AHEG-1 converged on as not an option; strengthening existing instruments and adopting a voluntary global agreement on marine plastic; and development of a new global architecture with a multi-

by UNEA resolutions 4/6 and 3/7, and it will be finalized in consultation with Member States at the 4th session of the expert group, with the understanding that such consultations are not to be seen as formal negotiations.

² Update of the Executive Director on progress made pursuant to the Assembly resolution on Marine plastic litter and microplastics (UNEP/EA.4/Res. 6) adopted by the fourth session of the UN Environment Assembly on 15 March 2019

³ UNEP/EA.3/Res.7 paragraph 10 (d)(i)

⁴ UNEP/AHEG/2018/1/INF/3

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layered governance approach, including the possibility to add a new legally binding instrument to the existing framework (noting that option 2 and 3 can be carried out in parallel as option 3 and should not be seen as mutually exclusive). The assessment found that marine plastic litter was not the primary objective of any international legal instrument and that the current governance strategies and approaches were fragmented and did not adequately address the global issue of marine plastic litter and microplastics.

5. The AHEG considered various barriers to combating marine plastic litter and microplastics, including challenges related to resources in developing countries within four main areas:⁵
 - **Legal barriers** were established by, founded upon or generated by law or its absence or a lack of implementation and/or enforcement, namely the lack of definition and the existence of gaps in legislation; unclear definitions of targets in legislation; the definition of hard numerical limits in regulations; lagging or incomplete implementation or enforcement of legislation; inconsistent national implementation of international legislation; and national legislations which may conflict.
 - **Financial barriers** were characterized by high-costs that make a certain activity difficult to afford or implement. Some of those financial barriers also constitute economic barriers. These include lack of internalization of cost, harmful subsidies, missing polluter-pays-principle, inappropriate global funding schemes, lack of funds, lack of implementation of market-based instruments and tax incentives, missing markets.
 - **Technological barriers** are the ones that are related to the production, manufacturing and design of products, consumption systems and all aspects of waste collection, management and recovery. They include lack of standards and coordination across the plastics value chain and for environmental controls and quality specifications of plastics, differing approaches to recovery, sorting and reprocessing technologies and systems.
 - **Information barriers** included access to data, research, transparency, and education and awareness. Information barriers are also highly relevant to inclusivity and environmental justice.

6. Work undertaken through inventories (financial and technical), stock-taking, as well as through submissions from experts shows that all barriers remain highly relevant to date and that no barrier has been fully addressed. AHEG experts recognized there is an urgent need to overcome these barriers through short-, medium-and long-term actions by

⁵ (UNEP/AHEG/2018/1/2, UNEP/AHEG/2018/1/6, UNEP/AHEG/2018/2/2)

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identifying gaps and key success factors.

UNEA mandates 4/6 paragraph 7 (a) and (b).

7. The stock-taking collected information through an online survey and a narrative submission system. A total of 220 actions were submitted through the online survey with four main categories: (a) Legislation, standards and rules, (b) Working with people, (c) Technology and processes, and (d) Monitoring and analysis across geographic focus/levels, environmental zones and life cycle phases.
8. The stocktaking submissions included: a focus of actions addressing microplastics; lack of harmonization of monitoring 25 different protocols cited in 37 monitoring actions reported. Actions described in the stock taking exercises majoritarily focused on the coastal zone or urban environment and the use/consumption and post consumption (sorting and management of plastics collected). Other identified activities were related to the design, production, manufacture and raw material phases. Participants acknowledged a general lack of activities reported on prevention and the upstream part of the plastic life cycle, as indicated in the stock taking report. Funding sources for action included public finance, private sector finance and voluntary donations.
9. Among the 53 narrative submissions (using the G20 reporting format) 26 were from UN Member States, 24 from major groups and stakeholders, two from intergovernmental organizations and 11 from UN entities while noting that Member States continue to update and develop their legislation, policies, standards, rules and strategies on marine plastic litter while national frameworks are more prevalent. They further include actions on bans affecting single-use plastics, waste management, Extended Producers Responsibility (EPR), circular economy approach, incentives/disincentives, capacity-building, clean ups, monitoring actions, the use of biodegradable plastics, and knowledge acquisition.
10. The inventory on technical resources or mechanisms identified 132 resources. State-of-knowledge reports including policy recommendations, application cases and best practice were the most prevalent. Life cycle stages covered waste management (collection/sorting/recycling/final disposal), marine plastic litter (monitoring/capturing), prevention of litter and waste reduction, design and production and use and consumption. More such reports are constantly being published adding to the general knowledge available.
11. The AHEG noted that tackling marine plastic litter and microplastics requires the

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implementation of an array of policies, activities and technologies, many of which have high financial costs. Member States and organizations therefore can face important financial barriers in implementing necessary measures. The inventory on financial resources or mechanisms examined 75 financial sources of which 75% included waste management as an area of focus. Other resources and mechanisms included funding for technology and processes (including research and development; new product design: new materials and processes; and changes in practice, operations, environmental management and planning). There were also resources and mechanisms to support actions implemented jointly by the public and private actors.

12. Overall, funding provided purely by private funds, investors and organizations remains a smaller proportion of funding than public funds. Challenges for countries in accessing multilateral funds, difficulties in coordinating national budgets and plans with various international funds and initiatives, limited donor attention to some sectors with significant plastic footprints, lack of an explicit focus on gender and limited funds available to community-based initiatives and initiatives by indigenous people and communities. Based on these, new opportunities for innovative financing were listed such as joint public-private initiatives, blended finance, blue bonds, specific plastic taxes or levies, advanced disposal fees, extended producer responsibility, innovative insurance instruments, and environmentally preferred purchasing programmes.

C. Potential national, regional and international response options

UNEA resolution 3/7 paragraph 10d (ii),(iii), (iv)

13. **The** AHEG identified a range of national, regional and international response options, including actions and innovative approaches, and voluntary and legally binding governance strategies and approaches.⁶ It also identified environmental, social and economic costs and benefits of different response options⁷ and examined the feasibility and effectiveness of these response options.⁸
[Note to chair: please see comment on this section in the statement above, reflecting a request for much greater detail, considering the amount of discussion for such response options and elements]

14. The range of national, regional and international response options (UNEA resolution 3/7

⁶ (in response to UNEA resolution 3/7 paragraph 10(d)(ii)).

⁷ (in response to UNEA resolution 3/7 paragraph 10(d)(iii))

⁸ (in response to UNEA resolution 3/7 paragraph 10(d)(iv))

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paragraph 10(d)(ii) was further divided into four sub-categories: legal and policy responses, technological responses, economic responses and educational and informational responses. (UNEP/AHEG/2018/2/2).

Category	National level	Regional level	International level
Legal and policy responses	<ul style="list-style-type: none"> ➤ Legislative measures (waste management, framework, production/use specific) ➤ National action plans ➤ Non-binding and voluntary measures that supplement legislative measures 	<ul style="list-style-type: none"> ➤ Regional seas programmes ➤ Work of regional fisheries bodies and the Code of Conduct for Responsible Fisheries ➤ Policy coordination in EU and ASEAN ➤ Action plans developed by G7 and G20 	<ul style="list-style-type: none"> ➤ Strengthen existing instruments ➤ Establish a new global legally binding mechanism including such elements as: (Note to chair that this should comprise of a more detailed list based on the discussions in plenary during AHEG 4) ➤ Three-pillar approach: waste management, recycling, and innovation (*Voluntary measures (GPML, GPA) can be included in all above options.)
Technological responses	<ul style="list-style-type: none"> ➤ Redesign of plastic items and packaging ➤ Technological improvements in waste management 	<ul style="list-style-type: none"> ➤ Research and innovation programme of EU that funds work on marine litter (Horizon 2020) 	<ul style="list-style-type: none"> ➤ Enhanced international coordination, collaboration on research and development to better understand the pathways and impacts of marine litter and potential solutions and technological

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			innovation
Economic responses	➤ Establishment of incentives, taxes, levies and fines		➤ Establishment of a multi donor trust fund in the WB ➤ Global funding mechanisms
Educational and informational responses	➤ Educational and awareness-raising initiatives launched in society at large and within specific industries	➤ Regional nodes of GPML in order to strengthen interregional and regional cooperation and awareness-rising efforts	➤ Campaigns such as Global Clean Seas project, platforms such as GPML ➤ Conferences and events Civil society initiatives such as the global brand audit and global awareness raising campaigns

15. The costs of the three international legal and policy response options were analysed and discussed in UNEP/AHEG/2018/2/2. Discussions highlighted the need to prioritize prevention and upstream measures to supplement existing waste management activities. Interest was expressed to delve deeper into the quantitative and qualitative elements of the costs associated with marine plastic litter and microplastics, despite the considerable challenges involved in taking account of the full range of costs. It was clear that the cost of inaction exceeds the cost of taking action to protect the environment and human health and there was a need to quantify these costs. Further, another message was the importance of interacting and collaborating with all stakeholders in order to take advantage of the range of skills and traditional knowledge; and to harmonize methodologies available in order to facilitate data generation.

16. The following options for enhanced coordination and governance were proposed but are not mutually exclusive and could be explored in parallel:

- Continue to strengthen existing mechanisms and coordination at the global level
- Improve coordination at the regional level and the establishment of national action plans (noting this latter action would recommend global harmonisation, as well as financial and technical support in order to bear fruits).

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- Encourage new, and enhance existing, forms of financing and technical support to developing countries and small island developing States
- Develop and adopt an international legally binding agreement on plastic pollution
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UNEA resolution 4/6 paragraph 7 (d)

17. Based on the results of the mandate of UNEA resolution 3/7 paragraph 10(d)(ii)~(iv), the effectiveness of existing and potential response options and activities (as listed below) was analysed (in response to UNEA resolution 4/6 paragraph 7 (d)) in terms of maturity, feasibility, time frame and impact. Archetypes included: 1. Strengthening the current international framework 2. Development of global design standards; 3. A new international framework; 4. Strengthening the regional framework; 5. Development and implementation of regional marine litter action plans; 6. National marine litter action plans; 7. Strengthening of solid waste management services using regulatory and market-based instruments; 8. National strategy to prevent microplastics
18. The result shows that each analysed option has distinctive features that may take effect differently depending on diverse circumstances. Some response option archetypes should be considered as part of other archetypes since different response options are not mutually exclusive, while understanding that the structure of the report is in response to UNEA resolution 4/6 paragraph 7 (d). Overall, no policy measure could be evaluated as unconditionally and universally effective or ineffective; the success of an archetype related to the specific conditions under which it was employed, such as context, situation, region, and timing/stage and there was not enough data and information available to assess the degree to which the different response options will take effect. While more knowledge as well as national, regional and international indicators will help to analyse and monitor the effectiveness of different response options, experts recognized the urgency of the plastic pollution crisis particularly in light of growing plastic production, as well as the availability of sufficient data to act now, and therefore the need to avoid missing the opportunity of UNEA5 to take action, under the already stressed precautionary approach (UNEA resolution 1 /6). .

D. Potential options for continued work for consideration by UNEA

19. There was a consensus at AHEG-1 that maintaining the status quo was not an option. Having reflected on identified national, regional and international response options along with their environmental, social and economic costs and benefits and on the examination

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of the feasibility as well as the analysis of effectiveness of such response options, pursuant to subparagraph paragraph 10 of UNEA resolution 3/7,⁹ AHEG identified options for continued work for consideration by UNEA (UNEA resolution 3/7 paragraph 10d (5)), extracting from 14 submissions from Member States, regional groups and specialized agencies and six submissions from major groups and stakeholders.

20. The identified options include the following components. These options are not mutually exclusive.
- a. Setting new and or sharing existing long-term vision and Global objective toward elimination of all discharge of plastic into the ocean. Examples of noting a shared vision include: SDG 14.1, G7 Ocean Plastics Charter, G20 Osaka Blue Ocean Vision, IUCN Motion 022, and UNEA Resolution 3/7 on the long-term elimination of discharge of litter and microplastics to the ocean and avoidance of detriment to marine ecosystem.
 - b. Developing national action plans that cover as far as possible all life cycle stages of plastics from upstream including sustainable production and consumption to downstream including environmentally-sound waste management, as the basic framework that grounds countermeasures on marine plastic litter, taking into consideration the diverse national contexts. National action plans may include basic policy frameworks, related indicators to review the progress, reporting, and various substantial countermeasures.
 - c. Enhancing regional and international cooperation to support effective national responses particularly for countries with limited resources and capacities, and having difficulties in developing and implementing such plans.
 - i. Financial and technical assistance, capacity building and technology transfer, to support states with implementing countermeasures and/or national action plans.
 - ii. Sharing best practices for peer learning and of measuring the progress at the global level.
 - d. Further expand, accumulate and share scientific knowledge on marine litter, especially with regard to monitoring and source inventories in order to facilitate

⁹ Submissions were compiled in UNEP/AHEG/4/INF/10, "Submissions on potential options for continued work for consideration by the United Nations Environment Assembly". Member States, Regional Groups, and other groups of Member States that provided submissions were the African Group, the European Union and Member States, the Nordic Council, Iran, Japan, Malaysia, Myanmar, Norway, the Philippines, Singapore, Switzerland, Timor-Leste, the United States and Viet Nam. Major groups and stakeholders that provided submissions were Association Welfare; the Center for International Environmental Law (CIEL), the Environmental Investigation Agency EIA and GAIA; the India Water Foundation; the International Council of Chemical Associations (ICCA); the Somali Youth Development Foundation; and the Worldwide Fund for Nature (WWF).

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the science-based policy approach to measure the success towards achieving common vision and objectives.

- i. Develop monitoring technology and systems in order to identify sources and flows of plastics.
 - ii. Standardize/harmonize monitoring and data reporting on the effect of the response measures.
 - iii. Establish an international scientific advisory panel
- e. Facilitating multi-stakeholder engagement in support of decision-making processes and implementation of actions to address marine litter.
 - f. Convening of an Intergovernmental Negotiating Committee (INC) to develop a global instrument on plastic pollution at UNEA
 - g. To accelerate and operationalise the above-mentioned action items,
 - i. Strengthen existing instruments, frameworks, partnerships, and actions that address marine plastic litter and microplastics including efforts to develop and improve the capacity of countries to undertake environmentally-sound waste management, such as ongoing work under the Basel and Stockholm Conventions, the Global Partnership on Marine Litter (GPML), G20 implementation framework and Ocean Plastics Charter.
 - ii. Develop a new global legally binding instrument to provide a legal framework that could contain legally binding and non-binding elements, such as global and national reduction targets, phasing out avoidable plastic products, facilitation of national and regional action plans, and sharing of scientific knowledge through scientific panel

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Annex:

The following mandates are particularly relevant to **reviewing the present situation**:

- a. Explore all barriers to combating marine litter and microplastics, including challenges related to resources in developing countries (UNEA resolution 3/7 paragraph 10d (i)).
- b. Take stock of existing activities and action with the aim of the long-term elimination of discharge into the oceans (UNEA resolution 4/6 paragraph 7(a)).
- c. Identify technical and financial resources or mechanisms for supporting countries (UNEA resolution 4/6 paragraph 7 (b)).

The following mandates are particularly relevant to the **consideration of response options**:

- a. Identify the range of national, regional and international response options, including actions and innovative approaches, and voluntary and legally binding governance strategies and approaches (UNEA resolution 3/7 paragraph 10d (ii)).
- b. Identify environmental, social and economic costs and benefits of different response options (UNEA resolution 3/7 paragraph 10d (iii)).
- c. Examine the feasibility and effectiveness of different response options (UNEA resolution 3/7 paragraph 10d (iv)).
- d. Analyse the effectiveness of existing and potential response options and activities at all levels to determine the contribution that they make to solving the global problem (UNEA resolution 4/6 paragraph 7 (d)).
- e. Identify potential options for continued work for consideration by the UNEA (UNEA resolution 3/7 paragraph 10d (v)).
- f. Encourage partnerships that undertake activities such as the development of source inventories, the improvement of waste management, awareness-raising and the promotion of innovation (UNEA resolution 4/6 paragraph 7 (c)).