

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

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

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

The template below is meant to assist Members and Observers to prepare their written submission as a guide. A number of documents prepared for INC-1 are of relevance, notably UNEP/PP/INC.1/5 on 'Potential elements, based on provisions in paragraphs 3 and 4 of United Nations Environment Assembly resolution 5/14, including key concepts, procedures and mechanisms of legally binding multilateral agreements that may be relevant to furthering implementation and compliance under the future international legally binding instrument on plastic pollution, including in the marine environment'.

The template is divided into three sections:

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

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

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

### **Deadline for submissions:**

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

## TEMPLATE FOR SUBMISSIONS

Name of country (for Members of the committee)	Kenya
Name of organization (for observers to the committee)	
Contact person and contact information for the submission	Dr. Ayub Macharia Director, Environmental Education and Awareness Ministry of Environment, Climate Change and Forestry Kenya
Date	10 <sup>th</sup> February 2023

### I. Substantive elements

#### 1. Objective(s)

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

Proposed Objective: The objective of the treaty should be based on the need to protect human health and environment from adverse impacts of plastic pollution. The objective of the treaty must also carry the spirit of the UNEA resolution of ending plastic pollution in all environments.

To achieve the goal of the resolution to end plastic pollution, the treaty objective may include/state the intention of reducing plastic production which include materials and products.

Explanatory Text:

Plastics contain various chemicals additives which studies have shown to be toxic and can affect endocrine system. Some of these chemicals are persistent organic pollutants among other toxic chemicals. Therefore, the objective of the treaty must be based on a precautionary principle and right to know (transparency). With a clear and ambitious objective, this will provide clear direction to the measures that the convention will have in ending plastic pollution in the spirit of the UNEA 5/14 resolution.

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

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

Focusing on addressing the plastic pollution from a life cycle approach, the following core obligations and control measures need to be included in the future objective of the instrument.

**Upstream:**

In the upstream phase of the life cycle, the core obligations and control measures should be related to the following:

- Polymer production, consumption and use
- Raw materials sourcing

In this, treaty articles should specify core obligations and control measures that should include;

- Tracking types and volumes of plastics feedstocks, polymers, processed plastics,
- Tracking the ingredients of plastics (both the polymers and the additives) throughout the supply chain
- Restrict the use of plastics polymers and/or additives with certain toxic characteristics either based on a positive/negative list or based on sustainability criteria.

**Midstream**

In the midstream phase of the life cycle, the core obligations and control measures should focus on:

- product design and use related to plastic products themselves, including their design, use and reuse

In this, the treaty articles should specify core obligations on:

- Prohibit the production and recycling of plastics containing toxic chemicals to allow for a non-toxic circular economy

**Downstream**

In the downstream phase of the life cycle, the core obligations and control measures should focus on;

- Waste management and treatment related to the environmentally sound management of plastic waste

In this, the treaty articles should specify core obligations and control measures that:

- Promote the environmentally sound management (ESM) of plastic waste in line with resource efficiency. To prevent the production and releases of toxic emissions from plastics waste management.
- Policies should prevent the following dangerous practices: open burning, incineration, co-firing in coal-fired power plants and waste-to-energy processes, co-processing in cement kilns, and chemical recycling.
- Agree a definition for ESM that then guides future prohibitions, moratoriums and investment criteria, for example to avoid lock-ins to solutions which harm human and environmental health.

**Sectoral Strategies**

In addition to core obligations and control measures addressing each phase of the life cycle, sectoral strategies should be adopted for specific source of microplastics, fishing gear and agricultural plastics, among others.

## II. Implementation elements

### 1. Implementation measures

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

There are two main implementation measures that the treaty should adopt as mandatory. These are

- National Action Plans
- National reporting

#### **National Action Plans**

The following elements should be included:

- Made mandatory to all parties - meet their obligations and set out additional commitments to achieve its national objectives
- Include a review and update mechanism
- Development of national action plans must involve all stakeholders at national level including the private sector, civil society institutions, as well as the most affected and vulnerable populations such as women, waste pickers among others
- There should be guidelines approved by Conference of Parties for developing national inventory and national action plans

#### **On National Reporting**

- The treaty must adopt definitions, formats and methodologies for reporting to ensure comparable statistical data and enable assessment of the progress of implementation of the instrument and the effectiveness of the instrument in achieving its objectives. Such reporting should cover each phase of the life cycle: upstream, midstream and downstream.

## 2. Means of Implementation

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

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

### **On Financial mechanism**

- The treaty should adopt a financial mechanism that provides for predictable, adequate and timely financial resources and technical assistance, including technology transfer, to developing country Parties and Parties with economies in transition on a grant basis
- Such financial assistance under the treaty should be delivered via a dedicated multilateral fund established for that purpose, operating under the authority of the Parties

### **On Subsidiary bodies**

- The treaty should establish key subsidiary bodies to support implementation, including dedicated scientific, technical and economic assessment bodies, operating under the authority of the Parties

### **On other measures**

- The treaty should ensure application of the polluter pays principle and application of a comprehensive EPR system that allows cost-recovery mechanisms.

### **III. Additional input**

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

The treaty should integrate a self financing system through a cascaded EPR system from national, regional and international level.  
The treaty should promote a robust environmental education and public awareness on plastics pollution to achieve the objectives of the treaty.