

## **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. Several 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)	<b>Australia</b>
Name of organization (for observers to the committee)	
Contact person and contact information for the submission	<b>Cameron Colebatch</b> <b>Australia’s INC Focal Point</b> <b>Department of Climate Change, Energy, the Environment and</b> <b>Water</b> <b>Australian Government</b> <a href="mailto:Cameron.colebatch@dcceew.gov.au">Cameron.colebatch@dcceew.gov.au</a>
Date	<b>10 February 2023</b>

### I. Substantive elements

#### 1. Objective(s)

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

**Proposed Objective:**

***“End plastic pollution to protect the environment and human health from the adverse effects of plastic pollution across the full life cycle of plastics”***

**Explanatory Text:**

Plastic pollution contributes to the triple planetary crisis of climate change, biodiversity loss and pollution as a consequence of the plastic leakage into the environment at every stage of its lifecycle. It has significant adverse impacts on the environment, ecosystems, biodiversity and human health.

*End Plastic pollution*

The title of the UNEA resolution 5/14, *End Plastic Pollution: Towards an International Legally-binding Instrument*, has already settled ending plastic pollution as the goal of the Treaty (in the public sphere). However, there is merit in specifying it in the instrument’s objective.

*Environment and human health*

Drawing on UNEA resolution 5/14, Australia considers that the core motivation for the instrument is to address the adverse impacts of plastic pollution on the environment and human health.

*Full life cycle*

The objective should also reflect the need to take a comprehensive approach that addresses the full life cycle of plastics, in accordance with the mandate of UNEA resolution 5/14. This mandated

approach covers source materials, product design and production, transportation, use and end of life treatment and impacts. Unless the instrument takes a life-cycle approach it is unlikely to be effective, noting estimates by the OECD that 70% of a product's environmental impact is determined at the design stage.

We propose keeping the objective high-level, succinct and focused on the key aim of the instrument. Other multilateral agreements have taken a similar approach (such as Minamata Convention, Basel Convention, Montreal Protocol).

Achieving the Objective will be a long-term endeavour. As such, the instrument must include mechanisms that allow for systematic work over time and gradually strengthening the approach, informed by new scientific insights and updated understanding about progress.

## 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?*

Australia would like to see the treaty address the following issues through a mix of obligations, control measures and/or voluntary action. Core obligations should focus on:

- Ensuring global action is taken across the full life cycle of plastics
- Creating a shift towards a safe circular economy that protects the environment and human health
- Applying the precautionary approach and polluter-pays principle, noting information gaps should not be a reason to delay action where we know certain chemicals or products cause harm.
- Improving global understanding of the problem and measuring performance (through national reporting obligations)

### **Upstream actions to support a circular economy for plastics**

The instrument should facilitate a shift from the current linear plastic economy to a safe circular economy where plastic is produced at sustainable levels, and is considered a valued resource that continues to circulate within the economy. Potential measures include:

- Restrain the production of unnecessary primary plastics through eliminating unnecessary plastics, measures to increase recycling rates, national reporting on virgin plastic production, potential trade-related measures, labelling requirements and phase-out of certain materials/additives.
- Eliminate problematic and unnecessary single-use plastics.
- Design standards/criteria to ensure products (including their chemical composition) are designed for safe recyclability, reuse and repair.
- Promote market-based instruments that recognise the value of plastics, ensure that plastic is put to its best and most necessary uses, and avoided where it is unnecessary.

### **Reducing plastic leakage, ensuring environmentally sound waste management and addressing legacy waste**

The instrument should reduce leakage of plastics (and associated chemicals) to the environment across each stage of the life cycle. Potential measures include:

- Ensuring that those plastics that are essential but cannot be reused or recycled are managed in an environmentally sound manner, in line with the waste hierarchy.
- Regulating the movement, and end of life management of plastic waste to reduce leakage from mismanaged waste.
- Improved measurement, monitoring and reporting of plastic leakage so that we can assess global progress towards the instrument's objective and better target our activities.
- Collaborative actions to manage existing pollution, including guidance and cooperation to address legacy marine litter, including in international waters.

#### **Supporting harmonised approaches**

The instrument could focus on measures that would achieve efficiencies for industry and prevent the impacts of plastic pollution through global harmonisation. Potential measures include:

- Global standards and definitions to support the circular trade in plastics, reduce the costs of doing business and increase recycling rates. Global standards and definitions will be needed to define problematic single-use plastics, standards to ensure products are truly recyclable, and definitions and standards to counter vague and prolific greenwashing claims.
- Global approach to phasing out/banning chemicals of concern and hazardous additives in plastics, noting plastic is a globally traded material.
- Traceability, transparency and labelling standards to support a circular plastics economy, support the phase out of harmful chemicals through mandatory disclosure provisions, reduce 'greenwashing', and increase validity of recycled input materials.
- Standards to avoid unsustainable product substitution.

#### **Reasoning:**

Addressing plastic pollution will require actions across the full life cycle of plastics including the upstream, midstream and downstream stages of the plastics value chain, including at the end of life. Actions should be informed by the principles of a circular economy and the waste hierarchy. The instrument should support national-level actions, complemented by clear, transparent global requirements where necessary. Global measures are particularly important given the global nature of the plastics value-chain and the transboundary nature of plastic pollution.

Core obligations, control measures and voluntary actions will be necessary to help the global community move swiftly to a safe circular economy, support circular economy trade, reduce plastic leakage to the environment, manage plastic waste in an environmentally sound manner, and address legacy pollution. Focus should be on prioritising measures that will have the greatest impact in preventing and minimising plastic pollution, and where we can get the most out of global cooperation, including through harmonisation.

Given the global nature of the trade in plastics and plastic products, global measures are necessary to provide transparency and fair market conditions to ensure countries do not unknowingly import products containing harmful chemicals or products with high litter propensity. It is important that all communities (including vulnerable populations) are afforded similar protections through such global measures.

## II. Implementation elements

### 1. Implementation measures

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

#### **National action plans**

National action plans will be critical to the instrument's successful implementation, as identified by UNEA resolution 5/14. National action plans allow nations to outline their commitments and actions to meet the objective and obligations of the instrument. The instrument would benefit from establishing a baseline standard or guidelines for national action plans to ensure a consistent approach and to facilitate efficient development by parties. National action plans should align with the principles of the instrument, cover the full life cycle of plastics and be informed by circular economy principles. Regular reporting against these plans will be important to drive and measure global progress and increase transparency.

#### **Scientific and technical mechanism / science-policy interface**

A mechanism for scientific and socio-economic information and analysis to inform decision-making will be vital to the successful implementation of the instrument. Ensuring science and evidence-based approaches will be necessary to identify measures that will have the largest impact towards ending plastic pollution and measure the success of the instrument in achieving its objective. Australia also recognises First Nations peoples' continuing connection to the environment, and the importance of their participation, traditional knowledge and contributions to this process.

The mechanism should incorporate the best available science and traditional knowledge to:

- Fill knowledge gaps regarding the environmental and human health impacts of chemicals of concern and microplastics.
- Fast-track the rollout of environmentally sustainable plastic technologies (e.g., bio-plastic alternatives, advanced recycling technologies).
- Support research on safe plastic alternatives.
- Collect, harmonise and analyse data on plastic production, use, movement, leakage, and effects.
- Measure global progress against the objectives and goals of the treaty.

Australia supports the INC process considering approaches that draw upon the knowledge and experience of existing multilateral technical and scientific workstreams. This includes investigating links between the Science Policy Panel currently under development, SAICM, and with other chemicals, waste, and pollution multilateral agreements and bodies.

#### **National reporting / data and information gathering**

A requirement to report on national performance against the measures in the instrument and implementation of National Action Plans will assist in providing transparency of implementation, and essential data to facilitate periodic analysis of progress in meeting the instrument's objective.

National reporting requirements should be designed to be efficient, effective in supporting implementation of the instrument, and harmonised with existing reporting processes where possible to avoid duplication and minimise reporting burdens on governments and industry.

Data standards and ongoing data collection will be imperative. We need to establish common baseline information and improve data on plastic production, use, movement through the life cycle, waste management and leakage.

**Compliance / monitoring performance against the objective**

Performance monitoring/compliance must focus upon achieving the objectives of the instrument as soon as possible and make visible the matters that would benefit from greater global cooperation or support. Compliance and monitoring should avoid onerous reporting and data requirement that detract from the real-world solutions required to achieve the instrument's objective.

National reporting requirements will be required to provide the key information needed to monitor and measure the parties' collective performance in achieving the objective of the instrument, in particular plastic leakage into the environment. This information can then be used to direct effort toward the highest priority issues and to provide guidance to nations on the most effective domestic interventions.

**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?*

**Technical assistance and technology transfer**

New technologies will be crucial to restraining virgin plastic production while maintaining (and improving) standards of living. Providing technical assistance will also mean that the pace of action can be equal across member states. Technical assistance and technology transfer (on mutually agreed terms) will be particularly important in the areas of:

- Product design and production – designing products to maximise the value of embedded plastics and ensure they are designed for circularity.
- Environmentally sound waste management – reducing plastic leakage into the environment is dependent on communities having access to environmentally sound waste management services and technology.
- Recycling – our ability to recycle materials and keep them in the economy longer is continually improving through new recycling technologies.

**Capacity Building**

Capacity building will be required to ensure all member state have the capacity to implement the treaty. Capacity building should focus on those interventions that have the most impact in reducing

plastic pollution, with the goal to ensure countries can deliver the necessary ongoing government services and measures without relying on external financial assistance.

**Financial Assistance**

Mechanisms to facilitate financial assistance will be required to implement the instrument globally. To reduce administration costs, consideration should first be given to drawing on existing and established mechanisms, such as the Global Environment Facility. The goal of financial assistance should be to help countries build their capability to independently manage their plastic materials into the future, rather than to fund recurring government services.

We note there is significant private investment occurring to improve the circularity of plastics. There is an opportunity for the finance mechanism to harness this private capital and investment (in addition to government contributions) to support the instrument's objectives.

### 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).

#### **Multistakeholder action agenda**

Australia supports provisions in the instrument that facilitate the development of a multi-stakeholder action agenda. Action to address plastic pollution requires the mobilisation of a broad range of actors and these actors must be engaged early in this process.

Australia particularly wants to ensure the meaningful engagement and participation of First Nations and Pacific Island communities in a stakeholder action agenda.

#### **Research and Development**

The instrument should promote research and development to support the implementation of the instrument's objectives in transitioning to a safe circular economy. Ongoing innovation in relation to environmentally sustainable plastic technologies, environmentally sound waste management and safe alternatives to plastic will be critical to achieving our goal of ending plastic pollution. Provisions that support strong stakeholder engagement, including with the research and development community, technical experts and innovators will facilitate this.

#### **Science-based focus to decision-making during negotiations**

Australia acknowledges that scientific/technical questions may arise during negotiations on potential control measures. The INC should consider the potential scientific/technical issues that may arise, how these issues could be addressed, and how the scientific community and First Nation peoples will be engaged to provide input to negotiations to facilitate a timely conclusion and agreed text by end 2024. To this end we request that INC2 develop a list of the questions requiring input from science, technical and other advisors to inform the structure and early work program of any advisory mechanism.