

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

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

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

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

The template is divided into three sections:

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

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

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

Deadline for submissions:

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

TEMPLATE FOR SUBMISSIONS

Name of country (for Members of the committee)	
Name of organization (for observers to the committee)	Health and Environment Justice Support (HEJSupport), Swedish Society for Nature Conservation (SSNC), groundWorkSouth Africa (groundWorkSA)
Contact person and contact information for the submission	Olga Speranskaya, Alexandra Caterbow, HEJSupport (info@hej-support.org); Andreas Prevodnik, SSNC (andreas.prevodnik@naturskyddsforeningen.se); Rico Euripidou and Mafoko Phomane, groundWorkSA (rico@groundwork.org.za)
Date	

I. Substantive elements

1. Objective(s)

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

Plastic pollution causes physical damage to ecosystems and wildlife and results in chemical contamination of living organisms, people, and the environment.

While stopping plastic pollution at its source by producing and using less plastic is the key approach to reduce the amounts of plastics and associated wastes, chemical contamination caused by toxic additives, polymers, and processing aid chemicals will continue to remain a significant health threat.

To address this threat, it is important to know what chemicals we are talking about and where they are present in the plastics value chain. A global precedent to establish disclosure is in paragraph 22 of the Dubai Declaration on Chemicals Management which states: "*information about chemicals related to health and safety of humans and the environment should not be regarded as confidential.*" Requiring the availability of such information, its transparency and accessibility throughout the entire lifecycle of plastic materials and products and within and outside the supply chains is a necessary precondition for meeting the objectives of the treaty.

In existing environmental conventions, transparency of information about chemicals in materials and products is limited to individual cases. For example, the 2013 decision on mandatory labelling of thermal insulation products for new buildings containing HBCD has been the only example of transparency in the Stockholm Convention. This means there is little incentive and no global

requirement to map the presence of banned or restricted chemicals manufactured materials and wastes, including plastics.

While the Basel Convention requires a full characterization of wastes that may be subject to transboundary movement, there are no globally harmonized transparency requirements for information about chemicals in products which eventually become waste. Therefore, nobody can know what harmful chemicals are present in a shipment of plastic waste. Consequently, implementing the Basel Convention is compromised.

Additionally, since products in the end of life feed the circular economy with secondary raw materials, the lack of chemical transparency seriously threatens human health and the environment because toxic chemicals, including those already banned by the chemical conventions, are found in recycled materials and products made of them, including plastic.

It is obvious that a lack of globally harmonized obligations to ensure the availability and accessibility of information about chemicals of concern in materials and products throughout their life cycle results in persistent contamination of the value chains.

The new plastic treaty has a potential to become the first global agreement that includes harmonized legally binding transparency requirements for information on chemicals and polymers used in plastics. With this, the treaty will contain the critical prerequisite for meeting all its objectives, address the fundamental human right to information, and pave the way for including transparency requirements in other MEAs on chemicals and waste.

A public database for chemicals and polymers used in plastics based on hazard assessment and globally harmonized binding requirements for information transparency should be a fundamental part of treaty implementation. Reporting to the database should become an obligation of plastic manufacturers and be enforced by the Parties.

Proposed Objectives:

- Ensure harmonized legally binding transparency requirements for information on chemicals and polymers used in plastics, phase-out toxic chemicals from the production of plastics, and support a toxic-free circular economy to improve material resource efficiency and reduce the amount of virgin plastics.
- Reduce plastic production by eliminating non-circular plastic and plastic containing toxic chemicals, including short life span materials, thereby reducing impacts on climate, health, and environment. Use of plastic materials should be restricted to essential uses.
- Respect human rights, recognizing the traditional knowledge and experience of indigenous peoples, local communities, waste pickers and informal recyclers in addressing the plastic crisis.

Explanatory Text:

Proposed Objectives

- It is envisioned that a core element of the new instrument will be a circular economy. It will reduce the production of virgin plastic, help improve the material resource efficiencies, particularly in combination with requirements for material longevity, and at the same time can address the issue of pollution if well-managed. However, a circular economy cannot be safe to human health and the environment unless toxic chemicals are systematically identified, restricted, and phased out from plastic materials and products thereof. Thus, it is essential to emphasize the importance of information transparency on chemicals and polymers used in plastics, phasing out toxic chemicals from plastic production and a “toxic-free” circular economy that does not result in the recirculation of hazardous chemicals in new products.
- A key issue of plastic waste accumulation and pollution today is the excessive use of these materials, not seldom for unnecessary applications, such as in multi-layered packaging materials and single use non-circular items. Consequently, production and uses of plastics in the future should be strictly controlled and limited to essential uses, based on globally harmonized criteria, laid out in the treaty. Unsound management of plastic waste, including false solutions, such as burning plastic, including in cement kilns, waste to energy, dumping in landfills, should be rejected.
- Dependency on fossil feedstocks for chemicals in society must decrease. Thus, there should be provisions in the treaty to restrict, and as soon as possible, phase out non-renewable feedstocks. In addition, replacing fossil with bio-based feedstocks for hazardous molecules should be considered a false solution, because a molecule has the same inherent hazard properties irrespective of feedstock.
- The future treaty should ensure the broadest possible participation of stakeholders, including vulnerable groups and communities affected by plastic pollution. It should hold polluting corporations and plastic producing countries accountable for the human rights, health, ecosystems, and economic harms resulting from plastic production, use and disposal, based on the polluter pays principle.

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?*

Core obligations should include:

- Binding, globally harmonized disclosure and reporting requirements on transparency for information on polymers, chemical additives and processing aids for plastic materials and products.

- Binding provisions on setting up globally harmonized metrics for data collection and management on life cycle information, including production volumes for different kinds of plastics, usage, waste streams, and environmental and health monitoring.
- Binding provisions to centrally manage and distribute collected data to Parties of the treaty and stakeholders.

Control measures should include:

- Binding provisions on establishment of national chemicals, waste, and product design legislation, aligned to support toxic-free circular economy for plastics.
- Binding, globally harmonized provisions for essential uses for plastic materials.
- Binding provisions on prioritizing low chemical hazard and renewable feedstocks for the production of plastic additives, processing aids and monomers.
- Binding provisions on restrictions and phase out of hazardous plastic additives and monomers made of fossil fuel or biobased carbon.
- Binding Extended Producer Responsibility (EPR) provisions requiring manufacturers to ensure sound management of their products when they become waste, including problematic plastics that are seen as essential.
- Binding provisions requiring countries to manage their plastic waste nationally.

Explanatory Text:

- Transparency of information about polymers, plastic additives and processing aids supports informed decisions for all life stages of the circular and globalized economy for plastics, including for terminal handling of waste. Therefore, a binding globally harmonized requirement on transparency for chemical information is a keystone in the treaty and should be outlined in its core text. To support informed decisions, including restrictions, bans and substitution of hazardous chemicals, a public database on processing aids, additives and polymers in specific materials and products should be developed as means of implementation. A central data management system reduces costs for individual parties of the treaty and ensures equal access to data in harmonized formats. The chemicals to disclose should be included in an annex to the treaty based on hazard assessment and as soon as a chemical is recognized as hazardous by a Party. For practical reasons, to begin with, the number of chemicals to be disclosed may have to be limited to the most hazardous that are generally considered to be of particular concern (one suggested approach is the Global Minimum Transparency Standard (GMTS) (<https://www.globalchemicaltransparency.org/#a13lightbox-work-12609> and <https://www.globalchemicaltransparency.org/wp-content/uploads/2022/02/GMTS-White-Paper.pdf>). Ultimately the goal should be full transparency for the chemical composition of plastics.
- Legislation to include the treaty obligations are necessary for national implementation of the treaty. In this respect, the treaty should not be prescriptive about how legislation is formulated, as national circumstances may require differentiated solutions, but should list essential elements that must be aligned across the different pieces of legislation for them to support toxic-free circularity for plastics.
- Public access to data in globally harmonized formats is necessary to support treaty implementation and monitoring of implementation success.

- A globally concerted approach to phase out problematic non-circular plastics containing toxic additives, like PVC, will be necessary to reduce the overall volume of these materials in the globalized economy.
- All countries must commit to steer away production of monomers and other plastic chemicals from fossil feedstocks, to reduce the carbon footprint of the plastic economy. Moreover, countries should commit to stopping the production of hazardous plastic additives and monomers made of fossil fuel or biobased carbon.
- EPR places the costs and responsibility on the polluter, in line with the Polluter Pays Principle (PPP) of the Rio Declaration.

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).*

To comply with the above-suggested core elements of the treaty and ensure effective implementation, disclosure, monitoring and reporting, obligations and measures at the national level are essential.

National action plans should be established based on the mandatory, binding provisions with associated targets, indicators, and milestones, complemented by voluntary actions with associated targets, indicators, and milestones. Financial and technical support should be provided to eligible Parties to support the development and implementation of the national action plans.

Cooperation in the regions and between the regions should be encouraged by the treaty. Lessons can be learnt from the harmonization of chemicals, waste, and product design legislation in the EU, which has made safety for human health and the environment equal across the union, as well as simplified trade. Furthermore, this harmonization in combination with the EU circular economy packages spurs innovation and development of standards. Donor countries, IGOs and existing financial mechanisms should support regional and interregional projects to encourage cooperation, knowledge, and technical transfer inside and between the regions.

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?*

We think that all suggested elements listed in the document UNEP/PP/INC.1/5 are relevant and should be included in the treaty.

Key to the success and effectiveness of the treaty will be a solid financing mechanism, so that all parties can equally fulfill implementation and meet obligations under the treaty. Ideally, the plastics industry should contribute to this financing mechanism, but not by having counterclaims and setting up their own conditions. The financial contribution should be non-conditional, e.g. in the form of an annual contribution from industry turnover from specific products.

Moreover, the financial mechanism should be accessible to all stakeholders, including civil society organizations working on the treaty's implementation. Their eligibility to apply for funding should be independent of their ability to receive letters of endorsement from their national governments or focal points. The existing financial mechanisms under the BRS conventions either accept applications exclusively from the governments, such as the Special Programme, or require letters of approval from the governmental focal points such as UNEP Waste Partnership under the Basel Convention. Such an approach complicates the application process and limits stakeholder participation in implementing the existing chemical and waste agreements.

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).
