

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

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| Name of country (for Members of the committee) | |
| Name of organization (for observers to the committee) | United Nations Conference on Trade and Development (UNCTAD) |
| Contact person and contact information for the submission | Mr. David Vivas Eugui, Legal Officer, UNCTAD david.vivaseugui@unctad.org |
| Date | 04 January 2022 |

I. Substantive elements

1. Objective(s)

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

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| <p>Proposed Objective:</p> <p>UNCTAD’s Bridgetown Covenant, adopted on the 6 October 2021 at the UNCTAD 15 Conference, states in its paragraph 76 that “It is important to ensure conservation and sustainable use of oceans, seas and marine resources, including <u>addressing the discharge of plastic litter and other waste in oceans and significantly reducing marine pollution of all kinds and ensuring sustainable consumption and production patterns</u>”.</p> <p>Explanatory Text:</p> <p>UNCTAD has been mandated to support Sustainable Development Goal 14, particularly in relation to the need to address discharge of plastics and other wastes in oceans, and to significantly reduce marine pollution of all kinds. For UNCTAD’s Members, there are two key objectives for consideration by Members at the INC to ensure policy coherence and mutually supportive efforts within the United Nations system: 1) addressing marine plastic pollution, and 2) ensuring sustainable consumption and production patterns</p> <p>To assist countries, UNCTAD proposes the consideration of two new terms: “plastic substitutes” and “plastic alternatives”:</p> <p><u>Plastics substitutes</u>: natural materials from mineral, plant, animal, marine or forestry origin that have similar properties as plastics. They do not include fossil fuel-based or synthetic polymers, bioplastics, and biodegradable plastics. Plastic substitutes should have lower environmental impact along their life cycle (e.g., natural fibers, agricultural wastes, and other forms of biomass). Depending on the case, they should be biodegradable/compostable or erodible, and should be suitable for reuse, recycling, or sound waste disposal as defined by national, regional regulations or in internationally agreed definitions. They can include by-products. Plastic substitutes should not be hazardous for human, animal, or plant life.</p> |
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Plastic alternatives: They can include bioplastics or biodegradable plastics. Bioplastics means bio-based polymers materials (e.g., by using vegetable fats and oils, corn starch, straw, woodchips, sawdust, and recycled food waste) and should be subject to material recycling. Biodegradable plastics refers to the end of life of plastics, indicating that they biodegrade in the natural environment, or that they can be composted. They can include their by-products. Plastic alternatives should have a lower GHG lifecycle emission when compared to plastics and not be hazardous for human, animal, or plant life.

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

As means of promoting materials that are more sustainable and have a lower cumulative profile in nature, trade instruments can be used to promote plastic substitutes, alternatives and services that reduce overall material usage. In this context, Members may consider as core obligations the following:

- Effective quantification of plastics production, trade, and use at the national and international level. This would be complementary to ongoing efforts to measure global plastics trade both in value and volume. This is essential to establish a baseline trend to support policy design and adjustments. For this purpose, UNCTAD has made available and updates on an annual basis its dataset on plastics trade which covers all stages of the plastic value chains; it is available to all Members here:
<https://unctadstat.unctad.org/wds/ReportFolders/reportFolders.aspx>
- Further disaggregate Harmonized System (HS) codes for all forms of plastics, increasing the visibility of plastic polymers used along the value chain and their presence in international trade flows, including as packaging and scrap, as well as for plastic substitutes and alternatives at the World Customs Organization (WCO) in cooperation with UNCTAD, WTO and the Forum on Trade, Environment and the SDGs (TESS).
https://unctad.org/system/files/non-official-document/tcsditcinf2022d3_fs3_en.pdf
- An obligation to gather statistical information on plastics materials disposal, such as percentage of material recovery / recycling rates per type of plastic material.
- To promote a sustainable material transition that is actionable in practice, the identification of commodity codes / HS codes for plastic substitutes could be done based on a multilaterally agreed illustrative list, which can be used for tariff liberalization (of preferable substitute materials) and tariff increases (for problematic, single-used plastics). Mappings of HS codes should be considered as an evolving list.
<https://unctad.org/meeting/workshop-sustainable-and-effective-substitutes-and-alternatives-plastics>

As a control measure:

- In the assessment of performance of *plastic substitutes* (as per proposed definition in point 1), life-cycle analysis (LCA) could be used, ideally considering locally adjusted LCA inventories.
- In the assessment of performance indicators for *better types of plastic*, such as bio-based polymers (bioplastics) or biodegradable plastics, life-cycle analysis (LCA) tools could be used to support policy choices.
https://bit.ly/SMEP_UNCTAD
- Mandatory reporting mechanisms could be adopted to measure member States' progress in reducing overall single-use plastics consumption and leakage into nature.
- Recognizing that plastic substitutes are only one instrument in the policy-making toolbox for countries to address plastic pollution, and aware of potential problematic aspects of some material substitutes, countries could come up with a minimum set of LCA indicators on which actionable policy can be based, in order to define substitutes which should be prioritized for industrial policy, trade facilitation and tariff liberalization.

Voluntary approaches

- Research and innovation funds could target the development and upscaling of innovative products and systems (e.g., services) which could perform the functions of plastics. This could enable sunrise industries around plastic substitutes, where member countries may have comparative advantage and where production can be scaled.
- Support to developing countries for the establishment of better data on plastics markets, including material substitutes, is crucial and could be considered by donor countries for Official Development Assistance purposes and by multilateral financial institutions.
- National industrial policies could be adjusted to tap opportunities from material substitutes markets, with the goal of developing productive capacities which generate jobs and promote innovation.
- New, tailored financial instruments could be deployed to help scale promising substitute solutions for broader market rollout. The latter could be supported by national financing institutions and regional multilateral development banks leveraging their environmental efforts, knowledge, and dedicated funds.

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).*

1) Members may consider incrementally reducing tariffs and address non-tariffs measures for environmentally sustainable and effective plastics substitutes under:

- the Generalised System of Preferences (GSP);
- the Global System for Trade Preferences among Developing countries (GSTP); and
- through voluntary efforts at the WTO or through the potential launch of targeted post-Doha WTO negotiations;
- Regional or bilateral free trade arrangements.

Such tariff reductions would place plastic substitutes in a better position to compete with fossil fuel-based polymers in international trade and correct price distortions.

2) Members may want to consider the incorporation of plastic reduction, substitution, recycling and waste disposal targets in:

- a) National green, oceans economy and sustainable manufacturing strategies, as facilitated by UNCTAD and UNEP technical assistance programmes.
- b) Future updates in National Determined Contributions (NDCs) under the Paris Agreement, when relevant to plastics related GHG emissions.

3) Members may consider options for reduction or phase out targets for subsidies that benefit synthetic polymer production and to shift public support to material substitution, waste management and recycling.

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?*

- 1) Increase Official Development Assistance (ODA), technical cooperation, and capacity building for solid waste and plastic management, covering up-mid-and downstream actions.
- 2) Increase ODA, technical cooperation, and capacity building for sustainable material transition, in special identification, development and support for market scaling of plastic substitute materials across national and international value chains.
- 3) Make use of and enable access to and transfer of new or mature, low cost and effective technologies, including new and innovative technologies for reducing waste and emissions, for material substitution, and to increase recycling and waste disposal capacities, particularly in developing countries.
- 4) Review of national legal frameworks, especially those that impede or make difficult the realization of material transition and reduction of plastic usage. Those can include regulatory barriers to package-less retail, sanitary, extended producer responsibility and consumer protection rules, and other legacy regulatory instruments that create a lock-in effect and growing plastics use.

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).
