

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

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**I. Substantive elements**

**1. Objective(s)**

The overarching objectives of the new legally binding instrument should be at least twofold:

- (i) ending plastic pollution in all environments, and
- (ii) achieving a circular economy for plastics protective of human health and the environment.

The objectives above reflect both the spirit of the UNEA 5/14 resolution and the content of interventions and submissions made during INC-1, including multiple mentions of, amongst other things, the need for “non-toxic” circularity, the impact of plastic pollution across their lifecycles on both health, human rights and the environment, the importance of inclusion of the informal sector and those working within the plastics value chain as part of a just transition and the role of upstream controls in driving reduction of pollution in all environments, in particular the relationship between plastics, fossil fuels and the climate emergency.

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

**Introduction**

As an initial frame for structuring the core obligations and control measures in the instrument—in both the articles and any corresponding annexes—Members of the Committee should have a clear demarcation of each stage of the lifecycle of plastics, in particular:

- **raw materials (sourcing)** – obligations and measures related to oil and gas extraction and processing and petrochemical production;
- **polymer production, consumption and use (upstream)** – obligations and measures related to the production, consumption and use of virgin polymers or resins, covering the point of time when plastic first comes into existence as a material via polymerization but ending when converted into plastic products;
- **product design and use (midstream)** – obligations and measures related to plastic products themselves, including their design, use and reuse;
- **waste management and treatment (downstream)** – obligations and measures related to the environmentally sound management of plastic waste; and
- **plastic in the environment (leakage)** – obligations and measures related to the remediation of plastic pollution, including but not limited to the marine environment.

Members of the Committee should aim to negotiate specific articles for each stage of the lifecycle—and more than one when deemed appropriate—in order to ensure that the instrument takes a comprehensive approach based on the full lifecycle of plastics. In addition, other articles should be included under core obligations and control measures to ensure the development of bespoke strategies for specific sources of plastic pollution and transparency along the value chain.

## **Core Obligations and Control Measures**

The following core obligations and control measures are separated out by stage of the lifecycle of plastic, with key elements identified for each. For those elements that transcend more than one stage, such as reporting, those can be included under each article or addressed in a separate article.

### **Article(s) on Sustainable Sourcing of Raw Materials**

*This article(s) should include obligations and measures on the sourcing of raw materials for the production of virgin plastic polymers, predominantly to oil and gas extraction and processing and petrochemical production, which comprise 90% of the greenhouse gas (GHG) emissions associated with plastics.*

*Key elements include:*

- **General Obligation.** Each Party should be required to adopt legal and administrative measures into national legislation to eliminate subsidies for fossil fuels used as raw materials and for petrochemicals destined for virgin polymer production.
- **Best Available Techniques.** Each Party should be required to use best available techniques and practices to minimise the environmental and health impacts of extraction, processing and production of raw materials and petrochemicals for virgin polymer production, in accordance with decisions adopted by the Conference of the Parties.
- **Reporting.** Each Party shall report on the origin of raw materials used to produce plastic polymers.

### **Article(s) on Sustainable Polymer Production, Consumption and Use**

*This article(s) should include obligations and measures to achieve the safe and sustainable production,*

*consumption and use of virgin polymers or resins, including a framework for the Parties to the agreement to eliminate (phase-out) and limit (freeze or phase-down) production, consumption and use of listed polymers as well as an exemption process and other related measures.*

*Key elements include:*

- **General Obligation.** Each Party should be required to adopt legal and administrative measures into national legislation to eliminate and limit the production, consumption and use of listed virgin plastic polymers in Annexes [A] and [B] and otherwise ensure compliance with polymer safety criteria.
- **Polymer Elimination.** The Conference of the Parties should be empowered to adopt decisions to amend Annex [A] to eliminate (phase out) production, consumption and use of listed virgin plastic polymers, and specify any general exemptions, if relevant.
- **Polymer Limits.** The Conference of the Parties should be empowered to adopt decisions to amend Annex [B] to limit production, consumption and use of listed virgin plastic polymers, for example a freeze or phase-down to sustainable levels, and specify any general exemptions, if relevant.
- **Specific Exemption.** A Party may request a specific exemption to Annex [A] or [B], such as essential or critical uses.
- **Reporting.** Each Party should be required to report on its production, consumption (calculated as production plus imports minus exports) and use of listed virgin plastic polymers in Annex [A] and [B].
- **Licensing Scheme.** Each Party should be required to adopt a licensing scheme for production, import and export of listed virgin plastic polymers in Annex [A] and [B].
- **Polymer Safety Criteria.** The Conference of the Parties should be empowered to adopt safety criteria for polymers based on, for example: (i) the intrinsic hazard of the material, polymer or chemical component; (ii) the risk of decomposition into microplastics that could become vectors of chemical and biological contaminants; and (iii) the ability of the polymers to be recycled safely.
- **Polymer Mismanagement.** Each Party should be required to adopt legal and administrative measures to prevent spillage (chronic and acute) of plastic polymers into the environment through the exercise of best practices during production, transport, storage and conversion, in accordance with decisions of the Conference of the Parties.

#### **Article(s) on Safe and Sustainable Plastic Product Design and Use**

*This article(s) should include the obligations and control measures on sustainable plastic products, including framework for the Parties to adopt decisions to establish eco-criteria for polymers and plastic products and sectors as well as set out prohibitions on use of plastic in certain products. (Note: the term “eco-criteria” is used here instead of the term “standards” to avoid any confusion with industry-developed standards which are not developed and adopted under the authority of the Conference of the Parties.)*

*Key elements include:*

- **General Obligation.** Each Party should be required to adopt legal and administrative measures, or other means, to incorporate eco-criteria listed in the [Product Design Registry] into national

legislation. (**Note:** “other means” available to the Parties could be relying on industry standards that are developed independently to certify compliance with the listed eco-criteria.)

- **Registry.** Parties should establish a [Product Design Registry] for listing eco-criteria for plastic products, to be maintained by the Secretariat. (**Note:** a registry is suggested here, similar to the register in the Stockholm Convention, as opposed to an annex, which is another viable approach.)
- **Eco-Criteria.** The Conference of the Parties should be empowered to adopt decisions to list eco-criteria for plastic products in the [Product Design Registry]. These may include general eco-criteria (e.g. durability, biodegradability, compostability, recyclability, reusability, circularity, safety) or product- and sectoral-specific eco-criteria (e.g. recycled content, packaging, agriculture, fishing gear), and should include labelling requirements.
- **Prohibitions.** The Conference of the Parties should be empowered to adopt decisions prohibiting plastic use in specific applications listed in the [Product Design Registry] and specify any general exemptions, if relevant.
- **Specific Exemption.** A Party may register a specific exemption to any listing in the [Product Design Registry].
- **Reporting.** Parties shall report on use of plastic by market segment, in accordance with decisions adopted by the Conference of the Parties.
- **Export Prohibition.** Each Party should be required to adopt legal and administrative measures to prohibit export to other countries of plastic products not in conformity with eco-criteria unless a specific exemption has been registered by the importing Party.

#### **Article(s) on Environmentally Sound Management (ESM) of Plastic Waste**

*This article(s) should include obligations and measures to promote the environmentally sound management of plastic waste in line with resource efficiency and the waste hierarchy with strict limitations on thermal treatment and other technologies. Parties will need to 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.*

*Key elements include:*

- **General Obligation.** Each Party should be required to adopt legal and administrative measures into national legislation to promote reuse and manage plastic waste in an environmentally sound manner, in accordance with guidelines on reuse and the environmentally sound management (ESM) of plastic waste and other relevant decisions adopted by the Conference of the Parties.
- **Reuse Targets.** Each Party should be required to set binding targets for increasing the amount of plastic that is reused within recognised reuse systems, with an initial focus on high-impact categories such as packaging and beverage containers.
- **Waste Management Targets.** Each Party should be required to set binding targets for waste management, including targets on prevention, separate collection and recycling as well as restrictions on energy recovery, incineration, chemical recycling and landfilling.

- **Reuse and ESM Guidelines.** The Conference of the Parties should be required to adopt guidelines on reuse (e.g. definitions, standards, scaling of reuse infrastructure through incentives, investment, criteria for managed pool systems and collection rate targets) and on the environmentally sound management (ESM) of plastic waste.
- **EPR.** The Conference of the Parties should be required to adopt criteria for extended producer responsibility (EPR) schemes and promote national, regional or global EPR schemes, as appropriate, across relevant sectors.
- **Reporting.** Each Party shall report on its management of plastic waste, including:
  - reuse;
  - separate collection, recycling capacity and rates, treatment, disposal and leakage;
  - trade in plastic waste; and
  - extended producer responsibility.
- **Informal and Cooperative Sector.** Each Party should be required to ensure the participation of workers in informal and cooperative settings in policy development and implementation, including in EPR schemes.

#### **Article(s) on Remediation of Plastic in the Environment**

*This article(s) should include obligations and measures to remediate existing plastic pollution, including in the marine environment, pursuant to UNEA resolution 5/14 OP3(c).*

*Key elements include:*

- **General Obligation.** Each Party should be required to develop and implement plans that identify, prioritise and remediate plastic pollution in the environment in an environmentally sound manner that poses risks to:
  - local communities;
  - biodiversity;
  - fisheries;
  - health;
  - tourism; and
  - navigation and maritime safety.
- **Guidelines.** The Conference of the Parties should be required to adopt guidelines for identifying, prioritising and remediating plastic pollution in the environment in an environmentally sound manner.
- **Cooperation.** Each Party should endeavor to cooperate in developing and implementing strategies to identify, prioritise and remediate plastic pollution in the environment.
- **Monitoring.** The Conference of the Parties should establish a global monitoring framework that establishes baselines and monitors the evolution of the presence of plastic in the environment, including harmonised definitions, methodologies and formats for reporting.

#### **Article(s) on Dedicated Programmes of Work**

*This article(s) should outline dedicated programmes of work for major industrial sectors in which plastics are used to facilitate sectoral engagement in meeting the obligations of the instrument and promote cooperation between existing instruments and multistakeholder initiatives. This should include but not*

*necessarily be limited to establishing dedicated programmes of work in: (i) fisheries, (ii) agriculture, (iii) packaging, (iv) textiles, (v) automotive, (vi) medical, (vii) construction; and (viii) microplastics*

*Key elements include:*

- **Mandate.** The Conference of the Parties should be required to initiate dedicated programmes of work to develop comprehensive global strategies that address specific sectors and sources of plastic pollution across the value chain, including:
  - fisheries;
  - agriculture;
  - packaging;
  - textiles, including microfibers;
  - automotive, including tire dust;
  - medical and healthcare;
  - construction; and
  - other sources of microplastics, as appropriate.
- **Cooperation and Coordination.** The Conference of the Parties, in initiating a dedicated programme of work, should seek to cooperate and coordinate with other relevant multilateral environmental and regional agreements and bodies and promote the involvement of stakeholders from across the value to chain. These comprehensive global strategies should make recommendations to the Parties on policies and other actions, identify any research and development needs and outline a multistakeholder action agenda.

#### **Article(s) on Transparency**

*This article(s) should outline the obligations and measures to ensure transparency of chemical components of plastic materials and products throughout the supply chain.*

- **General Obligation.** Each Party should be required to adopt legal and administrative measures into national legislation to ensure access by public authorities and the public to the chemical components of plastic materials and products, including through mandatory disclosure requirements and labelling and QR codes on producers and manufacturers.
- **Database.** Parties should establish a database, to be maintained by the Secretariat, for producers and manufacturers to disclose the chemical components of their plastic materials and products, in accordance with decisions of the Conference of the Parties setting out minimum disclosure requirements.
- **Labelling and QR Codes.** The Conference of the Parties should be empowered to adopt uniform labelling requirements for plastic materials and products, including the development of a quick response (QR) code system for informing public authorities and the public of the chemical components of any given plastic material or product.

## II. Implementation elements

### 1. Implementation measures

#### **Article(s) on National Action Plans**

*This article(s) should include obligations and measures on national action plans (NAPS) setting out the specific policies and measures taken or to be taken to comply with the settled international obligations and other related commitments.*

*Key elements include:*

- **General Obligation.** Each Party should be required to develop and implement a national action plan to meet its obligations under the instrument and set out additional commitments to achieve its objectives in accordance with guidelines and other relevant decisions of the Conference of the Parties.
- **Review and Update.** Each Party should be required to periodically review and update its national action plan every [X] years with a view to enhancing its level of ambition in accordance with guidelines and other relevant decisions of the Conference of the Parties.
- **Communication.** Each Party should be required to communicate its national action plan and updates to the Secretariat, providing annual progress reports on its implementation.
- **Guidelines and Decisions.** The Conference of the Parties should be tasked with adopting guidelines for the development, implementation, review and update of national action plans and progress reports, and adopting decisions to promote prevention, reduction and elimination of plastic pollution and support regional and international cooperation.
- **Stakeholders.** Each Party should be required to consult national stakeholders in the development, implementation, review and update of their national action plans, incorporating lessons learned and best practices from informal and cooperative settings and the best available science, traditional knowledge, knowledge of indigenous peoples and local knowledge systems.

#### **Article(s) on National Reporting**

*This article(s) should set out the reporting obligations on Parties for purposes of establishing baselines and inventories and monitoring implementation and compliance. The information collected within this element would form the basis of an effectiveness evaluation, which could form as a separate element for consideration. National reporting must be designed to match the scope and objectives of the agreement. For example, it is not possible to promote “sustainable” production and consumption of plastics without statistical data on “actual” production and consumption of plastics. Other categories of statistical data will be needed as well, including on product design and use and waste management. National reporting will require harmonization, including on definitions formats, content and methodologies, to ensure comparability and usefulness of data.*

*Key elements include:*

- **General Obligation.** Each Party should be required to provide to the Secretariat, within [X] months of becoming a Party and every year thereafter, statistical data or best estimates of such data where actual data is unavailable, including:

- origin of raw materials used to produce polymers in Article [ ];
  - virgin polymer production, composition, consumption and use listed in Article [ ];
  - recycled plastic production, consumption and use;
  - reuse systems and plastic waste management in Article [ ];
  - sea-based sources;
  - microplastics; and
  - chemical compounds and additives.
- **Definitions, Formats and Methodologies.** The Conference of the Parties should be required to 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.

### **Article(s) on Monitoring**

*This article(s) should allow for the Parties to assess progress towards the objectives of the instrument. This can be measured through a combination of economic and environmental indicators, instituted through national reporting (bottom-up) and environmental monitoring (top-down). This article(s) refers to environmental monitoring at the international level that together will help us understand the evolution of plastic pollution in the environment, based on established baselines.*

- **General Obligation.** Parties should undertake appropriate monitoring pertaining to plastic production, consumption and use, plastic waste management and leakage, plastic pollution in the environment and, where relevant, to alternatives and substitutes to plastic, including:
- presence of plastic in the biosphere:
    - concentrations of microplastics in the environment;
    - presence of macroplastics in the environment;
    - plastic-associated chemical pollution trends and abundances;
    - bioindicator species;
  - plastic entering the biosphere
    - virgin plastic production, consumption and use;
    - waste management and leakage;
    - primary microplastic inputs;
    - other sources, *e.g.* lost fishing gear and agricultural plastics
  - impacts on human health and the environment:
    - exposure risks and thresholds;
    - bioindicator species;
    - pre-production impacts (*e.g.* climate and air quality);
  - impacts on human rights.
- **Baselines.** The Conference of the Parties should establish appropriate baselines for monitoring of plastic pollution in the environment and its impacts to measure progress against.
- **Development of Existing Monitoring.** Parties should, where appropriate, build on existing research programmes, international programmes, networks and organizations aimed at monitoring plastic pollution and its impacts.
- **Harmonisation of Monitoring.** The Conference of the Parties should ensure harmonised methodologies, metrics and definitions for the activities undertaken under this article.



### **Article(s) on Subsidiary Bodies and Review of the Instrument**

*This article(s) should allow for the Parties to establish such subsidiary bodies necessary to support the implementation of the instrument and periodically assess the control measures provided within the instrument on the basis of the best available scientific, environmental, technical and economic information.*

- **General Obligation.** The Conference of the Parties should be required to keep under continuous review and evaluation the implementation of the instrument.
- **Subsidiary Bodies.** The Conference of the Parties should be empowered to establish such subsidiary bodies deemed necessary to implement and review the instrument. Subsidiary bodies should also perform specific tasks requested in decisions made by the Conference of the Parties. If not established or mandated under the institutional arrangements as permanent bodies, such subsidiary bodies should include:
  - **Scientific Assessment Body.** May assess the status of plastic pollution in all environments and its impact on human health, the environment and human rights, as well as any other relevant interlinkages, such as plastics and climate change, biodiversity loss, etc.
  - **Technical and Economic Assessment Body.** May assess technical and economic information relevant to the control measures within the instrument, including the assessment of potential replacements and substitutes for controlled materials and products.
- **Temporary Bodies.** Subsidiary bodies should, in order to carry out their work programme, be able to set up temporary bodies, committees, task forces or other groups as needed.
- **Cooperation.** Subsidiary bodies should cooperate, where appropriate, with competent international organizations and intergovernmental and non-governmental bodies;
- **Review of Reporting.** Regularly review all information made available to the Parties through monitoring and reporting obligations within the instrument.

### **Other Articles**

*Other relevant articles not elaborated on here but essential for a well-functioning instrument include:*

- **Article on Implementation Committee**
- **Article on Non-Party Provisions**

## **2. Means of Implementation**

### **Article(s) on Financial Resources and Mechanism**

*This article(s) should cover financial assistance to developing countries and economies in transition, identifying the types of financial assistance and the terms for its provision as well as the financial mechanisms for their delivery.*

*Key elements include:*

- **Financial Mechanism.** Parties should establish a mechanism to provide predictable, adequate and timely financial resources and technical assistance, including technology transfer, to developing country Parties and Parties with economies in transition, that includes the:
  - Multilateral Fund for the Implementation of the [Name of Instrument];
  - Plastic Pollution Trust Fund; and
  - Global Environment Facility Trust Fund.
- **Multilateral Fund.** Parties should establish a dedicated multilateral fund, operating under the authority of the Parties, to provide financial resources for:
  - enabling activities on a grant basis, including:
    - institutional strengthening,
    - capacity-building and training,
    - reporting and monitoring,
    - policy development and implementation, and
    - pilot and demonstration projects;
  - agreed incremental costs on a grant basis, an indicative list of which should be adopted by the Conference of the Parties at its first meeting;
  - technical assistance on a grant basis;
  - technology transfer on a concessional basis or mutually agreed terms, as appropriate;
  - finance for secretariat services and support costs.
- **Plastic Pollution Trust Fund.** Parties should establish a Plastic Pollution Partnership Fund, operating under the authority of the Parties, in order to provide additional financial assistance to developing country Parties and Parties with economies in transition to support remediation of existing plastic pollution as well as other costs. The Plastic Pollution Trust Fund should be funded from fees, levies and voluntary contributions from producers and other companies.
- **Global Environment Facility Trust Fund.** Parties should include the Global Environment Facility Trust Fund to provide additional financial assistance and access to financing for other costs on a grant or concessional basis in accordance with guidance adopted by the Conference of the Parties.

#### **Article(s) on Capacity-Building and Technical Assistance**

*This article(s) should cover the obligations and measures on capacity-building and technical assistance.*

*Key elements include:*

- **General Obligation.** Parties should be required to cooperate to provide timely and appropriate capacity-building and technical assistance to developing country Parties and Parties with economies in transition to assist in the implementation of their obligations under the instrument.
- **Regional Networks.** Parties should establish regional networks to support the implementation of the instrument for the purposes of providing capacity-building and technical assistance and undertaking such other activities as requested by the Parties.
- **Cooperation and Coordination.** Parties should seek to cooperate and coordinate with other multilateral environmental agreements and regional initiatives to increase the effectiveness of the capacity-building and technical assistance and its delivery, including in the field of chemicals, waste, fisheries, agriculture and climate.

- **Periodic Review.** The Conference of the Parties should be required to review the effectiveness of the capacity-building and technical assistance provided by the regional networks every [5] years and adopt improvements thereto.

**Other Articles**

*Other relevant articles not elaborated on here but essential for a well-functioning instrument include:*

- **Article on Technology Transfer**

### III. Additional input

There are three core principles that guide the conceptualization of the control measures described in this submission, derived from the content of interventions and submissions made during INC-1 and at UNEA, and we recommend should form the guiding principles of the eventual agreement:

- **Waste Hierarchy**

- Prevention, reduction and reuse should take priority over other measures, in particular as recycling alone will not end plastic pollution. Moreover, recycling of plastics containing toxic substances perpetuates the recirculation of harmful toxins and additives, underlining the concept of a safe circular economy.
- There is a significant discrepancy between projected production and projected recycling capacity.
- False solutions like chemical or advanced recycling are problematic, unproven and carbon intensive.
- Continued investment in recycling at the expense of other system change -e.g reuse systems – creates lock-ins to technologies we need to transition away from

- **Precautionary Principle**

- The Treaty must have an overall objective to **protect human health and the environment from all adverse impacts of plastics**, including curbing toxic and climate pollutants.
- While the body of knowledge and evidence is constantly growing, we have enough information to act and establish policy frameworks that can protect health and the environment.
- Key principles include:
  - Shifting the burden of proof of product and material safety onto plastics producers.
  - Taking preventative action given the potential for further harm at all stages of the plastics lifecycles.
  - Pursue alternatives such as reuse systems, reduction, waste prevention.
  - Ensure public participation in decision making.
  - Transparency to enable informed choices throughout the plastics value chain

- **Polluter Pays Principle**

- The treaty should establish the polluter pays principle, which requires that the costs of all impacts on human health and rights, society, and the environment caused by the production, use, disposal, dumping, import and export of plastics are recovered.
- In practice this should include:
  - extended producer responsibility
  - multilateral finance - for example in the form of a dedicated multilateral fund
  - taxes and fees
  - elimination of harmful subsidies
  - deposit Return and other forms of take-back schemes

This submission does not focus on voluntary measures and we recommend that negotiators spend little time discussing them during negotiations given they represent the status quo and can be adopted via decisions at a later date.