

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

Name of country (for Members of the committee)	
Name of organization (for observers to the committee)	Our Sea of East Asia Network (OSEAN)
Contact person and contact information for the submission	Christine Semee Rhee crhee@osean.net
Date	January 10, 2023

I. Substantive elements

1. Objective(s)

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

<p><u>Proposed Objective</u></p> <p>The objectives of the instrument must reflect the overall goal of UNEA Resolution 5/14 which is to end plastic pollution. To this end, the following objectives must be guaranteed in the instrument:</p> <ol style="list-style-type: none"> I. End plastic pollution throughout the life cycle of plastics, in all environments and in the biota, and also end harm to the health and well-being of humans through a human rights-based approach. II. Prioritize the reduction of plastic production, reuse, and just transition to ensure sustainable production and consumption of plastics. <p><u>Explanatory Text</u></p> <ol style="list-style-type: none"> I. Starting with extraction, plastics pollute throughout its entire life cycle. Plastics, like petrochemicals, require fossil fuel feedstocks and with up to 99% of plastics being made from fossil fuels,¹ this extraction process inevitably causes detrimental environmental impacts on land, air, water and human health. The extraction of raw materials, followed by the cracking of chemicals, and the polymerization, where plastics become a material, make up the upstream stage in the full life cycle of plastics and cause pollution that harm surrounding environments and to the people living near these facilities. In the midstream stage where plastics are manufactured, designed, and consumed, plastic pollution still persists. Among the plastic products produced during this stage, non-recyclable short-lived plastic packaging and single-use plastics are by far the most problematic as they escalate plastic pollution with unfettered production levels. In the downstream stage where plastics meet their end-of-life, plastics continue to pollute the environment due to inadequate waste management methods

¹ UNEP, *Drowning in Plastics: Marine Litter and Plastic Waste Vital Graphics*, accessible [here](#).

that are prone to waste leakages. Unsustainable waste management and mismanaged waste often create harmful and unsafe conditions leaving lasting effects that threaten human health and the environment. Thus, ending plastic pollution in all stages of the plastics life cycle has to be the primary objective of the instrument because at every juncture of the plastics life cycle, human health, human rights and the environment are inextricably at risk. In other words, ending plastic pollution must take on a human rights-based approach that includes informed participation of the public, principles of prevention, precaution and polluter-pays, and mechanisms of accountability and remediation.²

- II. Sustainable and environmentally sound production and consumption of plastics can only be achieved if plastic production is reduced, reuse becomes mainstream, and a just transition is realized through the inclusion of waste pickers, frontline communities, and other vulnerable stakeholders along the plastics value chain while aiming for a transition that is fair, restorative and not unduly burdensome. Moreover, sustainable production and consumption of plastics must guarantee eliminating problematic polymers, toxic additives, and other harmful chemicals so that an end to plastic pollution can be truly attainable.

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 and Control Measures

Below are the core obligations necessary for a systemic change that will address plastic pollution along its life cycle and the accompanying control measures that will help achieve these core obligations.

- I. Measures and obligations regarding the extraction of fossil fuels, the chemical processing and the polymerization of plastics along with mandatory reporting of these reduction obligations
 - The instrument must set out explicit measures and obligations for Parties to abide by through their national legislations and regulations. These measures and obligations must include, but are not limited to, the elimination of fossil fuel subsidies, restrictions on toxic chemicals, taxes and tariffs on problematic polymers.³
 - All Parties must be subject to mandatory reporting to ensure that they are meeting the above measures and obligations.
- II. Trade-related measures such as bans and restrictions on problematic polymers, harmful additives, plastic feedstocks and plastic waste to ensure that trade between Parties and non-Parties do not facilitate illegal markets or circumvent obligations stated in the instrument

² A/76/207, para 78.

³ UNEP/PP/INC.1/7, Appendix VI.

- Trade happens throughout the life cycle of plastics⁴ and these trade opportunities can potentially interfere with the success of the instrument if they provide an avenue for Parties and non-Parties to maintain the status quo. Therefore, there must be: 1) restrictions and bans on plastic feedstocks, problematic polymers, and harmful additives for both Parties and non-Parties; 2) a permit system that allows both the importing and exporting country to maintain their respective control over the type of plastic material or product that gets traded; 3) a mandatory monitoring and reporting of import and export declarations; 4) opportunity for Parties to take on stricter domestic measures; and 5) a provision that will help the instrument to better regulate trade-related matters with other existing agreements such as the Basel Convention and the Stockholm Convention.⁵

III. Agreed upon criteria impervious to greenwashing that rates product design, reusability, and recyclability to help achieve sustainable consumption of plastics and environmentally sound waste management

- Parties must create a criteria including the use of recycled content, product durability, reusability, right to repair, and recyclability to objectively rate plastic products and ensure that the products meeting these criteria are prioritized and favored in their respective domestic markets.
- Measures and restrictions on plastic substitutes and plastic alternatives must apply the precautionary principle as neither are yet proven to be viable solutions on a global scale. Despite being made from natural materials with lower environmental impact than fossil fuel based polymers, plastic substitutes will not be environmentally friendly if it cannot guarantee moving away from a single-use model.⁶ Plastic substitutes for use and toss will require mass production and resource consumption that will eventually run the risk of having an exceedingly large carbon footprint in the aggregate and also create additional pollution in the environment. As for plastic alternatives, such as bioplastics and compostable plastics, their chemical components make them similarly toxic to conventional plastics and bioplastics do not necessarily biodegrade.⁷ Thus, the use of plastic substitutes and alternatives must be controlled for specific materials and used for tailored purposes so that they do not become an additional source of pollution.

IV. Obligations and measures for environmentally sound waste management must start in the upstream and midstream stages to help minimize waste leakage and end-of-life management must be safe and non-toxic to human health and to the environment.

- Parties must set waste minimization targets from the upstream and midstream stages of the life cycle of plastics. These targets must incorporate the polluter pays principle along with

⁴ UNEP/PP/INC.1/7, Figure 2.

⁵ CIEL, *Trade Provision in Multilateral Environmental Agreements: Key Elements for Consideration in the Context of a Treaty to End Plastic Pollution*, accessible [here](#).

⁶ Fauna and Flora International, *Alternative Plastic: Is It the Answer to Ending Marine Plastic Pollution?*, accessible [here](#).

⁷ OCEANA, *Bioplastic Remains Plastic: Bio-Based, Biodegradable and Compostable Plastics, False Solutions to the Plastic Crisis in the Ocean*, accessible [here](#).

targeted extended producer responsibility (EPR) schemes to help advance the culture of reuse.

- Waste management technologies must be examined under the scrutiny of independent peer-reviewed science to ensure that they are non-toxic and safe.

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).*

a) To ensure implementation of the instrument at the national level, the obligations required under the instrument must be clearly defined and be unambiguous. Parties must develop national legislations and national action plans that comply with the obligations set out in the instrument and also undertake additional measures that advance the objectives of the instrument. Parties must also create a special committee with the sole task of reviewing national legislations and action plans to keep Parties accountable and to spur ambition.

b) Efficient national reporting is one of many surefire ways to ensure that the instrument will be effective. Parties must report their progress on meeting the obligations and measures of the instrument by following a set schedule. National reporting must touch on all stages of the plastics life cycle, but such reporting must avoid any unnecessary duplicity with existing instruments. As for ensuring the effectiveness of the instrument, Parties can look to the Montreal Protocol. By following a similar "start and strengthen" strategy that was deployed in the Montreal Protocol, control measures can be improved through periodic assessments that incorporate new information and scientific findings to strengthen the effectiveness of the instrument using adjustments and amendments.

c) Harmonized monitoring for the purposes of ending plastic pollution must be a priority for implementation measures. Harmonizing monitoring methodologies, data, and analyses will help provide a better understanding on the effectiveness of the instrument and allow for easier scientific and technical cooperation between and among Parties. In addition, regional coordination tailored to specific regional characteristics will help deliver nuanced solutions that can enhance the effectiveness of the instrument.

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?*

While there are a myriad of measures and support mechanisms that can help support the implementation of the instrument, capacity-building, technical assistance, technology transfer, and financial assistance are a few that must be required. Capacity-building assistance is critical for successfully implementing the obligations of the instrument. A comprehensive assessment must be undertaken to identify areas for constructive capacity-building assistance including technical skills and institutional capacity. Technical assistance and technology transfer will also be important as obligations and measures will largely be based on science. With many Parties lacking adequate baseline data, technical assistance and technology transfer that help Parties understand their current realities of plastic pollution will help identify priority areas which will then lead to improving the overall implementation of the instrument. As for financial assistance, a multilateral fund for developing countries dedicated for the purpose of ending plastic pollution and phasing out toxic additives and chemicals will be favorable for a global treaty on plastic pollution.

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 life cycle of plastics and its associated pollution involve many stakeholders from diverse sectors. To ensure that the obligations and measures of the instrument are based on sound independent science, the engagement of the Scientists' Network for an Effective Plastics Treaty (SNEPT) throughout the INCs will be a valuable addition when crafting the instrument. Moreover, an inter-sessional working group on fishing gears, particularly abandoned, lost, or otherwise discarded fishing gear (ALDFG), and other sea-based sources of plastic pollution will be advisable due to its diverse group of stakeholders requiring strategic coordination and cooperation. This inter-sessional working group will ensure adequate stakeholder engagement, create an opportunity to exchange information and best practices including the role of citizen science, and provide the necessary space to address plastic pollution in the marine environment without affecting the overall INC negotiations on plastic pollution in all environments.