

Written submission on the potential options for elements towards an international legally binding instrument

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I. Substantive elements

1. Objective(s)

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

Objectives

The overarching objectives of a new legally binding instrument should be the prevention of plastic pollution in all environments by

- Eliminating problematic and avoidable plastics
- Ensuring social justice for waste pickers and other workers throughout the plastics value chain, and environmental justice for affected communities
- Supporting solutions to plastic pollution that respect planetary boundaries, namely climate, biodiversity and ecosystem health

Explanatory text

A broad overarching ambition is implied in the title of UNEA Res. 5/14 to “end plastic pollution.” The resolution reaffirms the importance of preventing risks to human health, and the adverse effects on human wellbeing and the environment related to plastic pollution through complementarity with existing multilateral instruments.

The planetary boundary for the category “novel entities” is exceeded with plastics and toxic chemicals polluting anything from the arctic air to deep seas and human cells causing only partly understood harm to life on earth:

- 1 billion tons of waste (including plastic) is annually burned openly with toxic fumes, including POPs, released and breathed in by communities;
https://eprints.whiterose.ac.uk/192228/3/Velis_Cook_OpenBurningPlastics_10.1021acs.est.0c08536_Acc.pdf
- municipal and agricultural plastic is polluting the soil (white pollution) making it at some point unusable for centuries;
https://wedocs.unep.org/bitstream/handle/20.500.11822/40403/Plastics_Agriculture.pdf
- plastic polluting the water causes flooding in urban areas, while in rural areas it

contaminates river water used in the past for drinking: Plastic pollution: Aquatic: 15Mt/y, Terrestrial 25Mt/y (2020):
<https://www.science.org/doi/10.1126/science.aba9475>

In low and lower middle income countries this is felt on a much more imminent level. Indigenous Peoples, farmers, fishers, and other vulnerable communities across the world bear the brunt of plastic pollution caused across its lifecycle. Across Asia there are highly damaging facilities being set up to manage plastic waste generated by OECD countries that not only transport their waste, but also impose polluting technologies to burn them. FMCGs engage waste pickers and other indigent populations to collect, sort and transport plastic waste to these facilities, exploiting their vulnerability in order to support business-as-usual practices of unsustainable production and consumption.

Therefore, it is imperative that the treaty adopt “a human rights-based approach to global plastics management, focusing on human rights principles as well as mechanisms for accountability and access to remedy”, as stated by the UN Special Rapporteur.

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, control measures and voluntary approaches should cover each stage of the plastic lifecycle:

- **raw materials (sourcing)** – set significant, progressive and mandatory obligations and measures to cap oil and gas extraction and processing and petrochemical production;
- **polymer production, consumption and use (upstream)** – set significant, progressive and mandatory obligations and measures to cap 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 polymerisation but ending when converted into plastic products;
- **product design and use (midstream)** – set significant, progressive and mandatory obligations and measures related to plastic products themselves, including their design, use and reuse in order to minimise obsolescence and discards; and mechanical recycling, supported by EPR fees eco-modulation;
- **waste management and treatment (downstream)** – obligations and measures related to the environmentally sound management of plastic waste; ban all plastic waste exports to non-OECD countries, and strictly minimise all other plastic waste trade; ban the export of plastic waste for thermal treatment and plastic-to-fuel;
- **plastic in the environment (leakage)** – obligations and measures related to the remediation of plastic pollution, including but not limited to the marine environment, criteria for polluter pays principle to apply to producers; and

- **just transition (whole lifecycle)** - obligations and measures to include waste pickers in waste management, and guarantee a just transition for workers, including waste pickers.

In working towards the ambition of ending plastic pollution, the following control measures should be included:

- Global elimination of **chemicals and polymers of concern**
- Global elimination of **problematic and avoidable plastics**
- Global elimination of transboundary movement of plastic waste
- Global reduction in the use of virgin feedstocks (e.g., oil, gas, plants)
- Global reduction in the use of chemicals across the life cycle of plastics
- Global reduction in the generation of residual wastes and their environmentally sound management
- Global reduction in environmental stocks of plastics and associated chemicals from environmentally unsound waste management and legacy residual wastes
- Sustainable product design, material flows (including trade) and waste management

Explanatory text

In low and lower middle income countries, the introduction of cheap plastic has destroyed the local production and use of alternatives. This has also resulted in a shift of jobs from natural-based products and packaging to plastic production. Often these facilities are heavily subsidised by the taxpayer, making harmful plastics cheaper than natural-based products. Moreover, the post-consumer costs are externalised, carried by society as a whole.

High income countries and multinational companies driving their “linear” solutions into these circular systems have replaced sustainable indigenous and local mechanisms. The elimination of single-use plastic and the requirement for circularity / “made-to-last” / “right-to-repair” will allow low and lower middle income countries to revive their local sustainable economies relying on indigenous, traditional and local solutions, while encouraging high income countries to learn and implement these proven systems and embrace a proven circular economy.

Any collection mechanism should be designed to complement the existing recycling economy. Any price support mechanism, including EPR introduced to increase recovery, should be accessible to waste pickers and the informal recycling sector. This includes the coverage of fair remuneration for labour, as well as coverage of social welfare and social security costs. Any circular systems that potentially generate employment (including reuse and refill) should be designed to incorporate the informal sector waste pickers and waste workers whose livelihoods may be affected by a reduction in the production of plastics.

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) National action plans for the prevention, reduction and elimination of plastic pollution, including measures and targets

The development of national action plans could be a binding commitment for all Member States. These action plans could aim to stimulate implementation of the control measures agreed in the plastics convention at the national level, and towards achieving the global goals outlined in the convention within specified timeframes. Member states can be encouraged to develop and implement action plans for

- i)** encouraging resource efficiency (upstream);
- ii)** redesign and reuse of products and materials (upstream);
- iii)** avoiding the unnecessary use of plastic and plastic containing chemicals of particular concern where appropriate (midstream);
- iv)** increasing collection and recycling rates of plastic waste (downstream); and
- v)** preventing marine litter and the discharge of microplastics (downstream).

To ensure comparability, Member States can

- i) agree to a minimum set of elements for inclusion in national action plans;
- ii) develop reporting template for national action plans; and
- iii) agree on headline indicators against which progress must be tracked and reported (with agreed calculations).

b) National reporting

- i)** Harmonise definitions and methodologies (e.g. for purposes of establishing baselines, inventories, and monitoring) as well as standards for labelling, certification schemes, and product design (e.g. to promote safer design, recycling, and secondary markets for recyclates)
- ii)** Develop a global assessment of progress towards general commitments and targets, including implementation of international sustainability criteria for plastics and associated chemicals and national action plans, and to reveal remaining action gaps
- iii)** Create inventories of controlled material flows (extraction, production, consumption, disposal and trade), as well as emissions, leakage and contamination (sources, pathways and sinks)
- iv)** Establish methods to address issues of ownership and transparency in data

collection

c) Relevant priorities

i) Science, traditional knowledge, knowledge of Indigenous Peoples and local knowledge systems, and best practices from informal and cooperative settings

- 1) Safeguard and protect traditional knowledge, systems, practices and innovations and nature-based solutions from Indigenous Peoples
- 2) Recognise the significant contribution made by workers in informal and cooperative settings to the collecting, sorting and recycling of plastics in many countries, and consider their best practices and lessons learned

ii) Cooperation and coordination

Plastics are pervasive to our society and cannot be considered in isolation. Thus the plastics instrument can help to generate co-benefits with many other environmental goals that are governed by their own multilateral instruments.

- 1) The BRS conventions address significant aspects of the plastics life cycle and are of significant relevance to plastics
- 2) Only a few chemicals associated with the plastics life cycle are addressed under existing multilateral instruments
- 3) The plastics instrument has the greatest potential to complement activities under the BRS conventions in the chemicals, material and de-materialisation phases, while building on these efforts to address the full life cycle of plastics and associated chemicals
- 4) The plastics instrument can significantly benefit the climate and biodiversity agendas through safe and sustainable circularity of plastics, making it highly relevant for the CBD, UNFCCC and Paris Agreement.

iii) Monitoring and compliance

- 1) Require Parties to make plastic pollution and other serious breaches of treaty provisions criminal offences under national law.
- 2) Require Parties to provide communities harmed by plastic pollution with access to legal and other effective remedies, including measures to ensure non-repetition.

No voluntary approaches

All measures mentioned above are binding. Voluntary approaches have proven to be largely ineffective (Dauvergne, 2018), and as such should not be included within the treaty's global architecture of core obligations and control measures, or otherwise deflect resources away from binding measures under the treaty. However, existing voluntary

initiatives that Parties undertake above and beyond their treaty obligations can be reflected under national implementation and action plans if and when national authorities consider that they support treaty effectiveness.

III. 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?*

Global plastic pollution liability and compensation mechanism

Such a mechanism can support access to prompt and adequate compensation in significant plastic pollution events such as the 2021 MV X-Press Pearl plastic pellets spill off the coast of Sri Lanka. This mechanism must be financed by polluters with mandatory contributions, to ensure that governments are not in effect subsidising pollution by private actors (Chen, 2012).

Financial mechanism

The Global Environment Facility (GEF) is a designated financial mechanism that supports MEAs relevant to plastics, including the Stockholm Convention, the Montreal Protocol (when it comes to countries with economies in transition), the Minamata Convention (as one of the two components of the financial mechanism), CBD and UNFCCC. The GEF could be designated as the financial mechanism for the plastics instrument in order to ensure strong linkages with relevant MEAs, and institutional efficiency by taking advantage of its governance structure.

Technical assistance

To assist with decision-making, institutional arrangements could either establish standing scientific and economic committees or ad hoc scientific and economic bodies (overseen by UN Environment, for example), both of which would draw upon experts from academia, industry, civil society (provided adequate conflict-of-interest and transparency policies) and established entities, such as the Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection (GESAMP) and the Regional Seas Programmes.

IV. 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).

Research & Development

Promote research into and development of sustainable, affordable, innovative and cost-efficient approaches.

Implementation and Compliance Committee

In order to ensure the implementation of, and review compliance with, all the provisions of the Convention on Plastic Pollution, a dedicated committee should be established. This includes identifying areas where assistance is needed by countries not meeting their obligations.

Coordination Task Forces

In order to ensure coordinated responses and avoid duplication, the COP may wish to establish coordination task forces, which could operate through both formal means (joint task force between two conventions) and informal means (recommendations to Parties on actions to support in other fora), with consideration given to the potential role of the Regional Seas Programmes.

Knowledge Exchange Networks

Knowledge exchange may also be formalised, building and expanding upon similar efforts already being undertaken, such as the Global Partnership on Marine Litter (GPML) and the recently announced Global Plastics Platform (GPP), through a knowledge exchange network.

Awareness-raising

Labelling on single-use products to raise awareness of the negative impacts of plastic as well as to promote reuse alternatives. This could be similar in style to tobacco health warnings on cigarette packaging to reduce smoking.