

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)	N/A
Name of organization (for observers to the committee)	Secretariat of the Basel, Rotterdam and Stockholm conventions
Contact person and contact information for the submission	Kei Ohno Woodall (kei.ohno@un.org)
Date	19 January 2023

I. Substantive elements

1. Objective(s)

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

UNEA resolution 5/4 provides that the instrument includes a provision to specify its objectives. Information on the objectives of the Basel, Rotterdam and Stockholm conventions is provided below:

There is no specific article on objectives under the **Basel Convention**,¹ but the preamble provides that the Parties to the Convention are determined to protect, by strict control, human health and the environment against the adverse effects, which may result from the generation and management of hazardous wastes and other wastes.

The objectives of the Rotterdam and Stockholm conventions are stated in their respective Article 1 of the conventions as follows:

- **Rotterdam Convention, Article 1 – “Objective”:** “The objective of this Convention is to promote shared responsibility and cooperative efforts among Parties in the international trade of certain hazardous chemicals in order to protect human health and the environment from potential harm and to contribute to their environmentally sound use, by facilitating information exchange about their characteristics, by providing for a national decision-making process on their import and export and by disseminating these decisions to Parties.”
- **Stockholm Convention, Article 1 – “Objective”:** “Mindful of the precautionary approach as set forth in Principle 15 of the Rio Declaration on Environment and Development, the objective of this Convention is to protect human health and the environment from persistent organic pollutants.”

¹ <http://www.basel.int/tabid/8333>.

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?*

UNEA resolution 5/4 reaffirms the importance of cooperation, coordination and complementarity among relevant regional and international conventions and instruments, while respecting their respective mandates, to prevent plastic pollution and its related risks to human health and adverse effects on human well-being and the environment. Information on the of the Basel, Rotterdam and Stockholm conventions. The INC is also to develop international legally binding instrument on plastic pollution, including in the marine environment including provisions to promote cooperation and coordination with relevant regional and international conventions, instruments and organizations, while recognizing their respective mandates, avoiding duplication, and promoting complementarity of action.

Information on the obligations, control measures and voluntary approaches in the Basel, Rotterdam and Stockholm conventions is provided below:

The Basel Convention provides measures to reduce the generation and promote the environmentally sound management of hazardous wastes and other wastes requiring special consideration, to restrict transboundary movements of such wastes except where it is perceived to be in accordance with the principles of environmentally sound management; and sets up a regulatory system (prior informed consent procedure) applying to cases where transboundary movements are permissible. As amended in 2019, all plastic waste covered by the Convention, including mixture of plastic waste not destined to recycling, is subject to the provisions on waste minimization, environmentally sound management, and the prior informed consent procedure.² The technical guidelines on environmentally sound management of plastic waste are being updated for possible adoption by the Conference of the Parties at its sixteenth meeting in May 2023.³

The following articles provide obligations and control measures:

- Articles 4 and 4A: General obligations regarding waste minimization, environmentally sound management of wastes and transboundary movements of wastes;
- Article 6: The detailed prior informed consent procedure applying to transboundary movements;
- Article 9: defines illegal traffic and provides for the consequences of illegal traffic in order to ensure that wastes illegally trafficked are ultimately managed in an environmentally sound management and that conduct contrary to the Convention is punished.

The framework for the environmentally sound management (ESM) of hazardous wastes and other wastes (hereinafter referred to as "the Framework") was adopted at the eleventh meeting of the COP in its decision BC-11/1. Intended as a practical guide for all stakeholders, the Framework identifies what can be done to address the challenges off implementing the ESM of hazardous wastes and other wastes. The Framework is composed of three sections:

- A common understanding of what ESM encompasses;

² <http://www.basel.int/tabid/8426>.

³ <http://www.basel.int/tabid/7992>.

- Tools to support and promote the implementation of ESM;
- Strategies to implement ESM.

The ESM Framework is supplemented by the ESM Toolkit which provides guidance to Parties and others on practical approaches to implementing ESM, specific guidance on aspects such as EPR and prevention and minimization and on how to address ESM in the informal sector.⁴

The Conference of the Parties has a long-standing practice of establishing public-private partnerships to collectively address issues. There are currently four such Partnerships under the Convention:⁵

- **Plastic Waste Partnership;**
- **Partnership for Action on Challenges Relating to E-waste (PACE II);**
- **Environmental Network for Optimizing Regulatory Compliance on Illegal Traffic (ENFORCE);**
- **Household Waste Partnership.**

The Stockholm Convention provides measures to reduce releases of persistent organic pollutants, including plastic additives and by-products, from intentional production and use, unintentional production, and stockpiles and wastes. As of January 2023, there are 31 entries of chemicals or groups of chemicals listed under the Convention, of which 15 are either plastic additives or contaminants or byproducts of plastics.

The following articles provide obligations and control measures:

- Article 3: Measures to reduce or eliminate releases from intentional production and use;
- Article 5: Measures to reduce or eliminate releases from unintentional production;
- Article 6: Measures to reduce or eliminate releases from stockpiles and wastes.

The Stockholm Convention does not have labelling requirements (except for PCB, pentachlorophenol and hexabromocyclododecane) but it requires each Party to develop appropriate strategies for identifying stockpiles, products and articles in use and wastes consisting of, containing or contaminated with a chemical listed in Annex A, B or C.

The Rotterdam Convention promotes shared responsibility and cooperative efforts among Parties in the international trade of certain hazardous chemicals and pesticides, and contributes to the environmentally sound use of those hazardous chemicals and pesticides. Of the 54 chemicals listed in Annex III to the Convention as of January 2023, 15 are either plastic additives or contaminants or byproducts of plastics. Furthermore, 35 of the listed chemicals are pesticides and pesticides containers are often made of plastics.

The following articles set out applicable procedures and obligations:

- Article 5: Procedures for banned or severely restricted chemicals;
- Article 10: Obligations in relation to imports of chemicals listed in Annex III;
- Article 11: Obligations in relation to exports of chemicals listed in Annex III;
- Article 12: Export notification.

⁴ <http://www.basel.int/tabid/5839>.

⁵ <http://www.basel.int/tabid/3235>.

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).*

Information on the implementation measures in the Basel, Rotterdam and Stockholm conventions is provided below:

Basel Convention:

- **National reporting and plastic waste inventory guidance:** Article 13 of the Basel Convention provides that each Party is to transmit, before the end of each calendar year, a report on the previous calendar year, containing relevant information (e.g. on generation of waste, imports and exports, availability of disposal facilities).⁶ In decision BC-15/13, the Conference of the Parties took note of the practical guidance on the development of inventories of plastic waste (UNEP/CHW.15/INF/19/Rev.1).
- The Basel Convention **national reports** include reporting on plastic waste as it falls under the Convention.
- **The Committee Administering the Mechanism for Promoting Implementation and Compliance (ICC):** Established in 2002, the Committee has the mandate to review both specific submissions regarding individual Parties' implementation and compliance, and general issues of implementation and compliance under the Convention. Over the years the Committee has helped 19 Parties resolve their compliance difficulties and monitored progress achieved by all Parties with their implementation of the Convention in relation to country contacts, reporting, legislation, illegal traffic and control measures.

Stockholm Convention:

- **National implementation plans:** Article 7 of the Stockholm Convention requires each Party to transmit national implementation plans (NIPs) within 2 years from the date of entry into force and to review and update the plans.
- **National reporting:** Article 15 of the Stockholm Convention provides that each Party is to report on the implementation of the Convention every four years.⁷
- **Compliance:** At its next meeting in 2023, the Conference of the Parties will continue to consider giving effect to the legal basis set out in Article 17 for it to develop and approve, as soon as practicable, procedures and institutional mechanisms for determining non-compliance with the provisions of this Convention and for the treatment of Parties found to be in non-compliance.
- **Effectiveness evaluation:** In accordance with Article 16 of the Stockholm Convention, commencing four years after the date of entry into force of the Convention, and every six

⁶ <http://www.basel.int/tabid/2314>; <http://www.basel.int/tabid/8989>.

⁷ <http://chm.pops.int/tabid/369>.

years thereafter, the Conference of the Parties evaluates the effectiveness of the Convention.⁸ The next effectiveness evaluation will take place at the eleventh meeting of the Conference of the Parties in 2023. The effectiveness evaluation committee established under the Convention is currently preparing the report. In order to facilitate such evaluation, the Conference of the Parties established arrangements to provide itself with comparable monitoring data on the presence of the chemicals listed in Annexes A, B and C as well as their regional and global environmental transport (Global Monitoring Plan).⁹

Rotterdam Convention:

- **Compliance:** In 2019, more than 20 years after the adoption of the Rotterdam Convention, the ninth meeting of the Conference of the Parties gave effect to the legal basis set out in Article 17 for it to develop and approve, as soon as practicable, procedures and institutional mechanisms for determining non-compliance with the provisions of this Convention and for the treatment of Parties found to be in noncompliance. The Committee has the mandate to review both specific submissions regarding individual Parties' implementation and compliance, and systemic issues of implementation and compliance under the Convention. At its tenth meeting, the Conference of the Parties adopted the work programme for 2022-2023 of the Committee (decision RC-10/11).
- **Information exchange:** As per Article 14, each Party shall, as appropriate and in accordance with the objective of this Convention, facilitate (a) the exchange of scientific, technical, economic and legal information concerning the chemicals within the scope of the Convention, including toxicological, ecotoxicological and safety information; (b) the provision of publicly available information on domestic regulatory actions relevant to the objectives of this Convention; and (c) the provision of information to other Parties, directly or through the Secretariat, on domestic regulatory actions that substantially restrict one or more uses of the chemical, as appropriate.
- **National action plans:** The Conference of the Parties adopted decisions RC-6/11 and RC-7/7 on technical assistance which include a programme of training activities on the development of national action plans for the implementation of the convention.
- **Final regulatory action:** Notifications of final regulatory action are the means by which Parties inform the Secretariat of their actions to ban or severely restrict a chemical for human health and environmental reasons. Summaries of new notifications of final regulatory action are published each June and December in the PIC Circular and are in the database of notifications of final regulatory action. Article 5 of the Convention sets out the obligations of Parties with respect to notifying the Secretariat of their final regulatory actions.
- **Import responses:** Import responses are the decisions provided by Parties indicating whether or not they will consent to import the chemicals listed in Annex III of the Convention and subject to the PIC procedure. All import responses submitted by Parties are published each June and December in the PIC Circular and are available in the database of import responses. Article 10 of the Convention sets out the obligations of Parties with respect to the future import of chemicals listed in Annex III.

⁸ <http://chm.pops.int/tabid/3668>.

⁹ <http://chm.pops.int/tabid/83>.

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?*

The Basel, Rotterdam and Stockholm conventions include the following measures to support the implementation of the instruments:

- **Technical assistance and financial mechanism:** Article 10 of the Basel Convention provides for Parties to cooperate with one another to improve and achieve environmentally sound management of hazardous wastes and other wastes. Article 16 of the Rotterdam Convention and Article 12 of the Stockholm Convention set out obligations related to technical assistance. On plastics, more than 50 countries are currently receiving technical assistance to strengthen the country's capacity for addressing plastic pollution.¹⁰

Article 13 of the Stockholm Convention states that each Party undertakes to provide, within its capabilities, financial support and incentives in respect of those national activities that are intended to achieve the objective of this Convention in accordance with its national plans, priorities and programmes.¹¹ Article 14 of the Stockholm Convention establishes the interim financial arrangements.¹² The Global Environment Facility (GEF)¹³ is entrusted with the operations of the financial mechanism referred to in Article 13.

The Conference of the Parties to the Stockholm Convention at its first and subsequent meetings further provided guidance to the financial mechanism¹⁴ and made provisions for the assessment of funding needed under the Convention over a defined period.¹⁵

- **Regional centres:** The Basel and Stockholm Conventions have established a number of regional and subregional centres under both conventions to provide technical assistance, capacity building and to promote the transfer of technology to Parties that are developing countries or countries with economies in transition in order to enable them to implement their obligations under these conventions. There are a total of 23 regional centres.¹⁶
- **Compliance procedures and mechanisms:** Under the Basel and Rotterdam conventions, the Committees are, among other things, to assist Parties to comply with their obligations (see the information in the section on "implementation measures").
- **International cooperation:** The Rotterdam Convention and the Stockholm Convention respectively provide an express legal basis for their Conferences of the Parties to cooperate with international organizations and intergovernmental and non-governmental bodies.¹⁷ Under the Basel Convention, international cooperation falls under the scope of

¹⁰ <http://www.basel.int/tabid/8772>.

¹¹ <http://chm.pops.int/tabid/677>.

¹² <http://chm.pops.int/tabid/681>.

¹³ <https://www.thegef.org/>.

¹⁴ Decisions SC-1/9, SC-2/11, SC-3/16, SC-4/27, SC-4/28, SC-5/23, SC-6/20, SC-7/21, SC-8/16, SC-9/15, SC-10/3, SC-10/16.

¹⁵ Decisions SC-1/17, SC-2/12, SC-3/15, SC-4/24, SC-5/22, SC-6/17, SC-7/18, SC-8/16, SC-9/15, SC-10/16.

¹⁶ <http://www.brsmeas.org/tabid/2636>.

¹⁷ Rotterdam Convention, Article 18.5 (b); Stockholm Convention, Article 19.5 (b).

the general functions of the Conference of the Parties.¹⁸ Each Convention also respectively provides for the Secretariat to cooperate with international bodies.¹⁹ At each meeting, the conferences of the Parties adopt substantively similar decisions guiding the various international cooperative activities to be undertaken by the Secretariat with a range of other organizations and stakeholders with a view to enhance consistency and coherence between the requirements and processes of the conventions and those of others, and promote their mutual supportiveness; share experiences, approaches and policies with respect to the implementation of the conventions; and increase efficiency, resources and expertise for the implementation of the mandates and programmes of work of the conventions. Document UNEP/CHW.15/INF/41-UNEP/FAO/RC/COP.10/INF/24-UNEP/POPS/COP.10/INF/45 provides an overview of the broad scope of international cooperative activities undertaken by the Secretariat.

In addition, the respective bodies under the three conventions work closely together on areas of common interest through enhanced coordination and cooperation.

- **Information exchange and clearing-house mechanism:** Article 9 of the Stockholm Convention, Article 14 of the Rotterdam Convention and Articles 3, 4, 5, 6, 10, 11, 13 and 16 of the Basel Convention provide requirements relating to information exchange. The joint clearing-house mechanism under the Basel, Rotterdam and Stockholm conventions is a multi-stakeholder global system that facilitate the exchange of information and expertise relevant for the conventions.²⁰
- **Research, development and monitoring:** Article 11 of the Stockholm Convention provides requirements related to research, development and monitoring.
- **Guidance and guidelines** developed under the conventions support the implementation of the conventions, in particular for Parties that are developing countries and countries with economies in transition.
- **Partnerships** established under the conventions also contribute to support the implementation of the conventions. For example, established in 2019 by the Conference of the Parties to the Basel Convention, the Plastic Waste Partnership²¹ is delivering its activities through 4 project groups: plastic waste prevention and minimization; plastic waste collection, recycling and other recovery including financing and related markets; transboundary movements of plastic waste; outreach, education and awareness-raising. 23 pilot projects are being implemented in 22 countries, with a second round of regional and national projects to commence in 2023. Recent progress includes the approval of reports on best practices and lessons learned on measures taken by key stakeholders to prevent and reduce single use plastic waste and packaging waste, and approval of a compilation of national and international specifications related the Basel Convention plastic waste amendments to aimed at assisting Parties in their implementation. Further information is available on the PWP webpages.²²

¹⁸ Basel Convention, Article 15.5 (c).

¹⁹ Basel Convention, Article 16.1 (d); Rotterdam Convention, Article 19.2 (c); and Stockholm Convention, Article 20.2 (c).

²⁰ <http://www.brsmeas.org/tabid/5382>.

²¹ <http://www.basel.int/tabid/8096>.

²² <http://www.basel.int/tabid/8096>.

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).

- **Multistakeholder platforms:** The Plastic Waste Partnership has been established under the Basel Convention to mobilize business, government, academic and civil society resources, interests and expertise to improve and promote the environmentally sound management of plastic waste at the global, regional and national levels and to prevent and minimize its generation. The third meeting of the working group of the Plastic Waste Partnership was held back-to-back with the first session of the intergovernmental negotiating committee in November 2022 in Uruguay. Together with the Global Partnership on Marine Litter under the UNEP, the Basel Convention's Plastic Waste Partnership play a key role in stakeholder engagement. It would be important to maximize the cooperation and coordination among those multistakeholder platforms and avoid further multiplication of similar efforts.
- **Mechanism for considering additional chemicals/plastic products/ applications/standards etc. to be applied under the instrument on plastic pollution or other relevant scientific matters:** The Stockholm Convention Article 8 provides a mechanism to review and list new persistent organic pollutants under the Convention. Any Party may submit a proposal to the Secretariat for listing a new chemical in Annex A, B, and/or C to the Convention. The Secretariat verifies that the proposal contains information specified in Annex D and forwards it to the scientific subsidiary body, the POPs Review Committee, for consideration. The Committee, consisting of 31 government designated members from the 5 UN regions, examines the proposal and applies the screening criteria specified in Annex D. If the Committee is satisfied that the screening criteria have been fulfilled, it invites Parties and observers to submit information specified in Annex E and develops a risk profile. Based on the risk profile, the Committee decides whether the chemical is likely, as a result of its long-range environmental transport, to lead to significant adverse human health and/or environmental effects such that global action is warranted. It then invites Parties and observers to submit information related to the socio-economic considerations specified in Annex F and develops a risk management evaluation. On the basis of the risk profile and risk management evaluation, the Committee makes a recommendation to the Conference of the Parties whether the chemical should be considered for listing in Annexes A, B and/or C. The Conference of the Parties, taking due account of the recommendations of the Committee, including any scientific uncertainty, shall decide, in a precautionary manner, whether to list the chemical, and specify its related control measures, in Annex A, B and/or C. The future international legally binding instrument on plastic pollution may require such scientific and technical subsidiary body or a mechanism for considering chemicals/plastic products/applications/standards to be applied under the future instrument or other relevant scientific matters.