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**First Meeting of the Ad Hoc Open Ended
Expert Group established under UNEP/EA.3/Res.7
Marine Litter and Microplastics
Nairobi, 29-31 May 2018**

Item 7 of the provisional agenda¹

**Discussion paper on feasibility and effectiveness of different
response options**

Note by the Secretariat

¹ UNEP/AHEG1/2018/1/1

I. INTRODUCTION

1. Pursuant to resolution UNEP/EA.3/Res.7 marine litter and microplastics of the UN Environment Assembly of December 2017, the Ad-Hoc Open-Ended Expert Group will base its work on the following programme of work to further examine the barriers to and options for combating marine plastic litter and microplastics from all sources, especially land-based sources:
 - i. To explore all barriers to combating marine litter and microplastics, including challenges related to resources in developing countries;
 - ii. To identify the range of national, regional and international response options, including actions and innovative approaches, and voluntary and legally binding governance strategies and approaches;
 - iii. To identify environmental, social and economic costs and benefits of different response options;
 - iv. To examine the feasibility and effectiveness of different response options; and
 - v. To identify potential options for continued work for consideration by the United Nations Environment Assembly
2. The present note was prepared by the Secretariat to provide the Ad-Hoc Open-Ended Expert Group with relevant information to discuss the feasibility and effectiveness of different response options. This discussion paper is built upon the paper on national, regional, and international response options, including action and innovative approaches, and voluntary and legally binding governance strategies and approaches (UNEP/AHEG/2018/1/3) as well as on the discussion paper on environmental, social and economic costs and benefits of different response options (UNEP/AHEG/2018/1/4).
3. The Ad-Hoc Open-Ended Expert Group is invited to consider this note along with other relevant documents, resolutions, decisions and reports on marine litter and microplastics in order to examine feasibility and effectiveness of different response options to further combating marine plastic litter and microplastics.

II. SCOPE OF THE PAPER

4. The paper will focus on the feasibility and effectiveness of international policy response options. The Ad-Hoc Open-Ended Expert Group was established under the UN Environment Assembly.
5. The feasibility and effectiveness of each response option at the national and regional levels largely depend on the national and regional circumstances and it would be beyond the scope of the work of the Ad-Hoc Open-Ended Expert Group to comprehensively analyse the feasibility and effectiveness of each possible option in different countries and regions. Therefore, it is suggested that the Ad-Hoc Open-Ended Expert Group focuses its discussion on the feasibility and effectiveness of options at the international level.
6. For the purpose of the analysis, the present note will use the three options as presented in the assessment report on the effectiveness of relevant international, regional and subregional governance strategies and approaches². These three options are neither exhaustive nor comprehensive but they provide an analytical framework for the discussion.

III. FEASIBILITY AND EFFECTIVENESS

7. **Feasibility** of a response action or policy is, for the purpose of this paper, assessed based on technical feasibility, costs and the political feasibility. The Secretariat has prepared a discussion paper on environmental, social and economic costs and benefit of different options³. Therefore, this paper will focus on the technical and political feasibility of the three options.
8. **Effectiveness** of a response or a policy option is, for the purpose of this paper, measured by the degree to which the instrument or policy in question is successful in reaching its intended goals, i.e. reducing marine litter. Ideally,

² UNEP/AHEG/2018/1/INF/3).

³ UNEP/AHEG/2018/1/4

effectiveness of measures to address marine litter and microplastics should be assessed based on the reduction of marine litter pollution using a quantitative indicator. However, other proxy indicators could be used in assessing policy effectiveness such as the reduction of production and consumption of certain product types that are commonly found in the marine and coastal environment.

III. FEASIBILITY AND EFFECTIVENESS OF INTERNATIONAL RESPONSES

III.1 OPTION 1: Maintain Status Quo

9. One option is to maintain the current policy responses across different relevant international, regional and national instruments. Potential implementation methods under this scenario could include: strengthening the implementation of existing instruments, including the Regional Seas programmes and relevant multilateral environmental agreements; and monitor developments under the Basel Convention that aim to further address marine plastic litter and microplastics within the scope of the Convention. Further details of the option are presented in the Assessment report⁴.
10. In Table 1 below, the feasibility and effectiveness of Option 1 are presented. Overall, this option is, by definition, technically and politically feasible as it represents the status quo. Strengthening of the implementation of existing instruments may require setting compliance mechanisms and associated reporting obligations in addition to improved national implementation. If the implementation of the international and regional instruments is improved, they could be more effective in addressing marine litter. However, it would be difficult to holistically address the issue as all the existing instruments do not address the entire lifecycle of the problem, including the production and consumption of certain types of products. Overall, option 1 is not seen as effective.

Table 1: Feasibility and effectiveness of Option 1 “Maintain Status Quo”

Potential implementation methods	Feasibility		Effectiveness
	Technical feasibility	Political feasibility	
<ul style="list-style-type: none"> Strengthen the implementation of existing instruments, including the Regional Seas programmes and relevant multilateral environmental agreements. 	<ul style="list-style-type: none"> Feasible to strengthen the national implementation Feasible to set compliance mechanism and associated reporting obligations under the Regional Seas programmes where these do not exist 	<ul style="list-style-type: none"> Politically feasible to implement international and regional commitments the governments already have subscribed to 	<ul style="list-style-type: none"> While certain elements of the status quo may be effective, the status quo is not effective overall. This can be clearly seen by the fact that the amount of marine litter keeps on increasing
<ul style="list-style-type: none"> Monitor developments under the Basel Convention that aim to further address marine plastic litter and microplastics within the scope of the Convention. 	<ul style="list-style-type: none"> Feasible for the stakeholders to monitor and contribute to the development of the discussion under the Basel Convention 	<ul style="list-style-type: none"> Politically acceptable 	

⁴ UNEP/AHEG/2018/1/INF/3

III.2 OPTION 2: Revise and strengthen existing framework, add components to address industry

11. A second option is to strengthen the current international framework of various mechanisms addressing marine plastic pollution. Such an effort could include expanding the mandate of an international body to include the coordination of existing institutions currently dealing with the issue of marine litter, strengthening and adding measures specific to marine litter in the Regional Seas programmes and other relevant instruments, revising the Honolulu Strategy, which is a framework for a comprehensive and global effort to reduce the ecological, human health, and economic impacts of marine debris, and adopting a voluntary agreement that incorporates the industry. Further details are presented in the Assessment report⁵.
12. In table 2 below, the effectiveness and feasibility of Option 2 are presented. In summary, this option is both technically and politically feasible. However, it should be noted, that when it comes to the political feasibility of the voluntary agreement, this would depend on what such an agreement would look like. In general though, the voluntary nature of such an agreement helps with the political feasibility but could potentially hamper the effectiveness. Another element that could hinder effectiveness is if not enough stakeholders join the agreement. However, it is still found to be effective overall, as it can draw on synergies, create additional measures for addressing the issue and increase coordination.

Table 2: Feasibility and effectiveness of OPTION 2 “Revise and strengthen existing framework, add components to address industry”

Potential implementation methods	Feasibility		Effectiveness
	Technical feasibility	Political feasibility	
<p>1. Expand the mandate of an existing international body to include the coordination of existing institutions in the field of marine plastic related action. The coordination shall include:</p> <ul style="list-style-type: none"> - Building linkages between relevant instruments, e.g. the Basel Convention. - Harmonizing international legal instruments and approaches in Regional Seas programmes. - Promoting the implementation of the sustainable development goals, specifically SDG14. - Encouraging and coordinate industry-led solutions and commitments. 	<p>Feasible to give and additional mandate to an existing body. If the mandate will be added to an existing legal instrument, international negotiation would be required. If a mandate will be given to a voluntary mechanism, international negotiation may not be necessary.</p>	<p>Politically feasible as the coordination of different international efforts will be increased and duplication will be reduced, and it builds on the existing international framework</p>	<p>Effective in reducing marine litter as synergies between different efforts will be enhanced from the international coordination. Duplicated efforts will be reduced.</p>
<p>2. Strengthen and add measures specific to marine plastic litter and microplastics in Regional Seas programmes and other</p>	<p>Technically feasible to develop regionally coordinated measures on marine</p>	<p>Politically feasible as regional coordination will be beneficial to address the issue</p>	<p>Effective in addressing marine litter as additional measures or strengthened measures</p>

⁵ UNEP/AHEG/2018/INF3

<p>applicable instruments</p> <p>3. Revise e.g. the Honolulu Strategy to encourage improved implementation at the national level and agree on indicators of success.</p> <p>4. Adopt a voluntary agreement on marine plastic litter incorporating at least the following measures:</p> <ul style="list-style-type: none"> - Standardize global, regional and national reporting on production, consumption and final treatment of plastics and additives. - Introduce voluntary national reduction targets. - Develop/improve global industry guidelines, (e.g. for the management of polymers and additives; adoption of global labeling and certification schemes). 	<p>litter such as the development of regional action plans, which have been done in many regions.</p> <p>Feasible to revise the Honolulu Strategy but stakeholder engagement will be crucial to agree on the revision and indicators</p> <p>Technically feasible to develop a voluntary agreement. Technical assistance might be needed in setting voluntary national reduction targets and in meeting reporting and monitoring standards.</p>	<p>Politically acceptable as the monitoring of the implementation will improve. Countries may seek the evaluation of the implementation of the current Strategy before revision.</p> <p>It might face opposition due to stringent standards and guidelines which may not be easy to meet. But the voluntary nature may help gain general political acceptance.</p>	<p>will be taken.</p> <p>Effective to have an internationally coordinated framework in addressing the issue</p> <p>Effective if sufficient stakeholders join and implement the agreement. Effectiveness may be compromised by low participation of stakeholders.</p> <p>The lack of any kind of binding implementing mechanism/sanctions regime could compromise the effectiveness of a voluntary agreement.</p>
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III.3 OPTION 3: New global architecture with multi-layered governance approach

13. Option 3 is to establish some kind of legally binding architecture to address marine plastic litter. This can be done in a phased approach where option 2 is launched to take action in the interim and to collect experiences and data that could support the development and implementation of the legally binding architecture. The architecture itself can be developed in two steps, where step one includes developing voluntary measures, and step two is developing the actual agreement, including ratification procedures, and compliance measures.
14. In table 3 below, the effectiveness and feasibility of option 3 is presented. Overall, this option is both technically and politically feasible. The binding nature of this option, however, could adversely affect its political feasibility as it would require formal ratification by countries. Option 3 is also seen as effective, partly because it allows for an international, coordinated approach to tackling marine litter. The effectiveness is contingent on an effective

implementing mechanism as well as a functioning compliance mechanism Further details are presented in the Assessment report⁶.

Table 3: Feasibility and effectiveness of OPTION 3 “New global architecture with multi-layered governance approach”

Potential implementation methods	Feasibility		Effectiveness
	Technical feasibility	Political feasibility	
1. Establish a new international legally binding architecture.	Feasible to negotiate a new internationally binding instrument	May face opposition due to the increased resource requirement to support and implement the new agreement.	Effective if duplication with other international instruments is avoided.
2. In parallel, launch option 2 to take action in the interim and gain experiences that support the development of the legally binding architecture.	Feasible as described in Table 2	Acceptable as described in Table 2	Effective as described in Table 2
<i>The legally binding architecture could be implemented in two phases:</i>			
3. Phase I: Develop voluntary measures, including: <ul style="list-style-type: none"> - Introduction of self-determined national reduction targets. - Development/improvement of industry-led design standards that promote recovery and recycling. 	Feasible as described in Table 2	Acceptable as described in Table 2	Effective as described in Table 2
4. Phase II: Develop a binding agreement, to include: <ul style="list-style-type: none"> - Ratification/accession procedures to confirm commitment by States. - An obligation to set self-determined national reduction targets. - Develop and maintain national inventories on production, consumption, final treatment and trade of plastics and 	Technically feasible to develop a new legally binding international agreement but the feasibility of different modalities under the new instrument needs to be further assessed.	May face opposition due to possible loss of economic benefits and employment in certain sectors. May also face opposition if the compliance mechanism is seen as too severe.	Effective as it would allow an internationally coordinated holistic approach to the issue Effectiveness would depend on the exact nature of the compliance mechanism

⁶ UNEP/AHEG/2018/INF3

<p>additives.</p> <ul style="list-style-type: none"> - Fixed timelines to review & improve national reduction targets. - A duty to cooperate to determine global technical standards to ensure minimum environmental and quality controls by industry. - A duty to cooperate to determine global industry standards for reporting, labeling & certification. - Measures to regulate international trade in non-hazardous plastic waste. - Compliance measures (monitoring & reporting). - Legal basis set for mechanisms for: liability & compensation, funding and information sharing. - Consideration of the needs of developing countries and regional differences (e.g. exemptions and extensions). 			
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VI. RECOMMENDATIONS AND SUGGESTED ACTIONS

15. The Ad-Hoc Open-Ended Expert Group is invited to consider the present note as well as other discussion papers, relevant reports, decisions and resolution for the deliberation at its First Meeting to examine the feasibility and effectiveness of different response options.
16. The Ad-Hoc Open-Ended Expert Group may wish to request the Secretariat to present further analysis on the feasibility and effectiveness of different response options which might not have been discussed or fully analysed in this note.