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Ad hoc open-ended expert group on marine litter and microplastics
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Feasibility and effectiveness of the different response options

Discussion paper on feasibility and effectiveness of different response options

Note by the Secretariat

I. Introduction

1. Pursuant to resolution 3/7 of the United Nations Environment Assembly of the United Nations Environment Programme at its third session, on marine litter and microplastics,[1] the ad hoc open-ended expert group on marine litter and microplastics, which was established by the Environment Assembly, 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:

(a) To explore all barriers to combating marine litter and microplastics, including challenges related to resources in developing countries;

(b) 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;

(c) To identify the environmental, social and economic costs and benefits of the response options;

(d) To examine the feasibility and effectiveness of the response options;

(e) 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 information to support its discussions on the feasibility and effectiveness of the different response options. The discussion paper builds upon the paper on national, regional and international response options, including action and innovative approaches, and voluntary and legally binding governance

* UNEP/AHEG/2018/1/1.

[1] UNEP/EA.3/Res.7.

strategies and approaches,[2] and on the discussion paper on environmental, social and economic costs and benefits of the different response options.[3]

3. The ad hoc open-ended expert group is invited to consider the present note, along with other documents, resolutions, decisions and reports on marine litter and microplastics, in its examination of the feasibility and effectiveness of the different response options to further combat marine plastic litter and microplastics.

II. Scope

4. The paper will focus on the feasibility and effectiveness of international policy response options, as the feasibility and effectiveness of each response option at the national and regional levels largely depend on 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. It is therefore suggested that the group should focus its discussion on the feasibility and effectiveness of options at the international level.

5. For the purpose of analysis, the present note will use the three options as presented in the assessment report on the effectiveness of subregional, regional and international governance strategies and approaches.[4] Those three options are neither exhaustive nor comprehensive, but they provide an analytical framework for the discussion.

III. Definitions

6. For the purposes of this paper, the feasibility of a response action or policy is assessed based on its technical feasibility, costs and political feasibility. The secretariat has prepared a discussion paper on the environmental, social and economic costs and benefit of the different options.[5] This paper will therefore focus on the technical and political feasibility of the three options.

7. For the purposes of this paper, the effectiveness of a response or policy option is measured by the degree to which the instrument or policy in question is successful in reaching its intended goals, namely reducing marine litter. Ideally, the effectiveness of measures to address marine litter and microplastics should be accessed 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.

IV. Feasibility and effectiveness of international responses

A. Option 1: maintain status quo

8. One option is to maintain the current policy responses across different national, regional and international instruments. Potential implementation methods under that scenario could include strengthening the implementation of existing instruments, including the regional seas programmes and relevant multilateral environmental agreements; and monitoring developments under the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal 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 report.[6]

9. In table 1, 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 the implementation of existing instruments may require the setting of compliance mechanisms and associated reporting obligations in addition to improved national implementation. If the implementation of international and regional instruments were to be improved, they could be more effective in addressing marine litter, although it would be difficult to address the issue holistically, as not all existing instruments address the entire lifecycle of the problem, including the production and consumption of certain types of product. Overall, therefore, option 1 is not seen as effective.

[2] UNEP/AHEG/2018/1/3.

[3] UNEP/AHEG/2018/1/4.

[4] UNEP/AHEG/2018/1/INF/3.

[5] UNEP/AHEG/2018/1/4.

[6] UNEP/AHEG/2018/1/INF/3.

Table 1

Feasibility and effectiveness of option 1: maintain status quo

Potential implementation methods	Feasibility		Effectiveness
	Technical feasibility	Political feasibility	
• Strengthen the implementation of existing instruments, including the regional seas programmes and relevant multilateral environmental agreements.	Feasible to strengthen national implementation. Feasible to set compliance mechanisms and associated reporting obligations under the regional seas programmes where they do not currently exist.	Politically feasible to implement regional and international commitments to which Governments already have subscribed.	While certain elements of the status quo may be effective, the status quo is not effective overall. This is clear from the continual increase in marine litter.
• Monitor developments under the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal that aim to further address marine plastic litter and microplastics within the scope of the Convention.	Feasible for stakeholders to monitor and contribute to the development of the discussion under the Basel Convention.	Politically acceptable.	

B. Option 2: revise and strengthen existing framework and add components to address industry

10. 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 impact of marine debris, and adopting a voluntary agreement that incorporates the industry. Further details are presented in the assessment report.[7]

11. In table 2, the effectiveness and feasibility of option 2 are presented. In summary, the option is both technically and politically feasible. However, it should be noted, that the political feasibility of the voluntary agreement would depend on the precise nature of such an agreement. In general, the voluntary nature of such an agreement would assist with the political feasibility, although it could potentially hamper its effectiveness. Another element that could potentially hinder effectiveness would be if insufficient stakeholders were to join the agreement. However, it is still an effective option overall, as it can draw on synergies, create additional measures for addressing the matter and increase coordination.

[7] UNEP/AHEG/2018/INF3.

Table 2

Feasibility and effectiveness of option 2: revise and strengthen existing framework and add components to address industry

Potential implementation methods	Feasibility		Effectiveness
	Technical feasibility	Political feasibility	
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 the following: - Building linkage between relevant instruments (for example, the Basel Convention); - Harmonizing international legal instruments and approaches in the regional seas programmes; - Promoting the implementation of the sustainable development goals, in particular Goal 14; - Encouraging and coordinating industry-led solutions and commitments.	It would be feasible to give an additional mandate to an existing body. If the mandate would be added to an existing legal instrument, international negotiation would be required. If a mandate would be given to a voluntary mechanism, international negotiation may not be necessary.	It would be politically feasible, as the coordination of different international efforts would be increased and duplication would be reduced, and it would build on the existing international framework.	It would be effective in reducing marine litter, as synergies between different efforts would be enhanced by international coordination. Duplicated efforts would be reduced.
2. Strengthen and add measures specific to marine plastic litter and microplastics in the regional seas programmes and other applicable instruments.	Technically feasible to develop regionally coordinated measures on marine litter, such as the development of regional action plans, which have been done in many regions.	It would be politically feasible, as regional coordination would be beneficial for addressing the matter.	It would be effective in addressing the problem of marine litter, as additional measures or strengthened measures would be taken.
3. Revise programmes and frameworks such as the Honolulu Strategy to encourage improved implementation at the national level and agree upon indicators of success.	It may be feasible to revise the Honolulu Strategy, but stakeholder engagement would be crucial to agree on the revision and the indicators.	It would be politically acceptable, as monitoring of implementation would improve. Countries may seek evaluation of the implementation of the current Strategy before revision.	It would be effective to have an internationally coordinated framework to address the matter.
4. Adopt a voluntary agreement on marine plastic litter incorporating as a minimum the following measures: - Standardize national, regional and global reporting on production, consumption and final treatment of plastics and additives; - Introduce voluntary national reduction targets; - Develop and improve global industry guidelines, (such as those for the management of polymers and additives and for the adoption of global labelling and certification schemes).	It would be 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.	It might face opposition due to stringent standards and guidelines which may not be easy to meet. However, its voluntary nature may help to gain general political acceptance.	It would be effective if sufficient stakeholders were to join and implement the agreement. However, effectiveness may be compromised by low levels of stakeholder participation. The lack of any kind of binding implementing mechanism or sanctions regime could compromise the effectiveness of a voluntary agreement.

C. Option 3: new global architecture with multi-layered governance approach

12. Option 3 is to establish some kind of legally binding architecture to address marine plastic litter. That could be done in a phased approach in which option 2 was launched to take action in the interim and to collect experience and data that could support the development and implementation of the legally binding architecture. The architecture itself could be developed in two steps, in which step one would be the development of voluntary measures and step two would be the development of a binding agreement, including ratification procedures and compliance measures.

13. In table 3, the effectiveness and feasibility of option 3 is presented. Overall, this option is both technically and politically feasible. The binding nature of the 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 report.[8]

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 experience that supports the development of the legally binding architecture.	Feasible, as set out in table 2.	Acceptable, as set out in table 2.	Effective, as set out in table 2.
The legally binding architecture could be implemented in two phases, as follows:			
3. Phase I: develop voluntary measures, including the following: - Introduction of self-determined national reduction targets; - Development or improvement of industry-led design standards that promote recovery and recycling.	Feasible, as set out in table 2.	Acceptable, as set out in table 2.	Effective, as set out in table 2.
4. Phase II: develop a binding agreement, to include the following: - Accession and ratification procedures to confirm commitment by States; - An obligation to set self-determined national reduction targets;	It would be technically feasible to develop a new legally binding international agreement, but the feasibility of different modalities under the new instrument would	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 matter. Its effectiveness would depend on the exact nature of the compliance mechanism.

[8] UNEP/AHEG/2018/INF3.

- Development and maintenance of national inventories on production, consumption, final treatment and trade of plastics and additives; - Fixed timelines to review and 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, labelling and certification; - Measures to regulate international trade in non-hazardous plastic waste; - Compliance measures (monitoring and reporting); - Legal basis set for mechanisms for liability and compensation, funding and information-sharing; - Consideration of the needs of developing countries and regional differences (for example, exemptions and extensions).	need to be further assessed.		

V. Recommendations and suggested action

14. The ad hoc open-ended expert group is invited to consider the present note, in conjunction with other discussion papers, relevant reports, decisions and resolutions, in its examination of the feasibility and effectiveness of the different response options at its first meeting.

15. The ad hoc open-ended expert group may wish to request the secretariat to present further analysis on the feasibility and effectiveness of the different response options which may not have been discussed or fully analysed in the present note.