SUBMISSION

Potential options for elements towards an international legally binding instrument on plastic pollution.

Name of country (For Members of the committee)	ECUADOR
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Explanatory Note

- Ending plastic pollution requires the establishment of a legally binding global framework containing common international obligations across the entire lifecycle of plastics to bring about the system change that is required to end plastic pollution, to protect the environment and human health.
- This will demand the provision and mobilization of commensurate, predictable, and adequate means of implementation to developing countries, particularly finance, technology transfer and development, and capacity building to implement the future legally binding instrument, informed by the best available science, as well as socioeconomic information and assessment related to plastic pollution. (See GRULAC submission)
- Ecuador will continue to develop its position on the above-mentioned and other parts of the treaty, as the negotiations unfold.
- Submissions by GRULAC and High Ambition Coalition reflect also the views of Ecuador.
- All written submissions from stakeholders referenced in this written submission can be found on the website of INC2.

Substantive elements

1. Objective(s)

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

Proposed Objective:

The objective of this Convention is to end plastic pollution by regulating plastics across their lifecycles to protect the environment and human health.

Explanatory Text:

Based on other MEAs: there is a purpose, action statement, and outcome statement with a motivating/political force included in the UNEA resolution 5/14 “End plastic pollution”, which is an unequivocal expression of our global collective ambition.

To achieve the objective, the legally binding instrument is to be based on a holistic and broad approach that addresses the full lifecycle of plastics and is dynamic to address existing and evolving issues.

Scope issues:

The Convention needs to allow for evolution and strengthening over time. One way of achieving this could be to use a broad general scope with annexes that could be updated and develop guidance for implementing obligations. Activities subject to control measures should cover matters related to production (manufacture), consumption

(use), placing on the market (domestic sales, exports, and imports), safe and environmentally sound management, and disposal of waste.

Principles:

Actions taken to implement the instrument, and achieve its objective, should reflect: (1) the principle of equity, and the specific needs and special circumstances of developing and least developed countries, including Small Island Developing States (SIDS); (2) the precautionary approach[1] and the polluter pays principle[2]; (3) Waste hierarchy[3]; (4) the human right to a clean, healthy, and sustainable environment[4]; (5) Avoidance of adverse consequences to the climate, biodiversity, and food security; and (6) the right to knowledge as set forth in international instruments like the Aarhus Convention and the Escazu Agreement. (See, for example, the Center for International Environmental Law (CIEL) Submission, Ellen MacArthur Foundation Submission, Minderoo Foundation Submission, Environmental Investigation Agency (EIA) Submission, International Pollutants Elimination Network (IPEN) Submission, and Minderoo Foundation Submission, UNECE Submission).

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?*

All possible control measures can be grouped into one of the four following categories, which tackle all stages of the plastic's full lifecycle (sourcing, upstream, midstream, downstream, and releases/remediation in the environment)

I. Provisions to reduce the total supply of primary plastic polymers: any provisions that seek to reduce the supply of plastics (*e.g.*, volume targets/caps) and/or to reduce demand (*e.g.*, global fee/tax)

II. Provisions to phase out specific polymers, chemicals, and plastic products of concern: any provisions that ban specific polymers, chemicals, and plastic products of concern from the supply chain.

III. Provisions to safely circulate plastics: any provisions to eliminate or reduce plastics through circular approaches, including through product design, reuse and refill systems, repair, and recycling.

IV. Provisions to eliminate the releases of plastics (including microplastics) into water, soil, and air, including improved waste management and remediation of legacy plastic waste: any provisions to ensure safe and environmentally-sound management and disposal of plastics products, including recycling.

See, for example, Galapagos Conservation Trust submission.

Reduce the production of primary plastic polymers.

- General Obligation. Each Party should be required to take effective measures to reduce the total supply of plastic precursors, including primary plastic polymers by controlling their manufacture, export, and import and place on the market at an agreed level to reach a common target, consistent with the goal of eliminating plastic pollution by 2040. Measures could include, inter alia, taxes, tariffs, global fees, caps, reduction targets, production permits and licenses, moratoriums, bans, regulations, and the removal of negative fiscal incentives, such as subsidies that support the expansion of plastics production.

  (Submissions containing examples of measures to reduce supply/production of plastics: United Nations Development Programme (UNDP); Office of the UN High Commissioner for Human Rights (OHCHR) (global caps); Center for International Environmental Law (CIEL); Consumers International (caps on production of

[1] Principle 15 of the Rio Declaration on Environment and Development and Article 1 of the Stockolm Convention

[2] Principle 16 of the Rio Declaration on Environment and Development.

[3] See submission by EIA

[4] UN General Assembly, A/76/L.75 (26 July 2022)

virgin plastics); Organisation for Economic Co-operation and Development (OECD) proposes a global production fee which implements the polluter pays principle, and Ghana's Submission; Minderoo Foundation, Plastic Waste Makers Index 2023, p. 15; International Pollutants Elimination Network (IPEN); Ellen MacArthur Foundation (EMF); Fundación MarViva, Pew Charitable Trusts, Environmental Investigation Agency (EIA) on subsidies)

- **Transparency and Reporting.** Each Party should be required to report on the quantities and type of plastic polymers, precursors, and feedstocks manufactured, imported, and exported as well as the quantities and type of chemicals applied in production.

- **Process.** Effective updating process to be developed to review and amend the actions that Parties are required to take.

<u>Provisions to phase out specific polymers, chemicals, and plastic products.</u>

- **General obligation.** Each Party should be required to phase out the manufacture, export, import, and placing on the market of polymers, chemicals, and plastic products listed in an annex.

  Elements for approaches to the listing of polymers, chemicals of concern and plastic products including criteria, structure, and other elements, can be found, for example, the Natural Resources Defence Council (NRDC), the Ellen MacArthur Foundation, Consumer Goods Forum, NAIL - Norwegian Academy of International Law, Minderoo Foundation, IPEN, WWF, and the Business Coalition submissions contain elements in that regard.

- **Criteria.** The treaty should set criteria for identifying polymers, chemicals of concern, and plastic products to be listed in an annex.

a. *Harmful to the environment and human health.* Possible criteria for identifying polymers, chemicals, and products include, based on inherent properties, substances or products containing substances that have slow or no degradation in the environment, bioaccumulate, and/or have toxic effects (e.g., carcinogenic, mutagenic, reprotoxic, endocrine disruptors).
b. *Impeding circularity.* Possible criteria for identifying polymers, chemicals, and/or products that hinder recyclability or reuse could include composition and polymer mix (e.g., mixed polymers or mixed material packaging)
c. *Risk of release to the environment.* Possible criteria for identifying plastic products could include high litter risk; the necessity of products; the possibility for recycling; the availability of environmentally sound substitutes; content of intentionally added microplastics.

- **Non-Party trade measures.** Each Party should be required to apply the import and export requirements for listed polymers, chemicals, and plastic products—to Parties and non-Parties alike on a non-discriminatory basis.
- **Process.** Effective process based on best available scientific knowledge, that allows to update and strengthen the annex over time in a dynamic manner.
- **Transparency/ Reporting.** Each Party should be required to report relevant information to support the effective implementation and monitoring of the measures. Parties should exchange information on best practices, knowledge, research, and technologies.

<u>Provisions to eliminate plastic pollution and reduce plastics through circularity.</u>

<u>Product design</u>

- **Obligations.** Each Party should be required to take effective measures to ensure that plastic products and items manufactured, exported, imported, and placed in the market are in line with the criteria listed in an annex and guidance adopted by the Conference of the Parties. Measures could include, inter alia, minimum requirements, technical regulations and standards, fees, export and import instruments, and extended producer responsibility schemes in line with the criteria. Measures should be designed in line with the waste hierarchy, focusing on prevention, reusability, and design for reduction, including through recycling.

General and/or sector-specific obligations to initiate dedicated programs of work to design for circularity and reduce consumption and use of virgin plastics (e.g., dedicated programs of work for high-usage applications such as in packaging, agriculture, fisheries, textiles, construction, and transport.)

Each Party should be required to take effective measures to control (e.g., restrict or eliminate, depending on feasibility) the manufacture, export, and import of products and items that are not in line with the criteria listed in an annex and guidance adopted by the Conference of the Parties.

Each party should be required to ensure the appropriate labelling of plastic products considering the criteria and guidance.

- Criteria. The treaty should set overarching criteria in an annex. Possible criteria include durability, reliability, reusability, reparability, absence of substances of concern, microplastic content and potential for its release, minimum recycled content, the possibility of remanufacturing and recycling and expected generation of waste. These criteria could be applied in respect of any product characteristics, such as, for example, composition, performance, shape, packaging, marking, and labeling. The criteria could also seek to promote material and chemical simplification (e.g., to improve recyclability and ensure a non-toxic secondary market), and products (e.g., to minimize the release of microplastics), reduce overpackaging; and standardize formats for reusable containers (e.g., to promote reuse and refill schemes).

  The criteria can include a sectoral focus, such as packaging (e.g., addressing the composition of packaging, such as single-layer- versus multi-layer, mono-material versus multi-material), fisheries, textiles, personal care, and construction.

  The Conference of the Parties should adopt a process to review and update the criteria.

- Guidance. The Conference of Parties should adopt general and sectoral guidance for meeting the criteria. The Conference of the Parties should adopt a process to review and update the guidance.

- Transparency/Reporting. Each Party should be required to ensure the availability of information on the chemical and material composition of plastic products along the value chain for manufacturers, importers, users, consumers, and recyclers through for example labelling. (See UNECE Submission, and EIA Submission p. 6)

  Parties should require producers to publish and update plans to reduce primary plastics use and reduce through circularity, and to report regularly on progress.

  Parties should require producers of polymers and plastic products to provide full and correct information on the properties relevant to the criteria and guidance.

  Parties should exchange information on best practices, knowledge, research, and technologies.

- Product Design Registry: Parties could establish a central data exchange under the Convention (I.e.) where this information can be registered. (See EIA Submission on a Registry, See also WWF Submission)

<u>Reduce and reuse.</u>

- Obligation. Each Party should be required to take effective measures to encourage the eco-design of plastic products through the adoption of eco-criteria (e.g., related to durability, biodegradability, compostability, recyclability, reusability, circularity, safety) <u>as well as for product and service delivery systems that reduce the overall use of plastics, and in line with guidance adopted by the Conference of the Parties.</u>

  Parties should set targets for increased durability, environmentally safe and sound reuse, and repair of plastic products <u>as well as product and service delivery systems that reduce the use of plastics.</u>

- Guidance. The Conference of Parties should be required to develop and adopt general and sectoral guidance for durability and environmentally safe and sound reuse and repair, as well as for <u>product and service delivery systems that reduce the use of plastics.</u> The Conference of the Parties should adopt a process to review and update the guidance.

- **Transparency and Reporting.** Each Party should be required to report on the measures taken. Each Party should ensure the availability of information on the durability, reusability, and repairability of plastic products. Parties should exchange information on best practices, knowledge, research, and technologies.

Provision on eliminating the release of plastics (including microplastics) and related pollution to air, water, and land.

Possible options:

Releases of plastics (including microplastics) and related pollution to water, land, and air.

- **Obligation.** Each Party should be required to take steps to eliminate by 2040 releases of plastics and related pollution, across the life cycle of these materials, to water, land, and air from the source categories listed in an annex, in line with guidance adopted by the Conference of the Parties. This list of categories could include wastewater and sewage; industrial facilities; sectors such as aquaculture, agriculture, and the fishing industry; transport and handling of plastic pellets; unintentional microplastic releases from e.g., roads, textiles, and other sources. The Conference of the Parties should adopt a process to review and update the annex of sources.

- **Guidance.** The Conference of Parties should be required to adopt criteria and guidance on the best available techniques and best environmental practices to eliminate the release of plastics to water, land, and air from the source categories listed in an annex. The Conference of the Parties should adopt a process to review and update the guidance.

  See the Norwegian Academy of International Law (NAIL) and Norwegian Institute for Water Research (NIVA) and International Knowledge Hub Against Plastic Pollution (IKHAPP) Submissions.

Clean-up of legacy plastic waste as a source of ongoing pollution

- **Obligation**. Parties should take action, including through cooperation to identify, prioritize, and address areas of legacy waste and ensure that remediation of plastic pollution, that poses risks to local communities; biodiversity; fisheries; health; tourism; navigation, and maritime safety, is done in an environmentally safe and sound manner, in line with guidance developed by the Conference of the Parties. (See EIA Submission)

- **Guidance.** The Conference of Parties should be required to adopt criteria and guidelines on the best available techniques and best environmental practices for environmentally sound remediation of legacy waste. The Conference of the Parties should adopt a process to review and update the guidance.

- **Monitoring.** The Conference of the Parties should establish a global monitoring framework that establishes baselines and monitors the evolution of the presence of plastic in the environment, including harmonized definitions, methodologies, and formats for reporting.

Recycling

- **Obligation.** Each Party should be required to take effective measures so that plastic wastes are collected, sorted, and recycled in an environmentally safe and sound manner, considering guidance and quality requirements to promote and make available for the market, non-toxic secondary materials, and in line with guidance by the Conference of the Parties. These measures could include targets, minimum requirements, fees, extended producer responsibility schemes, and deposit refund schemes.

- **Target**. Parties should set a target for collection, sorting, and environmentally safe and sound recycling of plastic waste while also meeting strict quality requirements.

- **Guidance.** The Conference of Parties should be required to develop and adopt guidance on environmentally safe and sound management and recycling of plastic waste and the environmentally sound production of non-toxic secondary plastic materials. The Conference of the Parties should adopt a process to review and update the guidance.

- **Transparency /Reporting.** Each Party should be required to report on the measures taken.

- **Registry.** The Secretariat should establish a central data exchange where information reported by Parties can be made available.

- **Just transition**. Each Party should be required to ensure the participation of workers in informal and cooperative settings in policy development and implementation to promote workers' rights and the principles of just transition. (See, for example, International Alliance for Waste Pickers Submission and GAIA Submission)

Waste management for final disposal

- **Obligation.** Each Party should be required to implement measures to ensure the collection, sorting, management, and disposal of plastic waste in an environmentally sound and safe manner, in line with the waste hierarchy (See EIA Submission), the technical guidelines adopted by the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, and further guidance adopted by the Conference of the Parties. (Examples of possible measures could include extended producer responsibility, deposit return schemes, and other fees).

  See Secretariat of the Basel, Rotterdam, and Stockholm conventions Submission
  See Minderoo Submission, p.8; Pew Charitable Trusts submission on preventing loss of pellets, flakes, and powders, WWF Submission, and IPEN Submission.
  See also, Alliance for Waste Pickers and GAIA submissions.

- **Guidance.** The Conference of Parties should be required to adopt criteria and guidance on the best available techniques and best environmental practices for environmentally safe and sound management and disposal of plastic waste, considering the waste hierarchy (See EIA Submission) and the technical guidelines adopted by the Basel Convention. The Conference of the Parties should adopt a process to review and update the guidance.

Reporting

Obligation. Each Party should be required to report on measures and steps taken to eliminate releases of plastics and related pollution to water, land, and air; ensure environmentally safe and sound management and disposal of plastic waste; and cooperate on remediation of plastic waste. This information should be included in the regular reporting by the Party on its implementation of the instrument.

Other Elements:

- Establishing and enhancing the responsibility of producers

- Awareness raising and education.

Implementation elements

1. Implementation measures

a. *How to ensure implementation of the instrument at the national level (e.g., role national action plans contribute to meeting the objectives and obligations of the instrument?)*
b. *How to ensure the effectiveness of the instrument and 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).*

- National Action Plans (NAPS)
- National Reporting measures
- Information Exchange
- Non-Party measures
- Monitoring and evaluation

- Periodic assessment of progress and effectiveness
- Compliance mechanisms
- Scientific Mechanism

2. Means of Implementation

With respect to means of implementation, document UNEP/PP/INC.1/5 covers the following elements: finance, technical assistance, technology transfer and development on mutually agreed terms, and capacity-building.

a. What measures will be required to support the implementation of the instrument?

Under each of the four categories, the specific needs, and special circumstances of developing countries must be fully recognized. Means of implementation can and should be discussed in conjunction with obligation/control measures because the two are closely linked. Appropriate funding for treaty implementation is required for the Convention to meet its objective to end plastic pollution. Ecuador is open to consideration of complementary innovative approaches and sources of funding to support the implementation of the Convention, including the Global Plastic Pollution Fee, proposed by Ghana in its submission.

Ecuador aligns its submission with the submission by GRULAC, which states as follows:

An ambitious agreement to end plastic pollution, including in the marine environment, will demand that developing countries be provided with commensurate means for its implementation, informed by the best available science, traditional knowledge, knowledge of Indigenous Peoples and local knowledge systems, as well as socioeconomic information and assessment related to plastic pollution.

To do so, the INC should discuss means of implementation from an integrated perspective, including the issue of different sources and instruments. The INC should thus conceive of a robust integrated mechanism that ensures the provision and mobilization of new, additional, and predictable flows of financial resources to support relevant research, development, and innovation (R&D&I) projects, promote technology transfer and know-how, and provide capacity building and technical assistance. This integrated system of implementation and the scale of the challenge ahead of us will also demand a dedicated financial mechanism.

For INC-2 discussions to reach the expected level of ambition, GRULAC reiterates that the discussions on means of implementation be initiated and addressed at the same time as other substantial elements such as obligations and control measures.

Considering the above, GRULAC kindly requests the secretariat, subject to the availability of resources, to prepare ahead of the INC-2 meeting a working document on all dimensions of means of implementation with some examples drawn from other international instruments and arrangements.

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).

Ecuador sees high value in a mechanism that from science-based approach can break down the problem into specific categories. In accordance with OP4 of Resolution 5/14, the INC can consider, since its first session, a mechanism to provide relevant scientific evidence and data on plastic pollution, taking into account, inter alia, the experience of other MEAs, such as the Chemical Review Committee - CRC under the Stockholm Convention"

There are two dimensions to scientific engagement in the Convention. A scientific mechanism to inform initial negotiations of an MEA and a mechanism to inform and implement an already existing Convention. First, a scientific mechanism is needed to organize and process existing information where needed to inform the negotiations.

There is certainly a need for independent science to inform the negotiations towards a Convention that is grounded in the precautionary principle but that is responsive to the latest knowledge and strengthening over time as new information becomes available. While pursuing harmonized methodologies for the monitoring of environmental, socio-economic, and health impacts of plastic pollution and progress towards achieving the objectives of the instrument, any scientific mechanism may also strive to build on existing research programs, international programs, networks, and organizations aimed at monitoring plastic pollution and its impacts and foster cooperation and collaborative approaches with a problem-solving mindset.

The scientific mechanism should seek to represent a diverse range of scientific evidence including qualitative and quantitative, social, natural, and life sciences, knowledge, innovations, and practices of indigenous and local communities embodying Indigenous sciences and methodologies, and citizen sciences.