

Call for written submissions – Proposed response template on the potential options for elements towards an international legally binding instrument by the co-chairs of the High Ambition Coalition to End Plastic Pollution

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I. Substantive elements

1. Objective(s)

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

Proposed Objective: **To end plastic pollution and protect the environment and human health from plastic pollution.**

Explanatory Text:

This Treaty would benefit from an easy to understand and open-ended Objective. The title of the UNEA resolution 5/14, End Plastic Pollution: Towards an International Legally-binding Instrument, has already settled ending plastic pollution as the ultimate goal of the Treaty (in the public sphere). However, there is merit in specifying the primary motivation for ending plastic pollution.

Plastic pollution contributes to the triple planetary crises and already has devastating impacts on ecosystems and biodiversity and has significant adverse effects on human health as well as contributing to climate change.

The Objective of this Treaty could be to end plastic pollution and protect the environment and human health from plastic pollution. Achieving the Objective will be a long-term endeavour. As such, the Treaty must include mechanisms that allow for systematic work over time and gradually strengthening the approach, informed by new scientific insights and updated understanding about progress.

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?*

Provision to reduce the production of primary plastic polymers

The provision address para 3b in the UNEA resolution 5/14. Plastic consumption and production have reached unsustainable levels^{1 2}. Plastic consumption has quadrupled over the past 30 years. Current projections stipulate that plastic production will double in the next 20 years³ and waste generation and the release of plastics into the environment will follow suit. Measures and targets for keeping the production of primary plastic polymers (including both fossil and bio-based) within sustainable levels is needed to reduce pressure on the environment globally. In addition, it will be necessary to develop markets for non-toxic secondary materials. Measures to reduce production of plastic polymers will also complement efforts to reduce GHG emissions⁴. The options paper should reflect options to reduce the production of primary plastic polymers for the INC to be able to discuss these options further at INC-2.

Possible options:

- **General Obligation.** Each Party should be required to take effective measures to reduce the production of primary plastics polymers to an agreed level to reach a common target. Measures could include, inter alia, taxes, tariffs, fees, production permits and licenses, moratoriums, bans, regulations, and removal of negative fiscal incentives, such as subsidies that support expansion of plastics production.
- **Transparency.** Each Party should be required to report on the quantities and type of plastic polymers produced as well as the quantities and type of chemicals applied in production.

Provision to eliminate and restrict specific plastic polymers, chemicals and plastic products of concern

This provision addresses para 3b in the UNEA resolution 5/14. Certain polymers and chemicals used in plastics (such as softeners, stabilisers, colourants etc) have long term adverse effects on human health and the environment and/or create barriers for the recycling of plastic waste. Also, certain plastic products are particularly prone to littering and plastic pollution due to their intended use. A number of legislative initiatives around the world have introduced bans or restrictions on chemicals used in plastic and on plastic products for which sustainable alternatives are available. The plastic treaty should include obligations for effectively phasing out, or severely restricting the production and/or use

¹ Persson, Carney et.al (2022): Outside the Safe Operating Space of the Planetary Boundary for Novel Entities. Environmental Science & Technology 2022 56 (3), 1510-1521

² W.W.Y. Lau et al (2020): Evaluating scenarios toward zero plastic pollution. Science 369 (6510).

³ Simon et al (2021): A binding global agreement to address the life cycle of plastics. Science 2021 Vol 373 Issue 6550.

⁴ According to a recent report by Eunomia, demand for plastics will have to decrease 3 percent annually, rather than increase 4 percent annually, to stay within the IPCC 1.5 °C carbon budget by 2050. Eunomia (2022): Is Net Zero Enough for the Materials Sector.

of, these polymers, chemicals of concern and plastic products. This will cover substances and groups of substances like brominated and chlorinated flame retardants, phthalates, bisphenols, toxic metals and metalloids among others. The options paper should reflect options to eliminate and restrict specific plastic polymers, chemicals and plastic products of concern for the INC to be able to discuss these options further at INC-2.

Possible options:

- **General Obligation.** Each Party should be required to eliminate and restrict the production and use of polymers, chemicals and plastic products listed in an annex. Measures could include bans or restrictions.
- **Criteria and guidance.** The treaty should set criteria for identifying polymers, chemicals of concern and plastic products to be listed in an annex.
 - *Severe effects to the environment and human health. Possible criteria for identifying polymers and chemicals include, based on inherent properties.*
 - substances having long term effect on human health or the environment:
 - carcinogenic, mutagenic or reprotoxic substances (CMRs category 1A or 1B)
 - persistent, bioaccumulative and toxic substances (PBTs)
 - very persistent and very bioaccumulative substances (vPvBs)
 - persistent, mobile and toxic substances (PMTs)
 - very persistent and very mobile substances (vPvMs)
 - endocrine disrupting substances (EDs)
 - immunotoxicants
 - neurotoxicants
 - respiratory sensitisers
 - substances having specific organ toxicity with chronic effects
 - substances having ozon depleting effects and substances with global warming potential.
 - polymers of high concern.
 - *Impeding circularity.* Possible criteria for identifying polymers, chemicals and/or products that hinder recyclability for safe and high quality secondary materials, and could include composition and polymer mix.
 - *Risk of plastic release to the environment.* Possible criteria for identifying plastic products could include high litter risk and/or the possibility for recycling and/or the availability of substitutes and/or 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.

Provision on increasing the circularity of plastics in the economy

These provisions address para 3b in the UNEA resolution 5/14. There is a need to bring forward more sustainable products, change consumption patterns for all users and consumers, and establish effective systems for retaining plastics in the economy. This will in turn reduce demand for primary polymers as well as the risk of plastic pollution. The treaty must ensure criteria for design of plastics to extend product lifespan, ensure durability, recyclability, and safety, in order to enable a circular economy for plastics that protects the environment and human health. These provisions are meant to support the substitution of plastics for other environmentally sound materials in products, avoidance of unnecessary plastics, as well as the development of markets for reuse, product delivery models that reduce plastics use, and secondary plastic materials. These provisions must also ensure transparency and availability of information on such sustainability aspects through the value chain of plastics and promote financial flows to support circularity. The options paper should reflect options to increase the circularity of plastics in the economy in the economy for the INC to be able to discuss these options further at INC-2.

Possible options:

Product design and manufacturing

- **General obligation.** Each Party should be required to take effective measures to ensure that plastic products are produced, manufactured and put on the market are in line with the criteria listed in an annex, and guidance adopted by the Conference of the Parties, with a view to phase out or prevent those products. Measures could include, inter alia, minimum requirements, technical regulations and standards, fees and extended producer responsibility schemes in line with the criteria.
- **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, possibility of remanufacturing and recycling as well as 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 labelling.
- **Guidance.** The Conference of Parties should adopt general and sectoral guidelines for meeting the criteria.
- **Target.** Parties should set a target for the use of recycled content in plastic products put on the market.
- **Transparency.** Parties should require producers of polymers and plastic products to provide full and correct information on the properties relevant to the criteria and guidelines.

- **Transparency.** Each Party should be required to ensure the disclosure of information on chemical and material composition of plastic products along the value chain for manufacturers, importers, users, consumers and recyclers through for example labelling.
- **Registry.** The Secretariat should establish a central data exchange where this information can be made available.

Reuse

- **General Obligation.** Each Party should be required to take effective measures to encourage reuse of plastic products. Measures could include taxes, fees, tariffs, tax incentives, regulations, promotion of standards, deposit refund schemes, extended producer responsibility schemes, product take-back and right-to-repair requirements, promote citizens campaigns to enhance awareness, remove trade barriers and others.
- **Target.** Parties should set a target for the reuse of plastic products.
- **Guidance.** The Conference of Parties should be required to develop and adopt general and sectoral guidelines for reuse.

Recycling of plastic waste

- **General obligation.** Each Party should be required to take effective measures so that plastic wastes are collected, sorted and recycled in an environmentally sound manner, taking into account guidance and quality requirements to promote and make available for the market, non-toxic secondary materials. These measures could include targets, minimum requirements, fees, extended producer responsibility schemes, and deposit refund schemes.
- **Targets.** Parties should set a target for collection and environmentally sound recycling of plastic waste while also meeting quality requirements.
- **Guidance.** The Conference of Parties should be required to develop and adopt guidelines on environmentally sound management and recycling of plastic waste.

Provisions on eliminating the release of plastics (including microplastics) to air, water and land

These provisions address para 3b and 3c in the UNEA resolution 5/14. The above provisions would significantly contribute to reducing the release of plastics to the environment. However, there will still remain certain point and non-point sources of releases of plastics requiring additional measures. There may be a need for specific guidance to reduce microplastic release from point sources such as wastewater treatment facilities or industrial facilities. And even though innovation in product design

may reduce unintentional release of microplastics, there may also be a need for further guidance targeting other specific sources of release. Both point and non-point sources of release of plasticssould be identified, and additional measures implemented. A specific example is releases that occur through the handling, storage, transport, and processing of plastic pellets, flakes and powders.

The final disposal of plastic waste (i.e., plastic that cannot be reused or recycled) will remain an area for coordinated global action. Currently, mismanaged waste is by far the largest source of plastic release according to the OECD, with detrimental effects for human health and the environment. Even with the proposed provision set out above that will reduce the generation of plastic waste, action will still be needed to ensure that final disposal operations do not lead to the release of plastics to the environment.

Lastly, legacy waste is not only a local plastic pollution challenge, but also a source of continuous spread of microplastics and chemicals of concern, and remediation may benefit from concerted coordination and guidance from the Treaty. The options paper should reflect options to reduce and eliminate the release of plastics to air, water and land for INC to further discuss these options at INC-2.

Releases of microplastics to water, land and air

- **General Obligation.** Each Party should be required to take steps to reduce and, where feasible, eliminate releases of plastics to water, land and air through identified policy measures from the categories listed in an annex. The list of categories could include:
 - Point sources such as industrial facilities, wastewater treatment plants or similar. Measures could include filtration systems or others.
 - Non-point sources such as synthetic textiles, vehicle tyres, road markings, paint, marine coatings, personal care products and others. Measures could include enhanced maintenance, stormwater management, sedimentation and filtration systems, regulation for handling, use, storage and transportation or others⁵.
- **Guidance.** The Conference of Parties should be required to adopt guidelines on best available techniques and best environmental practices to reduce release of plastics to water, land and air from the source categories listed in an annex.

Release of plastic pellets to the environment

- **General Obligation.** Each Party should be required to take effective measures to eliminate releases of plastics pellets to the environment. Measures could include regulation to prevent loss at all stages including production, handling, transport and storage. Obligations and measures should seek to complement and not duplicate efforts in other Conventions such as the IMO.

⁵ Vogelsang, C. et al. (2020) Microplastics in road dust - characteristics, pathways and measures. Oslo. [\[https://www.miljodirektoratet.no/globalassets/publikasjoner/M959/M959.pdf\]](https://www.miljodirektoratet.no/globalassets/publikasjoner/M959/M959.pdf)

Loss of fishing gear

- **General Obligation.** Each Party should be required take effective measures to prevent and reduce loss of fishing gear containing plastic. Measures could include awareness raising, extended producer responsibility schemes, adequate port reception facilities, identification of hotspots of abandoned, lost and otherwise discarded fishing gear and targeted retrieval surveys. Obligations and measures should seek to complement and not duplicate efforts in other Conventions such as the IMO.

Waste management for final disposal

- **General Obligation.** Each Party should be required to take effective measures so that plastic waste is collected, sorted and if necessary disposed of in an environmentally sound manner, taking into account the waste hierarchy and inter alia, the technical guidelines adopted by the Basel Convention. Measures could include extended producer responsibility schemes, trade incentives, “pay-as-you-throw” pricing, landfill and incineration taxes, targets for reduction, with the aim of phasing out, of landfill use and others.
- **Eliminate open burning.** Each Party should be required to take effective measures to eliminate open burning.
- **Target.** Parties should set a target for reducing the generation of plastic waste in need of final disposal operations.

Remediation for legacy plastic waste

- **Cooperation.** Parties should cooperate to develop strategies to identify, prioritise and address areas of legacy waste in an environmentally sound manner, and encourage partnerships with stakeholders in support of these strategies.

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).*

Provision on National Action Plans

National Action plans should provide a vehicle for progress by facilitating the implementation of each Party's obligations under the treaty, and empowering them to set targets and develop and implement national policies, tailored to meet specific national circumstances and capabilities and addressing the full life cycle of plastics. All sources of plastics and relevant sectors should be included. The NAP should function as a "living document" and, as such, be revised/updated at regular intervals.

- **General Obligation.** Each Party should be required to develop and implement a national action plan (NAP) to meet its obligations under the instrument and set out additional commitments to achieve its objectives, in accordance with guidelines and other relevant decisions of the Conference of the Parties. The NAP should be submitted to the secretariat.
- **Review and Update.** Each party should review and update the NAPs at intervals as further specified by the Conference of the Parties, and submit the updated NAP to the secretariat.
- **Stakeholders.** Each Party should be required to consult national stakeholders in the development, implementation, review and update of their NAPs

Provision on Monitoring

- **General obligation.** Each party should collect reliable data on the leakages of plastics to the environment as well as the impact of plastic pollution on the environment and on human health. Indicators should be developed in order to facilitate data collection.
- **Methodologies.** Parties should cooperate on the development of harmonized methodologies and work to ensure representative monitoring data from all regions.
- **Access to monitoring data.** The monitoring data should be made available to the Conference of the Parties according to arrangements to be further specified.

Provision on Reporting

The Treaty should include transparent and efficient reporting systems as a means to inform the Conference of the Parties and the secretariat of the Parties' implementation. Lessons should be drawn from other Conventions with a high reporting rate in how to ensure timely and accurate reporting.

- **General Obligation.** Parties should be required to report at regular intervals as further specified in an annex. The reporting format should include all relevant aspects of the implementation of the treaty, including of the general obligations, targets, control measures and voluntary approaches in coherence with the National Action Plan.
- **Verification.** The secretariat should have the capacity to verify the information given by parties on their implementation.

- **Statistical data.** Parties should collect and report reliable, relevant statistical data on plastic production, consumption and waste management.

Provision on a Compliance Mechanism

- A compliance mechanism that is fair, facilitative and non-punitive should be established. The mechanism should be linked to the technical and financial support system under the Treaty.

Provision on effectiveness evaluation

- The Conference of the Parties should evaluate the effectiveness of the Treaty at regular intervals and assess progress in reaching the objective of the Treaty. The Treaty should base its work on relevant and available scientific, environmental, technical, financial and economic information. This would include national reports, available monitoring data (see Provision on Monitoring), information and recommendations from the compliance mechanism, and reports on the operation of capacity building arrangements under the Treaty.

Provision on Data Access

- Each Party should be required to take effective measures to ensure the disclosure of relevant data from producers and importers in order to implement the general obligations and control measures.

Provision on Sectoral Programmes of Work

This provision addresses para 3(k), (l) and (m) in the UNEA resolution 5/14 on cooperation with relevant conventions, instruments and organizations and actions by all stakeholders. There is a need for a sectoral approach to several of the obligations in the Treaty. This provision should outline programs of work to facilitate sectoral cooperation and action between relevant stakeholders, including conventions, instruments, organizations and existing multistakeholder initiatives.

- **Mandate.** The Conference of the Parties should initiate sectoral programmes of work to develop science-based sectoral strategies to address plastic pollution, including but not limited to, fisheries, aquaculture, agriculture, packaging, textile, transportation, medical and healthcare and construction.
- **Cooperation.** The Conference of the Parties, in initiating sectoral programmes of work, should seek to cooperate and coordinate with other conventions, instruments and organizations and promote the involvement of stakeholders from across the value-chain. These sectoral programs of work should make recommendations to the Parties, such as on policies, targets and other actions, identify any research and development needs, and cooperate with the Multistakeholder Action Agenda.

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?*

Provisions on Means of Implementation

The Treaty should enable a cooperative approach to capacity-building and resource mobilisation. All country parties should benefit from best practice sharing. The treaty should be developed to become a force of inclusion of all country parties in a more circular economy.

Through its core obligations and control measures the treaty should facilitate a level playing field for market-based solutions to plastic pollution problems. This aspect represents a significant opportunity. Control measures that increase the quality and value of plastic will play a key role in making reuse and recycling systems financially viable, hence solving the problems with limited or no cost on governments.

Improvements in governance are crucially linked to the price of capital and ability of countries to attract private investments and should be a priority.

All sources of finance for capacity building are relevant, including from a designated financial mechanism, mobilising of domestic resources, and innovative private mechanisms. Innovative solutions should be explored.

A financial mechanism should be identified. An established mechanism like the GEF has considerable merits in this respect, in particular in terms of ability to seek results across the three planetary crises. Using an existing financial mechanism will eliminate the costs associated with establishing a new mechanism, be more efficient and could facilitate possible synergies with related ongoing efforts.

The integrated approach to financing of chemicals and waste should guide the efforts. Plastics lends itself particularly well to implementing the polluter pays principle. EPR schemes are among the relevant mechanisms. As parties seek to mobilise adequate resources to pursue the goals of the Treaty, parties should consider restructuring taxation, including phasing out inefficient fossil fuel subsidies that run counter to the objectives of the treaty.

As the INC develops recommended control measures and obligations through the negotiating process, suitable means of implementation should be considered in parallel. The most effective ways of promoting implementation of each measure will vary with the individual obligation, with national circumstances.

The new Treaty should help strengthen and reinforce the connection between finance needs and providers, including Multilateral Development Banks and influential partnerships in the business and finance community. Voluntary contributions from the corporate sector and other stakeholders should contribute additional investment and support, including through innovative solutions.

Capacity-building and technical assistance

- **General obligation.** Parties should cooperate to provide capacity-building and technical assistance. Cooperation and coordination with other multilateral environmental agreements in the field of chemicals and waste, biodiversity and climate change, should be sought to increase the effectiveness of capacity building and technical assistance.

Resource mobilisation

- **General obligation.** Parties should cooperate to facilitate resource mobilisation from all sources, including new and innovative funding sources.
- **Integrated approach.** The three components of the integrated approach to address the financing of the sound management of chemicals and waste, mainstreaming, industry involvement and dedicated external finance, are mutually reinforcing and are all important for the financing of the implementation of the treaty at all levels.
- **Financial mechanism.** A financial mechanism should be identified.
- **Innovative funding solution.** The INC should explore innovative funding solutions based on voluntary contributions from the corporate sector and other stakeholders to provide additional investment and support for implementation of the treaty

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).

Provisions on Multistakeholder Action Agenda

This provision address para 3(m) in the UNEA resolution 5/14 to initiate a multistakeholder action agenda. The Multistakeholder Action Agenda should have a sectoral approach and should seek to mobilize stakeholders to scale up actions, and continuously increase ambition, to accelerate progress towards the Objective and targets set out in the Plastics Treaty. The Multistakeholder Action Agenda should provide information and options for sectoral measures, and to inform the work in the Sectoral Programmes of Work under the Treaty. The Multistakeholder Action Agenda could also provide a platform for business, industry, cities, and local government as well as other stakeholders to commit to taking actions and support the implementation of the Treaty. The Multistakeholder Action Agenda should seek to avoid duplication with existing initiatives.

- **Mandate.** The Treaty should outline a mandate for a multistakeholder action agenda to be further outlined by the Conference of the Parties, including on participation and modalities.

Provisions on Protocols, Subsidiary Bodies and Review of the Instrument

- The Conference of the Parties should, inter alia:
 - Consider and adopt amendments to the Treaty and its annexes,
 - Consider and adopt protocols, and
 - Establish subsidiary bodies as are deemed necessary for the implementation of the Treaty
- **Annexes.** The treaty should have several annexes. Annexes allow for the continuous development of the treaty through revisions by the Conference of the Parties.
- **Scientific body.** A subsidiary scientific body is likely to be needed to consider the scientific evaluation of possible revisions of annexes, including on phase-out of chemicals, polymers and products of concern.