Call for written submissions

Proposed response by the Principality of Monaco on the potential options for elements towards an international legally binding instrument

Date: 13 February 2023

On 9 December 2022, the Executive Secretary of the INC Plastic Pollution Secretariat sent a notification inviting written submissions from members of the committee and from stakeholders.

As requested by INC-1, written submissions will inform the secretariat in the preparation of a document with potential options for elements towards an international legally binding instrument, for consideration at the second session of the INC, without in any way prejudging what the committee might decide regarding the structure and provisions of the instrument.

The document is to be based on a comprehensive approach that addresses the full life cycle of plastics as called for by UNEA resolution 5/14, including identifying the objective, substantive provisions including core obligations, control measures, and voluntary approaches, implementation measures, and means of implementation.

All written submissions must be sent to unep-incplastic.secretariat@un.org. The statements received will be compiled and made available the INC webpage.

Name of country (for Members of the committee)	PRINCIPALITY OF MONACO
Name of organization (for stakeholders to the committee)	
Contact person and contact information for the submission	Wilfrid Deri, Monaco's INC focal point – wderi@gouv.mc
Date	13 February 2023

I. Substantive elements

1. Objective(s)

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

Proposed Objective:

To end plastic pollution (by 2040 at latest) and protect human health and the environment from plastic pollution, including the marine environment.

Explanatory Text:

The internationally legally binding instrument (ILBI) 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 at each stage of the plastics' life cycle. Achieving the Objective will be a long-term endeavor. As such, the Treaty must include mechanisms that allow for systematic work overtime and gradually strengthening the approach, informed by new scientific insights and updated understanding about progress.

Under the scope of the ILBI, plastic should be considered as composed, but not limited to, of polymers, additives, chemical components, primary microplastics, intermediate and final plastic products, breakdown (including secondary microplastics) and transformation products associated with plastic materials and products, as well as materials and components that are developed or introduced as substitutes for fossil-fuel based plastic materials and components (on the basis of their similar material properties), like bio based plastics.

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?

Control measures should be built upon three core principles:
- Waste Hierarchy,
- Precautionary principle,
- Polluter pays principle, including Extended Producer Responsibility (EPR).

Provision to reduce the production of virgin 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 years[3] and waste generation and the release of plastics into the environment will follow suit. Measures and targets for keeping the supply of primary plastic polymers (including both fossil fuel 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 emissions[4].

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.

Options supported:

- **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.
- Measures to reduce supply of plastic polymers will also complement efforts to reduce GHG emissions[5].

[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.
[5] 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.

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 or colourants) 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 the way in which they are intended to be used. A number of legislative initiatives around the world have introduced bans or restrictions on such plastic products. The plastic treaty may include obligations for effectively phasing out, or severely restricting the production and/or use of specific polymers, chemicals and plastic products that are harmful to the environment and human health, are problematic because they impede circularity or that have a high risk of release into the environment.

The options paper should reflect options to eliminate and restrict specific polymers, chemicals and plastic products of concern for the INC to be able to discuss these options further at INC-2.

Options supported:

- **General obligation.** Each Party shall be required to eliminate and restrict the production and use of polymers, chemicals and plastic products listed in an annex.
- **Criteria.** The treaty should set criteria for identifying polymers, chemicals of concern and plastic products to be listed in an annex.
    - *Harmful to the environment and human health.* Possible criteria for identifying polymers and chemicals include, based on inherent properties, substances that have slow or no degradation in the environment, bioaccumulate and/or have long-term toxic effects (e.g., carcinogenic, mutagenic, reprotoxic, endocrine disruptors).
    - *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 polymer or mixed material packaging)
    - *Risk of release to the environment.* Possible criteria for identifying plastic products could include high litter risk and/or the necessity of products and/or the possibility for recycling and/or the availability of environmentally sound 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.

Provisions to increase 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 the 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 for the INC to be able to discuss these options further at INC-2.

Options supported:

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.

  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 for example through marking or 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 the reuse of plastic products, such as containers and bottles, and/or other reuse systems.

- **Targets.** Parties should set targets 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

- **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.

Provision 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 mentioned 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 plastics should 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 into the environment.

Legacy waste is not only a local plastic pollution issue, but also a source of continuous spread of microplastics and chemicals of concern, and remediation may benefit from concerted international 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 the INC to further discuss these options at INC-2. A special attention should be bring on fishing gear (major part in weight of all floating macroplastics) taking into accounts their impacts on animal life in oceans and their meaningful implications for food security and fisheries sustainability.

Options supported:

Releases of plastics to water, land and air

- **General obligation.** Each Party should be required to take steps to eliminate releases of plastics to water, land and air from the source categories listed in an annex. This list of categories could include stormwater drainage systems; wastewater and sewage; industrial facilities; sectors such as aquaculture, agriculture and the fishing industry; transport and handling of plastic pellets; unintentional microplastics releases from e.g. roads, textiles and other sources.
- **Guidance.** The Conference of Parties should be required to adopt guidelines on best available techniques and best environmental practices to eliminate release of plastics to water, land and air from the source categories listed in an annex.

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, deposit return schemes, or fees.

- **Target**. Parties should set a target for reducing the generation of plastic waste in need of final disposal operations, such as landfilling and burning.

Remediation of legacy plastic waste

- **Cooperation.** Parties should cooperate to develop strategies to identify, prioritise and address areas of legacy waste in an environmentally sound manner.
- **Guidance.** The Conference of Parties should be required to adopt criteria and guidelines on best available techniques and best environmental practices for environmentally sound remediation of legacy waste.

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).

Hereafter, general considerations are proposed that may lead to more detailed submissions during the negotiation.

To achieve implementation assessment and impact measurement of the ILBI different means could be considered:

- National action plans, trough periodical update and periodically reported on, should ensure accountability on implementation and support technical and expertise sharing.

- Creation of a globally standardized reporting and monitoring mechanism: evidence base of consistent, reliable, and high-quality information to set baselines and monitor progress towards the ILBI objective. Dedicated funding should be available to support developing countries to meet reporting and monitoring obligations under the instrument.

- Monitoring should cover the entire plastic life cycle, enabling the collection of current and future data on production, use, recycling, waste and pollution.

- Compliance: the ILBI should set up periodic comprehensive assessments that evaluate progress, at global and national level, toward the objective against key targets providing a basis for re-evaluation and strengthening of national action plans over time.

- Scientific and technical cooperation/coordination: whereas there is sufficient scientific evidence to act now, some aspects of plastic pollution may need additional research.

  The ILBI should, as appropriate, establish/rely on mechanisms/bodies to improve knowledge and promote innovations related to plastic pollution aspects. The “Science-policy Panel to Contribute Further to the Sound Management of Chemicals and Waste and to Prevent pollution” (UNEA resolution5/8) may have a role in the ILBI perspective that could be explored in the option paper.

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?

Monaco will provide positions on implementation measures in further submissions during the negotiation process.

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).

Monaco will provide details on other priorities in further submissions during the negotiation process.

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