



Potential options for elements towards an international legally binding instrument

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Explanatory Note

- **Global binding rules:** 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.
- **National implementation:** the particular circumstances and capacities of countries require, where warranted, flexibility in the implementation of treaty obligations at the national level.
- **Focus on control measures:** this contribution focuses on the control measures envisaged as core provisions of the treaty.

Switzerland will continue to develop its position on the above-mentioned and other parts of the treaty, as the negotiations unfold.

All written submissions from stakeholders referenced in this submission can be found on the [INC2 website](#).





I. 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 protect the environment and human health, and end plastic pollution.

Explanatory Text:

UNEA resolution 5/14 “End plastic pollution: Towards an international legally binding instrument” provides that the instrument should be based on a holistic approach that addresses the full lifecycle of plastics (including microplastics). Plastic pollution stems from a variety of sources and pathways, and its elimination will require a large and comprehensive set of measures along the entire lifecycle of plastics. Similarly, to protect the environment and human health from adverse impacts of plastics, there is again a need for interventions throughout the lifecycle of plastics.

To achieve the objective, the legally binding instrument must be comprehensive and dynamic to address existing and evolving issues (for example by updating of annexes or developing guidance for implementing obligations).

For this submission, “**plastics**” means a substance, mixture or a product, consisting of or containing polymers and other chemicals which are not polymers (additives); “**polymer**” means a substance consisting of one or more types of monomers.

Proposed principles:

The principles below should be set out in the instrument. It would provide valuable guidance for countries and the Conference of the Parties (COP) when evaluating actions to implement the instrument and to adapt it over time. In their actions to achieve the objective and to implement the provisions of the instrument, Parties should:

- a) be guided by the precautionary principle and the polluter pays principle set forth in Principles 15 and 16 of the Rio Declaration on Environment and Development;
- b) avoid, as far as possible, actions with adverse consequences notably on climate, biodiversity, and food security;
- c) take into account the waste hierarchy¹;
- d) reflect the specific needs and special circumstances of developing countries.

¹ Taking into account the waste hierarchy entails that waste has to be treated according to the following priorities: prevent waste, reduce the generation of waste (for instance by promoting reuse), recycle, thermal treatment, disposal (landfill). Preventing waste is always the most favoured option, while landfilling waste is always the least favoured option.



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?*

To end plastic pollution there is a need for interventions throughout the lifecycle of plastics. The instrument should therefore contain provisions that address all stages of the lifecycle of plastics, and include obligations and control measures in each of the stages. Switzerland has clustered these provisions in 4 main areas for actions:

- I. Provisions to reduce the total supply of primary plastic polymers.**
- II. Provisions to phase-out specific polymers, chemicals of concern and plastic products.**
- III. Provisions to circulate plastics, including design, reduce, reuse and repair.**
- IV. Provisions to eliminate the release of plastics (including microplastics) to water, soil and air, including improved waste management and remediation of legacy plastic waste.**

I. Provisions to reduce the total supply of primary plastic polymers

Plastic production and consumption have reached unsustainable levels. Plastic consumption has doubled over the past 20 years and more than half of all plastics ever produced has been used since the year 2000. Current projections are that plastic production will double again in the next 20 years and waste generation and leakage of plastics into the environment will follow suit.² To end plastic pollution will therefore take concerted action to reduce the total supply of primary plastic polymers (including both fossil and bio-based feedstock). Provisions aiming at reducing the total supply of primary plastic polymers should complement the phase-outs introduced in Part II, since for example prohibiting certain chemicals of concern or single-use plastic products might not reduce the total plastic supply significantly. Further, measures reducing virgin plastic production will also make an important contribution to efforts to reduce greenhouse gas (GHG) emissions³.

A number of stakeholders have made suggestions and proposals in this regard: for example, to reduce the supply of plastics, the United Nations Development Programme (UNDP) and the Office of the UN High Commissioner for Human Rights (OHCHR) propose to restrict virgin plastic production (notably through global caps); and the Organisation for Economic Co-operation and Development (OECD) proposes a global production charge, which implements the polluter pays principle. The Minderoo Foundation also proposes a number of measures to limit production and consumption, and so do Systemiq and the Pew Charitable Trusts, and the Center for International Environmental Law (CIEL).

² The PEW Charitable Trust and Systemiq (2020). Breaking the Plastic Wave.

³ 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.



1. Obligations

- **General obligation to reduce the total supply of primary plastic polymers.** Each Party should be required to implement effective measures to limit the manufacture, export and import of primary production of plastic polymers to an agreed level consistent with the goal of eliminating plastic pollution by 2040. The instrument could include a range of measures such as volume measures, price measures (like taxes or a global fee), production permits, licenses, moratoriums, bans, removal of fiscal incentives⁴.

2. Process

- **Updating.** A dynamic and efficient process should be developed to review and amend the actions that Parties are required to take.

3. Transparency/Reporting

- 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
- The information should be included in the regular reporting by the Party on its implementation of the instrument.

II. Provisions to phase-out specific polymers, chemicals of concern and plastic products

These phase-out provisions would eliminate the most problematic polymers, chemicals and plastic products from the plastics supply chain, thereby improving health and environmental outcomes and allowing a non-toxic plastic economy. As the phase-out provisions would apply only to certain polymers, chemicals and plastic products, these actions are not expected to result in significant reductions in the total supply of plastics – this is the reason why Part I on provisions to reduce the total supply of primary plastic polymers should complement Part II.

Different approaches to the listing of polymers, chemicals of concern and plastic products including criteria, structure and other elements, should be included in an annex to the options paper. For example, the Natural Resources Defense Council (NRDC), the Ellen MacArthur Foundation and the Business Coalition submissions contain elements in that regard.

1. Obligations

- **General obligation to phase-out specific polymers and chemicals of concern.** The manufacturing, import, export and placing on the market of polymers and chemicals listed in an Annex should be phased out by a specified date. A number of written submissions suggest a “grouping” approach⁵.
- **General obligation to phase-out specific plastic products.** The manufacturing, import, export and placing on the market of plastic products listed in an Annex should be phased out by a specified date.

2. Criteria

Criteria to identify polymers and chemicals of concern and specific plastic products, should be listed in an Annex. Possible criteria could include:

⁴ A number of options are mentioned in the above-mentioned written submissions (explanation text) as well as others like Environmental Investigation Agency (EIA).

⁵ Minderoo and IPEN submissions notably.



- (a) **harmfulness to the environment and/or human health** leading to bioaccumulation and toxic long-term effects (for ex. carcinogenic, reprotoxic, endocrine disruptors). This could include plasticizers like phthalates and bisphenols (like bisphenol-A, but also alternatives such as bisphenol-S), and toxic metals (like lead, cadmium).
- (b) **impeding circularity** such as recyclability or reuse. For example, polymers that cannot readily be recycled; or certain chemicals and polymers to simplify product composition for enhanced recyclability (e.g., avoid multi-layer packaging, phase-out carbon black pigment).
- (c) **risk of release to the environment** due to their slow or non-degradation in the environment, their short lifespan, or propensity to become litter. This could include banning oxo-degradable plastic products (they contain additives that trigger plastics to fragment into microplastics, which contributes to plastic pollution), certain single-use plastic products (are often a waste of resources due to very short lifespan and prone to littering) and intentionally added microplastics (they are intentionally added to certain products, such as cleaning agents, personal care products and fertilizers).

The criteria could be assessed holistically, although one positive criterion could be sufficient for inclusion in an Annex.

3. Process

- **Initial list.** The listed polymers, chemicals and plastic products, along with specific dates for their phase-out and any exemptions, could be included in one or several Annexes. Initial lists should be included when the instrument is adopted.
- **Updating.** A dynamic and efficient process should be developed to review and amend the Annex(es) to be able to react to new findings or new polymers, chemicals and plastic products (or in light of other new developments). This process could be developed using experience gained under other Multilateral Environmental Agreements (MEAs).

4. Transparency/Reporting

- Each Party should be required to report relevant information to support an effective implementation and monitoring of the measures. The information should be included in the regular reporting by the Party on its implementation of the instrument.

III. Provisions to circulate plastics, including design, reduce, reuse and repair

In today's plastics economy, the lifespan of plastic products is too short, and products become waste too quickly. As a result, when the use of plastics cannot be eliminated, an important way to reduce waste generation and plastic pollution is to keep plastic materials in the economy for as long as possible by extending their lifespan, and enabling reuse, repair, and eliminate unnecessary plastics. Product design should also lead to reduction of use of plastics.

To facilitate this improved circularity of plastics, the instrument should require general and sectoral interventions to ensure that products are designed to optimize circularity and reduce leakage to the environment across the life cycle of plastics, based on a set of criteria, and



guidance for the development of global design principles and standards. Improved circularity will also require action to promote reuse and repair of products to prolong product life.

By way of example, the obligations and guidance should address the characteristics of products and packaging, for example, composition, performance, shape, marking and labelling; among many others. The obligations and guidance could address matters such as material and chemical simplification⁶ (e.g., notably promote a non-toxic secondary market) the composition of packaging (e.g., mono- versus multi-layer), overpackaging, minimum recycled content in products and packaging, composition to minimize release of microplastics and formats for reusable containers (e.g., to promote reuse across outlets).

Product design

1. Obligations

- **Obligation for general and sectoral measures.** Each Party should be required to take effective measures to ensure that plastic products and packaging put on the market are in conformity with the criteria listed in an Annex and guidance adopted by the COP.
- **Labelling.** Each Party should be required to ensure the appropriate labelling of plastic products and packaging in light of the criteria and guidance in order to allow informed choices by consumers.

2. Criteria

- **Criteria.** Criteria should be developed in an Annex. Possible criteria include durability, reusability, reparability, absence of polymers and chemicals of concern, content and potential for the release of microplastics, recycled content, possibility of remanufacturing and recycling as well as expected generation of waste materials.

3. Process

- **Guidance.** The COP should adopt general and sectoral guidance for meeting the obligations.
- **Updating.** A dynamic and efficient process should be developed to review and modify the criteria, and the general and sectoral guidance.

4. Transparency/Reporting

- **Transparency.** Each Party should be required to ensure the availability of information on chemical and material composition of plastic products along the value chain for manufacturers, importers, retailers, consumers and recyclers. This could be accomplished through product marking, which would provide transparency throughout the supply chain. The information should be included in the regular reporting by the Party on its implementation of the instrument.
- **Registry⁷.** Parties could establish a central data exchange where this information can be registered. Other options and ideas are contained in written submissions to improve transparency through labelling but also through harmonized disclosure and regular monitoring to allow to track progress in the implementation of the treaty obligations.⁸

⁶ See for example submission by Systemiq and the Pew Charitable trusts (streamline polymers).

⁷ See for example Environmental Investigation Agency (EIA) submission.

⁸ See for example Consumer Good Forums (p.3) and WWF submissions.



Reduce, reuse and repair

1. Obligations

- **Obligation for general and sectoral measures.** Each Party should be required to take effective measures to encourage reduction, reuse and repair of plastic products and packaging in conformity with guidance adopted by the COP. This could include measures to enhance the lifespan of products and packaging, i.e. prolonged product warranty or minimum reuse and repair targets for listed products and packaging, as well as service delivery systems that reduce the use of plastics.

2. Process

- **Guidance.** The COP should adopt guidance for meeting the reduction, reuse and repair obligations, including in relevant sectors.
- **Updating.** A dynamic and efficient process should be developed to review and amend the actions that Parties are required to take, including the minimum reuse and repair requirements for listed products and packaging and to expand the list of products and packaging.

3. Transparency/Reporting

- Each Party should be required to ensure the availability of information on reuse and repair of plastic products and packaging.
- The information should be included in the regular reporting by the Party on its implementation of the instrument.

Recycling

- Recycling provisions are included under Part IV, to ensure that all waste management provisions are discussed coherently and consistently in one place.

IV. Provisions to eliminate the release of plastics (including microplastics) to water, soil and air including improved waste management and remediation of legacy plastic waste

To end plastic pollution, the instrument must also include obligations to reduce the release of plastics, including microplastics and related pollution to the environment (water, soil and air). Currently, these macro- and microplastic releases happen throughout the supply chain and lifecycle. For example, releases occur through handling, storage, transport and processing of pellets, flakes and powders; they occur through the intended use of some products (e.g., tires, clothes and paint); they are carried through domestic and municipal waste water systems; they occur when new plastic waste is not managed in an environmentally sound manner (ESM); and they occur on an ongoing basis from legacy plastic waste, whether it arises on land, in rivers and lakes or the oceans. These concerns arise generally but also on a sector-specific basis (e.g., fishing gear and agricultural plastics). The provisions need to support the enforcement of the amendments on mixed plastic waste under the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.

Reduce the release of plastics to water, soil and air



1. Obligations

- **Obligation for general and sectoral measures.** Each Party should be required to reduce and, ultimately, eliminate releases of plastics to water, soil and air from all sources in conformity with guidance adopted by the COP⁹.

2. Process

- An Annex with categories of sources for releases to water, soil and air should be established. This list of source categories could include wastewater and sewage, industrial facilities, aquaculture, agriculture and the fishing industry (including fishing gear) transport and handling of plastic pellets, flakes and powders, unintentional microplastics releases from e.g., roads, textiles and agriculture.
- **Guidance.** The COP should be required to adopt guidance to meet the obligation to reduce release of plastics to water, soil and air from the source categories listed in an Annex.
- **Updating.** A dynamic and efficient process should be developed to review and amend the guidance to prevent the release of plastics.

3. Transparency/Reporting

- Each Party should be required to report on the steps it has adopted, and considers to adopt, to reduce and, ultimately, eliminate releases of plastics to water, soil and air from the listed source categories.
- The information should be included in the regular reporting by the Party on its implementation of the instrument.

Waste management¹⁰

1. Obligations

- **General obligation to implement measures on collecting, sorting, and recycling.** Each Party should be required to take effective measures to ensure that plastic waste is collected, sorted and recycled in line with guidance and quality requirements to promote and make available for the market of non-toxic secondary materials. This could include extended producer responsibility for instance by promoting deposit return schemes, prepaid recycling contributions, or eco-modulation fees.
- **General obligation on disposal.** Each Party should be required to ensure the management and disposal of plastic waste in an environmentally sound manner (ESM), taking into account the waste hierarchy, and in conformity with guidance to be adopted by the COP.
- **General obligation to phase-out certain waste management practices¹¹.** Each Party should be required to take effective measures to restrict and subsequently phase-out waste management practices that are not environmentally sound and in conformity with guidance to be adopted by the COP.

⁹ See for example Minderoo suggestions, p.8 as well as Sytemiq and Pew Charitable Trusts submission on preventing loss of pellets, flakes and powders.

¹⁰ This should be done in conformity with obligations under the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.

¹¹ See for example System intervention 7 in the Pew Charitable Trusts, WWF (under manage) and IPEN submissions.



2. Process

- **Guidance.** The COP should adopt guidance for meeting the general obligations, including on quality requirements for recycling and on ESM of plastic waste for disposal.
- **Updating.** A dynamic and efficient process should be developed to review and amend the guidance on waste management.

3. Transparency/Reporting

- Each Party should be required to report on the steps it has adopted, and considers to adopt, to meet the general obligations.
- The information should be included in the regular reporting by the Party on its implementation of the instrument.

Remediation of legacy plastic waste

- **Cooperation.** Parties should be encouraged to cooperate with other relevant actors, such as international organizations, and identify, prioritize and address areas of legacy waste and develop global, regional and national plans to implement, in an environmentally sound manner, the remediation of aquatic environments and terrestrial sites contaminated with plastic waste. Further guidance could be adopted by the COP.
- **Transparency and reporting** requirements could also be included.

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).*

The instrument will need a number of provisions and mechanism to support the implementation of the instrument, to evaluate its effectiveness and to ensure compliance. At this stage, Switzerland would like to point out the main aspects that will need to be covered in the treaty, noting that we need to draw lessons from other MEAs to ensure we establish the necessary conditions to achieve our objective to end plastic pollution.

- **National Actions Plans (NAP).** Each Party could be required to prepare and submit to the COP, a NAP that indicates how it will meet its obligations under the instrument. The COP could consider adopting guidance to assist Parties in the preparation of NAPs.



- **Implementation and Compliance.** Implementation and compliance are closely related, and a mechanism should be established to identify and consider both issues of compliance and issues that inhibit compliance.
- **Reporting Requirements.** It is important that each Party report to the COP on the measures it has taken to implement the provisions of the Convention, on the effectiveness of such measures, and on possible challenges in meeting the objectives of the Convention. The COP could adopt and update guidance to assist Parties in making their reports, and to assist the COP in using the reports in its ongoing review of progress in implementation.
- **Information Exchange.** The instrument should include provisions that support the collection and sharing of information on issues including health impacts, environmental pathways, technologies, etc.
- **Public Information, Awareness-raising and Education.** Each Party should be required to ensure that the public has access to information about plastics and related pollution and adverse effects on human health, and that the information is kept up-to-date; further there is a need to provide education, training and public awareness related to plastics and to encourage the widest participation in the process.
- **Research, Development and Monitoring (inventories, assessment, harmonized methodologies).** Parties should be encouraged to monitor plastics at the national and international level, their sources, pathways, emissions, presence, levels and trends in humans and the environment; and to cooperate in research and development, including in respect of instrumentation and other techniques for monitoring and measuring presence and levels in humans and the environment. Life cycle assessments should complement guidance on the ecological impact of plastics and alternative materials.
- **Effectiveness Evaluation.** Effectiveness evaluation enables an assessment of the success of activities undertaken in working towards the achievement of the objectives of the Convention. It is important to distinguish between “effectiveness” and “implementation”. The instrument should contain the basic principles to be followed by the COP in its development of the timing and processes to be followed in undertaking periodic evaluations of effectiveness.

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?*

Switzerland recognises that some developing countries will require assistance in implementing their obligations under the instrument. The assistance required should take into account possible differentiated capacity gaps, in particular in least developed countries and may include: longer implementation periods for some obligations, general capacity-building provisions; technical assistance and technology transfer on mutually agreed terms; and access to funding. To secure sufficient and dependable funding for full implementation of the instrument, innovative financing solutions need to be considered. For example, the OECD and the



Minderoo Foundation have mentioned a pollution and a packaging fee, consistent with the polluter pays principle.

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).

Issues relating to awareness-raising, education, exchange of information and research and development have been addressed above under Part II, as they are considered to be implementation elements. The following comments relate either to cross-cutting issues, or other elements of the instrument.

- **Engagement of Private Sector, Civil Society and the Public.** The treaty will be binding on Parties. However, it is important that the instrument provides a framework that enables positive support for implementation from all relevant sectors. A number of stakeholder submissions suggest harmonized disclosure obligations and reporting standards¹².
- **Collaboration.** Importance to promote collaboration and synergies among the relevant actors in particular International Organizations and the Secretariat of MEAs.
- **Investments.** The instrument should also provide incentives to drive public and private investments to support the objective of the instrument: to protect the environment and human health, and end plastic pollution.
- **Treaty Institutions.** Previous MEAs have provisions that provide a good basis for establishing the COP, the Secretariat, etc. Provisions establishing the COPs invariably contain a provision whereby the COP can establish subsidiary bodies, for example technical or scientific bodies. This is an important provision, as it allows the COP to decide in the light of experience and need whether a particular subsidiary body is needed at a particular time, and for what duration, rather than expecting the INC to anticipate the evolution of all such needs in the absence of experience.
- **Final provisions.** The provisions relating to settlement of disputes, amendments, annexes, ratification, acceptance or approval, entry into force should be informed by other MEAs.

¹² See for example Consumer Goods Forum submission.