

## **Call for written submissions – Proposed response template on the potential options for elements towards an international legally binding instrument**

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 observers. The template below is intended to provide guidance to members of the committee and observers in structuring the written submissions.

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.

The template below is meant to assist Members and Observers to prepare their written submission as a guide. A number of documents prepared for INC-1 are of relevance, notably UNEP/PP/INC.1/5 on 'Potential elements, based on provisions in paragraphs 3 and 4 of United Nations Environment Assembly resolution 5/14, including key concepts, procedures and mechanisms of legally binding multilateral agreements that may be relevant to furthering implementation and compliance under the future international legally binding instrument on plastic pollution, including in the marine environment'.

The template is divided into three sections:

- I. Substantive elements
- II. Implementation elements
- III. Additional input

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

Please note that it is not required for all fields to be answered in the template for submission.

### **Deadline for submissions:**

- 6 January 2023 for written submissions from observers.
- 10 February 2023 for written submissions from Members of the Committee.

## TEMPLATE FOR SUBMISSIONS

Name of country (for Members of the committee)	United Kingdom of Great Britain and Northern Ireland
Name of organization (for observers to the committee)	
Contact person and contact information for the submission	Dr Julius Piercy Email: <a href="mailto:Julius.Piercy@defra.gov.uk">Julius.Piercy@defra.gov.uk</a>
Date	13 <sup>th</sup> February 2023

### I. Substantive elements

#### 1. Objective(s)

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

<p>Proposed Objective:</p> <p>The objectives of this convention are to end plastic pollution from all sources to protect the environment and minimise the risk to human health.</p> <p>Explanatory Text:</p> <p>The UK supports a strong and specific high-level objective, with more detailed objectives, targets and control measures, contained in the International Legally Binding Instrument (ILBI) annexes, meaning they can be updated at subsequent Conference of the Parties (COP) as new information and evidence becomes available. The high-level objective must include an overall commitment to end plastic pollution, in accordance with the title of UNEA Resolution 5/14. The instrument should contain a time-bound commitment to ending plastic pollution, to be contained in the ILBI annex.</p> <p>A high-level objective enables a broad scope for the ILBI and includes the whole lifecycle of plastics, from the production and design of plastics to their use, consumption and disposal. This will enable the ILBI to address all sources of plastic pollution, covering materials, products, chemicals, additives and microplastics, recognising the risk of plastic pollution to human health.</p>
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#### 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?*

## **Introduction**

Our goal is to maximize resource efficiency and minimize plastic waste, by following the principles of the waste hierarchy: Prevention, reuse, recycling and recovery (including energy recovery), moving away from a take, make, waste model and towards a circular economy for plastic. The UK will continue to legislate domestically to design out avoidable plastic waste and make producers responsible for the plastic they produce, ensuring to be in line with the relevant WTO rules and obligations.

## **Core Obligations and Control Measures**

Plastic pollution is an international and transboundary issue, requiring global rules to have a systemic impact. The UK supports a combination of international obligations and national measures across the whole lifecycle of plastic to ensure that the ILBI can adequately address the transboundary nature of plastic pollution.

We believe the below core obligations should be included in the ILBI to create a legal framework for reducing plastic pollution globally and set a common vision and roadmap. Together, these obligations cover the entire plastics lifecycle and should be viewed as an integrated framework rather than standalone policies. The obligations have been grouped under each lifecycle stage for ease of reference.

### **1. Upstream: production and consumption**

#### **Core obligations**

- 1.1 Parties should adopt legally binding targets to restrain plastic production and consumption.
- 1.2 The INC should consider whether to include internationally agreed standards for the production of plastic products and plastic polymers through the adoption of legal and/or administrative measures.

Evidence should inform a harmonised regulatory framework to ensure polymers and plastic products are appropriately labelled and designed to be durable, reusable, recyclable, safe and minimise the release of secondary microplastics, in accordance with circular economy principles. The framework should also promote transparency, traceability, consistency, and drive-up investment across the plastic lifecycle, providing long term assurances to businesses.

- 1.3 The ILBI should include global bans or restrictions on specific avoidable plastic items<sup>1</sup>, which could include intentionally added microplastics, hazardous or difficult-to-recycle polymers, chemicals and additives to plastics that should be listed in the annexes of the instrument. The polymers, chemicals and additives in these lists should complement the work of the Basel, Rotterdam and Stockholm conventions in the sustainable management

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<sup>1</sup> In reference to the UK Government definition that alternatives are technically, environmentally, and economically practicable

of chemicals, whilst also addressing any barriers they pose to reuse and recycling of plastic products. Any global bans and restrictions should be informed by robust evidence and should be implemented domestically. The evidence base should also consider the application of plastic alternatives, including a comprehensive review of their use scenarios across the full life cycle (including end of life) to avoid unintended consequences. This should include assessment of the environmental, economic, social and health impacts of their use. Exemptions may be agreed by the parties for some applications, such as medical uses.

### **Control measures**

- 1.4 The ILBI should include an obligation for parties to adapt existing, or to develop and implement, a National Action Plan that supports the achievement of the objectives of the ILBI whilst considering national contexts and capabilities. The full lifecycle of plastics should be considered when developing these plans, including the restraining of production and consumption as well as improving value retention across the lifecycle.
- 1.5 The ILBI should require parties to put in place clear economic incentives for businesses to use recycled plastic in the manufacture of plastic packaging, which will create greater demand for this material, for example through a plastic packaging tax.
- 1.6 The INC could consider the need for the ILBI to introduce minimum recycled content incentives.

## **2. Downstream: Environmentally sound management of waste**

### **Core obligations**

- 2.1 Parties should be required to establish systems for the environmentally sound management of plastic waste, including measures to facilitate and promote prevention, reduction, reuse and recycling.
- 2.2 These measures could be underpinned by targets, for example for the reduction of avoidable plastic waste and the recycling of plastic waste
- 3.1 The ILBI should take into account the work of the Basel Convention on the environmentally sound management of waste.
- 3.2 The INC may wish to consider whether the ILBI should include an obligation to ensure that producers pay the full net costs of managing plastic waste at end of life, for example through extended producer responsibility schemes.
- 3.0 The ILBI could facilitate the ability of countries to tackle illegal waste crime activity.

### **Control measures**

- 3.1 Parties should ensure that systems are in place to enable environmentally sound collection, sorting and recycling of all plastic designed for recycling within an ambitious timeframe and respecting local, regional social and economic conditions

### 3. General control measures

- 4.1 The ILBI should require parties to implement measures to prevent spillage of plastics or their additives to the environment, at all stages of the life cycle.
- 4.2 The ILBI should take into account the work of the Basel, Stockholm and Rotterdam Conventions when considering measures to manage chemicals and waste. The ILBI should include obligations to address sea-based sources of plastic pollution, such as fishing and aquaculture gear, whilst taking into account existing multilateral agreements and internationally recognized schemes, including, inter alia:
- The existing work of the IMO, including on marine plastic litter from ships, fishing gear marking and retrieval, and plastic pellets.
  - The FAO's voluntary guidelines on gear marking.
  - Regional initiatives, such as the European Committee for Standardization (CEN) standard for lifecycle management and circular design for aquaculture and fishing gear.
  - The work of the Regional Seas Conventions, for example the OSPAR Regional Action Plan on Marine Litter.

#### Voluntary Approaches

The ILBI could include provisions that encourage voluntary actions to go above and beyond the ILBI obligations.

## 4. 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).*

#### National action plans

The UK recognises the importance of the instrument taking into consideration different countries' circumstances and that national action plans will be an important element of the ILBI. UNEA

resolution 5/14 OP3 (d) & (e) specifies that the instrument should include provisions to develop and implement a national action plan to contribute to commitments under the instrument.

Guidelines for the development, implementation and reporting of National Action Plans should be agreed by the Contracting Parties.

National action plans should be reviewed regularly and updated in accordance with the discussions and outcomes of subsequent COPs and the most recent scientific evidence, which may strengthen and increase the level of ambition under the instrument over time.

For specific priority plastic products, parties could consider existing recommendations when developing their national action plans such as those included in the OECD report 'Towards G7 Action to Combat Ghost Fishing Gear'.

### **Scientific and technical cooperation**

An effective instrument will require a robust science-policy interface to help assess the effectiveness of our interventions, support in measuring progress against the ILBI's objectives and ensure future decisions are based on the best available evidence. Therefore, the UK sees the value in considering the establishment of an Evidence and Technical Body (ETB) that takes into consideration any potential interactions with the new Science Policy Panel on chemicals, waste and pollution prevention, once this has been established.

The ETB could be a subsidiary body, established by the ILBI, with rules of procedure and further detail to be adopted by the first COP. The membership of the ETB should reflect diverse geographical and gender representation. Members would include scientific and technical experts, as well as social scientists and economists. Members should consider the full environmental, health, economic and social impacts of any recommendations. The ETB would work on matters at the direction of COP, or as prescribed in the ILBI i.e., it would not work on its own initiatives.

The ETB could coordinate the development of harmonised global monitoring methodologies and indicators to inform the evaluation of measures implemented under the ILBI. The ETB could have the power to establish sub-groups to work on particular issues and evidence gaps that need special expertise. For example, these groups could provide evidence on the assessment of the environmental effects of macro, micro and nano plastic pollution and the impact of plastic pollution on human health.

While evidence on the harm to human health caused by plastic and plastic pollution is emerging, it is essential that the ETB, working closely with the WHO, makes a concerted effort to understand and resolve evidence gaps in the effects of plastic pollution on human health, so that the committee can take informed action to mitigate these risks. The UK proposes that the ETB focus on 3 key areas of the plastic life cycle where plastic production, use and disposal could negatively impact human health:

- The regulatory testing of polymers and use of certain chemical additives, both during the use and disposal of plastic products, or any other stage where chemicals may leach into the human body or wider environment.
- The presence of microplastics in the human body as a result of ingestion and/or inhaling microplastics.

- Pollution caused by unsafe disposal and waste management practices, such as open burning.

The ETB should undertake a review of intentionally added micro- and nano-plastics and the risks they pose (both to human health and the environment) to identify priority primary microplastics to include in a list of products to be phased out or phased down under the ILBI.

The ETB should also assess the key sources, pathways and fates of secondary micro- and nano-plastics that originate during the use of plastic products and secondary micro- and nano-plastics that originate from the degradation of macroplastics after their disposal or loss to the environment, in order to inform the development of standards or design criteria that can prevent the release of microplastics by abrasion or other forms of fragmentation, as well as measures that could prevent or reduce loss to the environment

### **Monitoring & Reporting**

The UK would support a mechanism for regular reporting on any National Action Plans and the implementation of other core obligations, control measures and any globally agreed targets. Such reporting should use common definitions and metrics to allow parties to coordinate and measure actions, with further metrics to be developed by COPs, as required.

Parties should consider developing plastic pollution emission inventories, similar to the emission inventories on Greenhouse Gases in the Paris Agreement, within an agreed timeframe once the ILBI enters into force, which may focus on material flows and leakage of plastic pollution into the environment. Inventories will enhance monitoring progress under the instrument and aid in the assessment of financial needs.

The ETB should inform the development of assessment methods to better understand pollution by polymer type and associated chemicals and additives, across the full life cycle of plastics. The UK has signed up to the New Plastics Economy Global Commitment that mobilizes government and businesses to build a circular economy for plastics and has set a positive example on how and what can be reported.

Reporting under the instrument should be submitted to the secretariat and published on the ILBI website, and a permanent public record maintained. Where possible, reporting should avoid duplicating reporting under existing MEAs.

Data available to international organizations may also be reported to the secretariat, relating to the transboundary aspects of plastic pollution, to supplement reporting by parties. Parties should consider the establishment of a comprehensive global monitoring framework, in collaboration with the proposed ETB and in complement to other monitoring frameworks, for example under the Convention on Biological Diversity, that meets the needs of policy to make informed decisions. This framework should promote harmonised monitoring protocols that can be used to inform global level assessments and evaluation of the sufficiency of the obligations in the instrument to end plastic pollution in all environments, minimise the risk to human health and protect the environment from all sources of plastic pollution.

### **Compliance**

The committee should consider establishing a compliance and implementation committee. This committee would be a subsidiary body, with rules of procedure and further detail to be adopted by first COP. We would suggest that the committee aims to be facilitative, not punitive and that it aims to support states to return to compliance, rather than punish states for non-compliance.

## 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?*

The UK acknowledges that developing country Parties will require additional support to enable the implementation of elements of the ILBI. The Committee should work together to identify the most effective, equitable and efficient way of mobilising support from all sources, recognizing that it will be important to agree the obligations to identify the most appropriate approach to finance. The UK underlines the importance of understanding the wider economics of plastics when considering the various options for financial mechanisms to support ILBI implementation.

The UK recognises that implementation needs are not equal among Parties, and a full and evidenced understanding of implementation gaps will be critical in order to mobilise effective support. An approach that matches funding, capacity-building and technical assistance to where it is needed will be the most effective way to implement the Treaty.

The Committee should consider a number of potential funding mechanisms which consider the following (non-exhaustive) issues:

- institutional strengthening,
- capacity-building and training,
- reporting and monitoring,
- implementation,
- technical assistance
- funding for the secretariat and support costs.

The UK sees a crucial role for private sector investment, public-private partnerships, and philanthropy in funding the ILBI's implementation, including through innovative approaches. For example, private sector investment into sustainable production practices, waste management infrastructure and the development of technologies will be stimulated by the establishment of common standards and agreed waste management principles under the ILBI.

As part of these discussions on bilateral and multilateral support, consideration should be given to establishing a mechanism by which member states identify priorities for funding, needs are assessed,



and funding is distributed in accordance with those priorities and needs, and effectiveness of funding is monitored and reported to member states, such as through national inventories as outlined previously. Coordination with existing MEAs and other initiatives will also be required to ensure the effectiveness of support.

The UK would suggest discussions on developing mechanisms that allow for bilateral support by which one member state supports another with capacity building, technical assistance or technology transfer on mutually agreed terms. We would also support discussions on developing mechanisms that allow for centrally organized support, such as capacity building and technical assistance, enabled via a financial mechanism.

We also recognize the importance of building the capacity to conduct hazard and risk assessments of chemicals of concern in developing countries, to protect against the potential risks to human health and the environment.

## 5. 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).

The strength and versatility of plastics make them valuable materials in many areas of life. The benefits of plastic for medicine, water distribution and food security should be balanced against the potential risks to the environment or health as well as the availability of sustainable alternatives. When used in the right way and disposed of correctly, plastics can, sometimes, help secure the best environmental outcome.

However, their ubiquity and potential for misuse can harm the environment and society. The UK proposes the following guiding principles to help achieve the objectives of the treaty in a way that is both environmentally sound and equitable.

### **Guiding Principles for the instrument**

The Committee should consider how the ILBI will support a just transition for workers in the informal waste sector to address poverty and gender inequality, and explore fora through which COP can continue to engage with and support the informal waste sector as critical stakeholders in tackling plastic pollution and encourage their integration into formal waste management schemes in just and equitable way.

The instrument may take inspiration from, align with and ultimately go beyond existing voluntary approaches, to increase ambition over time. Some examples that may be considered are:

- Initiatives such as the Plastics Pacts for industries to minimize plastic usage in their production,
- Ellen McArthur Foundation Global Commitment and reporting program.
- Harmonisation with other relevant international regulatory bodies, such as the conventions under the International Maritime Organization, to promote effective management of plastics throughout the lifecycle and supply chain to reduce leakage to the environment.
- Membership of programs such as the Global Plastic Action Partnership and the Global Ghost Gear Initiative.

### **Stakeholder Engagement**

Stakeholders across the lifecycle of plastics should be able to actively participate in and inform decisions and other policy development under the ILBI after it has been adopted. Their expertise remains valuable once the ILBI has been agreed and Parties should recognize the ILBI's impact on them over the long term. Therefore, the ILBI should consider a mechanism for stakeholder engagement between COPs that could include stakeholder submissions to the COP or national or regional stakeholder committees.

