

Outcome Document

Preparatory Meeting of Major Groups and other Stakeholders

28 May 2018

On the first meeting of the Ad Hoc Open Ended Expert Group on Marine Litter and Micro-plastics

Eight of the nine Major Groups and other Stakeholders were present in Nairobi, Kenya to discuss positions and prepare inputs on the work and topics of the Ad Hoc Open Ended Expert Group (“AHOEEG”) on Marine Litter and Micro-plastics.

This document intends to offer a reflection of the discussion, concerns, questions, and ideas we shared for the upcoming Expert Group meeting, and should not necessarily be seen as a “position paper”.

These eight Major Groups and other Stakeholders found common ground on the fact that **plastics of any kind should not be a part of the marine environment**, and that the sources, costs, and impacts of plastics throughout their life-cycle should be further researched and documented with urgency.

Representatives from seven of the nine Major Groups¹ - Children and Youth, Farmers, Indigenous Peoples, NGO, Science & Technology, Trade Unions and Workers, Women² - **expressed preference for the pursuit of Option 3** - *“New global architecture with multi-layered governance approach”* - as outlined in the AHOEEG background papers³, finding that **the existing global framework is inadequate to address the marine pollution or plastic pollution crisis**. The severity and urgency of the situation requires **the development and adoption of a new global architecture which includes new legally binding commitments**.

Additionally, the following points were discussed and agreed to among these seven Major Groups:

- The marine litter crisis is first and foremost driven by rising global plastic pollution, compounded by massive investment in new plastic production facilities (an additional 100 million tons of plastic per year is expected by 2025) and inadequate downstream waste management systems.
- The impact of plastics extends far beyond marine litter impacts. In order to address the plastic pollution crisis in the most efficient way, one must consider the whole life

¹ The Business Major Group shall release their own comments on the Expert Group and the background papers prepared for this meeting.

² Major Group Local Authorities was not present for the meeting.

³ UNEP/AHEG/2018/1/3 - “Discussion paper on national, regional, and international response options, including action and innovative approaches, and voluntary and legally binding governance strategies and approaches”

cycle and all impacts of plastics (on health, climate, biodiversity, etc.) from the wellhead to the ocean and through human bodies.

- Incineration, waste-to-energy, or plastic-to-fuel technologies are not acceptable ways of dealing with plastic waste and cannot be considered environmentally sound approaches. These technologies are unsustainable and produce significant quantities of greenhouse gases, hazardous air pollutants, hazardous and highly toxic ash, and other residues. Waste supply contracts are needed to provide consistent and increasing feedstocks, locking out safer and more sustainable solutions and technologies and providing a perverse incentive to increase plastic production.
- Hazardous substances must be phased out of plastics at the design stage. The presence of hazardous substances in plastics (e.g. flame retardants, BPA and other bisphenols, phthalates, endocrine disrupting substances, persistent organic pollutants (POPs)) prevents the recycling of many plastic wastes. It also undermines recycling by recirculating and concentrating these toxic substances into new products (toys, textiles, food contact materials, etc.) creating public health and environmental risks and ultimately preventing the goal of a circular economy. To a large extent, one can consider the marine litter crisis a product design failure.
- Response options to the global plastic crisis (including regulatory options) should be based on the recognition of planetary boundaries and the following principles:
 - Prevention and precaution;
 - Human rights, equity, environmental justice, and a just transition for all workers impacted;
 - Waste hierarchy (reduce/prevent, reuse, recycle);
 - Extended producer responsibility based on the polluter pays principle; and
 - Multi-stakeholder participation in solutions.

A new legally-binding global governance framework should be designed to prevent plastic pollution in the marine and other environments and to support the goals outlined in the 2030 Agenda for Sustainable Development (in particular, goals 3, 6, 10, 12, 14, 13, and 15). This new framework should collaborate with existing multilateral agreements where appropriate, while significantly filling the gaps as identified by UN Environment and others, in particular aiming to:

- address plastic production and consumption levels;
- drive national and regional action plans and programs toward a common objective.

UNEP/AHEG/2018/1/2: Discussion on barriers to combating marine litter and micro-plastics, including challenges related to resources in developing countries

- A primary shortcoming of global efforts to combat marine plastic litter is the lack of a centralized coordinating body mandated to manage the full life-cycle of plastic from upstream resource extraction, through polymer formation and design, to downstream disposal and management.
- The paper outlines significant barriers to combating litter and micro-plastics, notably:
 - Legal barriers such as the lack of a globally aligned framework for safe and sustainable production, use and management of plastics in accordance with green chemistry principles; a lack of mandates for waste management

hierarchy implementation including prevention, recycling or recycled content; insufficient interpretation and application of polluter pays principles including extended producer responsibility and no global mechanisms for polluter liability; and lack of laws – national, regional, or global – focused on prevention of hazardous chemicals, production reduction targets related to plastic or upstream raw materials; externalization of costs throughout the entire plastics full life cycle;

- Governance and institutional barriers such as inadequate inter-ministerial coordination at national level in order to achieve integrated and effective decision-making and implementation
- Financial barriers such as: the externalization of the real human and environmental health costs to governments and society at large; and the rise in investment in false solutions (e.g. plastic-to-fuel, chemical recycling) which undermines safe and sustainable full life cycle
- Technological barriers: poor design of plastics; presence of toxics, and their releases and emissions; lack of environmentally sound solutions
- Informational and awareness barriers: information imbalance; the need for solutions to be based on environmental justice principles

Limitation and misconceptions in the paper include:

- Support of technological innovation to address the issue of the informal sector, whereas the existing issues are rather a matter of including the sector as a legitimate actor in the waste management systems, and paying and providing according tools for the service (roads, equipment, etc.);
- Misconception that the core problem is behavioural and can be solved through voluntary measures;
- False perception that the main responsibility is on South-East Asian countries' waste management systems, rather than on corporations' responsibility for producing plastics that cannot be adequately disposed of, reused or recycled;
- Discussions of requirements for increased recycled content do not consider the presence of hazardous substances, the severe issue of "toxic recycling" and the limitation on how many times plastics can be recycled.

UNEP/AHEG/2018/1/3: Discussion paper on national, regional, and international response options, including action and innovative approaches, and voluntary and legally binding governance strategies and approaches

There is a need for the creation of a global architecture with a multi-layered governance approach, a new legally binding multilateral agreement to eliminate marine plastic pollution discharge into the ocean. It should build upon, incorporate and coordinate national, regional and international responses, as appropriate and within competencies, to strengthen and enhance implementation while otherwise establishing new measures and mechanisms to fill existing gaps, secure time-bound commitments, provide financial and technical support, and ensure compliance and oversight. This new global architecture should draw inspiration from other multilateral environmental agreements, such as Montreal Protocol on Substances that Deplete the Ozone Layer and United Nations Framework Convention on Climate Change,

among others, tailoring the effective measures and mechanisms therein to the nature of plastics and marine plastic pollution and the urgency of the plastic pollution crisis while recognizing that new measures and mechanisms will need to be established to achieve an overall global reduction target. The new legally binding multilateral agreement should ensure a comprehensive approach to managing the lifecycle of plastics to prevent marine plastic pollution.

There is a legal gap in the global governance structure relating to marine plastic pollution, as identified and analysed in the UN Environment report “Combating marine plastic litter and micro-plastics: An assessment of the effectiveness of relevant international, regional and subregional governance strategies and approaches”. Land-based sources of marine litter and micro-plastics are largely uncovered by the existing international legal framework. And the International Convention for the Prevention of Pollution from Ships and the Convention on the Prevention of Marine Pollution by Dumping of Waste and other Matters are inadequate and ineffective in tackling sea-based sources. There is currently no legally binding instrument dedicated to eliminate marine plastic pollution and ensuring a comprehensive approach to managing the lifecycle of plastics, no agreed pollution reduction targets, no agreed uniform obligation to develop national action plans, no agreed safe plastic production rules, no globally agreed standards for reporting and monitoring of plastics discharge and effectiveness of pollution reduction measures. Options 1 and 2 do not sufficiently cover these legal gaps identified by UN Environment, although elements of them will necessarily form part of the solution under Option 3.

There are a number of concerns with some of the response options presented in the paper:

- A new global architecture will have to be developed in parallel with increased action at national and industry level. Rather than being substitutes, national, regional and global action will reinforce each other and strengthened action is needed at all levels.
- Waste-to-energy is presented in this paper as a meaningful solution to marine litter. However, there is evidence that these technologies are not efficient, effective, or scalable. Such suggestions to the contrary disregard their contribution to global persistent organic pollution, which contravenes the objectives of the Stockholm Convention. The waste-to-energy technologies negatively impact local environments as well as human and environmental health and justice. Therefore, these technologies, in particular incineration, pyrolysis, and gasification, cannot be considered environmentally sound approaches and should not be encouraged;
- The discussions on recycling do not consider the toxic content of most plastics, which can lead to toxic recycling and contaminated products;
- There is no clear distinction between bio-materials and bio-plastics, and the document does not consider how these compete with other land use and food production;
- Increased investment is only considered in the context of waste management facilities, which are end-of-pipe interventions. Zero waste, which is more of a circular approach, is not mentioned as a response option.
- While deposit-refund schemes are mentioned, there is no mention of policies to support re-use or refillable containers;

- Examples from national and regional policy options still largely focus on waste management rather than limitations on production, recommendations for design, or extended producer responsibility;
- Response options included here are limited. Creativity, innovation, and openness should remain central to the discussion to pursue solutions, which focus on more than just the waste aspect of marine litter and plastic pollution. For example, efforts to disincentivize plastic production and to compel manufacturers to redesign their plastic products for efficient recycle or reuse should be emphasized over improved waste management techniques, which have been extremely slow and expensive to implement;
- The paper fails to consider that plastic pollution is an issue of global concern that cannot be addressed at the national or regional levels.

UNEP/AHEG/2018/1/4: Discussion paper on Environmental, Social and Economic costs and benefits of different response options

- As outlined in this paper, “more and better life cycle assessments” of plastics should inform the discussion on regulation, especially with regard to the deleterious effects on climate and human health through the plastic supply chain (including in the manufacture / extraction of primary feedstocks and additives to produce plastic);
- Further, the prevention of plastic pollution should be the primary focus of the outcomes recommended by the AHOEEG, to reduce environmental, social, and economic costs of plastic, marine litter and micro-plastics.
- The costs and benefits on the health of humans and wildlife, under the three Options presented, are not presently understood and therefore not included in these analyses; updates should be included in a timely manner as information becomes available.
- The production/generation of cost-benefit analyses with concrete numbers is recommended to fully understand the relative impacts on costs and benefits of the different options.
- In consideration of the adoption of options 2 and 3, timelines and targets should be included in pursuing the two options.
- Measures and safeguards should be put in place to facilitate and assist in the economic and social transition to a plastic-free planet.

UNEP/AHEG/2018/1/5: Discussion paper on feasibility and effectiveness of different response options

- While Option 3 is supported, the first component of implementation of a legally binding architecture highlights the “development/improvement of industry-led design standards that promote recovery and recycling”. As aforementioned, support for recovery should not lead to support for incineration, plastic to fuel, and other waste to energy schemes which are inadequate and unsustainable ways of dealing with plastics.
- The concern about “Loss of economic benefits and employment in certain sectors” can be addressed through the adoption of just transition principles which support communities, especially labourers, through the transition away from plastics.