Proposed response template on written submissions prior to INC-3 (part a)

At its second session, the intergovernmental negotiating committee (INC) requested the secretariat to invite written submissions on:

- Elements not discussed at INC-2, such as principles and scope of the instrument

INC-2 further requested the secretariat to post any submissions received on the INC website and to prepare a synthesis report of the submissions.

The template below was prepared by the secretariat, in consultation with the Chair, and is meant as a guide to assist Members and Observers in preparing their written submissions.

A number of documents prepared by the secretariat for INC-1 and INC-2 are of relevance to this submission, including:

UNEA resolution 5/14 on '*End plastic pollution: towards an international legally binding instrument*'

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'*

UNEP/PP/INC.1/6 on *'Glossary of key terms'*

UNEP/PP/INC.1/8 on *'Description of standard articles on final provisions that are typically included in multilateral environmental agreements'*

UNEP/PP/INC.2/4 on *'Potential options for elements towards an international legally binding instrument, based on a comprehensive approach that addresses the full life cycle of plastics as called for by United Nations Environment Assembly resolution 5/14'*

UNEP/PP/INC.2/INF/4 on '*Additional information linked to the options for the potential elements towards an international legally binding instrument*'

U**NEP/PP/INC.2/INF/7/REV.1** on '*Information submitted by the Secretariat of the Basel, Rotterdam and Stockholm conventions*'

All written submissions must be sent to unep-incplastic.secretariat@un.org. As detailed in the mandate, the submissions received will be made available on the INC webpage, a synthesis report of the submissions will also be developed in advance of INC-3.

Please note that not all fields in the template need to be answered in the submission.

Deadline for submissions:

I. By **15 August 2023** for written submissions from **observer** organizations.
II. By **15 September 2023** for written submissions from **Members** of the Committee.

TEMPLATE FOR SUBMISSIONS (part a)

Name of country (for Members of the committee)	USA, Denmark, Belgium, South Africa, and Australia
Name of organization (for observers to the committee)	EPS Industry Alliance EPSbranchen-en del af Plastindustrien (Denmark) European Manufacturers of Expanded Polystyrene (EUMEPS) EPR Waste Association of South Africa EPS Australia is the voice of the Expanded Polystyrene (EPS)
Contact person and contact information for the submission	**Elizabeth Bowers,** Executive Director of EPS Industry Alliance betsy.bowers@epsindustry.com 1298 Cronson Blvd, Ste. 201 Crofton, MD 21114 Phone: 800-607-3772 www.epsindustry.com **Chresten Heide-Anderson,** Project manager of EPSbranchen-en del af Plastindustrien cha@eps-airpop.dk Vesterbrogade 1E, 3. 1620 København V Phone: +45-3330-8630 www.eps-airpop.dk **Lea Salihovic,** Sustainability Advisor of EUMEPS l.salihovic@eumeps.org 71 Avenue Cortenbergh B-1000 Brussels, Belgium Phone: +32-493-82-99-36 https://www.eumeps.org **Adri Spangenberg**, Packaging Executive EPR Waste Association of South Africa adri@ewasa.org 1st Floor, Liberty Life Building 21 Aurora Drive Umhlanga Ridge KZN 4320 Phone: +27-013-140-6470 www.ewasa.org **Becher Townshend**, Executive Director EPS Australia bechert@fontpr.com.au Level 11, 188 Collin Street

	Hobart, TAS 7000 www.epsa.org.au
Date	15 August 2023

Elements not discussed at INC-2

1. Scope

What is the proposed scope for the future instrument?

Which types of substances, materials, products and behaviors should be covered by the future instrument?

Proposed scope:

The EPS Industry Alliance (EPS-IA), European Manufacturers of Expanded Polystyrene (EUMEPS), EPSbranchen-en del af Plastindustrien, EPR Waste Association of South Africa, and EPS Australia are collectively representing the global EPS industry, are pleased to provide comments to Template A.

The EPS-IA is a trade association that represents more than 100 small businesses in more than eight countries, whose mission is to promote sustainable EPS practices and advance innovation in manufacturing, circularity, and recycling. For further information about the EPS Industry Alliance, please visit our website: EPS Industry Alliance (https://www.epsindustry.org).

EUMEPS unites more than 1,000 companies, most of them small- and medium-sized enterprises (SMEs). For further information about EUMEPS, please visit our website: EUMEPS (https://www.eumeps.org).

EPSbranchen-en del af Plastindustrien represents the EPS-producing companies and the rest of the value chain, including recycling companies, machine manufacturers, educational institutions, consulting companies, construction companies, producers of EPS concrete, and local craftsmen. For further information about EPSbranchen-en del af Plastindustrien, please visit our website: EPSbranchen-en del af Plastindustrien (https://eps-airpop.dk/).

The EPR Waste Association of South Africa (eWASA) eWASA is a not-for-profit organization committed to delivering cost-effective compliance on behalf of our Producer Members. eWASA represents some of South Africa's largest producers in the EEE, Lighting and Paper & Packaging industries. For further information about the EPR Waste Association of South Africa, please visit our website: eWASA (https://ewasa.org/).

EPS Australia (EPSA) is the national industry body for all manufacturers and distributors of expanded polystyrene (EPS) products across Australia. EPSA is the driving force for the EPS industry, working to achieve a positive perception of EPS, by highlighting the valuable contribution that EPS can make to both environmental sustainability and to businesses' bottom line. EPSA strives to make EPS the preferred material in both packaging and building and construction applications, thereby ensuring the

continued success of this manufacturing sector in Australia. For further information on EPSA, please visit our website: EPSA, (https://epsa.org.au/about-us/).

As Observers, the global EPS industry welcomes the opportunity to provide insight on the proposed scope and principles informing the development of the ILBI.

The global EPS industry is certain that the development of the future ILBI should rest on learnings from robust scientific research and take into consideration policy solutions that are viable, impactful, and effective.

As such, the global EPS industry offers that the scope of the future instrument includes the following:

- *Incorporation of Extended Producer Responsibility (EPR) policies*
- *Standardization of product categorization and data parameters on recyclability/sustainability through Product Category Rules (PCRs)*
- *Incorporation of Life Cycle Assessments (LCAs) for plastic products*

Through the creation of a comprehensive, cooperative, and practical framework, the ILBI can lead to meaningful change, while contributing to sustainable economic growth and development.

Explanatory Text:

- **Extended Producer Responsibility (EPR):** Policy makers and manufacturers have faced challenges when attempting to effectively tackle waste management challenges, while simultaneously ensuring that products fit into a broader Circular Economy. EPR policies transfer the responsibility to the producers on the end-of-life of their products. The incorporation of EPR policies into the ILBI would send a powerful signal to industries worldwide to prioritize responsible manufacturing, waste reduction, and efficient recycling practices. This framework would hold producers accountable for their products' environmental footprint, while catalyzing innovation and shifting the paradigm on how we approach product life cycles. Throughout Europe, implementation of EPR policies has been ongoing since 1997, and is embarking on a new era that is intended to harmonize EPR strategies. Global harmonization of EPR policy is a valuable function that the ILBI could provide.

Within the United States, the state of Oregon is a noteworthy example of the positive impact of introducing EPR policies into legislative mandates. Specifically, the Oregon Recycling Modernization Act has been successful in funding and incentivizing recycling efforts, while establishing a Stakeholder Advisory Group to maximize stakeholder collaboration. The Oregon Recycling Modernization Act expands access to recycling services, upgrades the facilities that sort recyclables, and creates environmental benefits while reducing social and environmental harms, such as plastic pollution. Through this act, producers and manufacturers are able to provide insight, resources, and collaborate on recycling improvements throughout the state of Oregon, resulting in a positive impact on the community and the environment within which it lives.

- **Product Category Rules:** For decades there has been a lack of standardized methodologies and guidelines across industries for assessing the environmental impacts of packaging products. By establishing consistent guidelines to the life cycle impacts of products in similar categories, Product Category Rules (PCRs) ensure transparency, credibility, and comparability across industries. PCRs can provide a standardized framework for evaluating environmental factors such as resource

consumption, energy usage, and waste generation across the life cycle of a product, even where applications are originating from different core industries. This uniform framework would allow consumers, manufacturers, and policy makers to make informed decisions towards a more sustainable future. This framework would additionally minimize opportunities for unintended consequences.

As an example of a successful implementation of Product Category Rules that are cross-industry, we ask that consideration be given to the work of the International Environmental Product Declarations (EPD), which is the world's first and longest operational EPD program, founded by the Swedish Environmental Protection Agency. This program is open to private and public organizations, publishing EPDs from 400+ organizations in 50 countries, encouraging the use of more sustainable materials and practices across industries. The establishment of EPDs within PCRs not only provides transparency into the industry but establishes trust through involved stakeholders.

- **Life Cycle Assessments:** Isolated environmental impact assessments often limit their focus to a single phase of a product's life cycle, such as manufacturing or product use. This narrow scope results in potentially misleading and incomplete environmental impact evaluations of everyday products. Without reliable data, regulatory decisions about product design and materials will continue to be misguided and ineffective. The implementation of LCAs would provide a comprehensive and systematic approach to analyzing the entire life cycles of products, from raw material extraction to disposal. As suggested by the Life Cycle Initiative, "a life cycle approach also helps [address] potential trade-offs between environmental impacts and sustainability pillars and can orient the selection of the best solutions for the environment with best socio-economic implication" (source: Life Cycle Initiative, 2023).

A notable example of a LCA within the EPS industry was the LCA conducted on packaging for fresh fish, which tested various packaging made of EPS, corrugated polypropylene, and water-resistant cardboard. The LCA concluded that the EPS packaging performed better than corrugated polypropylene and cardboard (source: Life Cycle Assessment of the Industrial Use of Expanded Polystyrene Packaging in Europe; Case Study: Comparison of Three Fishbox solutions, 2011).

As representatives of a variety of industries whose application of EPS results in lifesaving, sustainable, and innovative implementations, the global EPS industry is available to provide further details, feedback, and guidance on any of the above recommendations and comments. We firmly believe that ongoing dialogue grounded in research-backed, fact-based solutions will positively impact our society locally and globally.

2. Principles

What principles could be set out in the future instrument to guide its implementation?

Proposed principles:

The global EPS industry is certain that the development of the future International Legally Binding Instrument should include principles that encompass a holistic approach that balances environmental preservation with industry advancement.

The global EPS industry recognizes that these outcomes are mutually inclusive when following a principle-based approach in the following areas:

- *Incorporation of principles grounded in scientific research*
- *Integration of Circular Economy (CE) principles*
- *Identification of corrective action processes*

Explanatory Text:

- Scientifically Based Research: The inclusion of scientifically based research is vital to ensure the accuracy, proficiency, and overall success of the ILBI. In order to create even more valuable collaboration amongst UNEP stakeholders and industry members, utilizing research-backed facts will establish a source of truth to base the development and implementation of the ILBI.

For example, research indicates that expanded polystyrene (EPS) is a notable source of innovation through its ability to be repurposed and broken down into functional polymeric materials and valuable industrially relevant feedstock (source: Polyolefins & Polystyrene as Chemical Resources for a Sustainable Future: Challenges, Advances & Prospects, 2021). EPS applications can be repurposed and reused, resulting in a more sustainable product life cycle, and ultimately producing a positive environmental outcome (source: Polyolefins & Polystyrene as Chemical Resources for a Sustainable Future: Challenges, Advances & Prospects, 2021). Additionally, a research study that categorized the potential effectiveness of various Circular Economy initiatives found that the following initiatives have the highest ability to comply with Circular Economy criteria: EPR, Packaging Sortability and Recyclability Certification, and Recycled Content (source: Circular Economy Initiatives Are No Guarantee for Increased Plastic Circularity: A Framework for the Systematic Comparison of Initiatives, 2023). Identifying research-based solutions surrounding the various stages of a product life cycle will help increase the understanding and willingness from industry stakeholders to collaborate on targeted and innovative solutions that improve end-of-life management, enabling our society to reach circular economy goals.

- Integration of Circular Economy Principles: It is crucial to integrate Circular Economy principles into the future ILBI. In particular, the creation of robust, prescriptive criteria regarding Circular Economy principles within the ILBI will ensure UNEP and industry stakeholders have the same, clear understanding of definitions to work from. As there are often misconceptions around definitions behind commonly used terms such as “recycling” and “problematic plastics,” establishing criteria and definitions is crucial to effectively communicate and come to an agreement on solutions. The International Standards Organization maintains market relevant International Standards that support innovation and provide solutions to global challenges. The global EPS industry suggests the inclusion of standards outlined within the International Standards Organization.

The establishment of criteria within the Circular Economy principles will remove ambiguity around specific terms that may ultimately misrepresent industries at large. For example, there is currently a lack of knowledge and understanding of the various stages of Circular Economy components, including refuse, reuse, repair, and repurpose, which goes beyond recycling (source: Bibliographic Mapping of Post-Consumer Plastic Waste Based on Hierarchical Circular Principles Across the System Perspective, 2021). Misunderstanding the key stages of Circular Economy components may result in inaccurate representations of the product life cycle. Accounting for and emphasizing the additional

phases within the product life cycle, such as reuse, repair, and repurpose will result in solutions that are both sustainable and feasible.

- Corrective Action Processes: There is a need to account for unintended consequences to ultimately ensure a net positive environmental outcome. As noted by the National Bureau of Economic Research, "a policy designed to accomplish a particular objective will sometimes have the opposite effect or create new problems apart from the one it originally sought to correct" (source: Environment, Energy, and Unintended Consequences, 2018).

As the ILBI is developed and implemented, a process of continuous examination and evaluation is necessary. Relied upon input can be unintentionally misguided, may not be backed by research, or may lead to unintended consequences. Using a continuous improvement process that has a reverse mechanism within the instrument will ensure that ineffective solutions are identified and amended on an ongoing basis.

Inclusivity and meaningful engagement of industry stakeholders throughout the ILBI negotiation process is crucial, fostering a balanced approach that aligns environmental policies with economic viability and competitiveness. The inclusion of corrective action processes will foster an environment of learning and innovation, reflecting a collective willingness to address these challenges transparently. As there are a myriad of stakeholders providing recommendations and feedback on the ILBI, it is crucial to consider the implementation of a mechanism to remediate any unforeseen circumstances.

As representatives of a variety of industries whose application of EPS results in lifesaving, sustainable, and innovative implementations, the global EPS industry is available to provide further details, feedback, and guidance on any of the above recommendations and comments. We firmly believe that ongoing dialogue grounded in research-backed, fact-based solutions will positively impact our society locally and globally.

3. Additional considerations

Provide any other relevant inputs, proposals or priorities here that have not been discussed at INC-2 (e.g. preamble; institutional arrangements, including governing body, subsidiary bodies, scientific and technical cooperation and coordination, and secretariat; final provisions including dispute settlements; and if appropriate annexes).

Proposed inputs:

The development of the future instrument should take into account the environmental benefits, economic impact, and continuous sustainability efforts of the Expanded Polystyrene (EPS) industry.

Explanatory Text:

Expanded Polystyrene (EPS) has significant positive impacts to both the economy and the environment. EPS products have high shock absorption, high thermal conductivity, and high compressive strength, while also being extremely lightweight. EPS products are made of approximately 98% air, reducing fuel consumption of transportation and vehicle CO2 emissions.

Additionally, research has shown that replacing EPS packaging with alternative materials would result in substantially more packaging weight and increases in energy usage rates during the transportation of goods (source: Life Cycle Impacts of Plastic Packaging Compared to Substitutes in the United States." American Chemistry Council, 2018). Research has also shown that EPS recycling can be environmentally and economically beneficial in the long term, which should be considered when developing the criteria within the ILBI (source: Integrated Environmental-Economic Circular Economy Assessment: Application to the Case of Expanded Polystyrene, 2023).

The global EPS industry would like to emphasize the impact of the EPS industry within the global economy. Economic impact studies have suggested, for example, that a ban on EPS foam foodservice products would force consumers to spend an average of 86% more on alternative products. The report additionally outlines the recently enacted bans on EPS food-service products in the states of Maryland, Vermont, Maine, and New York, which found that the ban would reduce employment by nearly 1,800 jobs and reduce labor earnings by $76 million (source: Economic Impact from Regulation of Single-Use Plastics," news release, Independent Fiscal Office Commonwealth of Pennsylvania, 2020). The ban would also impose costs on government entities, schools, charities, and other NGOs, diverting funds from critical programs and initiatives (source: Economic Impact from Regulation of Single-Use Plastics," news release, Independent Fiscal Office Commonwealth of Pennsylvania, 2020).

As representatives of a variety of industries whose application of EPS results in lifesaving, safety, and innovative implementations, the global EPS industry is available to provide further details, feedback, and guidance on any of the above recommendations and comments. We firmly believe that these ongoing dialogues grounded in research-backed, fact-based solutions will positively impact our society locally and globally.