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LIMITE

**ENV
CLIMA**

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INFORMATION

De:	Secrétariat Général du Conseil
A:	Groupe "Environnement international" (Enjeux mondiaux)
Sujet:	WPIEI (Global): Projet de position UE+États membres sur le calendrier et l'organisation du travail pour le comité intergouvernemental de négociations sur la pollution plastique (OEWG, 30 mai-1er juin, Dakar) - FIN DE PROCEDURE INFORMELLE DE SILENCE / END OF INFORMAL SILENCE PROCEDURE

La procédure informelle de silence sur le projet de position UE+États membres sur le calendrier et l'organisation du travail pour le comité intergouvernemental de négociations sur la pollution plastique (OEWG, 30 mai-1er juin, Dakar) a expiré aujourd'hui, 25 mai 2022 à 12:00 (heure de Bruxelles), sans être rompue. En conséquence, le document ci-joint est considéré comme approuvé.

**Ad-hoc open-ended working group (OEWG)
in view of the Intergovernmental Negotiating Committee (INC)
on plastic pollution**

May 30th – June 1st 2022, Dakar, Senegal

**EU+MS position paper on recommendations
for the timetable and organization of work of the INC**

I - Context

The United Nations Environment Assembly adopted at its fifth session (UNEA-5) the resolution 5/14, entitled ***“End plastic pollution: towards an international legally binding instrument”***.

This resolution establishes an intergovernmental negotiating committee (INC) which is to develop an international legally binding instrument on plastic pollution, including in the marine environment, commencing its work during the second half of 2022, with the ambition of completing it by the end of 2024.

The text adopted in paragraph 5 also requests the Executive Director of UNEP to convene an ad-hoc open-ended working group (OEWG) to hold one meeting during the first half of 2022 to prepare for the work of the INC in particular to discuss the timetable and organization of work. In a letter written on April 4th, 2022, the UNEP Executive Director informed Member States that **the OEWG will take place from May 30th to June 1st, 2022 in Dakar, Senegal.**

It is foreseen that the OEWG will make recommendations on the structure and organization of work of the INC. No formal decisions will be taken by the OEWG.

In this context, the EU and its MS will have the opportunity, during the OEWG meeting, to **provide positions on how the INC shall work, including on possible working groups/clustering of the thematic sessions of the INC.** The work of the INC will be based on the mandate outlined in UNEA decision 5/14, but the structure would need to be specified and agreed among Member States.

All relevant UNEP documentation is available on the [meeting website](#).

II - EU+MS LTT

Agenda item 1: Opening of the meeting

The EU and its MS will not take the floor on this agenda item.

Agenda item 2: Election of officers

It is foreseen that Switzerland will present a Bureau candidate for the WEOG. Other potential candidates are not known at this stage.

- The EU and its MS warmly congratulate the Chair and other officers for their election to the Bureau of the OEWG.
- The EU and its MS would recommend that the current OEWG Bureau continues its steering role until the first meeting of the INC, in close relation with the INC Secretariat and the nominees for the INC Bureau, in order to ensure the most successful launch of the negotiating process, based on the recommendations from the OEWG.

Agenda item 3: Adoption of the agenda and other organizational matters of meeting

(a) Adoption of the agenda

The EU and its MS will not take the floor on this agenda item.

(b) Organization of work

The annotated agenda for the meeting indicates that “the ad hoc open-ended working group may also wish to consider that statements delivered by individual representatives during the general discussion shall be limited to three minutes and statements made on behalf of a group of States to five minutes.”

[Placeholder for a 5-minute EU+MS opening statement] – see WK 7302 2022 INIT

(c) Rules of procedure

The EU and its MS will not take the floor on this agenda item, unless needed, and can support that the rules of procedure of the United Nations Environment Assembly, with changes as required, apply to this meeting.

Agenda item 4: Preparations for the work of the intergovernmental negotiating committee

Financing

- Starting the negotiations will require the availability of sufficient financial means for the running of the Secretariat and the organization of the meetings. The EU and its MS understand that the financing of the INC process will be secured through Member states pledges, including the costs related to the INC Secretariat, the OEWG meeting, the INC meetings intersessional work as well as the multi-stakeholders dialogues.
- Therefore, the EU and its MS encourage all UN Member states in a position to do so to announce their support in accordance with areas of funding support described in the letter of the UNEP Executive Director (UNE-2022-00644, 4 April 2022), including to make available sufficient resources for the adequate participation of developing countries. The EU and its Member States intend to do their part in that regard.

(a) Timetable and organization of work for the intergovernmental negotiating committee

Timeline for INC meetings

- Having considered the options outlined in document UNEP/PP/OEWG/1/3, **the EU and its MS favor Option 1 and believe that 5 INC meetings in total would be realistic and necessary** to have the possibility to ensure sufficient negotiation time and to conclude negotiations within the ambitious timeframe mandated by the resolution.
- Still, the EU and its MS would like to provide a couple of comments on the proposed dates as outlined in Option 1.
- INC1 should, in accordance with the mandate of UNEA resolution 5/14, be organized during second half 2022, preferably not earlier than the end of November or beginning of December to allow Member States and UNEP to prepare well for the meeting and to allow for sufficient and effective regional coordination, also considering the busy international schedule this year (UNFCCC and CDB COPs for example).
- In addition, the EU and its MS would like to recommend that INC2, in such scenario, shall not be organized earlier than late April or Early May 2023. Early March 2023 is not an option as it would give only 4 months between the two sessions. It is imperative to anticipate sufficient intersessional time between INC1 and INC2 in order for the INC Secretariat and Bureau to effectively reflect on the strategic orientations given during INC1 and prepare the necessary documentation. This goes as well for Member states, regional groups and stakeholders who will need sufficient time to prepare themselves for the next phases of the negotiating process.
- The EU and its MS support the **Diplomatic Conference of Plenipotentiaries** to be held in 2025, once the text of the new instrument is agreed by the INC. The EU and its MS would be open to support either any host country that would be candidate or a conference held

in UNEP's headquarters. The EU and its MS would also be supportive of some INC sessions to be scheduled after the holding of the Diplomatic Conference, if necessary, to prepare the first Conference of Parties of the future instrument.

- In general, the EU and its MS recommend to carefully consider the dates of each INC sessions in order to provide a balance between negotiating time and intersessional time needed for exploring technical issues and meeting preparation. Overlaps with other international environmental meetings should also be avoided.
- The EU and its MS are supportive of the **proposed duration** for INC1 and recommend that a five-day meeting is considered for all subsequent sessions, as it is the traditional format and length in United Nations best practices. The EU and its MS can also be supportive of longer INC meetings, but not longer than 7 or 8 days, if it helps to conclude negotiations within the timeframe.
- If the pandemic situation allows, the EU and its MS would encourage that **in-person meetings remain the rule, with the possibility of hybrid format**. In particular, negotiating meetings should be held in-person preferably, or in a hybrid format if the political or health situation does not enable to have a universal participation in the in-person INC meeting. **The EU and its MS further encourage in person representation from each participating UN MS, where possible.**
- The EU and its MS are flexible and supportive of some of the intersessional work without negotiating character (e.g. seminars/webinars) being fully **online** as long as principles of universality and inclusiveness are fulfilled.
- The EU and its MS request that the **meeting documents**, including a scenario note, are shared with Member States well in advance (at least 6 weeks) of each INC meeting in all UN languages.
- As for the **location of the meetings**, the INC process could benefit from **holding the meetings in several countries and regions**, and/or under the auspices of other international institutions dealing with relevant substance matter, to enhance ownership, visibility and credibility to the process. The EU and its MS favor that the INC meetings should be distributed across all regions to foster ownership. When no host country is identified, the use of UN facilities should be preferred for INC meetings.

Organization of work

- The EU and its MS would like to highlight the following elements as recommendations for the sequencing of work of the INC:
- In order to follow a **form-follows-function approach**, the EU and its MS recommend that the structure of work of the INC is carefully considered and shaped the way we see the potential substantive provisions of the future instrument.

- It is the view of the EU and its MS that **not all items have to be discussed simultaneously** and shall therefore be carefully staggered as the negotiations evolve.
- In order to proceed effectively, it will be useful to focus on **strategic issues** (scope, objectives, vision, targets and key provisions) during INC1. In addition, initial discussion on overarching institutional matters (form of the instrument, governance) could take place, while being aware that such discussions are only a starting point and will be completed later on in the process once there is a clearer vision on the strategic issues. These discussions should mainly be held in plenary to ensure full ownership and transparency.
- Once the discussion on a vision, overarching objectives and institutional aspects that will frame the overall orientation for the whole process has sufficiently progressed in plenary, the EU and its MS will encourage the INC Chair(s) and Bureau to consider **breaking down the discussions into subsidiary groups**.
- More technical working groups could meet to discuss **the substantive issues**, also in parallel, in order to define the means to reach the objectives and vision of the agreement.
- It is encouraged that the number of parallel discussions are limited. **Two parallel working groups may be realistic**, considering countries with small delegations. However, **the EU and its MS would recommend to remain flexible and keep the possibility to hold up to three simultaneous groups when required**, while showing due regard to the wishes of others. The comprehensive topic of plastic pollution and limited time of two years to negotiate should be taken into account in this process. In addition, informal discussions on specific topics that require more time could be held in parallel to the two/three working groups when necessary to advance the process.
- The INC will need to address the wide-ranging variety of issues inherent to plastic pollution. In line with the scope of the resolution, the EU and its MS will recommend that the INC consider to organize its work and structure the discussions into several clusters that represent the different stages of the lifecycle of plastics both as a material and as products.
- The EU and its MS would therefore recommend the discussion to be clustered in 3 thematic focus areas based on the following different steps of the lifecycle and types of provisions we would foresee in the new instrument:
 - (1) Sustainable design and production¹;
 - (2) Reduction of plastic consumption and use and waste prevention²;
 - (3) Waste management including collection, sorting, and recycling

¹ This could possibly include discussion on collection, sorting and recycling which are inevitably linked with product design.

² This could possibly include discussions on provisions such as ban, phase out and reduction of certain types of plastic products, additives, harmful substances as well as intentionally added microplastics.

- The perimeter of each workstream shall remain flexible and be framed in a way that discussions can be concretely and easily translated into the paragraphs and provisions of the new instrument.
- Regarding the creation of a **legal group** to support the INC in the development of the instrument, the EU and its MS support the proposal from the INC Secretariat (on para 21 of document UNEP/PP/OEWG/1/3) to have it established at INC2, bearing in mind that the start of its work may be determined by the progress of discussions. The EU and its MS recognize the merits of such legal drafting group, which would be tasked with assisting thematic discussions in drafting the substantive text into a language suitable for legal provisions, once a common understanding is found on the substance.
- However, the EU and its MS also recognize that such legal group might be relevant as from INC1 to support the discussions in plenary when strategic institutional aspects will be addressed including the form of the instrument, compliance, legal questions and/or articulation with other relevant legal instruments, etc.
- *[If other parties advocate for early discussions on financing]:* While the EU and its MS favor that the question of **financing** should be addressed after there is sufficient progress on the substantive issues, the EU and its MS remain flexible to start the discussions on the financial issues (e.g. where resources need to be mobilized, whether domestic or international resources need to be mobilized, etc) early on to accommodate views of others and to facilitate the progress in the negotiations.
- The structure of the discussion and the agenda may change as the negotiations progress. The EU and its MS will support a **flexible organization of work** to ensure a smooth advancement of the negotiations from the start to the end of the process, as long as the different following key elements are proportionally addressed: circular economy, sustainable design and production, sustainable consumption and use, and waste management.
- The structure of the INC should allow to **build bridges between the different workstreams** as some issues must be seen in close connection.
- Therefore, a draft list of workstreams may be recommended from the OEWG but it will be important to **leave flexibility for the INC, and in particular to the Chair(s), to organize discussions as appropriate.**
- The EU and its MS believe that the possible working groups would benefit from different **dedicated co-facilitators**. It will be up to the INC Bureau to create the groups and appoint the co-facilitators, taking into account regional and gender balance.

Documentation to be requested to UNEP in view of INC1

- The EU and its MS are supportive of the Secretariat proposal to draft, ahead of INC1, a **document outlining options for the structure of the new instrument**. This could include a draft of standard provisions, typically from MEAs, and different options highlighting their advantages and disadvantages. However, these draft provisions should not include

any substantive elements as the EU and its MS find important that substantive elements specific to this new instrument arise from the INC meetings. Therefore, the EU and its MS would not be in favor of a draft text prepared by the Chair following INC1 as more discussions will probably be needed during INC2 and onwards.

- The EU and its MS are thankful to the Secretariat for preparing the information note (UNEP/PP/OEWG/1/INF/3) entitled “Relevant information that might assist the work of the intergovernmental negotiating committee”. This note gives a comprehensive overview of existing information sources (including from relevant MEAs and previous documentation elaborated in relation to AHEG) that can inform the INC in the elaboration of the new instrument. This document also gives a landscape of existing MEAs and other processes whose mandates cover plastics-related issues.
- The EU and its MS would also find it useful to request the Secretariat to **prepare several substantive documents, building on previous work** to support the work of INC1:
 - A glossary of key terms, including the existing (range of) definitions thereof;
 - An overview of existing funding currently available for tackling plastic pollution through international funding arrangements, including from other processes, programs, multilateral funds, development banks and private sector initiatives. Based on the substantive discussions, a paper on options for the mobilization of resources from all sources could be developed for a later session of the INC.
 - An overview of the existing stakeholder engagement initiatives aiming to tackle plastic pollution, on which to build on.
- The EU and its MS would also suggest the Secretariat to prepare a **plan for outreach to receive inputs from Secretariats of relevant MEAs and other processes**, both global and regional, in order to ensure coordination with relevant entities and to share a synthesis with the INC on the inputs received.

(b) Draft rules of procedure for the intergovernmental negotiating committee

- The EU and its MS thank the UNEP Secretariat for providing a draft of rules of procedure for the conduct of the INC.
- The EU and its MS welcome this draft which is largely inspired from the rules of procedures from the INC on mercury and UNEA and are fully in line with UNEP status (on election of officers, speakers lists, voting rights, observers, etc...).
- The EU and its MS generally agree with this draft rule of procedures and do not wish to make any modifications. However, if amendments were suggested by other delegations, the EU+MS will be especially attentive to the following rules:

Place and dates of sessions (rule 2)

- On the proposed rule 2.2 regarding the possibility to hold sessions online, the EU and its MS support the possibility that **some of the work without negotiating character be held online** as long as principles of universality and inclusiveness are fulfilled. The EU and its MS would also support to adopt online settings for some parts of the intersessional work, such as informal meetings, workshops and webinars, which do not require any negotiation.
- However, the EU and its MS would like to reiterate that negotiating **in-person meetings shall remain the rule** if the situation allows, with the possibility of hybrid format if the political or health situation does not enable to have a universal participation in the in-person INC meeting.
- For the sake of transparency, the EU and its MS support the live online broadcasting of the INC meetings, as long as attendees are registered.

Representation (rules 6, 7 and 8)

- [The EU and its MS take note that the rule 8, relative to the deadline for submission of names of representatives, alternate representatives and advisers, is a new rule compared to the Minamata Convention INC.]
- The EU and its MS can support this new rule.
- The EU and its MS would like to request a participants list to be issued by the Secretariat before the INC meetings and after the registration deadline.

Officers (rules 9 to 13)

- The EU and its MS support that the composition of the Bureau respect geographical and gender balance, consisting of **2 members per UN Regional Group** i.e. 10 person Bureau.
- *[If other Parties get into details on who should be the representatives in the Bureau]:* The EU and its MS would recommend that Bureau members are chosen in order to respect **a balanced combination between technical and political representatives** to ensure sufficient substantive knowledge and avoid politicization, where possible. Bureau members shall also be consistent with the imperative of sufficient availability for steering and contributing, including in the intersessional periods, in order to ensure a functional bureau and the necessary progress of the work of the INC.
- *[If other Parties advocate for a Ministerial level Bureau]:* The EU and its MS would not favor a bureau with Ministerial representation (Minister level) only, due to the need for specific expertise, availability, and the risk of political changes which could make it difficult to advance process and maintain stability and continuity. Furthermore, the EU and its MS would favor a Bureau composed mainly of experienced senior officials.

- The EU and its MS believe that the Bureau, with the assistance of the Secretariat, could learn from the experience and lessons learned of the INC Bureau from the Minamata Convention and other MEAs.
- Regarding the **responsibilities of the Bureau**, the Bureau should focus on steering the process and ensuring a smooth running of the negotiations, but beyond that should not engage in in-depth substantive discussions. The Bureau should therefore be responsible for ensuring progress of the INC, including deciding on dates and venue of the INC meetings in consultation with the regional groups. The Bureau members would play a key role in keeping their regions well informed and engaged through regular consultations. The EU and its MS would be **flexible** on whether there should be one Chair or two co-Chairs as there are precedents for both models. The final position of the EU and its MS will depend on the final candidates for the Chair or Co-chairs positions.
- The EU and its MS would preferably favor a candidate from a developing country if there would only be one Chair of the INC Bureau. If there were to be a co-chairing of the Bureau, one candidate should be from a developed country and one from a developing country. In such scenario, the EU and its MS would support the candidacy of Sweden to be one of these co-chairs. The EU and its MS will need to discuss further which candidate to support as Chair or the other co-Chair of the INC bureau once all candidates for every regional group are confirmed, and will pay attention to gender balance when considering Bureau nominations.

Secretariat (rules 14 to 18)

- OP8 of the UNEA 5.2/14 resolution requests the UNEP Executive Director to ensure the necessary support of UNEP Secretariat to the INC process, including for this OEWG. The EU and its MS therefore reiterate that UNEP provides the INC Secretariat.
- The Secretariat should be adequately staffed and have the necessary expertise, technical and otherwise, for example through additional seconded staff. Member states can also support the INC Secretariat financially and in kind, by detaching personnel such as a Junior Professional Officer (JPO). The EU+MS would also support that other relevant entities, and more particularly UNEP Divisions, such as Chemicals and Health Branch, based in Geneva, the Production and Consumption Branch or the Lifecycle Initiative Partnership as well as the International Resource Panel bring technical expertise to the INC Secretariat. Other Conventions hosted by UNEP, such as the BRS Conventions, but also the Rio Conventions (CBD, CCD, UNFCCC) Secretariats, Vienna Convention, Montreal Protocol and SAICM Secretariats, as well as Secretariats of other biodiversity-related conventions, WHO, WTO, IMO, FAO but also Regional Seas Conventions, where and when appropriate, should provide additional support to UNEP, including through seconded staff and technical inputs, if so agreed by their governing bodies.
- The INC Secretariat should be established under the direct authority of the Executive Director in UNEP structure to be able to reflect different thematic aspects of the existing divisions (economy, ecosystems, law, and science).

- It will be important to ensure coordination with the above listed relevant international organizations/entities, in order for the work of the INC to complement the work of these organizations and avoid any duplication or contradiction. The INC Secretariat should identify and list relevant organizations for each of the items under para 3 and 4 of the resolution.
- The EU and its MS would support initiatives from the INC Secretariat to host webinars and/or seminars on the different issues under para 3 and para 4, similarly to what was done previously, including in parallel of the work of the AHEG, provided that there is sufficient coordination with existing similar initiatives and no duplication of work. However, such initiatives shall not overburden the INC Secretariat whom key responsibilities must be directed to the INC process and meeting preparations.

Conduct of business (rule 19 to 48)

- The EU and its MS generally support the conduct of business, and more particularly the voting rules.
- The EU and its MS however take note of the deletion of a paragraph in Rule 19 (former rule 18.2 of Minamata INC Rules of Procedures) and would like to ask for the reasons of this deletion: *“18.2. For the purposes of determining a quórum for a decision to be taken on a matter within the competence of a regional economic integration organization, that organization shall be counted to the extent of the number of votes it is entitled to cast.”*
- On the proposed rule 37 and 38 on voting rights and the adoption of decisions by the INC, the EU and its MS agree that we shall make every effort to reach agreement on all matters of substance by consensus before any voting may be envisaged.

Observers (rules 55 and 56)

- The EU and its MS note that these rules are based on the UNEA rules of procedures. The EU and its MS will be especially careful to avoid any proposal that might go backwards on the participation of stakeholders from the UNEA Rules of Procedure.
- If amendments were made, the EU+MS could support the rules that were adopted for the Minamata INC which were shorter (Rule 54 of Minamata INC: *“Observers may participate in the work of the session in accordance with the established practice of the United Nations General Assembly”*).

(c) Organisation of the forum for the exchange of information and activities related to plastic pollution

- The EU and its MS welcome and thank the UNEP Secretariat note UNEP/PP/OEWG/1/INF/4 on the “preparations for the forum”.

- The EU and its MS also welcome active engagement from stakeholders such as the private sector and civil society, and welcome efforts to involve them in the development of a new legally binding international instrument on plastic pollution, while ensuring transparency in relation to the advice given.
- The forum to be convened in conjunction with INC1 could serve this purpose to gather all stakeholders and exchange information and activities, as outlined in para 16 of the UNEA resolution 5/14. This forum should be able to inform the INC1, focusing on elements related to the INC process and the EU and its MS support the Secretariat's proposal that this forum is used as an opportunity to give a voice to those impacted by plastic pollution, but most importantly to allow for the announcement of commitments from all stakeholders on notable progress made between now and 2025 with respect to sustainable consumption and production throughout the lifecycle of plastics.

Taking stock of the results of this first forum, continued multi-stakeholder engagement should be ensured during the whole INC process. This would be essential to develop a multi-stakeholder action agenda as requested by UNEA resolution, through which the private sector would engage once the instrument adopted. Preferably, continued multistakeholder discussions should be structured in a way by which they can optimally inform the INC.

- The EU and its MS also welcome the organization of the series of multi-stakeholder dialogues on the sideline of the OEWG, that would inform to evaluate how multi-stakeholders could be involved in the INC process.
- The EU and its MS would see value in encouraging engagement from multi-stakeholders from the different regions in which the INC meetings will be held, including outside the plastics sector/value chain, further than the forum to be held in conjunction of INC1.
- Stakeholders, in particular from the private sector could be invited to also contribute financially to forum and other forms of multi-stakeholders engagement, as they may also benefit from being engaged in the process.

Agenda item 5: Other matters

The EU and its MS will not take the floor on this agenda item.

Agenda item 6: Adoption of the report

The EU and its MS will agree with the adoption of the report and will not take the floor under this agenda item, except if deemed necessary.

Agenda item 7: Closure of the meeting

The EU and its MS will not take the floor on this agenda item, unless necessary and/or done by other regional groups.