EU+MS Statement in Subgroup 1.2

5. Plastic and plastic product design, composition and performance

a. Plastic and plastic product design and performance

Option 1

The EU and its Member States prefer to negotiate on the basis of Option 1 and sub-option 1 of the streamline text, with amendments.

The EU and its MS are of the view that the future instrument should include legally binding provisions ensuring that parties shall only approve and allow placing on the market of plastic products that are in line with a set of minimum product design and performance criteria contained in an Annex, which are derived from the objectives under Option 1, para. 1 a., b. and c. To allow for more ambitious national policies parties should have the possibility to go beyond these minimum criteria, taking into account their obligations under international law. Also, establishing and maintaining certification procedures and labelling requirements will ensure a common uniform system.

Concerning minimum product design and performance criteria, option 1 should be understood as setting a framework which needs to become operational by sector or product group specific design criteria. Para 4 of the provision common for sub-options 1 and 2 and the dedicated programmes of work will work on specific product requirements, and we are open to discussing how they can interact in this task.

Considering existing standards and best practices as well as engaging with standardization bodies through the development of the work program and setting of requirements under dedicated programmes of work is important to ensure implementable and enforceable solutions.

The plastics and plastic products will thus have to be designed to fulfill the properties relevant for the targeted application. For example, refilabilty applies mostly to packaging while repairability almost never applies to packaging.

Regarding subparagraph OP.1d: we do not consider microplastic alternatives as necessary. Furthermore, we should not wait to minimize the releases and emissions. To ensure that concerns regarding microplastics are sufficiently and adequately captured in the instrument, the EU+MS propose to address microplastics under the following provisions: (3b) to address intentionally added microplastics, (5a) to minimize, through product design, emissions and releases from wear and tear from products, (8) to address unintentional releases and emissions of different sources.

Sub-Option 1

The EU and its Member States prefer sub-option 1 compared to sub-option 2 but have some suggestions to strengthen and clarify the provision.

EU and its MS support paragraph 2 as it is necessary to establish generic design principles and minimum design and performance criteria, taking into account specific product or sector categories, to improve the circularity of plastic and plastic products. The criteria will be included in annex C.

EU and its MS support paragraph 3 as the establishment of certification procedures and labelling requirements will be necessary to inform consumers and to monitor compliance with the criteria.

The EU + MS find it important that this provision includes globally harmonized minimum design and performance requirements. National criteria are not sufficient. Apart from improving sustainability and reducing releases of plastic products, harmonized criteria would also create a level playing field and give businesses a clear signal to align their innovation strategies and investment plans. This is something that is called for by the private sector.

Provision common for Sub-Options 1 and 2 above

The EU+MS support the inclusion of paragraph 4, with amendments.

Proposal to replace the end of this para 4. by a simple reference to para 1 to make the text shorter and simpler.

We cannot agree with text weakening the scope of the provision by leaving it to Parties to decide on the measures to be undertaken, subject to their national plan and based upon national circumstances and capabilities. There should be globally agreed measures on product design and performance.

We cannot accept that the implementation of the measures outlined under this provision is made conditional on the potential provision of resources or technology transfer (on mutually agreed terms) under this instrument. It should be dealt with under PART III.
b. [[Reduce,]* [reuse,] [recycling,] refill and repair, repurposing and refurbishment of plastics and][Circularity approaches for] plastic products

Option 1

Enabling a circular economy and building on the waste hierarchy constitute a crosscutting priority for the EU and its MS.

EU supports a provision focusing mainly on reuse, including sub-provisions that enable the establishment of necessary reuse systems and measures that enhance repair and refill, as appropriate. The establishment of systems could be considered as a standalone provision, similar to the structure of EPR, so that 5 is more clearly focusing on design features.

EU supports working on the basis of the streamlined text, with some amendments.

c. Use of recycled plastic contents

Option 1

The EU could work on the basis of the option of the streamlined text, with the deletion of paragraphs 3 and 4. Recycled content could also be considered as part of the criteria in 5a.

The EU and its MS stress the need for all Parties to ensure the best possible framework, including economic incentives and technology development, for increasing the quality and quantity of recycled plastics in products. We support the establishment of a minimum percentage of (safe and environmentally sound) recycled plastic in products produced in the territory of each Party and those available on its market.

d. Alternative plastics and plastic products: Bio-based, biodegradable and compostable plastics and plastic products

The EU and its MS remind that alternative plastics are still to be considered as plastics. As such, they would fall within the scope of other provisions in the instrument applicable to plastics and plastic products, as stated in footnote 31 of the zero draft and prefer that to be explicitly stated in the text of the treaty.

The EU and its MS are concerned that including a provision on alternative plastics as proposed would mean that they would be referred to as credible alternative materials that could reduce the health risks associated with plastic pollution and promote circularity in the plastics industry. In particular, we are cautious about the biodegradable and compostable materials presented as viable alternatives on a number of aspects.

Compostable and biodegradable plastics could be considered under provision 5, a. under the design criteria. EU and its MS prefer to keep this provision separate from provision II (6) as it refers to two different objects. However, the EU and its MS would be open to discussing the possibility of integrating the content of provision 6.

Option 1 and 3

The EU+MS agree to work on the basis of option 1, with some amendment, and option 3. The EU and its MS emphasize the need for the alternatives to be sustainable from a life-cycle perspective including their sourcing and end of life.

Provision (6) on Non-plastic substitutes

The EU and its 27 Member States believe that a dedicated provision on non plastic-substitutes is not needed. We understand that there are linkages with other provisions of the instrument and could support addressing the issue of non-plastic substitutes in several other places in the instrument, i.e. Part II, provision (3) or (5); or Part IV provision (1) or (7).

Provision (4)bis on Dedicated programmes of work

The EU+MS thank Norway for their proposal. We support the establishment of dedicated programmes of work. The sectoral approach is key for the implementation of the treaty, helping Parties to develop tailor made and effective measures. The sectors chosen have an important impact on plastic pollution; the EU+MS identify two product groups in particular as being of high priority for the treaty: packaging, and fisheries and aquaculture.