European Union and its Member States – Statement subgroup 1.2 25, 26 and 27 April

Chemicals of concern in plastic and plastic products:

- For EU+MS, the instrument needs to include a provision requiring each Party to restrict the presence of chemicals and groups of chemicals of concern in plastic and plastics products as this issue is only slightly/partially covered by existing MEAs. Though, it is important to ensure that the different those MEAs are mutually supportive and do not hinder each other’s work; and that duplication is avoided.

- As proposed in its conceptual approach, a three-step-process to address chemicals of concern in this instrument could follow the three following steps: 
  1. **STEP1:** identification and listing of chemicals and groups of chemicals of concern by science and hazard-based screening criteria, in Annex A. 
  2. **STEP 2:** risk profile + risk management evaluation conducted by a Scientific/Technical Review Committee to assess how a listed chemical of concern should be restricted and make recommendations in this regard; three outcomes can be proposed as restriction: first, a ban/elimination in plastic and plastic products, second, a restriction at product level, third, no risk identified. As a **STEP3:** EU+MS see the need to define possible exemptions at chemicals level. Following this three-steps-process will ensure that the presence of chemicals of concern in plastic and plastic products is fully addressed at this stage.

3. **Problematic and avoidable plastic products, including short-lived and single-use plastic products and intentionally added microplastics.** *(Alt title: Problematic plastic products and avoidable plastic products [and groups of such products], [including short-lived and single-use plastic products] and [products containing] [microplastics on their own and intentionally added microplastics in plastic and plastic products].*

**On products:**

- We need to address problematic plastic products, either avoidable and unavoidable, but also microplastics on their own; and intentionally added microplastics within the instrument.
- EU+MS support a two-fold and gradual approach with first the identification of product as problematic through global screening criteria and a second step, looking at the avoidability of the problematic product with two possible outcomes: bans/phase-outs for product that are avoidable and reduction of production + improvement of the design (5) for unavoidable ones.
- For problematic and avoidable products, a global list of plastic products to be regulated should also be established, together with a timeframe and possible other requirements. These should be included in Annex B.
- The criteria to define problematic plastic products should be based notably on:
  - Potential impact/hazard on human health and environment linked to the intrinsic properties as well as its use;
  - Propensity of products to rapidly break down into MPs;
  - Propensity to impede recyclability, reuse, refill, …
  
- EU+MS would like to precise that those criteria should be define in order to ensure the correct capture of polymers of concern into their scope. Indeed polymers are part of plastic products, and we think it could be suitable to capture that issue through product, instead that having identification and listing of polymers as such into provision (2).
- The criteria to define avoidable plastic products could be based notably on the feasibility to eliminate them or to replace them with products or practices with less impact on health and the environment.

**On microplastics:**
EU+MS see the need for a ban on the production of microplastics with the exception of pre-production raw materials and products containing intentionally added microplastics to be included in the instrument. This should be further regulated in Annex B Part IV.

- EU+MS could support having a ‘list of essential or allowed uses of microplastics’.

**On both:**

- We could possibly accept time-limited exemptions for restrictions regarding products and microplastics. Annex B should include a register of exemptions to restrictions (to be discussed during session on provision (4)). We understand that there may be a need to define exceptions in the Annex.
- The elements above should be included directly in the instrument.

As explained in our conceptual approach, EU+MS see interlinkages between several provisions, and in particular, provisions 2, 3 and 5 of Part II. We are open to further reflect on how to make use of the different provisions and their interlinkages in order to achieve our position for the different elements addressed in these provisions in an effective way.

3b. Microplastics on their own and intentionally added microplastics, in plastics and plastic products

EU+MS propose to capture microplastics concern under different provisions of Part II, respectively provisions 3, 5 and 8.

For provision 3, point b, EU+MS see the need for a ban on the production of microplastics (with the exception of pre-production raw materials) and on the production of products containing intentionally added microplastics to be included in the instrument. This should be further regulated in Annex B Part IV. EU+MS could support having a ‘list of essential or allowed uses of microplastics’. We could possibly accept time-limited exemptions for restrictions regarding products and microplastics. Annex B could include, where relevant, a register of exemptions to restrictions (see also EU+MS position on Part II, provision 4). We understand that there may be a need to define exceptions in the Annex.

EU+MS see also a need to address unintentional emissions and releases of microplastics.

For provision 5 on product design, EU+MS see a need to include guidelines on product design to minimize the unintentional releases and emissions of microplastics from plastics and plastic products in Annex C.
For provision 8, on emissions and releases, EU+MS see a need to address that concern in that provision and the related Annex E by notably adding in that Annex, minimum requirements to prevent and eliminate unintentional emissions and releases of microplastics from wear and tear of sources listed in Part I of that same Annex, to the environment, throughout the life cycle of plastic polymers, plastics and plastics products.

**Exemptions:**

- EU+MS recognize that exemptions will be needed under this treaty and are open to discuss and exchange views with other Members.
- In its conceptual approach submitted, EU+MS proposed exemptions as the third step.
- EU+MS are open to discuss the need for time-limited exemptions and exemptions, possibly time unlimited, for certain purposes; EU+MS do not yet have a position on whether these would be granted for “essential use” only or for broader “acceptable” purposes. As you may have heard, EU+MS has no preferred wording regarding exemptions and is open to discussing it. EU+MS think that in any case, the availability of alternatives should be taken into account.
- The criteria for exemptions and register for exemption should be included separately in the relevant Annexes respectively: Annex A and B.
- EU+MS see a need to draw inspiration from the wording and process used under existing MEAs, e.g.: Stockholm Convention, Minamata Convention, Montreal Protocol.

**Provision (10) – Trade in listed chemicals and products, and in plastic waste**

- EU+MS support the inclusion of specific provisions regarding trade in chemicals and groups of chemical of concern (2); problematic and avoidable plastic products including short-lived and single-use products and microplastics on their own and intentionally added microplastics (3); as well as plastic products not meeting minimum design and performance criteria (5), while avoiding duplication with relevant existing MEAs such as the Rotterdam Convention.
- EU+MS support core obligations to prohibit exports and imports of the above list of materials and products.
- EU+MS highlight that trade-related measures proposed should be in line with WTO rules and applied to all parties and non-parties on a non-discriminatory basis.
- EU+MS support requirements for exporters, especially the requirement of harmonized information about the composition of exported materials.

**Provision (13) – Transparency and labelling**

- EU+MS see the need to have harmonized information, transparency, traceability and labelling measures included in the instrument. These elements will be necessary to achieve the objective of the instrument. Inconsistencies with the GHS should be avoided.
- EU+MS support the establishment of guidelines at the first meeting of the governing body.
- EU+MS believes disclosure of information is needed on polymers but also on the plastic products chemicals composition (at least, for the chemicals identified as ‘of concern’) and their traceability. We see also a need to disclose information about the quantities, types and destination of polymers and of plastic products.
• EU+MS prefer to address monitoring in Part IV provision 4 (a) ‘assessment and monitoring’.
• Also EU+MS propose to remove tracking measures from the scope of this provision, as transparency seems a suitable and sufficient wording for those measures.
• We would then propose to change the title of the provision to the clearer and shorter ‘Transparency and labelling’ title.