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From: General Secretariat of the Council

To: Permanent Representatives Committee/Council

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Subject: Communications on delivering on the Circular Economy Action Plan:

- a) European Strategy for Plastics in a Circular Economy
- b) Monitoring Framework for the Circular Economy
- c) Implementation of the Circular Economy package: options to address the Interface between Chemical, Product and Waste legislation

= Exchange of views

1. On 3 December 2015, the Commission adopted a revised Circular Economy package. As part of this package, the Commission presented an EU Action Plan on Circular Economy in its Communication entitled 'Closing the loop – An EU Action Plan for the Circular Economy' ¹.

¹ 14972/15 + ADD 1 - COM(2015) 614 final.

2. Two Ministerial debates on the EU Action Plan were held by the Council (Competitiveness) on 29 February and (Environment) on 4 March 2016 respectively. On this basis, the Council (Environment) adopted conclusions on the EU Action Plan on 20 June 2016.
3. Plastics was identified as one of the priority areas by the EU Action Plan where measures are required to address the challenges throughout the plastics value chain taking into account their entire life-cycle. In this respect, in its conclusions of June 2016 the Council highlighted in particular the need for preventing marine litter and for considering eco-design of plastic and plastic products and the sound management of plastic waste as essential elements for pollution prevention and called for robust measures to reduce discharge of macro- and micro-sized plastic debris in the marine environment.
4. The EU Action Plan also focused on recycled materials that are injected back into the economy as "secondary raw materials". Working on this objective implies the need to identify and trace substances of concern in materials, products and waste. To this effect, the Commission announced its intention to address the interface between chemicals, waste and product policies.
5. On 16 January 2018, the Commission presented a package aimed at delivering on the Circular Economy EU Action Plan consisting of the following elements:
 - a Communication on a European Strategy for Plastics in a Circular Economy;
 - a Communication on a Monitoring Framework for the Circular Economy;
 - a Communication on the Implementation of the Circular Economy package: options to address the Interface between Chemical, Product and Waste legislation.

In parallel, the Commission put forward a report on critical raw materials and the Circular Economy ², a report on the impact of the use of oxo-degradable plastic, including oxo-degradable plastic carrier bags, on the environment ³, as well as a proposal for a Directive on port reception facilities for the delivery of waste from ships ⁴.

6. In this context, the Presidency has prepared a background paper and questions (in Annex) to guide the exchange of views at the Council (Environment) at its forthcoming meeting on 5 March 2018, focusing on the Strategy for plastics and the Interface between chemical, product and waste legislation.
7. The Committee of the Permanent Representatives is therefore invited to take note of the Presidency's paper and questions as set out in the Annex to this note and forward them to Council for the abovementioned exchange of views.
8. The Presidency invites delegations to send written replies before the Council meeting.

² 5450/18 + ADD 1 + ADD 2 - SWD(2018) 36 final.

³ 5424/18 - COM(2018) 35 final.

⁴ 5454/18 + ADD 1 - COM(2018) 33 final + ADD 2 + ADD 3 + ADD 4.

Delivering on the Circular Economy Action Plan

- Exchange of views -

Presidency background paper with questions for Ministers

The package adopted by the European Commission in mid-January 2018 as a follow-up of the Circular Economy Action Plan combines legislation, economic incentives and voluntary commitments. The main body of the package consists of the European Strategy for Plastics in a Circular Economy; the Communication on the Interface between Chemicals, Products and Waste and the Monitoring Framework on the Circular Economy ¹. The three documents will feature on the Council agenda to allow for the Commission to present these in details to the Ministers. However, the Presidency intends to focus the debate during the March Council on two of these sets of measures, notably the European Strategy for Plastics in a Circular Economy and the Communication on the Interface between Chemicals, Products and Waste. Therefore, the questions suggested to steer the ministerial exchange of views touch upon these two initiatives in particular.

I) EU Strategy for Plastics in the Circular Economy

Plastics are an important component of our economic activity and daily life, in common use products as well as in hi-tech innovations. Plastics contribute, among other things, to the reduction of food waste, an easier and more efficient transport of goods, or to reducing the weight of some means of transport. They are hugely important in health care and other areas of our life.

¹ The other elements of the package are: new Directive on Port Reception Facilities as well as reports on Critical Raw Materials and on Oxo-plastics.

However, plastics have significant negative externalities as their production is resource- and energy-intensive and highly depends on fossil fuels (more than 90%). Consequently, it generates important CO₂ emissions (400 million tonnes in 2012). Plastic is also leaking into the environment, especially to the sea (in 2010, an estimated 5 to 13 million tonnes of plastic waste ended up in the oceans globally). Once littered, it stays there. Microplastics are also ubiquitous – they remain in the soil, enter food chains, drinking water and float in the air. They come from many sources: for instance, unintentionally added microplastics come from washing textiles, use of tyres, leakage of pellets from processing plants, fragmentation of larger plastics littered in the environment; intentionally added microplastics come from cosmetics, wear of paints (including on roads or buildings).

The EU Strategy on Plastics in a Circular Economy, presented by the Commission in January lays down a long term vision where all plastics are designed, manufactured and used in a sustainable way and where plastic products have a longer life cycle, they are collected, reused and recycled in a way that a maximum amount of material and value contained in the plastic products is re-injected in the economy, while minimising plastic littering and the release of microplastics in the environment. This will also foster innovation in the EU and offer opportunities for EU businesses at global level. The latter is particularly true in the context of the China's ban on plastics waste imports (among others) that came into force as of January 2018. For all these reasons, it is essential that the plastics sector makes the transition to a more circular model, where the value of products, materials and resources is maintained in the economy for as long as possible, and the generation of waste minimised.

The Plastics Strategy is part of the broader European ambition for a Circular Economy aiming at the modernisation of our economy, with long-term societal objectives in mind: a competitive, low-carbon, circular, sustainable economy that creates jobs and growth, and increases the quality of life of our citizens.

This strategy will also help protect our environment, reduce marine litter, greenhouse gas emissions and our dependence on imported fossil fuels. The objective is to curb plastic pollution and its adverse impact on our lives and the environment, protecting European citizens and empowering them to make the right choices to preserve the planet and ensure their well-being.

The main actions areas foreseen are:

- Improving the economics and quality of plastic recycling;
- Curbing plastic waste and littering;
- Driving innovation and investments towards circular solutions;
- Harnessing global action.

Flagship measures proposed include:

- All plastics packaging in the EU will need to be recyclable by 2030;
- Microplastics which are intentionally added in products (for instance, cosmetics, paints, detergents for instance) will be banned (by means of a restriction procedure under REACH);
- Legislative proposal to curb single-use plastics consumption is being prepared by the Commission. The public consultation and the impact assessment have been launched.

II) Interface between chemical, product and waste legislation

The Commission's 'EU Action Plan for the Circular Economy', referred to above, also stressed the importance of the development of a well-functioning single market for secondary raw materials and made a commitment to assess the interaction of the legislation on chemicals, products and waste "in order to decide the right course of action at EU level to address the presence of substances of concern, limit unnecessary burden for recyclers and facilitate the traceability and risk management of chemicals in the recycling process."

As part of the Circular Economy package adopted in January 2018, the Commission published a Communication and accompanying Staff Working Document which contains the Commission's assessment of the interface between chemical, product and waste legislation. The Communication is a consultative document that shows how the chemical policy objectives of substitution, reduction and control of substances of concern can support and complement waste policy objectives. It is relevant to all goods, waste streams and recycled materials and proposes policy options that aim to tackle a number of key issues:

- Insufficient information about substances of concern in products and waste;
- The presence of substances of concern in recycled materials and in articles made thereof;
- Uncertainties about how materials can cease to be waste;
- Difficulties in the application of EU waste classification methodologies and impacts on the recyclability of materials (secondary raw materials).

The Communication aims to open a broad discussion in the EU with Member States and concerned stakeholders on whether the identified problems indeed are the key areas to focus on and which, if any, of the proposed options are appropriate to tackle the challenges.

III) Questions

Ministers are invited to consider the following questions as a basis for the debate with regard to the EU Plastics Strategy:

1. *What is the best approach to promote a substantial increase in the use of recycled plastics as well as in the capacity of the plastic recycling industry thus rendering the European market for secondary raw materials profitable?*
2. *Decisions at Member State level (for instance, on taxation and public procurement) also play a significant role in the transition to circular economy. Which measures at EU level can provide economic incentives for businesses to develop more sustainable plastic products?*

Ministers are invited to consider the following question as a basis for the debate with regard to the Interface between Chemical, Product and Waste legislation:

1. *How do we ensure that waste that contains substances of concern is only recovered into materials which can be safely used - in particular, in cases where recycled materials contain chemicals that are no longer allowed in primary materials?*

