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NOTE

From: General Secretariat of the Council
To: Delegations

Subject: First session of the Intergovernmental Negotiating Committee (INC-1) to
Develop an International Legally Binding Instrument on Plastic Pollution
(Punta del Este, Uruguay, 28 November – 2 December 2022)
- Information from the Presidency and the Commission

Delegations will find in the Annex an information note from the Presidency and the Commission on the above subject, to be dealt with under "Any other business" at the Council (Environment) meeting on 20 December 2022.

First session of the Intergovernmental Negotiating Committee (INC-1) to Develop an International Legally Binding Instrument on Plastic Pollution (Punta del Este, Uruguay, 28 November – 2 December 2022)

Information from the Presidency and the Commission

The first (of five) meeting(s) of the Intergovernmental Negotiating Committee (INC-1) took place in Punta del Este, Uruguay, on 28 November–2 December 2022. It gathered around 160 countries, over 400 stakeholder organisations and international organisations in-person and on-line.

The INC task (mandate established at the fifth meeting of the United Nations Environment Assembly in Nairobi in March) is to develop an international legally binding instrument on plastic pollution by 2024, based on a comprehensive approach that addresses the full lifecycle of plastics from product design to waste.

Participants of INC-1 held initial general discussions on the objectives and scope of the agreement, potential elements, means of implementation and stakeholder engagement.

INC-1 showed broad support for the instrument to consist of globally binding provisions, including production restrictions, phase-outs of problematic and unnecessary plastics, such as single-use plastics, microplastics and hazardous chemical additives, ensuring a full life cycle approach and circularity of plastics, strong support to upstream measures, including sustainable product design combined with extended producer responsibility and transparency and information along the product value chains. However, a number of oil producing countries appeared to be less ambitious, warning against a plastic demand crisis and nuancing the role of global measures. The US, Saudi Arabia, Egypt and to a certain extent Japan and China favored a bottom-up approach based on a Paris agreement model with a central role for National Action Plans as the key or only globally binding obligation.

The INC showed the high interest from developing countries, not least the SIDS which were very well represented. Developing countries emphasised the urgency of action on the downstream side (waste collection and management) including on legacy plastics. In particular, the small island states made a strong case on the toxic tide of marine litter generated far away but flooding their coasts and destroying livelihoods. Calls for means of implementation to match the ambition of the expected obligations were heard throughout the meeting. The vast majority of developing countries proposed to create a dedicated multilateral fund, while recognising the role of grants and concessional loans, as well as the importance of including the private sector both through attracting investments and regulatory schemes in line with the polluter pays principle. Several developing countries also underlined that the new instrument should not enhance the debt burden which is already high for many countries.

There were many voices arguing for ensuring wide participation of stakeholders from various sectors, highlighting also the importance of their intersessional involvement which would enable members to consider stakeholders' inputs before finalising their negotiating positions. There was a wide recognition of the important role of business to be able to end plastic pollution.

The discussions on organizational and procedural matters, in particular the election of a bureau and the adoption of Rules of Procedure, were heavily politicized. Russia blocked the appointment of the bureau opposing the election of the Swedish nominee by the Western European and Others Group (WEOG) group and also initially opposed proposals for future INC venues (notably France and Canada). As to the Rules of Procedure, the only outstanding issue was Rule 37 on voting rights – the US challenging the EU right to vote with 27 votes, unless all EU member states are present in the room, which was quickly used by others (Saudi Arabia, China, Bahrain, Malaysia) as an occasion to challenge majority voting as such, and by Russia to suggest that the EU should have one vote. In the absence of agreement, the draft Rules of Procedure, as they were recommended by the preparatory meeting of the Open-Ended Working Group in Dakar in May, will apply provisionally, though further consultations regarding Rule 37 will be conducted at INC-2.

While there was no agreement on the bureau, INC-1 managed to elect its Chair (Ambassador Gustavo Meza-Cuadra from Peru) – the chairmanship will be shared between Peru and Ecuador (Peru for INC-1, 2, 3, and Ecuador -Vice-Minister Luis Vayas Valdivieso - for INC-4, 5 and the diplomatic conference). The Chair continued the meeting with a “Friends of the Chair Group” including the nominated officers from regions in which consensus on candidates had been achieved, postponing the decision on a bureau to the next session of the INC to be held in France (Paris) in May 2023.

The Committee also agreed to task the INC Secretariat with preparing, ahead of INC-2, an ‘options paper’ which would outline options for elements of the future treaty, including both legally binding and voluntary measures.

The EU and its Member States should stay active and vocal throughout the entire INC process and seek to engage constructively with others during negotiations and between the INC meetings. The process provides an opportunity for the EU and its MS to contribute to creating an innovative and modern environmental instrument in line with our common agenda.
