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## PROPOSAL

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From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

date of receipt: 31 October 2024

To: Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

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Subject: COMMISSION STAFF WORKING DOCUMENT Union submission to **the 12th session of the International Maritime Organization's Pollution Prevention and Response Sub-Committee commenting on the MEPC 82 report and proposing a parallel approach for the further consideration of mandatory measures to prevent losses from the maritime transport of plastic pellets**

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Delegations will find attached document SWD(2024) 255 final.

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Brussels, 31.10.2024  
SWD(2024) 255 final

**COMMISSION STAFF WORKING DOCUMENT**

**Union submission to the 12th session of the International Maritime Organization's  
Pollution Prevention and Response Sub-Committee commenting on the MEPC 82 report  
and proposing a parallel approach for the further consideration of mandatory measures  
to prevent losses from the maritime transport of plastic pellets**

## **Union submission to the 12<sup>th</sup> session of the International Maritime Organization's Pollution Prevention and Response Sub-Committee commenting on the MEPC 82 report and proposing a parallel approach for the further consideration of mandatory measures to prevent losses from the maritime transport of plastic pellets**

### **Purpose**

This Staff Working Document contains a draft Union submission to the 12<sup>th</sup> session of the Pollution Prevention and Response Sub-Committee (PPR 12). The IMO has indicatively scheduled PPR 12 from 27 to 31 January 2025.

The draft submission provides comments to the report of 82<sup>nd</sup> session of the Marine Environment Protection Committee (MEPC 82) and proposes a parallel approach for the further consideration of two mandatory measures for the maritime transport of plastic pellets (i.e. under MARPOL Convention, the revision of *Annex III* on prevention of pollution by harmful substances transported in packaged form and using the *UN framework on transport of dangerous goods*). It is for the consideration of the Sub-Committee in view of launching work in 2025 on regulatory matters. This follows the decision of MEPC 82 to include this topic in the IMO Action Plan to address marine plastic litter from ships, as well as the invitation by the 11<sup>th</sup> session of PPR.

During MEPC 82, when considering the review of the Action Plan, the Committee agreed on a way forward to reduce the environmental risks of plastic pellets transported by sea in freight containers. This would allow sufficient time to earn meaningful experience with the implementation of non-binding recommendations adopted by the Organization (MEPC.1/Circ.909 on Recommendations for the carriage of plastic pellets by sea in freight containers) to effectively reduce the environmental risks associated with the maritime transport of plastic pellets, before starting to develop a regulatory framework.

In this context, MEPC instructed PPR to develop text for a specific action concerning the development of mandatory measures during the review of the Action Plan at its 12<sup>th</sup> session. As part of this action under the Action Plan, the Committee also instructed PPR to conduct an analysis of the potential mandatory instruments (beyond the application of the non-binding recommendations of MEPC.1/Circ.909), which could be amended, and of the associated implications, and then submit its outcome and relevant recommendations to a future MEPC session. The Committee would then consider the analysis with a view to making a policy decision on the preferred mandatory instrument. It would then further instruct the Sub-Committee to fully develop and finalize the envisaged draft mandatory provisions.

Furthermore, the Committee invited interested Member States and international organizations to submit to the PPR further proposals on potential instruments that could form the legal basis for mandatory provisions, including information on associated implications.

Therefore, the aim of the draft submission is, through the proposal of a parallel approach to facilitate consensus at PPR 12, while addressing concerns expressed by industry. The draft approach has been supported also by non-EU delegations which have indicated their intention to potentially co-sponsor the present submission (Australia, United Kingdom, Cook Islands, Jamaica, South Africa, FOEI/CSC).

Finally, considering the international nature of the maritime transport of plastic pellets, the EU called for rules to be adopted globally. The accidental plastic pellet losses from the vessel *Toconao*, off the Portuguese coast in December 2023, which polluted the Spanish coast, proves the necessity for an EU document to engage in ambitious measures as to the carriage of plastic pellets in freight containers in a coordinated manner. This kind of pollution events, with cleaning operations that are costly and challenging, has long-lasting harmful impacts on the environment and on local economic activities.

## EU Competence

With regard to the discharge of marine plastic litter (including plastic pellets, ship wastes, and fishing gear) into the seas, various legal instruments and policies adopted by the Union cover the handling and carriage of plastics, including the carriage of plastic pellets by ships in its efforts to avoid the loss of plastic pellets at sea.

Directive 2008/56/EC<sup>1</sup> of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive), as well as Directive 2008/98/EC<sup>2</sup> of the European Parliament and of the Council of 19 November 2008 on waste (Waste Framework Directive), provide relevant provisions that call on Member States to ensure that properties and quantities of marine litter do not harm the marine or coastal environment and to halt the generation of marine litter.

Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures<sup>3</sup>, ensures a high level of protection of human health and the environment as well as the free movement of chemical substances, mixtures and certain specific articles.

Commission Regulation (EU) 2023/2055 of 25 September 2023 amending Annex XVII to Regulation (EC) No 1907/2006 concerning the Registration, Evaluation, Authorization and Restriction of Chemicals (REACH) as regards synthetic polymer microparticles<sup>4</sup> addresses microplastic pollution by imposing a restriction on the placing on the market of microplastics that are intentionally added to products, as there is considerable microplastic pollution arising from the use of synthetic polymer microparticles on their own or intentionally present in products, and pollution poses an unacceptable risk to the environment. The regulation also addresses losses of synthetic polymer microparticles for use at industrial sites i.e. plastic pellets as avoidable releases.

The Commission proposal for a Regulation on preventing plastic pellets<sup>5</sup> aims to reduce microplastic pollution in order to ensure that operators handling pellets in the EU take the necessary precautionary measures, including through a system of verification of compliance. Currently, the co-legislators are assessing possible reduction measures for microplastics unintentionally released to the environment during their life cycle looking at six main sources (i.e. in order of estimated quantities released, paints, tire abrasion, plastic pellets used for the production of all plastic items, synthetic textiles, geotextiles and detergent capsules).

In light of all of the above, the present draft Union submission falls under EU exclusive competence.<sup>6</sup> It is in line with the Union's ambitions as outlined in the European Green Deal<sup>7</sup>, notably on Sustainable and Smart Mobility<sup>8</sup> and Zero Pollution<sup>9</sup>. This Staff Working Document is presented to establish an EU position on the matter and to transmit the document to the IMO prior to the required deadline of 6 December 2024.

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<sup>1</sup> OJ L 164, 25.6.2008, p. 19

<sup>2</sup> OJ L 312, 22.11.2008, p. 3.

<sup>3</sup> OJ L 353, 31/12/2008, p. 1

<sup>4</sup> OJ L 238, 27.9.2023, p. 67

<sup>5</sup> COM(2023)645

<sup>6</sup> An EU position under Article 218(9) TFEU is to be established in due time should the IMO Marine Environment Protection Committee eventually be called upon to adopt an act having legal effects as regards the subject matter of the said draft Union submission. The concept of '*acts having legal effects*' includes acts that have legal effects by virtue of the rules of international law governing the body in question. It also includes instruments that do not have a binding effect under international law, but that are '*capable of decisively influencing the content of the legislation adopted by the EU legislature*' (Case C-399/12 Germany v Council (OIV), ECLI:EU:C:2014:2258, paragraphs 61-64).

<sup>7</sup> COM(2019)640

<sup>8</sup> COM(2020)789 final, SWD(2020) 331 final

<sup>9</sup> COM/2021/400 final includes the goal to reduce microplastics releases into the environment by 30% by 2030

## FOLLOW-UP WORK EMANATING FROM THE ACTION PLAN TO ADDRESS MARINE PLASTIC LITTER FROM SHIPS

### Commenting paper on the Report of MEPC 82

Submitted by Austria, Belgium, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands (Kingdom of the), Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the European Commission, acting jointly in the interest of the European Union

#### SUMMARY

*Executive summary:* This document provides comments on the report of the 82<sup>nd</sup> session of the Marine environment Protection Committee (PPR 12/XX (Secretariat)) and recommends a parallel approach for the further consideration of mandatory measures for the maritime transport of plastic pellets.

*Strategic direction, if applicable:*

*Output:* 4.3

*Action to be taken:* Paragraph 20

*Related documents:* PPR 11/13/3, PPR 11/13/1, PPR 12/XX (Secretariat), PPR 10/18; CCC 9/WP.1/Rev.1; MEPC 80/INF.15; CCC 9/2/2, CCC 9/2/3, CCC 9/2/4 and CCC 9/14

### Background

1 Following the MV X-press Pearl disaster in which 11,000 tonnes of plastic pellets were released off the shore of Colombo, Sri Lanka in May 2021, the PPR Sub-Committee and the CCC Sub-Committee discussed the environmental risk associated with maritime transport of plastic pellets.

2 At its tenth session, the Sub-Committee on Pollution Prevention and Response (PPR) agreed there was a need for measures to address the environmental risk associated with the maritime transport of plastic pellets in freight containers through a two-stage approach:

1. the development of a circular containing recommendations for the carriage of plastic pellets by sea in freight containers addressing, in particular, packaging, notification and stowage; and

2. the development of amendments to appropriate mandatory instruments, subject to proposals by Member States and international organizations to the Marine Environment Protection Committee (MEPC), as appropriate, which could be informed by the experience gained from the implementation of the voluntary measures under the circular.

3 Therefore, at the eleventh session of this Sub-Committee (PPR 11), two documents were submitted including concrete proposals for amendments to mandatory instruments to prevent the loss of plastic pellets during maritime transport, in response to the Sub-Committee's invitation for proposals on potential mandatory measures to facilitate the discussion under stage two, namely:

1. PPR 11/13/1 (Australia, Cook Islands, Jamaica, South Africa and United Kingdom), proposing the introduction of mandatory measures to prevent the loss of plastic pellets when transported by sea in freight containers through amendments to MARPOL Annex III; and
2. PPR 11/13/3 (Germany and Kingdom of the Netherlands), containing a proposal to assign an individual UN number (class 9) for plastic pellets transported at sea in freight containers.

### **Developments at PPR11**

4 Proposal PPR 11/13/1 by Australia et al. proposes to amend MARPOL Annex III to address both substances listed under the IMDG Code and substances not regulated by the IMDG Code (including plastic pellets) through an amendment to the existing definition of harmful substances and the introduction of new regulations specific to the transport of plastic pellets.

5 Document PPR 11/13/1 provides proposed amendments to MARPOL Annex III to support this approach.

6 Document PPR 11/13/3 by Germany et al. proposes to assign an individual UN number (class 9) for plastic pellets transported at sea in freight containers. A special provision assigned to that new UN number would restrict the application to maritime transport only, and packing instructions would be assigned as considered appropriate by the PPR Sub-Committee.

7 The co-sponsors note that assigning an individual UN number (class 9) lies within the competence of the UN Committee of Experts on the Transport of Dangerous Goods and on the Globally Harmonized System of Classification and Labelling of Chemicals. To this end, the co-sponsors would encourage interested parties to consider submitting a request to assign an UN number to plastic pellets to the relevant UN Sub-Committee of Experts on the Transport of Dangerous Goods, while noting that the co-sponsors of PPR 11/13/3 are already prepared to do so if the 'parallel approach' is agreed as way forward.

8 During PPR11, many delegations expressed a preference for one of the two proposals for mandatory measures submitted to PPR11. Some delegations during that session expressed the view that **both proposals should be pursued in parallel**.

### **Developments at MEPC 82**

9 During MEPC 82, when considering the review of the Action Plan to address marine plastic litter from ships (Action Plan), the Committee agreed on a way forward to reduce the environmental risks of plastic pellets transported by sea in freight containers which would

allow sufficient time to finalise step one of the two-stage approach. In this context, the Committee instructed PPR to develop text for a specific action concerning the development of mandatory measures at PPR 12 during the review of the Action Plan. As part of this action under the Action Plan, the Committee also instructed PPR to conduct an analysis of the potential mandatory instruments that could be amended and the associated implications (at its subsequent session) and submit its outcome and relevant recommendations to a future MEPC session. MEPC would then consider the analysis with a view to making a policy decision on the preferred mandatory instrument and further instruct the PPR to fully develop and finalize the envisaged draft mandatory provisions.

10 The Committee furthermore invited interested Member States and international organizations to submit to the PPR further proposals on potential instruments that could form the legal basis for mandatory provisions, including information on the associated implications.

### Urgency

11 The co-sponsors welcome the implementation of the recommendations contained in Circ.1/909 and see this as a good first step towards reducing plastic pellet loss at sea. However, these recommendations are voluntary and their application can lead to useful insights and some changes to practices in the transportation of plastic pellets at sea. Hence, the co-sponsors emphasize the importance of pursuing mandatory measures without delay, noting the continued instances of incidents at sea involving the loss of plastic pellets.

12 Most recently, a spill in December 2023 off the coast of Galicia in Spain, resulted in six containers being lost into the sea, with one containing at least 26,000 kg of pellets, with these pellets subsequently ending up in the marine environment. The incident raised once again the issue of poor practices such as mis-declaration or inadequate stowage, contributing to suboptimal carriage conditions as well as the overall lack of traceability and accountability after the incident.

13 The loss of plastic pellets needs to be prevented because of the impact they have on the environment and human health. These impacts can be divided into three types<sup>10</sup>, also set out in MEPC 80/INF.15:

.1 Risk of colonization and transport of species. Plastic pellets can support invasive or toxic species over long distances, allowing them to spread through ecosystems.<sup>11</sup>

.2 Physical impacts on habitats. Every second, around 265,000 of these pellets end up in the marine environment.<sup>12</sup> Modelling predicts that, without intervention, the mass of plastic in the oceans should exceed that of marine animals by 2050.

.3 Functional and ecotoxicological impacts on ecosystems. This pollution accelerates oxygen loss in the world's oceans. It contributes to the increase in greenhouse gas emissions.<sup>13</sup> It also increases the risk of cancer in humans due to its presence in the food chain.<sup>14</sup>

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<sup>10</sup> Galloway, T.S., Cole, M., Lewis, C., 2017. Interactions of microplastic debris throughout the marine ecosystem. *Nature Ecology & Evolution* 1, 1–8. <https://doi.org/10.1038/s41559-017-0116>.

<sup>11</sup> Rodrigues, A., Oliver, D. M., McCarron, A., & Quilliam, R. S. (2019). Colonisation of plastic pellets (nurdles) by *E. coli* at public bathing beaches. *Marine Pollution Bulletin*, 139, 376-380.

<sup>12</sup> Barbara Pompili, Minister for Ecological Transition, adoption of the implementing decree for the anti-waste law for a circular economy (2021). <https://www.ecologie.gouv.fr/lutter-contre-granules-plastiques-industriels-dans-nature>.

<sup>13</sup> Kvale, K., Prowe, A. E. F., Chien, C. T., Landolfi, A., & Oschlies, A. (2021). Zooplankton grazing of microplastic can accelerate global loss of ocean oxygen. *Nature communications*, 12(1), 2358.

<sup>14</sup> Sharma, M. D., Elanjickal, A. I., Mankar, J. S., & Krupadam, R. J. (2020). Assessment of cancer risk of microplastics enriched with polycyclic aromatic hydrocarbons. *Journal of Hazardous Materials*, 398, 122994.

14 A major issue is preventing loss. The presence of pellets in the environment is linked to two types of loss: daily operational spills along the production and transport chain, and accidental spills on land, in rivers and at sea (MEPC 80/INF.15).

15 The co-sponsors suggest that incidents at sea involving plastic pellets will continue without the implementation of mandatory measures, something also recognised through the Sub-Committee's agreement to a two-staged approach to address this issue. The co-sponsors welcome the way forward agreed at MEPC 82 for the two-staged approach while urging that conclusion on the related work should be achieved without undue delay.

### **Proposal**

16 The co-sponsors of this document, among which are the co-sponsors of documents PPR 11/13/1 and PPR 11/13/3, request the Sub-Committee to endorse a parallel approach towards mandatory measures for the maritime transport of plastic pellets.

17 Within a parallel approach, on the one hand the co-sponsors of PPR 11/13/3 would aim to address the issue in the UN Transport of Dangerous Goods Sub-committee assigning an individual UN number under class 9, using PPR 11/13/3 as a basis and possibly encouraging additional interested parties to jointly submit the relevant request to the UN Transport of Dangerous Goods Sub-committee, if this is agreed as a way forward.

18 On the other hand, the Sub-Committee would discuss and prepare amendments to MARPOL Annex III using PPR 11/13/1 as a basis.

19 Once both options have been sufficiently developed and considered by the Sub-Committee, a recommendation on the most appropriate instrument to address the issue of the maritime transport of plastic pellets will be provided to MEPC, for consideration and endorsement, as appropriate, possibly already at its 83<sup>rd</sup> session.

### **Action requested of the Sub-Committee**

20 The Sub-Committee is invited to consider the proposal set out in paragraphs 16 - 19 and take action as appropriate.