



Council of the European Union
General Secretariat

Brussels, 22 July 2025

WK 10152/2025 INIT

LIMITE

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CONSULTATION

From:	General Secretariat of the Council
To:	Working Party on International Environment Issues (Global)
N° Cion doc.:	WK 9851/2025
Subject:	WPIEI (Global): INC-5.2 preparation: Revised draft EU+MS scenarios A and C for Institutional provisions (Preamble, Scope, Articles 1, 1bis, 2, 20, 20bis, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32) - INFORMAL SILENCE PROCEDURE

Following the call for comments issued with WK 9851/2025, delegations will find attached revised EU +MS scenarios A and C for Institutional provisions as prepared by the Core team. The attached scenarios follow the structure of the INC Chair's text of 1 December 2024 (see <https://shorturl.at/zFOMo>), which serves as the basis for further negotiations on an international legally binding instrument on plastic pollution, including in the marine environment.

The attached scenarios concern Institutional provisions. Please note that text proposals have been removed from the updated scenario documents, so that the documents show scenarios only. Please note that scenarios A and C for Institutional provisions, agreed for INC-5.1, are published under WK 14453/2024 REV 2 (Strategy paper on Institutional provisions (A and C Scenarios on Definitions, Governing body, Decision-making, Subsidiary bodies) and WK 14252/2024 (Strategy paper on Institutional provisions (A and C Scenarios on Preamble, Principles, Objective, Scope, Secretariat and Final provisions).

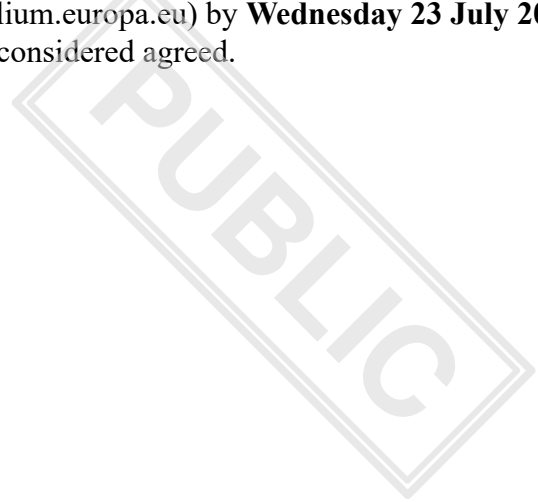
Both a clean and a tracked changes version are attached. The track changes indicate the new changes following the call for comments from the 15-17 July.

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An informal silence procedure is hereby launched. If no objections are sent to the Presidency (tachc@mim.dk; sidbj@mim.dk) with copy to the Council Secretariat (barbara.ernst@consilium.europa.eu; aimilena.vourliotaki@consilium.europa.eu; radovan.schida@consilium.europa.eu; environment@consilium.europa.eu) by **Wednesday 23 July 2025, cob** (Brussels time) the attached EU+MS scenarios will be considered agreed.



General remarks

- *Preamble of the Chair's text is a good basis, some adjustments are needed (e.g. no reference to CBDR). Balancing with principles and approaches is necessary.*
- Duplication or overlap between the Preamble and a possible provision on Principles and Approaches Provision should be avoided. Both need to be short and concise.
- Both the Preamble and a possible provision on Principles and Approaches Provision should reflect UNEA Res 5/14.
- Increased tendency of developing countries to 'pick and choose' some elements of the Rio declaration over others – need to have a balanced approach, as selective referencing creates inconsistency and undermines the coherence of international frameworks.
- Problematic trade references taking WTO language out of context are scattered throughout the text. This should be mainstreamed, including acceptable language only in either the preamble or an article on principles and approaches (ideally underlining the mutual supportiveness between the treaty and international trade rules) – parallel discussions on trade language in different contact groups should be avoided to prevent inconsistencies. This is without prejudice to specific provisions linked to concrete trade measures in specific provisions.

Scenario A

- A short and concise preamble that only covers elements that are strictly relevant.
- The preamble is based on UNEA Resolution 5/14 and it is necessary to stick to the wording agreed upon in that Resolution. A reaffirmation of the 2030 Agenda, possibly of SDG 12, could be included.
- The preamble includes a paragraph in which it is embedded that Parties resolve (or are committed to) end plastic pollution by 2040 so as to safeguard the ambition of the treaty.
- The preamble includes a paragraph on the full lifecycle of plastics.
- The preamble includes a paragraph on mutual supportiveness between the instrument and current and/or future international agreements dealing with chemicals.
- Mentioning that plastic pollution includes microplastics.
- No separate provision on principles. If such a provision is not included, a reference can be made in the preamble to the principles as enshrined in the Rio Declaration on Environment and Development without singling out specific principles.
- If there is a reference to trade, preferred wording would be: "Ensure that measures taken to combat plastic pollution are consistent with international trade rules".

Scenario C

- Preambular paragraphs on CBDR (singling it out from the Rio Principles). No explicit mention of CBDR would be acceptable, unless this principle is clearly redefined in the context of plastic pollution, linking responsibilities to the polluter pays principle.
- Picking and choosing between the principles of the UN Charter in an unbalanced manner: emphasis on national sovereignty [in international cooperation] without mentioning of international cooperation, coordination etc, as well as global targets. (*balancing exercise*).
- Preambular paragraphs that solely focus on downstream measures or the mentioning of lifecycle of plastics which is explained as only encompassing pollution or waste, while defining pollution too narrowly. (*balancing exercise*)
- Mentioning that plastics are fundamental for States and sectors, or the important role that plastics play in human society without highlighting its harmful effects. (*balancing exercise*)
- Problematic trade references taking WTO language out of context.

General remarks

- *Preference for option 0 (no provision on principles/approaches), open to using option 2 of the Chair's text as a basis for negotiations. (no red lines, but approaches have to be added).*
- Duplication or overlap between the Preamble and a possible provision on Principles and Approaches Provision should be avoided. Both need to be short and concise.
- Both the Preamble and a possible provision on Principles and Approaches Provision should reflect UNEA Res 5/14.
- Increased tendency of developing countries to 'pick and choose' some elements of the Rio declaration over others – need to have a balanced approach, as selective referencing creates inconsistency and undermines the coherence of international frameworks.

Scenario A

- No specific provision on principles.
- Some principles can be mentioned in preambular paragraphs.
- Principles and approaches could also be reflected in operative provisions. For example:
 - The precautionary approach could be reflected in the chapters related to chemicals of concern or the production and placing on the market of certain products;
 - The polluter pays principle as well as EPR (if considered as a principle or approach) could be reflected in part III on resource mobilization;
 - The promotion of the best available science, of knowledge of Indigenous Peoples and of local knowledge as well as the access to information and transparency are covered in Part IV.

Scenario C

- Singling out CBDR.
- Taking WTO language out of context and misquoting obligations contained therein.

Scenario A

- The objective should be succinct and easy to communicate, including a reference to “**end plastic pollution**”.
- Important to end plastic pollution by 2040, but this is something that can be addressed in the Preamble, not in the objective, and the provision should preferably include a reference to “full life cycle” and clear articulation of the objective to end plastic pollution.

Scenario C

- The objective not reflecting the ambition to end plastic pollution or working towards ending plastic pollution. This means EU+MS cannot accept phrasing that mentions putting an end to ‘additional’ plastic pollution or wording such as “addressing plastic pollution”.
- EU+MS does not support a reference to CBDR, nor “poverty eradications” or sustainable development as objective of this treaty.

Scenario A

- *Chair's current text: no specific provision on scope.*
- (1) No specific provisions on the scope - the scope already decided in UNEA Resolution 5/14 as the guiding principle during the negotiation process. The UNEA Resolution 5/14 should thus be mentioned in the treaty text, preferably in the Preamble.
- (2) More detailed provision on the scope, inspired from Option 5 (EU submission to INC-3), but simplified: "This legally binding instrument* covers the whole/full life cycle of plastics, from production, to design, use, consumption, disposal and remediation, and addresses all sources of plastic pollution. It covers plastic materials and products, as well as plastic related chemicals and microplastics".

Scenario C

- A provision on scope that is not compatible with the rest of the agreement or crosses red lines regarding specific parts of the agreement.
- A provision on scope that would limit the scope of the agreement to certain parts of the lifecycle (like waste management), certain sectors or certain types of plastic pollution or that would focus on certain parts. Microplastics, primary plastic production, plastic pellets or chemicals of concern are excluded from the scope.
- General/blanket exemptions for entire sectors without differentiation of actual use addressed in the scope provision (e.g. medical and health use; emergency response to public health incidents and natural disasters; scientific and experimental research – see option 3).

Scenario A

- An article on definitions is included in the first part of the instrument.
- Definitions are provided for a limited number of terms that are critical for the understanding and the implementation of the instrument's obligations.
- Definitions are not needed:
 - where universally accepted international definitions already exist;
 - that are science-based and there is consensus on their comprehension;
 - that are generally known terms, in particular where they primarily related to national implementation;
 - that are too broad for the scope of this treaty;
 - where the meaning of the term is made sufficiently clear in the provision(s) using them.

Scenario C

- No concretisation - neither in definitions nor in other relevant provisions - of terms that are critical for the understanding and the implementation of the instrument's obligations.

Plastics: *A material consisting of a plastic polymer to which additives or other substances may have been added, and which can function as a main structural component of final products, with the exception of natural polymers that have not been chemically modified.*

Plastic product(s): *means a product, or a component thereof, that is partly or entirely made of plastic.*

- *Specific reference to "a component" instead of "contains" limits the application to plastic parts of products that are not entirely made of plastics and addresses concerns that we have heard in Nairobi. Apart from that, the rest of the definition is in line with SUPD.*

Plastic waste: *Plastic waste refers to any plastic material or product that is discarded, lost or abandoned, intended to be discarded, or required to be discarded.*

Extended Producer Responsibility (EPR): *Environmental policy approach in which the responsibility of a **producer, importer, brand owner or other essential stakeholder in the value chain** for a product is extended to the waste stage of that product's life-cycle.*

Scenario A

- Establishing a Conference of the Parties (COP) as governing body.
- First COP no later than one year after entry into force; then regular meetings as decided by the COP.
- Very broad mandate for the COP: The COP must be able to take any necessary measures for the implementation of the instrument, as well as be able to respond to further developments in an agile and dynamic way to achieve the objectives.
- The functions would include:
 - Taking any action necessary to achieve the objectives of the instrument
 - Establishing subsidiary bodies and overseeing their work
 - Reviewing, evaluating and adopting decisions related to the implementation of the Convention
 - Considering matters related to compliance
 - Requesting and considering scientific and technical assessments
 - Cooperating with competent other international organizations and other bodies
 - Taking decisions on convening meetings
 - Considering and adopting protocols, amendments and annexes to the instrument and amendments to annexes
- Decision making possible by a two thirds majority voting on procedural and substantive matters and simple majority for procedural matters, if all efforts to reach consensus have been exhausted, except as otherwise provided for in the Treaty.
- Further rules of procedure and financial rules and financial provisions for the Secretariat (shall be adopted by consensus at COP's first meeting already in the Chair's non-paper, article 20.4) giving furtherance to the disclaimer of "except as otherwise provided for in the Treaty" of the bullet supra.

Scenario C

- Not having a COP, but a mere review conference that cannot take decisions (cfr. UN Fish Stocks Agreement).
- Having a COP which can only decide by consensus
- The financial rules not to be decided by consensus.
- If the functions listed for the COP make it, on balance, so inflexible that it cannot fulfil its role of supporting the implementation of the instrument.
- Subsidiary bodies to help COP to provide guidance on financial needs for the implementation of measures (as were included in a previous version of the Chair's text in Article 20.5, (j)).
- Decision making for non-administrative financial issues and resource mobilisation not to be decided by consensus.¹

¹ Decision making for MoI should follow the general provisions on decision-making and should be developed in the RoP and Financial Rules adopted by consensus at COP1. If the issue of the decision making regarding MOI was raised by others, the EU+MS will request that decision-making should be dealt with under the institutional part of the treaty, not under the MoI part.

ARTICLE 20BIS - SUBSIDIARY BODIES

General remarks

- Both the Implementation and Compliance Committee (ICC) and the Technical Review Committee are core bodies in the institutional design of the future plastics treaty. It is important that these two subsidiary bodies are established in the instrument itself.
- For details regarding the Implementation and Compliance Committee, see scenarios for Article 13.
- The EU+MS would want Article 20bis to focus on the establishment of a Technical Review Committee
- The EU and its MS are reluctant to establish other permanent subsidiary bodies than those that are part of the text now. We want to find compromises by discussing how certain functions of other proposed subsidiary bodies could be integrated into the work of the two subsidiary bodies currently in the Chair's text.

Scenario A

- Limit article 20bis to the establishment of a Technical Review Committee in the instrument that is able to provide recommendations to the governing body. The Technical Review Committee should be the only subsidiary body to provide scientific and technical information and assessments. The Technical Review Committee can also be set up in a separate provision or in the provision on the governing body (article 20).
- Article 20bis and article 3 need to link or refer to each other.
- The provision establishing the Technical Review Committee provides for the possibility of majority voting with a X majority in case no consensus can be found.
- Article 20bis includes some generic language on the membership of the Committee, ensuring it is composed of a small number of experts.
- The decision on the terms of reference, organisation and operation of the Committee to the COP (inspired by the example of the Stockholm and Rotterdam Conventions) can be left to COP-1. No other subsidiary bodies established in the instrument besides the Technical Review Body and Implementation and Compliance Committee.
- No permanent body (such as Basel OEWG, etc.) set up to prepare the meetings of the governing body.
- The governing body can further define the functions of the subsidiary bodies and can establish new ones (this needs to be foreseen under art 20).

Scenario C

- *(For the Compliance and Implementation Committee, see the specific Implementation LTTs on this).*
- The establishment of the Technical Review Committee is excluded or left for later (not defined that it will be at COP-1) and the possibility of majority voting for the COP has not been secured.
- A subsidiary body with universal membership that has as the only function to help the COP to provide guidance on the articles 11 and 12 on Mol for the implementation of measures (e.g. current GRULAC proposal on SBI; BR proposal on the SBIC).

ARTICLE 21 - SECRETARIAT

Scenario A

- The Secretariat is established in the treaty text.
- The Secretariat functions shall be performed by the Executive Director of UNEP.
- The functions of the Secretariat shall include:
 - Preparation and arrangements for meetings of the governing body, subsidiary bodies and providing them with services as required
 - To facilitate the implementation of the instrument;
 - To assist Parties, as required, in the exchange of information related to implementation of the instrument
 - To compile and publish national reports submitted by the Parties;
 - To prepare and make available to the Parties periodic reports based on national reporting and other sources of information, as appropriate
 - To coordinate, as appropriate, with the Secretariats of other relevant international bodies and instruments;
- To perform the other secretariat functions specified in this instrument and such other functions as may be determined by the governing body;The Secretariat does not have a coordinating role regarding the implementation of the instrument. Other MEA (such as the Minamata, Rotterdam, Stockholm Conventions or UNFCCC) do not include this. It is unclear what this means and could be a laborious task for the Secretariat and go beyond what we expect from a Secretariat.
- The instrument provides text on possible enhanced collaboration between Secretariats, to avoid duplication of work.
- The treaty does not stipulate the location of the Secretariat.

Scenario C

- No Secretariat is established.
- Secretariat is not fit for purpose.

PART VI – FINAL PROVISIONS (DISPUTE SETTLEMENT; AMENDMENTS TO THE CONVENTION; ADOPTION AND AMENDMENT OF ANNEXES; RIGHT TO VOTE; SIGNATURE; RATIFICATION, ACCEPTANCE, APPROVAL OR ACCESSION; ENTRY INTO FORCE; RESERVATIONS; WITHDRAWAL, DEPOSITORY; AUTHENTIC TEXTS)

- It is essential to the EU+MS that the final clauses be precise and well-drafted in order to allow for the easy operation of the treaty and to facilitate implementation by the Parties and the depositary.
- The EU+MS look favourably to the articles regarding final provisions in the Chair's text.
- The EU+MS believe that existing MEAs can provide a strong basis for the final clauses.

Article 22 – Settlement of disputes

Scenario A

- The treaty includes an article on dispute settlement, which references the fact that disputes need to be settled by peaceful means, *inter alia* through arbitration or the International Court of Justice (cfr. BBNJ articles 58-60 and Minamata article 25). Using previously agreed/standard language for such an article, would be ideal.
- A sentence on dispute prevention is included.
- The word "shall" is used, to indicate the obligatory nature of the settlement of disputes through peaceful means.
- Inclusion of other examples on top of negotiation as a possible peaceful means, in particular "negotiation, inquiry, mediation, arbitration and judicial settlement"

Scenario C

- A Treaty which does not include an article on dispute settlement.

Article 23 – Amendments to the Convention

Scenario A

- Any Party can propose amendments to the instrument.
- Amendments will be adopted by COP.
- While Parties shall make every effort to reach agreement by consensus, amendments to the instrument shall as a last resort be adopted by a 2/3 vote.
- The amendment will enter into force when 2/3rds of the Parties will have ratified it.
- Change in article 23.5 of the words “for parties having consented to be bound by it” to “for parties having ratified, accepted or approved it” as it is not clear what would be meant by “consenting to be bound” other than ratification, acceptance or approval and this diverging wording leads to confusion.

Scenario C

- An article which allows for amendment of the Treaty by consensus only as part of a Convention that it may need further strengthening later on.

Article 24 – Adoption and amendment of Annexes

Scenario A

- “Any additional annexes adopted after the entry into force of this Convention shall be restricted to procedural, scientific, technical or administrative matters.” is interpreted in a way that is sufficient to cover needs identified in other parts of the Convention.
- For the adoption of new annexes (§3):
 - Same procedure as for the amendment to the Convention, including the possibility to vote with a 2/3 majority if all efforts fail to reach consensus. This will be crucial in order to foil obstructionist strategies and prevent the use of consensus to block progress. The proposed article does not contain explicit % for the voting, it only refers to the article on amendments to the treaty regarding the preference for consensus and a qualified majority voting as a last resort.
 - Accept the possibility to opt out of new annexes within 6 months, in order not to prolong uncertainty for too long.
 - After 6 months, new annexes should automatically enter into force for all States Parties except for opt-outers.
- For the amendment of existing annexes (§4):
 - The procedure should be the same as for new annexes;
 - Not accept that Parties can decide to be opt-in Parties rather than opt-out Parties, as described in Article 27.4
 - A State Party which activates this clause in their instrument of ratification will need to ratify any amendment to existing annexes, before said amendment will enter into force for that specific State Party. However, if a State Party does not wish to be bound by an amendment to an existing annex, it can already opt out. It does not need the possibility to become an opt-in Party..

Scenario C

- A treaty to which amendments to annexes or new annexes can only be adopted by consensus, except for those for which opt-outs would not be feasible.

Article 25 – Right to vote

Scenario A

- The treaty follows the usual practice with regard to the exercise of rights to vote by regional economic integration organisations. A regional economic integration organisation, on matters within its competence, shall exercise its right to vote with a number of votes equal to the number of its member States that are Parties to the treaty. Thus, The EU and its MS position at INC-5.2 should thus be that standard MEA language should be used on voting rights in the treaty and, where appropriate, also in the rules of procedure.

Scenario C

- Any further limitations to those voting rights, making them conditional to EU Member States being ‘accredited and present at the time of the vote’, should not be accepted under any circumstances.
- A treaty without a REIO clause, understood as not having the same number of votes as the number of Member States of said organisation that are parties to the Convention, is a red line for the EU.

Article 26 – Signature

Scenario A

- Signature of the treaty should be open to all States and regional economic integration organisations;
- The treaty should be open for signature for a duration of 1 year, to underline the urgency of the issue and the need to keep political pressure on this matter.
- The treaty stipulates when and where it will be opened for signature.
- The Location and the date of the Diplomatic Conference should not be stipulated in the treaty.

(According to the note provided by the Secretariat, a 4 to 6-week time period is needed between the Diplomatic Conference and the opening for signature of the Convention)

Scenario C

- A Treaty that could not be signed by a regional economic integration organization.

Article 27 – Ratification, Acceptance, Approval or Accession

Scenario A

- States and regional economic integration organisations can ratify.
- Preference not to accept the possibility for Parties to be “opt-in” Parties, as currently foreseen in Article 27.4: this puts into place a system by which States Parties can declare, in their instrument of ratification, whether any amendments to Annexes will require ratification by said State Party. Indeed, States Parties can already opt out of amendments to existing annexes.

Scenario C

- An article implying that a regional economic integration organisation would not be able to ratify.

Article 28 – Entry into Force

Scenario A

- Between 50 and 60 instruments of ratification, acceptance, approval or acceptance needed for entry into force
- Entry into force on the 90th day thereafter

Scenario C

- A clearly unreasonable amount of ratifications needed, e.g. RF proposal of 97.



Article 29 – Reservations

Scenario A

- No reservations may be made to this Convention .This would not preclude a State or regional economic integration organisation, when signing, ratifying, approving, accepting or acceding to the treaty, from making declarations or statements, however phrased or named, with a view, inter alia, to the harmonisation of its laws and regulations with the provisions of the treaty, provided that such declarations or statements do not purport to exclude or to modify the legal effect of the provisions of the treaty in their application to that State or regional economic integration organisation.

Scenario C

- A treaty generally allowing reservations



Article 30 – Withdrawal

Scenario A

- The EU+MS accepts the text as is.

Scenario C

- A Treaty accepting withdrawal after less than 2 or only after more than 5 years

Article 31 – Depository

Scenario A

- The Secretary-General of the United Nations shall be the Depository

Scenario C:

Article 32 – Authentic texts

Scenario A

- The number of the article is erroneous.
- The text proposed by the Chair.

Scenario C:

Brazilian proposal for a transition period

Scenario A

- The Treaty does not include a general transition period for compliance with its obligations

PREAMBLE

General remarks

- Preamble of the Chair's text is a good basis, some adjustments are needed (e.g. no reference to CBDR). Balancing with principles and approaches is necessary.
- Duplication or overlap between the Preamble and a possible provision on Principles and Approaches Provision should be avoided. Both need to be short and concise.
- Both the Preamble and a possible provision on Principles and Approaches Provision should reflect UNEA Res 5/14.
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Scenario C

- Preambular paragraphs on CBDR (singling it out from the Rio Principles). No explicit mention of CBDR would be acceptable, unless this principle is clearly redefined in the context of plastic pollution, linking responsibilities to the polluter pays principle.
- Picking and choosing between the principles of the UN Charter in an unbalanced manner: emphasis on national sovereignty [in international cooperation] without mentioning of international cooperation, coordination etc, as well as global targets. (*balancing exercise*).
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- Mentioning that plastics are fundamental for States and sectors, or the important role that plastics play in human society without highlighting its harmful effects, (*balancing exercise*)
- Problematic trade references taking WTO language out of context.



ARTICLE 1BIS - PRINCIPLES AND APPROACHES

General remarks

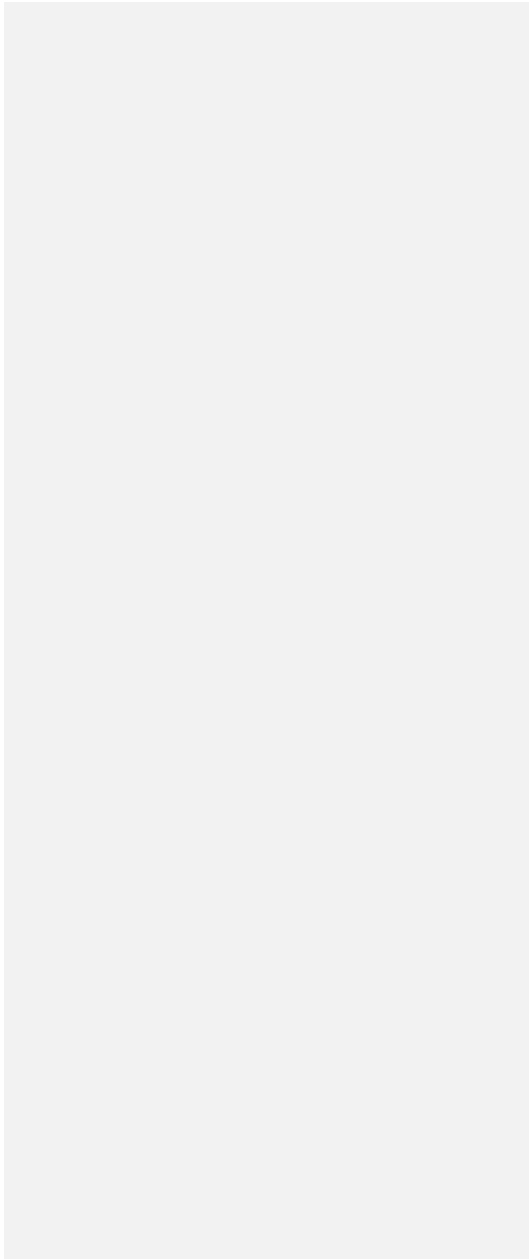
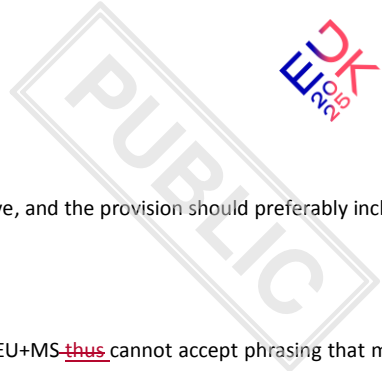
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 - The promotion of the best available science, of knowledge of Indigenous Peoples and of local knowledge as well as the access to information and transparency are covered in Part IV.

Scenario C

- Singling out CBDR. ~~or including the Rio Principles in general, as this would imply the inclusion of CBDR, as defined in the Rio Declaration~~
- Taking WTO language out of context and misquoting obligations contained therein.



ARTICLE 1 - OBJECTIVE

Scenario A

- The objective should be succinct and easy to communicate, including a reference to “**end plastic pollution**”.
- Important to end plastic pollution by 2040, but this is something that can be addressed in the Preamble, not in the objective, and the provision should preferably include a reference to “full life cycle” and clear articulation of the objective to end plastic pollution.

Scenario C

- The objective not reflecting the ambition to end plastic pollution or working towards ending plastic pollution. This means EU+MS ~~thus~~ cannot accept phrasing that mentions putting an end to ‘additional’ plastic pollution or ~~Cannot accept~~ wording such as “addressing plastic pollution”.
- EU+MS does not support a reference to CBDR, nor “poverty eradications” or sustainable development as objective of this treaty.

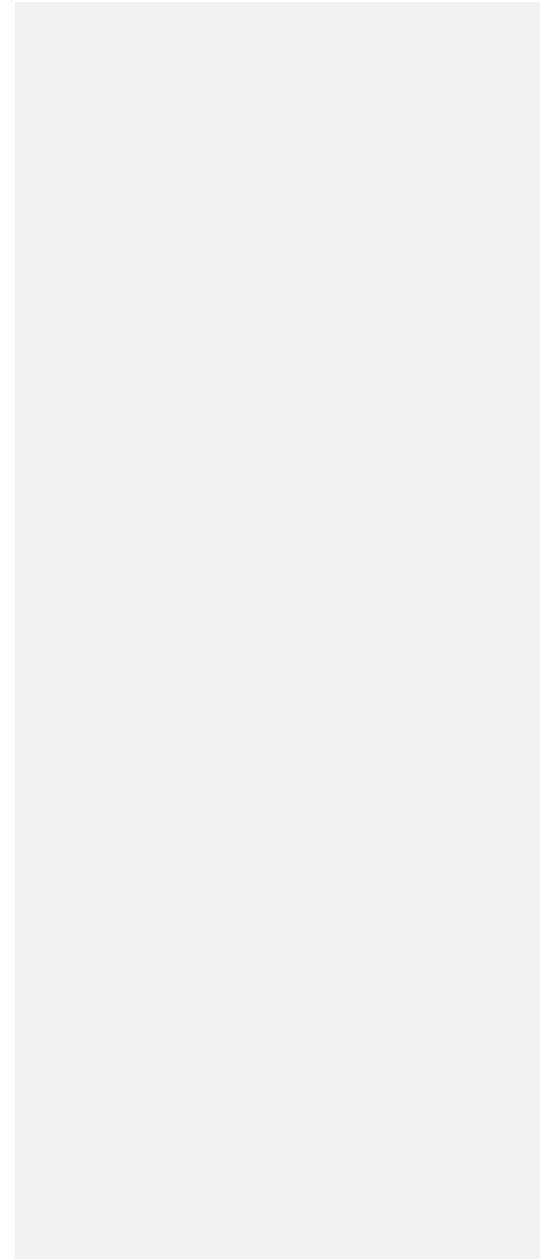
SCOPE

Scenario A

- *Chair's current text: no specific provision on scope.*
- (1) No specific provisions on the scope - the scope already decided in UNEA Resolution 5/14 as the guiding principle during the negotiation process. The UNEA Resolution 5/14 should thus be mentioned in the treaty text, preferably in the Preamble.
- (2) More detailed provision on the scope, inspired from Option 5 (EU submission to INC-3), but simplified: "This legally binding instrument* covers the whole/full life cycle of plastics, from production, to design, use, consumption, disposal and remediation, and addresses all sources of plastic pollution. It covers plastic materials and products, as well as plastic related chemicals and microplastics".

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- A provision on scope that is not compatible with the rest of the agreement or crosses red lines regarding specific parts of the agreement.
- A provision on scope that would limit the scope of the agreement to certain parts of the lifecycle (like waste management), certain sectors or certain types of plastic pollution or that would focus on certain parts. Microplastics, primary plastic production, plastic pellets or chemicals of concern are excluded from the scope.
- General/blanket exemptions for entire sectors without differentiation of actual use addressed in the scope provision (e.g. medical and health use; emergency response to public health incidents and natural disasters; scientific and experimental research – see option 3).



ARTICLE 2 - DEFINITIONS

Scenario A

- An article on definitions is included in the first part of the instrument.
- Definitions are provided for a limited number of terms that are critical for the understanding and the implementation of the instrument's obligations.
- Definitions are not needed:
 - where universally accepted international definitions already exist;
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Scenario C

- No concretisation - neither in definitions nor in other relevant provisions - of terms that are critical for the understanding and the implementation of the instrument's obligations.

DEFINITIONS ANNEX – Text proposals for definitions

Plastics: A material consisting of a plastic polymer to which additives or other substances may have been added, and which can function as a main structural component of final products, with the exception of natural polymers that have not been chemically modified.

Plastic product(s): means a product, or a component thereof, that is partly or entirely made of plastic.

- Specific reference to "a component" instead of "contains" limits the application to plastic parts of products that are not entirely made of plastics and addresses concerns that we have heard in Nairobi. Apart from that, the rest of the definition is in line with SUPD.
- ~~All physical goods which contain or are partly or entirely made of any form of plastic.~~

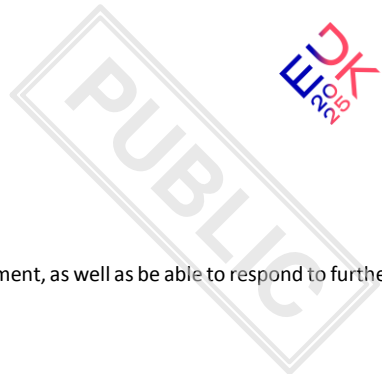
Plastic waste: Plastic waste refers to any plastic material or product that is discarded, lost or abandoned, intended to be discarded, or required to be discarded.

Extended Producer Responsibility (EPR): Environmental policy approach in which ~~the a producer's~~ responsibility of a producer, importer, brand owner or other essential stakeholder in the value chain for a product is extended to the waste stage of that product's life-cycle.

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Part V Governing Body

ARTICLE 20 - CONFERENCE OF THE PARTIES



Scenario A

- Establishing a Conference of the Parties (COP) as governing body.
- First COP no later than one year after entry into force; then regular meetings as decided by the COP.
- Very broad mandate for the COP: The COP must be able to take any necessary measures for the implementation of the instrument, as well as be able to respond to further developments in an agile and dynamic way to achieve the objectives.
- The functions would include:
 - Taking any action necessary to achieve the objectives of the instrument
 - Establishing subsidiary bodies and overseeing their work
 - Reviewing, evaluating and adopting decisions related to the implementation of the Convention
 - Considering matters related to compliance
 - Requesting and considering scientific and technical assessments
 - Cooperating with competent other international organizations and other bodies
 - Taking decisions on convening meetings
 - Considering and adopting protocols, amendments and annexes to the instrument and amendments to annexes
- Decision making possible by a two thirds majority voting on ~~procedural and~~ substantive matters and simple majority for procedural matters, if all efforts to reach consensus have been exhausted, except as otherwise provided for in the Treaty.
- Further rules of procedure and financial rules and financial provisions for the Secretariat (shall be adopted by consensus at COP's first meeting already in the Chair's non-paper, article 20.4) giving furtherance to the disclaimer of "except as otherwise provided for in the Treaty" of the bullet supra.

Scenario C

- Not having a COP, but a mere review conference that cannot take decisions (cfr. UN Fish Stocks Agreement).
- Having a COP which can only decide by consensus
- The financial rules not to be decided by consensus.
- If the functions listed for the COP make it, on balance, so inflexible that it cannot fulfil its role of supporting the implementation of the instrument.
- Subsidiary bodies to help COP to provide guidance on financial needs for the implementation of measures (as were included in a previous version of the Chair's text in Article 20.5, (j)).
- Decision making for non-administrative financial issues and resource mobilisation not to be decided by consensus.¹

¹ Decision making for MoI should follow the general provisions on decision-making and should be developed in the RoP and Financial Rules adopted by consensus at COP1. If the issue of the decision making regarding MOI was raised by others, the EU+MS will request that decision-making should be dealt with under the institutional part of the treaty, not under the MoI part.

ARTICLE 20BIS - SUBSIDIARY BODIES

General remarks

- Both the Implementation and Compliance Committee (ICC) and the Scientific-Technical Review Committee are core bodies in the institutional design of the future plastics treaty. It is important that these two subsidiary bodies are established in the instrument itself.
- For details regarding the Implementation and Compliance Committee, see scenarios for Article 13.
- The EU+MS would want Article 20bis to focus on the establishment of a Technical Review Committee
- The EU and its MS are reluctant to establish other permanent subsidiary bodies than those that are part of the text now. We want to find compromises by discussing how certain functions of other proposed subsidiary bodies could be integrated into the work of the two subsidiary bodies currently in the Chair's text.

Scenario A

- Limit article 20bis to the establishment of a Technical Review Committee in the instrument that is able to provide recommendations to the governing body. The Technical Review Committee should be the only subsidiary body to provide scientific and technical information and assessments. The Technical Review Committee can also be set up in a separate provision or in the provision on the governing body (article 20).
- Article 20bis and article 3 need to link or refer to each other.
- The provision establishing the Technical Review Committee provides for the possibility of majority voting with a X majority in case no consensus can be found.
- Article 20bis ~~includes some~~includes some generic language on the membership of the Committee, ensuring it is composed of a small number of experts.
- The decision on the terms of reference, organisation and operation of the Committee to the COP (inspired by the example of the Stockholm and Rotterdam Conventions) can be left to COP-1. No other subsidiary bodies established in the instrument besides the Technical Review Body and Implementation and Compliance Committee.
- No permanent body (such as Basel OEWG, etc.) set up to prepare the meetings of the governing body.
- The governing body can further define the functions of the subsidiary bodies and can establish new ones (this needs to be foreseen under art 20).

Scenario C

- *(For the Compliance and Implementation Committee, see the specific Implementation LTTs on this).*
- The establishment of the Technical Review Committee is excluded or left for later (not defined that it will be at COP-1) and the possibility of majority voting for the COP has not been secured.
- A subsidiary body with universal membership that has as the only function to help the COP to provide guidance on the articles 11 and 12 on MoI for the implementation of measures (e.g. current GRULAC proposal on SBI; BR proposal on the SBIC).



**Danish
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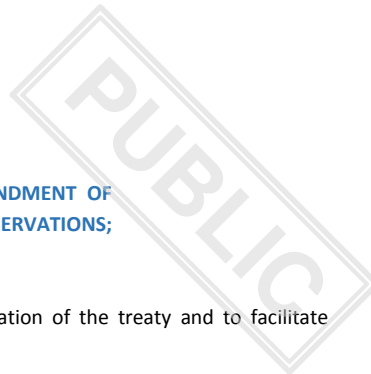
ARTICLE 21 - SECRETARIAT

Scenario A

- The Secretariat is established in the treaty text.
- The Secretariat functions shall be performed by the Executive Director of UNEP.
- The functions of the Secretariat shall include:
 - Preparation and arrangements for meetings of the governing body, subsidiary bodies and providing them with services as required
 - To facilitate the implementation of the instrument;
 - To assist Parties, as required, in the exchange of information related to implementation of the instrument
 - To compile and publish national reports submitted by the Parties;
 - To prepare and make available to the Parties periodic reports based on national reporting and other sources of information, as appropriate
 - To coordinate, as appropriate, with the Secretariats of other relevant international bodies and instruments;
- To perform the other secretariat functions specified in this instrument and such other functions as may be determined by the governing body;The Secretariat does not have a coordinating role regarding the implementation of the instrument. Other MEA (such as the Minamata, Rotterdam, Stockholm Conventions or UNFCCC) do not include this. It is unclear what this means and could be a laborious task for the Secretariat and go beyond what we expect from a Secretariat.
- The instrument provides text on possible enhanced collaboration between Secretariats, to avoid duplication of work.
- The treaty does not stipulate the location of the Secretariat.

Scenario C

- No Secretariat is established.
- Secretariat is not fit for purpose.



PART VI – FINAL PROVISIONS (DISPUTE SETTLEMENT; AMENDMENTS TO THE CONVENTION; ADOPTION AND AMENDMENT OF ANNEXES; RIGHT TO VOTE; SIGNATURE; RATIFICATION, ACCEPTANCE, APPROVAL OR ACCESSION; ENTRY INTO FORCE; RESERVATIONS; WITHDRAWAL, DEPOSITORY; AUTHENTIC TEXTS)

- It is essential to the EU+MS that the final clauses be precise and well-drafted in order to allow for the easy operation of the treaty and to facilitate implementation by the Parties and the depositary.
- The EU+MS look favourably to the articles regarding final provisions in the Chair’s text.
- The EU+MS believe that existing MEAs can provide a strong basis for the final clauses.

Article 22 – Settlement of disputes

Scenario A

- The treaty includes an article on dispute settlement, which references the fact that disputes need to be settled by peaceful means, *inter alia* through arbitration or the International Court of Justice (cfr. BBNJ articles 58-60 and Minamata article 25). Using previously agreed/standard language for such an article, would be ideal.
- A sentence on dispute prevention is included.
- The word “shall” is used, to indicate the obligatory nature of the settlement of disputes through peaceful means.
- Inclusion of other examples on top of negotiation as a possible peaceful means, in particular “negotiation, inquiry, mediation, arbitration and judicial settlement”

Scenario C

- A Treaty which does not include an article on dispute settlement.



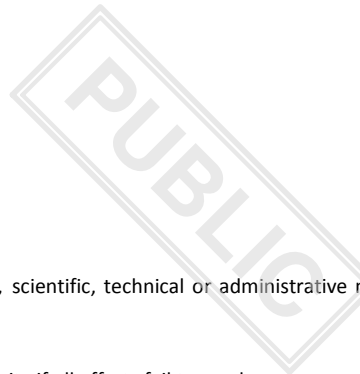
- **Article 23 – Amendments to the Convention**

Scenario A

- Any Party can propose amendments to the instrument.
- Amendments will be adopted by COP.
- While Parties shall make every effort to reach agreement by consensus, amendments to the instrument shall as a last resort be adopted by a 2/3 vote.
- The amendment will enter into force when 2/3rds of the Parties will have ratified it.
- Change in article 23.5 of the words “for parties having consented to be bound by it” to “for parties having ratified, accepted or approved it” as it is not clear what would be meant by “consenting to be bound” other than ratification, acceptance or approval and this diverging wording leads to confusion.

Scenario C

- An article which allows for amendment of the Treaty by consensus only as part of a Convention that it may need further strengthening later on.



Article 24 – Adoption and amendment of Annexes

Scenario A

- “Any additional annexes adopted after the entry into force of this Convention shall be restricted to procedural, scientific, technical or administrative matters.” is interpreted in a way that is sufficient to cover needs identified in other parts of the Convention.
- For the adoption of new annexes (§3):
 - Same procedure as for the amendment to the Convention, including the possibility to vote with a 2/3 majority if all efforts fail to reach consensus. This will be crucial in order to foil obstructionist strategies and prevent the use of consensus to block progress. The proposed article does not contain explicit % for the voting, it only refers to the article on amendments to the treaty regarding the preference for consensus and a qualified majority voting as a last resort.
 - Accept the possibility to opt out of new annexes within 6 months, in order not to prolong uncertainty for too long.
 - After 6 months, new annexes should automatically enter into force for all States Parties except for opt-outers.
- For the amendment of existing annexes (§4):
 - The procedure should be the same as for new annexes;
 - Not accept that Parties can decide to be opt-in Parties rather than opt-out Parties, as described in Article 27.4
 - A State Party which activates this clause in their instrument of ratification will need to ratify any amendment to existing annexes, before said amendment will enter into force for that specific State Party. However, if a State Party does not wish to be bound by an amendment to an existing annex, it can already opt out. It does not need the possibility to become an opt-in Party..

Scenario C

- A treaty to which amendments to annexes or new annexes can only be adopted by consensus, except for those for which opt-outs would not be feasible.

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Article 25 – Right to vote

Scenario A

- The treaty follows the usual practice with regard to the exercise of rights to vote by regional economic integration organisations. A regional economic integration organisation, on matters within its competence, shall exercise its right to vote with a number of votes equal to the number of its member States that are Parties to the treaty. Thus, The EU and its MS position at INC-5.2 should thus be that standard MEA language should be used on voting rights in the treaty and, where appropriate, also in the rules of procedure.

Scenario C

- Any further limitations to those voting rights, making them conditional to EU Member States being ‘accredited and present at the time of the vote’, should not be accepted under any circumstances.
- A treaty without a REIO clause, understood as not having the same number of votes as the number of Member States of said organisation that are parties to the Convention, is a red line for the EU.



Article 26 – Signature

Scenario A

- Signature of the treaty should be open to all States and regional economic integration organisations;
- The treaty should be open for signature for a duration of 1 year, to underline the urgency of the issue and the need to keep political pressure on this matter.
- The treaty stipulates when and where it will be opened for signature.
- The Location and the date of the Diplomatic Conference should not be stipulated in the treaty.

(According to the note provided by the Secretariat, a 4 to 6-week time period is needed between the Diplomatic Conference and the opening for signature of the Convention)

Scenario C

- A Treaty that could not be signed by a regional economic integration organization.

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Article 27 – Ratification, Acceptance, Approval or Accession

Scenario A

- States and regional economic integration organisations can ratify.
- Preference not to accept the possibility for Parties to be “opt-in” Parties, as currently foreseen in Article 27.4: this puts into place a system by which States Parties can declare, in their instrument of ratification, whether any amendments to Annexes will require ratification by said State Party. Indeed, States Parties can already opt out of amendments to existing annexes.

Scenario C

- An article implying that a regional economic integration organisation would not be able to ratify.

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Article 28 – Entry into Force

Scenario A

- Between 50 and 60 instruments of ratification, acceptance, approval or acceptance needed for entry into force
- Entry into force on the 90th day thereafter

Scenario C

- A clearly unreasonable amount of ratifications needed, e.g. RF proposal of 97.

Article 29 – Reservations

Scenario A

- No reservations may be made to this Convention. This would not preclude a State or regional economic integration organisation, when signing, ratifying, approving, accepting or acceding to the treaty, from making declarations or statements, however phrased or named, with a view, inter alia, to the harmonisation of its laws and regulations with the provisions of the treaty, provided that such declarations or statements do not purport to exclude or to modify the legal effect of the provisions of the treaty in their application to that State or regional economic integration organisation.

Scenario C

- A treaty generally allowing reservations



Article 30 – Withdrawal

Scenario A

- The EU+MS accepts the text as is.

Scenario C

- A Treaty accepting withdrawal after less than 2 or only after more than 5 years

Article 31 – Depository

Scenario A

- The Secretary-General of the United Nations shall be the Depository

Scenario C:

Article 32 – Authentic texts

Scenario A

- The number of the article is erroneous.
- The text proposed by the Chair.

Scenario C:

Brazilian proposal for a transition period

Scenario A

- The Treaty does not include a general transition period for compliance with its obligations