



7 November 2022

**Jyoti Mathur-Filipp**  
**Executive Secretary, INC Plastic Pollution Secretariat**  
**United Nations Environment Programme**

Dear Jyoti and INC Secretariat,

We are writing this letter to bring to your attention a growing concern regarding the proposed mechanism of stakeholder engagement during INC-1, specifically the declared intention to use the UNEP Major Groups system to organize observer participation in the process.

The mandate for the plastics treaty calls for the “widest and most effective participation possible.” As a result of in-depth discussions, at the Ad-Hoc Open-Ended Working Group meeting in Dakar, Senegal, in June 2022, Member States were supportive of using the same procedures as the ones used for the Minamata Convention regarding NGO participation. While the Rules of Procedure could not be formally recommended for adoption in Dakar because of one specific procedural issue, there was a clear consensus among all member states about stakeholder participation. The question of whether to utilize the Major Groups System was indeed discussed in Dakar, and declined, as indicated in the draft agreed on by the working group (and mentioned in the UNEP report of the meeting). The Major Group System is a UNEP process, used for UNEA (although the RoP of UNEA itself does not mandate, nor mention Major Group System representation).

Recognizing its limitation, Member States in Dakar promoted open, inclusive, and transparent participation. In that respect, countries noted that the Minamata Convention rules of procedure would adequately address the needs of waste-picker groups, Indigenous Peoples, public health groups, and environmental groups, among others. As a result, countries agreed to use the Minamata Convention rules of procedure as a model. This was further mentioned and highlighted in the closing statements of several countries, including Norway, Brazil and the UK.

It should be noted that the Minamata Convention rules of procedure define NGO participation under Observers with no reference to any Major Groups, nor has there ever been an application of the Major Groups to the Minamata Convention process. Attempting to apply the Major Group System to an Intergovernmental Negotiating Committee, conflicts with the Member States' clearly stated intentions and the stated desire for this to be a member-led process.

We understand from our conversations with the Civil Society Unit that the intention is to utilize this process for INC-1 to guarantee, rather than limit participation. However, the Major Groups System as used at UNEA does have the impact of limiting participation, which is not appropriate for the INC.

For more detailed information, please see below.

.....

In addition, we would like to bring to your attention the fact that existing international agreements such as the Aarhus Convention and the Escazú Agreement enshrine principles of public participation into international agreements, and parties to these conventions have legal obligations to uphold these rights. In that sense, the Twenty-sixth meeting of the Working Group of the Parties to the Aarhus Convention held a dedicated Thematic Session on the INC process and issued the two following conclusions ([ECE/MP.PP/WG.1/2022/2](#)): “70(c) took note of the issues, challenges, especially for



*NGOs, and opportunities for public participation in international decision-making on legally binding instruments on plastic pollution (...) as raised by Parties and stakeholders during the discussion” and:*

*“(d) Urged Parties to continue promoting the Convention’s principles in international forums and processes related to legally binding instruments on plastic pollution (...)”*

Full access to the proceedings and intervening in this first INC is an integral part of effective and meaningful participation. For more information on the legal implications of public participation, see [this report](#), published by the Center for International Environmental Law in advance of the OEWG. The first INC sets a precedent and using the Major Groups System will hinder participation from the outset, so we strongly recommend starting off negotiations with a model that reflects the spirit of Dakar and working from that basis going forward.

Finally, and for further reference, we wish to outline below some of the main concerns that were expressed during the discussions in Dakar about the Major Groups Systems, that led to Member States agreeing to use the Minamata Rules of Procedures as a model:

1. It artificially limits participation. By pooling all organizations / individuals affiliated with one Major Group under one MG flag, this system limits the ability of organizations to speak on their own behalf and on the behalf of the diverse constituencies they represent. Because of this, it also gives disproportionate representation to some Major Groups.
2. It gives disproportionate representation to UNEP-accredited Major Groups, over other observers who may not have context, recognition or experience operating within the Major Groups system. Again, this was discussed and identified as highly problematic and detrimental to the success of the process at the Open-Ended Working Group meeting.
3. The system is not familiar to those outside the UNEA space and will thus hinder the full participation of all interested stakeholders and right-holders. This full participation was identified as key to the success of the negotiation process during the working group discussions in Dakar. The fact that many organizations and individuals participating at INC-1 are not UNEP-accredited, this will be of particular relevance to this meeting.

We, together with Member States, strongly support the application of the Rules of the Minamata Convention and their process for a broader and more effective observers’ participation, as contained in the draft Rules of Procedure that Member States agreed to put forward to the INC. We hope that the measures introduced and maintained by the Secretariat will reflect the clear consensus among Member States at the OEWG.

We would appreciate your confirmation that the Secretariat will prepare the INCs process and logistics accordingly.

Signed,

**Center for International Environmental Law  
International Pollutants Elimination Network  
Environmental Investigation Agency**

