Submission on behalf of the Alliance of Small Island States (AOSIS) at the First Session of the Intergovernmental Negotiating Committee to develop a legally binding instrument on plastic pollution, including in the marine environment

Punta del Este, Uruguay
30 November 2022

Agenda Item 4:2 – Scope, Objective(s) and options for structure.

1. The objectives of the international legally binding instrument (ILBI) on plastic pollution must be clear, practical, attainable and realistic, while being considerate of the elements and principles of Resolution 5/14.

2. The ultimate objective of the ILBI should be to prevent, reduce and eventually eliminate plastic pollution, in order to avoid its related risks to human health and adverse effects on human well-being and the environment, particularly the marine environment, in a progressive and strategic manner that covers the full life-cycle of plastic, within the context of promoting circularity and sustainable development, taking into account the special circumstances of SIDS.

3. In order to support ambition in this ILBI, AOSIS continues to consider quantitative and measurable targets or goals within the Objective(s).

4. The scope of this instrument is past, present and future plastic pollution globally and the necessary actions across the full life-cycle to achieve the Objective(s), prioritizing those actions which would reduce the disproportionate impacts of plastic pollution.

5. SIDS envision the design of the ILBI in a way that allows for flexibility and progression, while taking into account the transboundary nature of plastic pollution and its disproportionate impact on SIDS.

6. The ILBI must provide clarity on and/or recognize certain key terms and concepts, including, but not limited to, plastic, biodegradable, reusable plastic, compostable, extended producer responsibility, extended producer liability, problematic plastics, recyclable plastic, private sector, non-recyclable plastic, sustainable alternatives, substitutes, full life-cycle, linear and circular economy, resource efficiency, single-use plastics, micro-plastic, prevention, plastic waste minimization, environmental product design, sustainable consumption and production, plastic pollution in the marine environment, technology transfer, upstream, midstream and downstream, plastic waste leakage.

7. The ILBI will also need to recognize principles and approaches, including, but not limited to: polluter pays principle, equity and precaution.
8. We are of the view that the structure of the international legally binding instrument (ILBI) on plastic pollution must match the environmental, social, economic and political nature of the plastic problem. It should be structured to allow for the highest possible level of ambition and urgency. It must also allow for evolution over time to ensure that the instrument remains fit for purpose until the plastic problem is solved.

9. While the structures of existing multilateral environmental agreements (MEAs) might serve as forms of inspiration for the structure of the ILBI, AOSIS is of the view that it is extremely critical to acknowledge and consider the distinct, complex and multidimensional nature of plastic pollution, the multitude of stakeholders involved, and the ubiquitous character of plastics in order to develop the most appropriate and effective instrument. It is also important to build on the lessons learnt, the challenges experienced, and the successful elements and context-appropriate features of other MEA models, to inform the structure of the instrument.

10. The ILBI must be designed with collective global measures and individual national measures that address the full lifecycle of plastics. These measures will be a mixture of mandatory and voluntary actions, while ensuring that they are sufficiently ambitious to accomplish the Objective(s) of the ILBI.

11. However, considering the length of time available to negotiate the instrument and the multitude of polymers, additives and plastic items, as well as activities that could potentially be regulated, we must be realistic about the breadth of issues that we will be able to substantively conclude during the INC process, and those issues which we mandate to be included in annexes, COP decisions and/or protocols.

12. The operative text of the instrument shall include the following:
   a. Objective(s), scope, principles and definitions;
   b. Global substantive obligations (including measurable targets for priority areas);
   c. Framework for nationally-determined obligations, content of nationally-determined obligations and ex ante and ex post implementation review;
   d. Means of implementation (capacity-building, technology development and transfer, finance);
   e. Transparency, effectiveness review and compliance;
   f. Research, awareness, and education;
   g. Institutional arrangement (multistakeholder action agenda, subsidiary bodies, secretariat, other institutions); and
   h. Final provisions (amendment & adjustment, annexes & protocols, and other typical final provisions).

13. Detailed provisions concerning reductions should be developed in annexes (at the time of the instrument), COP decisions or protocols (later). These could include both measures to be taken/considered and polymers, additives and plastic items to be regulated. The measures could be mandatory or voluntary. Areas for further regulation will include, at a minimum:
   a. Hazardous additives, chemicals and polymers to be eliminated;
   b. Problematic and unnecessary plastics to be eliminated;
   c. Reduction of “ghost” fishing gear;
   d. Reduction of particular polymers, additives and/or activities;
   e. Requirements for the sustainable management of plastic waste;
   f. Requirements for the trade of plastic waste for the purpose of recycling; and
g. Global harmonized design standards and corresponding labelling codes for plastics and sustainable alternatives.

14. Annexes and protocols should be designed in a manner to allow adjustments without requiring further ratification. Sufficient detail could include specific measures, specific polymers, additives and plastic items and/or specific timelines for reduction and elimination.

15. AOSIS remains flexible on the identification of binding and non-binding actions, as well as quantitative and measurable targets, whether in the instrument’s operative text, annexes or subsequent protocols. However, the obligations contained in the substantive obligations must be clearly identified and sufficiently robust to urgently address the issue, with mechanisms to allow for progression where nationally-determined actions or other areas of work are not as successful.

16. In order to foster progression and strengthen ambition, annexes under the instrument may be periodically modified taking into account developments in science and technology, evaluations of progress, and recommendations from a scientific, technical and economic (STE) mechanism (including potential body or bodies) under the ILBI. AOSIS considers that the STE mechanism will be critical to promoting research and development and providing reports, assessments, guidance, recommendations and a platform for the consideration and transmission of information, data, science and technology, and, in a rights-based manner, traditional knowledge, knowledge of Indigenous Peoples, and local knowledge systems, to support the implementation of the instrument, its annexes and/or protocols.

17. AOSIS continues to emphasize that the success of the ILBI, its annexes and/or protocols, will require the provision of necessary means of implementation for SIDS (and LDCS) in the implementation of obligations, commitments and/or contributions, including enabling and reporting activities, and particularly in reducing barriers to recycling, and in developing sustainable alternatives. To this end, finance, capacity building and technology development and transfer must be new, additional, adequate and predictable, with specific support provisions for SIDS (and LDCs) including priority access.

18. Finally, care must be exercised to ensure complementarity, coordination, and cooperation within the international legal framework, while reserving room for the instrument to incorporate the areas of action which have proven challenging for other relevant instruments and conventions to effectively address.