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

PART A: Elements not discussed at INC-2

**Name of intergovernmental organization (Members of the committee)**

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<th>Name of intergovernmental organization (Members of the committee)</th>
<th>Samoa, on behalf of the 39 member states of the Alliance of Small Island States (AOSIS)</th>
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</table>
| **Contact person and contact information for the submission** | Anama Solofa  
Lead Oceans Negotiator  
Permanent Mission of Samoa to the United Nations  
Email: anama.solofa@aosis.org |
|                                                             | Bryce Rudyk  
Legal Advisor  
AOSIS  
Email: bryce.rudyk@aosis.org |
| **Date** | 15 September 2023 |

**Cover note.**

The Alliance of Small Island States (AOSIS) welcomes the call for submissions on elements not discussed at the second session of the Intergovernmental Negotiating Committee (INC). While maintaining constructive and productive discussions on the potential elements of the international legally binding instrument (ILBI) is certainly critical, AOSIS takes this opportunity to re-emphasise the importance of comprehensive discussions on the structure of the ILBI as well. Dialogue on treaty structure is essential to help inform the design of the framework(s) within which these elements would operate (e.g. the structure and types of obligations, institutional processes to drive ambition overtime, contents of annexes, treaty mechanisms, etc.) It is therefore crucial to consider these as we approach INC-3, especially with the Secretariat’s Zero Draft intended to aid our negotiations.

Regarding the structure, AOSIS proposes an Instrument that outlines ambitious international collective obligations along the life-cycle of plastics, and provides a framework for countries to take progressive action through nationally-determined commitments, taking into account national circumstances and capabilities.

With only three (3) INC sessions remaining, we urge states to make the best use of our limited time to develop an instrument that is fit for purpose, with the highest possible level of ambition, while remaining committed to the elements, issues and approaches agreed to in Resolution 5/14: End Plastic Pollution.

Finally, as we proceed with discussions on the potential elements of the ILBI it is critical to simultaneously treat with the necessary means of implementation and flexibility for small island developing states (SIDS) in relation to the implementation of both procedural and substantive obligations.
1. **Scope**

*What is the proposed scope for the future instrument?*

The scope of this agreement is past, present and future plastic pollution, including in the marine environment, and the necessary actions across the full life-cycle of plastics to achieve the ultimate objective of ending plastic pollution.

*Which types of substances, materials, products and behaviors should be covered by the future instrument?*

Obligations on substances, materials, products and behaviors by this future instrument should be sufficiently broad to meet both the scope and ultimate objective of the agreement, and be focused on issues that require global action. However, specific text on obligations would be more appropriately situated elsewhere in the instrument, and should include the following non-exhaustive areas:

1. Measures, actions and approaches along the full life-cycle of plastics.
2. Phasing down and/or eliminating substances, materials and products that disproportionately contribute to pollution, pose a threat to human health or the environment, or those that can be easily substituted – taking into account the availability of safe, accessible, efficient, economically feasible, sustainable alternatives, as well as adequate transitionary timelines. These include intentionally-added microplastics, as well as harmful, problematic and unnecessary plastic products, chemicals, polymers and additives - based on sound scientific and technical criteria.
3. Promoting circular design and approaches to encourage sustainable production through resource-efficiency, as well as reuse, repair and recycling.
4. Facilitative and encouraging of ambitious action by non-state actors, including public and private actors, to combat plastic pollution, supplementary to the actions taken by Parties.
5. The remediation of legacy plastics (including abandoned, lost or otherwise discarded fishing gear) in the marine environment, including areas beyond national jurisdiction, specifically targeting high-risk pollution hotspots and utilizing sound, safe environmental assessments and technologies.
6. The continuous incorporation, collection and dissemination of best available science, data, information, traditional knowledge, knowledge of Indigenous peoples and local knowledge systems, including from local communities, toward the design of appropriate, effective and innovative solutions.
7. Building on existing, relevant frameworks, conventions and processes, as appropriate, with the flexibility to respond to areas which have proven challenging for other instruments and conventions to effectively address.

2. **Principles and approaches**

*What principles could be set out in the future instrument to guide its implementation?*

The design of the ILBI must take into account relevant principles of the Rio Declaration on Environment and Development, and more specifically, the following principles and approaches:
1. Sovereign right to exploit resources/no harm principle;
2. Precautionary approach;
3. Polluter pays principle, especially in relation to the design of effective EPR schemes;
4. Special circumstances of SIDS, including through provisions allowing for flexibility for SIDS and priority access to necessary means of implementation;
5. Common But Differentiated Responsibilities
6. Adequate transitionary time to fulfill the ultimate objective of the ILBI;
7. Public participation in environmental decision-making;
8. Data-driven approach to decision-making, including best available science and traditional knowledge, knowledge of Indigenous peoples and local knowledge systems, including from local communities.
9. Life-cycle analysis of the environmental impacts of alternatives;
10. Avoid creating new environmental problems;
11. Economically and technically feasible; and
12. Just transition, including an inclusive transition for waste pickers.

3. Preamble

The preamble of the ILBI must, at minimum, contextualise and guide its implementation, articulating the following key elements:

1. Elaboration of the need for an urgent global response to combat plastic pollution because of its universal and transboundary nature;
2. Identification of the impacts on human health, livelihoods, food security, economies and the environment, particularly the marine environment;
3. Acknowledgment of the multilateral efforts and initiatives leading up to the development of the ILBI, and underscore the importance of complementarity, coordination and cooperation within the international legal framework, where appropriate;
4. Highlighting the relevant principles and approaches (discussed above);
5. Recognition of the special circumstances of SIDS and the support needed for SIDS to effectively implement the ILBI;
6. Recalling the United Nations Declaration on the Rights of Indigenous Peoples;
7. Recalling the Addis Ababa Action Agenda of the Third International Conference on Financing for Development;
8. Considering the need to mobilize new and additional financial resources and access to technology for developing countries to combat plastic pollution; and
9. Recognizing that plastic pollution is a global concern.
4. **Multistakeholder action agenda (OP3m of Resolution 5/14)**

Within the context of plastics, there are numerous stakeholders whose inputs, expertise, actions and experiences can contribute effectively to the achievement of the objective of the ILBI. These include both the private and informal sectors, civil society, academia, waste pickers, Indigenous people and local communities and local, sub-national and national governments.

To this end, a plastics action agenda that is guided by a terms of reference, criteria for non-state actor participation, an organisational structure, and rules of governance, with appropriate means to incentivise and encourage participation, will be established by Parties.

5. **Scientific, Technical and Economic Panels (STEPs)**

Recognizing the critical role of science, technology and socio-economic expertise to addressing the plastics problem, it is imperative that the ILBI accommodates means to allow Parties to benefit from access to such resources for the purposes of facilitating compliance, implementation and increased ambition as may be necessary.

AOSIS therefore proposes the convening of appropriate panels of experts qualified in the science of plastics and the study of plastic pollution. The composition and terms of reference of these panels continue to be considered by AOSIS, taking into account similar bodies under other instruments.

The STEP could consider activities such as:

a. Review the implementation of the ILBI, including by assisting with the conduct of effectiveness assessments;

b. To provide timely information, including as requested by Parties, on relevant topics, such as the cost, safety and market availability of chemicals, inputs and proposed alternatives;

c. To provide information on standards, guidelines or procedures as may be requested by Parties;

d. Conduct assessments on measures, actions and approaches under the ILBI, including the potential economic, social and environmental implications of amendments, adjustments and proposed regulatory actions;

e. Develop assessments of minimum funding requirements to the Financial Mechanism necessary for implementation of obligations;

f. Make recommendations for the conduct of risk assessments and environmental impact assessments for remediation activities;

g. Monitor, report and verify remediation activities; and

h. Undertake any additional action on areas of concern to the Parties.

6. **Abandoned, lost or otherwise discarded fishing gear**

While there were preliminary discussions on ALDFG at INC-2, under Options 9 and 10 in the Secretariat’s Option Paper, ALDFG is a more complex and multifaceted issue that should be treated as a category of its own as it accounts for a large portion of marine plastic litter disproportionately affecting SIDS.
AOSIS continues to consider a sectoral approach to the design and implementation of actions, including sector-specific measures targeting activities along the full life cycle, as the most viable option to address this source of plastic pollution. This could therefore include a number of measures within the fisheries sector. However, it is also important to take into account the existing relevant programmes, initiatives, treaties and conventions to address ALDFG, including under the remit of the IMO and FAO.