INC3 Contact Group 1 Statements and textual proposals
by Samoa on behalf of the Small Island Developing States
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PART I.

Objective.
AOSIS wants a comprehensive treaty that covers the full life cycle of plastics, and one that leads to the elimination of plastic pollution by 2040.

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<th>AOSIS Text Proposal</th>
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<tr>
<td>The objective of this instrument is to end plastic pollution, including in the marine environment, to protect human health and the environment, based on a comprehensive approach that addresses the full life-cycle of plastics, through the prevention, progressive reduction and elimination of plastic pollution.</td>
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PART II.

Sections 2: ‘Chemicals and polymers of concern’; and 3: ‘Problematic and avoidable plastic products, including short-lived and single-use plastic products and intentionally added microplastics’.

AOSIS thinks that Sections 2, 3 and 4 of Part II should be combined into a single article that allows comprehensive regulation of hazardous, problematic, and avoidable chemicals and polymers used in plastic production, and plastic products. We think that the strength of the obligations should depend on the level of risk.

All regulation of chemicals and polymers used in plastic production, and of plastic products need to be based on strong scientific evidence of impacts complemented by the contributions of Indigenous Peoples and local communities regarding those impacts, and take into account the availability of safe, accessible, efficient, economically feasible, environmentally friendly and sustainable alternatives, as well as the possibility of cooperating and/or coordinating with existing relevant frameworks or conventions which cover the relevant substances.
We highlight that as small island developing states with small economies and very little plastic production, we are reliant on other states for our plastic. As such, there will need to be special flexibility in regulation for small states.

AOSIS Text Proposal

Replace Part II, Section 2 and 3 with the following:

Control of Hazardous, Problematic and Avoidable Chemicals, Polymers, and Plastic Products, including single-use plastics and intentionally added microplastics

1. Each Party shall eliminate or not allow the production, sale, use, distribution, import or export of chemicals or polymers used in plastic production or plastic products that are hazardous to human health or the environment at any stage of the plastic lifecycle, as defined and listed in [Annex], not later than the respective dates in the Annex.

2. Each Party shall take measures, as appropriate, to not allow, to phase down or to otherwise regulate the production, sale, use, distribution, import or export of chemicals or polymers used in plastic production or plastic products that are problematic because they disproportionately contribute to plastic pollution, especially in the marine environment, or they have properties that may hinder their safe and environmentally sound management, including their reusability, repairability, recyclability and disposal, as defined and listed in [Annex], except where the Party has a registered exemption for the relevant product(s) under [Annex].

3. Each Party shall take measures, as appropriate, to not allow, to phase down or to otherwise regulate the production, sale, use, distribution, import or export of chemicals or polymers used in plastic production or plastic products that are avoidable because they can be easily substituted for more sustainable alternatives, as defined and listed in [Annex], except where the Party has a registered exemption for the relevant product(s) under [Annex].

4. Each Party shall eliminate or not allow the production, sale, use, distribution, import or export of plastics products containing intentionally added microplastics, as defined in [Annex], except where an exception is specified in part IV of annex B.

5. The Science, Technology and Economics Panels (STEPs) shall recommend to the Conference of the Parties by its first meeting, a list of the characteristics of hazardous, problematic, and avoidable chemicals, polymers or plastic products referred to in paragraphs 1-4 above. In preparing these recommendations, the STEPs shall consider sound scientific, socioeconomic, and sociocultural assessments and the availability of safe, accessible, efficient, economically feasible, environmentally friendly and sustainable substitutes, including those based on the knowledge and practices of Indigenous Peoples and local communities.

6. The STEP shall recommend to the Conference of the Parties at each session, chemicals, polymers, or plastic products, their associated targets and timelines on the Annexes listed in paragraphs 1-4 above.

ADD to Part II, Section 4: Exemptions
4bis: Small island developing states, and other states that are dependent on imported polymers or plastic products, may register extensions to exemptions without approval of the Conference of the Parties, until such a time as there are sufficient polymer and plastic product supplies available to the Party at costs equal to then current levels.

4. Exemptions available to a Party upon request

AOSIS is of the view that exemptions could potentially undermine the ambition and objective of the agreement if not appropriately structured.

An exemptions mechanism under the instrument must be transparent and based on specific criteria. From the outset, exemptions should not be applied to products, chemicals and polymers which pose adverse impacts on human health or the environment, based on strong scientific evidence and the knowledge and inputs of Indigenous Peoples and local communities.

Exemptions could apply where there are no safe, accessible, efficient, economically feasible, environmentally friendly and sustainable alternatives or substitutes, and where developing country Parties, including SIDS, and other actors provide evidence of potential adverse socio-economic and sociocultural impacts, if not applied.

AOSIS Text Proposal

ADD to Part II, Section 4: Exemptions

4bis: Small island developing states, and other states that are dependent on imported polymers or plastic products, may register extensions to exemptions without approval of the Conference of the Parties, until such a time as there are sufficient polymer and plastic product supplies available to the Party at costs equal to then current levels.

5. Product design, composition and performance

a. Product design and performance

AOSIS prefers Option 1, with modified language in paras 3 & 4.

With the assistance of the STEP, and in cooperation and coordination with existing, relevant institutions, frameworks, conventions and processes, as appropriate, the COP could establish and periodically update, international standards for product design, taking into account best available science, data, information and technology, traditional knowledge, knowledge of indigenous people and local knowledge systems, and global harmonised certification and labelling requirements. These standards should aim to prevent plastic products from becoming plastic pollution, and prioritizing repairability, reuse and recycling, as well as to promote global harmonisation as much as possible.

The language in paragraph 4 should therefore be binding upon Parties to work with relevant organisations to achieve this purpose (e.g. the ISO).
Replace paras. 3 & 4 with:

3. The COP shall establish and maintain certification procedures and labelling requirements for plastics and plastic products based on recommendations from the STEPs, and the design and performance criteria and other related elements contained in part I of annex C, including, where relevant, sector- or product-specific criteria and elements, and shall require plastics and plastic products to be appropriately labelled in accordance with these criteria and elements.

4. Parties shall work with relevant international organizations towards the development of standards and guidelines at the multilateral level, including on a sectoral basis as relevant, to reduce the use of plastics in products across the value chain, including in product packaging, and improve the design of plastic products to increase their safety, durability, reusability, refillability, repairability and refurbishability, and their capacity to be repurposed, recycled and disposed of in a safe and environmentally sound manner upon becoming waste.

b. Reduce, reuse, refill and repair of plastics and plastic products

AOSIS presently supports Option 1, with flexibility and effective means of implementation for SIDS, especially in relation to the development of targets, timelines, and the domestic mechanisms within the context of SIDS required to fulfill this obligation.

It is unclear how targets could be developed for reuse, refill and repair across the multitude of plastic products along the value chain. The STEPs could be tasked with developing guidelines for effective reuse, refill and repair schemes, with specific recommendations for implementation in SIDS, taking into account our national circumstances and capabilities, and inclusive of effective means of implementation.

AOSIS sees value in considering a sectoral approach to such schemes, prioritising those products with a higher degree of suitability for reuse, refill and/or repair.

c. Use of recycled plastic contents

AOSIS supports Option 1.

A definition of ‘safe and environmentally sound post-consumer recycled plastic’ is required. The following considerations should be included:

1. Absence of harmful chemicals and additives
2. Recycling process, including waste management - collection, decontamination and reintroduction and the role of the informal waste sector - should not present additional impacts on human health and the environment.

In addition, a process to development of minimum percentages will need to be determined. AOSIS emphasizes that considering the small and remote nature of our islands and economies, it is important
to provide of effective and robust means of implementation to enable SIDS to participate in recycling, and to access recycling technologies.

d. Alternative plastics and plastic products

While AOSIS prefers Option 1, we continue to actively consider both options proposed, noting that further clarity is needed on ‘alternative plastics and plastic products’ and ‘safe, environmentally sound and sustainable.’

In its current formulation, it appears that Parties will be the sole determining authority to unilaterally determine whether products are safe, environmentally sound, and sustainable.

AOSIS sees the need for global harmonised standards for this purpose. With the assistance of the Scientific, Technical and Economic Panels (STEPs) and in cooperation and coordination with existing, relevant institutions, frameworks, conventions and processes, as appropriate, the COP could establish and periodically update, international standards for what is considered ‘safe, environmentally sound and suitable alternative plastics and plastic products.’

AOSIS remains concerned that without clear definitions and harmonised standards/criteria, alternative plastics and plastic products could potentially circumvent the intent of Part II. Section 3. Problematic and avoidable plastic products, as well as the objective of the instrument.

**AOSIS Text Proposal**

*Replace Option 1, para. 1 with:*

1. Parties shall ensure that ‘alternative plastics and plastic products’ are safe, environmentally sound and sustainable, in accordance with standards to be decided by the COP, based on recommendations from the STEP(s) taking into account their potential for environmental, economic, social and human health impacts, including food security.

6. Non-plastic substitutes

The Instrument must include provisions to promote research, development and innovation, including for sourcing of safe, accessible, efficient, economically feasible, environmentally friendly and sustainable substitutes, on the basis of the best available science, traditional knowledge, knowledge of Indigenous Peoples, and local knowledge systems.

However, similar to our position on alternatives, there must be a determining process or standard(s) to do so.
The Scientific, Technical and Economic Panels (STEPs) could support the development of this process or standard-development, in cooperation and coordination with existing, relevant institutions, frameworks, conventions and processes, as appropriate. The STEP(s) could propose their findings or recommendations to the COP for consideration.

AOSIS Text Proposal

_Add paras. 3 & 4 to the existing text:

3. Parties are encouraged to use the best available science, traditional knowledge, knowledge of indigenous peoples, and local knowledge systems in the development of safe, environmentally sound, and sustainable non-plastic substitutes.

4. Parties are encouraged to establish a process for the assessment of the safety and sustainability of potential substitutes to plastics and their suitability as substitutes, considering their potential impacts on human health and the environment, the waste hierarchy and reduce, reuse and recycle approaches.

7. Extended producer responsibility

AOSIS supports Option 1, with some modified language.

SIDS contribute minimally to global plastic production, and there remains a level of uncertainty as to how applicable EPR schemes could be within our context. To this end, the instrument could define the minimum essential elements of EPR schemes, with flexibility for SIDS in its implementation.

EPR might also be considered cross-cutting since it cannot be separated from other essential elements of the future agreement. For instance, EPR will require sound, effective waste management infrastructure to aid in the end of cycle management. Additionally, if recycling is adopted, it will also require access to technologies and effective means of implementation for this purpose.

AOSIS Text Proposal

_Replace Option 1 with:

1. Each Party shall establish and operate Extended Producer Responsibility (EPR) systems, taking into account national circumstances and capabilities, including, where relevant, on a sectoral basis, guided by the modalities contained in annex D, to incentivize increased recyclability, promote higher recycling rates, and enhance the accountability of producers and importers for safe and environmentally sound management, of plastics and plastic products throughout their life cycle and across international supply chains.

2. The governing body* shall, at its first session, adopt modalities to inform the establishment of national EPR systems and define their essential features, and to support their harmonization, taking into
account how the measures taken would contribute to a just transition. These measures shall be reflected in the national plan communicated pursuant to [part IV.1 on national plans].

8. Emissions and releases of plastic throughout its life cycle

AOSIS is supportive of eliminating emissions and releases during the use, management, transport and production of plastic pellets, flakes and powder production. However, it is currently unclear what the sources are likely to be within the proposed annex, and how, if at all, the existing framework from the international organizations can effectively address this and achieve the intended outcomes.

This clarity, as well as effective means of implementation, would also be necessary to decide upon any potential timelines to fulfill this obligation.

AOSIS Text Proposal

Replace para. 1c with:

c. Releases of chemicals and polymers of concern, plastics and plastic products, including microplastics, to air, soil, and water, including the marine environment and ecosystems.

Replace para. 3 with:

3. The measures taken to implement the provisions of this Article shall be reflected in the national plan communicated pursuant to [part IV.1 on national plans], with necessary means of implementation taking into account the special circumstances of SIDS.

9. Waste management

   a. Waste management

AOSIS supports Option 1.

The instrument must include provisions to enable the acceleration of the collection, sorting, recycling and sound disposal of plastic waste.

To this end, there must be strong, ambitious binding obligations, coupled with effective provisions on MOI for SIDS, including priority access for SIDS and access to technology for waste management and recycling. This would also be necessary to facilitate the transition from waste management practices that may lead to the emissions and releases of hazardous substances or otherwise unsound. Any regulation of such practices must be based on sound scientific evidence and facilitative of a just transition.
Guidance provided under this provision could also include standards for the design of facilities that ensure the safe and environmentally sound management of waste.

AOSIS Text Proposal

*Replace para. 1 of Option 1 with:*

1. Each Party shall take effective measures to ensure that plastic waste is managed in a safe and environmentally sound manner throughout its different stages, including handling, *sorting*, collection, transportation, storage, recycling and final disposal, taking into account the waste hierarchy, **and the special circumstances of SIDS**

*Replace para. [4][3] of the Provisions common with:*

[4][3] Each Party shall not allow waste management practices listed in part III of annex F that may lead to the emissions and releases of hazardous substances, **based on strong scientific evidence**, and shall regulate the other allowed waste management practices that may lead to the emissions and releases of the hazardous substances listed in part IV of annex F.

**b. Fishing gear**

Moved to Part II, para 3c

From the outset, AOSIS views ALDFG as a more complex and multifaceted issue that accounts for a large portion of marine plastic litter disproportionately affecting SIDS, and which extends beyond the confines of waste management as proposed by the Zero Draft.

The issue of ALDFG should therefore be treated separately in order to allow for consideration of whether to adopt targeted measures along the full life cycle. AOSIS continues to consider whether this should be the appropriate approach.

The development of any potential obligations upstream, midstream and downstream for ALDFG must take into account the existing relevant programmes, initiatives, treaties and conventions to address ALDFG, including under the remit of the IMO and FAO.

AOSIS Text Proposal

*Move 9b to below 4 Exceptions*

10. Trade in listed chemicals, polymers and products, and in plastic waste
a. **Trade in listed chemicals, polymers and products**

AOSIS generally supports the objective of this provision, however, it is important to highlight that SIDS predominantly rely on imports, as we are not producers. It therefore remains to be properly understood what implications, if any, this could pose on SIDS and our economic sectors. It is also critical to consider any trade challenges, e.g. discriminatory practices, and existing trade requirements under WTO, in the formulation of this provision.

It is noted as well that this provision does not contemplate applicability to products meeting design requirements under Part II. Section 5, nor the possibility of non-parties provisions, as appropriate.

Finally, requirements under this section must avoid the duplication of actions required under existing conventions, such as the Basel, Rotterdam and Stockholm Conventions.

b. **Transboundary movement of plastic waste**

AOSIS supports the text proposed by the Chair. AOSIS supports the phasing out of plastic waste trade except where it is intended for safe and environmentally sound management. To this end, this section must include provisions facilitating transparency, compliance with sound waste management obligations under Section 9, and should build upon the requirements under the Basel Convention.

**11. Existing plastic pollution, including in the marine environment**

The zero draft does not offer a binding obligation for remediation, rather it prescribes for Parties to “co-operate” to take remediation measures, and to include any such measures in their national plans (Part IV). Without any binding obligation, whether through global collective action, national action or some defined global quantitative target(s), remediation may not actually be fully realised in the foreseeable future under the agreement.

While the zero draft appears to incorporate areas beyond national jurisdiction for remediation, it also implicitly includes terrestrial pollution, which is generally considered a downstream waste management issue.

Remediation in the marine environment, including in areas beyond national jurisdiction, will require a distinct approach given its unique legal, technical and environmental nature, as well as to avoid the risk of it being overlooked by land-based collection and recovery of waste.

Actions under this section should build upon the Cartagena Convention and Marpol.

Finally, there are no specific references to support for remediation nor the possibility of a remediation fund, whether structured as a trust fund of both public and private funds, or otherwise. Language on innovation and technology development for remediation could also be useful, but notably absent from the zero draft.
1. Parties shall cooperate to

Replace para 1b and 1c with:
b. take effective mitigation and remediation measures, including clean-up activities for the accumulation zones, hotspots and sectors identified, taking into account the provisions in existing international agreements including those relevant to the conservation and sustainable use of marine biological diversity, including in areas beyond national jurisdiction, and the disproportionate impacts on SIDS; and
c. promote engagement of the local population, communities and citizens in safe and environmentally sound remediation activities.

Replace para 4b with:
b. guidance on best available techniques and best environmental practices, developed on the basis of best available science, traditional knowledge, knowledge of indigenous peoples and local knowledge systems, to address existing plastic pollution, with a view to ensuring the cleanup activities do not have potential for negative impacts on the environment, biodiversity and human health.

12. Just transition

AOSIS generally supports this section and its provisions, noting that there must be special consideration for Indigenous peoples and local communities, women and vulnerable groups, including children and youth, in the implementation of the agreement.

Moreover, there must be engagement with all relevant stakeholders to address plastic pollution, including informal plastics waste sector, waste pickers, Indigenous peoples and local communities to, among other things, facilitate pro-environment behaviour and regulate consumption patterns through non-regulatory and non-price means.

Parties should also consider the development of appropriate policy, legislative frameworks and institutional infrastructure toward the achievement of the ultimate objective of the instrument, and the development of quality infrastructure services for the circular economy, based on their national circumstances and capabilities.

AOSIS Text Proposal

Replace para. 1 chapeau and para 1a with:

1. Each Party shall promote and facilitate a fair, equitable and inclusive transition for affected populations, with special consideration for indigenous peoples and local communities, women and
vulnerable groups, including children and youth, in the implementation of this instrument*. This may include:
a. Designating a national coordinating body for engagement with relevant stakeholders, including public authorities, non-governmental organizations, indigenous peoples and local communities

13. Transparency, tracking, monitoring and labelling

AOSIS supports the need for transparency and accountability within the framework of the agreement. However, this provision appears to overlap reporting requirements with transparency as it relates to complementing substantive obligations under the instrument.

AOSIS supports the reporting of information, with flexibility and sufficient support for SIDS to do so - including statistical data and information, or where challenging to obtain, best available estimated data and information on the sources, volumes, and impacts of plastics in-country.

Moreover, AOSIS is of the view that there must be a global requirement to disclose the full contents of plastic products with the aim to promote informed decision-making, increased recyclability and compostability, improved consumer behaviour, and appropriate waste management treatment globally.

Finally there must be clarity on what actions and activities are required of Parties for ‘monitoring’ under the instrument.

AOSIS Text Proposal

Move para. 1c to Part II, section 5 (design)

Replace para. 2 with:

2. Each Party shall monitor and track the types and volumes of its production, imports and exports of chemicals and polymers used in the production of plastic polymers, plastics and plastic products, and regulated plastic products across their life cycle.