Agenda item 2: Consideration of the synthesis report on the submissions received on elements not discussed at the second session, such as principles and scope of the instrument

- Thank you to the Secretariat for generating the robust synthesis report from the many submissions provided.

Preamble

- For the preamble, the United States supports developing a concise preamble that provides context for the operational provisions set out in the instrument.
- We would prefer for the negotiation of the preamble to begin after substantive provisions are close to finalized. With that said, we welcome any views countries may have on topics that might be referenced in a preamble and have listened carefully to previous interventions.
- The United States believes that the preamble should, at a minimum, recognize plastic pollution as a global and transboundary issue that requires a coordinated global response to end plastic pollution, including through efforts aimed at eliminating the release of plastic into the environment.

Definitions

- For definitions, the United States appreciates the work of the Chair and Secretariat in developing the zero-draft text and identifying terms for which countries may wish to consider defining in the instrument.
- We also found useful the relevant meeting documents prepared to further our collective understanding of terms and definitions that could be relevant during the INC process.
- Nonetheless, the United States believes it is too early in the INC process to commit to inclusion of any specific terms and definitions as the need for definitions will be determined by the content of the substantive obligations of the instrument.
- We also think this approach will enable us to make as much progress at this meeting as possible on the substantive elements of the zero draft for which the Chair provided specific text for INC consideration (rather than only placeholders).

Principles

- On principles, the United States recognizes that some INC members have expressed views on various principles and approaches they believe should be taken into account in the development of the instrument’s draft text.
- At this stage in the INC process, we believe the INC should focus its efforts on the development of the instrument’s substantive provisions while allowing countries to bring such views into those discussions.
- As the substantive provisions are further developed, the INC may wish to consider whether the agreement needs to include specific language on principles. The United States does not believe it would be a useful allocation of the INC-3’s limited time to negotiate a stand-alone set of principles approaches.
Scope

• On scope, we hear a range of views on the scope of the instrument – with consensus around the mandate in the UNEA resolution 5/14, but others expressing interest or an interpretation of an expanded scope and interest in a scope tied to the UNEA mandate.
• The United States does not see a need for a scope section or article in the instrument.
• We recognize the scope of the instrument is set out in paragraph 3 of UNEA resolution 5/14: “plastic pollution, including in the marine environment... based on a comprehensive approach that addresses the full life cycle of plastic.”
• Additionally, in view of the third preambular paragraph of that same resolution, we recognize that countries agreed that “plastic pollution includes microplastics.”
• This scope includes all types of emissions and releases of plastic into the environment.
• We also recognize the intent of countries for the instrument to not only consider the impact of plastic pollution on the marine environment, but also on terrestrial and freshwater ecosystems, noting that vulnerable communities are often disproportionately impacted.
• The UNEA resolution is also very clear that this instrument should not be duplicative of other multilateral efforts.
• We look to UNEA resolution 5/14 to define the scope of the instrument and note there will likely be challenges to extend the scope beyond plastic pollution.
• That said, we are open to hearing the views of Members about the rationale for such an expansion.
• I want to highlight that depending on the ultimate structure of this instrument, there could be a need to have an exemption for national security issues, and potentially also related to public health emergencies. We reference it now in this context of the scope article but it could fit in other parts of the agreement.
• We appreciate all of the constructive input we have heard from the room and look forward to further discuss these elements.

Institutional arrangements

• With regard to institutional arrangements, the United States supports the inclusion of provisions that will enable the efficient organization and operation of the instrument and support the achievement of its objectives.
• For example, we envision having an article that would establish a governing body as the main decision-making authority under the instrument, as well as a secretariat to provide administrative support.
• We are also open to the establishment of one or more subsidiary bodies that would provide support to the governing body in specific aspects of implementation. Such a body or bodies could be established either by the governing body within its authorities or, if there is a compelling need for it, by the instrument itself.
• For example, this delegation considers it important that the instrument establish a compliance mechanism that is facilitative in nature and operates in a manner that is transparent and non-punitive. Such a mechanism should be simple and efficient, and it should apply equally to all Parties.
• At the same time, we believe that the details of a compliance mechanism cannot be appropriately elaborated until more is known about the nature of the instrument’s substantive provisions.
• In terms of any other potential subsidiary bodies, this delegation believes the substantive provisions of the instrument will need to be further developed before the INC can assess in an informed manner what other body or bodies will be needed, if any, when such a need might arise, whether the body or bodies should be permanent or ad hoc, and what terms of reference would need to be developed and how.

Final provisions

• With regard to the instrument’s final provisions, the United States is generally comfortable with negotiating on the basis of the draft text proposed by the Secretariat in document INC.1/8.
• In terms of sequencing, however, we would note that any negotiated text of for final provisions may need to be revisited once the instrument’s substantive provisions are further elaborated.
• Furthermore, with regards to certain final provisions, it may be premature to negotiate text at this early stage, or even agree in principle on the inclusion of such provisions, before more is known about the instrument’s structure and substantive provisions. For example, we do not see utility in considering the need for procedures on the adoption or amendment of annexes before it is known whether the instrument would have annexes.

Agenda item 3: Intersessional work

• We encourage the INC to negotiate a specific decision on further work from INC-3 as was done at INC-2; the modality of negotiating a decision was helpful in building trust among Members of the INC.
• We support capturing the textual proposals to the zero-draft text made at INC-3 and using this working draft text as a basis for negotiations at INC-4.
• There could be an opportunity through intersessional work to build on progress made at INC-3 to advance our work on the instrument ahead of INC-4, including to advance the text.
• We would prefer to use a smaller group format, such as expert group, where representatives from across the UN regions, including a few representatives from SIDS, as was done for the Bureau, work on a clear and specific scope and a narrow mandate to help advance the text of the instrument.
• We recognize that it may be difficult to make progress on contentious issues and would be reluctant to undertake intersessional work that may be viewed as biasing such issues.
• We would expect one or at most two meetings to occur between INC-3 and INC-4; we could support such meetings occurring in person or virtually, as appropriate. We can also express support for the outcome of such a group being a summary prepared by the facilitators for such work, which could be circulated for consideration ahead of INC-4.
• At this stage, we have some reservations about pre-judging what intersessional work will be needed after INC-4 until INC-5.