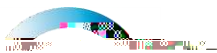




100%

In



regimes, and serves as an interpretive tool for the future. In this context, the drafting of the preamble will be critical to the ILBI.

How? The preamble may include historical references and treaty regime references, as well as emphasizing the core interpretive principles of international law that form the underlying terms of the ILBI. In this context, principles such as the polluter pays principle, the precautionary approach, national capabilities and circumstances, sustainable development, the rights of future generations and intergenerational equity could play a significant role in the framing of the ILBI in the preamble content. As was stressed by States during INC-1 and INC-2, the transboundary and interdisciplinary nature of plastic pollution is an important element for the ILBI to include. In this context, including this as a thread from the preamble onward could serve as a comprehensive tool for holistically addressing plastic pollution.

2. Introductory elements including definitions, robust objectives, scope and principles

What? Definitions are essential to the functioning of any treaty regime. This will also be the case for the ILBI in particular because of the highly nuanced and technical nature of the issues raised by the cycles of plastic pollution.

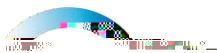
How? As discussed in the IUCN WCEL Briefing for Negotiators addressing the glossary of key terms, one way for the ILBI to maximize its legal and technical impact is through a strong and extensive set of definitions. These definitions could reflect the science of the plastics life-cycle as well as the role of science and scientific knowledge in plastic pollution and associated impacts. At the same time, they will need to retain some level of flexibility, perhaps linked to elements in the anticipated annexes, to accommodate advances in scientific and technological knowledge and capacities.

What? The objective is a foundational element of treaties. While some MEAs do not contain these provisions, objectives can play an important framing role for a treaty regime in a way that has legal significance for the interpretation of the terms of the treaty and for its effective implementation. Caution is needed, however, when using a narrow objective or set of objectives since that could later result in questions of whether a treaty regime or the governance system for it is exceeding the scope of the underlying treaty.

How? A carefully worded set of objectives reflecting the needs of the international community, the plastics pollution questions and issues of future growth could play a valuable role in crafting a meaningful treaty. This includes the use of objectives that are clear and can be reviewed for implementation and effectiveness. With this in mind, the objectives could include quantified or quantifiable terms that provide methods to assess the effectiveness of the treaty's implementation of these objectives. At the same time, the ILBI could benefit from objectives that are flexible and dynamic so that they will remain relevant to and reflective of new and emerging scientific knowledge. To reflect the complex interconnections between plastic pollution and international law, the objectives could include links to incorporating just transitions, sustainable development, sustainable finance, efforts to address climate change, and the protection of biological diversity.

What? As highlighted in UNEP briefing note 5 in advance of INC-1, the scope of a treaty regime has taken on several classifications of format under MEA depending on the underlying objectives of the treaty. There is no requirement that a treaty regime use only one form of parameter for scope, especially in the context of the complex legal, regulatory and technical issues raised by plastic pollution.

How? The use of a combination of legal, regulatory and scientific parameters that can be measured



further advanced into future laws and policies. National action plans can be valuable tools for government planning and implementation if they are carefully designed and if State Parties have assistance, such as technical and financial assistance, to alleviate the potential for excess burdens being placed on governmental entities. National action plans should be designed to increase ambition over time (“progression”) and contain a safeguard against regression (“non-regression”). It would be preferable that the national action plans be communicated on the same time, iterative for all State Parties rather than on staggered timelines. The content of national action plans should be informed by the objectives of the ILBI and designed to fulfil these objectives. In addition, the use of national implementation plans should be considered to serve as a potential complementary system in which State Parties.

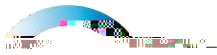
Starting from the bottom-up approach through national action plans, the ILBI should include a strong system of international oversight. This would apply to robust binding guidance for national action plans and potential national implementation plans, binding requirements for reporting on implementation and achievement of these plans (possibly by using indicators), independent review and a mechanism for facilitating implementation and compliance. It might also be helpful to graphically illustrate how these elements fit together. To address increasing ambition over time, inclusion of the requirement for iterative processes for all State Parties, the need for progression of ambition in national action plans, global stocktakes which inform the level of ambition in the next round of national plans, and common timeframes for reporting and next round of national actions plans should be considered as critical elements.

In designing national action plan requirements, it would be important to ensure a structure that avoids duplication of information gathering and analysis with other international treaty reporting requirements. Given the financial and technical burdens of reporting on States, particularly SIDS and developing States, alleviating the pressures of duplication in reporting could result in more robust insights from the national action plans. This could also advance an understanding of how to coordinate their implementation in conjunction with other relevant national laws and international treaties.

What? The nature of plastic pollution, the plastics lifecycle, the circular economy, and environmental impacts of plastic pollution make the inclusion of scientific and technical coordination and cooperation essential. In the plastic pollution context, there is a strong likelihood that this will require coordination and cooperation between State Parties as well as State Parties and the private sector, national and sub-national actors, and academic institutions works in relevant areas of innovation.

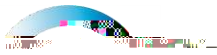
How? The ILBI could consider the use of control measures and voluntary measures that facilitate scientific and technical cooperation and coordination between public sector actors and public-private actors. Additionally, as outlined in the main IUCN Submission in advance of INC-3, a dedicated subsidiary body on science-policy should be established as a core element of the ILBI governance system. As the negotiations for the creation of a Science-policy panel to contribute further to the sound management of chemicals and waste and to prevent pollution, as mandated in UNEA Resolution 5/8, progress, there should be efforts to bridge the work of this Panel with the ILBI.

What? National action plans constitute one form of oversight for the implementation of a treaty, however they are rarely used alone when creating procedures to oversee the effectiveness and accomplishment of a treaty regime. Instead, treaties – including MEAs – often use reporting requirements, stocktakes and similar benchmarking requirements to measure and assess the success of a treaty in application. These methods of assessment can be used to determine the need for amendments, annexes, protocols, agreements or other similar instruments in the future, giving them connections to both the specific convention structure and the framework convention structure discussed in the IUCN WCEL Briefing for Negotiators on the Structure of the ILBI.



How? Effectiveness and accomplishment oversight for the ILBI could be a valuable tool if crafted in a way that thoroughly evaluates the legal and technical aspects of plastic pollution. This type of oversight could be entrenched through a recurring stocktake system similar to that adopted for the Paris Agreement or could be triggered by another measure, although a sense of predictability of assessment would be valuable. These stocktakes could be used to assess progress regarding plastic pollution at the national level and international level, adoption and implementation of laws and rules relating to plastic pollution, economic transitions away from plastics intensive industries, reductions in biodiversity loss connected with plastic pollution, and reductions in carbon emissions attributable to the plastics industry, to name a few potential options. This could be used to generate a reliable assessment process that could increase the legitimacy of the ILBI. Care would need to be taken so that the assessment system designed is sufficiently rigorous to allow for in-depth measures while also accommodating unforeseen situations that could have an impact on implementation. The Covid-19 pandemic highlighted this need across multilateral environmental agreements with reporting requirements as well as in the context of the Sustainable Development Goals.

What?



What? UNEA resolution 5/14 includes specific reference to a financial mechanism to assist in implementing the ILBI. Thus, the financing issue was resoundingly discussed as a critical element of the ILBI by States and stakeholders during INC

