

What an international treaty on plastic pollution will mean for India

: 12/22/2024

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Recently, the fifth session of the Intergovernmental Negotiating Committee (INC-5) on plastic pollution concluded with major disagreements over several issues, including curbing plastic products and chemicals of concern, managing the supply of primary polymers, and a financial mechanism to help developing countries implement the treaty. This meeting, which took place between 175 parties, was marked by a high degree of disagreement over whether the treaty should address the entire lifecycle of plastics and provide financial support from developed nations to aid developing countries in transitioning away from plastics, which was also India's argument at the INC-5, similar to its stand during the COP-29 summit.

From an international law perspective, treaty-making has several steps. It has several stages of negotiations, ranging from signatures to ratification of the treaty. According to Article 26 of the Vienna

Convention on Law of the Treaties 1969, the treaty is binding upon the parties. However, in the current scenario, the negotiations have failed.

It needs to be understood that the global issue of plastic pollution has prompted international efforts to create a legally binding treaty to mitigate its impact. On March 2, 2022, the United Nations Environment Assembly (UNEA) adopted a resolution to develop such an instrument by 2024, which unfortunately has failed.

In this light, it becomes significant to examine the key developments, scope, and challenges associated with negotiating the treaty, particularly focusing on legal and operational aspects, including support for developing nations and economies in transition, as also argued by India, which had led to the establishment of a Loss and Damage Fund in the earlier COP meetings.

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The Loss and Damage Fund, which is a parallel effort by the international community, has made significant strides in addressing the adverse effects of climate change. It was announced during COP-27 in Sharm El Sheikh, Egypt, to support vulnerable countries facing the consequences of climate change despite their minimal contributions to global emissions based on the Common but Differentiated Responsibilities principle (CBDR) propounded by India and other developing countries.

The fund aims to assist countries grappling with rising sea levels, changing weather patterns, droughts, and other climate-induced challenges. Wealthier industrial nations, whose historical activities have fuelled global warming, are the primary contributors to the fund. A percentage of the fund is reserved for Least Developed Countries (LDCs) and Small Island Developing States (SIDS) to ensure equitable distribution.

Coming back to the issue of plastic pollution, it was the United Nations Environment Assembly (UNEA) that adopted the end of plastic pollution: towards an international legally binding instrument resolution in March 2022. Under this resolution, the Intergovernmental Negotiating Committee convened its first meeting in Dakar, Senegal, from May 30 to June 1, 2022, which focused on achieving consensus on contentious issues, such as definitions of plastics and the scope of lifecycle management. This resolution sets the stage for negotiating a regulatory framework to prevent and reduce plastic pollution globally. It provides a comprehensive mandate to address plastic pollution through a legally binding instrument. Its core objectives include creating a regulatory framework to address the root causes of environmental harm associated with plastics; promoting a circular economy to minimise waste generation; and providing targeted support for developing countries and economies in transition.

Going forward, the negotiation of a legally binding plastic pollution treaty faces several challenges, including defining the scope and key terms, such as “plastics” and “plastic lifecycle”, ensuring inclusivity and equitable support for developing nations, and balancing economic growth and environmental protection in countries with economies in transition. However, the initiative also presents significant opportunities to advance global environmental governance, enhance international cooperation, and promote sustainable practices across industries.

While the road to a legally binding treaty involves complex negotiations and compromises, the initiative holds immense promise for fostering a sustainable and equitable future in which India’s role assumes significance.

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