

# International Agreements on Environment related to Waste Management

By Chan Fong Li

**R**elated to environmental sustainability in general and the management of waste in particular, there are international norms, understandings and agreements for countries to follow for the good of mankind. Some of the agreements published by the United Nations Environment Programme (UNEP) make a good reference for stakeholders involved in waste management.

The Annex B of the Guidelines for National Waste Management Strategies provides the obligations under multilateral environment agreements as follows:-

## **OBLIGATIONS UNDER MULTILATERAL ENVIRONMENT AGREEMENTS**

An important question for any country in developing an integrated waste management strategy will always be to consider what is necessary to ensure that the country meets international expectations, including its obligations under international treaties. International norms and obligations arise from several sources and take several forms:

The principles of sustainable development and environmental policy, which are discussed in Part III of this document and set out in numerous different international texts, encapsulate internationally accepted approaches to policy choices.

Treaty level instruments such as multilateral environmental agreements (MEAs) typically contain both specific and general obligations (This is explained below in more detail for the

Basel Convention and several other international conventions).

Normative texts adopted by international bodies, such as the United Nations and its subsidiary bodies, or the UNEP Governing Council, do not have binding force in international law but set out the policy norms and standards which countries are encouraged and expected to meet.

When countries determine their national waste policies, they must meet their binding obligations under international law. The principles and policy norms do not have the same binding force, but countries should only depart from these on an exceptional basis, after careful examination of the options and only where there is a compelling rationale for doing so.

## **THE BASEL CONVENTION ON TRANSBOUNDARY MOVEMENT OF HAZARDOUS WASTE AND THEIR DISPOSAL**

The obvious starting point is the Basel Convention. The Convention deals with hazardous waste but extends to “other waste”, namely household waste and the ash from combustion of household waste (all of these together referred to here as “Convention waste”). The Convention contains both general and specific obligations: the specific obligations relate to the transboundary movement of Convention waste, but there are also general obligations, some of which relate to domestic activity.

The main general obligations having a domestic focus, found in Article 4, are:



# BASEL CONVENTION

## ON THE CONTROL OF TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL

### PROTOCOL ON LIABILITY AND COMPENSATION FOR DAMAGE RESULTING FROM TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL

- Minimise the generation of Convention waste.
- Ensure that disposal facilities are available for Convention waste.
- Prevent pollution from facilities for the disposal of Convention waste.
- Ensure that people who handle and transport Convention waste are authorized to do so.
- Require that Convention waste subject to transboundary movement is managed in an environmentally sound manner.
- Ensure that Convention waste is only exported when the country of export lacks the capacity to manage it, or the country of import needs it as raw material or in accordance with other criteria to be agreed by the Parties.

There are also general obligations focused on the transboundary movement of Convention waste, including abiding by the principles of the notification and consent regime, namely to:

- Inform other countries of any prohibitions of the import of waste.
- Abide by any such prohibitions imposed by other countries.
- Prevent export of waste to other countries unless they have consented to import.
- Prohibit any transboundary movement if it is suspected that the waste will not be managed in an environmentally sound manner.
- Minimise the transboundary movement of Convention waste.
- Prohibit trade in Convention waste with non-Parties.
- Require that Convention waste, when subject to transboundary movement, is packed and transported in accordance with international law, and that the movement is tracked.

In addition, Article 6 sets out specific rules relating to the system of notification and consent governing transboundary movement, and Article 7 extends that regime to transit through non-Party states.

Other articles cover administrative support for the system (e.g. Article 5 provides for notification of competent authorities and focal points) and impose special requirements governing matters such as reimport of waste (Article 8) and illegal traffic (Article 9). Article 11 allows Parties to enter into new agreements with other countries covering transboundary movements of waste, or to abide by existing agreements, provided in each case the said agreements do not involve lower standards of protection than the Convention itself.

A substantial quantity of supporting material has been developed over the years in working groups under the Convention, providing a valuable resource for countries confronted by waste management problems related to issues covered by Convention waste. Among these guidance tools, the Technical Guidelines on priority waste streams

are likely to be of particular value.

A Technical Expert Group under the Convention is currently developing a framework for environmentally sound management of hazardous and other waste, including standards, criteria, guidelines and tools for implementation. Strategies for addressing challenges will be part of the framework and supporting materials.

### **THE STOCKHOLM CONVENTION ON PERSISTENT ORGANIC POLLUTANTS (POP)**

The focus of the Stockholm Convention is to reduce or where possible eliminate release of chemicals listed in the Convention's annexes. Article 6 of the Convention deals with release from stockpiles or waste. Obligations of the parties to the Convention can be summarised as follows:

- To identify wastes consisting of, containing or contaminated with listed POPs, and products and articles that contain POPs and will become waste
- To manage these stockpiles and waste ("POPs waste") safely, efficiently and in an environmentally sound manner
- To handle, collect, transport and store POPs waste in an environmentally sound manner
- To dispose of the POPs waste so that their POPs content is destroyed or irreversibly transformed (except where it is not environmentally preferable or where the level of contamination is low)
- To prevent any recovery or reuse of the POPs content
- To allow POPs waste to be transported internationally only in accordance with the rules governing such movements.

These rules apply with some variation to different categories of POPs (e.g. waste contaminated with the unintentionally produced by-products listed in Annex C to the Convention are not subject to all the above obligations), and there are in some cases additional considerations elaborated in the annexes with respect to particular POPs (e.g. Annex A includes detailed provisions governing recycling of articles containing the listed brominated diphenyl ethers<sup>90</sup>).



Article 6 also includes an obligation for each Party to use its best efforts to identify sites contaminated with POPs, and, where remediation is undertaken, to ensure that it is environmentally sound.

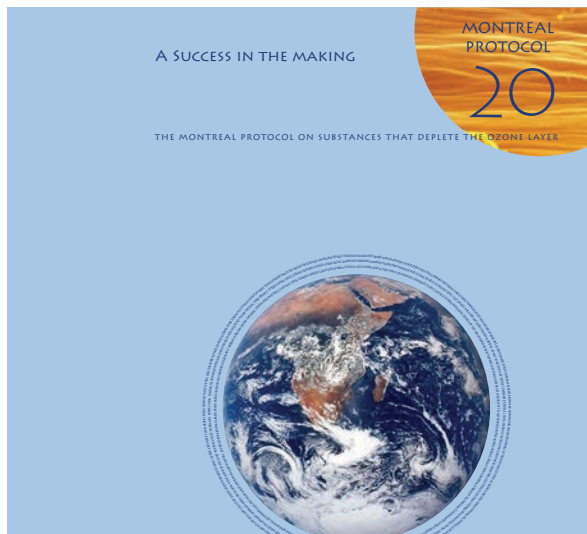
Article 6.2 requires the Conference of the Parties to work with the Basel Convention on setting destruction levels for POPs waste; identifying appropriate destruction technologies; and setting limit values for POPs contaminants that warrant engaging the waste obligations in the Convention. Technical Guidelines have been issued by the Basel Convention dealing with these matters both in general terms and with respect to particular waste. The Guidelines are currently being revised to include the newly listed POPs.

Other relevant obligations include the preparation and submission of a National Implementation Plan (Article 7) and a National Action Plan on Annex C POPs (Article 5(a)).

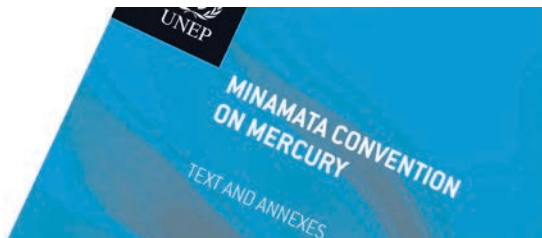
### **OTHER MULTILATERAL ENVIRONMENT AGREEMENTS (MEA)**

Several other MEAs also contain provisions that may impact a country's priorities in the

development of a national waste management strategy. Each country should at least make sure that it is not inadvertently failing to meet its obligations to any of these MEAs.



The **Montreal Protocol on Substances that Deplete the Ozone Layer** obliges Parties to control the import, export, and use of the ozone-depleting substances (ODS) listed in the Convention. Articles 4 and 4A control trade with non-Parties and Parties respectively. Trade with non-Parties is essentially prohibited by Article 4, and Article 4A limits exports of ODS that have been phased out, other than those allowed under essential use provisions, to export for destruction. Although the Protocol does not oblige Parties to destroy holdings of ODS, the effect of the provisions on use and trade is that once a particular ODS is phased out stocks need to be destroyed. The Technology and Economic Assessment Panel of the Protocol has provided an expert assessment of destruction technologies to assist Parties, and has approved certain technologies for destruction of particular ODS.



An International Negotiating Committee convened by UNEP has completed work on the **Minamata Convention on Mercury**, with

the text to be formally adopted at a specially convened meeting in Kumamoto and Minamata in October 2013. The completed agreement includes a substantial article on storage, waste and contaminated sites. Other provisions of the Convention may also be relevant to countries as they go about developing national waste management strategies.

## OTHER INTERNATIONAL AGREEMENTS

Other international agreements may also have a bearing on a country's waste management policy. Several agreements under the **International Maritime Organisation (IMO)** deal with maritime waste. Although outside the scope of this guidance document, these agreements may nevertheless be relevant as they influence the range of wastes that have to be managed, e.g. waste taken off a ship when it docks after a voyage or the waste that results from recovery operations and recycling on a ship at end-of-life.

The relevant agreements are:

- International Convention for the Prevention of Pollution from Ships and its Protocol (MARPOL), which governs (inter alia) the management of wastes arising from the normal operation of ships
- Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009
- London Convention (1972) and its 1996 Protocol, which deal with the dumping and incineration of waste at sea.

Each country needs to make its own decision as to whether to include maritime waste managed at sea in a national strategy. A country with a large coastline and a significant fishing industry, for example, may well consider that including maritime waste is important because of the contribution that waste from fishing vessels typically makes to the debris washing ashore on beaches and coasts.

Wastes loaded onto a ship for dumping at sea represent a diversion from a country's waste streams. Such actions need careful examination not only from an environmental but also from a policy point of view. The relevant international instruments strictly limit what

parties to those instruments may dump at sea. From a policy perspective, the action is contrary to the precautionary principle, and if done on a continuing basis, represents an unsustainable course of action.

## SUB-GLOBAL AND REGIONAL AGREEMENTS

Many countries have entered into **bilateral or multilateral agreements** with other countries on hazardous waste, mainly in order to co-operate regionally in hazardous waste management and provide enhanced regional protections against abuses connected with poorly controlled transboundary movements.

For parties to the Basel Convention, these agreements must meet the requirements of Article 11 of that Convention, i.e. the agreement should not provide a reduced standard of protection. These agreements will need to be taken into account when countries who are parties to the Basel Convention develop waste management strategies. Several types of agreements can be identified, including:

- Agreements among neighbouring countries or covering a region, e.g. the Bamako, Waigani, US/Mexico, US/Canada and Central American conventions and agreements
- Agreements among countries not geographically linked – The countries of the Organisation for Economic Cooperation and Development (OECD) have adopted Decision C (2001)107/FINAL dealing with the transboundary movement of hazardous waste among OECD countries.

Within the European Union a considerable body of regulatory and related action governs many aspects of waste across all members, e.g. WEEE and RoHS. These regulatory actions are not focused on transboundary movements.

Regional agreements in areas other than waste may contain provisions relevant to waste management. There are, for example, ten **Regional Seas Agreements** covering many of the globe's regions (Mediterranean, Kuwait Region, West and Central Africa, South-East Pacific, Red Sea and

Gulf of Aden, Wider Caribbean, Eastern Africa, South Pacific, Black Sea, North-East Pacific).

Protocols or action plans of Conventions often have solid waste as a priority. One example is the Convention for the Protection and Development of the Marine Environment in the Wider Caribbean Region (the Cartagena Convention), which entered into force in 1986. Article 6 relates to dumping of waste at sea from ships, and other articles, such as Article 7 on land-based pollution, carry implied obligations for waste management on land.

Regional action outside binding agreements also provides guidance and impetus from time to time on particular waste management issues. As an example, the Meeting of the **Regional 3R Forum in Asia** in Tokyo in 2009 promoted the adoption of the "3Rs" in the Asian Region, reaffirming and building on Agenda 21, the Johannesburg Declaration on Sustainable Development (2002) and the Johannesburg Plan of Implementation (2002). The meeting agreed on a number of long-term and short-term priorities:

- Mainstreaming the 3Rs in the national development agenda
- Mobilizing financial resources in cooperation with bilateral and multilateral aid agencies for the implementation of 3R measures and activities
- Developing human resources to address waste management issues
- Facilitating implementation, replication and scaling up of 3R-related pilot and demonstration projects and other good practices
- Collaborating with existing 3R information/research networks at both the national and international levels
- Promoting 3R business feasibility studies
- Conducting international collaborative, advanced policy-relevant scientific research on sound material cycles in Asia
- Capacity building, e.g. through international training programmes focusing on 3Rs for human resource development.

An additional example is the **Regional Seas Programme of UNEP**, which has been developing and implementing Regional Action Plans on Marine Litter, including capacity building for effective management, promoting public awareness and



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strengthening co-operation among Governments, NGOs, and other stakeholders.

## **INTERNATIONAL POLICY TEXTS**

Waste management, aside from transboundary movement issues, is mainly a national rather than international issue. It therefore receives limited international attention from international bodies. However, from time to time, especially but not exclusively in the sustainable development context, policy texts on waste or dealing in part with waste issues are adopted. These are, generally speaking “normative” texts that set policy norms or standards which are non-binding in international law but establish expectations for the policies that countries should adopt.

Prominent texts from the past 20 years include:

**Agenda 21**, adopted by the UN Conference on Environment and Development at Rio de Janeiro in June 1992 – Chapter 20 on environmentally sound management of hazardous wastes and Chapter 21 on environmentally sound management of solid wastes are centrally relevant. Chapter 3 on combating poverty, Chapter 4 on consumption patterns and Chapter 7 on sustainable human settlements are also relevant.

The **Johannesburg Plan of Implementation**, adopted by the World Summit on Sustainable Development at Johannesburg in May 2002 – Section III focuses on

- sustainable production and consumption.
- cleaner production and eco-efficiency and
- waste management.

Mention was made in Part I of “The Future We Want”, the outcome document from the **UN Conference on Sustainable Development**, held in Rio de Janeiro in June 2012. It deals with chemicals and waste, and is of particular relevance to waste management. The text endorses:

- Public-private partnerships in waste management
- Adopting a life-cycle approach and policies for resource efficiency and environmentally sound waste management
- Using approaches that recognise the 3Rs, increasing energy from waste and treating waste as a resource
- Preventing unsound management and illegal dumping of hazardous wastes
- Addressing the problems associated with electronic and plastic waste, in particular.

Other parts of the text address related issues such as sustainable consumption and production; sustainable cities and human settlements; and poverty eradication. Chapter III on the green economy is also relevant for countries considering waste management policy options.

The Conference reaffirmed sustainable consumption and production as a cornerstone of sustainable development, and adopted the 10-year Framework of Programmes for Sustainable Consumption and Production as a concrete outcome.

The 19th session of the **Commission on Sustainable Development** (CSD 19) focused on sustainable production and consumption. Section C deals with waste management, and offers quite detailed guidance, extending to particular waste streams (such as e-waste). Paragraph 38 identifies the central objective of waste management as the adoption of integrated policies that:

- Promote waste prevention and minimisation
- Support environmentally sound and efficient management, focusing on the 3Rs and the recovery of useful materials and energy
- Ensure disposal of residual waste in an environmentally sound manner.

The text supports the adoption of integrated waste management strategies and gives many explanations concerning what such strategies could include.

In the lead-up to CSD19, in the review year (2010 – CSD18), a number of inter-sessional activities were held focusing on waste management, including: an International Consultative Meeting on Expanding Waste Management Services in Developing Countries, in Tokyo, Japan, in March 2010; and an Inter-sessional Meeting on Expanding Waste Management Services in Africa, held in Rabat, Morocco, in November 2010. The latter meeting generated the Rabat Declaration on sustainable waste management. Following these two meetings, an Intersessional Conference on Building Partnerships for Moving towards Zero Waste was convened by the UN Centre for Regional Development in Tokyo, Japan, in February 2011.

Hazardous waste may be hazardous for different reasons but many types are hazardous because they contain or are contaminated with hazardous chemicals. The **Strategic Approach to International Chemicals Management** (SAICM), adopted in February 2006 in Dubai, United Arab Emirates, is the central international text on overall chemicals management. Portions of the text deal specifically with hazardous waste issues, as well as other issues relevant to waste management. In the Global Plan of Action:

- Activities 68-73, 161-2, 258-62 and 272-3 concern waste management and minimisation.

- Activities 43-6, 118 and 238-42 cover cleaner production.
- Activities 47-8 and 243 cover contaminated sites and site remediation.
- Activities 119-123 deal with life-cycle issues.

Several other activities relate to issues that may be relevant in particular situations.

The **Global Programme of Action for the Protection of the Marine Environment from Land-Based Activities** (GPA) represents a common international understanding addressing the major causes of degradation of the marine environment from activities occurring on land. It focuses on nine main sources of impacts on the marine environment, one which is directly waste-related (marine litter), while several others derive in part from waste on land.

Acknowledging that both land based marine litter and litter originating from rivers and seas posed a vast and growing threat to the marine and coastal environment, the **5th International Conference on Marine Debris** endorsed the **Honolulu Commitment**, declaring that participants recognise the contribution of resource efficiency, principles of the green economy and integrated waste management as successful responses to the problems presented by marine debris.

While national strategy development draws on international resources, developing robust and effective integrated national waste management strategies can in turn make a contribution to international goals and programmes. For example, such strategies contribute to progress towards **Millennium Development Goals**, notably those on poverty, water and sanitation.

One of the main outcomes of the UN Conference on Sustainable Development in 2012 was the agreement by member States to develop a set of **Sustainable Development Goals** (SDGs) that would build upon and complement the Millennium Development Goals. The process for the development of the SDGs has been launched and is envisaged to be finalized by 2015 in order to coincide with the post 2015 development agenda.

## REFERENCE

UNEP, Unitar – *Guidelines for national waste management strategies, moving from challenges to opportunities*