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Conference of the Parties to the Bamako Convention on the Ban of the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa
"The Bamako Convention: A platform for a Pollution Free Africa"

Second Meeting of the Conference of the Parties to the Bamako Convention

"Twenty Years of the Bamako Convention: A Time for More Effective Implementation"

EXECUTIVE SUMMARY

1. Background

Hazardous waste is waste that poses substantial or potential threats to public health or the environment. Most of them are environmentally persistent, bioaccumulate and largely consist of heavy metals such as cadmium, mercury, arsenic, chromium, nickel, dioxins, polychlorinated biphenyl (PCBs), Polycyclic aromatic hydrocarbons (PAHs), PM10 and sulphur dioxide (SO₂)¹.

Hazardous wastes include a broad range of products from cleaners, stains, varnishes, batteries, automotive fluids, obsoletes pesticides and herbicides, certain paints and many other products found in the construction industry such as asbestos. Characteristics of hazardous wastes include the following properties: ignitability, corrosivity, reactivity or toxicity².

The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal was designed to reduce the movements of hazardous wastes between nations and prevent transfer of hazardous wastes from developed to less developed countries (LDCs).

Before the adoption of the Basel Convention, the Organization of African Unity formally recognized that the Basel Convention was not going to provide African nations with the protection they desired³. In fact, African nations wanted a complete ban or prohibition of the

¹ <https://academic.oup.com/bmb/article/68/1/183/421368>

² <https://www.epa.gov/hw/defining-hazardous-waste-listed-characteristic-and-mixed-radiological-wastes>

³ Resolution on a Global Convention for the control of Transboundary Movement of Hazardous Wastes, OAU Council of Ministers Resolution CM/Res. 1199(XLIX) February 1989, CM/Res. 1225(L), July, 1989; CM/Res. of February 1990. See also Tolba, K. Mostafa and Rummel-

transboundary movements of hazardous wastes. However, recycling of hazardous wastes is allowed under the Basel convention as a legal way of importing and exporting hazardous waste. It is important to note that hazardous waste is a lucrative trade. Most developing countries do not have the technology to check and control what gets to be deposited in their countries. It is doubtful that most of the material meant for recycling will benefit the countries and strict control and monitoring is hard to achieve. Some countries may refer to this as “environmental terrorism”.

The Bamako Convention is a solution and an African response to the perceived legal loopholes and weaknesses of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal.

2. Bamako Convention

The Bamako Convention is very similar to the Basel Convention. Indeed, the Bamako Convention can be considered an Article 11 Agreement of the Basel Convention. The major difference lies in the fact that Bamako is administered within Africa. The ocean dumping provisions of the Bamako Convention are like the agreements found in the London Protocol of the International Maritime Organization. The Bamako waste trade prohibition is similar and consistent with the Basel Ban Amendment (1995). These instruments are important and complement each other.

a. The purpose of the Bamako Convention

- Prohibit the import of all hazardous and radioactive wastes into the African continent for any reason;
- Minimize and control transboundary movements of hazardous wastes within the African continent;
- Prohibit all ocean and inland water dumping or incineration of hazardous wastes;
- Ensure that disposal of wastes is conducted in an environmentally sound manner;
- Promote cleaner production over the pursuit of a permissible emissions approach based on assimilative capacity assumptions;
- Establish the precautionary principle.

b. General Obligations for Countries under the Bamako Convention

- Countries should ban the import of hazardous and radioactive wastes as well as all forms of ocean disposal.
- For intra-African hazardous waste trade, Parties must minimize the transboundary movement of wastes and only conduct it with consent of the importing and Transit States.
- Countries should minimise the production of hazardous wastes and cooperate to ensure that wastes are treated and disposed of in an environmentally sound manner.

c. Economic and Social Benefits of the Bamako Convention

- It provides an effective protective mechanism to stop waste traders from making Africa an international waste dump.
- It will prevent Africa from becoming a dump for 'products' that have been banned or deregistered in developed countries.
- It will prevent dumping of hazardous waste at sea or on (or below) the seabed

Bulska, Iwona, *Environmental Diplomacy: Negotiating Environmental Agreements for the World, 1973–1992* (1998) 112–113, where the authors observed that, ‘The Basel Convention was successfully negotiated despite the fact that the African delegates’ intransigence hung heavily in the air’.

- It ensures that trade in waste within Africa is controlled and thus prevent more industrialized states in Africa from victimizing other African states and prevents hazardous waste generators from avoiding liability for pollution.

d. Reporting Requirements under the Bamako Convention

The Convention describes various forms of information that should be transmitted between countries and to the Secretariat. These include:

- Export notifications;
- Written consent or disapproval for import applications;
- Movement documentation;
- Accident Notification;
- Information on the sound management of wastes; and
- Information on national bans and national definitions

3. Challenges by Parties and Secretariat in the implementation of the Bamako Convention

- a. Institutional arrangements for the implementation of Convention: Establishment of a subsidiary body: Only 5 Parties communicated to the Secretariat the designation of members of the Legal and Technical Working Group (LTWG);
- b. Financial arrangement for the administration of the convention: No funds were pledged to the Revolving and Trust Funds;
- c. Revolving Fund for Assistance in case of Emergency: No contributions were received by the Secretariat from Parties;
- d. Work Plan and Budget for the calendar year 2014: With limited funds available the Secretariat managed to execute some activities of the Workplan. However, the Workplan was not carried out fully due to the lack of funds. Without resources the Secretariat has not been in position to convene a meeting of the Legal and Technical Working Group (LTWG);
- e. Designation of Competent Authorities, Focal Point and Dumpwatch: Not all countries have communicated the necessary information to the Secretariat;
- f. Notification Procedures for Transboundary Movement of waste: No party has reported to the Secretariat transboundary movement of waste; Due to lack of funds the Secretariat was not able to hold a training workshop on Transboundary Movement and Notification Procedures for focal points, competent authorities and Dumpwatches; Due to lack of funds the Secretariat was not able to convene a meeting of the Legal and Technical Working Group (LTWG) to revise and amend the Notification Form and Movement Document for the transboundary movement of waste;
- g. Illegal traffic: No Party has reported to the Secretariat adoption of national legislation of management of chemicals and waste addressing the issue of illegal traffic of hazardous wastes and radioactive wastes; Due to lack of funds the Secretariat was not in position to organize workshop on prevention and monitoring of illegal traffic; and to convene a meeting of the Legal and Technical Working Group (LTWG) to revise and amend the guidance elements for adoption by COP 2;
- h. Decision on the Prevention of Hazardous E-Waste and Near End-of-Life - Importation and Dumping in Africa: No legislation or policies on E-waste communicated to the Secretariat from Parties;
- i. Article 12 states that the Conference of Parties shall set up an ad hoc expert organ to prepare a draft protocol setting out appropriate rules and procedures in the field of liabilities and compensation for damage resulting from the transboundary movement of hazardous wastes: Only 5 Parties designated members for the ad hoc expert committee;
- j. Article 13 establishes procedures for transmission of information among Parties and between the Parties and the Secretariat: No reports received by the Secretariat from

Parties to allow to prepare country-fact sheets and to make such information available on a regular basis to the Parties, Non-Parties, any other related Convention Secretariats, institutions and agencies having a direct interest in the environmentally sound management of hazardous wastes, and to Secretariat to establish a clearinghouse mechanism; No funds available to support the work of the Legal and Technical Working Group (LTWG) to revise and amend the Form for consideration at COP 2; No funds available to hold a training workshop on Reporting and Inventories of Hazardous Wastes for focal points, competent authorities and Dump watches;

- k. Decision on Ratification and Domestication of Mutually Beneficial Instruments: Bamako Convention, Basel Convention and Basel Ban Amendment: Lack of funds for the Secretariat to aid Parties, Signatories and Non-Parties in the process of ratification of the Bamako and Basel Conventions and the Basel Ban Amendment, and creation of implementation legislation to domesticate these instruments into national law.

4. *The long march towards a pollution free planet*

The second conference of the parties to the Bamako Convention is held in against a backdrop of established consensus that pollution is the most urgent threat to human health and ecosystems. Many delegates and observers at the recently concluded third United Nations Environment Assembly noted that in focusing on a theme that resonates greatly with the public, as evidenced by more than 2.3 million pledges garnered from individuals across the world in the #BeatPollution campaign, the Assembly has firmly positioned itself as the world's voice on the environment, and pollution in particular. This while strengthening the environmental pillar of the 2030 Agenda for Sustainable Development.

As countries discuss issues relevant to the Bamako Convention under the overall theme: *"The Bamako Convention: A platform for a Pollution Free Africa"*, it will be important to refer to the scientific data that informed the decisions taken at United Nations Environment Assembly to develop a more robust strategy to strengthen implementation of the Bamako Convention. These calls for a new approach, while taking into account the development aspirations and challenges of African countries as well as the commitment that countries in the region have made to preserve human health and environment, in the spirit of 'The Future We Want'.

5. *Recommendations*

- a. **Establish national platforms involving all relevant stakeholders to develop Bamako Convention National Action Plans.** To enshrine the principles of good governance, participatory and transparent approaches in the implementation of a national Bamako Convention strategy. In addition, to integrate, as far as possible and as appropriate, hazardous waste issues into relevant sectoral or cross-sectoral plans, programmes and policies to serve as an effective framework for the implementation of the provisions of the Convention;
- b. **Develop technical expertise as a means to strengthen implementation.** African countries face particularly acute capacity constraints in implementing hazardous wastes related obligations at the national and regional level. Most African countries have spiraling levels of poverty, massive development needs and limited technical capacity to deal with hazardous waste problems. Regulating and managing hazardous wastes under such circumstances is clearly remains a substantial challenge;

- c. **Share best practices and lessons learned within and between African countries.** This is intended to support the implementation of the Bamako Convention, by highlighting the experiences of a number of activities on the continent, the breakthroughs achieved through research, and any other agreements that deal with the prevention, safe use and disposal of hazardous wastes;
- d. **Build adequate capacity to act.** This will result in improved financial, human, scientific, technical, and technological capacity to implement the Bamako Convention and allow for adequate implementation of the priority actions included in the national strategies and action plans;
- e. **Highlight the economic, social and environmental impacts.** Conducting an inventory of the extent of hazardous wastes will help to determine the roles and responsibilities of various stakeholders in the management of such wastes, for example, the related roles of policy makers, municipalities, etc.;
- f. **Identify and set up operational national competent authorities and focal points.** Designate focal points that receive notifications in case of a state of transit and also a national body to act as a *Dumpwatch* that can co-ordinate with the concerned governmental and non-governmental bodies;
- g. **Develop Public-Private partnership.** Interdisciplinary initiatives that combine research, training and technology transfer model in the areas of focus of the Bamako Convention should enable the engagement of all stakeholders including marginal/affected groups.