

Arctic Marine Litter Workshop

Session II: Legislative Frameworks *Status and Emerging Trends*

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- Brief overview of first draft of Desktop Study's legal framework.
- Additions to the next draft.
- Survey of critical commentary of existing legal framework to spur discussion (generalized - they do not necessarily reflect any particular viewpoint).

- Desktop Study's legal framework.
 - Overview of the rise of the issue/growing concern.
 - Overview of existing international instruments (e.g., UNCLOS, MARPOL, London Convention and London Protocol, etc.)
 - Overview of existing international and regional initiatives (Regional Seas Programme, GPA for Protection from Pollution from Land-Based Activities, FAO's ALDFG)

- Next draft of Desktop Study's legal framework will:
 - Incorporate information on other, relevant international instruments
 - Include discussion of regional action plans / agreements
 - Nine plans and will likely select illustrative ones (OSPAR, Mediterranean, etc.)
 - Continue to frame discussion towards overarching goal of assisting Member States in exploration of "the possibility of developing an outline for a framework of an Arctic regional action plan on marine litter."
 - National efforts?

Commentary:

(The quote below and the ones that follow are excerpted merely to spur discussion; they do not reflect any entity's particular viewpoint)

1. Existing regimes are inadequate to handle growing problem.

“Despite decades of efforts to prevent and reduce marine litter in many countries, there is evidence that the problem is persistent and continues to grow – especially as populations continue to increase. Most current solid waste management practices are inadequate and require changes to the regulatory and enforcement regimes as well as non-regulatory incentives. . . . Better leadership, coordination of mandates and resources are required at both the national, regional and international levels to better address this global problem.”

Source: UNEP, “Progress in the Implementation of UNEP’s marine litter activities 2007-2011 and the Way Forward from 2012-2016,” UNEP/GPA/IGR.3/INF/6 (12 Jan. 2012).

Commentary:

2. No single binding agreement or governing body exists.

“This long-lasting and transboundary compound is a source of pollution that is not addressed under a single international legally binding instrument. Global instruments exist to protect biodiversity, manage hazardous chemicals and waste, and prevent pollution of the marine environment from ocean sources and, to a lesser degree, landbased sources of pollution. Some applicable measures are weakly distributed amongst these global instruments, but the reduction of marine plastic litter and microplastics is not a primary objective of any.”

Source: UNEP, “Combating Marine Plastic Litter and Microplastics: An Assessment of the Effectiveness of Relevant International, Regional, and Subregional Governance Strategies and Approaches,” EA.3/INF/5 (5 Oct. 2017).

Commentary:

3. Member states need stronger/consistent laws at national level.

The existing “treaties and agreements are only as strong as the laws of the member states. It is up to a member state to regulate and prosecute illegal activities within its waters, or in some instances, to prosecute acts done by vessels sailing under its flag.”

Source: Grant A. Harse, “Plastic, The Great Pacific Garbage Patch, and International Misfires at a Cure,” 29 UCLA J. Envtl. L. & Pol’y 331, 332 (2011).

Commentary

4. Need holistic approach.

“A combination of binding, voluntary and self-regulatory measures are necessary to manage the complexities of the lifecycle of plastics, including the international trade of products, components and waste. Due diligence of industry must play a role in progressing towards environmentally sustainable production, consumption and disposal of plastics and their chemical additives.”

Source: UNEP, “Combating Marine Plastic Litter and Microplastics: An Assessment of the Effectiveness of Relevant International, Regional, and Subregional Governance Strategies and Approaches,” EA.3/INF/5 (5 Oct. 2017).

Commentary

5. Gaps in standards and coverage.

“A lack of harmonized binding standards at the global level for the mitigation of pollution by plastic waste, particularly from land-based sources.”

“Geographic gaps in the coverage of existing agreements, particularly on the high seas, but also with regard to internal waters and watersheds.”

Source: UNEP, “Combating Marine Plastic Litter and Microplastics: An Assessment of the Effectiveness of Relevant International, Regional, and Subregional Governance Strategies and Approaches,” EA.3/INF/5 (5 Oct. 2017).

Commentary

6. Need greater public outreach.

“Little recognition at the international policy level of the potential risks to human health, particularly from micro- and nanoplastics, and the application of the precautionary principle and of freedom of information in this regard.”

Source: UNEP, “Combating Marine Plastic Litter and Microplastics: An Assessment of the Effectiveness of Relevant International, Regional, and Subregional Governance Strategies and Approaches,” EA.3/INF/5 (5 Oct. 2017).

We lack a well-funded “public outreach campaign with support from the public and private sectors.”

Source: Bondareff, Joan M., et al., “Plastics in the Ocean: The Environmental Plague of Our Time,” 22 Roger Williams U.L.Rev. 360 (2017).