



**IMO**  
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**RULES TO INCORPORATE THE 1996  
PROTOCOL TO THE CONVENTION ON THE  
PREVENTION OF MARINE POLLUTION BY  
DUMPING OF WASTES AND OTHER  
MATTER, 1972 INTO THE LAWS OF INDIA**

**A Legislation Drafting Project submitted in partial fulfillment of the  
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**PART I**

EXPLANATORY NOTE

## I. London Convention and Protocol

### A. Environmental concerns and International Legal Framework

Marine Pollution had become a serious global environmental problem in the mid-20th century, particularly due to accidental oil spillages and operational oil discharges into the sea.<sup>1</sup> Consequently, various multilateral conventions were specifically adopted to address this environmental threat.<sup>2</sup> It is, therefore, pertinent to consider the international legal framework developed to tackle the increasing number of marine pollution instances. Emphasis can be given to the Geneva Convention on High Seas, 1958, which called states to draw up regulations to prevent pollution not only by the discharge of oil into the sea by ships or pipelines but also resulting from the exploration and the exploitation of the seabed and its subsoil. Additionally, it obliged the states to commit to preventing the dumping of radioactive wastes into the sea.<sup>3</sup>

In fact, the International Convention on the Safety of Life at Sea, 1974 (SOLAS 74) and the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL 73) signified protection of the marine environment and strengthened the requirements relating to the protection of the sea from accidental pollution.<sup>4</sup> A consistent effort to protect the marine environment can be found in a list of global conventions established since

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<sup>1</sup>IMO, 'London Dumping Convention: The First Decade and Beyond' [1990] <[http://www.imo.org/en/KnowledgeCentre/ReferencesAndArchives/IMO\\_Conferences\\_and\\_Meetings/London\\_Convention/Documents/IMO\\_LDC13INF9.pdf](http://www.imo.org/en/KnowledgeCentre/ReferencesAndArchives/IMO_Conferences_and_Meetings/London_Convention/Documents/IMO_LDC13INF9.pdf)> accessed 4 May 2018.

<sup>2</sup> These are the International Convention of the Prevention of Pollution of the Sea by Oil (London, 12 May 1954, entered into force 26 July 1958) 327 UNTS 3, International Convention relating to the Intervention on High Seas in Cases of Oil Pollution Casualties (Brussels, 29 November 1969, entered into force on 6 May 1975) 970 UNTS 211, Agreement for Cooperation in Dealing with Pollution of the North Sea by Oil (Bonn, 6 June 1969, entered into force 8 September 1969) 704 UNTS 3, International Convention on the Civil Liability for Oil Pollution Damage (Brussels, 29 November 1969, entered into force 19 June 1975) 973 UNTS 3 and the International Convention on the Establishment of an International Fund for Oil Pollution Damage (Brussels, 18 December 1971, entered into force 16 August 1978) 11 ILM 284. See Ibid.

<sup>3</sup> Convention on the High Seas (Geneva, 29 April 1958, entered into force 30 September 1962) 450 UNTS 11, Art. 25.

<sup>4</sup> Marine Insight, 'Safety of Life at Sea (SOLAS) & Convention for Prevention of Marine Pollution (MARPOL): A General Overview', [2017] <<https://www.marineinsight.com/maritime-law/safety-of-life-at-sea-solas-convention-for-prevention-of-marine-pollution-marpol-a-general-overview/>> accessed 4 May 2018.

1972.<sup>5</sup> Besides, 18 regional seas agreements have been adopted under the regional seas programme of the United Nations Environment Programme (UNEP) to protect the marine environment for the areas of the Gulf, Mediterranean Sea, West and Central Africa, East Africa, Red Sea and Gulf of Aden, South-East Pacific, Caribbean region and South Pacific.<sup>6</sup> Moreover, certain regional legal instruments have been operating independently of the UNEP's regional seas programme such as the Paris convention, Helsinki Convention and the Oslo Convention, which were combined to create the OSPAR Convention.<sup>7</sup>

## **B. The Inception of London Convention:**

A premier global instrument among these developments was the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972, most commonly known as the London Convention.<sup>8</sup> On 30 August 1975, the London Convention entered into force.<sup>9</sup> As of 2018, the London Convention has 87 contracting states.<sup>10</sup>

It was the International Working Group on Marine Pollution (IGWMP)<sup>11</sup> that recommended the necessity of an international agreement regulating the dumping at sea of

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<sup>5</sup> These include the Convention on Long Range Transboundary Air Pollution (Geneva, 13 November 1979, entered into force 16 March 1983) 1302 UNTS 217, United Nations Convention on the Law of the Sea (Montego Bay, 10 December 1982, entered into force 16 November 1994) 1833 UNTS 3, Protocol of 1984 to amend the International Convention on Civil Liability for Oil Pollution Damage, 1969 (London, 25 May 1984) 23 ILM 195, and the Basel Convention on the control of the Transboundary Movements of Hazardous Wastes and their Disposal (Basel, 22 March 1989, entered into force on 5 May 1992) 1673 UNTS 57.

<sup>6</sup> United Nations Environment Programme, 'Regional Seas Programmes and other UNEP Activities Relevant to Marine Biodiversity in Areas Beyond National Jurisdiction' [2016]  
<[http://www.un.org/depts/los/biodiversity/prepcom\\_files/UNEP\\_and\\_BBNJ\\_PrepCom2.pdf](http://www.un.org/depts/los/biodiversity/prepcom_files/UNEP_and_BBNJ_PrepCom2.pdf)> accessed 4 May 2018.

<sup>7</sup> Myron H Nordquist, John Norton Moore and Said Mahmoudi, *The Stockholm Declaration and Law of The Marine Environment* (Kluwer Law International, 2003) 145.

<sup>8</sup> IMO, 'London Convention and Protocol' [2017]

<<http://www.imo.org/en/OurWork/Environment/LCLP/Pages/default.aspx>> accessed 4 May 2018.

<sup>9</sup> Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (London, 29 December 1972, entered into force on 30 August 1975), 1046 UNTS 120.

<sup>10</sup> IMO, 'Status of Treaties' [2017]

<<http://www.imo.org/en/About/Conventions/StatusOfConventions/Documents/Status%20of%20Treaties.pdf>> accessed 4 May 2018.

<sup>11</sup> The IGWMP was established by the Preparatory Committee for the Stockholm Conference in 1971. See, 'Report of The First Session of The Intergovernmental Working Committee' (United Nations Conference on the Human Environment, 1971)

<[http://www.imo.org/en/KnowledgeCentre/ReferencesAndArchives/IMO\\_Conferences\\_and\\_Meetings/London\\_Convention/Related1972StockholmConferenceDocuments/Documents/A%20CONF%2048%20IGWMP%20I%205%20eng.pdf](http://www.imo.org/en/KnowledgeCentre/ReferencesAndArchives/IMO_Conferences_and_Meetings/London_Convention/Related1972StockholmConferenceDocuments/Documents/A%20CONF%2048%20IGWMP%20I%205%20eng.pdf)> accessed 4 May 2018.

wastes transported from land.<sup>12</sup> The result of the IGWMP meetings was crystallised into draft texts that were submitted for consideration at the Stockholm Conference on Human Environment held in 1972.<sup>13</sup> This conference produced the Stockholm Declaration which vested upon the States the duty to protect the oceanic environment by prevention of pollution.<sup>14</sup> Moreover, its Principle 2 gave tacit acceptance to the fact that marine environment can be adversely impacted if States exploit resources in a manner endangering others.<sup>15</sup> Thereby, Stockholm Declaration entrusted States with the responsibility to avoid damage to the environment of other States in pursuance of exploiting resources. The Conference recommended that the governments must bring into force as soon as possible an over-all instrument for the control of oceanic dumping.<sup>16</sup> Subsequently, these efforts were supplemented by United Kingdom's recommendation in consultation of the Secretary-General of the United Nations and the London convention was adopted in November 1972.<sup>17</sup>

### **C. Overview of the London Convention:**

The London Convention sets forth a preamble that focuses on the significance of the marine environment and the necessity to implement the best practicable measures to curb the problem of marine environmental pollution. Its objective is to promote the effective control of all sources of marine pollution and to take all practicable steps to prevent pollution of the sea caused by dumping of wastes and other matter.<sup>18</sup> It is pertinent to note that its provisions apply universally, thereby extending to the territorial sea and the high sea.<sup>19</sup>

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<sup>12</sup> Ibid.

<sup>13</sup> IMO, 'Origin of The London Convention' [2012] <[http://www.imo.org/fr/KnowledgeCentre/ReferencesAndArchives/IMO\\_Conferences\\_and\\_Meetings/London\\_Convention/VariousArticlesAndDocumentsAboutTheLondonConvention/Documents/Origins%20of%20the%20London%20Convention%20-%20Historic%20events%20and%20documents%20%20M.%20Harvey%20September%202012.pdf](http://www.imo.org/fr/KnowledgeCentre/ReferencesAndArchives/IMO_Conferences_and_Meetings/London_Convention/VariousArticlesAndDocumentsAboutTheLondonConvention/Documents/Origins%20of%20the%20London%20Convention%20-%20Historic%20events%20and%20documents%20%20M.%20Harvey%20September%202012.pdf)> accessed 4 May 2018.

<sup>14</sup> Hans Corell, 'Keynote Address, Conference ON Stockholm Declaration and Law of The Marine Environment' (Stockholm, 2002) <[http://legal.un.org/ola/media/info\\_from\\_lc/LawSea\\_stockholm.pdf](http://legal.un.org/ola/media/info_from_lc/LawSea_stockholm.pdf)> accessed 4 May 2018.

<sup>15</sup> Ibid.

<sup>16</sup> 'Report of The United Nations Conference on The Human Environment' (United Nations, 1972) Recommendation 86 <<http://www.un-documents.net/aconf48-14r1.pdf>> accessed 4 December 2017.

<sup>17</sup> IMO (n 13).

<sup>18</sup> Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (London, 29 December 1972, entered into force 30 August 1975), 1046 UNTS 120, Preamble para 1, 6 and 7(London Convention).

<sup>19</sup> London Convention, Art III.

Nevertheless, it also states that its provisions shall not apply to vessels and aircrafts that are entitled to sovereign immunity under international law.<sup>20</sup>

Further, to ensure the implementation of its purpose, the London Convention eliminated dumping of certain types of waste, gradually making this regime more restrictive by promoting sound waste management and pollution prevention.<sup>21</sup> Moreover, it instils flexibility in the implementation of its provisions by encouraging and compelling Contracting Parties to individually and collectively exercise control on the pollution of the marine environment along with taking practicable steps to prevent marine pollution.<sup>22</sup> The measures to be taken individually have been spelt out to be within the scientific, technical and economic capabilities of each Contracting Party.<sup>23</sup>

Essentially, the definition of ‘Dumping’ under the London Convention is:

- “(i) Any Deliberate disposal at sea of wastes or other matter from vessels, aircrafts, platforms or other man-made structures at sea;
- (ii) Any Deliberate disposal at sea of vessels, aircrafts, platforms or other man-made structure at sea.”<sup>24</sup>

However, this definition excludes the disposal of wastes caused by ‘normal’ operational discharges from vessels, aircrafts, platforms or other man-made structures at sea.<sup>25</sup> Furthermore, an exclusion has also been made for any matter placed for the purpose other than for mere disposal not contravening the aims of the convention.<sup>26</sup> Adding to this, the eighth consultative meeting clarified that no party to the convention should undertake the disposal of wastes unless proven to be technically feasible and environmentally acceptable as well as in compliance to the standards and mechanisms established by the consultative meeting for such disposal.<sup>27</sup>

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<sup>20</sup> London Convention, Article VII (4).

<sup>21</sup> IMO, 'The London Convention and Protocol: Their Role and Contribution to Protection of The Marine Environment'  
<<http://www.imo.org/en/OurWork/Environment/LCLP/Documents/22780LDC%20Leaflet%20without%2040%20Anniv%20logo2012Web1.pdf>> accessed 4 May 2018.

<sup>22</sup> London Convention, Art I.

<sup>23</sup> London Convention, Art II.

<sup>24</sup> London Convention, Art III.

<sup>25</sup> London Convention, Article III(1)(b)(i).

<sup>26</sup> London Convention, Article III (1) (b) (ii).

<sup>27</sup> Greenpeace International, 'Briefing on Radioactive Waste Dumping at Sea' [1989]  
<<http://www.skeptictank.org/treasure/GP4/NUKP51.TXT>> accessed 4 May 2018.

Further, Annex I of the London Convention defines “Incineration at sea” to mean "the deliberate combustion of wastes or other matter on marine incineration facilities for the purpose of their thermal destruction."<sup>28</sup> This definition also excludes activities incidental to the normal operation of vessels, platforms or other man-made structures from its scope.<sup>29</sup>

Moreover, the London Convention provides three lists of substances in its Annexes which are regulated by Article IV. The ‘blacklist’ i.e. substances that are highly hazardous are provided in Annex I of the London Convention. Annex II includes the ‘grey list’ which contains materials and substances that require special care. Finally, the ‘white list’ can be found in Annex III which contains materials and substances requiring ‘prior general permit’ before being dumped into the sea.

Besides, exceptions have been drawn under Article V that highlights the circumstances where the disposal of substances can be permitted. Furthermore, in an emergency case of unacceptable risk to human life where no other option is feasible, a special emergency permit can be obtained for the dumping of materials or substances included in the blacklist.<sup>30</sup>

The other key features of the London Convention include the obligation of Contracting Parties to designate appropriate authorities for the purpose of issuance of permits,<sup>31</sup> encouragement to the Contracting Parties to not only enter into regional agreements and to seek cooperation with the parties to such regional agreements<sup>32</sup> but also to support personnel training as well as the supply of the necessary equipment and facilities for research and monitoring.<sup>33</sup> Additionally, Article XII obliges the Contracting Parties to pledge towards the protection of the marine environment from oil and other noxious substances, wastes from operating vessels, radioactive pollutants, chemical and biological warfare agents and seabed activity wastes.<sup>34</sup>

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<sup>28</sup> London Convention, Annex I (10) (d) (ii).

<sup>29</sup> London Convention, Annex I (10) (d) (ii).

<sup>30</sup> London Convention, Art V (2).

<sup>31</sup> London Convention, Art VI.

<sup>32</sup> London Convention, Art VIII.

<sup>33</sup> London Convention, Art IX.

<sup>34</sup> London Convention.

It is also significant to observe that all the provisions of the London Convention were specified to have a non-prejudicial nature in their application through the development and codification of the Law of the Sea under the auspices of the United Nations Conference of the Law of the Sea.<sup>35</sup>

#### **D. Development of the 1996 Protocol to the London Convention:**

Despite the existing international legal framework to protect the marine environment, there was a persistent lack of cooperation between the regional and global agreements. This lacuna was identified by the London Convention in its Preamble as well as articles. To strengthen the effectiveness of the London convention, the Task Team 2000 Report was approved in the consultative meeting held in 1984 as a valuable guide to implement the long-term goals of the Convention.<sup>36</sup>

Besides, a further development to the London Convention in the form of the 1996 Protocol to the London Convention was impacted by the Rio Declaration. Rio Declaration was a significant addition to the Stockholm Declaration at the United Nations Conference on Environment and Development. It enunciated the precautionary approach in its Principle 15 by stating that

‘in order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.’<sup>37</sup>

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<sup>35</sup> London Convention, Article XIII.

<sup>36</sup> IMO, 'Report of The Eighth Consultative Meeting' [IMO, 1984]  
<[http://www.imo.org/en/KnowledgeCentre/ReferencesAndArchives/IMO\\_Conferences\\_and\\_Meetings/London\\_Convention/LCandLDCReports/Documents/Report%20of%20LDC%208%20February%201984.pdf](http://www.imo.org/en/KnowledgeCentre/ReferencesAndArchives/IMO_Conferences_and_Meetings/London_Convention/LCandLDCReports/Documents/Report%20of%20LDC%208%20February%201984.pdf)> accessed 4 May 2018.

<sup>37</sup>Rio Declaration on Environment and Development, (United Nations conference on Environment and Development, Rio De Janeiro, 3-14 June 1992)  
<<http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm>> accessed 4 May 2018.



## E. Overview of the 1996 Protocol to the London Convention

As a move to modernize and eventually replace the London Convention, the 1996 Protocol to the London Convention (London Protocol) was adopted in 1996.<sup>38</sup> It came into force on 24 March 2006<sup>39</sup> and has since been subject to three amendments, wherein the first amendment occurred in 2006, the second in 2009, the third in 2013.<sup>40</sup>

The London Protocol outlines a comprehensive waste management regime greatly emphasizing on marine protection and is characterized to be more restrictive than the London Convention.<sup>41</sup> Its features are as under:

- 1) Objectives: The objective of the London protocol is to protect and preserve the marine environment from all sources of pollution and oblige the contracting parties to take effective measures to prevent, reduce and where practical eliminate marine pollution caused by dumping or incineration at sea.<sup>42</sup> However, it also places at the discretion of the Contracting Parties to either apply the provisions of the London Protocol or to adopt “other permitting and regulatory measures to control the deliberate disposal of wastes or other matter” where such disposal would amount to dumping or incineration at sea in accordance with the definition stipulated in this Protocol.<sup>43</sup>

For the purpose of meeting its objects, the London Protocol specifically takes into account the United Nations Convention on the Law of the Sea, 1982, the Rio Declaration on Environment and Development and Agenda 21.<sup>44</sup>

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<sup>38</sup> IMO (n 8).

<sup>39</sup> IMO (n 21).

<sup>40</sup> These amendments are: Amendment to the London Protocol to regulate the placement of matter for ocean fertilization and other marine geoengineering engineering activities; Amendment to Article 6 of the London Protocol and Amendment to include CO2 sequestration in sub-seabed geological formations in Annex 1 to the London Protocol. See, 'List of Amendments to the London Protocol' (IMO, 2016) <<http://www.imo.org/en/OurWork/Environment/LCLP/Documents/List%20of%20amendments%20to%20the%20London%20Protocol.pdf>> accessed 4 May 2018.

<sup>41</sup> D Attard and M Fitzmaurice, *The Imli Manual on International Maritime Law* (Vol III, Oxford University Press, 2016) 82.

<sup>42</sup> 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 (London 7 November 1996, entered into force on 24 March 2006) 36 ILM 1(London Protocol).

<sup>43</sup> Ibid.

<sup>44</sup> London Protocol, Preamble para 6.

- 2) Application: The application of the London Protocol to the vessels or aircraft has been divided into three groups under Article 10 (1) as follows:
1. vessels and aircraft registered in its territory or flying its flag;
  2. vessels and aircraft loading in its territory the wastes or other matter which are to be dumped or incinerated at sea; and
  - 3 vessels, aircraft and platforms or other man-made structures believed to be engaged in dumping or incineration at sea in areas within which it is entitled to exercise jurisdiction in accordance with international law.

However much like the London Convention, its Protocol expresses its non-application to the vessels and aircrafts entitled to sovereign immunity under international law.<sup>45</sup> Nevertheless, it not only obliges the Contracting Parties to ensure the adoption of appropriate measures for such vessels and aircraft to act in a manner consistent with its object and purpose but also to declare or express, at any time, consent to apply its provisions.<sup>46</sup>

Besides, despite specifying that nothing in the London Protocol shall relate to internal waters, the application of its provisions can extend to even internal waters at the discretion of the Contracting Parties.<sup>47</sup>

- 3) Definitions: The London Protocol elaborates on the definition of ‘Dumping’ enunciated in the London Convention. It not only includes ‘any storage of wastes or other matter in the seabed or subsoil’ but also ‘any abandonment or toppling at site of platforms or other man-made structures at sea for the sole purpose of deliberate disposal.’<sup>48</sup> It further enlists exclusions to this definition which, notably,

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<sup>45</sup> London Protocol, Article 10(4).

<sup>46</sup> London Protocol, Article 10(4) and 10 (5).

<sup>47</sup> London Protocol, Article 7.

<sup>48</sup> London Protocol, Article 4(1).

are on the same lines as specified under the London Convention.<sup>49</sup> The London Protocol also borrows the definition of ‘incineration at sea’ from the London Convention.<sup>50</sup>

- 4) General obligations: The general obligations of the contracting parties are set out in Article 3 which introduces the ‘precautionary’ approach and the ‘polluter pays principle’. It emphasises that the Contracting Parties shall undertake actions that are devoid of such nature that is likely to transform one type of pollution into another or transfer the damage, directly or indirectly, from one environment to another.<sup>51</sup> Despite this provision, the London Protocol clarifies that for the purpose of meeting its objectives none of its provisions shall be interpreted to prevent the Contracting Parties from individually or jointly taking more stringent measures which are compliant with international law.<sup>52</sup>
- 5) Prohibitions: The London Protocol prohibits the dumping of wastes or other matter except for those specified under Annex I.<sup>53</sup> It clarifies this provision by further asserting the requirement for a permit in order to dump the wastes or other matter specified under Annex I along with stating that nothing in the Protocol shall be interpreted as preventing any Contracting Party from prohibiting the dumping of wastes or other matter specified in Annex I.<sup>54</sup>

Additionally, the London Protocol also lays down a prohibition over incineration at sea of wastes or other matter.<sup>55</sup> The prohibition has also been cast over export of wastes or other matter to other countries for the purposes of dumping or incineration at sea.<sup>56</sup>

- 6) Exceptions: Article 8 of the London Protocol draws exceptions to the application of the London Protocol in circumstances rendering it necessary to secure the safety

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<sup>49</sup> London Protocol, Article 4(2).

<sup>50</sup> London Protocol, Article 5.

<sup>51</sup> London Protocol, Article 3(3).

<sup>52</sup> London Protocol, Article 3(4).

<sup>53</sup> London Protocol, Article 4(1).

<sup>54</sup> London Protocol, Article 4(2).

<sup>55</sup> London Protocol, Article 5.

<sup>56</sup> London Protocol, Article 6.

of human life or vessels, aircraft, platforms or other man-made structures at sea in cases of force majeure caused by stress of weather or in any case which constitutes a danger to human life or a real threat to vessels, aircraft, platforms or other man-made structures at sea.<sup>57</sup> The Protocol further states that for the purposes of dumping or incineration at sea in these exceptional circumstances, a permit may be issued by the Contracting Party.<sup>58</sup>

- 7) Issuance of Permits and Reporting: The London Protocol directs each Contracting Party to designate appropriate authority or authorities for the purpose of issuance of permits in accordance with its provisions, keep records of the nature and quantities of all wastes or matter for which dumping permits have been issued and monitor, individually or in collaboration with other Contracting Parties and competent international organizations, the condition of the sea, for the purposes of this Protocol.<sup>59</sup>

Moreover, for the purpose of issuance of permits, the appropriate authority or authorities have been directed to comply with the requirements of Article 4 along with relevant additional criteria, measures or requirements.<sup>60</sup> Additionally, each Contracting Party has been vested with the obligation to report the information specified under Article 9 paragraph 4 to the International Maritime Organisation (IMO).

- 8) Enforcement and Compliance: The London Protocol directs each Contracting Party to not only take appropriate punitive and preventive measures for acts contrary to its provisions but also to agree to cooperate in the procedural development for the effective implementation of the Protocol in areas beyond the jurisdiction of the State.<sup>61</sup> Furthermore, it asserts the establishment of necessary procedures and mechanisms for the assessment and promotion of compliance with this Protocol no later than two years after the entry into force of this Protocol.<sup>62</sup> It states that the

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<sup>57</sup> London Protocol, Article 8(1).

<sup>58</sup> London Protocol, Article 8(2).

<sup>59</sup> London Protocol, Article 9(1).

<sup>60</sup> London Protocol, Article 9(3).

<sup>61</sup> London Protocol, Article 10 (2) and 10(3).

<sup>62</sup> London Protocol, Article 11(1).

same shall be developed through the meeting of the Contracting Parties that allows full and open exchange of information as well as advice, assistance or cooperation to Contracting Parties and non-Contracting Parties.<sup>63</sup>

- 9) Cooperation and Research: The London Protocol emphasises on cooperation on regional, technical and international level. Such cooperation is with a view to eliminate pollution caused by dumping or incineration at sea of wastes or other matter and to develop harmonised procedures to be followed by the Contracting Parties.<sup>64</sup> This is also with the objective of waste minimisation and clean production processes along with access to and transfer of environmentally sound technologies as well as corresponding know-how.<sup>65</sup> In addition to these provisions, the London Protocol directs the Contracting Parties to take appropriate measures for the promotion and facilitation of scientific and technical research for serving its objects.<sup>66</sup>
- 10) Annexes: The London Protocol consists of three annexes which form an integral part of it.<sup>67</sup> While Annex 1 focuses on wastes or other matter that may be considered for dumping, Annex 2 elaborates on the assessment of wastes or other matter that may be considered for dumping. Lastly, in application of Article 16 of the London Protocol Annex 3 looks into the arbitral procedure.<sup>68</sup>
- 11) Procedural Provisions: The London Protocol includes provisions for development of procedures regarding liability arising from dumping or incineration at sea of wastes or other matter<sup>69</sup>, settlement of disputes regarding the interpretation or application of the Protocol<sup>70</sup>, meetings of Contracting Parties<sup>71</sup>, duties of the IMO<sup>72</sup>, amendment of the protocol<sup>73</sup> and the annexes<sup>74</sup> as well as the signature, ratification,

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<sup>63</sup> London Protocol, Article 11(2).

<sup>64</sup> London Protocol, Article 12.

<sup>65</sup> London Protocol, Article 13.

<sup>66</sup> London Protocol, Article 14(1).

<sup>67</sup> London Protocol, Article 20.

<sup>68</sup> London Protocol, Annex 3.

<sup>69</sup> London Protocol, Article 15.

<sup>70</sup> London Protocol, Article 16.

<sup>71</sup> London Protocol, Article 18.

<sup>72</sup> London Protocol, Article 19.

<sup>73</sup> London Protocol, Article 21.

<sup>74</sup> London Protocol, Article 22.

acceptance, approval and accession of the Protocol.<sup>75</sup> Also, it includes provisions relating to the entry into force of the Protocol<sup>76</sup>, the transitional period<sup>77</sup>, withdrawal<sup>78</sup> and depositary<sup>79</sup>.

It is pertinent to take note that the London Protocol explicitly emphasises that it will supersede the London Convention as between Contracting Parties to this Protocol which are also parties to the London Convention.<sup>80</sup>

Therefore, it can be observed that the London Protocol is more elaborate and effective for implementation than the London Convention. This clarifies that it was designed to replace the London Convention.<sup>81</sup> However, it is a fact that India is not a party to either.

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<sup>75</sup> London Protocol, Article 24.

<sup>76</sup> London Protocol, Article 25.

<sup>77</sup> London Protocol, Article 26.

<sup>78</sup> London Protocol, Article 27.

<sup>79</sup> London Protocol, Article 28

<sup>80</sup> London Protocol, Article 23.

<sup>81</sup> P Sands and J Peel, *Principles of International Environmental Law* (3<sup>rd</sup> edn, Cambridge University Press, 2012) 366.

## II. The Necessity for the Incorporation of the 1996 Protocol to the London Convention into the Laws of India

India is a peninsula and has a coastline of 7516.6 km with marine resources spread over the Arabian Sea, Bay of Bengal and the Indian Ocean.<sup>82</sup> India's Exclusive Economic Zone (EEZ) has an area of 2.02 million sq. km comprising the islands of Lakshadweep in the Arabian Sea and the Andaman and Nicobar Islands in the Bay of Bengal.<sup>83</sup>

The east coast supports activities such as agriculture and aquaculture while a number of industries are supported on the west coast. Tourism has emerged as a major economic activity in coastal states.<sup>84</sup> It is essential to note that India shares a geographical proximity to major shipping routes.<sup>85</sup> Moreover, India is a major seafood exporting country.<sup>86</sup> However, the growth of Indian marine fisheries has become sluggish in recent years affecting about 1 million people in 3651 villages of India situated along the coast who are employed in marine capture fisheries as well as several ancillary activities that support it.<sup>87</sup> Moreover, there has been an increase in the marine mammals washing up the shores which many attribute to poor control of pollution along the coastlines and in the deep seas.<sup>88</sup>

Increasing human population, urbanisation and accelerated developmental activities are significantly making the coastal areas heavy with human activities, thereby, disturbing and posing a threat to the coastal ecosystems and the marine environment. Thus, the onus lies on the Indian legislative and regulatory framework to tackle this threat.

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<sup>82</sup> 'Coastal Security' (Department of border Management, Ministry of Home Affairs, Government of India) <[http://mha.nic.in/sites/upload\\_files/mha/files/coastal\\_security\\_31052017.pdf](http://mha.nic.in/sites/upload_files/mha/files/coastal_security_31052017.pdf)> accessed 4 May 2018.

<sup>83</sup> Dr. Jayan P.A., 'Jurisdictional Waters Delimitation: India's Exclusive Economic Zone (EEZ) in MV Enrica Lexie Case' (2013) 7(1) NALSAR Law Review 103 <<http://www.commonlii.org/in/journals/NALSARLawRw/2013/8.pdf>> accessed 4 May 2018.

<sup>84</sup> 'Marine and Coastal Environment' (Ministry of Environment, Forest and Climate Change, Government of India) <<http://envfor.nic.in/divisions/ic/wssd/doc2/ch11.pdf>> accessed 4 May 2018.

<sup>85</sup> T. Behra, 'A Review of Coastal Trade Statistics of India' (2007) Vaanijya (Directorate General of Commercial Intelligence and Statistics, Ministry of Commerce and Industry, Government of India) <[http://www.dgciskol.nic.in/Vaanijya0307/A\\_Review\\_of\\_Coastal\\_Trade\\_Statistics\\_of\\_India.pdf](http://www.dgciskol.nic.in/Vaanijya0307/A_Review_of_Coastal_Trade_Statistics_of_India.pdf)> accessed 4 May 2018.

<sup>86</sup> 'India's Seafood Export at all-time High in 2016-17: MPEDA' (Press Information Bureau, Ministry of Commerce & Industry, Government of India, 2017) <<http://pib.nic.in/newsite/PrintRelease.aspx?relid=164454>> accessed 4 May 2018.

<sup>87</sup> Marine and Coastal Environment (n 84).

<sup>88</sup> Badri Chatterjee, '40-foot whale carcass washes up at Mumbai shore; second in 5 months' *Hindustan Times*, (Mumbai, 23 October 2017) <<http://www.hindustantimes.com/mumbai-news/40-foot-whale-carcass-washes-up-at-mumbai-shore-second-in-5-months/story-juTpb1Xus1vjgixM1Qp5NK.html>> accessed 4 May 2018.

Before 1972, environment protection was majorly derived from the Fundamental rights enshrined in the Indian Constitution. Article 21 provides to all persons the right to protection of life, thereby, including the right to enjoy a wholesome environment.<sup>89</sup> Additionally, there are provisions in various enactments such as, the Indian Penal Code<sup>90</sup> and the Criminal Procedure Code<sup>91</sup> that make reference to some specific environmental issues.<sup>92</sup>

However, the 1972 United Nations Conference on Human Environment, i.e. the Stockholm Conference largely influenced Indian environmental laws and encouraged their unification. Certain important principles conceived from the conference were subsequently incorporated into the laws of India. They include:

- i. Sovereign rights of the States to exploit their own resources and pursue their own environmental policies;
- ii. State responsibility to ensure activities within their jurisdiction or control do not cause environmental damage to other states; and
- iii. Cooperation in handling International matters concerning the protection and improvement of the environment.<sup>93</sup>

### **A. Constitutional provisions**

The Stockholm Conference produced the Magna Carta of environmental laws and resulted in India enacting the 42<sup>nd</sup> amendment to the Indian Constitution whereby it incorporated Article 48A under Part IV that enumerates the Directive Principles of the State Policy making it an active endeavour of the state to protect and improve the environment.<sup>94</sup> Furthermore, the amendment also added Article 51A(g) under Part IV A thereby making it

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<sup>89</sup> Durga Das Basu, *Constitutional Law of India* (8<sup>th</sup> Edition, Reprint 2011).

<sup>90</sup> Indian Penal Code 1860, Chapter XIV.

<sup>91</sup> Criminal Procedure Code 1974, Section 133.

<sup>92</sup> 'Pollution Control Acts, Rules and Notifications Issued Thereunder' (6<sup>th</sup> Edn, Central Pollution Control Board, Ministry of Environment & Forests, Government of India, 2010) <[http://nbaindia.org/uploaded/Biodiversityindia/Legal/17.%20Water%20\(Prevention%20and%20Control%20of%20Pollution\)%20Act,%201974.pdf](http://nbaindia.org/uploaded/Biodiversityindia/Legal/17.%20Water%20(Prevention%20and%20Control%20of%20Pollution)%20Act,%201974.pdf)> accessed 4 May 2018.

<sup>93</sup> Prabhas Sinha, 'International Obligations', *Protecting Nature* (Seminar 2000) <<http://www.india-seminar.com/2000/492/492%20p.%20c.%20sinha.htm>> accessed 4 May 2018.

<sup>94</sup> The Constitution (Forty-Second Amendment) Act 1976. <<http://indiacode.nic.in/coiweb/amend/amend42.htm>> accessed 4 May 2018.



a fundamental duty of every citizen of India to protect and improve the natural environment and have compassion for living creatures.<sup>95</sup>

## **B. Legislations**

The Stockholm Conference also triggered the emergence of various environment-related laws in India. Additionally, several rules are framed to give effect to these Legislative Acts. The relevant Acts are:

### 1. The Water (Prevention and Control of Pollution) Act, 1974 (Water Act)

The Water Act aims at preventing and controlling water pollution and the maintaining or restoring of wholesomeness of water.<sup>96</sup> It provides for the establishment of boards with such powers and functions as necessary to meet its objective.<sup>97</sup> The Act was amended in 1988.<sup>98</sup> It gives a statutory definition of pollution regarding water as follows:

‘pollution’ means such contamination of water or such alteration of the physical, chemical or biological properties of water or such discharge of any sewage or trade effluent or of any other liquid, gaseous or solid substance into water (whether directly or indirectly) as may, or is likely to, create a nuisance or render such water harmful or injurious to public health or safety, or to domestic, commercial, industrial, agricultural or other legitimate uses, or to the life and health of animals or plants or of aquatic organisms.<sup>99</sup>

### 2. Environment (Protection) Act, 1986 (Environment Act)

The Environment Act is an umbrella legislation that overlooks the functioning of various boards constituted by the previous laws like the Water Act, Air Act, etc. by giving the power to the Central Government to take such measures as it may deem necessary to protect

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<sup>95</sup> Ibid.

<sup>96</sup> Water (Prevention and Control of Pollution) Act 1974 (Water Act).

<sup>97</sup> Ibid.

<sup>98</sup> ‘Water Pollution’ (Ministry of Environment, Forest and Climate Change, Government of India, 2017) <<http://www.moef.nic.in/division/water-pollution>> accessed 4 May 2018.

<sup>99</sup> Water Act (n 96), Section 2(e).

and improve the environment as well as for preventing, controlling and abating environmental pollution.<sup>100</sup> Such power extends to laying down standards for emission or discharge of environmental pollutants from various sources.<sup>101</sup> It also includes delineating areas where the central government may restrict carrying out operations or processes or carrying out subject to certain restrictions of any industries, operations or processes or class of industries.<sup>102</sup>

Further, the Environment Act, authorizes the Central Government to issue notification from time to time to regulate and control environmental pollution.<sup>103</sup> It is as per the requirements of this provision that Coastal Regulation Zones (CRZ) have been demarcated by the Central Government through a notification issued in 1991 which prohibits the dumping of ash and other waste in the CRZ.<sup>104</sup>

Additionally, under the Environment Act, several notifications have been issued regulating and managing hazardous wastes.<sup>105</sup> Through rules issued under this act, it has been made 'illegal to export and import hazardous or other wastes in India if it results in deliberate disposal (i.e. dumping) of hazardous or other waste in contravention of the Basel Convention and of general principles of international or domestic law.'<sup>106</sup> However, 'disposal' has been attributed different definitions under different rules. Under The Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016, it is deemed to mean 'any operation which does not lead to reuse, recycling, recovery, utilisation including co-processing and includes physico-chemical treatment, biological

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<sup>100</sup> The Environment (Protection) Act 1986, Section 3(1) (Environment Act)

<sup>101</sup> Section 2(b) states that 'environmental pollutant' means 'any solid, liquid or gaseous substance present in such concentration as may be, or tend to be, injurious to environment.' See Ibid.

<sup>102</sup> Environment Act (n 100), Section 3(2)(v).

<sup>103</sup> Ibid, Section 6.

<sup>104</sup> The Central Government has declared the coastal stretches of seas, bays, estuaries, creeks, rivers and backwaters which are influenced by tidal action (in the landward side) upto 500 metres from the High Tide Line (HTL) and the land between the Low Tide Line (LTL) and the HTL as Coastal Regulation Zone. <[https://www.forests.tn.gov.in/tnforest/app/webroot/img/document/legislations/01\\_Coastal%20Regulation%20Zone%20Notifications.pdf](https://www.forests.tn.gov.in/tnforest/app/webroot/img/document/legislations/01_Coastal%20Regulation%20Zone%20Notifications.pdf)> accessed 4 May 2018.

<sup>105</sup> These are Hazardous Wastes (Management and Handling) Rules 1989, which brought out a guide for manufacture, storage and import of hazardous chemicals and for management of hazardous wastes; Biomedical Waste (Management and Handling) Rules 1998, were formulated along parallel lines, for proper disposal, segregation, transport etc. of infectious wastes; Municipal Wastes (Management and Handling) Rules 2000, whose aim was to enable municipalities to dispose municipal solid waste in a scientific manner; and Hazardous Wastes (Management and Handling) Amendment Rules 2000, a recent notification issued with the view to providing guidelines for the import and export of hazardous waste in the country.

<sup>106</sup> The Hazardous and Other Wastes (Management and Transboundary Movement) Rules 2016, Section 15(1)(iv).

treatment, incineration and disposal in secured landfill.<sup>107</sup> In Solid Waste Management Rules, 2016, it is defined to mean ‘the final and safe disposal of post processed residual solid waste and inert street sweepings and silt from surface drains on land as specified in Schedule I to prevent contamination of ground water, surface water, ambient air and attraction of animals or birds.’<sup>108</sup>

Thus, it can be noted that the essential element of ‘deliberate disposal at sea’ is absent from the ambit of the actions regulated under these rules.

### 3. The Merchant Shipping Act, 1958

The Indian Merchant Shipping Act regulates civil liability for oil pollution damage in Part XB and further provides for prevention and containment of the pollution of the sea by oil.<sup>109</sup> It also exercises control of pollution from ships and offshore platforms.<sup>110</sup> It is pertinent to note that the Indian Coast Guard has been accordingly nominated in 1986 as the Central Coordinating Authority for oil-spill response in the Maritime Zones of India and the Indian Coast Guard officers have been empowered under the Merchant Shipping Act, 1958, for taking necessary actions against polluters.<sup>111</sup> However, it does not extend its provisions beyond the pollution caused by oil at sea.

### 4. The Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976 (The Maritime Zones of India Act)

The Maritime Zones of India Act, 1976, provides for certain matters relating to the territorial waters continental shelf, exclusive economic zone and other maritime zones of India.<sup>112</sup> Under this Act, the Central Government has been vested with the power to make

<sup>107</sup> Ibid, Section 3(10). Also see E-Waste (Management) Rules 2016, Section 3(m).

<sup>108</sup> The Solid Waste Management Rules 2016, Section 3(16).

<sup>109</sup> The Merchant Shipping Act 1958.

<sup>110</sup> Ibid.

<sup>111</sup> National Oil Spill Disaster Contingency Plan, Ministry of Defence, Government of India, 2015, 12 <<https://www.indiancoastguard.gov.in/WriteReadData/bookpdf/201512281221565793127NOSDCPCGBR771.pdf>> accessed 4 May 2018.

<sup>112</sup> The Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976 (Act No. 80 Of 1976).

rules for the preservation and protection of the marine environment and prevention and control of marine pollution for the purposes of this Act.<sup>113</sup>

#### 5. The Coast Guard Act, 1978

The Coast Guard Act, 1978, constituted the Indian Coast Guard (ICG), a maritime armed force operating under the Ministry of Defence, which is mandated to protect the Maritime and other national interests of India in the Maritime Zones of India inclusive of safeguarding the marine environment.<sup>114</sup> This Act makes an explicit provision in Section 14 (2) (c) that the duties of the ICG are inclusive of taking such measures as are necessary to preserve and protect the maritime environment and to prevent and control marine pollution.<sup>115</sup> Nevertheless, this Act fails to meet the aims and objects of the London Convention and its Protocol.

### **C. Institutional Efforts**

The Central Government's Ministry of Surface Transport coordinates implementation of pollution control through the Indian Merchant Shipping Act, 1958 (for control of pollution from ships and offshore platforms in the EEZ), and the Indian Ports Act, 1963, Water Act (for the control of pollution arising from land-based sources with a jurisdiction of up to 5 km in the sea), the Ministry of Petroleum and Natural Gas (concerning pollution up to 500 metres from oil platforms and structures) and the Ministry of Environment and Forests' (MoEF) and the Central Pollution Control Board.<sup>116</sup>

Moreover, it is noteworthy that the Division of Ocean Development (DOD) was created by the Government of India under the direct Prime Ministerial charge with an objective to promote the speedy development of the ocean structure. Consequently, in 1981, the DOD

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<sup>113</sup> Ibid, Section 15 (2) (e).

<sup>114</sup> Performance Audit on Role and Functioning of Indian Coast guard, Ministry of Defence, government of India, Report No. 7 of 2011, Chapter 1  
<[http://www.cag.gov.in/sites/default/files/audit\\_report\\_files/Union\\_Performance\\_Defence\\_Services\\_Role\\_and\\_Functioning\\_Indian\\_Coast\\_guard\\_7\\_2011\\_chapter\\_1.pdf](http://www.cag.gov.in/sites/default/files/audit_report_files/Union_Performance_Defence_Services_Role_and_Functioning_Indian_Coast_guard_7_2011_chapter_1.pdf)> accessed 4 May 2018.

<sup>115</sup> Coast Guard Act 1978.

<sup>116</sup> 'Ocean Policy Statement 1982' (Department of Ocean Development, Government of India)  
<<ftp://ftp.nodc.noaa.gov/nodc/archive/arc0001/9900162/2.2/data/0-data/jgofscd/Files/dod.html>> accessed 4 May 2018.

prepared an ‘Ocean Policy Statement’ that not only enunciated the utilisation and preservation of the marine environment through technological advancements but also called for an integrated legal framework for the concomitant enforcement of the conservation of the marine environment.<sup>117</sup>

Furthermore, the DOD launched the Coastal Ocean Monitoring and Prediction Systems (COMAPS) programme in 1991 for monitoring the health of Indian coastal waters whereby it monitors the effect of anthropogenic activities on the marine environment periodically and assesses the impact on the marine flora and fauna in the coastal waters of India.<sup>118</sup>

Despite the Ocean Policy Statement, the enforcement in the area of preservation of marine environment lacks concrete regulations. Also, the 1991 notification on the coastal regulation zones only extends to the inter-tidal zone of the land part of the coastal area in the Country.

Understanding this loophole, an effort was being sought by the DOD in coordination of a sustained interaction with the MoEF to extend these regulations to include the ocean through a 32-member Expert Committee to formulate guidelines that not only specified the limit of the sea to be considered under the new CRZ notification but also identified various activities that could be considered for regulation in the ocean part of the coastal zone and classified the ocean area for this purpose.<sup>119</sup> However, the absence of such a specific development in this area still persists.

Furthermore, the legislative acts enforced for the protection of environment only deal with the inland territories of India. Deducing from the provisions of the Environment Act and its regulations that provide for the management of wastes, it is clear that there is no attempt made to regulate oceanic dumping. Though, reliance on Basel Convention can be seen

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<sup>117</sup> Ibid.

<sup>118</sup> ‘Monitoring and Prediction of Health of Estuarine and Coastal Waters’ (Ministry of earth Sciences, Government of India) <<http://164.100.160.45/programmes/monitoring-and-prediction-health-estuarine-and-coastal-waters>> accessed 4 May 2018.

<sup>119</sup> Rahul Roy Chaudhury, ‘Ocean/Marine Management in India’ XX (5) Strategic Analysis (Institute of Defense Studies and Analyses, New Delhi, 1997) 675-685 <<https://www.idsa-india.org/an-aug-3.html>> accessed 4 December 2017.

under the rules of the Environment Act<sup>120</sup>, there is a strong lacuna to address the objective of London Convention and its Protocol i.e. to prevent pollution of the sea by dumping of wastes and other matter

Ergo, the current legal regime for the coastal resource management is incapable of sustainable development of the coastal environment, let alone the marine environment.<sup>121</sup> Given the strategic position of India in the Indian ocean and the pivotal source of livelihood that it creates, adopting the 1996 Protocol to the London Convention is integral for India. This is because it has much to gain by meeting its aims and objectives which focus on exercising an effective control on the dumping of wastes or other matter that would lead to marine pollution. The Protocol meets the modern-day requirements necessary for ensuring a safer environment and serves the purpose of the London Convention more effectively. Hence, adopting the 1996 Protocol to the London Convention will not only fill the legislative void towards the oceans but will also boost India's constitutional obligations towards the marine environment that are yet to be implemented.

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<sup>120</sup> The Hazardous and Other Wastes (Management and Transboundary Movement) Rules 2016, Section 15(1)(iv).

<sup>121</sup> Ramachandran S., 'Coastal Zone Management in India — Problems, Practice and Requirements' (1999) Perspectives on Integrated Coastal Zone Management 211-226  
<[https://link.springer.com/chapter/10.1007/978-3-642-60103-3\\_12](https://link.springer.com/chapter/10.1007/978-3-642-60103-3_12)> accessed 4 May 2018.

### III. Incorporation of the 1996 Protocol to the London Convention into the Laws of India

India has a dualist theory approach to implementation of international law at the domestic level.<sup>122</sup> However, being quasi-federal in nature, laws in India are made at the Central and State levels. Therefore, it is essential to determine, who has the authority to legislate on the subject matter of the London Convention and its Protocol.

The 1996 Protocol to the London Convention being an international convention is governed by Entry 14 of List I of the Seventh Schedule of the Indian Constitution, which gives the Central Government (Government of India) the executive power to enter into and implement them under Articles 246 and 253. The executive power of the Union also extends to the exercise of such rights and authority as exercisable by the Government of India by virtue of a treaty or agreement.<sup>123</sup> Notably, the executive powers of the Union of India are specifically vested in the President.<sup>124</sup>

In furtherance to the said executive power of the Government of India, a legislative proposal in the form a bill is made before either house of the Parliament of India which when passed by both the houses of the Parliament and after receiving the assent of the President becomes an Act of the Parliament. It is of pertinence that it is published in the Official Gazette to become a part of the domestic legislation of India.

In the present context, the incorporation of the 1996 Protocol to the London Convention would be through rules issued and notified in exercise of the powers conferred by section 25 of the Environment Act on the Central Government to make rules for carrying out the purposes of the Environment Act.

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<sup>122</sup> Sunil Kumar Agarwal, 'Implementation of International Law in India: Role of Judiciary', Dean Maxwell & Isle Cohen Doctoral Seminar in International Law, McGill University.  
<[http://oppenheimer.mcgill.ca/IMG/pdf/SK\\_Agarwal.pdf](http://oppenheimer.mcgill.ca/IMG/pdf/SK_Agarwal.pdf)> accessed 4 May 2018.

<sup>123</sup> The Constitution of India 1950, Article 73(1) (b).

<sup>124</sup> Ibid, Article 53.

#### **IV. Overview of the Dumping of Wastes and Other Matter (Prevention of Marine Pollution) Rules, 2018**

In the light of the observations made above, the Rules, drafted thereafter are titled the ‘Dumping of Wastes and Other Matter (Prevention of Marine Pollution) Rules, 2018 (Rules). The Rules are divided into four (4) chapters with two (2) Schedules and four (4) forms appended to them to serve the objects enunciated therein. Chapter I deals with the general provisions of short title, commencement, application and the requisite definitions under the Rules. Chapter II makes provisions regulating the procedure for dumping or incineration at sea of wastes or other matter. It institutes a permit regime under this chapter that includes the issuance, refusal, suspension or cancellation of permits. Chapter III codifies the enforcement measures through the appointment of enforcement officers and allocating specific responsibilities between the Enforcement officers, the Authority and the Central Government. Chapter IV enumerates the offences and the liabilities incurred under the Rules such as making or producing misleading or false statements or documents to obtain permits. Such offences have been penalized by way of reference to the provisions of the Environment Act. This chapter also makes provisions for appeal against the decisions made by the Authority. Finally, the Schedules and Forms appended to the Rules supplement the application of the chapters and the provisions made therein.



## **PART II**

### **DUMPING OF WASTES AND OTHER MATTER (PREVENTION OF MARINE POLLUTION) RULES, 2018**

**To be deposited with the Secretary-General of IMO, London**

**MODEL INSTRUMENT OF ACCESSION**

WHEREAS the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matter, 1972 was adopted at London on 7 November 1996 by the Inter-Governmental Conference on the Convention on the Dumping of Wastes at Sea,

AND WHEREAS India being a State entitled to become a party to the said Protocol by virtue of Article 24 (2) (3),

NOW THEREFORE the Republic of India having considered and approved the said Protocol, hereby formally declares its accession to the Protocol [as amended in 2006].

IN WITNESS WHEREOF I, Ram Nath Kovind [President] of India have signed this Instrument of Accession and affixed the official seal.

DONE at London, this 7th day of May two thousand and eighteen

(Seal)

(Signature)

[President]

II

**DUMPING OF WASTES AND OTHER MATTER (PREVENTION OF  
MARINE POLLUTION) RULES, 2018**

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART  
II,  
SECTION 3, SUB-SECTION (i)]

**GOVERNMENT OF INDIA**

**MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE**

**NOTIFICATION**

**New Delhi, the \_\_/\_\_, 2018**

**G.S.R. \_\_\_** - Whereas the draft rules, namely, the Dumping of Wastes and other Matter (Prevention of Marine Pollution) Rules , 2018 is to be published by the Government of India in the Ministry of Environment and Forest vide number G.S.R. \_\_\_, dated \_\_\_\_, 2018 in the Gazette of India, Extraordinary of the same date inviting objection and suggestions from all persons likely to be affected thereby, before the expiry of the period of sixty days from the date on which copies of the Gazette containing the said notification were made available to the public;

Whereas taking into account relevant international agreements and actions, especially the 1996 Protocol (as amended) to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972, the United Nations Convention on the Law of the Sea, 1982, the Rio Declaration on Environment and Development and Agenda 21;

Whereas in exercise of the powers conferred by section 3, 6 and 25 of the Environment (Protection) Act, 1986 (29 of 1986), the Central Government hereby makes the following rules to regulate the Dumping of Wastes and other Matter (Prevention of Marine Pollution), namely :-

## CHAPTER I

### PRELIMINARY

- 1. Short title and commencement.-** (1) These rules shall be called the Dumping of Wastes and other Matter (Prevention of Marine Pollution) Rules, 2018.

(2) They shall come into force on the date of their publication in the Official Gazette.
  
- 2. Application.-** (1) These rules shall apply to the dumping of wastes and other matter as specified in the Schedules to these rules to all-

  - (i) vessels and aircraft registered in the territory of India or flying the Indian flag;
  - (ii) vessels and aircraft loading in the territory of India the wastes or other matter which are to be dumped or incinerated at sea; and
  - (iii) vessels, aircraft and platforms or other man-made structures believed to be engaged in dumping or incineration at sea in areas within which India is entitled to exercise jurisdiction in accordance with international law.

(2) Subject to such appropriate measures adopted in a manner consistent with these rules, these rules shall not apply to vessels and aircraft entitled to sovereign immunity under international law.
  
- 3. Definitions.-** In these rules, unless the context otherwise requires,-

  - (1) “Act” means the Environment (Protection) Act, 1986 (29 of 1986);
  - (2) “Authority” means the “Central Pollution Control Board” means the Central Pollution Control Board constituted under sub-section (1) of section 3 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);
  - (3) “Commander”, in relation to an aircraft, means the member of the flight crew designated as commander of that aircraft by the operator of it or, failing such a person, the person who is for the time being the pilot in command of the aircraft.

- (4) "Convention" means the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972, as amended.
- (5) (i) "Dumping" means:
- (a) any deliberate disposal into the sea of wastes or other matter from vessels, aircraft, platforms or other man-made structures at sea;
  - (b) any deliberate disposal into the sea of vessels, aircraft, platforms or other man-made structures at sea;
  - (c) any storage of wastes or other matter in the seabed and the subsoil thereof from vessels, aircraft, platforms or other man-made structures at sea; and
  - (d) any abandonment or toppling at site of platforms or other man-made structures at sea, for the sole purpose of deliberate disposal.
- (ii) "Dumping" does not include:
- (a) the disposal into the sea of wastes or other matter incidental to, or derived from the normal operations of vessels, aircraft, platforms or other man-made structures at sea and their equipment, other than wastes or other matter transported by or to vessels, aircraft, platforms or other man-made structures at sea, operating for the purpose of disposal of such matter or derived from the treatment of such wastes or other matter on such vessels, aircraft, platforms or other man-made structures;
  - (b) placement of matter for a purpose other than the mere disposal thereof, provided that such placement is not contrary to the aims of the Protocol; and
  - (c) notwithstanding Section 3 (5) (i) (d), abandonment in the sea of matter (e.g., cables, pipelines and marine research devices) placed for a purpose other than the mere disposal thereof.
- (iii) The disposal or storage of wastes or other matter directly arising from, or related to the exploration, exploitation and associated off-shore processing of seabed mineral resources is not covered by the provisions of this Protocol.
- (6) "Export", with its grammatical variations and cognate expressions, means taking out of India to a place outside India.

- (7) "Form" means a form appended to these rules.
- (8) (i) "Incineration at sea" means the combustion on board a vessel, platform or other manmade structure at sea of wastes or other matter for the purpose of their deliberate disposal by thermal destruction.
- (ii) "Incineration at sea" does not include the incineration of wastes or other matter on board a vessel, platform, or other man-made structure at sea if such wastes or other matter were generated during the normal operation of that vessel, platform or other man-made structure at sea.
- (9) "Master" in relation to a ship, means the person for the time being having lawful command or charge of the ship but does not include a pilot;
- (10) "Organisation" means the International Maritime Organisation.
- (11) "Permit" means permission granted in advance and in accordance with relevant measures adopted pursuant to Rule 8 of the Rules.
- (12) "Pollution" means the introduction, directly or indirectly, by human activity, of wastes or other matter into the sea which results or is likely to result in such deleterious effects as harm to living resources and marine ecosystems, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities.
- (13) "Protocol" means the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972.
- (14) "Rules" means the Dumping of Wastes and other Matter (Prevention of Marine Pollution) Rules, 2018.
- (15) "Schedule" means a Schedule appended to these rules.
- (16) "Sea" means all marine waters other than the internal waters of States, as well as the seabed and the subsoil thereof; it does not include sub-seabed repositories accessed only from land.
- (17) "Contracting State" means a State who has signed, ratified or acceded to the 1996 Protocol (as amended) to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972.

- (18) "Vessels and aircraft" means waterborne or airborne craft of any type whatsoever. This expression includes air-cushioned craft and floating craft, whether self-propelled or not.
- (19) "Wastes or other matter" means material and substance of any kind, form or description.

## CHAPTER II

**PROCEDURE FOR DUMPING OR INCINERATION AT SEA  
OF WASTES OR OTHER MATTER**

- 4. Regulation for the dumping of wastes and other matter.-** (1) Subject to the exceptions listed in Schedule I, no person shall dump any wastes or other matter from any vessel, aircraft or platform at sea.
- (2) The dumping of wastes or other matter listed in Schedule I shall require a permit in compliance of provisions of Schedule II.
- (3) No provision of the Rules shall be interpreted to prevent the prohibition of the dumping of wastes or other matter mentioned in Schedule I.
- 5. Incineration at Sea.-** Incineration at sea of wastes or other matter shall be prohibited.
- 6. Export of Wastes or Other Matter.-** No person shall export wastes or other matter to other countries for dumping or incineration at sea.
- 7. Exceptions to dumping or incineration at sea.-** (1) Provided that dumping or incineration at sea of wastes or other matter shall be conducted so as to minimize the likelihood of damage to human or marine life, the provisions of Rule 4 (1) and Rule 5 shall not apply in the following circumstances-
- (i) when it is necessary to secure the safety of human life or of vessels, aircraft, platforms or other man-made structures at sea in cases of force majeure caused by stress of weather; or
  - (ii) in any case which constitutes a danger to human life or a real threat to vessels, aircraft, platforms or other man-made structures at sea, if dumping or incineration at sea appears to be the only way of averting the threat and if there is every probability that the damage consequent upon such dumping or incineration at sea will be less than would otherwise occur.



**8. Issuance of Permits.-** (1) Any person shall apply for a permit to dumping or incineration at sea of wastes or other matter.

(2) An application under sub-rule (1) shall be made to the Authority as prescribed in Form-I annexed to the Rules and on the payment of such fees as the Authority may deem fit.

(3) The Authority or any officer lawfully designated by such Authority shall be responsible for the issuance of permits as prescribed in Form-III—

(i) for the purposes of Rule 4 (2);

(ii) for the dumping or incineration at sea, accordance with the exceptions provided under Rule 7, of wastes or other matter-

(a) loaded in India; and

(b) loaded onto a vessel or aircraft registered in India or flying the Indian flag, when the loading occurs in the territory of a State which is not a Contracting Party to the Protocol.

(2) For the purpose of issuance of the permits, the Authority or any officer appointed by such Authority, shall satisfy itself of the compliance of-

(i) the provisions of Schedule II of the Rules; and

(ii) wherever applicable, the appropriate preventive measures to reduce or, if feasible, avoid the dumping or incineration at sea of wastes or other matter in favour of environmentally preferable alternatives.

**9. Refusal to grant Permits.-**The Authority or any officer designated by such Authority may, for the reasons to be recorded in writing and after giving reasonable opportunity of being heard to the applicant, refuse to grant any permit under these rules.

**10. Renewal of Permits.-**The Authority or any officer designated by such Authority shall renew the Permit granted under Rule 8, after examining each case on merits, subject to the following-

(i) on submission of annual returns by the applicant as prescribed by the Authority;

- (ii) on steps taken by the applicant, wherever feasible, for reduction and prevention in the dumping of wastes or other matter or the incineration at sea; and
- (iii) on fulfilment of conditions prescribed in the Permit regarding the opportunities to avoid dumping in favour of environmentally preferable alternatives.

**11. Suspension or Cancellation of Permits.-** (1) The Authority may, if in its opinion, the holder of the permit has failed to comply with any of the conditions of the permit or with any provisions of the Act or these rules and after giving him a reasonable opportunity of being heard and after recording reasons thereof in writing cancel or suspend the permit issued under rule 8 for such period as it considers necessary in the public interest.

(2) Upon suspension or cancellation of the permit, the Authority may give directions to the person whose permit has been suspended or cancelled for the safe storage and management of the wastes and other matter, and such person shall comply with such directions.

## CHAPTER III

### ENFORCEMENT MEASURES

**12. Appointment of Enforcement officers.-** (1) The Authority shall appoint a person to be an enforcement officer for the purposes of the Rules.

(2) The Authority shall, in the instrument appointing a person under this section, specify that the powers and duties of the person are subject to such limitations as are specified in the instrument.

(3) An enforcement officer shall be issued with a certificate of appointment.

**13. Powers of the Enforcement Officers.-** (1) An enforcement officer may, for the purposes of the Rules—

- (i) at any reasonable time enter any place to inspect and board any vehicle, ship, aircraft, or marine structure with or without persons and equipment to assist him in his duties;
- (ii) open any container and examine and take samples of any substances or articles;
- (iii) examine equipment and require any person in charge of it to do anything which appears to the enforcement officer to be necessary for facilitating examination; and
- (iv) require any person to produce any permit, record or other documents which relate to the dumping of wastes or other matter in the sea and which are in his custody or possession;
- (v) require any person to produce any permit, record or other documents which relate to the incineration at sea and which are in his custody or possession;
- (vi) require any person on board a ship, aircraft or marine structure to produce any records or other documents which relate to it and which are in his custody or possession; and
- (vii) take copies of any document produced under sub-rule (1) (iv), (1) (v) and (1) (vi).

- (2) For the purpose of boarding a vehicle, ship, aircraft or marine structure, an enforcement officer may require the person in charge—
- (i) to do anything which will facilitate boarding; and
  - (ii) in the case of a ship—to stop it.
- (3) An enforcement officer may require the attendance of the master of a ship, the commander of an aircraft or the person in charge of any marine structure on board that ship, aircraft or structure and may make any examination and inquiry which appears to him to be necessary.
- (4) If, as a result of an examination and inquiry under sub-rule (3), the enforcement officer has reason to believe that the ship or aircraft has been loaded in contravention of the Rules, the ship or aircraft may be detained until the enforcement officer issues a certificate that he is satisfied that the ship or aircraft may proceed without contravention of the Rules.
- (5) On entering or boarding any place or thing liable to inspection under these Rules an enforcement officer shall, if requested to do so, produce this certificate of appointment.
- (6) For the purpose of this section the places and things liable to inspection are—
- (i) land (including land submerged at high water springs and buildings on land), vehicles and aircraft in the country;
  - (ii) ships in ports or at places in the territory of India; and
  - (iii) ship registered in India, aircraft and marine structures wherever they may be, in which an enforcement officer has reasonable cause to believe that any substances or articles intended to be dumped in the sea are, or have been present.

**14. Responsibilities of the Authority.-** (1) The Authority shall, for the purposes of the Rules-

- (i) comply with the requirements of Rule 4 and Rule 5;
- (ii) adopt such additional criteria, measures and requirements in a manner consistent with Rule 4 and Rule 5, as it may deem fit;
- (iii) satisfy itself of the compliance of the provisions of Schedule II;

- (iv) maintain records of the nature and quantities of all wastes or other matter for which dumping permits have been issued and where practicable the quantities actually dumped and the location, time and method of dumping;
- (v) apply a precautionary approach to environmental protection from dumping of wastes or other matter by implementing appropriate preventive measures to reduce or, where feasible, avoid the potential harm that the wastes or other matter introduced into the marine environment are likely to cause; and
- (vi) prepare an integrated plan for effective implementation of these provisions; and
- (vii) furnish an annual report prescribed in Form-II of the Rules to the Central Government on or before the 30th day of June every year.

- 15. Responsibilities of the Central Government.-** (1) The Central Government shall individually or in collaboration with other Contracting Parties and competent international organizations, monitor the condition of the sea for the purposes of the Protocol.
- (2) The Central Government shall be responsible for reporting to the Organisation and where appropriate to the Contracting Parties-
- (i) information specified in Rule 14 (1) (iv) and Rule 15 (1);
  - (ii) the administrative, legislative and enforcement measures adopted to implement the provisions of the Protocol; and
  - (iii) the effectiveness of the measures referred to in Rule 15 (2) (ii) and any problems encountered in their application.
- (3) The Central Government shall endeavour to enhance international, regional and technical cooperation for the purposes of these rules in order to-
- (i) develop harmonized procedures;
  - (ii) train scientific and technical personnel for research, monitoring and enforcement, including as appropriate the supply of necessary equipment and facilities, with a view to strengthening national capabilities; and

- (iii) obtain information, access to and transfer of environmentally sound technologies, corresponding know-how and technical co-operation relating to waste minimization and clean production processes, disposal and treatment of waste and other measures to prevent, reduce and where practicable eliminate pollution caused by dumping.

**CHAPTER IV****MISCELLANEOUS**

**16. Offences and liability.-** (1) Any person shall be deemed to be guilty of an offence under the Rules, if-

(i) for the purpose of obtaining a permit, knowingly or recklessly-

(a) makes a statement; or

(b) produces to the prescribed officer, sign or makes use of a document, that is false or misleading in a material particular;

(ii) contravenes any provisions of the Rules or the Act.

(2) Any person guilty of an offence under the Rules shall be liable for-

(i) penalty under section 15 (1) and section 15 (2) of the Act;

(ii) financial penalties as levied by the Authority for all damages caused to the environment due to the pollution;

(iii) any other costs as the Authority may deem fit.

**17. Appeal.-** (1) Any person aggrieved by an order of suspension or cancellation or refusal of permit passed by the Authority may, within a period of thirty days from the date on which the order is communicated to him, prefer an appeal in Form- IV to the Central Government.

(2) The Central Government may entertain the appeal after expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(3) Every appeal filed under this rule shall be disposed of within a period of sixty days from the date of its filing.

**SCHEDULE I**

[See rule 4 (1)]

**Wastes or other matter that may be considered for dumping**

1. The following wastes or other matter are those that may be considered for dumping pursuant to the provisions of the Rules:
  - (1) dredged material;
  - (2) sewage sludge;
  - (3) fish waste, or material resulting from industrial fish processing operations;
  - (4) vessels and platforms or other man-made structures at sea;
  - (5) inert, inorganic geological material;
  - (6) organic material of natural origin;
  - (7) bulky items primarily comprising iron, steel, concrete and similarly unharmed materials for which the concern is physical impact, and limited to those circumstances where such wastes are generated at locations, such as small islands with isolated communities, having no practicable access to disposal options other than dumping; and
  - (8) Carbon dioxide streams from carbon dioxide capture processes for sequestration.
  
2. The wastes or other matter listed in paragraphs 1.4 and 1.7 may be considered for dumping, provided that material capable of creating floating debris or otherwise contributing to pollution of the marine environment has been removed to the maximum extent and provided that the material dumped poses no serious obstacle to fishing or navigation.
  
3. Notwithstanding the above and subject to any further notification by the Central Government in this regard, materials listed in paragraphs 1.1 to 1.8 containing levels of radioactivity greater than de minimis (exempt) concentrations as defined by the International Atomic Energy Agency and adopted by the Contracting Parties, shall not be considered eligible for dumping.



4. Carbon dioxide streams referred to in paragraph 1.8 may only be considered for dumping, if:
  - (1) disposal is into a sub-seabed geological formation; and
  - (2) they consist overwhelmingly of carbon dioxide. They may contain incidental associated substances derived from the source material and the capture and sequestration processes used; and
  - (3) no wastes or other matter are added for the purpose of disposing of those wastes or other matter.

**SCHEDULE II**

[See rule 4 (2)]

**Assessment of wastes or other matter that may be considered for dumping****General**

1. The acceptance of dumping under certain circumstances shall not remove the obligations under this Schedule to make further attempts to reduce the necessity for dumping.

**Waste Prevention Audit**

2. The initial stages in assessing alternatives to dumping should, as appropriate, include an evaluation of:
  - (1) types, amounts and relative hazard of wastes generated;
  - (2) details of the production process and the sources of wastes within that process;and
  - (3) feasibility of the following waste reduction/prevention techniques:
    - (i) product reformulation;
    - (ii) clean production technologies;
    - (iii) process modification;
    - (iv) input substitution; and
    - (v) on-site, closed-loop recycling.
3. If the required audit reveals that opportunities exist for waste prevention at source, the application for the permit is expected to include formulation and implementation of a waste prevention strategy, in collaboration with relevant local and national agencies, along with specific waste reduction targets and provision for further waste prevention audits to ensure that these targets are being met.
4. For dredged material and sewage sludge, waste management should be carried out with the intention of identifying and controlling the sources of contamination

through implementation of waste prevention strategies and collaboration between the relevant local and national agencies involved with the control of point and non-point sources of pollution. In cases otherwise, the problems of contaminated dredged material may be addressed by using disposal management techniques at sea or on land.

### **Consideration of Waste Management Options**

5. Applications to dump wastes or other matter shall demonstrate that appropriate consideration has been given to the following hierarchy of waste management options, which implies an order of increasing environmental impact:
  - (1) re-use;
  - (2) off-site recycling;
  - (3) destruction of hazardous constituents;
  - (4) treatment to reduce or remove the hazardous constituents; and
  - (5) disposal on land, into air and in water.
6. A permit to dump wastes or other matter shall be refused if the Authority determines that appropriate opportunities exist to re-use, recycle or treat the waste without undue risks to human health or the environment or disproportionate costs. The practical availability of other means of disposal should be considered in the light of a comparative risk assessment involving both dumping and the alternatives.

### **Chemical, Physical and Biological Properties**

7. A detailed description and characterization of the waste is an essential precondition for the consideration of alternatives and the basis for a decision as to whether a waste may be dumped. If a waste is so poorly characterized that proper assessment cannot be made of its potential impacts on human health and the environment, that waste shall not be dumped.
8. Characterization of the wastes and their constituents shall take into account:
  - (1) origin, total amount, form and average composition;
  - (2) properties: physical, chemical, biochemical and biological;

- (3) toxicity;
- (4) persistence: physical, chemical and biological; and
- (5) accumulation and biotransformation in biological materials or sediments.

### **Action List**

9. An Action List providing a mechanism for screening candidate wastes and their constituents on the basis of their potential effects on human health and the marine environment shall be developed from time to time where, for the purpose of selecting substances for consideration in the Action List, priority shall be given to toxic, persistent and bio accumulative substances from anthropogenic sources (e.g., cadmium, mercury, organhalogens, petroleum hydrocarbons, and, whenever relevant, arsenic, lead, copper, zinc, beryllium, chromium, nickel and vanadium, organosilicon compounds, cyanides, fluorides and pesticides or their by-products other than organohalogens). Such Action List can also be used as a trigger mechanism for further waste prevention considerations.
10. An Action List shall specify an upper level and may also specify a lower level. The upper level should be set so as to avoid acute or chronic effects on human health or on sensitive marine organisms representative of the marine ecosystem. Application of an Action List will result in three possible categories of waste:
  - (1) wastes which contain specified substances, or which cause biological responses, exceeding the relevant upper level shall not be dumped, unless made acceptable for dumping through the use of management techniques or processes;
  - (2) wastes which contain specified substances, or which cause biological responses, below the relevant lower levels should be considered to be of little environmental concern in relation to dumping; and
  - (3) wastes which contain specified substances, or which cause biological responses, below the upper level but above the lower level require more detailed assessment before their suitability for dumping can be determined.
11. Information required to select a dump-site shall include:

- (1) physical, chemical and biological characteristics of the water-column and the seabed;
- (2) location of amenities, values and other uses of the sea in the area under consideration;
- (3) assessment of the constituent fluxes associated with dumping in relation to existing fluxes of substances in the marine environment; and
- (4) economic and operational feasibility.

### **Assessment of Potential Effects**

12. Assessment of potential effects should lead to a concise statement of the expected consequences of the sea or land disposal options, i.e., the "Impact Hypothesis". It provides a basis for deciding whether to approve or reject the proposed disposal option and for defining environmental monitoring requirements.
13. The assessment for dumping should integrate information on waste characteristics, conditions at the proposed dump-site(s), fluxes, and proposed disposal techniques and specify the potential effects on human health, living resources, amenities and other legitimate uses of the sea. It should define the nature, temporal and spatial scales and duration of expected impacts based on reasonably conservative assumptions.
14. An analysis of each disposal option should be considered in the light of a comparative assessment of the following concerns: human health risks, environmental costs, hazards, (including accidents), economics and exclusion of future uses. If this assessment reveals that adequate information is not available to determine the likely effects of the proposed disposal option then this option should not be considered further. In addition, if the interpretation of the comparative assessment shows the dumping option to be less preferable, a permit for dumping should not be given.
15. Each assessment should conclude with a statement supporting a decision to issue or refuse a permit for dumping.

## MONITORING

16. Monitoring is used to verify that permit conditions are met - compliance monitoring - and that the assumptions made during the permit review and site selection process were correct and sufficient to protect the environment and human health - field monitoring. It is essential that such monitoring programmes have clearly defined objectives.

### Permit and Permit Conditions

17. A decision to issue a permit should only be made if all impact evaluations are completed and the monitoring requirements are determined. The provisions of the permit shall ensure, as far as practicable, that environmental disturbance and detriment are minimized and the benefits maximized. Any permit issued shall contain data and information specifying:

- (1) the types and sources of materials to be dumped;
- (2) the location of the dump-site(s);
- (3) the method of dumping; and
- (4) monitoring and reporting requirements.

18. Permits should be reviewed at regular intervals, taking into account the results of monitoring and the objectives of monitoring programmes. Review of monitoring results will indicate whether field programmes need to be continued, revised or terminated and will contribute to informed decisions regarding the continuance, modification or revocation of permits. This provides an important feedback mechanism for the protection of human health and the marine environment.

**FORM - I**

[See rule 8 (1)]

**APPLICATION REQUIRED FOR GRANT/RENEWAL OF PERMIT FOR  
DUMPING OR INCINERATION AT SEA OF WASTES OR OTHER MATTER****To be filled by the Applicant**

1. (a) Name and location of the vessels, aircraft and platforms or other man-made structures engaged in dumping or incineration at sea:  
(b) Name and designation of the concerned person responsible for vessels, aircraft and platforms or other man-made structures engaged in dumping or incineration at sea:  
(c) Tel, Fax and e-mail of the concerned person responsible for vessels, aircraft and platforms or other man-made structures engaged in dumping or incineration at sea:  
(d) Authorisation required for (Please tick mark appropriate activity or activities):
    - (i) Dumping
    - (ii) Incineration  
(e) In case of renewal of Permit, previous Permit numbers and dates and provide copies of annual returns of last three years including the compliance reports with respect to the conditions of Prior Environmental Clearance, wherever applicable:
2. (1) Nature and quantity of waste or other matter generated per annum (in metric tonne or kilo litre):
    - (i) origin, total amount, form and average composition:
    - (ii) properties: physical, chemical, biochemical and biological:
    - (iii) toxicity:
    - (iv) persistence: physical, chemical and biological:
    - (v) accumulation and biotransformation in biological materials or sediments:
  - (2) Nature and quantity of waste stored at any time (in metric tonne or kilo litre):
    - (i) origin, total amount, form and average composition
    - (ii) properties: physical, chemical, biochemical and biological:

(iii) toxicity:

(iv) persistence: physical, chemical and biological:

(v) accumulation and biotransformation in biological materials or sediments:

(3) Details of the production process and the sources of the wastes or other matter including process flow sheet indicating inputs and outputs (raw materials, chemicals, products, by-products, wastes, emissions, waste water etc.) Please attach separate sheets:

3. Mode of waste management:

(1) re-use;

(2) off-site recycling;

(3) destruction of hazardous constituents;

(4) treatment to reduce or remove the hazardous constituents; and

(5) disposal on land, into air and in water.

4. Details of the dump-site:

(1) Location:

(2) physical, chemical and biological characteristics of the water-column and the seabed:

(3) location of amenities, values and other uses of the sea in the area under consideration:

(4) assessment of the constituent fluxes associated with dumping in relation to existing fluxes of substances in the marine environment:

(5) economic and operational feasibility:

5. Method of dumping:

6. Provide copy of the Emergency Response Plan (ERP) which should address procedures for dealing with emergency situations (viz. Spillage or release or fire) as specified in the guidelines of Authority. Such ERP shall comprise the following, but not limited to:

- Containing and controlling incidents so as to minimise the effects and to limit danger to the persons, environment and property;
- Implementing the measures necessary to protect persons and the environment;



- Description of the actions which should be taken to control the conditions at events and to limit their consequences, including a description of the safety equipment and resources available;
  - Arrangements for training staff in the duties which they are expected to perform;
  - Arrangements for informing concerned authorities and emergency services; and
  - Arrangements for providing assistance with off-site mitigatory action.
7. Provide undertaking or declaration to comply with all provisions including the scope of submitting bank guarantee in the event of spillage, leakage or fire while dumping or incineration at sea of wastes and other matter:
  8. Capacity and mode of secured storage within the vessels, aircraft and platforms or other man-made structures engaged in dumping or incineration at sea:
  9. Utilisation within the vessels, aircraft and platforms or other man-made structures engaged in dumping or incineration at sea (provide details)
  10. If not utilised within the vessels, aircraft and platforms or other man-made structures engaged in dumping or incineration at sea, please provide details of what is done with this waste:
  11. Arrangement for transportation of waste or other matter:
  12. Details of the environmental safeguards and environmental facilities provided for safe handling of all the wastes and other matter at point (3) above.

Signature of the Applicant

Designation

Date.....

Place.....

**FORM – II**

[See rule 14(1)(vii)]

**FORMAT OF ANNUAL REPORT TO BE SUBMITTED BY THE AUTHORITY**

1. Location:
2. Name and designation of the officer Incharge of dealing with dumping of wastes or other matter and/ or incineration at sea:
3. Quantity and composition of wastes or other matter:
  - (1) Total quantity of wastes generated per day:
  - (2) Total quantity of wastes collected per day:
  - (3) Total quantity of wastes processed for:
4. Area used/to be used for dumping or incineration at sea of wastes or other matter:
5. Total Manpower available on site:
6. Storage facilities:
  - (1) Containers (Capacity):
  - (2) Dumper Placers:
  - (3) Others, please specify:
7. Transportation Facilities:
8. Whether any proposal has been made to improve the practices of management and/ or dumping of wastes or other matter:
9. Whether any proposal has been made to improve the practices incineration at sea:
10. Are any efforts made to call for private firms etc. to attempt for processing of waste utilising technologies:

Signature of (Member Secretary)  
Central Pollution Control Board/  
Pollution Control Committee

Date:

Place:

**FORM - III**

[See rule 8(3)]

**FORMAT FOR ISSUE OF PERMIT**

File No.: \_\_\_\_\_

Date: \_\_\_\_\_

To,

\_\_\_\_\_  
\_\_\_\_\_

Ref: Your application number \_\_\_\_\_ dt. \_\_\_\_\_

The Central Pollution Control Board/Pollution Control Committee after examining the proposal hereby permits \_\_\_\_\_ having their administrative office at \_\_\_\_\_ for dumping wastes of other matter and/or incineration at sea at \_\_\_\_\_ (location) on the terms and conditions (including the standards to comply) attached to this letter of Permit.

- 1) The validity of this Permit is till \_\_\_\_\_. After the validity, renewal of Permit is to be sought.
- 2) The Central Pollution Control Board/Pollution Control Committee may, at any time, revoke any of the conditions applicable under the Permit and shall communicate the same in writing.
- 3) Any violation of the provision of the Dumping of Wastes and other Matter (Prevention of Marine Pollution) Rules, 2018 will attract the penal provision of the Environment (Protection) Act, 1986 (29 of 1986).

(Member Secretary)

Central Pollution Control Board/  
Pollution Control Committee

Date:

Place:

**FORM- IV**

[See *rule 17 (1)*]

**APPLICATION FOR FILING APPEAL AGAINST THE REFUSAL/  
CANCELLATION/ SUSPENSION OF PERMIT BY THE AUTHORITY**

1. Name and address of the person making the appeal:
2. Number, date of order and address of the authority: (certified copy of which passed the order, against which appeal is being the order be attached) made
3. Ground on which the appeal is being made:
4. Relief sought for:
5. List of enclosures other than the order referred in point 2 against which the appeal is being filed:

Signature.....

Name and address.....

Date: