

SECTION 3 – IMPLEMENTATION OF INTERNATIONAL LAW

This section examines the extent to which COBSEA and the ASEAN may provide a regional platform for implementation of international law on combating pollution from marine litter including plastics. It distinguishes the rules of international law that are expressly referred to in the regional instruments from those that are not.

1. UNEA RESOLUTIONS

The background of the COBSEA RAP MALI refers to UNEA resolutions on marine litter and microplastics which (i) recognize the importance of a regional approach to addressing marine litter as a transboundary problem, as well as multi-stakeholder engagement, coordination and cooperation; and (ii) stress the need to strengthen the science-policy interface, harmonize monitoring and methodologies, and prioritize a whole lifecycle approach. These UNEA resolutions also emphasise the importance of the Regional Seas conventions and programmes in this context. (For further details on this approach in UNEA resolutions, see [Part 1, Section 3.2.3.](#))

ASEAN FAMAD also specifically mentions UNEA resolutions in particular proposed activities, including their incorporation in regional platforms, and providing support for enabling conditions for their implementation.

COBSEA RAP MALI also refers specifically to the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities (GPA) to prevent and to reduce land-based marine litter by sustainable consumption, production and integrated waste management system. Members of the GPA include both states and non-states actors. (See [Part 1, Section 3.4.1](#) for more details on the GPA, and [Part 1, Section 3.3.3](#) on the GPML, the Manila Declaration and the Honolulu Strategy.)

2. UNCLOS

The key actions in COBSEA RAP MALI follow the structure and goals of the Honolulu Strategy. This global framework for the prevention and management of marine debris has three goals of reduction of amount, release at sea and impact of:

- Land-based sources of marine debris;
- Sea-based sources of marine debris (including lost cargo, ALDFG and abandoned vessels); and
- Accumulation of marine debris on shorelines, in benthic habitats and in pelagic waters.

The distinction between land-based and sea-based sources of pollution is also one that flows from states' obligations under UNCLOS. UNCLOS' binding obligations on coastal states have been formally accepted by all except one coastal state in the seas of Southeast and East Asia. (See [Part 1, Section 3.1](#) for further details on UNCLOS).

ASEAN FAMAD also distinguishes land-based and sea-based sources of pollution. References to UNCLOS can be found all over ASEAN instruments and documents. UNCLOS is clearly identified as a framing treaty.

UNCLOS contains a specific obligation of cooperation for the protection of the marine environment at regional level (Article 197), as well specific provisions for the same in the context of land-based pollution (Article 207(3)). COBSEA and the ASEAN, in the context of the RAP MALI and the FAMAD respectively, provide a forum and a possible implementation framework for states' obligations to prevent, reduce and control pollution from land-based and sea-based activities as well as for their obligation of cooperation at the appropriate regional level.

Of note also is the UNCLOS provision that laws and regulations adopted "to prevent, reduce and control pollution of the marine environment from land-based sources ... shall include those designed to minimize, to the fullest extent possible, the release of toxic, harmful or noxious substances, especially those which are persistent, into the marine environment" (Article 207(5)). Although UNCLOS does not refer specifically to 'plastic', numerous polymers and associated contaminants would qualify as toxic, harmful or noxious substances that are persistent in the marine environment.

Guidelines may be useful at the regional level to clarify which plastic substances would qualify. Plastic additives that would meet this definition include polymers such as PVC and EPS as well as associated contaminants (additives or sorbed compounds) such as lead, PCB, flame retardants of polybrominated diphenyl ethers and plasticizers of phthalates. (See [Part 1, Sections 2.14.1](#) and [3.1](#))

3. OTHER MULTILATERAL ENVIRONMENTAL AGREEMENTS

COBSEA RAP MALI and ASEAN FAMAD both refer to many more international treaties and instruments which are relevant to pollution from sea-based sources. These include the International Convention for the Prevention of Pollution from Ships (MARPOL), the London Convention and its Protocol, the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposals, the Convention on Biological Diversity, as well as the Food and Agriculture Organisation (FAO) Code of Conduct for Responsible Fisheries. Each of these instruments contains provisions that are applicable to different sources or aspects of release of plastic pollution at sea. (For further details on each of these instruments and relevant provisions, see [Part 1, Section 3](#).)

Implementation of MARPOL Annex V (on prevention of pollution from garbage from ships) is specifically mentioned in the context of support for the implementation of the MARPOL provisions to improve reception facilities for all types of ship-generated waste.

In conclusion, COBSEA RAP MALI and ASEAN FAMAD refer to the most relevant international legal instruments and institutions. However, they do not spell out the mechanisms or processes for their regional implementation, or reporting at the regional context for pollution from marine litter and microplastics.