Background Guide

# United Nations Environmental Assembly

## Topic I - Protection of the environment in areas affected by armed conflict

Armed conflict, in addition to producing devastating effects on civilians and infrastructure, also threatens and damages the environment. Environmental degradation can occur directly or collaterally, or as a second-order effect—for example, a weak state or the failure of the rule of law may result in poaching or other exploitative practices going unprosecuted. In addition to these direct costs, environmental damage increases instability and harms those who rely on natural resources for their livelihood, potentially fueling further conflict.

While agreements limiting the means of warfare have existed since at least the Declaration of St. Petersburg in 1868, it was not until the late twentieth century that the environment received specific protection. Earlier agreements did, however, indirectly protect the environment, such as the Hague Convention IV of 1907, which outlined acceptable actions during war and forbade the needless destruction of “the enemy’s property,” and the 1925 Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases and of Bacteriological Methods of Warfare (the 1925 Geneva Protocol). As awareness of the importance of environmental protection grew over the following century, so did its prevalence in international law. The 1977 Additional Protocol to the Geneva Conventions dedicates article 55 to the “protection of the natural environment.” In 1994 The International Committee of the Red Cross (ICRC) compiled the Guidelines on the Protection of the Environment during Armed Conflict as a survey of existing international rules, a document that was later disseminated by the General Assembly and cited by the UNEA. However, these guidelines are not binding, nor do they provide structures to enforce or compel Member States to comply.

The issue is further complicated because the restrictions outlined in the Guidelines come from International Humanitarian Law (IHL) as well as International Environmental Law (IEL). These classes are quite distinct: IHL provides standards for general protection during armed conflict with few direct references to environmental protection, while IEL is a vast body of works dedicated to general environmental protection with limited references to armed conflict. There remains a gap between the structures of humanitarian and environmental law, despite their logical link. Further, many existing laws that do relate environmental protection to armed conflict deal only with interstate war and conflict, leaving situations involving non-State armed groups (NSAG) and intra-state conflicts largely unaddressed. Agreements restricting means of warfare are difficult to forge in these scenarios, as States are often reluctant to engage in diplomacy with NSAGs, out of concern for legitimizing them. Additionally, while many NSAGs have agreed to abide by the Geneva Conventions and maintain rules of conduct, it is very rare for an NSAG to include specific environmental protections in their rules of conduct during war. NSAGs may also be unwilling to agree to any environmental restrictions as they often fund their operations through exploiting the environment in protected areas, such as through poaching or logging.

In 2016, the UNEA adopted by consensus a landmark resolution on the topic of environmental protection in areas affected by armed conflict, establishing UNEA as a forum where States, international organizations and civil society organizations can approach this issue in a political, rather than legal, manner. The resolution identified environmental protection during armed conflict as a humanitarian issue, particularly in regard to its impact on women and displaced peoples, and as such encouraged States to incorporate protections from international law into their national legislation. It further brought attention to weaknesses in IEL, both in terms of poor implementation within States and failures of States to fully comply with the protections. The UNEA discussed the issue again at its third meeting in December 2017, and adopted a resolution focused on combating pollution in areas of armed conflicts through rapid responses to direct and indirect sources of conflict pollution. However, in the interest of consensus, the resolution does not reference the environmental risks of targeting industrial and military facilities nor explicitly mention the role of “scorched earth policies,” such as NATO-led bombings on chemical plants in 1999 in Yugoslavia, which released significant amounts of toxic substances into the environment, including mercury.

Because armed conflict is multidimensional, solutions to protect the environment must also be, addressing problems from the impact of toxic munitions and destruction of industrial buildings to environmental degradation caused by NSAGs and displaced peoples. Future work by the UNEA should begin to address the failings of legal protections for the environment in these situations, particularly with respect to non-international conflicts that are largely outside of the scope of current IHL. As of yet, the United Nations has not formally endorsed the 1994 Guidelines established by the ICRC, which now need to be modernized to fit the current state of armed conflicts. Further, the UNEA in 2016 was unable to decide on its role in conflict prevention, due to conflicting instructions from the General Assembly; while resolution 53/242 forbade UNEP from becoming involved in conflict prevention, resolution 57/337 called upon all United Nations organizations to consider a conflict prevention perspective in their activities. Whatever the UNEA decides its role to be, environmental protection is crucial to stability, as access to natural resources, such as potable water, viable farmland and oil and natural gas, are linked to an estimated 40 percent of conflicts in the last 60 years, and those conflicts are twice as likely to relapse within five years of resolution. This places environmental protection in areas affected by armed conflict in a key position to aid other environmental and development goals through assisting in stabilizing regions where these projects occur.

### Questions to Consider

* What struggles does your country face when dealing with armed conflict and the environment?
* How can the UNEA work with other international organizations, such as the International Law Commission, to ensure effective implementation of IHL and IEL?
* What international programs can be expanded to increase oversight for enforcement of international law?
* How should the international community address environmental hazards of historical armed conflict, such as landmines and toxic remnants of war?

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## Topic II - Sound management of chemicals and waste

Chemicals present a problematic duality for States. Although chemical industries contribute significantly to national economic health, both directly and indirectly given chemicals’ utility throughout the modern economy, improper management can adversely affect human health and the environment. Impoverished communities are particularly at risk to exposure because of their occupations, living conditions, lack of knowledge about the effects of exposure and reduced options when an exposure does occur. Poor management of chemicals and waste can lead to illness, contaminated neighborhoods and reduced economic capacity in the region, with unsound management of chemicals alone resulting in an estimated 1.3 million deaths per year. For this reason, sound management of chemicals and waste is a development priority for all Member States.

International law on sound management of chemicals and waste is centered on three main conventions: the Basel Convention, the Rotterdam Convention and the Stockholm Convention, together referred to as the BRS Conventions. The Basel Convention, enacted in 1992, sought to regulate States’ international transportation and disposal of hazardous waste, prompted by incidents of developed countries selling their hazardous waste to States with less-restrictive environmental protection laws. Further, the Basel Convention also sought to reduce the generation of toxic waste, and to promote sound management of the waste that was generated. The Rotterdam Convention, which entered into force in 2004, promoted more open information exchanges through encouraging hazardous chemicals exporters to use proper labeling, safe handling directions, and public disclosures of any known chemical restrictions or bans, and was jointly managed by the UNEP and the Food and Agriculture Organization (FAO). The Stockholm Convention, also entering into force in 2004, improves the regulation of harmful persistent organic pollutants (POPs), which, due to their persistence in the environment, can have long-lasting and far-reaching effects. In 2012, the secretariats of these three Conventions merged (except for the FAO part of the Rotterdam Convention) to a joint secretariat under the United Nations Environment Programme (UNEP) in order to promote synergy among the Conventions. Additionally, in 2017 the UNEP-managed Minamata Convention entered into force, which regulates mercury production, storage and use.

Complementary to the specific foci of the BRS Conventions, the 2002 World Summit on Sustainable Development set a goal of ensuring all global chemical production and usage is done with minimal impacts on human health and the environment. To this end, governments, industries and civil society organizations formed the UNEP-managed Strategic Approach to International Chemicals Management (SAICM) in 2006, which has funded 184 projects in 108 countries since its founding. Additionally, UNEP launched the Eco-innovation Project in 2014 with funding from the European Commission to promote sustainable practices, including with respect to waste management, among small- and medium-sized enterprises, with its first results expected by 2019. In the UNEP 2017 Annual Report, UNEP noted that significant progress had been made on sound management of chemicals and waste, as world’s governments, civil society organizations and industries, with the assistance of UNEP, met almost two-thirds of the policy goals UNEA set for the 2016-2017 period. In particular, States were successful in adopting policies creating and enabling the conditions necessary for sound management of chemicals and waste, and for reduced impact of chemicals; however few States adopted national waste management strategies. Additionally, UNEP noted that few States adopted economic and market-based incentives or other industry- and business-focused policies to promote sound management of chemicals and waste. As industry efforts on this issue are closely tied to improved management of resources, UNEP has also sharpened its focus on the circular economy, where valuable resources in waste are reclaimed, rather than discarded.

Many aspects of chemical and waste pollution fall outside of the immediate purview of the BRS and Minamata Conventions and SAICM, such as plastic waste and toxic heavy metals (besides mercury and leaded paint). Generous interpretations of the BRS Conventions allow for some restrictions on these issues; for example plastic waste, particularly marine plastic waste, can be interpreted as international transportation of hazardous waste and thus fall under the Basel Convention. Additionally, marine plastic waste often contains absorbed POPs relevant to the Stockholm Convention. The third UNEA meeting in late 2017 targeted the problem of pollution, resulting in several resolutions addressing different types of pollution, including marine litter, as well as nearly 2.5 million pledges of action from governments, civil society organizations, businesses and individuals.

Looking forward, the international community is rapidly approaching the 2020 deadline for sound chemical use and must decide the role SAICM will play post-2020, particularly with respect to the Sustainable Development Goals (SDGs). The Sustainable Development Goals rely upon sound management of chemicals and waste, as the United Nations Development Programme considers it a key part of over half of the Goals. With the Minamata Convention approaching its first year in force, the UNEA is also looking forward to seeing the progress made on mercury restrictions. Further, illicit activity undermines existing laws on chemicals and waste management. In 2017, INTERPOL uncovered more than 1.5 million tons of illegal hazardous waste, trafficked primarily from North America and Europe to Africa and Asia, and further estimated that only 10-40 percent of global electronic waste was disposed of properly in 2014. Additionally, despite UNEP support, many Member States did not address priority waste or chemical issues in the BRS Conventions or SAICM, falling short of the UNEP goals for 2016. Chemical and waste production has increased rapidly in developing countries over the last decade, increasing the burden of sound management on countries without comprehensive chemical and waste management institutions, a trend worsened by illicit trafficking of waste to these countries. Pollution from developed and developing countries has long-ranging effects, including on least-developed countries (LDCs) and Small Island Developing States (SIDS) that lack the infrastructure to effectively protect themselves from international pollution. As such, the international community must not only abide by their environmental obligations under SAICM and the various Conventions, but also work to improve the capacity of developing countries, particularly LDCs and SIDS, to manage chemicals and waste.

### Questions to Consider

* How have the various chemicals and waste Conventions affected your country?
* What local, national, regional and international systems exist that could be utilized in the constructing chemical and waste policy?
* How can the United Nations aid in cooperation amongst governments, civil society and industry for sound management of chemicals and waste?

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