

# Africa and the Problem of Transboundary Movement of Hazardous Waste: An Assessment of Bamako Convention of 1991

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## Abstract

The challenge of transboundary movement of hazardous waste has attracted a lot of scholarly research in the last part of the 20<sup>th</sup> century and beginning of the 21<sup>st</sup> century. This is particularly more pressing as environmental problems is one of the most topical issues in global discourse. This study assesses the Bamako Convention of 1991 and the response of African states. The work argued that lack of adequate legal framework and enforcement mechanism has again has made African states to be vulnerable to external powers. Most industrialised states have continued to dump hazardous waste in the African shores. The article utilised primary sources from newspapers and secondary sources from books, journals, and online sources for assessment.

## Introduction

The global progression in science, technology and industrialization has resulted in the rise in the activities hazardous to the human environment. The trepidation over the harmful and sometimes irreparable effects of these activities on human health, marine life and the ecosystem has generated a lot of national and international regulatory regimes on the protection of the human environment.<sup>1</sup> One of the crucial issues that have attracted enormous attention is that of transboundary movement of hazardous wastes from one country to another, and in this particular case, from the industrialized countries in the global north to the developing countries in the global south, specifically Africa.

Unsurprisingly, to battle this threat, technologically advanced countries have been armed with sophisticated waste management technologies, a progressive level of public consciousness on the damaging consequences of poor waste management and flexible environmental legislations resulting in a mounting shortage of disposal facilities and rising cost of waste disposal.<sup>2</sup>

As stated by Florio, a United States Congressman, 'export of hazardous waste destined for final disposal takes place along the path of least resistance'.<sup>3</sup> Inexpensive waste disposal alternatives were found in conveying the wastes to developing countries for disposal.<sup>4</sup> These countries are overwhelmed with soft environmental protection regulations, dearth of opposition in public domain due to lack of awareness, less-severe laws and regulations and a lack of enforcement mechanisms.<sup>5</sup> This is exacerbated by fraudulent and ineffective political leadership in these countries whereby officials are easily settled with bribes at the expense of the health of its citizens and security of its human environment. Thus, the developing countries became cesspool for all forms of waste (e-waste inclusive)<sup>6</sup> generated as a result of industrial activities, in the advanced economies.<sup>7</sup>

It is in reaction to this that the international community has robustly set out the need to form an international legal regime to deal with transboundary movement of hazardous wastes from advanced economies to developing. This alarm reached a climax in the 1970s and early 1980s which resulted in the adoption of the Basel Convention on the control of Transboundary Movements of Hazardous Wastes and their Disposal 1989 sponsored by the United Nations Environment Programme.<sup>8</sup>

Sadly, discontented with the outcome of the Basel Convention on the grounds that it did not tackle their circumstances, African countries, under the auspices of the then Organisation of African Unity (O.A.U) now African Union (A.U) convened and adopted the Bamako Convention on the Ban of the Import into Africa and

<sup>1</sup> There are close to 1000 legislations today which address issues relating to the international environment.

<sup>2</sup> Kummer K., *International Management of Hazardous Wastes: The Basel Convention and Related Legal Rules* (Oxford: Clarendon Press, 1995)

<sup>3</sup> Clapp, Jennifer. *Toxic exports: the transfer of hazardous wastes from rich to poor countries*. Cornell University Press, 2001.

<sup>4</sup> Kwiatkowska B. and Soons A.H. (eds.) *Transboundary Movement and Disposal of Hazardous Wastes in International Law: Basic Documents* (London/Dordrecht/Boston: Martinus Nijhoff/Graham & Trotman, 1993).

<sup>5</sup> Kummer K., *Supra* Note 2

<sup>6</sup> E-wastes comprise of remains of computers, mobile phones and a variety of other electronic and electrical appliances which the original users no longer want.

<sup>7</sup> African Business, *Africa: The Industrial World's Dumping Ground?* (July 1988) pp. 10–11.

<sup>8</sup> It was opened for signature on 22 March, 1989 and entered into force on 5 May, 1992. As at March 2009, there were 173 parties to the Convention available at <http://www.basel.int/ratiff/convention.htm> (Accessed 7 April, 2013).

the Control of the Transboundary Movement and Management of Hazardous Wastes within Africa 1991.<sup>1</sup>

Unfortunately, in spite of the adoption of these conventions, this obnoxious activity seems to continue persistently. The 2006 Shell Petroleum Development Company of Nigeria (SPDC) dumping of radioactive wastes in Nigeria,<sup>2</sup> the 2006 Abidjan disaster<sup>3</sup> and the recent apprehension in Nigeria of the vessel overloaded with toxic waste<sup>4</sup> all seem to Bamako Convention from shielding African countries from being reduce to mere waste bin for hazardous and radioactive waste. This dilemma is the crux of this paper.

### **The Bamako Convention as a Political Document**

The development of the Bamako Convention, like other predecessor conventions adopted in the continent, was partly motivated by the urge by African states to balance Africa's international political equation. African states are largely characterized as countries which hold with them a hangover of resentment over their historic colonial status in addition to a host of teething troubles associated with their contemporary economic, political and social conditions.<sup>5</sup> Statements implying such resentment were evident from speeches made to combat exports of hazardous waste to the African Continent.

In one remark, it was mentioned that African states equate the disposal of hazardous waste from advanced economies in their territory, in the same way and manner, they, once felt for the terror of slave trade.<sup>6</sup> Some radically oriented African heads of state branded the trade in hazardous waste as "garbage imperialism".<sup>7</sup> Yet, others considered it as a kind of neo-colonialist exploitation.<sup>8</sup> Even so to others, it was a matter of preferring 'poverty' to diminishing African dignity.<sup>9</sup> In the time being, African Union's (O.A.U's predecessor) official stance was to stress the conviction of African states that exports of hazardous waste to the African continent is ethically unacceptable and illegal act.<sup>10</sup> In all of these demonstrations, fundamental is the persecution of African states by advanced economies and stress on politics, ethics, and honour as a crucial facet of hazardous waste exports to Africa. In such situations, it was only normal for African states to exhibit objections in coming to terms with advanced economies and even over stressed weaknesses in order to decline becoming parties to the Basel Convention of 1989.

In light of the fact that the support of African states at the time of the deliberations of the Basel Convention was significant and the Convention, no matter what, significantly addressed the major concerns of African states, raises questions as whether or not a "separate" but "similar" convention was politically defensible. United Nations Environment Programme (UNEP) bureaucrats affirmed that:

Africa has played a pivotal role in the development of the Basel Convention and a number of its states' suggestions were integrated into the content of the Convention.<sup>11</sup>

It is particularly reported that African states proposed a total of fifteen substantive modifications to the draft convention. Ten of these were incorporated in the text of the convention and three were adopted by the conference of the plenipotentiaries as resolutions.<sup>12</sup> As illustrated above, at the bottom of these progressive developments was the age-old challenging rapport between African states and the advanced economies which has prevented a pragmatic conclusion to the problem of trade in hazardous waste. This state of affairs appears to have been intensified by unsatisfactory responses from advanced economies for the call by African states to aid in the restriction of hazardous waste exports from their countries to Africa.

Yet, it was apparent for African that the Organisation for Economic Cooperation and Development (OECD) and European Commission (EC) instructions had not aided to discontinue the export of hazardous waste

<sup>1</sup> It was opened for signature on 30 January, 1991 and came into force on 22 April, 1998. As at 3 February, 2010, there were 53 parties to the Convention available at <http://www.africa-union.org/root/au/Documents/Treaties/List/Bamako%20Convention.pdf> (accessed on 6 April, 2013).

<sup>2</sup> Editorial, *All Africa News, Toxic Dump in Warri* (29 March, 2007) available at <http://allafrica.com/stories/200703290613.html> (accessed on 1 April, 2013)

<sup>3</sup> Barry Manson, *Toxic Waste Dumping in Ivory Coast* (24 October, 2006) available at <http://www.wsws.org/articles/2006/oct2006/ivor-o24.shtml> (last visited on 3 May, 2010).

<sup>4</sup> Emeka Ezekiel, *Toxic Waste Ship originated from Austria* (3 April, 2013) at <http://www.punchng.com/Articl.aspx?theartic=Art2010042116371964> (accessed on 12 April, 2013).

<sup>5</sup> M.N. Shaw. *International Law*, 3rd ed. (Cambridge. Grotius Publications Ltd.) 1991 p 79

<sup>6</sup> "Toxic Terrorism" (30 June 1988) 25:5 *Africa Research Bulletin* 9134 p 14

<sup>7</sup> UNEP, "Hazardous Waste: Why Africa Must Act Now" (December. 1989) at p 1 [hereinafter Hazardous Waste: Why Africa Must Act Now].

<sup>8</sup> J.O. Abrams, "Regulating the International Hazardous Waste Trade: A Proposed Global Solution" (1990) 28 *Columbia Journal of Transnational Law* 801 pp 810-11.

<sup>9</sup> "Toxic Waste- The Dumping Site" (31 July 1988) 25:6 *Africa Research Bulletin* 9169 p 63

<sup>10</sup> UNEP, "Hazardous Waste: Why Africa Must Act Now". *Supra* note 14, p 3

<sup>11</sup> *Supra* note 14, p 4-5

<sup>12</sup> *Supra* note 14 p 5

to the African backyard. The same was factual to national legislations specifically that of the United State laws that were supposedly to maintain serious regulation of hazardous waste movements. The first universally deliberated and adopted instruments by all key hazardous waste importing and exporting countries is the Basel Convention. Even though, it is composed of many weaknesses, it is far better than any previous statement on the subject. Specifically, the fact that the Convention acclaimed independent right of singular and group of states to prohibit the import of hazardous waste to their countries and the obligation of capability to safely discard of the waste as a prerequisite for import and export is a progressive step towards pragmatic regulation.

However, African states shy away from ratification of the Basel Convention and opted for a regional effort toward the total prohibition of hazardous waste import into Africa. Thus excessive politicization of environmental problems has made many observers to shower criticism on its provisions and condemned Africa's approach. The above analysis of political influence on hazardous waste trade joint with other interconnected factors partly explained the slowed momentum with regard to early ratification and going into force of the Bamako Convention.

### **Bamako Convention as an Instrument of Environmental Protection**

While the significance of the Bamako Convention may perhaps be doubtful with regard to provisions of Basel Convention, it has reiterated the previously established regulations enacted to protect human health and the environment.<sup>1</sup> Among others, it unequivocally obliges all parties to the Convention to ban import of hazardous waste from non-parties to their region and, purposely, to the entire African continent.

By establishing an unequivocal prohibition on the import of hazardous waste from non-parties to the African continent, the Convention eliminated the challenges presented by exports of hazardous waste exports from advanced economies. The risk of harm to human health and the environment in Africa did not stem from endogenous hazardous waste generated in Africa. Nearly all of the hazardous waste has roots in United States, Italy, United Kingdom, France and a number of unidentified advanced economies.<sup>2</sup> In banning such imports, Bamako Convention accomplished the goal of most of African states i.e, shielding the continent from been use as a garbage bin of advanced economies' hazardous waste.

The prohibition under Bamako Convention will have an extensive impact on the continent for no less than three purposes. First of all, the reality that much of Africa's population depends on water from untreated natural sources and their substantial dependence worsen their vulnerability to even minor toxicity. Moreover, the destruction to land may perhaps be inter-generational in both importing and neighbouring countries or even on a sub-regional level and possibly will not be put to practical use again. Thirdly, trade in hazardous waste is unfounded from social welfare point of view. In hazardous waste trade, as had been witnessed, in any case, in the African environment, the financial cost and benefits to importing and exporting countries are clearly uneven. African states do not benefit from accepting hazardous waste which they cannot be able to safely dispose of while exporting countries gain significantly in view of the fact that they keep away from the risk to human health and to the environment and even economically benefit as a result of inexpensive disposal cost in Africa.

Under such conditions, the status of the Bamako Convention as a restatement of the provisions of the Basel Convention in an attempt to regulate hazardous waste disposal remains uncontested. Nonetheless, a careful assessment of the provisions of the Bamako Convention will permit a greater understanding of its distinctiveness when compared with other previous conventions such as the Basel Conventions.

### **Provisions of the Bamako Convention**

In re-designing the Basel convention, African countries pressed for a complete ban on transboundary movement of hazardous waste.<sup>3</sup> Knowingly well their incapability to enforce autonomous bans on the transportation of such waste under national legislation, O.A.U countries wanted a strong multilateral instrument to administer such measures.<sup>4</sup>

The advanced economies preferred regulation over total ban. The United States, for instance, ardently opposed total ban, classifying the transboundary movement of hazardous waste as a free trade issue and arguing that prohibition would infringe on private liberty and negate free trade and rights to secure contracts.<sup>5</sup> Other

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<sup>1</sup> See the introduction to this essay especially the area which captures the global and sovereign rights to ban movement of hazardous wastes as contended in the Basel Convention.

<sup>2</sup> West Africa, "Toxic Terrorism" (20 June 1988) at 1108, cited in B.I. Logan, "An Assessment of the Environmental and Economic Implications of Toxic Waste Disposal in Sub-Sahara Africa" (1991) 25:1 *Journal of World Trade*. P 15

<sup>3</sup> Sean D. Murphy, *Prospective Liability Regimes for the Transboundary Movement of Hazardous Wastes*, 88 A.J.I.L. p 24, 44

<sup>4</sup> Katharina Kummer, *International Management OF Hazardous Wastes: The Basel Convention and Related Legal Rules 224* (1995).

<sup>5</sup> *Trade in Hazardous Wastes and Technologies*, in INTERNATIONAL ENVIRONMENTAL LAW ANTHOLOGY 153, 154 (Anthony D'Amato and Kirsten Engel eds., 1996) [hereinafter D'Amato & Engel].

states, such as the Netherlands, resisted the ban principally, because their peculiar environmental conditions makes safe disposal nearly impossible.<sup>1</sup> However, the most striking basis for objecting to the prohibition was the economics of hazardous waste trade.<sup>2</sup>

Yet again, the advanced economies triumph over the developing countries in the Basel debate which culminated into the Basel Convention. O.A.U molded the Bamako Convention, therefore, as a bridge to the shortfall of the Basel Convention. The Bamako Convention superimposed total ban on every bit of hazardous waste imports into Africa,<sup>3</sup> as well as the importation of waste for the benefit of recycling, a consistently exploited gap in the Basel Convention. However, the Bamako Convention established a partial ban on the movement of hazardous waste within and amongst the African countries.

However, experts in the field of environmental law such as Shearer advanced the claim that total ban serves as injury to states who are environmentally deficient to carry out safe domestic disposal. Unselfishly, such states should be allow to safely transport such waste to safer havens with the consent of the receiving states. Kindheartedly, this line of thought makes sense even to pro-Bamako advocates.

In addition, the Bamako Convention concentrates on halting imports of hazardous waste into the continent than on exports from the African continent. Thus it allows African states that have the capability to securely discard of hazardous waste to receive it from their fellow African countries. Yet, the Bamako Convention does not constrain African countries from exporting hazardous waste outside of Africa. The terms of the conventions' ban, therefore, do not place a limitation on an African countries desire to export hazardous waste it is unable to dispose of safely, rather, its ultimate aim is to safeguard Africa from been reduced to a cesspool of industrial wastes of advanced economies.<sup>4</sup> This has open doors for easy criticism as it is less concern with environments away from Africa. If the drafters of the convention, therefore, respect the human environment of Africa, they should also extend the same respect for other habitable environments of others.

However, total prohibition as contended in the Bamako Convention decreases the chances that producers will transfer their environmental responsibilities onto states which are inept in environmental technology, governing facilities and expertise required for excellent waste management.<sup>5</sup>

Again, it decreases the tendency by some states who may wish to hide under the pretext of recycling and reclamation to engage in trade of hazardous waste.<sup>6</sup> Though it impedes on Africa state's freedom of engaging in economic and technological transactions as a result of the movement of hazardous waste, it reward them in turn with common platform to speak against their threats to their human environment. Considering the case of the Somali warlords, who accepted hazardous waste in return for arms<sup>7</sup>, one can hardly agree that the profit from this activity would benefit the people living under such governments.

Besides, the question of liability and dispute resolution under the Bamako Convention raises some salient questions. Articles 8 and 9, for instance, charge duties on state parties to re-import waste that is in breach of an importation pact and to punish illicit dealings in hazardous waste. Article 9 of the Bamako Convention places emphasis duties to embrace necessary criminal legislations of a disciplinary and preventive nature.<sup>8</sup> Even though, these provisions have in most instances been applause for significantly more extensive when compared to other conventions, they authorized an autonomous national action; they do not set up a liability procedure under the terms of the conventions.

In addition, the Bamako's re-importation authorization generates imaginable problems in controlling illicit traffic in hazardous waste. Article 9, which required a state who violate the terms of the exporting a waste to re-import such waste into its own territory instead of exploring other environmentally friendly options do not only place greater economic expenses on such states but also make the whole process cumbersome and less attractive. African states urged to have paid attention to this area as they do not have adequate resources to better

<sup>1</sup> Sean D. Murphy, *Prospective Liability Regimes for the Transboundary Movement of Hazardous Wastes*, 88 A.J.I.L. 24, 44; see also KUMMER, *supra* note 87, at 225 ("In their present form, the provisions are unlikely to contribute significantly to the development of the law in the field of state responsibility.").

<sup>2</sup> Jason L. Gudofsky, *Transboundary Shipments of Hazardous Waste for Recycling and Recovery Operations*, 34 STAN. J. INTL L. 219, 234 (1998).

<sup>3</sup> Union, A. (1991) Bamako Convention on the Ban of the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa.

<sup>4</sup> ORGANIZATION OF AFRICAN UNITY: COUNCIL OF MINISTERS RESOLUTION ON DUMPING OF NUCLEAR AND INDUSTRIAL WASTE IN AFRICA, May 23, 1989, *reprinted in* 28 I.L.M. 568 (1989). This resolution served as the framework for the Bamako Convention.

<sup>5</sup> Theodore Waugh, *Where Do We Go From Here: Legal Controls and Future Strategies for Addressing the Transportation of Hazardous Wastes Across International Borders*, 11 FORDHAM ENVL. LAW J. 477, 490, 497-96 (2000).

<sup>6</sup> Kundit Dixit, *Last Place on Earth to Dump Trash*, Inter Press Service. Mar 10, 1994

<sup>7</sup> Tina Susman, *Nature under Pressure: The Clouds of Suspicion! Many Believe South Africa's Industries Emit Toxins that Kill*, N.Y. **NEWSDAY**, Nov. 30, 2002, p A8.

<sup>8</sup> Theodore Waugh, *Where Do We Go From Here: Legal Controls and Future Strategies for Addressing the Transportation of Hazardous Wastes Across International Borders*, 11 FORDHAM ENVL. LAW J. 477, 490, 497-96 (2000).

manage, transport or re-transport hazardous waste.<sup>1</sup>

In desperate moves to fulfill the promise of Article 9, African states have been tremendously practical in enacting national legislations prohibiting the import of hazardous waste. For instance Ivory Coast has enacted a law that keeps offenders in prison for up to twenty years and levy of up to \$1.6 million for individuals convicted of importing toxic or nuclear waste into the territory.<sup>2</sup> Other states have tried government functionaries who engage in this business. Guinea and Nigeria have arrested offenders and even threatened expatriate companies who continued unabated to engage in this kind of obnoxious trade.

The Bamako Convention have merely appeal to parties to bargain a practical procedure on the vital question of liability. Nonetheless, in pursuant of its ultimate goal of shielding Africa from been harm by imported hazardous waste establishes a limitless joint and numerous liability on the generators of indecorously disposed waste.<sup>3</sup> This legal regime relies on individual natural legislation for implementation. Thus limitless liability provision gives way for the foisting of whatever costs are adjudged deemed, including retaliatory costs. For instance, a petition can be brought against any generator, importer, exporter, carrier, or disposer that was linked with the waste that brought about the damage to the petitioner. This is make worse and more complicated when extend of responsibility is practically unfeasible to determine.

Again, joint and several liability, can thwart and impartial decision to a disagreement. For example, it can possibly confer liability on guiltless parties rather than the defaulter. Lastly, the convention's joint and several liability rule assigns responsibility on honest generators to oversee the fact that the generator may be very far away from the spot of the spot of disposal. While such a rule coerce exporters to carefully inspect the capability of the importing party's amenities, it would entrust an almost unbearable responsibility on generating parties to closely supervise the safe delivery and disposal of wastes after dissemination.

Another area worth assessing is the scope of the Bamako Convention. While the Basel Convention's definition of "wastes" indicate an effort not to over-blanket or institute an extremely inclusive list, the Bamako Convention widen its scope of regulation much more largely.<sup>4</sup> To start with, the Bamako Convention imitated the Resource Conservation and Recovery Act's two step procedure more staunchly than the Bamako Convention defines "hazardous waste" as any waste that is itemized on its Annex I or that contains any hazardous physical characteristics itemized in its Appendix II.<sup>5</sup> However, many more substances are included under the Bamako regulatory scope than previous Basel regulatory regime. Even though the Bamako Convention contains a provision roughly similar to that in the Basel Convention that includes within its definition of hazardous wastes substances "that are considered to be hazardous wastes by the domestic legislation of the party of export, import, or transit", the Bamako Convention enlarged the definition to comprised any waste "that has been banned, cancelled or refused registration, by government regulatory action, voluntarily withdrawn from registration in the country of manufacture, for human health or environmental reasons. The Bamako Convention also extends its regulatory wings to encompass radioactive waste.

The Bamako Convention's most significant variation in scope from the Basel Convention is located in Article 4(3) (F), which states,

Each party shall strive to adopt and implement the preventive, precautionary approach to pollution problems which entails, *inter alia*, preventing the release into the environment of substances which may cause harm to humans or the environment without waiting for scientific proof regarding such harm."<sup>6</sup>

This obligatory proclamation of what is widely known as the precautionary principle extends to the Bamako Convention's governing power to include wastes that have not been established hazardous, but may be hazardous. The precautionary principle is basically equal to the customary international law obligation of due diligence that requires minimization of the risk of harm. But because the lack of or near absence of information on the environmental damages caused by hazardous waste management and by transboundary movements of hazardous waste is a key obstacle to understanding the extent of the environmental problem addressed by Bamako Convention, the precautionary principle is suitable.<sup>7</sup>

<sup>1</sup> C. Russell H. Shearer, *Comparative Analysis of the Basel and Bamako Conventions on Hazardous Waste*, 23 ENVTL L. 141, 158-59 (1993).

<sup>2</sup> Lillian M. Pinzon, *Criminalization of the Transboundary Movement of Hazardous Waste and the Effect on Corporations*, 7 DEPAUL Bus. L.J. 173, 202 (1994).

<sup>3</sup> *Supra* note 27. Art. 4, Paragraph 3

<sup>4</sup> Jason L. Gudofsky, *Transboundary Shipments of Hazardous Waste for Recycling and Recovery Operations*, 34 STAN. J. INTL L. 219, 234 (1998).

<sup>5</sup> *Supra* note 27, Art. 2, par 1(a)&(c).

<sup>6</sup> *Supra* note 27, Article 4(3) (F)

<sup>7</sup> ORGANIZATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT, TRADE MEASURES IN MULTILATERAL ENVIRONMENTAL AGREEMENTS 100 (1999) [hereinafter OECD].

The one-two punch of the Bamako Convention's extended definition of hazardous waste and its proclamation of the precautionary principle stimulate many commentators to refer to its scope as "immensely broader than that of Basel Convention".<sup>1</sup> This span of scope could be argued to result to over-inclusion. If too many wastes fall under limit of regulation, industrial opposition triggered from the inclusion of substances that are considered to be hazardous could possibly account for the slow ratification by African States of the Bamako Convention.

The Bamako Convention assigns an ambitious measure in advancement of its precautionary principle. State parties are obliged to promote clean production methods "applicable" to entire product life circles.<sup>2</sup> The emphasis of this approach aims at eliminating waste before it is created by utilizing technologies that produce goods with less waste by-product. However, in light of the economic realities of developing nations in Africa, it merely took a stand that has no potential value of implementation. This is because of the visible lack of capital. This goes to tell the many other flaws of the Bamako Convention.

### **Failure of the Bamako Convention**

The convention principally failed to stalk the illicit trade in hazardous waste, making some observers to designate it as a figurative treaty, instead of one with an actual legal gymnastic. Undeniably, owing to problems of endemic official corruption and weak government, parties to the convention are exceptionally incompetent to curb the challenge of illicit trafficking of hazardous waste. Though there is paucity of empirical data to permit a quantitative evaluation of Bamako's impact, the mere fact the Abidjan tragedy happened in a state that is a party to the convention and even ratified the terms of the Bamako Convention buttress this point.

Even though, the endorsement of the Bamako Convention does validate the view that certain developing countries are skeptical of the terms of the predecessor convention at Basel, the gradual advancement in ratifying the convention subsequently points to lack of collective agreement among African countries. Partly, because of its strict and hard-hitting features, the convention did not obtain the minimum number of ten states ratifications required to come into effect until 1998, and as at 31 January 2009, only 23 countries have ratified the convention out of a total 54 African countries.

Perhaps these countries have been compelled to channel their inadequate law-making wherewithal to more appealing priorities. However, the rising importance of recycling as a source of revenue among African countries is also a plausible reason for failure of the convention.

To add to that, carrying out of environmental legislation in Africa is chiefly affected by its hostile economic, technological and political conditions. The movement of hazardous waste into Africa is normally backed by the urge to earn huge foreign income for the poor, bankrupt African countries. These conditions have unsighted many states in Africa from seeing the injurious consequences of the import deals.

Furthermore, the Bamako Convention, different from a similar regional agreement, the Waigani Convention, does not provide for the collaboration of its secretariat with other Conventions such as the predecessor Basel Convention or even the United Nations Environment Programme. This has made many commentators to see the Bamako Convention as a mere riotous political convention aim at sabotaging the Basel Convention. This implies that the Bamako's exclusiveness has relegated it to a mere afro-centric political vendetta.

Although the convention recommends severe measures on transboundary movement of wastes amongst African countries, it does not provide for the need to develop necessary waste management technologies, so as to, minimize such activity in Africa.

### **Conclusion**

The aim of this essay is to draw attention to the more far reaching provisions of the Bamako Convention which was convened in reaction to the Africa's dissatisfaction with the influence of the Basel Convention to effectively protect Africa's environment from been reduce to dumping ground of hazardous wastes and to assess the effectiveness or otherwise, of Bamako Convention.

It is obvious from the proceeding analysis that the Bamako Convention has raised the Bar in international environmental regulation of transboundary movement of hazardous wastes. Its warning is an explicit message to the international community that Africa will no longer be a cesspool for the reprehensible dumping of hazardous and radioactive wastes generated from advanced economies of the world.

However, a great deal needs to be reach to turn these lofty symbolic efforts into practical realities. African leaders and its numerous people need to muster the attitudinal, political and fiscal will to support these ideals.

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<sup>1</sup> *Supra* note 26, p 247

<sup>2</sup> *Supra* note 27, Art. 4 para 3(g).

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