

**ENVIRONMENTALLY SOUND  
MANAGEMENT**  
ITS STATUS AND ROLE IN THE SEA-LAND INTERFACE  
REGULATION OF WASTES



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av

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## Abstract

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Waste management is essential for ensuring the earth's resilience and it remains one of the greatest challenges for our and future generations. As societies experience further population growth and economic development, waste management poses both challenges for the protection of the environment and human health. To face these challenges, environmental law requires shifting attention from media-specific pollution regimes to integrative life-cycle approaches of waste management, *i.e.*, from the prevention of waste generation to the actual handling of wastes. Currently, wastes are regulated incidentally within media-specific pollution regimes, or in relation to certain hazardous substances. In cases where wastes are directly regulated, this regulation is concerned with a particular activity. Additionally, waste management has been traditionally considered as a national affair except in cases dealing with pollution transfer and transboundary movements of wastes.

This thesis is concerned with the management of wastes generated on board vessels while at sea and after they are discharged to port reception facilities. Ship wastes are studied from an international and EU law perspective. These wastes were chosen for three reasons. First, ship wastes are incidentally regulated within the regime of marine pollution. Second, the prevention of ship-source pollution is heavily reliant on the provision of adequate port reception facilities on land. However, the coordination between these facilities and further downstream management operations is still an unresolved issue. Finally, ship wastes were chosen due to incidents related to the unsafe management of ship wastes on land. These incidents increased the attention towards the management of ship wastes after their discharge on land and framed the analysis of such management from a conflict of law perspective. Particularly, whether the transboundary movement of waste regime is applicable to ship wastes while at sea and after their discharge on land.

This thesis examined the regimes set up to deal with the transboundary movement of wastes and ship-source pollution so as to elucidate the obligations and legal principles governing such regimes. Considering the *rationale* behind these regimes, the author concludes that treaty obligations concerning transboundary movements of wastes are inapplicable to ship wastes while on board ships and on land. Despite the limitations of the transboundary movement of wastes regime, the thesis argues that the principle of Environmentally Sound Management (ESM) embodied in this regime has gradually transformed into a legal principle. The most important contribution of ESM is its *integrative function*. This integrative function has several outcomes. First, ESM is the point of departure for addressing legal gaps in the regulation of wastes, and consequently it provides the desired coherence to the legal system since it acts as a bridge between several regulatory and sectoral levels. Second, ESM offers a new light with which to understand and interpret existing obligations. Finally, ESM provides a renewed impetus to regimes that directly and indirectly govern wastes. This impetus translates into greater coordination and the establishment of cross-sectional policies.

**Keywords:** Environmentally Sound Management (ESM), ship wastes, transboundary movements of wastes, ship source pollution, port reception facilities.