

CCAC Cooling Thought Leaders' Strategy Meeting: Focus on Environmental Dumping

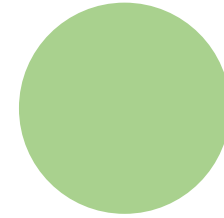
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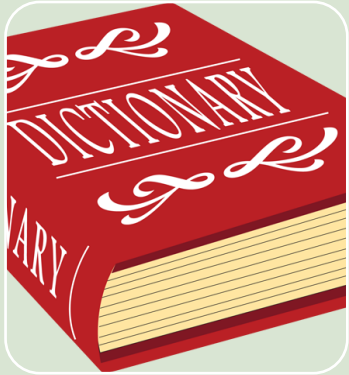
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sustainable development



**Working
Definitions**

**Montreal
Protocol:
Precedents**

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Solutions

Addressing Dumping: Background



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1.

Working Definitions

References.

Report of the Stop Dumping CCAC Workshop: More Rapid Transition to Sustainable Cooling Technology, 24–25 August 2023, Paris, France, <https://www.ccacoalition.org/sites/default/files/resources/files/DUMPING%20ON%20AFRICA%20FINAL%20Book-updatw%202410.pdf>.

See additional resources listed at end of this presentation.

Environmental Dumping.

Exporting products that: 1) contain hazardous substances; 2) have environmental performance lower than in interest of citizens in the country of import or the global commons; and/or 3) undermine the ability of the importing countries to comply with their international treaty obligations.

In the Montreal Protocol, the issue is dumping of inefficient new refrigeration and air-conditioning equipment using obsolete ODS and HFC refrigerants, including export of cooling appliances that fail to meet environmental, safety, or energy efficiency standards in the country of origin or the home country of the manufacturer.

NOTE: “Export” can be cooling equipment manufactured outside the destination market or overseas manufacturers establishing local production or assembly within the destination country or region.

1.

Working Definitions

Obsolete.

Refrigerants that are or soon will be banned or restricted under multilateral environmental agreements (MEAs) such as the Vienna Convention on the Protection of the Ozone Layer and its Montreal Protocol on Substances that Deplete the Ozone Layer.

References.

Speeding Ghana's Transition to Low-GWP and Energy-Efficient Cooling, in Advancing Kigali Goals Through HVACR, INDUSTRIA formazione, International Special Issue 2022-2023, <https://international.centrogalileo.it/speeding-ghanas-transition-to-low-gwp-and-energy-efficient-cooling/>

See additional resources listed at end of this presentation.

1.

Working Definitions

References.

Ozone Secretariat, The Ozone Treaties,
https://ozone.unep.org/sites/default/files/2019-12/The%20Ozone%20Treaties%20EN%20-%20WEB_final.pdf.

See additional resources listed at end of this presentation.

Shared Responsibility Agreed by Parties to the Montreal Protocol.

Actions taken between source countries and destination countries for access to technology to protect ozone and climate, including energy efficiency, global warming potential (GWP), atmospheric fate, and appropriate international standards for safety and materials compatibility.

From the Preamble to the Vienna Convention on the Protection of the Ozone Layer:

“Aware that **measures to protect the ozone layer from modifications due to human activities require international cooperation and action**, and should be based on relevant scientific and technical considerations,” and “Recalling [that] ‘States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the **responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction[.]**’” (Emphasis added.)

2.

MONTREAL PROTOCOL PRECEDENTS

References.

Ozone Secretariat, Report of the 9th OEWG, Geneva, 30 Aug-1 Sept. 1993, <https://ozone.unep.org/system/files/documents/9oewg-7.e.shtml>.

See additional excerpts of Montreal Protocol Party discussions of dumping and Montreal Protocol Decisions listed in the Backup Slides at end of this presentation.

Discussions of Dumping - examples.

Early dumping discussions among Montreal Protocol parties and institutions include, from the meeting of the **9th Open Ended Working Group (OEWG) in Geneva (30 Aug.-1 Sept.) 1993**, the following excerpts from the OEWG meeting report, including those stemming from the report to Parties by the Technical and Economic Assessment Panel:

“The closing of CFC production facilities in developed and developing countries could reduce availability in the developing countries. Phase-outs could lead to ‘dumping’ in developing countries of obsolete equipment that use ODS. As a result, incremental costs could increase and ODS phase-out among Parties operating under Article 5, paragraph 1, could be delayed.”

“A number of delegations expressed concern over the possibility and impact of dumping. One delegation enquired if the Parties needed to address the issue formally. Another delegation requested that the Executive Committee of the [MLF] examine projects to ensure that they did not inadvertently lead to dumping. One delegation noted that it would be beneficial for the work of [TEAP] to include an update on the assessment of the supply of CFCs to Article 5, paragraph 1 countries after 1995.”

3.

Tools

Resources.

The Importance of Stopping Environmental Dumping in Ghana: The Case of Inefficient New and Used Cooling Appliances with Obsolete Refrigerants (2021), <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1391&context=delpf>;

Buyers Club Handbook, IGSD, OzonAction, UNEP (2020), <http://www.igsd.org/wp-content/uploads/2020/07/Buyers-Club-Handbook-Jan2020.pdf>.

See additional resources listed at end of this presentation.

Tools to Stop Dumping and Increase Access to Next-Generation, Efficient and Low- or Zero-GWP Cooling Technology:

- Government Bulk Procurement and Buyers Clubs
- Mandatory Registration Systems for Exporters and Importers
- Minimum Carbon Footprint and Other Performance Standards
- Product Labeling/Marketing Requirements
- Pre-Shipment Verification of Conformity
- Environmental Taxes and Incentives
- Prohibitions on Import, Export, Production, and Sale
- Criminal Penalties and Related Enforcement
- Voluntary Industry and NGO Action, including manufacturer and industry association and environmental NGO (e-NGO) leadership
- Awareness-raising and technical solution workshops and initiatives
- Multilateral action to support above tools and national regulatory action, as well as information dissemination, financial incentives, capacity building, and prior informed consent processes

4.

Solutions

Resources.

Report of the Stop Dumping CCAC Workshop: More Rapid Transition to Sustainable Cooling Technology, 24–25 August 2023, Paris, France,
<https://www.ccacoalition.org/sites/default/files/resources/files/DUMPING%20ON%20AFRICA%20FINAL%20Book-updatw%202410.pdf>.

See additional resources listed at end of this presentation.

Solutions.

No single solution.

Stopping environmentally harmful dumping requires a combination of tools, depending on deployability in particular national and regional circumstances.

Time is of the essence in deployment.

Montreal Protocol Article 5 Parties are at “ground zero” for climate change impacts.

For example, if instituting minimum energy performance standards (MEPS) and ensuring institutional support for monitoring, enforcing, and maintaining the standards in just one developing country requires up front financing and a 5-year-minimum effort, it is clear that other solutions are critical, including import- and export-country collaboration to address near-term the environmental, climate, multilateral agreement-commitment, energy security, health and financial impacts of the dumping situation.

4.

Solutions

Resources.

K. Siregar, Channel News Asia, Inefficient air-cons are being dumped in Southeast Asia. That's costly for consumers and the climate (18 November 2023),

<https://www.channelnewsasia.com/asia/inefficient-air-conditioners-dumping-southeast-asia-indonesia-climate-change-energy-3922116>.

Solutions.

Environmental and climate inequities compel us to find solutions.

The environmental and climate inequities associated with shifting technology that is no longer acceptable (for environmental, climate, energy and financial security, safety, financial and other reasons) from less vulnerable countries to more vulnerable developing countries, compel us to find solutions together as quickly as possible.

IGSD is pleased to partner with CCAC and the Thought Leaders gathered here on these important discussions

See the additional resources in the Backup Slides, as well as information available in the citations in these resources.

Backup Slides Follow

2.

MONTREAL PROTOCOL PRECEDENTS

References.

Ozone Secretariat, Report of the 5th Meeting of the Parties, Bangkok, 17-19 Nov. 1993,

<https://ozone.unep.org/system/files/documents/5mop-12e.shtml>

See additional resources listed at end of this presentation.

Discussions of Dumping - examples.

From the report of the **5th Meeting of the Parties (MOP) in Bangkok (17-19 Nov.) 1993:**

“[Replacement with h]ydrochlorofluorocarbons (HFCs) was not taking place at a rapid pace, thus leading to prolonged CFC emissions. Moreover, the phase-out process in the developed countries must not result in the dumping of outmoded equipment in the developing countries and competitive solutions to the problem of replacement substances were needed.”

2.

MONTREAL PROTOCOL PRECEDENTS

References.

Ozone Secretariat, Report of the 11th OEWG, Nairobi, 8-12 May 1995,
<https://ozone.unep.org/sites/default/files/2019-04/OEWG-11-10E.pdf>.

See additional resources listed at end of this presentation.

Discussions of Dumping - examples.

From the report of the **11th OEWG in Nairobi (8-12 May) 1995:**

“One representative, who had submitted a written proposal on the topic in conjunction with another representative, said that the practice of dumping obsolete ODS-using products and technologies in Article 5 countries was on the increase and, if the situation were not addressed, it could well affect the implementation of the Protocol. Dumping could significantly increase ODS consumption in the countries in question and there were some grounds for suspecting that some suppliers in Article 2 countries were deliberately engaging in dumping in order to maintain their ODS production. Since the Article 5 countries were institutionally incapable of monitoring dumping effectively, they needed the support of their Article 2 partners.”

2.

MONTREAL PROTOCOL PRECEDENTS

References.

Ozone Secretariat, Report of the 10th Meeting of the Parties, Cairo, 23-24 Nov. 1998,

<https://ozone.unep.org/system/files/documents/10mop-9e.shtml>.

See additional resources listed at end of this presentation.

Discussions of Dumping - examples.

From the report of the **10th Meeting of the Parties (MOP) in Cairo (23-24 Nov.) 1998:**

“Many representatives expressed concern at the dumping of second-hand equipment in developing countries based on the use of controlled substances, which constituted an extra impediment to the implementation of the Montreal Protocol. One representative proposed that the Secretariat should support developing countries in their efforts to ban such equipment. Others pointed to the enactment of national legislation prohibiting the import of products or equipment using ozone-depleting substances. Several representatives expressed support for the draft decision before the Meeting on the issue. One representative said that, as many of those transactions did not involve the remittance of funds through banks, monitoring the import of such items was difficult. Mitigating that problem would require the introduction of controls at the point of export and he solicited the cooperation of developed countries to that end. Another representative suggested the introduction of a requirement for conversion of such equipment before it was exported.”

2.

MONTREAL PROTOCOL PRECEDENTS

References.

Ozone Secretariat, Report of the 30th Meeting of the Parties, Quito, 5-9 Nov. 2018,

<https://ozone.unep.org/system/files/documents/MOP-30-11E.pdf>.

See additional resources listed at end of this presentation.

Discussions of Dumping - examples.

From the report of the **30th Meeting of the Parties (MOP) in Quito (5-9 Nov.) 2018:**


“The representative of Rwanda, speaking on behalf of the African Group, introduced a proposal for a draft decision, which had been revised after the fruitful discussions at the fortieth meeting of the Open-ended Working Group. She said that it was intended to provide the basis of a renewed discussion at the current meeting, to facilitate consideration of the crucial issue of energy efficiency and how it could be addressed under the institutions of the Montreal Protocol. She noted that the Scientific Assessment Panel had confirmed that improvements in the energy efficiency of refrigeration and air-conditioning equipment during the transition to low-GWP alternatives could double the climate benefits of the Kigali Amendment. She also drew attention to the problems caused by the dumping of obsolete and inefficient equipment in African markets, which undermined efforts by African countries to meet the climate challenge.”

Examples of Dumping and Related Montreal Protocol Decisions



[Decision VII/9](#),
Basic Domestic
Needs, 7th MOP,
Vienna, 5-7 Dec. 1995

“3. That in order to prevent oversupply and dumping of ozone-depleting substances, all Parties importing and exporting ozone-depleting substances should monitor and regulate this trade by means of import and export licences;”



[Decision VII/33](#),
Illegal imports
and exports of controlled
substances, 7th MOP,
Vienna, 5-7 Dec. 1995

“To request that the Secretariat examine information available to it, and request further information from the Parties regarding dumping, illegal imports and exports, and uncontrolled production of Annex A and B substances and products containing them that could undermine the effectiveness of the Protocol, and report to the Eighth Meeting of the Parties, taking into account the non-compliance procedure.”



Examples of Dumping and Related Montreal Protocol Decisions



Decision X/9,

Establishment of a list of countries that do not manufacture for domestic use and do not wish to import products and equipment whose continuing functioning relies on Annex A and Annex B substances, 10th MOP, Cairo, 23-24 Nov. 1998



Decision XII/10,

Monitoring of international trade and prevention of illegal trade in ozone-depleting substances, mixtures and products containing ozone-depleting substances, 7th MOP, Vienna, 5-7 Dec. 1995

Among other things, “to request the Ozone Secretariat, in consultation, as appropriate, with the Technology and Economic Assessment Panel, the United Nations Environment Programme, the discussion group on customs codes for ozone-depleting substances and international trade and customs organizations, to examine the options for studying the following issues and to report on these options at the twenty-first meeting of the Open-ended Working Group for consideration by the Parties in 2001:”



Examples of Dumping and Related Montreal Protocol Decisions



[Decision XXVII/8](#)


Avoiding the unwanted import of products and Equipment containing or relying on hydrochlorofluorocarbons,
27th MOP,
Dubai, UAE, 1-5 Nov. 2015

To invite those parties that do not permit the importation of products and equipment containing or relying on hydrochlorofluorocarbons from any source to inform the Secretariat, on a voluntary basis, if they so choose, that they do not consent to the importation of such products and equipment;

To request the Secretariat to maintain a list of parties that do not want to receive products and equipment containing or relying on hydrochlorofluorocarbons, which shall be distributed to all parties by the Secretariat and updated on an annual basis;




Examples of Dumping and Related Montreal Protocol Decisions



[Decision XXVIII/3,](#)
Energy Efficiency,
10th MOP,
Kigali, 10-15 Oct. 2016

Rwanda and Morocco, aiming to combat environmentally harmful dumping of inefficient and obsolete cooling equipment, introduce the Montreal Protocol's first energy efficiency decision. Montreal Protocol Parties adopt this decision shortly after reaching agreement on the Kigali Amendment to the Montreal Protocol.



[Decision XXXIV/3,](#)
Enabling enhanced access and
facilitating the transition
to energy-efficient and
low- or zero-global-warming-potential
technologies, 34th MOP,
Montreal, 31 Oct.-4 Nov. 2022

This Decision asks, among other things, that the Ozone Secretariat organize a one-day workshop in 2023 to assess challenges related to ways of improving availability and accessibility of energy-efficient equipment and equipment using low- or zero-global warming-potential alternatives during the implementation of the Kigali Amendment.



Examples of Dumping and Related Montreal Protocol Decisions



Decision XXXIV/4,

Illegal import of certain refrigeration, air-conditioning and heat pump products and equipment, 34th MOP, Montreal, 31 Oct.-4 Nov. 2022

“1. To invite parties that have restricted the manufacture and/or import of certain refrigeration, air-conditioning and heat pump products and equipment containing or relying on controlled substances, including with respect to energy efficiency, and that do not want to receive such products and equipment from other parties against payment or free of charge, to submit to the Secretariat by 1 May 2023 [specifically listed] information....”



Decision XXXV/13,

The import and export of prohibited cooling equipment, 35th MOP, Nairobi, 23-27 Oct. 2023

In the Decision’s preamble, the Parties recognize the dumping of inefficient equipment containing obsolete refrigerants as a problem that requires solution involving both exporting and importing parties. Also, Parties welcome measures from certain Parties to prohibit, in their domestic regulations, the export of cooling equipment that does not satisfy their national regulations or is inconsistent with their standards. The Decision then requests Executive Committee of the [MLF] consider allocating funding within Kigali [HFC] implementation plans and [HCFC] phase-out management plans for assisting importing parties operating under paragraph 1 of Article 5 of the Montreal Protocol to develop and enforce policies and measures that will prevent future non-compliance caused by the importing of prohibited cooling equipment



Additional Resources

European Union, Regulation of the European Parliament and of the Council on fluorinated greenhouse gases, amending Directive (EU) 2019/1937 and repealing Regulation (EU) No. 517/2014, 19 January 2024, including art. 22/(3), art. 22(3) (“From ... [the date one year from the entry into force of this Regulation] the export of foams, technical aerosols, stationary refrigeration and stationary air-conditioning equipment and stationary heat pumps as referred to in Annex IV that contain, or whose functioning relies upon, fluorinated greenhouse gases with a GWP of 1 000 or more shall be prohibited.”), <https://www.consilium.europa.eu/en/press/press-releases/2024/01/29/fluorinated-gases-and-ozone-depleting-substances-council-greenlights-new-rules-to-reduce-harmful-emissions/>

Trane Technologies, A Climate for Innovation: A Conversation with Director of Global Climate Policy Helen Walter-Terrinoni, 4 December 2023, (“We’re also concerned about the question of equity...we want to help the ecosystem evolve where we are the experts. For example, we support policies that prevent countries from exporting equipment that has a larger carbon footprint than is allowed at home.”), [https://blog.tranetechnologies.com/en/home/our-environment/a-climate-for-innovation.html?cid=linkedin:social_post:organic_social:blog:a climate for innovation:thought leadership:12_08_2023](https://blog.tranetechnologies.com/en/home/our-environment/a-climate-for-innovation.html?cid=linkedin:social_post:organic_social:blog:a%20climate%20for%20innovation:thought%20leadership:12_08_2023)

World Climate Action Summit, Montreal Protocol Pavilion at COP28, Dubai, CLASP on Pathways to Prevent the Dumping of Inefficient Appliances with Obsolete Refrigerants, 2 December 2023, <https://ozone.unep.org/cop28>

CCAC, Montreal Protocol Parties Agree to Enhanced Anti-Dumping Actions, 24 November 2023, <https://www.ccacoalition.org/news/montreal-protocol-parties-agree-enhanced-anti-dumping-actions>

Consumers Association of Penang (Malaysia), Inefficient Air-Cons are Being Dumped in Southeast Asia, 18 November 2023, <https://consumer.org.my/inefficient-air-cons-are-being-dumped-in-southeast-asia/>

United States Department of State, US-China Sunnylands Statement on Enhancing Cooperation to Address the Climate Crisis, 14 November 2023 (including following commitment: The two countries intend to work together under the Kigali Amendment to phase down HFCs and commit to ensure application of ambitious minimum efficiency standards for all cooling equipment manufactured”), <https://www.state.gov/sunnylands-statement-on-enhancing-cooperation-to-address-the-climate-crisis/>

Additional Resources

United States Environmental Protection Agency, final rule on HFC restrictions under the American Innovation and Manufacturing Act of 2020 (AIM Act), 40 Code of Federal Regulations Part 80, Section 84, including provisions prohibiting the import, sale, distribution, purchase, and export of certain products that use HFCs, <https://www.federalregister.gov/documents/2023/10/24/2023-22529/phasedown-of-hydrofluorocarbons-restrictions-on-the-use-of-certain-hydrofluorocarbons-under-the>

CLASP and IGSD, Pathways to Prevent Dumping of Climate Harming Room Air Conditioners in Southeast Asia, setting out data for Malaysia, Singapore, Indonesia, the Philippines, Thailand, and Vietnam, September 2023, <https://ozone.unep.org/system/files/documents/Pathways-to-Prevent-Dumping-of-Climate-Harming-ACs-in-SEA-Sep-2023.pdf>

CCAC, Report of the Stop Dumping Paris Workshop: More Rapid Transition to Sustainable Cooling Technology, 24-25 August 2023, <https://ozone.unep.org/system/files/documents/DUMPING%20ON%20AFRICA%20FINAL%20Book.pdf>

K. Agyarko, Dumping of environmentally harmful products is ‘imported poverty,’ 7 August 2023, reprinted at <https://www.igsd.org/wp-content/uploads/2023/08/Kofi-Ghanaian-Times-dumping-article-7-August-2023.pdf>

Think20 (T20) Policy Brief (in advance of G20 New Delhi Leaders’ Summit), Low Carbon Development Pathways for Cooling: Leveraging Kigali Amendment Across Residential Applications, June 2023, <https://www.igsd.org/publications/low-carbon-development-pathways-for-cooling-leveraging-kigali-amendment-across-residential-applications/>

UNEP, International Institute of Refrigeration, Air Conditioning and Refrigeration European Association, Centro Studio Galileo, Associazione Dei Tecnici Del Freddo, and Renewable Energy Institute (eds), INDUSTRIA formazione, International Special Issue 2022-23, Speeding Ghana’s Transition to Low-GWP and Energy Efficient Cooling, *in* Advancing Kigali Goals Through HVACR, October 2022, <https://international.centrogalileo.it/speeding-ghanas-transition-to-low-gwp-and-energy-efficient-cooling/>

Additional Resources

Kaledzi, Deutsche Welle, Activists slam Europe for dumping on Africa, 1 April 2022, <https://www.dw.com/en/activists-slam-europe-for-dumping-on-africa/a-61315412>

K. Agyarko et al., The Importance of Stopping Environmental Dumping in Ghana: The Case of New and Used Cooling Appliances with Obsolete Refrigerants, 2021, <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1391&context=delpf>.

Ghanaian Times, Ghana Spearheads an African Proposal to the Montreal Protocol to Stop Appliance Dumping, 23 September 2021, <https://allafrica.com/stories/202109230821.html>

P. Kamtchang & R. Tedeffo, Cameroon: Prohibited by law, but in practice allows the import of hazardous gas refrigerators, 13 September 2021, <https://datacameroon.com/cameroon-prohibited-by-law-but-in-practice-allows-the-import-of-hazardous-gas-refrigerators/>

Intergovernmental Panel on Climate Change (IPCC), Special Report on Global Warming of 1.5°C, Summary for Policymakers, April 2021, (recognizing that policy tools can help mobilize resources to secure an equitable transition to climate resilient development), https://www.ipcc.ch/site/assets/uploads/sites/2/2019/05/SR15_SPM_version_report_LR.pdf

P. Fleming, A Flood of Polluting Air Conditioners Hampers Africa's Climate Efforts, 9 September 2020, <https://e360.yale.edu/features/a-flood-of-polluting-air-conditioners-hampers-africas-climate-efforts>

UNEP and International Energy Agency (IEA), Cooling Emissions and Policy Synthesis Report, July 2020, <https://www.unep.org/resources/report/cooling-emissions-and-policy-synthesis-report>.

Additional Resources

CLASP and IGSD, publish Environmentally Harmful Dumping of Inefficient and Obsolete Air Conditioners in Africa, including detailed annexes on situations in 10 African countries (June 2020), <https://storage.googleapis.com/clasp-siteattachments/2020-Environmentally-Harmful-Dumping-of-Inefficient-and-Obsolete-Air-Conditioners-in-Africa.pdf>

Report of the Montreal Protocol Technology and Economic Assessment Panel, Volume 3: Assessment of the Funding Requirement for the Replenishment of the Multilateral Fund for the Period 2021-2023, May 2020, https://ozone.unep.org/system/files/documents/TEAP_decision_XXXI-1_replenishment-task-force-report_may2020.pdf

CCAC Assessment of Climate and Development Benefits of Efficient and Climate-Friendly Cooling, January 2020, <https://www.ccacoalition.org/resources/assessment-climate-and-development-benefits-efficient-and-climate-friendly-cooling>

African Ministerial Conference on the Environment (AMCEN) Decision 17/1 urging Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer to adopt an action plan preventing the market penetration of obsolete equipment in Africa while facilitating access to secure and energy-efficient technologies on the content, November 2019, https://wedocs.unep.org/bitstream/handle/20.500.11822/30731/AMCEN_17Omnibus.pdf?sequence=7&isAllowed=y

Biarritz Pledge for Fast Action on Efficient Cooling, August 2018, <https://www.ccacoalition.org/resources/biarritz-pledge-fast-action-efficient-cooling>

S. Andersen et al., Defining the Legal and Policy Framework to Stop the Dumping of Environmentally Harmful Products, October 2018, available at <https://delpf.law.duke.edu/article/defining-the-legal-and-policy-framework-to-stop-the-dumping-of-environmentally-harmful-products-andersen-vol29-iss1/>