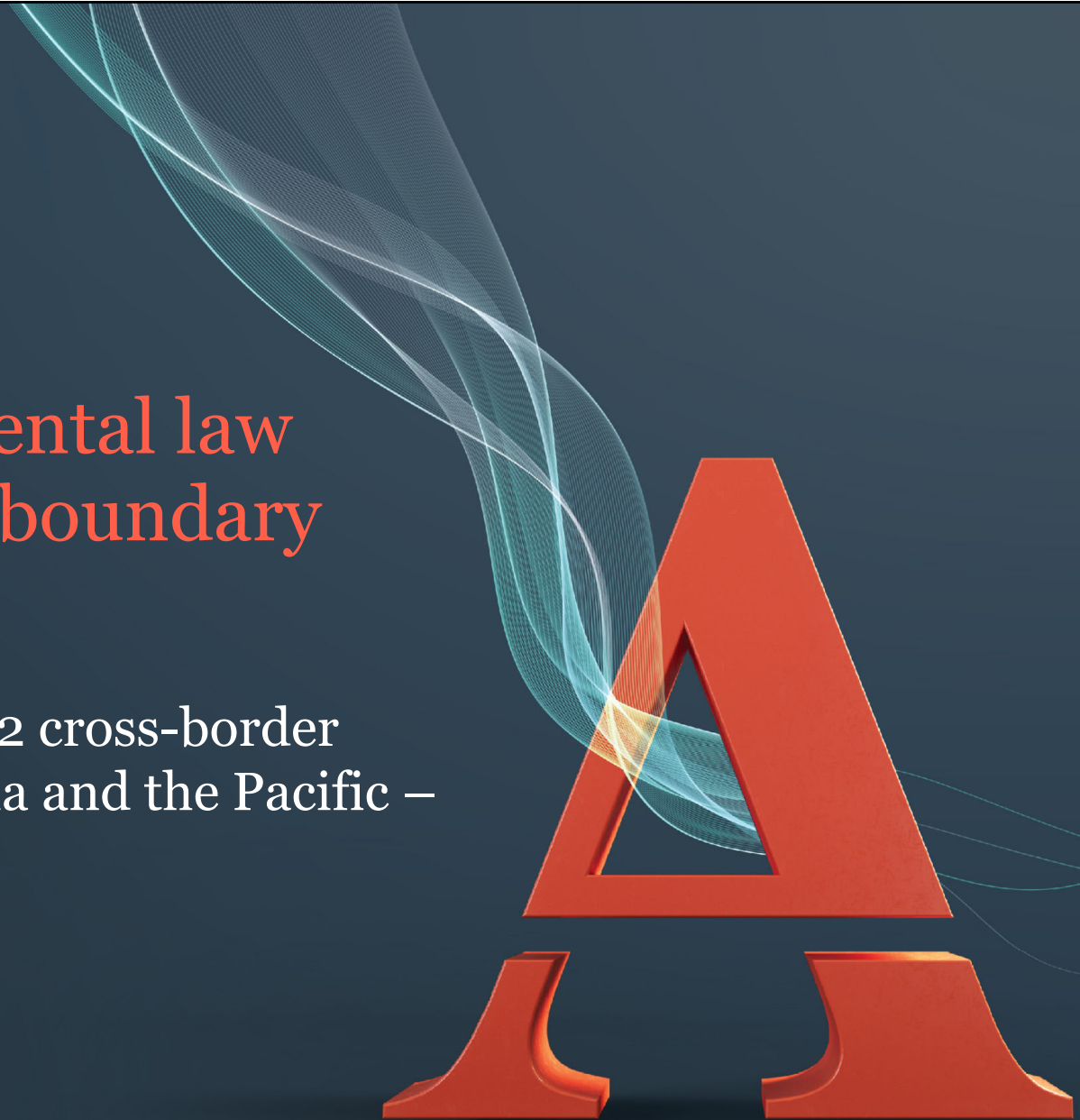


Ashurst

**International environmental law
considerations for transboundary
movement of CO₂**

JOGMEC / MRI Workshop on CO₂ cross-border
transport and storage (CCS) in Asia and the Pacific –
8 February 2024



Agenda and speaker

- 1** London Convention and London Protocol

- 2** UNCLOS

- 3** Basel Convention

- 4** Other conventions / sources of international (environmental) law



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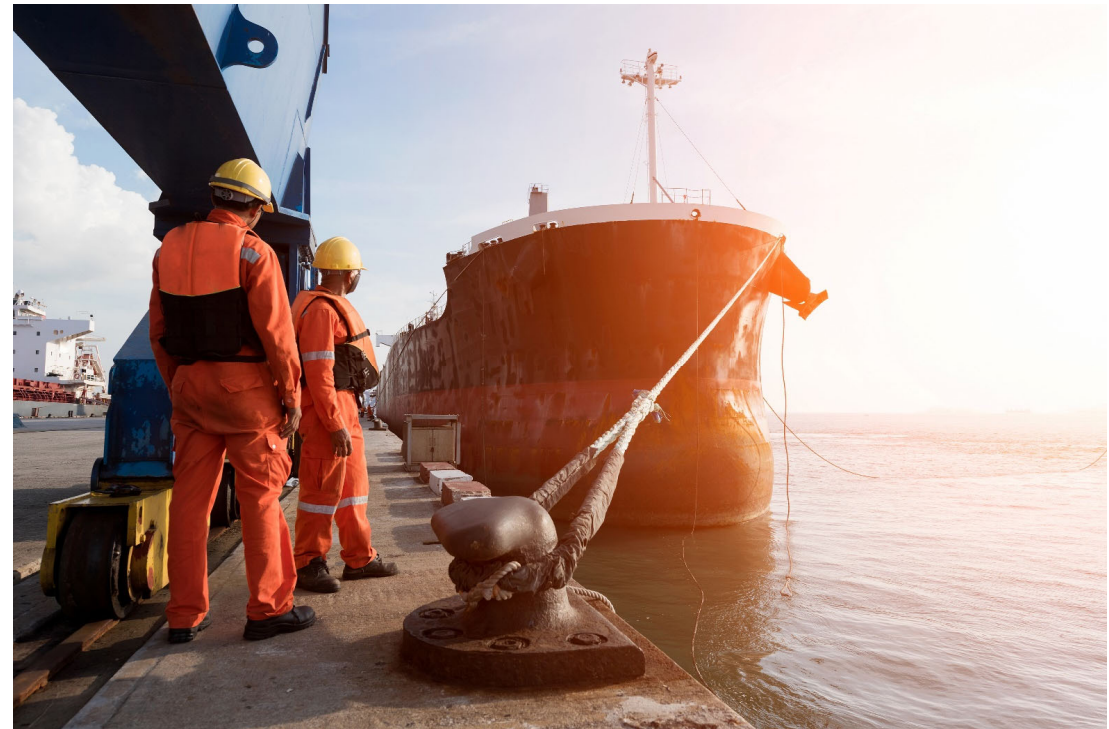
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1(a). London Convention 1972 (Dumping at sea)

- still relevant depending on countries involved
- aims to prevent marine pollution
- overall, not as restrictive as the Protocol
- CO₂ is not a “blacklisted” material or a material requiring a special permit (at least expressly – but what about by reasonable implication?)



1(b). London Protocol 1996 (Dumping at sea)

- supersedes 1972 Convention where party has signed up to it
 - transboundary movement of CO₂ for dumping at sea (offshore sequestration rather than onshore sequestration) prohibited by Article 6
 - 2009 Amendment – allows transboundary movement of CO₂ for dumping pursuant to agreement/arrangement with countries concerned, including regime for permitting controls / responsibilities (yet to come into force)
 - Provisional Application mechanism allows participating States to apply the 2009 Amendment prior to it coming into force
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2. UNCLOS

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- Framework convention – “constitution of the oceans and seas”
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- Limited substantive regulation
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- If State is not party to more specific international environmental laws, UNCLOS assumes greater importance in regulating the transboundary movement of CO₂
-
- Part XII of UNCLOS – Protection and Preservation of the Marine Environment
-



3. Basel Convention

Application to transboundary movement of CO₂ depends on precise nature of CO₂ stream being transported and whether it can be regarded as a “hazardous waste”

Status of CO ₂	Does Basel Convention apply?
If CO ₂ not “hazardous waste”	No
If CO ₂ is “hazardous waste”	Yes

Note: Article 11 bilateral agreements / arrangements – generally provide some flexibility in addressing any particular issues created by the Basel Convention, provided the arrangements do not derogate from the Convention’s requirements and stipulate provisions that are as environmentally sound as the Convention.

4. Other conventions / sources of international (environmental) law

SOLAS

Concerns safety of merchant ships and life of persons onboard those ships whilst at sea

MARPOL

Aim of eliminating international pollution of marine environment from ships and minimising accidental discharges of substances from ships

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