

Portfolio Committee on Environment, 12 May 2015

**Proposed South Africa's ratification of the Ban Amendment
under the Basel Convention**

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Purpose

To request the Portfolio Committee on Environment to approve the ratification by SA of the Ban Amendment.

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Background to the Basel Convention (BC)

- The BC is an international treaty that regulates the transboundary movement of hazardous and other wastes
- It applies the “Prior Informed Consent” procedure, meaning that shipments made without consent are illegal, unless there is a special agreement
- The BC states that hazardous wastes should be treated and disposed of as close to where they are produced as possible
- The Convention obliges its Parties to ensure that hazardous and other wastes are managed and disposed of in an environmentally sound manner (ESM)
- The BC was developed in response to the dumping of hazardous waste by the developed countries to developing countries.
- South Africa is a party to the BC since 1994.

Background to the BC Ban Amendment (1)

- The BC was amended in 1995 to include what is termed the “Basel Ban Amendment”
- The Ban prohibits the export of hazardous waste from the EU and OECD countries, as well as Liechtenstein, to members of the BC who are not from these countries
- The Ban was implemented to protect developing countries from receiving imports of hazardous waste from developed countries
- The concern grew as a result of the practice of shipment of hazardous wastes from industrialised countries to developing countries.
- Most developing countries do not have the capacity to handle such waste

Background to the BC Ban Amendment (2)

- At COP 1 in 1992, Parties adopted Decision I/22 requesting industrialised countries to refrain from exporting hazardous wastes for disposal to developing countries
- In 1994, at the COP 2 to the BC, Parties agreed to ban immediately all export of hazardous wastes from OECD to non-OECD countries for final disposal
- They also agreed to ban the export of hazardous wastes intended for recovery and recycling by 31 December 1997
- The Ban Amendment is constituted of a new preambular paragraph to the Basel Convention, Article 4A and Annex VII to the Convention.

The entry into force of the BC ban amendment

- The agreement on the entry into force of the Ban Amendment was reached at the 10th COP in October 2011
- It has not yet entered into force due to lack of sufficient ratifications
- It will enter into force globally once three-quarters of those Parties that were Parties when the amendment was adopted have deposited their instrument of ratification
- Currently 49 of the 88 Parties of the Convention at the time of COP 3 have ratified the Ban, leaving a further 16 ratifications to bring the amendment into force.

Reasons why SA should ratify the Ban Amendment (1)

- SA already applies the notification and control system as set out in the BC
- Ratifying will complement what is already practiced in SA
- Pursuant to International Trade Administration Act (ITAC) No. 71 of 2003, a permit is required to be issued by ITAC before any wastes identified in Annex III of the Convention can be imported or exported
- There is an MOU between ITAC and DEA detailing the coordination and consultations procedures with regard to import and export of waste

Reasons why SA should ratify the Ban Amendment (2)

- At the 12th session of AMCEN, held in SA in 2008, African Ministers of the Environment called for those African countries which have not yet done so to ratify the Ban Amendment
- SA fully supports the objectives of the Ban, recognising that Africa in particular, has no capacity to adequately deal with hazardous wastes
- The Ban Amendment will make a significant contribution to reducing Africa's problems regarding dumping of hazardous wastes
- SA has increasingly experienced imports of used products such as used tyres, electronic equipment and others being imported as used goods but often being waste.

Reasons why SA should ratify the Ban Amendment (3)

- Ratifying the Ban Amendment will have no negative economic or other implications for SA
- SA already restricts imports of hazardous and other waste from countries other than SADC for recovery or final disposal
- It will only have positive implications for the environment and human health
- SA does, in line with the Ban Amendment, accept waste from SADC countries which do not have the necessary capacity to dispose of hazardous waste in their own countries.
- Export of hazardous wastes and other waste from SA to non-OECD as well as OECD-countries, are not affected by the Ban Amendment
- SA would be able to continue to send waste abroad for recovery and disposal in accordance with the BC.

Parties consulted regarding the proposed ratification

- The Dept. of Justice and Correctional Services was consulted to ascertain whether the ratification of the Ban will not conflict with SA's domestic laws.
- It indicated that the ratification will not conflict SA's domestic laws
- The State Law Advisor at DIRCO was also consulted to ascertain whether the Ban will not conflict with SA's international obligations.
- DIRCO indicated that it will not conflict with the obligations.
- In addition to the above, other relevant stakeholders were consulted through the Multi-stakeholder Committee on Chemicals Management (MCCM).
- These include the dti, DAFF, DIRCO, DoH, DoL, DST, DOT, NGOs such as Groundworks, and industry associations such as CAIA, AVCASA

Recommendations

It is recommended that the Portfolio Committee:

- Approves South Africa's ratification of the Basel Convention Ban Amendment.