

The Basel Ban Amendment: In the Final Stretch!

Ever since the first inception of the Basel Convention, a majority of countries sought a full ban on the worst forms of the international hazardous waste trafficking. And, ever since its entry into force, the Contracting Parties of the Basel Convention have made good on that promise, making a full ban on the exports of hazardous wastes from developed to developing countries the overarching priority and accomplishment of the Convention. **Now, after 15 years since the Basel Convention was adopted, the time to finish the job and move the 1995 Basel Ban Amendment into the force of international law is overdue.**

At the first meeting of Contracting Parties (COP/I) to the Basel Convention in 1992, Decision I/22 was passed, requesting developing countries to prohibit the import of hazardous wastes from industrialized countries. At the next opportunity, COP/II in 1994, the Parties passed Decision II/12 banning the export of all hazardous wastes from the Organization for Economic Cooperation and Development (OECD) countries to non-OECD countries. Then, at COP/III in 1995 Decision III/1 was adopted, installing the Basel Ban as an amendment to the Convention.

The Basel Ban is seen as vital for two primary reasons:

- To prevent damage to the environment and human health caused by the disproportionate export and disposal of hazardous wastes to countries that did not create them and where there was less infrastructure and resources to mitigate the great risks associated with such wastes.
- To prevent waste generators from avoiding taking responsibility to minimize the generation of hazardous wastes through clean production technologies and methods, by externalization of their costs to countries where disposal is less costly than at home.

Both of the above reasons are fully consistent with the Basel Convention itself, and the concept of Environmentally Sound Management of hazardous wastes.

COP IV, V, and VI: Support for the Ban Continues

At COP IV, the Ban Amendment continued to dominate the meeting, and despite efforts by some countries to water down the Basel Ban, it was decided to leave the amendment unchanged. It was also in COP IV that Annexes VIII and IX were adopted.

These new annexes were the fruit of a compromise deemed necessary to satisfy countries and industrial sectors that feared that the ban could be used to halt recycling trade in non-hazardous wastes. With the adoption of these elaborated definitions, there can be no further excuse by any Party to not ratify the Ban Amendment.

Finally, at COPs IV, V, and VI all Parties were urged to ratify the Ban Amendment at the earliest opportunity (Decisions IV/7, V/3, VI/33).

To date considerable progress has been made by the Parties to ratify the landmark Basel Ban Amendment. But more ratifications are now needed to achieve the necessary **62** for entry into force. To date there are **51** official ratifications deposited at the United Nations, and an additional **6** parties have implemented the ban before ratification. Below, we show a progress report of the various groupings of countries and the differing circumstances surrounding each.

<u>PROGRESS REPORT</u>	RATIFIED	IMPLEMENTED (by EU and EEA agreements)
ANNEX VII	Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, European Community, Finland, France, Germany, Hungary, Latvia, Liechtenstein, Lithuania, Luxembourg, Netherlands, Norway, Poland, Portugal, Slovakia, Spain, Sweden, Switzerland, Turkey, UK	Greece, Iceland, Ireland, and Italy, Malta, Slovenia
NON-ANNEX VII	Andorra, Botswana, Brunei Darussalam, Bulgaria, China, Cook Islands, Ecuador, Egypt, Ethiopia, Gambia, Malaysia, Morocco, Nigeria, Oman, Panama, Paraguay, Qatar, Romania, St. Lucia, Serbia and Montenegro, Sri Lanka, Syria, Trinidad and Tobago, Tunisia, Uruguay, and Tanzania	Note: Countries possessing import bans consistent with the Basel Ban are too numerous to list here.
TOTAL	51 Ratifications	6 Implemented

As we shall see, the Basel Ban Amendment is reflective of numerous regional agreements, which in many cases are already in force. However, the existence of national and regional bans should not be seen as a reason for countries to ignore or forestall individual ratifications of this vital global agreement.

Annex VII Countries: Europe Takes the Lead

As the Basel Ban is really an Annex VII country export ban, it is of paramount importance that Annex VII countries ratify the agreement. To date the **European Union** has been the driving force within the

Annex VII group. In total there are 37 countries represented in Annex VII and of these, 30 European countries have either implemented the agreement or have ratified it outright. Included in this tally is, **Iceland, Greece, Ireland, Malta, Slovenia and Italy** which are either members of the EU or the European Free Trade Association (EFTA) which via the European Economic Agreement (EEA) all abide by the EU Waste Shipment Regulation. Of course, as only actual deposited ratifications can be counted for final entry into force, *each European country that has failed to do so, must ratify individually at the earliest opportunity.*

Other Annex VII Countries: Irresponsible JUSCANZ

The record of the non-European Annex VII countries sometimes known as the JUSCANZ, has been sadly irresponsible. These countries include: **Australia, Canada, Japan, New Zealand, South Korea,** and the **United States.** While **Mexico** has supported the ban in the past, it also seems to be missing from the lists of responsible Annex VII countries. *It is time now for these countries to stop obstructing the global community consensus in which they participated in good faith and accede to the ban.* Failure to ratify the Basel Ban sends the unmistakable message that these countries wish to solve their hazardous waste problems by exporting them to poorer countries rather than taking responsibility for them at home.

Non-Annex VII: No Time to Waste

To date, Non-Annex VII countries **Andorra, Botswana, Brunei Darussalam, Bulgaria, China, Cook Islands, Ecuador, Egypt, Ethiopia, Gambia, Malaysia, Morocco, Nigeria, Oman, Panama, Paraguay, Qatar, Romania, St. Lucia, Serbia and Montenegro, Sri Lanka, Trinidad and Tobago, Tunisia, Uruguay, and Tanzania** have ratified the Basel Ban. These countries are to be congratulated but many more are needed.

It is imperative that after the concerted effort marked by unprecedented South-South cooperation and Eastern European solidarity in achieving the Basel Ban, that non-Annex VII countries finish the excellent job they initiated by quickly moving to ratify the agreement. While there are no real obligations placed on non-Annex VII countries by the Basel Ban Amendment, without non-Annex VII countries *ratifying* the global agreement, the Basel Ban Amendment will not go into force.

It must be remembered that while import bans are important, it is legally most crucial that the world's largest waste producing countries be required to implement the export ban called for in the Basel Ban Amendment. An export ban is far easier to enforce, and places the legal onus on those potentially responsible for the problem – the exporters. Thus it is vastly in the interest of non-Annex VII countries to ratify the global ban in addition to creating domestic protections (import bans). The existent regional and national import bans should assure the political mandate to move quickly in adopting the global ban.

■ **Africa:** Africa spearheaded the Basel Ban in the late 1980s and now needs to apply their signatures to the deal. While Africa has numerous national import bans as well as the regional Bamako Convention (now in force), it is crucial that African nations move

and join **Botswana, Ethiopia, Egypt, The Gambia, Morocco, Nigeria, Tanzania, and Tunisia** in ratifying the Ban.

■ **Pacific:** Likewise, Pacific Island States were leaders in pushing for the Basel Ban. While they achieved a regional import ban in the Waigani Convention, it is necessary for Pacific Basel Parties to ratify the Basel Ban Amendment along *with* the Waigani Treaty. So far only the **Cook Islands** has taken this laudable step.

■ **Asia:** In recent years, Asian nations have been instrumental in their support for the ban. So far, **Sri Lanka, China, Malaysia,** and **Brunei Darussalam,** have ratified. Countries which have also been highly engaged in the struggle for the ban include: **India, Bangladesh, Indonesia, Philippines, Thailand,** and **Vietnam.** It's time for these to put ink to their commitments.

■ **Middle East:** **Lebanon, Oman, Jordan, Kuwait and Saudi Arabia,** have been strong and steadfast proponents of the Basel Ban. Many of the Middle Eastern countries have adopted protocols under the Kuwait and Barcelona Conventions which are consistent with the Basel Ban Amendment. As **Syria** has recently demonstrated, ratification should be easy to accomplish.

■ **Non-Annex VII Europe:** In the early 1990s Eastern and Central European countries exhibited great leadership by prohibiting or returning waste exports from Western Europe. These countries included: **Ukraine, Russia, and Albania.** So far, **Andorra** and **Romania** have ratified and need to be joined by their neighbors.

■ **Latin America and Caribbean:** While the ban has been supported early on by **Uruguay, Trinidad and Tobago, Ecuador, Panama, Paraguay, and St. Lucia,** strong and vocal ban advocates such as **Colombia, Chile, Cuba, Costa Rica, El Salvador, Argentina, Guatemala, Antigua and Barbuda, Bahamas,** and **Nicaragua,** are sorely missing from the ratification list.

The forces that drive the international waste trade have actually increased in recent years. These forces include: the disparity in global wealth (the rich getting richer and the poor poorer); amounts of hazardous waste generation on the rise; and, increasing disposal costs in developed countries. Recent revelations of massive dumping of post-consumer waste electronics, cell phones and toxic waste ships, make it clear that the Ban is more relevant now than ever. The Basel Ban Amendment has been hailed as the world's first victory for International Environmental Justice. After 9 years since we have been gathering ratifications, it is time to embark on a concerted and final push to ensure the Amendment enters into the force of international law and does so without further delay.

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