

The Ban Amendment and the plastic waste amendments

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From its beginning the Convention was criticised by African states and environmental organisations for regulating the waste trade instead of prohibiting it. The Organisation of African Unity responded in 1991 with the Bamako Convention, which bans the import of hazardous wastes into Africa altogether. Within the Basel regime, the debate led in 1995 to the adoption by the third Conference of the Parties of the so-called Ban Amendment. It inserts a new Article 4A and a new Annex VII into the Convention and prohibits exports of hazardous wastes for final disposal and for recovery from the states listed in Annex VII, namely the members of the OECD, the European Union and Liechtenstein, to all other states.¹

The Ban Amendment took almost a quarter of a century to enter into force. A dispute about the number of ratifications required, which turned on the interpretation of Article 17(5) of the Convention, was settled only in 2011 by a decision of the tenth Conference of the Parties in Cartagena. The Amendment finally entered into force on 5 December 2019 after Croatia deposited the necessary ratification. Switzerland and the member states of the European Union had already implemented its substance in their domestic law, the EU through its Waste Shipment Regulation. The practical importance of the Ban Amendment lies in the trade in end-of-life ships, electronic scrap and other waste that can be presented as material for recovery although it contains hazardous components.²

In 2019 the Convention turned to a subject that had become a symbol of the global waste problem: plastic. For many years, industrialised countries had exported large quantities of mixed and contaminated plastic waste to China and other Asian countries under the label of recycling. When China restricted these imports from 2018, the flows shifted to Malaysia, Vietnam, Indonesia, Thailand and Turkey, where much of the material was burned or dumped. On a proposal by Norway, the fourteenth Conference of the

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Parties, meeting in Geneva in May 2019, adopted amendments to Annexes II, VIII and IX, which brought most plastic waste under the prior informed consent procedure. Only clean, sorted plastic destined for environmentally sound recycling remains free of the procedure. The amendments took effect on 1 January 2021.³

A further set of amendments concerns electronic waste. The fifteenth Conference of the Parties, which met in 2022, adopted amendments to Annexes II, VIII and IX that subject electronic and electrical waste, whether hazardous or not, to the prior informed consent procedure, with effect from 1 January 2025. The aim is to close the gap through which large volumes of discarded electronics were exported as second-hand goods or non-hazardous scrap. Whether these amendments achieve their aim depends on enforcement at ports and borders, which remains the weakest point of the regime.⁴

1 Notes

1. On the Bamako Convention of 1991 and the Ban Amendment adopted by decision III/1 of the third Conference of the Parties in 1995 (new Article 4A and Annex VII), see Kummer, *International Management of Hazardous Wastes*, 1995, and the documents of the Secretariat of the Basel Convention. To be verified. ↩
2. On the dispute about Article 17(5), decision BC-10/3 of the tenth Conference of the Parties in Cartagena (2011), the entry into force of the Ban Amendment on 5 December 2019 and its implementation in the European Union through the Waste Shipment Regulation, see the documents of the Secretariat of the Basel Convention and Regulation (EC) No 1013/2006, now replaced by Regulation (EU) 2024/1157. Status to be verified. ↩
3. On the Chinese import restrictions from 2018, the shift of plastic waste flows to South-East Asia, the Norwegian proposal and decision BC-14/12 of the fourteenth Conference of the Parties (Geneva, 2019) amending Annexes II, VIII and IX (new entries Y48, A3210 and B3011), effective 1 January 2021, see the documents of the Secretariat of the Basel Convention. To be verified. ↩

4. On the amendments on electrical and electronic waste adopted by decision BC-15/18 of the fifteenth Conference of the Parties (2022), effective 1 January 2025, see the documents of the Secretariat of the Basel Convention. Status to be verified. ↩

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