

Package Deal: Five Treaties to Fight Pollution

Time for Entry into Force for All Five

Some very significant milestones of international environmental law have occurred in recent years. First, the Rotterdam Convention on the Prior Informed Consent for Certain Hazardous Chemicals and Pesticides in International Trade entered into force on 24 February 2004. Then, on 17 May 2004 the Stockholm Convention on Persistent Organic Pollutants (POPs) entered into force. And in 2009, the 1996 London Convention Protocol also achieved the requisite ratifications to enter into the force of international law. Governments, intergovernmental bodies and non-governmental organizations (NGOs) alike celebrated the successful adoption of these vital treaties.

Unfortunately, any further celebration must be put on hold, as two of the Package of 5 Toxic Treaties have still, as yet not entered into international force. Most notably, ***the Basel Convention with the Basel Ban Amendment remains an unfulfilled promise!*** Without the Ban Amendment, envisaged as being part of the Convention since the beginning, the Basel Convention cannot be considered complete. Until the Ban Amendment enters into force, every country that has not yet done so should move with haste to ratify each of the treaties described below:

1. The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (1989) together with its Ban Amendment (1995) deals with the control and banning of abusive transboundary movements of hazardous wastes. The Ban Amendment, which prohibits exports of hazardous wastes from the OECD, EC and Liechtenstein to all other countries, was passed twice by consensus; dramatically changing the effect of the original Basel Convention. The 1995 Basel Amendment strengthened the original treaty to such an

extent that without the amendment, the original text must be viewed as unacceptably out of date. For more information on the significance of the Basel Ban Amendment see *BAN Briefing Paper No. 1*. At COP10 in October 2011, it was decided that the amendment will enter into force when 68 of the 90 countries that were Parties to the Convention in 1995 ratify the agreement. To date 56 of these have ratified leaving just 12 more needed. See *BAN Briefing Paper No. 4* for more information on the countdown to entry into force.

2. The Protocol to the London Convention on the Prevention of Marine Pollution by Dumping of Waste and Other Matter (1996) now in force and thus replaces the original London Dumping Convention (1972). The protocol, rather than prescribing which dumping can take place, takes a more precautionary approach to its predecessor. It utilizes a reverse list, which assumes that wastes cannot be dumped in our global commons unless explicitly reviewed and especially listed. Thus the treaty bans virtually all industrial and radioactive waste from being dumped or incinerated at sea.

3. The Rotterdam Convention on the Prior Informed Consent for Certain Hazardous Chemicals and Pesticides in International Trade (1998) was the first international treaty to deal with chemical products. It seeks to ensure that exports of extremely dangerous chemicals only take place with the consent of the recipient country, and replaces the current voluntary prior informed consent regime with a mandatory one. The treaty currently covers 43 chemicals including 33 pesticides and is now in force.

4. The Stockholm Convention (2001) for the first time, aims to eliminate from commercial use and release, 24 of the most dangerous global pollutants including the highly toxic, by-products of chlorine chemistry – dioxins and furans. It will minimize the releases of these compounds from a variety of industrial and consumer sources through the substitution of less toxic products and processes. The Stockholm Convention moved from paper promise to international law in just three short years. The success of Stockholm in attaining this goal, much like Rotterdam's, came about due to the aggressive promotion and support given by the Secretariat of the Convention in getting the Parties to ratify.

The Package of Five	Ratifications to Date	Ratifications for Entry into Force	Date of Entry into Force
Minamata Convention	12	Needs 50?	?
Basel Convention <u>with</u> Ban Amendment (Sept. 1995)	81	68 (of COP3)	2015?
London Convention Protocol (Nov. 1996)	45	26	In force in 2006
Rotterdam Convention (Sept. 1998)	154	50	In force in 2004
Stockholm Convention (May 2001)	179	50	In force in 2004

5. **The Minamata Convention (2013)** is the most recent addition to the “Package of Five”, having been adopted in October of 2013. This treaty seeks to limit overall use of mercury and mercury compounds with the intent of protecting human health and the environment. It has only been ratified by 12 Parties to the Convention thus far, requiring 38 more for entry into force.

Progress Reports on the “Package of Five”

BAN has compiled a country progress report on ratification of the “Package of Five” – the five most significant global toxics agreements. We will keep this report card up to date on our website (www.ban.org/country_status/report_card.html). In the table below one can view a summary of the report card showing how many countries have ratified none, one, two, three, four, or five of the “Package of Five” treaties.

Number of “Package of Five” Ratified	0	1	2	3	4	5
	Failing	Fair	Good	Very Good	Excellent	Exceptional
Number of Countries	8	24	68	70	24	1

A review of the report card indicates a somewhat positive trend in ratifications. The numbers of countries receiving failing marks continue to drop in the past few years, while several countries moved up from Fair and Good categories to Very Good and Excellent. The steady increases in countries receiving Very Good, and Excellent marks are a noteworthy step forward.

Countries notably receiving an “Exceptional” grade are:
Uruguay

Countries notably receiving an “Excellent” grade are:

Belgium, Bulgaria, Chile, China, Congo, Denmark, Estonia, France, Germany, Ghana, Ireland, Kenya, Lesotho, Luxembourg, Netherlands, Nigeria, Norway, Saudi Arabia, Slovenia, Spain, Sweden, Switzerland, Trinidad and Tobago, and United Kingdom.

Countries notably receiving a “Very Good” grade are:

Albania, Argentina, Australia, Austria, Bahrain, Benin, Bolivia, Botswana, Canada, Colombia, Cook Islands, Cote d’Ivoire, Cyprus, Czech Republic, Djibouti, Ecuador, Egypt, Ethiopia, EU, Finland, Gabon, Gambia, Georgia, Greece, Guatemala, Guinea, Guyana, Hungary, Indonesia, Italy, Japan, Jordan, Kuwait, Latvia, Liberia, Liechtenstein, Lithuania, Macedonia, Madagascar, Marshall Islands, Mauritius, Mexico, Monaco, Montenegro, Morocco, New Zealand, Nicaragua, Oman, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Serbia, Slovakia, South Africa, Sri Lanka, St. Kitts and Nevis, Suriname, Syrian Arab Republic, Tanzania, Tonga, United Arab Emirates, Yemen, and Zambia.

Notable countries receiving a “Failing” grade include:

Bhutan, Grenada, Haiti, Iraq, San Marino, Turkmenistan, Uzbekistan.

Getting Serious About a Toxics-Free Future

Its time for all nations to get serious about the toxics crisis we all face. Around the world in the last 50 years, incidence of most cancers is steadily on the rise, becoming a slow-motion global epidemic. In the United States, from 1950 to 1992, age-adjusted rates of all cancers combined showed an incident increase of 54%. Also increasing are diseases associated with immune deficiency such as asthma, diabetes and infectious diseases (not including AIDS). 29 types of birth defects are on the rise. Most researchers conclude that many of these increases must be attributable to as yet unexplained environmental pathways.

Meanwhile, 500 new chemicals are introduced into commercial use each year and more than 50,000 of those already in use have never been tested for their teratogenic or carcinogenic effects. At the back end of the chemical cycle, hazardous wastes continue to increase globally, exceeding the rate of economic growth. Much of the worst pollution such as that of mercury and POPs has a disproportionate impact on developing countries and indigenous peoples as many of these products and releases have been phased-out or better controlled in rich countries while global climate distillation creates sinks of high concentrations in arctic regions. Likewise bioaccumulation and bio magnification causes cultures reliant on wild food to suffer disproportionate burdens of toxics in meat and fish.

Ratify the “Package of Five” Now

We face a toxics crisis, which can only be addressed by the will and commitment of all nations on earth. The “Package of Five” existent toxic treaties, although not a complete cure, show much promise and commitment for humanity to begin to turn back the toxic tide.

Implement with National Legislation!

Realize also that ratification must be accompanied by national legislation faithful to the treaties. Too many countries ratify treaties and yet have no national legal authority to enforce them. Assistance in drafting such legislation is available from NGOs the Secretariats.

The negotiation and signing of a treaty is a promise that nations will, in good faith, fulfill that purpose through timely ratification and implementation into national law. If nations fail to live up to their promises, it is an affront to future generations as well as to the international cooperation and law embodied by the United Nations.

It is urgent then for those that have not yet done so, to initiate at Ministerial level, a comprehensive program for the introduction of the five treaties to their parliaments as a full package. All are crucial and thus none should be left out. And currently, due to the delay in its entry into force, special attention should be given to the Ratification of the Basel Ban Amendment to send a strong message of the will of the global community to prevent global waste dumping. The issues at stake are too vital to leave

to further bureaucratic inertia. Without such timely action, cynicism replaces hope with regard to our ability to heal our polluted planet. We can't afford to let that happen!

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