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India's Path to Sustainability: Environmental Impact of the Basel Convention Ban Amendment

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Abstract:
The 1995 Basel Ban Amendment became international law on December 5, 2019, under Article 4(a) of the Basel Convention. Since its adoption, it has emerged as a contentious issue among developed and developing nations, as well as various environmental NGOs. The amendment prohibits the export of hazardous wastes—including electronic waste and obsolete ships—from Annex VII countries, which include EU member states, the OECD, and Liechtenstein, to non-Annex VII or non-OECD countries, regardless of whether the waste is intended for recycling or disposal.
The prohibition on hazardous waste trade raises two significant concerns. First, the economic implications of implementing Article 4(a) and Annex VII provisions are considerable. Second, environmental NGOs such as the Basel Action Network (BAN) and Greenpeace argue that failure to ratify and implement the Basel Ban Amendment could result in serious health and environmental consequences. Notably, India has not yet ratified this multilateral environmental agreement.
In this context, this paper seeks to examine why India should revisit and ratify the Basel Ban Amendment to align with the goals of the Swachh Bharat Abhiyan as a step toward ensuring a more sustainable future. It also aims to analyse how India can address the "grey areas" of the amendment at the upcoming Conference of Parties (COP-17) in April 2025, potentially leveraging the opportunity to reaffirm its diplomatic stance. To address these key questions, this study provides a comprehensive overview of the economic, environmental, and health challenges associated with the global prohibition of waste dumping under the Basel Ban Amendment.

Keywords: Economy, Environment, hazardous waste, recycling, waste, obsolete ship.

INTRODUCTION

The Basel Ban Amendment was adopted by the Parties to the Basel Convention on the Control of the Transboundary Movement of Hazardous Wastes and their Disposal in 1995. It officially became international law on December 5, 2019. This amendment has been ratified by 98 countries. It prohibit the export of global waste, whether for recycling or mere disposal, from member states of the European Union (EU), Organization for Economic Cooperation and Development (OECD), and Liechtenstein or Annex VII countries to the non-OECD or non-Annex VII countries under the Article (4a). As a result, Annex VII Parties that have not ratified the Ban Amendment are prohibited from exporting hazardous wastes to non-Annex VII Parties that have ratified it. Likewise, non-Annex VII Parties that have not ratified the Ban Amendment cannot import hazardous wastes from those Annex VII Parties that have rectified it. A growing economy like India has relied heavily on the import of recyclable hazardous wastes, such as obsolete ships, e-waste, scrap metal, and used lead-acid batteries, as valuable resources. However, the Ban Amendment is expected to have significant economic implications for a circular economy like India. On

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the other hand, organisations such as Greenpeace and environmental NGOs like the ToxicsWatch Alliance (TWA) argue that the economic growth model comes with hidden costs, particularly in terms of environmental degradation and social justice for current and future generations. Considering these concerns and aligning with a "green agenda for ecological sustainability," it is argued that India should support and ratify the Ban Amendment. This step would ensure that India does not become a dumping ground for hazardous waste under the guise of free trade promoted by protectionist countries.

HISTORY OF BASEL CONVENTION

In the 1970s, several toxic trade disasters occurred worldwide. These were caused by the export of poisonous waste from developed nations to poorer developing countries. By the 1980s, such environmental threats gained international attention. Developing nations and environmental groups began raising concerns. The lack of domestic laws, standards, and enforcement mechanisms in these countries worsened the problem. As a result, developing nations collectively rejected the free trade of hazardous waste. Against this backdrop, the fight against environmental injustice intensified. Global civic resistance grew significantly. Many demanded a complete ban on the transboundary movement of hazardous wastes. There was also a call to create a global instrument to regulate international hazardous waste movements. Subsequently, efforts to combat the "toxic waste trade" gained momentum. The push for a cleaner environment became a key focus of global environmental diplomacy. Hence, under the United Nations Environmental Program (UNEP), the "Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal" was adopted on March 22, 1989 . This adoption took place during the Conference of Plenipotentiaries in Basel, Switzerland. The convention entered into force on May 5, 1992. It established a framework to control the transboundary movement of hazardous wastes.

Conference of Parties (COPs) to the Basel Convention		
Meeting	**Year**	**Venue**
COP-17	28 April - 9 May 2025	Geneva, Switzerland
COP-16	1 May to 12 May 2023	Geneva, Switzerland
COP-15	6 June-17 June 2022	Geneva, Switzerland
COP-14	29 April-10 May 2019	Geneva, Switzerland
COP-13	24 April-5 May 2017	Geneva, Switzerland
COP-12	4-15 May 2015	Geneva, Switzerland
COP-11	28 April-10 May 2013	Geneva, Switzerland
COP-10	17 October-22 October 2011	Cartagena, Colombia
COP-9	23 June-28 June 2008	Bali, Indonesia
COP-8	27 November-02 December 2006	Nairobi, Kenya
COP-7	25 October-30 October 2004	Geneva, Switzerland
COP-6	09 December-15 December 2002	Geneva, Switzerland
COP-5	06 December-11 December 1999	Basel, Switzerland
COP-4	23 February-28 February 1998	Kuching, Malaysia

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COP-3	18 September-23 September 1995	Geneva, Switzerland
COP-2	21 March-26 March 1994	Geneva, Switzerland
COP-1	03 December-05 December 1992	Piriapolis, Uruguay
Source: http://www.basel.int/Home/tabid/2202/Default.aspx		

Since the initial negotiation of the Basel Convention in 1989, 14 additional Conferences of the Parties (COPs) have been held. The convention was a significant victory for environmental justice. However, since its entry into force, the Basel Convention has undergone several amendments. These amendments, focused on regulating the export of hazardous wastes, were consistently advocated for by developing countries and environmental organisations.

The controversial demand for a ban was not resolved with the signing of the Basel Convention. Specifically, the Basel Ban Amendment, which introduced critical trade measures, was adopted during the second COP in 1994 and the third COP in 1995[2]. However, the Ban Amendment remained stalled for many years. This was due to escape clauses and differing interpretations of the ban provisions within the Basel Convention. The long-standing issue was finally addressed on December 5, 2019, when the amendment entered into force following ratifications by Croatia and St. Kitts and Nevis in the Caribbean.

The text of the Basel Ban Amendment,[1] 2019

Article 4A:

- Each Party listed on Annex VII shall prohibit all transboundary movements of hazardous wastes which are destined for operations according to Annex IV A, to States not listed in Annex VII.
- Each Party listed in Annex VII shall phase out by 31 December 1997, and prohibit as of that date, all transboundary movements of hazardous wastes under Article 1(1) (a) of the Convention which is destined for operations according to Annex IV B to States not listed in Annex VII. Such transboundary movement shall not be prohibited unless the wastes in question are characterised as hazardous under the Convention.

Annex VII:

Parties and other States which are members of the OECD, EC, Liechtenstein.

A key outcome of COP 14 was the introduction of Article 4 (a) and a new Annex (VII) under the Basel Convention. These additions created a legally binding framework once ratified by the parties. Notably, major waste-importing countries in Asia, such as China, Indonesia, and Malaysia, have ratified the Basel Ban Amendment. However, several OECD countries, including Australia, Canada, Israel, Japan, South Korea, Mexico, New Zealand, and the United States, have yet to ratify the amendment. Among non-OECD countries, Russia, India, Brazil[3], and many others are also yet to ratify it. The cause for concern lies in India's decision not to ratify the Basel Ban Amendment, prioritising economic development over environmental protection. This stance has raised questions about the principles of environmental justice.

The following section provides a concise overview of India's current situation. It highlights the reliance on profitable recyclable waste, such as e-waste and obsolete ships. Additionally, the paper examines the significant environmental and health hazards posed by the recycling industry, particularly in urban areas.

RECYCLING AND ENVIRONMENTAL IMPACTS

The commercial trade in hazardous waste recycling drives economic growth in India. It serves as a significant source of revenue and employment. However, a growing concern is the severe health and

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environmental impacts associated with this trade. Hazardous waste contains deadly toxic substances that pose a serious threat to both human health and the environment.

E-waste in urban India

In the current digital-driven era of globalisation, e-waste has become one of the fastest-growing environmental issues in urban India. The situation is alarming. According to a report by the Associated Chambers of Commerce and Industry of India (ASSOCHAM) and NEC Technologies India Pvt Ltd, titled Electrical and Electronics Manufacturing in India (2018), e-waste generation was estimated at 1.8 million tonnes (MT) per year in 2016. The report further stated that this amount was expected to rise, with estimates predicting 5 million tonnes of e-waste per year by 2021.[4]

A significant factor contributing to this rise is the scale of informal recycling activities in many metropolitan cities in India. Informal e-waste units are especially prevalent in megacities such as Delhi, Mumbai, Bengaluru, Chennai, and Kolkata. These cities contribute to a growing labor force, both directly and indirectly, in the recycling industry. The workers in these e-waste dismantling units are typically from poor and marginalised communities. A large portion of this workforce consists of women and children, who engage in recycling practices to support their livelihoods. These workers are often poorly protected and lack the necessary skills and equipment to handle the recycling process safely. Due to their low literacy levels and lack of awareness, these workers are more vulnerable to health risks. They are exposed to harmful substances without adequate protection, which poses a serious threat to their well-being. The rapidly increasing e-waste contains hazardous substances such as lead, cadmium, chromium, nonflammable plastics, and mercury. These substances damage the human health system. For example, exposure to used oil can cause skin, eye, and respiratory irritation. In the long term, it can lead to cancer and damage the liver, brain, immune system, and reproductive system. These toxic substances not only harm human health but also contribute significantly to ecological degradation. As a result, the informal recycling of e-waste is a major environmental and public health concern.

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Hotspot of Delhi: Mandoli
The study, conducted by Toxics Link in the Mandoli industrial area of East Delhi, highlighted the significant contamination caused by e-waste. In the informal waste processing areas, hazardous waste and effluents were being discharged into the environment. The analysis of various samples revealed high concentrations of heavy metals, particularly mercury, in the surface and groundwater. Additionally, the study found a noticeable change in the soil characteristics in areas involved in e-waste recycling. These findings demonstrate the interconnectedness of e-waste recycling practices and the environmental contamination they cause, affecting both water and soil quality in the region.
Source: A Primary Study Report, Informal E-Waste Recycling in Delhi, TOXICS LINK, 2018

A 2018 primary study report by Toxics Link,[5] identified 15 leading e-waste dismantling sites in Delhi and the National Capital Region (NCR). These sites included areas in Delhi such as Turkman Gate, Daryaganj, Shastri Park, Mayapuri, Saeed Nagar, Zafrabad, Mata Sundari Road, Mandoli, Brijpuri, Seemapuri, and Seelampur. In the NCR, the report also highlighted Mustafabad, Behta Hazipur, and Loni as key locations for informal e-waste processing. The study found that the working conditions at these sites were poor, with little regard for environmental and social safeguards. Workers at these sites were not provided with essential Personal Protective Equipment (PPE), such as goggles, masks, gloves, and helmets.

Shipbreaking in urban India

Shipbreaking, the dismantling of end-of-life ships, occurs in various parts of India, including West Bengal, Kerala, and Maharashtra. However, the Alang-Sosiya beach in Gujarat's Bhavnagar district stands out as a key hub for this activity. The labor-intensive shipbreaking industry at Alang-Sosiya generates significant employment opportunities, primarily for low-skilled migrant workers from economically disadvantaged regions. Thousands of laborers migrate to Alang-Sosiya from states like Bihar, Jharkhand, Odisha, Uttar Pradesh, and West Bengal, drawn by the promise of work. This migration underscores the economic pull of shipbreaking activities in Alang-Sosiya. Despite the opportunities, these workers often endure hazardous conditions, exposing them to serious environmental and health risks.

The Intervention of Supreme Court: From Clemenceau to Blue Lady
The concerns against end-of-life vessels emerged as a controversy when two heavily toxic vessels 'Clemenceau' a French warship and a Norwegian liner 'Blue Lady' were sent to India for dismantling. The first controversy arose in 2006 when the French aircraft carrier “Le Clemenceau”, which was sent to a shipyard at Alang (Gujarat) in India, for disposal. This vessel of hazardous waste boarded a large amount of toxic material, including asbestos, etc. This attracted activisms by the international environmental NGOs like Greenpeace and several Anti-Asbestos Group against the dismantling of these ships. Then petitions were filed in the Supreme Court of India by Research Foundation for Science, Technology and Natural Resource Policy v. Union of India. Through the Indian Supreme Court’s 2007 passed its interim order which barred the entry of the ship. Accordingly, Supreme Court constituted a Technical Experts Committee (TEC) to submit a report on the assessment of hazardous wastes posed by it.[6] Another case of a toxic ship named *Blue Lady* (formerly S S Norway) left the port of Malaysia then for Dubai for repairs. Then it was refused entry by the Bangladesh Government because of the hazardous waste it

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contained. And later it started sailing Indian waters and was allowed to anchor off at Alang, Gujarat. This came up before it in 2007 in Research Foundation for Science, Technology and Natural Resource Policy v. Union of India.[7] The stand was taken by the Supreme Court differed in the Blue lady case. The apex authority granted permission to dismantling the ship based on the report submitted by the TEC. It states that the scrapping of the Blue Lady would employ 700 workers and provide 41,000 metric tons of steel, which would put "less pressure on mining activity elsewhere."

However, environmental organisations, including Greenpeace and the Ban Asbestos Network, voiced fierce criticism and disagreed with the TEC assessment about given the differential treatment for the two ships. While *Clemenceau* shows environmentally friendly decisions and compliance to Basel Convention whereas the *Blue Lady* was overly restrictive practices of sustainable development. The Court measured the economic benefits derived from shipbreaking as a source of employment opportunities etc.

Despite environmental activism by both national NGOs, such as Toxics Watch Alliance, and international organisations like Greenpeace and the Basel Action Network, the situation remains problematic. Over the years, several controversial environmental cases, including the Clemenceau and Blue Lady cases, have been heard with interventions from the Supreme Court and the National Green Tribunal (NGT). However, despite these efforts, the working and living conditions in Alang-Sosiya remain extremely poor. Labor standards and working conditions in the shipbreaking yards are still substandard, with little improvement for the workers involved.

The conditions of shipbreaking in Alang continue to remain appalling, according to a report by the Tata Institute of Social Sciences (TISS). This report follows up on the first study conducted by Associate Professor Dr. Geetanjoy Sahu in 2014. The report exposes numerous breaches of labor rights, disregard for labor laws, and failure to adhere to safety standards. Recently, environmental groups such as the NGO Shipbreaking Platform and Toxics Watch Alliance have raised concerns about the serious environmental impacts of the scrapping activities in Alang. These concerns are now under scrutiny by the National Green Tribunal (NGT). The issue was brought before the NGT in 2020 in the case of Conservation Action Trust & Others Vs Union of India & Others, with the Ministry of Environment, Forest, and Climate Change involved in the matter. The NGT[8] directed the Ministry to conduct an environmental audit of the shipbreaking activities in Alang. The audit was to specifically focus on the impacts of the beaching method and the shipbreaking techniques used at the Alang Ship Recycling Yard. The Ministry was also tasked with verifying compliance with the Coastal Regulation Zone (CRZ) notification, in accordance with the NGT's 2019 order. The report highlighted that the living conditions of most shipbreaking workers were poor, particularly in terms of infrastructure and sanitation. Environmental protection standards at the shipbreaking yard remain inadequate for handling heavy and hazardous materials. The yard exposes workers to high risks of occupational accidents and diseases. This is due to a lack of proper training, as well as insufficient environmental and safety measures.

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Health Hazards
The National Institute of Occupational Health (NIOH) examined health records of workers available with Directorate of Industrial Safety and Health, Gujarat, carried out X-rays on 94 workers, and found that 15 of them could be suffering from very early stages of poisoning due to occupationally exposed to asbestos. Hitherto, the government has denied though any such connection. In light of lack of transparency on data or availability of sufficient documents, thus, the exact number of fatalities is not available or are rarely recorded about serious cases of occupational diseases, such as cancer, respiratory, and skin diseases.
Source: Report on 'Before The National Green Tribunal Principal Bench', New Delhi, 2018

Promoting a circular economy through ship recycling can lead to significant ecological implications. Toxic waste streams from ship dismantling pose a serious hazard to the marine environment. Under the Basel Convention, obsolete ships can be classified as "hazardous waste" due to the deadly hazardous materials and substances they contain. During the dismantling of outdated vessels, several pollutants are released into the environment. These include oils (such as engine oil, hydraulic oils, and lubricants), heavy metals like lead, zinc, nickel, and tin, Polychlorinated Biphenyls (PCBs), various types of asbestos, ozone-depleting substances, Polycyclic Aromatic Hydrocarbons (PAHs), and Tributyltin (TBT). These substances significantly contribute to toxic waste entering watercourses. This not only contaminates the local water but also pollutes the marine and coastal ecosystems.

If these pollutants are not properly identified, handled, and disposed of in an environmentally sound manner, the consequences for the environment can be severe. According to the Central Pollution Control Board (CPCB), substantial amounts of oil were found in the marine environment near Alang, Gujarat. Further investigation revealed the discharge of oil into the sea during the ship dismantling process. Tests indicated that oil and grease concentrations were as high as 22 mg/liter, which is alarmingly high.[9] The discharge of large quantities of oil and oil sludge poses a serious threat to the surrounding ecological system. This highlights the urgent need to address the environmental risks associated with recycling obsolete ships, particularly as they serve as "Urban Mines."

Moving forward, addressing the challenge of recycling must focus on minimising public health and environmental risks. Controlling informal and improper handling of waste is crucial, which requires stronger enforcement of laws and regulations. This will be the foremost challenge in ensuring environmentally responsible recycling practices.

WHY SHOULD INDIA RATIFY BAN BASEL AMENDMENT, 2019?

Now, the question arises that why India should ratify Ban Basel Amendment? What are the reasons that India should revisit its current stance on this issue? *Firstly*, India may become a victim of 'toxic imperialism' through the trade of hazardous waste. The Basel Convention defines "wastes" as objects that are disposed of, intended to be disposed of, or required to be disposed of by national law under Article 2.[10] However, due to the lack of clarity in the definition of "wastes," this has become a grey area in the agreement. Under the guise of "sham recycling," large economies may exploit the circular economy. This loophole allows countries to export various categories of waste under the false pretext of recycling, when in fact, the waste is being dumped illegally.

This results in not only occupational health hazards for workers but also significant environmental pollution. In light of this, the Indian government should strongly oppose these "e-waste recycling loopholes" that contradict the Ban Amendment. India must stop allowing its soil to become a dumping

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ground for hazardous waste, adopting a "Not-In-My-Backyard" (NIMBY) approach to ensure environmental protection.

Secondly, the growing volume of waste is a direct consequence of rapid industrialisation. This trend has become increasingly evident through waste management programs in recent years. India currently faces significant challenges in managing hazardous waste, including e-waste and obsolete ships.

Despite implementing several environmental laws and policies, such as The Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016, various issues persist. These include improper handling and disposal of hazardous waste, a shortage of skilled manpower, insufficient financial resources, and a lack of standardised protocols. Additionally, ensuring compliance and enforcing hazardous waste regulations remain major obstacles.

Indian Regulations 2016[11]

India became Party to the Basel Convention by ratifying it in the year of 1992. Henceforth, in the spirit of the Basel Convention and to regulate the management of Hazardous Waste generated within the country as well as through transboundary movement of such waste India has been taking various legal and policy frameworks. In this course, the Ministry of Environment, Forests and Climate Change (MoEFCC) notified series of amendments to hazardous waste. For instance, hazardous waste was first regulated in 1989 through Hazardous Waste (Management & Handling) Rules, 1989, which later were amended in 2000, 2003, and 2008 to incorporate Convention provisions under its national law. Later, the rules were further amended in 2016 entitled "The Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016", to include other wastes such as waste tyre, paper waste, metal scrap, used electronic items, etc.

As a result, improper waste disposal continues to expose people to toxic materials, posing severe risks to public health and the environment. To address these challenges, India should reconsider its position and ratify the Basel Ban Amendment. Doing so would align with the broader goal of achieving global good and contribute to the Sustainable Development Goals (SDGs).

By taking a principled stand in support of the Basel Convention, which India joined in 1992, the country can demonstrate its commitment to banning the trade of hazardous wastes and protecting both its people and the environment.

Lastly, conflicting interests among nations have created a rift in the collective approach toward the Basel Ban Amendment. Several key countries involved in the hazardous waste trade have withheld their full support for the ban. This lack of consensus significantly weakens the effectiveness of the Convention.

Additionally, the critical ambiguities within the agreement have further hindered its ratification by many countries. These unresolved issues pose a serious threat to the successful implementation of the Basel Ban Amendment. Addressing these challenges is essential to strengthen the Convention and ensure its objectives are achieved.

TOWARDS A SUSTAINABLE FUTURE

To ensure the success of India's nationwide environmental campaign, the Swachh Bharat Mission (Clean India Mission), it is crucial to align the initiative with the United Nations' vision for sustainability. India has played a vital role in the formulation and implementation of the 17 Sustainable Development Goals (SDGs). These goals provide a universal framework for a sustainable future. They aim to address key issues such as good health and well-being, clean water and sanitation, sustainable cities and communities, life on land, life below water, and peace and justice, all by 2030[12].

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In this context, India's ratification of the Basel Ban Amendment can significantly contribute to achieving these objectives. By taking decisive action to prevent the transboundary movement of hazardous waste, India can lead by example in promoting environmental justice. This step will not only support global efforts but also help transition the country toward a sustainable future. Preventing the trade of 'toxic waste' is a critical measure in realising this vision.

CONCLUSION

While evaluating the economic implications of the Basel Ban Amendment in its current form, critical gaps become evident. These gaps could lead to severe environmental consequences. Therefore, India must reassess its economic trade policies in alignment with the goals of the Swachh Bharat Mission.

The upcoming ministerial meeting of the Conference of Parties (COP-17) in April 2025 presents an opportunity for India to showcase its diplomatic engagement and negotiation skills. In these discussions, policymakers should prioritise achieving environmentally sustainable industrial growth. This requires balancing economic interests with the need for environmental protection.

India must take a firm stance against 'waste colonialism,' reflecting the position it adopted during COP-2 of the Basel Convention in 1992. The government should uphold a 'green agenda' that safeguards public welfare and prevents harm to human health and the environment in the name of economic growth. By doing so, India can ensure that its policies contribute to sustainable development while protecting its people and ecosystems.

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