

## **Tenth meeting of the Waigani Convention**

### **Tenth Meeting of the Conference of the Parties to the Convention to Ban the Importation into Forum Island Countries of Hazardous and Radioactive Wastes and to Control the Transboundary Movement and the Management of Hazardous Wastes within the South Pacific Region (Waigani Convention)**

Apia, Samoa  
30 August 2019

#### **AGENDA ITEM 7.2: Future proofing the Convention – tacit acceptance and updating the name**

##### **Purpose:**

1. To review the current procedures for amending the Convention and updating the name of the Convention.

##### **Background:**

2. At the ninth Meeting of the Conference of the Parties, the Secretariat was directed to provide advice on the process for changing the name of the Convention to remove the word “South” from its title, to read: “Convention to Ban the Importation into Forum Island Countries of Hazardous and Radioactive Wastes and to Control the Transboundary Movement and the Management of Wastes within the ~~South~~ Pacific Region”.

##### *Process to amend the Convention to effect the suggested change*

3. The process for amending the Convention as currently provided for under Article 16 is as follows:
  - a. The text of the proposed amendment is circulated by the Secretariat at least six months before the meeting at which it is proposed for adoption;<sup>1</sup>
  - b. The amendment is adopted either by consensus or by a two-thirds majority vote, if all efforts at consensus have been exhausted;
  - c. Following adoption, Parties are required to deposit an instrument of ratification, amendment or approval with the Depositary;
  - d. The amended Convention will enter into force for those Parties that have deposited an instrument on the ninetieth day following receipt by the Depositary of instruments of at least three-fourths of Parties to the Convention. For any Party that deposits its instrument following this date, entry into force will occur on the ninetieth day after the day on which that Party deposits its instrument.
4. It may take a number of years to complete the process to amend the Convention and have the amended Convention enter into force.

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<sup>1</sup> This requirement means that an amendment to the Convention may not be adopted at this meeting.

### *Alternatives*

5. Article 18 of the Waigani Convention sets out the procedure for entry into force of an additional Annex (or amendment of an existing Annex) to the Convention. The new Annex or (amendment of an existing annex) will enter into force for all parties that have not lodged an objection six months following the date of notification of the adoption of the additional Annex (or amendment of the existing annex).
6. States become bound by new obligations through acquiescence, that is, by taking no positive action within a specified period of time. Under some treaties, Parties may object to the new obligation, however all parties that have not objected are considered to have tacitly accepted the new obligation.
7. This is a much faster way of making changes. If article 16 was substituted with a tacit acceptance procedure this would allow for changes to be made in a timely manner as well as reducing the administrative burden on Parties.
8. Another option is definitive signature. This establishes the consent of the state to be bound by the treaty, without requiring ratification, acceptance or approval.

### **Recommendation**

9. The Parties are invited to:
  1. **consider** whether to amend article 16 of the Convention to allow for a more expeditious way of making changes to the Convention and if so, to task the Secretariat to commence the process; and
  2. **agree** that whether or not article 16 is amended, that Secretariat commence the process of amending the name of the Convention.