



VERY URGENT

Mr Marthinus van Schalkwyk
Minister of Environmental Affairs and Tourism
Department of Environmental Affairs and Tourism
Private Bag X447, Pretoria 0001
Private Bag X9154, Cape Town 8000

Fax: 012 322 0082 and 021 465 3216

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Dear Minister Van Schalkwyk

RE: Ocean Fertilization and South Africa's breach of international law

Happy New Year to you Minister. We trust this year will bring renewed commitment by our political leaders to protect our terrestrial and marine biodiversity.

1. Minister, it has come to our attention that a ship docked at the Cape Town Harbour called the RV Polarstern, is due to depart imminently, to conduct illegal ocean fertilization experiments in the Scotia Sea, near the Antarctica. The experiment, known as 'Lohafex', is led by Indo-German scientist Victor Smetacek and funded by the Indian and German governments. Lohafex proposes to dump iron particles over 2500 square kilometres of open- ocean.
2. During 2008, both the UN Convention on Biological Diversity (CBD) and the London Convention of the International Maritime Organisation - the treaty that governs the dumping of wastes at sea - enacted a global moratorium on ocean fertilization activities because of the unacceptable ecological risks posed to the oceans, marine biodiversity and the climate.
3. Lohafex will thus flagrantly contravene both international treaties.
4. We have been advised as follows:

4.1 In terms of the Article 4 of the CBD, SA has jurisdiction, in the case of processes and activities, regardless of where their effects occur, carried out under its jurisdiction or control, within the area of its national jurisdiction or beyond the limits of national jurisdiction. This means that South Africa has become an actor in the execution of the illegal ocean fertilization activities because the planning and organisation of the illegal experiments have occurred, to some extent, in South Africa, whilst the vessel has been under the control and authority of the South African government.

4.2 We have been advised that iron particles to be used in the illegal experiment have in all likelihood, been loaded here in South Africa. In terms of Article VI.2 of the London Convention to which South Africa, as the only African country is a Party, requires South Africa to comply with certain permitting requirements "in respect of matter intended for dumping that has been loaded in its territory." In terms of Art VII, SA is obliged to apply the measures required to implement the Convention to all vessels loading in its territory or territorial seas matter which is to be dumped.

4.3 Furthermore, as there appears to be every likelihood of the experiment going below 60 deg South, a range of permitting and notification obligations that bind South Africa are also triggered by the Madrid Convention.

5. We understand that South Africa has not complied with any of its international obligations as to permitting and notification to other Parties to the relevant Conventions.

Nevertheless, it is our view that South Africa is in clear violation of the moratorium under the CBD which prohibits ocean fertilization. In the circumstances, we believe that the most appropriate action for South Africa to take is to immediately un-load the iron particles and stop the ship from sailing from our shores to the Scotia Sea. Failure by the South African government to take such action will exacerbate South Africa's current seeming illegality, and bring the country into respect in the eyes of the international community. It will also face reprisals from the international community, especially for damage that may be caused to the marine environment.

Kind regards

Mariam Mayet
Director