



biowatch
SOUTH AFRICA

biodiversity | food sovereignty | agroecology | social justice

222 Evans Road, Glenwood, Durban, South Africa Tel: +27(0)31 206 2954 Fax: +27(0)86 510 1537 www.biowatch.org.za

The Director-General: Department of Environmental Affairs

Attention: Ms Dineo Ngobeni

Private Bag X447

Pretoria

0001

By email to: climate@environment.gov.za

8 August 2018

**Biowatch South Africa submission on the Climate Change Bill, as published
in the Government Gazette on 8 June 2018 by the Department of Environmental Affairs**

Biowatch SA welcomes the development of legislation governing South Africa's response to climate change, which is undoubtedly the biggest threat to humanity and life on earth that we face.

Before outlining our comments below we would, however, like to place on record our objection to the short notice of the public meetings on the Bill, notice of which were published on the 10th of June just 5 days before the meeting in Durban where we are based. This does not auger well for civil society participation in a matter that affects the lives of every South African.

Our submission follows below and consists of:

1. Introduction to Biowatch South Africa
2. Comments on the Climate Bill

Yours sincerely

Rose Williams
Director

Trust No. IT 4212/99

1. Biowatch South Africa

Biowatch is a non-governmental organisation established in 1999, which strives for social and environmental justice within the context of food sovereignty. Biowatch works to challenge unsustainable agricultural practices and to advocate for agroecology as an ecologically viable alternative that safeguards people and land. This includes supporting smallholder farmers; working with civil society to create joint understanding and action; and constructively engaging with government in implementing policies and practices that promote, facilitate and actively support agroecology and farmers' rights. We have a long track record of working on policy issues concerning agriculture, biodiversity and indigenous knowledge systems. Our contribution to this draft Bill stems from this experience.

2. Comments on the Climate Change Bill (CCB), 2018

We are encouraged by the apparent urgency in expediting the CCB. However, the Bill appears to only provide a framework for setting up institutional arrangements and processes that will detail actual courses of action at a later stage in various plans and through regulations. We are concerned that the Bill doesn't set clear parameters and goals within which these administrative processes will unfold and will delay constructive action for some time. Also, by leaving the details to future regulations and plans, important issues are only guided by the policy paper, which is not legally enforceable and may soon be out of date.

Climate change without a doubt is proceeding rapidly and may even exceed the pace predicted by climate scientists due to intersecting conditions and feedback loops. The consequences of this for South Africa are dire. The recent drought is an illustration of the scenarios we are likely to face: The El Nino weather phenomenon intersected with higher temperatures induced by climate change, creating an unusually severe southern African drought. This resulted in grave suffering to people and animals, and an increased burden to the fiscus for drought relief and food imports. Knock-on impacts have included the folding of small farming businesses and an increase in the impact of crop pests such as Fall Armyworm, which follows drought conditions. While we may be tempted to allow development that is damaging to the climate, we may find that the consequent costs in disaster management, a collapsing resource base, increased disease, crop losses and damage to infrastructure and livelihoods all far outweigh the short-term profits and jobs provided.

South Africa must respond decisively and swiftly to the global challenge of climate change, by taking proactive and exemplary steps to reduce emissions even as we advocate for the Global North to take responsibility for its greater share of climate emissions. In this regard we must also acknowledge our far greater contribution to emissions than many other African and Global South countries. The Climate Change Act must outline some clear bottom lines, and set enforceable commitments and parameters.

Omissions in the Bill

The National Climate Change Response White Paper (NCCR) highlights the large contribution of agriculture to climate change at 14% of global emissions. Since this averages emissions including those from low impact traditional agriculture, the contribution of industrial agriculture is far greater. Also, this 14% only accounts for on farm emissions and not the emissions in other sectors that result from the global industrial agriculture system which includes land clearing of virgin forests and

Trust No. IT 4212/99

grasslands, transport, processing and retail, refrigeration needed to distribute produce and processed foods globally, and methane emissions from waste. It is calculated that this industrial organisation of the greater food system actually constitutes 50% of global emissions.

It is not clear how such systemic issues will be dealt with in the Climate Change Act. For example, individual farms, transporters or retail outlets may not individually produce high emissions relative to industrial plants and thus might not exceed the threshold that triggers the allocation of a carbon budget. However, the cumulative impact of all these small emissions is great, and requires systemic change in addition to, and beyond reductions at the level of individual operations. The Act needs to outline which systemic issues will be prioritised, what approach will be taken, and mechanisms put in place to address these.

Regarding agriculture, we note that the provisions of the NCCR does not adequately address agriculture's role in climate change, putting forward Climate Smart and Conservation agriculture as solutions. These merely introduce a few ecological methods at farm level while continuing to operate within the industrial agriculture system, and surreptitiously promoting synthetic chemicals and GMOs which have a range of negative environmental impacts including to soil and water systems.

Water is another issue highlighted in the National Climate Change Response White Paper, that requires a systems approach. Water is essential to life. South Africa is already a water scarce country, and with climate change this will become more extreme. Water must be highlighted in the Act as a critical resource that must be protected for essential uses in the interests of the majority of people, and this need must be weighed up against other perceived priorities. In particular activities that threaten water resources through pollution (such as poor maintenance of infrastructure leading to sewage pollution as currently witnessed in the Vaal catchment or fracking which pollutes water as part of routine operations); over-extraction (such as timber plantations where each tree consumes the basic water allocation per person per day and is then largely exported as pulp) and threats to upper reaches of water catchments (such as coal mining in the Waterberg) should all be flagged as issues for urgent response within the context of climate change adaptation. Perhaps a double score-card system could be introduced that leverages higher penalties for developments and activities that have high climate emissions that also jeopardise critical resources like water. At the very least such a mechanism should apply to all decision-making on the planning and authorisation of activities and development that score negatively in these intersecting impacts.

Energy efficiency and demand-side management are not mentioned in the Bill but must be a core part of the response strategy.

Activities that must be phased out or shut immediately or be prevented

To respond seriously to meet global emissions reduction goals, and to ensure our own ability to adapt to climate change impacts, there are activities and developments that should be phased out with immediate effect. This not only includes curbing the emissions of current polluters and closing certain facilities, but also providing guidance on the development of new emission sources that should be given a no-go for development when still in the planning phase. A commitment to these phase-out and no-go activities should be included in the Bill. These include, for example, those that:

- a) add extremely to South Africa's emissions contribution – for example, no new coal power plants should be built and further work on the current build programme such as Kusile

should stop, no new gas exploration such as for fracking gas or offshore exploration of oil and gas;

- b) contribute large global emissions – for example, no new coal mines to export coal that adds to other countries contribution to global emissions; or
- c) harm South Africa’s ability to remain resilient to climate change impacts - for example, we shouldn’t expand intensely water consumptive agriculture and plantations, or mining developments that will over-use or pollute our most scarce and decreasing resource that is essential to life.

Clear goals and time frames

The Bill lacks a defining goal towards which all plans and carbon budgets should strive. The Act must articulate South Africa’s commitment to ensure the country’s “fair contribution” to limiting the increase of global temperatures to only 1.5°C above pre-industrial levels as per the Paris Agreement. With this in mind, the Act must also make provision for the urgent revision of our nationally determined contribution to this goal, and in particular the ‘peak, plateau and decline’ greenhouse gas emissions trajectory this is based on. South Africa, and developed nations globally, are already behind on commitments. As a country we have urgent need to limit emissions now and will likely need to forego a plateau period. If we can peak emissions by 2020 this will allow a more doable and gentler annual emissions decline of around 5% after that. If we delay the date when our emissions will peak the yearly decline after that becomes more extreme and if we include a plateau period, we will have to achieve unrealistic negative emissions to achieve our global commitments.

To make our objectives clear the Act should specify the total carbon budget we have as a country for each 2 or 5-year period from 2018 in order to meet our country’s commitment to reductions, against which individual and sectoral emissions can be measured.

Resolution of conflicting interests

The Act needs to provide a clear guidance and mechanisms for resolving conflicting interests to ensure that the livelihoods of a majority of people are secured and developed without compromising emissions reduction targets or the natural resources such as land and water on which we depend. We are concerned that an inter-ministerial committee may not be able to resolve conflicting interests, creating yet another issue alongside many others that Ministers will be responding to. A separate structure or dedicated climate change management department may be needed to: provide oversight and coordination of the efforts in each sector and ministry, and ensure that conflicting policies, legislation and decisions are re-aligned and where necessary over-ruled to ensure the country meets serious climate justice and emissions reduction goals. In addition, climate change must be mainstreamed into the day-to-day work and plans of all departments so that the climate change response doesn’t become characterised in opposition to development.

Principles

We welcome the principles outlined in Chapter 1, section 3. However, additional principles should be added to guide government decision-making to adequately protect the climate, while balancing other interests, and protecting the voiceless.

Such additional principles should include:

- The polluter pays principle,
- Protection of the rights of the environment and non-human life,
- The importance and right of all to participate in decision-making on climate change, due to the cross-cutting impact this has on all South Africans.

Trust No. IT 4212/99

- Climate justice: a recognition of the severe impact of climate change on the poor who are the smallest contributors to climate change but bear the greatest impact having few resources to adapt and recover from climate shocks; and the need to prioritise funding to protect the livelihoods and essential services for the majority of people starting with the most vulnerable.

Climate change response plans

There is a confusing separation of mitigation and adaptation plans and the time frames for reporting progress and revision of plans of the 2 aspects of the national climate change response. Both should be part of an integrated climate change response with the same time frames for actioning after promulgation of the Act, review and reporting. Progress on reduction of emissions as well as adaptation should be annual to ensure that our response is rapidly adaptive to change.

Municipal responsibilities

Municipalities are often the most immediate source of help for citizens, and work where climate change impacts are experienced. It therefore makes sense that municipalities are key in responding to climate change. However, other than the largest Metros, most municipalities are not adequately resourced to maintain their current responsibilities such as maintaining infrastructure, and responding to disasters, and would need careful resourcing plans to take on these added responsibilities.

Mainstreaming of climate change should ensure that climate mitigation and adaptation are legislated as a core component of IDPs.

Sectoral emissions targets and carbon budgets

The provision for extensions to the time frames for complying with carbon budgets in Section 13 (10 -12) is contrary to the need for rapid reductions of emissions and will weaken the gravity of the carbon budget mechanism and should be removed.

The Act should require mandatory and public reporting on the emissions against carbon budgets for individual facilities (and not across many facilities in a company's portfolio).

Emission targets and carbon budgets should be reviewed more frequently than 5-year intervals, to ensure there are no delays in corrective action and that targets take into account new climate science and emissions reduction technologies.

Public participation

There must be full public participation in all matters concerning climate change. The provisions laid out in section 17 of Chapter 6 of placing notices in one national newspaper are inadequate.

Penalties

We disagree with the penalty stipulated in Section 19.2 of the Bill. A fixed and predetermined penalty will become quickly outdated, requiring a change to the Act. It also does not consider the varying capacities and size of emitters. Ideally all sectors of society need to make efforts to curtail carbon emissions. A R5 million fine for a multinational industry is a pittance, and therefore not a deterrent to transgression, whereas a small or medium enterprise may shut down because of such a fine. It is better to set the penalty as between a minimum and maximum percentage of turn-over so that this will keep up with inflation as well as being a deterrent in proportion to the size of the facility or company.

Trust No. IT 4212/99

The Act should also make provision to ring-fence the funds generated through penalties for a just transition to a post-carbon society that could, for example, fund training in Agroecology, infrastructure and training for community owned renewable energy technologies, and energy efficiency and emissions reduction assistance for small enterprises that don't have the profit margins to invest in this.

Conclusion

The crisis facing humanity and life on earth through climate change is not one for quick fixes – it is at a scale that humanity has never had to deal with before – the most vulnerable will be affected first and the most, but if nothing is done it will affect all life on earth. We need all spheres of government to fully comprehend the crisis and take a brave and bold approach and have an Act that will enable South Africa to change its current trajectory that exacerbates climate change.

Trust No. IT 4212/99