

Recent Basel Developments on e-Waste

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BASEL / ROTTERDAM / STOCKHOLM
C O N V E N T I O N S

Today's Program



e-Stewards

1. e-Waste Chronology 2002-2022
2. Swiss-Ghanaian e-Waste Amendment
3. Closing the “Repairable Claim” Loophole
4. The Need to Improve the PIC Procedure
5. Questions / Discussion

e-Waste/Basel Chronology

2002-2022

20 Years in Brief



2002 / Exporting Harm: The High-Tech Trashing of Asia



2002-2006 / Partnerships -- MPPI/PACE and STEP

MPPI



2009 – 2012 / Voluntary Recycler Certifications



2005 / The Digital Dump: Exporting High-Tech Reuse and Abuse to Africa

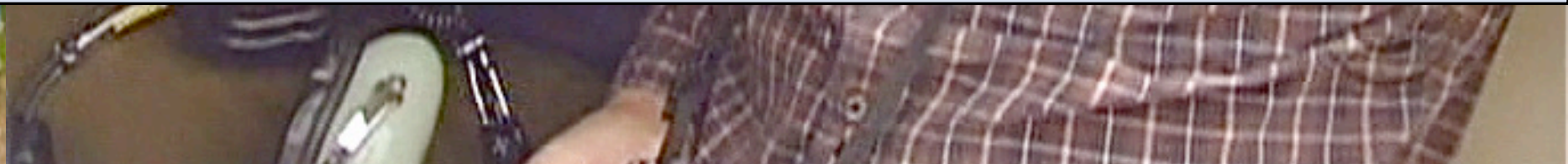


2006 / Nairobi
Declaration COP8

2008 / African e-Waste Project



2008 / CBS -- 60 Minutes Program: "The Wasteland"
Showing Illegal Trade in US Drop-off Event to Guiyu



2015 / Guiyu Closes



2015 / Guiyu Closes



2011 / Repairables Loophole Proposed -- Technical Guideline



2015 / Technical Guideline Battle – Interim Adoption



2014 -2017 / e-Trash Transparency Project / USA to
Hong Kong



2018 / Hong Kong Closes e-Junk Yards



2016-2020 / China Trade Moves to Southeast Asia

2017 / China's National Sword Policy

2020 / Thailand Bans e-Waste Imports



2020 / Swiss-Ghana Amendment Proposed

2022 / COP 15 -- 22 developing Parties take the floor -- demand work on reforming Technical Guideline waste/non-waste



2022/ COP 15 -- 2022 Swiss-Ghana proposal passes.

Swiss-Ghanaian e-Waste Amendment

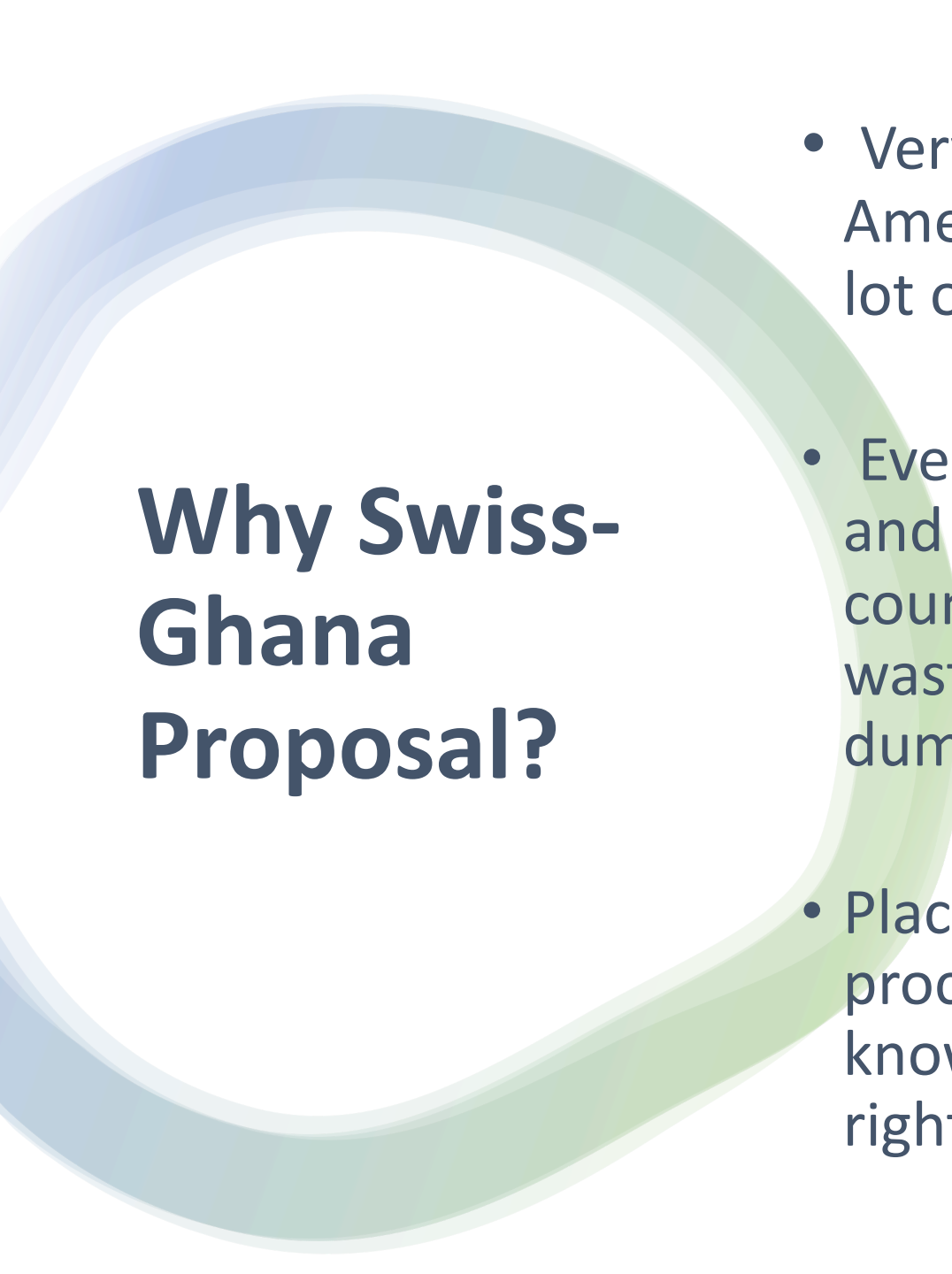
Three Listing Changes Made






What Swiss-Ghana Does

- Replaces the old listing of hazardous e-waste with a new one.
- Removes the old listing for non-hazardous e-waste.
- Establishes a new listing on Annex II for everything not in the hazardous waste listing.
- To enter force January 1 2025



Why Swiss-Ghana Proposal?

- Very similar to the logic behind the Plastics Amendments passed at COP14 in 2019. Indeed, a lot of the e-waste is full of Y48 plastic.
- Even non-hazardous e-waste has a track record and high risk of causing harm in developing countries. Like plastic exports, much of this e-waste will only be partially recycled, the rest likely dumped and burned.
- Places more e-waste exports under control procedures allowing countries transparency to know what is being imported and providing the right of refusal.



Why Swiss-Ghana Proposal?

- Avoids a requirement for expensive testing to prove whether traded e-waste is hazardous or not. All will be controlled. Such expense for enforcement is more burdensome for developing countries.
- Looks to a future where it is expected electronic waste will be less hazardous, but like household and plastic wastes, still presents a serious environmental problem due to poor management and sheer volumes.
- Benefits legitimate recyclers by ensuring they will not have to compete with the “pack and ship” brokers/traders (“fake recyclers”).



Persistent Organic Pollutants (POPs) in Eggs: Report from Africa

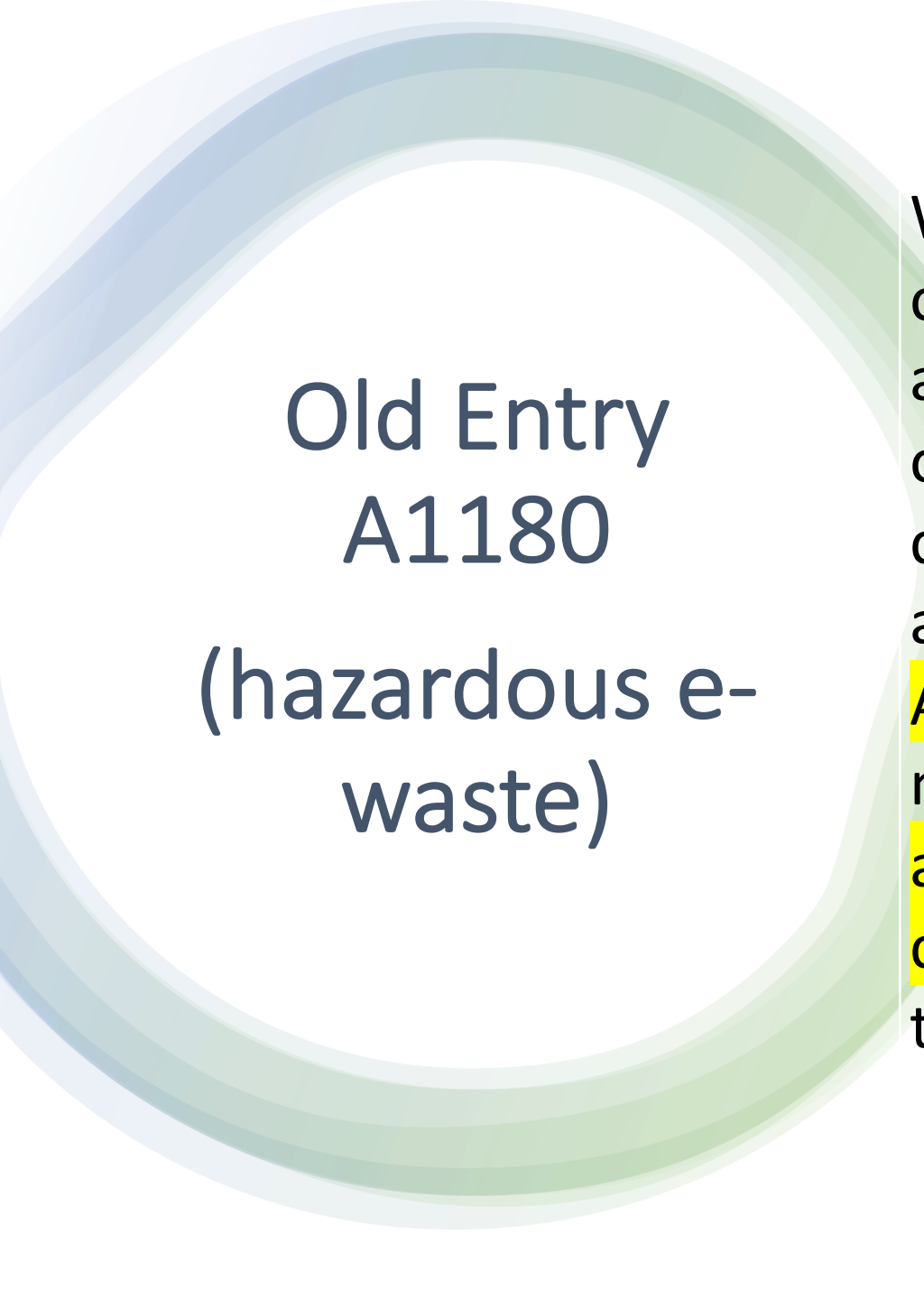
AUTHORS:
Jindřich Petřík – Sam Adu-Kumi – Jonathan Hogarth – Eric Akortia
– Gilbert Kuepouo – Peter Behnisch – Lee Bell – Joseph DiGangi

APRIL, 2019



Highest Level of Brominated Dioxins ever Found – in Ghana from burning computer and cable plastics





Old Entry
A1180
(hazardous e-
waste)

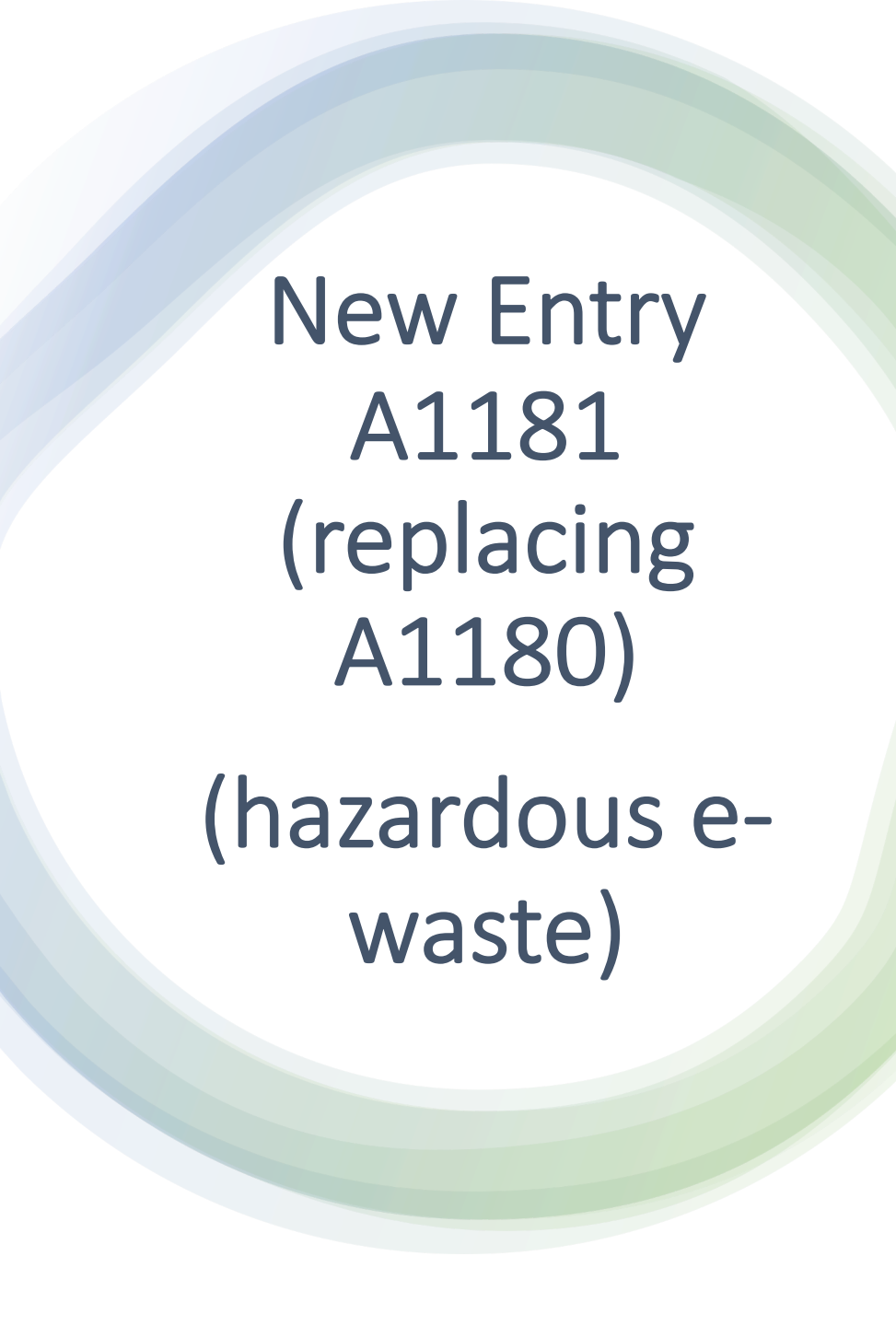
Waste electrical and electronic assemblies or scrap containing components such as accumulators and other batteries included on List A, mercury switches, glass from cathode-ray tubes and other activated glass and PCB-capacitors, or contaminated with Annex I constituents (e.g. cadmium, mercury, lead, polychlorinated biphenyl) to an extent that they possess any of the characteristics contained in Annex III (note the related entry on list B B1110)

New Entry
A1181
(replacing
A1180)

(hazardous e-
waste)

Electrical and electronic waste (note the related entry Y49 in Annex II)

- **Waste electrical and electronic equipment**
 - (a) **containing or contaminated with** cadmium, lead, mercury, organohalogen compounds or other Annex I constituents to an extent that the waste exhibits an Annex III characteristic, or
 - (b) **with a component** containing or contaminated with Annex I constituents to an extent that the component exhibits an Annex III characteristic, including but not limited to any of the following components:



New Entry
A1181
(replacing
A1180)

(hazardous e-
waste)

- glass from cathode-ray tubes included on list A
- a battery included on list A
- a switch, lamp, fluorescent tube or a display device backlight which contains mercury
- a capacitor containing PCBs
- a component containing asbestos
- certain circuit boards
- certain display devices
- certain plastic components containing a brominated flame retardant

New Entry
A1181
(replacing
A1180)
(hazardous e-
waste)

- Waste components of electrical and electronic equipment containing or contaminated with Annex I constituents to an extent that the waste components exhibit an Annex III characteristic, unless covered by another entry on list A
- Wastes arising from the processing of waste electrical and electronic equipment or waste components of electrical and electronic equipment, and containing or contaminated with Annex I constituents to an extent that the waste exhibits an Annex III characteristic (e.g. fractions arising from shredding or dismantling), unless covered by another entry on list A



New Entry
Y49

Placement of
“Everything Else” on
Annex II

Basel Annex II “wastes for special consideration”

...a.k.a. “other
waste”

- Neither asserted as being hazardous or non-hazardous.
- But in need otherwise of trade controls to protect the environment and provide transparency.
- This is usually due to the likelihood of improper management (e.g. informal recycling or dumping due to proper recycling being uneconomic)
- Not covered by the Basel Ban Amendment.
- The default control procedure is Prior Informed Consent (PIC).
- But in the EU, Switzerland and Liechtenstein, Annex II is banned from export to non-OECD countries.
- Trade with the US (other non-parties) will be illegal for Basel Parties (e.g. countries importing from the US).



**Basel Annex II
“wastes for special
consideration”**

Y46 -- Wastes collected
from households

Y47 -- Residues arising
from the incineration of
household wastes

Y48 – “Mixed and
Contaminated Plastics”



New Entry Y49

Electrical and electronic waste

- Waste Electrical and Electronic Equipment
 - (a) **not** containing and **not** contaminated with Annex I constituents to an extent that the waste exhibits an Annex III characteristic, and
 - (b) **in which none** of the components (e.g. certain circuit boards, certain display devices) contain or are contaminated with Annex I constituents to an extent that the component exhibits an Annex III characteristic.

New Entry Y49

- Waste components of electrical and electronic equipment (e.g. certain circuit boards, certain display devices) **not** containing and **not** contaminated with Annex I constituents to an extent that the waste components exhibit an Annex III characteristic, **unless covered by another entry in Annex II or by an entry in Annex IX**
- Wastes arising from the processing of waste electrical and electronic equipment or waste components of electrical and electronic equipment (e.g. fractions arising from shredding or dismantling), and **not** containing and **not** contaminated with Annex I constituents to an extent that the waste exhibits an Annex III characteristic, **unless covered by another entry in Annex II or by an entry in Annex IX**

**Concern / fractions
that already exist on
on Annex IX are
exempted**

For example:

B3011 – non-hazardous plastic (e.g. single polymer, clean)

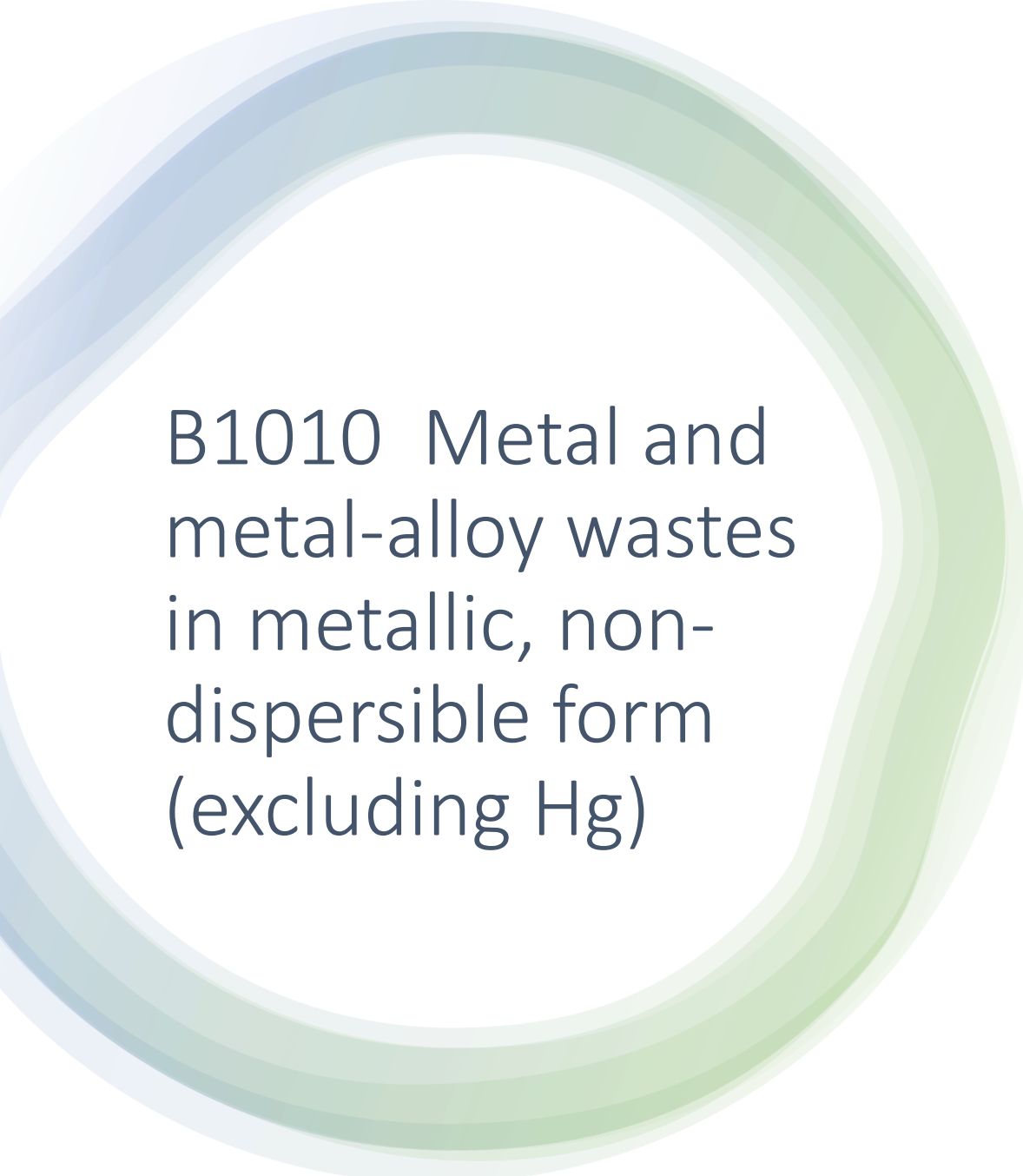
B1010 – non-hazardous, non-dispersible metal (e.g. aluminum, steel)

- The part of the agreement that states: *unless covered by another entry in Annex II or by an entry in Annex IX*

Addresses this concern.



What do Exempted e-
Wastes look like?



B1010 Metal and metal-alloy wastes in metallic, non-dispersible form (excluding Hg)

- Must be non-hazardous (e.g. cannot have leaded solders that would fail a TCLP test).
- No shredded mercury or lead etc.
- Cannot contain brominated flame retardants nor nor flammable solvents as in Li-ion batteries
- Cannot have circuit board material
- Cannot have dusts or granular material, needs to be in chunks of metal.
- Can be mixed metals



B3011 Clean, Unmixed Plastic

- Only mixture allowed is PET, PP and PE – all else sorted to single polymers (e.g. HDPE)
- Must be non-hazardous (e.g. no brominated flame retardants)
- Must be free of non-target substances including other plastics
- Cannot contain PVC or other halogenated plastics




B1040 Scrap
Assemblies from
Electric Power
Generation

- not contaminated with lubricating Oil, PCB or PCT to the extent to render them hazardous
- No other hazardousness
- Cannot fail a TCLP test



B1090 Waste Batteries

- Excluding any containing Lead, Cadmium or Mercury
- Cannot fail a TCLP test



B1115 Waste
metal cables
coated or
insulated with
plastics

- Excluding those listed on A1190
- Excluding those going for final disposal
- Excluding those going for thermal treatment and open burning

What Y49 means for EU

- WEEE (all e-waste) cannot be exported to non-Annex VII (e.g. non-OECD) countries unless it is processed into an Annex IX waste.
- WEEE (all e-waste) can be imported from Basel Parties into EU or traded within EU with the PIC procedure.
- If the OECD adopts the new Y49 listing, then trade in all e-waste can take place between OECD countries in accordance with the OECD Council Decision (tacit consent PIC). If not, trade in Y49 with US by OECD will not be allowed.

What Y49 means for the US (non-Party)

- Non-OECD Basel Parties will not be able to legally import any e-Waste from the US unless it is first processed into Annex IX waste.
- If the OECD adopts the new Y49 listing, then trade between OECD countries (with tacit consent PIC) in accordance with OECD Council Decision would be allowed.

What Y49 means for the OECD

- OECD will automatically adopt this new rule now, unless there is an objection.
- This will allow trade between OECD countries (tacit consent PIC) in all e-waste including with the US under the OECD Council Decision.
- Exports of all e-waste from the OECD group to non-OECD Basel Parties will require Basel PIC procedure -- except there will be a ban from EU countries and US exports to Basel Parties will be seen as illegal by them).

What Y49 means for non-OECD

- Non-OECD will only be able to import all e-Waste from Basel Parties with the PIC procedure unless it has first been pre-processed into an Annex IX waste.
- Non-OECD will only be allowed to export e-Waste to Basel Parties with the PIC procedure unless it has first been pre-processed into an Annex IX waste.

Closing the “Repairable Claim Loophole

Technical Guideline’s
Paragraph 32b must be
Improved or Removed.



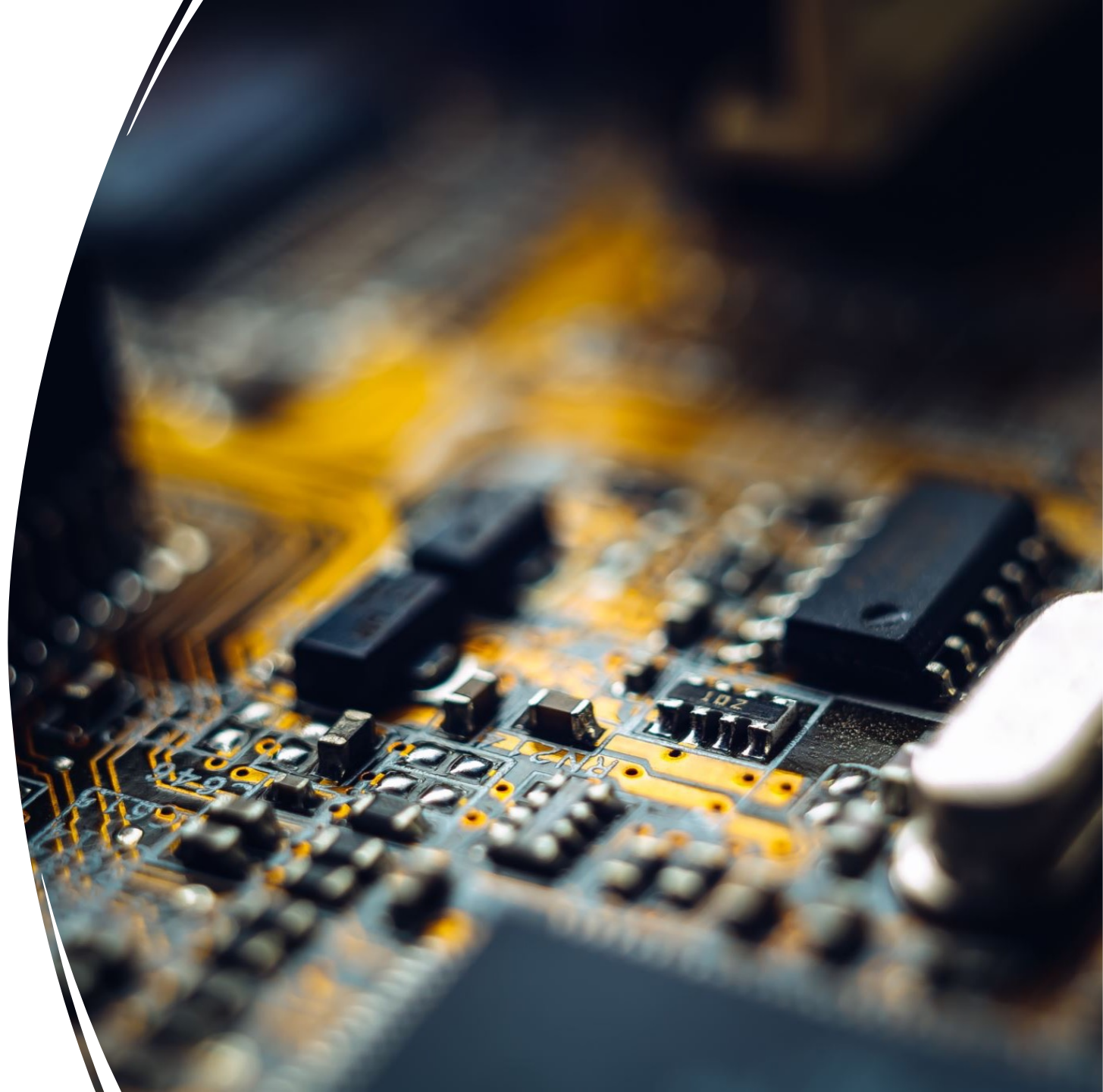
COP15: Massive Repairable Claim Loophole Remains

→ 32(b), declares that *broken, untested, or non-working equipment* that are claimed to be destined for failure analysis, repair or refurbishment can fall outside of the scope of the Basel Convention, without requiring any Basel controls as long as the export arrangement meets 5 minimal requirements.

Only Requirements to Export as Non-Waste

1. The trader must claim that the non-functional electronic equipment is being exported for failure analysis or repair.

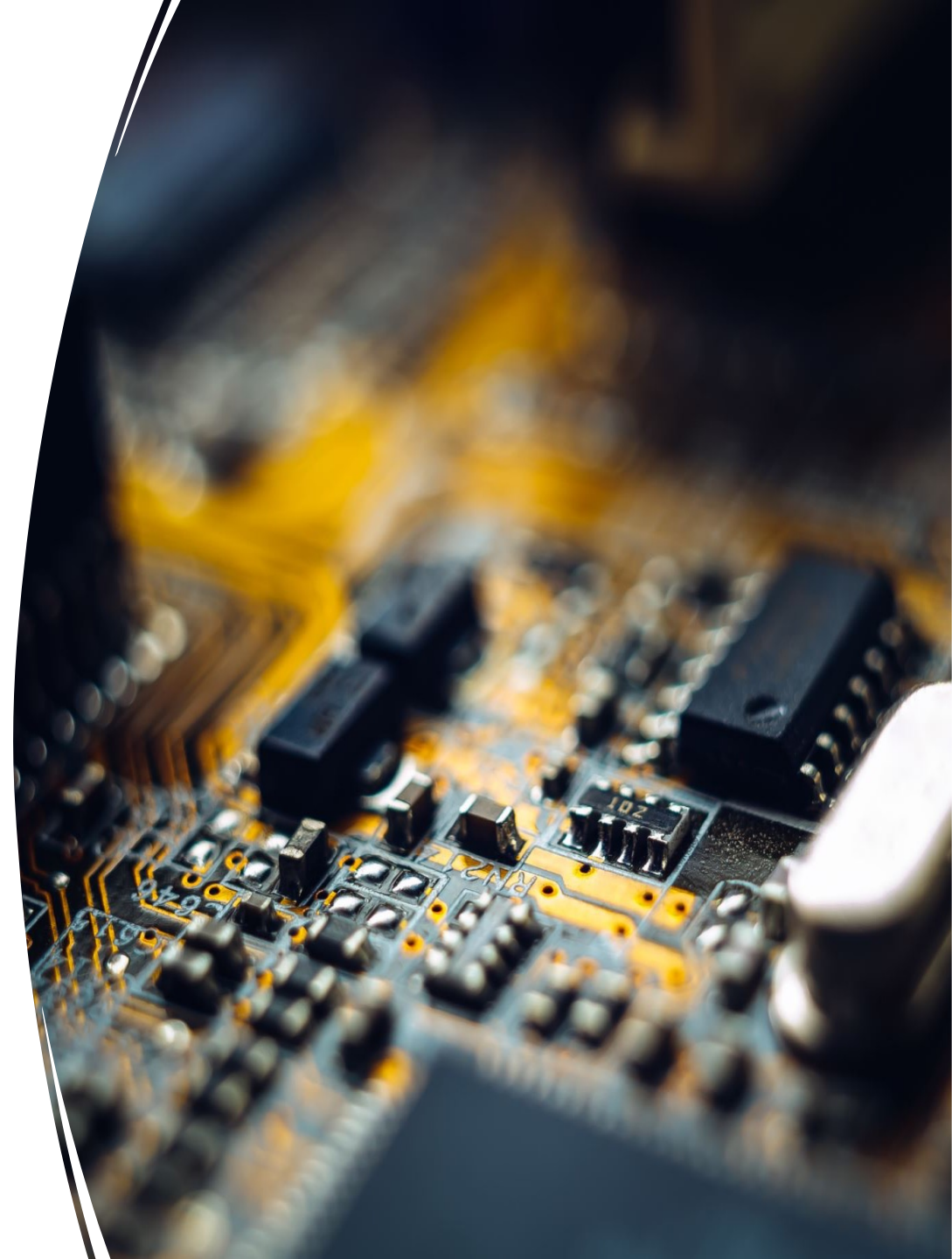
→ One can do this even if it will not be repaired because it will be very rare that anybody will even have an opportunity to check.



Only Requirements to Export as Non-Waste

2. The exporter needs to sign a contract with importing country partner asserting ESM, proper management of residuals, and make a final report.

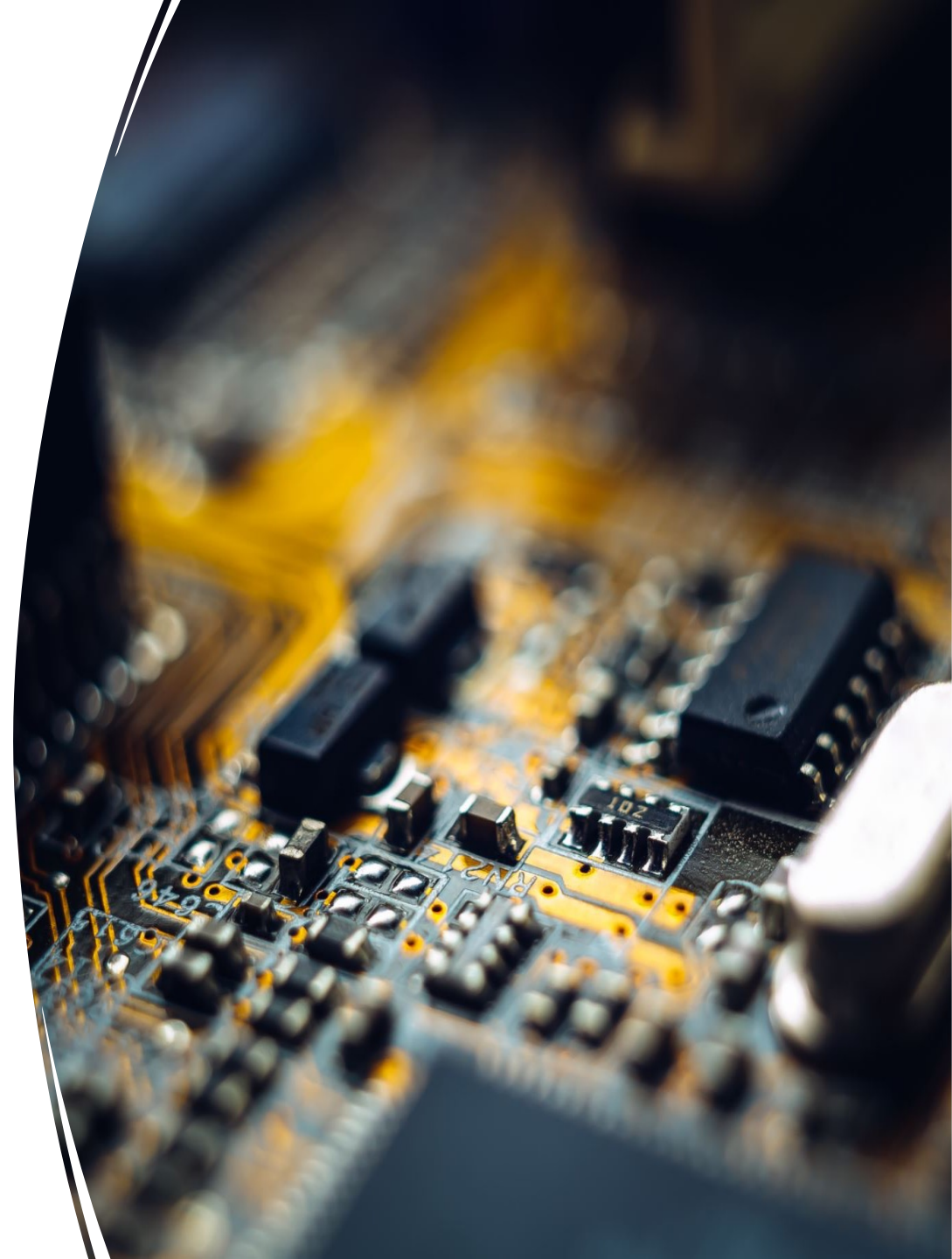
→ Its simply a contract between two private parties so nobody knows if it will ever be upheld. No government is likely to see it. And, violation of a contract is a matter of civil law and not criminal asper Basel.



Only Requirements to Export as Non-Waste

3. The exporter must make a declaration, that none of the equipment within the consignment is defined as or considered to be waste in any of the countries involved in the transport.

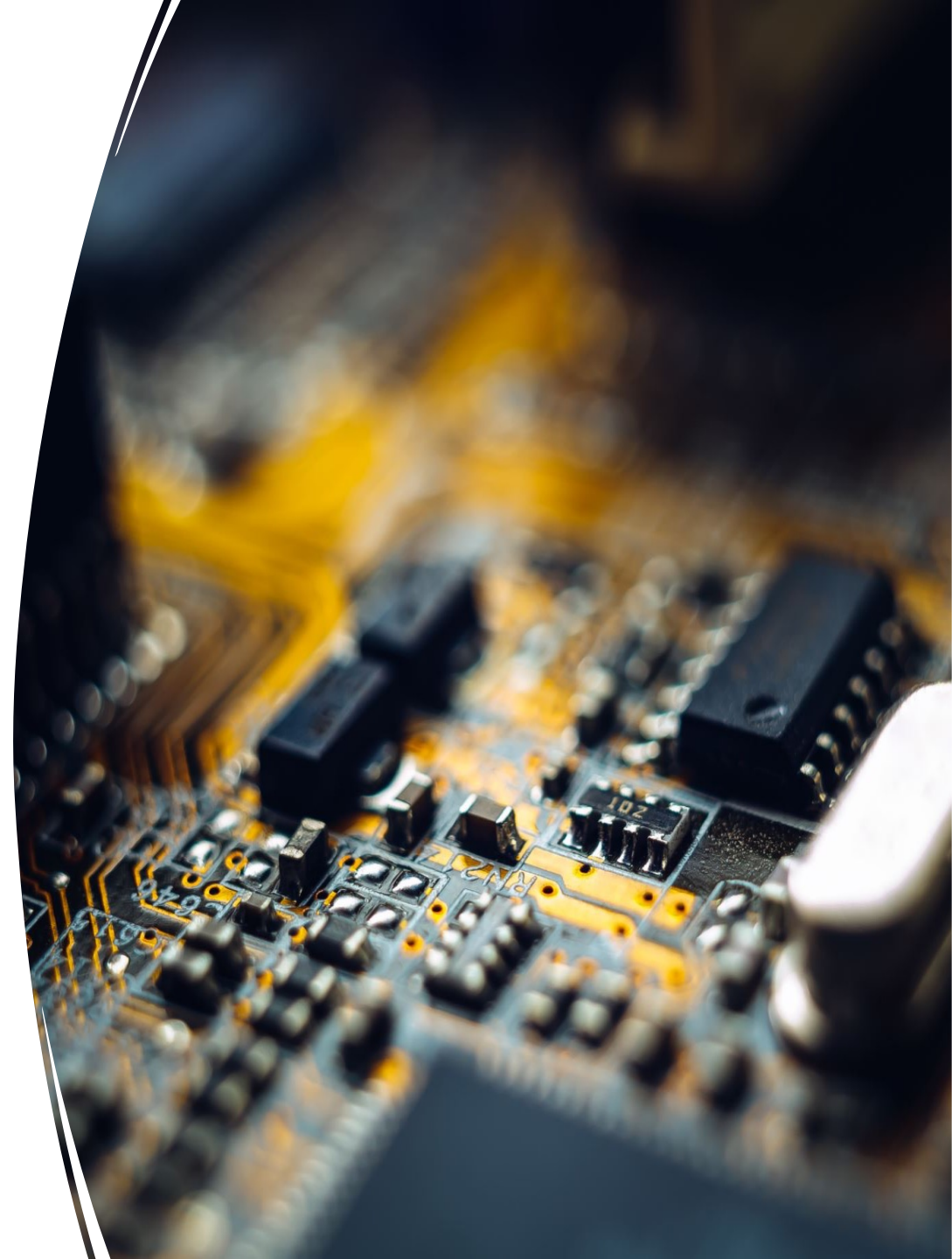
→ It is entirely inappropriate for a private business (e.g. a broker or recycler) to make a declaration of law and assert compliance. If caught they can plead ignorance.



Only Requirements to Export as Non-Waste

4. Ensure that each piece of equipment is individually protected against damage

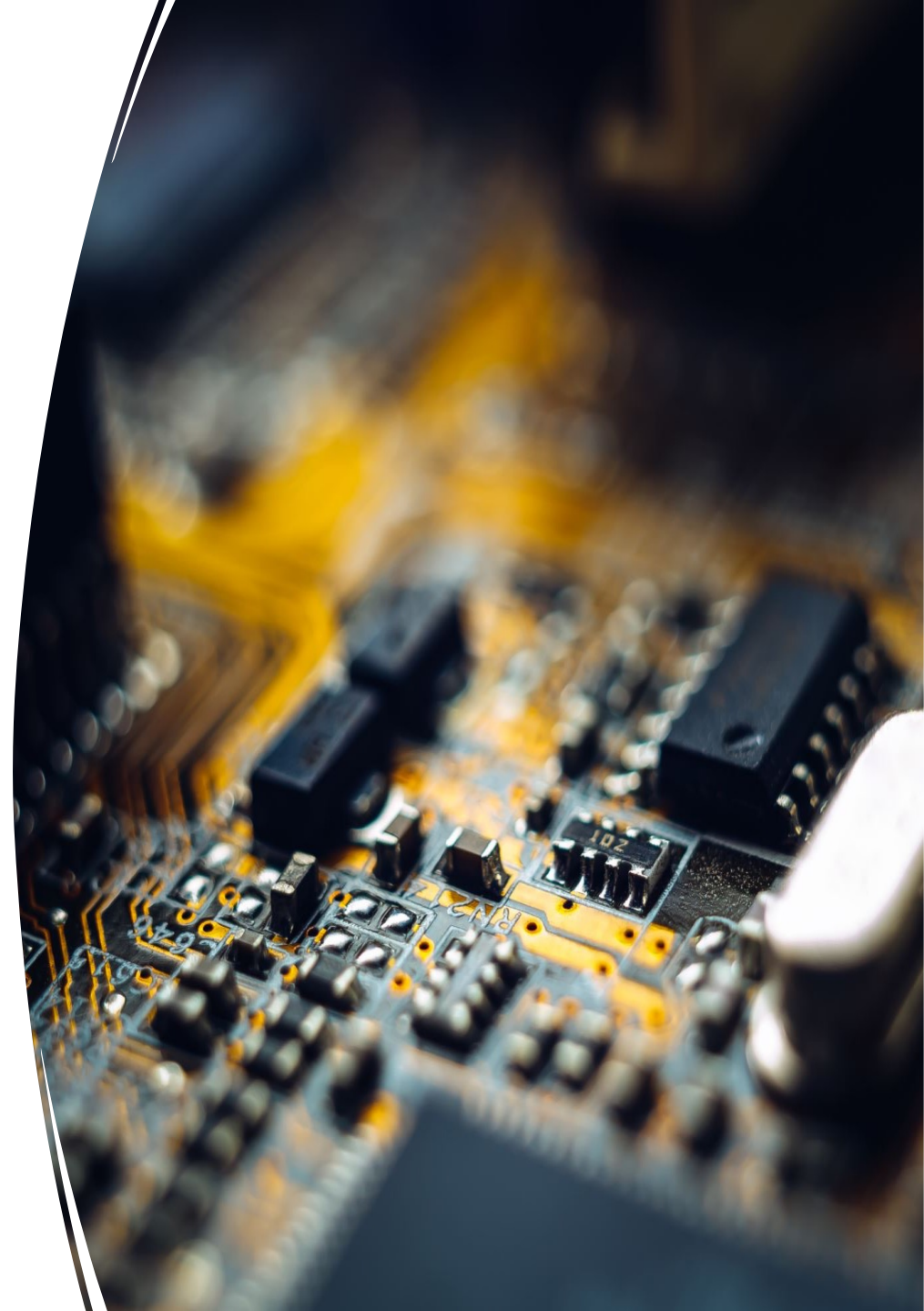
→ Plastic shrink wrap or cardboard separators are very cheap so this requirement is easily accommodated and not an insurance policy against receiving shipments of junk toxic scrap equipment that will never be reused.



Only Requirements to Export as Non-Waste

5. Documentation is to accompany the shipment as to the origin and nature of the equipment, the existence of contract and declaration.

→ Such documentation is easy to provide but what good is it really? Parties will not have prior notification of the shipment meaning the burden is placed on them to somehow detect such shipments and then they would need to verify veracity of claims.



Current e-Waste Guideline

Fatal Flaws

- **No PIC:** Fundamental principle of right to know and right of refusal denied.
- **No ability to check on exporters:** The obligations that Basel places on Parties to ensure that their exporters do things correctly is gone.
- **No ability to check repair operations:** There is no formal registry of where these repair activities will take place – it's all in a cloak of contractual secrecy.
- **Violates Intent of Ban Amendment:** Exports of repairables from Annex VII to non-Annex VII countries violates the Ban Amendment's intent.



*The Responsible
Guideline to
Promote an
Ethical Circular
Economy*

**The Responsible Guideline on
Transboundary Movements of Used
Electronic Equipment to Promote an Ethical
Circular Economy under the Basel
Convention**

25 April 2019



Basel Action Network
Seattle, WA, USA
www.ban.org

Bamako Convention COP3 Decision

- Bamako Convention passed Decision at their COP3 calling on Parties to: *“promote the removal of the exception found in Paragraph 32, of the technical guidelines on transboundary movements of electrical and electronic waste and used electrical and electronic equipment that will allow non-functional, hazardous e-wastes to be exported as non-waste and thus outside of the control procedures of the Basel Convention and in contradiction to the Bamako Convention;”*



28 Bamako Parties

- *Angola*
- *Benin*
- *Burkina Faso*
- *Burundi*
- *Cameroon*
- *Chad*
- *Comoros*
- *Rep. of Congo*
- *Dem. Rep. of Congo*
- *Cote d'Ivoire*
- *Egypt*
- *Ethiopia*
- *Gabon*
- *Gambia*
- *Liberia*
- *Libya*
- *Mali*
- *Mauritius*
- *Mozambique*
- *Niger*
- *Rwanda*
- *Senegal*
- *S. Sudan*
- *Tanzani*
- *Togo*
- *Tunisia*
- *Uganda*
- *Zimbabwe*





22 Countries Take the Floor

- *Nigeria*
- *India*
- *Pakistan*
- *South Africa*
- *Trinidad and Tobago*
- *El Salvador*
- *Gambia*
- *Algeria*
- *Iran*
- *Uganda*
- *Argentina*
- *Peru*
- *Guatemala*
- *Dominican Republic*
- *Ecuador*
- *Mexico*
- *Venezuela*
- *Ghana*
- *Indonesia*
- *Togo*
- *Vanuatu*
- *Khazakstan*

Another Means to Close the “Repairables Claim” Loophole

- **As proposed by the EU and others -- Add an Entry into Annex IV:**
 - **R20 Preparation for Reuse (e.g. repair, refurbishment)**

Why “Prepare for Reuse” Annex IV Entry Makes Sense

- Ensures repairs will take place in an environmentally sound manner and in a responsible way
- Prevents wholesale avoidance of Basel Convention by unscrupulous traders and fake recyclers who have no intention of repair.
- Ensures legitimate operators do not have to compete with fake repair operations.
- PIC Procedure provides importing country with ability to check on fate of shipments, quality and age of equipment.
- Repair involves recycling or disposing of replaced Parts in any case. So export for repair is already seen by most to be covered under Annex IV
- **Violates Intent of Ban Amendment:** Exports of repairables from Annex VII to non-Annex VII countries violates the Ban Amendment’s original intent.

The need to improve the PIC procedure



PIC Procedure Improvement

New Independent Review



PIC Procedure Improvement

What is the Challenge?

- **Too many horror stories of things taking months even years to process paperwork.**
- **Article 6 (PIC Procedure) has some ambiguity, a lack of urgency and few incentives (no deadlines or consequences) for not processing the paperwork.**
- **It is also clunky and from an Analog / Fax / Snail-mail age.**
- **However, its best not to try to Amend the Convention as a first step as this would take years**
- **So, no new definitions or obligations if we wish to move quickly**

PIC Procedure Improvement

What Can be Done?

- **Best to do two things first and then see about Amending the Convention.**
 - 1. Create a Digital PIC Procedure**
 - **That makes things easy (and fun) to fill out**
 - **And includes Real Time Reminders and Transparent Reporting to Parties via Secretariat on How its Working.**
 - 2. Elaborate a Best Practices Guidance Document on how to best use the Digital Procedure.**

PIC Procedure Improvement

What Is Being Done?

1. A Decision was Passed to create a digital PIC procedure (UNEP/CHW.15/9)

- It creates a Small Intercessional Working Group (SIWG to get the work going).**
- However, to avoid needless bureaucracy we might encourage the Private Sector to move forward with a Pilot Project. BAN is in dialogue with ITI about this They wish to call the project e-PIC and this new decision allows them to go ahead with a Party sponsor.**

PIC Procedure Improvement

What Is Being Done?

2. Another Decision was passed following an EU proposal to get the ball rolling on the guidance -- to gather thoughts and evidence from Parties as to how the procedure decision can be improved.

Perhaps a proposal will stem from it to amend the Convention.



Questions?





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