Call for the Biden Administration to Promote Global Environmental Justice
by Full Adoption of the Basel Convention

May 13, 2021

Mr. Joseph Biden, President of the United States, and
Mr. Antony Blinken, Secretary of State
Mr. Michael Regan, Administrator, Environmental Protection Agency
Ms. Brenda Mallory, Chair, Council on Environmental Quality

Dear Sirs and Madame:

With this letter, we, as organizations and individuals promoting a healthy environment and human rights, raise a matter of great urgency and relevance.

Environmental Justice and the Basel Convention

The Biden Administration has signaled strongly that environmental justice is now a major concern of its Environmental agenda. On January 27, 2021, President Biden signed the executive order on Climate Change, which established the Environmental Justice Interagency Council and an Environmental Justice Advisory Council. On March 29 the latter Council was announced with 26 newly assigned civil society and academic member experts, and at this time EPA Administrator Michael Regan stated that environmental justice would be a major priority for the agency during his tenure. Environmental justice aims to address disproportionately negative effects of environmental and climate degradation on vulnerable communities.

The development of the Biden Administration's strong domestic environmental justice agenda is very welcome and appropriate, but we are concerned that this agenda not be limited to actions within US national borders. It is vital that US actions to eliminate environmental injustice be applicable worldwide. Our concern, in this regard, was heightened at a recent EPA and State Department stakeholders meeting on the Basel Convention that took place on March 29, 2021 -- the same day the Environmental Justice Advisory Council was announced.

The Basel Convention is the global treaty that seeks to prevent uncontrolled exports of hazardous and other wastes between countries and particularly trade in these wastes from developed to developing countries. Despite having signed the Convention in 1989, the US has never ratified it and is now the only developed country in the world having failed to do so. In 2019, the Basel Convention was amended to prohibit exports of all hazardous wastes from developed to developing countries. This amendment is known as the Basel Ban Amendment and was enacted as an instrument to uphold global environmental justice. It is considered one of the most important achievement of the Convention, its only successful textual amendment, and has long been supported by all the European Union as well as by almost all developing countries. Currently, 100 countries have ratified the Amendment.

1 Biden Executive Order on Climate Change
2 Basel Convention website
3 United Nations Depository Ban Amendment page
At the aforementioned stakeholders meeting, the State Department Representative John Thompson stated that the US was considering possibly not ratifying the Convention but was also exploring ways in which it might be able to ratify the treaty without accepting the Basel Ban Amendment found now as new Article 4a. It is very disturbing to realize that the Biden Administration, while advancing environmental justice at home, are seeking to find a way to avoid environmental justice on the global stage.

As the Basel Convention allows for no reservations or exceptions; from a legal standpoint, the US stated intention of exploring an option to create such a "reservation" is an alarming indication of a desperate willingness to directly undermine environmental justice, even as accepted by the global community at large.

Plastic Pollution and the Basel Convention

In May of 2019, the Basel Convention also achieved another landmark agreement, and began for the first time to address the plastic waste crisis by adding new listings for plastic wastes. As of January 1, of this year, Basel Parties will be asked to control and sometimes prohibit the export of contaminated and mixed difficult-to-recycle plastic wastes. Plastic waste is also a serious environmental justice issue, as the US and other developed countries have for years exported mixed and contaminated plastic wastes to China. After China banned the importation of this waste in 2018, the waste now moves to other Asian countries. The wastes are often sent to poor farming communities for recycling but are not cleanly and safely recycled but instead are picked through for the higher value material, with the rest being dumped and burned in open fields. Unfortunately, the US, not being a Party to the Basel Convention, continues to export these newly listed Basel wastes to countries that cannot legally accept them from the US, without any controls, thus aiding and abetting illegal trafficking in plastic waste. Indeed, US plastic waste brokers continue to send 2,440 metric tonnes per month to non-OECD (Organization for Economic Cooperation and Development) countries.

Electronic Waste and the Basel Convention

Apart from acting against the worst of the plastic waste crisis, the Basel Convention has also been able to control and prevent the damaging trade and dumping of electronic wastes (such as our old lead-acid car batteries, old computers, monitors and peripherals, laden as they are with toxic heavy metals and organic compounds). Yet again, by remaining the only developed country in the world that has failed to ratify the Convention, the US utterly fails global environmental justice by enabling some of its industries to profit from the poisoning of some of the world's poorest communities. To this day, it is completely legal for US waste brokers and recyclers to export hazardous electronic wastes to any country in the world without any controls whatsoever, even when the receipt of such wastes is unwanted and illegal in the importing country. Ratifying the full Basel Convention would once and for all prevent these types of harmful, uncontrolled exports.

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4 Basel Convention text where new Article 4a and Annex VII can be found.
5 See BAN's trade statistics compiled from US Commerce Department Data: https://www.ban.org/plastic-waste-project-hub/trade-data/usa-export-data
Basel Convention: Just the Facts

- The Basel Convention is the world's only international treaty on waste and waste trade.
- It was originally called for by developing countries to ban the export of hazardous and other wastes to them from developed countries.
- It was adopted and signed in 1989 but failed to include a full ban due to US objections to such a provision.
- Nevertheless, in 1995 a ban was adopted as a proposed Amendment due to unrelenting support from developing countries and the European Union, against the wishes of the US.
- Currently, the Basel Convention has 188 Parties, with only 8 UN countries failing to have ratified it: East Timor, Grenada, Haiti, San Marino, South Sudan, Fiji, Solomon Islands and the US.
- The US is the only developed (OECD member) country that has failed to ratify the Convention.
- Of the original signatories at its adoption in 1989, only Haiti and the US have failed to fulfill their registered intent to ratify.
- The Basel Ban Amendment is now part and parcel of the Convention as new Article 4a and Annex VII.
- This Ban Amendment finally entered into force in December 2019. Currently, 100 countries have ratified the Ban Amendment.
- Legal experts agree that when/if the US ratifies the Convention, they will have to accept Article 4a and the new Annex, as the Convention allows no partial ratifications or reservations.
- Despite this, the Biden Administration's State Department has stated they are exploring options to ratify the Convention without the Ban Amendment.
- Meanwhile, all manner of hazardous electronic waste and plastic waste can be freely traded from the US, even as it becomes criminal trafficking in waste once it is on its way to developing countries.
- The Biden Administration claims to make Environmental Justice a central theme of its environmental policy.
- Failure to ratify the Basel Convention in its entirety, including all of its articles and annexes, is a US affront to global environmental justice.

Previous US actions undermining global environmental justice

-- Throughout the entire history of the Basel Convention from 1989 to the present day, the US, even as a non-Party observer, has actively and aggressively opposed the Basel Ban Amendment.

-- Likewise, the US actively opposed the global adoption of new listings on plastic wastes to provide greater transparency and controls on plastic waste trade to protect global plastic waste dumping on developing countries. These agreements were adopted nonetheless in May of 2019.

-- Following the consensus adoption of the new Basel Convention listings on plastic waste in May of 2019, the US intervened at the OECD to prevent the OECD from automatically adopting these new Basel listings in the OECD waste trade agreement. It also failed in this effort and as a result, the OECD agreement will not cover plastic waste anymore, and other OECD members will not be able to trade in plastic waste with the US without a special agreement.
-- In October of 2020, the State Department and EPA, consulting only with industry and not with environmental organizations, signed a secretive deal with Canada to ignore the new Basel controls with respect to trade between the two countries. Such a deal was not legal under the Basel Convention's Article 1, but was hastily signed anyway to allow Canadian waste traders to use the US as a place where their exports can be accomplished legally to developing countries without controls.⁶

Calling on the Biden Administration to Promote Global Environmental Justice

*With the above facts and history fully in mind, we, the undersigned organizations and prominent environmental justice advocates call upon the Biden Administration to:*

1. Cease US antagonism to the Basel Convention and the Basel Ban Amendment and take the necessary steps to facilitate and approve ratification of the full Convention, including the new Article 4a and Annex VII (Ban Amendment), at the earliest possible date.

2. Ensure that the implementation legislation for adoption of the Basel Convention includes a full ban on exports, not only of hazardous wastes as prescribed by the Ban Amendment, but also of Basel Annex II wastes (which include the new listings of mixed and dirty plastic waste, household waste, and incinerator ashes).⁷

3. Reverse the US position taken at the OECD and allow the automatic adoption of the new Plastic Amendments by the OECD in their Council Decision on trade in recyclable wastes.⁸

4. Annul the ill-advised and illegal US -- Canada Arrangement, signed on October of 2020, allowing rather for the OECD agreement to once again preside over trade in Basel wastes between the US and Canada and other OECD countries.

*Signed,*

**Basel Action Network**, Jim Puckett, Executive Director  
**Greenpeace USA**, John Hocevar, Oceans Campaign Director  
**Sierra Club**, Jane Williams, Chair, National Clean Air Team  
**Friends of the Earth International**, Samuel Cossar-Gilbert, Program Coordinator  
**International Pollutants Elimination Network (IPEN)**, Pamela Miller, Co-Chair  
**Break Free from Plastic (BFFP)**, Von Hernandez, Global Coordinator  
**Center for Biological Diversity**, Miyoko Sakashita, Oceans Program Director  
**Plastic Pollution Coalition**, Julia Cohen, Managing Director  
**Zero Waste Europe**, Pierre Condamine, Waste Policy Officer  
**Center for International Environmental Law (CIEL)**, David Azoulay, Senior Attorney - Environmental Health Program Director  
**Rethinking Plastic**, Cat Dillard  
**Zero Waste Washington**, Heather Trim, Executive Director  
**The Last Beach Cleanup**, Jan Dell, Founder & Independent Engineer

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⁶ This agreement was analyzed and deemed as legally inappropriate by the Center for International Environmental Law in their paper: *Legal Analysis of the Consequences of the OECD Non-Consensus Determination on the Basel Plastic Amendment (February 2021)*

⁷ This is the same approach taken by the European Union in their Waste Shipment Regulation.

⁸ *OECD Council Decision of the Council on the Control of Transboundary Movements of Wastes Destined for Recovery Operations*
Sahabat Alam Malaysia (Friends of the Earth Malaysia), Meenakshi Raman, President
Consumers' Association of Penang, Mageswari Sangaralingam, Senior Researcher
Centre for Environmental Justice, Hemantha Withanage, Executive Director
Health and Environment Justice Support, Olga Speranskaya, Co-Director
Debris Free Oceans, Madeline Kaufman, Program and Outreach Director
Nexus3 Foundation, Yuyun Ismawati, Senior Advisor
Plastic Change, Anne Aittomaki, Strategic Director
Friends of the Earth - Canada, Beatrice Olivastri, CEO
Friends of the Earth - United States, Michelle Chan, VP Programs
Gallifrey Foundation, Antoinette Vermilye, Co-Founder
BAN Toxics, Reynaldo San Juan, Executive Director
Closed Loop Partners, Ron Gonen, CEO
Beyond Plastics, Judith Enck, President
Sustainable Environment Development Initiative, Tom Aneni,
Children's Environmental Health Foundation, Michael Musenga, Chairman General
National Stewardship Action Council, Heidi Sanborn, Executive Director
Waterkeepers Chesapeake, Robin Broder, Deputy Director
Sustainable Steps, David Burdick, Owner
Ecology Center, Martin Bourque, Executive Director
Surfrider Foundation, Angela Howe, Legal Director
Plastic Soup Foundation, Bentelise Kraaijeveld, Advocacy Officer
Ecological Observation and Wetlands Conservation (ECOTON), Daru Setyorini, Manager of Program Development
Coalition for American Electronics Recycling, Paul Vetter, Communications Director
Plastic Free Seas, Dana Winogrf, Director Operations
Arnika - Toxics and Waste Programme, Karolina Brabcová, Consumer Campaigns Coordinator
Global Alliance for Incinerator Alternatives (GAIA), Denise Patel, U.S. Program Director
Climate Reality Project, Emily Murphy, Activist
Work on Waste, USA (AEHSP), Paul Connett, Former Director
Californians Against Waste, Nick Lapis, Director of Advocacy
Alaska Community Action on Toxics, Pamela Miller, Executive Director
California Communities Against Toxics, Jane Williams, Executive Director
RightOnCanada.ca, Kathleen Ruff, Director
Occupational Knowledge International, Perry Gottesfeld, Executive Director
Seneca Lake Guardian, Yvonne Taylor, Vice President
Fairmont, MN Peace Group, Judi Poulsion, Chair
New Mexico Interfaith Power and Light, Sr. Joan Brown, Executive Director
International Marine Mammal Project of Earth Island Institute, Mark J Palmer, Associate Director
Central California Asthma Collaborative, Kevin Hamilton, CEO
Terra Advocati, Tim Duda, Director
Syracuse Cultural Workers, Andy Mager, Coordinator
Colorbrightongreen.org, Cheryl Frank, President
ABCRGR Creation Collaborative, Cheryl Frank, Chair
GBC Sustainability Team, Cheryl Frank, Chair
350 Seattle, Selden Prentice, Federal Policy Lead
Santa Cruz Climate Action Network, Pauline Seales, Organizer
Safe Healthy Playing Fields Inc., Diana Conway, President
Cafeteria Culture, Debby Lee Cohen, Executive Director
ReImagine Turtle Creek Watershed & Airshed Communities Plus, Annie Deely, Community Organizer
Taller Ecologista, Vladimir Moskat
CESTA Friends of the Earth El Salvador, Ricardo Navarro, President
Free I.T. Athens, Shawn Henson, President
BIOS Argentina, Silvana Buján, Director
The Greens Movement of Georgia, Davit Sidamanidze
Persatuan Tindakan Alam Sekitar Kuala Langat/ Kuala Langat Environmental Action Association, Lay Peng Pua, Secretary
Persatuan Alam Sekitar Klang (Klang Environmental Association), Sivaranjani Manickam, Secretary
No Evil Foods, Sadrah Schadel, Co-founder, Chief Creative Officer
Paryavaranmitra, Mahesh Pandya, Director
Malaysian Nature Society, Donovan Louis, General Editor, MNJ
CAG, Vamsi Kapilavai, Senior Researcher
Hands for Environment and Sustainable Development, Oruba Al-Refai
Forum Environment and Climate Change, Eman Abdelazem, Chairman
Courage California, Raquel Parra, Policy and Partnerships Manager
Fundación El Árbol, María José García Bellalta, CEO
FPD Recycling, Paudy Brien, CEO
Ecological Minarets Association for Development and Climate, Mostafa Benramel, Président
Association marocaine de l'économie verte pour l'environnement et la justice climatique, Hamza Oudghiri, President
Solidar Suisse, Bernhard Herold, Desk Officer Asia
Association APEDDUB, Najoua Bouraoui, Head
OnTo Technology LLC, Lauren Crandon, Director of Engineering
Friends of Penobscot Bay, Ronald Huber, Executive Director
Animals Are Sentient Beings, Inc., Sarah Stewart, President
Elders Action Network, Shirley Freriks, Chapter Leader
Human Environmental Association for Development (HEAD), Marie Therese Merhej Seif, President
Jordanian Society for Desertification Control and Badia Development, Islam Maghayreh, General Secretary
Jordanian Society of Friends of Heritage, Tarik Baniyasseen, President
Sustainable Mill Valley, Marilyn Price, Co-Chair
Together to Protect Human & the Environment Association, Saadiyah Hassoon, President
Arab Group for the Protection of Nature, Hassan Jaajaa, Head of Scientific Committee
Arab Network for Environment and Development, Mohamed Hussein, Project Manager
350 Humboldt, Daniel Chandler, Steering Committee
Asociacion Colnodo Red de Desarrollo Sostenible, Placido Silva
Elder Climate Action, Janice Singer, Co-Lead for Florida ChangeMakers
Inseam, Jose Manuel Gonzalez
Bring Your Own Glen-Ed, Mary Grose, Organizer
Mingas por el Mar, Maria Briz, Project Coordinator
Congregation Kol Shofar, Susan Leider, Senior Rabbi
Marin Interfaith Climate Action, Pat Carlone, Co-Chair
Don't Waste Arizona, Stephen Brittle, President
Green Delaware, Alan Muller, Executive Director
Centennial Parkside, CDC, Sandra Calhoun, Director of Sanitation and Environmental Programming
Science and Environmental Health Network, Ted Schettler, Science Director
The Center for Oceanic Awareness, Research, and Education (COARE), Christopher Chin, Executive Director
Welfare Togo, Djatougbe Rolande Aziaka, President
Land and Human to Advocate Progress, Ziyad Alalawneh, Manager
REDES-Amigos de la Tierra Uruguay, Alberto Villarreal, Economic Justice and Trade Program Coordinator
REMPA, Fabian Carvallo, President
Zero Waste 4 Zero Burning, Linda Gasser, Co-founder
The Caribbean Poison Information, Sherika Whitelocke-Ballingsingh
Eco-Accord, Olga Ponizova, Director
Research Centre for Gender, Family and Environment in Development (CGFED), Hang Pham, Vice Director
Pesticide Action Network in Mexico (RAPAM), Fernando Bejarano, Director
Casa Cem, Vias Verdes. A. C., Sofia Chavez, General Manager
Carbone Guinée, Ibrahima Sory Sylla, President
Zero Waste Romania, Elena Rastei, Director
Kentucky Environment Foundation, Craig Williams, Executive Director
Center to Combat Corruption and Cronyism, Pui Yi Wong, Researcher
Humusz Szövetség, György Szabó, Zero Waste Program Manager
California Safe Schools, Robina Suwol, Executive Director
11ynosvamos, Bernardo Luis, Coordinator
Associação de Combate aos Poluentes (ACPO), Jeffer Castelo Branco, Director