

Basel Action Network Intervention on Technical Guidelines on Electronic Waste

Thank you Mr. President.

This document remains only provisionally adopted due to a very serious and continuing problem BAN and many Parties have with Paragraph 32b of this Guideline which allows a gaping loophole whereby anybody claiming a destination of repair can avoid the Convention entirely and ship their e-waste equipment across the globe with impunity, and this remains a glaring problem -- but we take the floor today to highlight another concern.

BAN has reviewed the work done to update the technical guidelines on the Transboundary Movement of Electronic Waste to incorporate the new listings for hazardous (Annex VIII) and other (Annex II) e-wastes and we applaud that work.

However, we note that there is a mistaken reference several places in the document that refer to the new Annex II entry of Y49 as being "non-hazardous". This is not correct. Annex II was created as a special listing which does not pre-suppose the hazardousness or non-hazardousness of the listing. This is why it is a special Annex and defined as "wastes requiring special consideration". Historically this was created when there was no consensus among Parties during the Convention's negotiations prior to adoption as to whether wastes collected from households and incinerator ashes from the burning of such wastes are hazardous or not. There was an impasse on the topic among countries and thus Annex II was created which was an annex that did not assert one or the other finding.

What the decision at COP15 has done with respect to e-waste is to define what is hazardous and then to assert that all e-waste that is not considered hazardous will not be considered "non-hazardous" but rather be considered as "wastes for special consideration". In this way e-waste is always controlled regardless of whether a definitive determination of its hazardousness is made or not.

If we do not change this in the guideline, then the Guideline is legally incorrect as it refers to Y49 as being non-hazardous e-waste but that is not a proper description of listings in Annex II. The Convention as amended does not discuss non-hazardous e-waste. Annex II never makes such a distinction and therefore the Guideline should not do this either. We hope there is time to rectify this matter prior to final adoption at this meeting.

Thank you co-chair.