

Frequently Asked Questions About the New e-Waste Controls Required by the Basel Convention on January 1, 2025

Questions and Answers provided by Basel Action Network (BAN)

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1. What will happen on January 1, 2025? At that time the Basel Convention which already controls the trade in hazardous e-waste, will, for the first time, require strict controls on the trade in non-hazardous e-waste as well. The new listing of non-hazardous e-waste is known as Y49 in Annex II. The Amendments adopted in June of 2022 will also make the current hazardous e-waste definitions (A1180) more comprehensive and inclusive in a new listing -- A1181 in Annex VIII. The entry into force of these new listings found currently in the [Basel Convention](#) will impact not only all of the 191 countries that are currently Basel Parties (ratified and legally bound by it) but, as we shall see, may also dramatically impact those in non-Party countries such as the United States that are likely to wish to engage in significant trade with Basel Parties.

2. What are these trade controls newly required of Basel Parties for this expanded list of e-Waste? The default control procedure of the Basel Convention, known as PIC (prior-informed-consent), requires all exporters before (prior) engaging in export, to notify their governments that they are planning a waste export. Their government receives the relevant information (informed) on the nature of the waste, where it is going and by what route, and in turn notifies the importing governments and transit governments of the intent to export. If all the governments, exporting states, transit states, and importing states are in written agreement (consent) that the waste will be managed in an environmentally sound way, and there are no other concerns about the shipment, then, and only then can the export proceed. This is the normal default control procedure that applies to the 191 Basel Parties. This PIC procedure has always been the default rule of the road for hazardous electronic waste. What is new is that on January 1, 2025, this PIC procedure will also be the default control procedure applied to non-hazardous waste.

3. What are the impacts on those in the United States -- a country that is not a Party to the Basel Convention? While the Basel Convention rules do not apply directly to entities within non-Party countries like the United States, the impact on non-parties can be even more dramatic because, most countries are Basel Parties and the Convention does not allow, under normal circumstances, for Parties to trade with non-Parties like the United States (Article 4, paragraph 5). The exception to this rule would be to utilize what is known as a valid Article 11 side agreement formed on a bilateral or multilateral basis between one or more Parties, which can include one or more non-Parties such as the United States. To be valid, the side agreement must provide an equivalent level of control that is as environmentally sound as the Basel Convention itself (see Article 11). Currently, the United States is part of a few Article 11 agreements for trading in hazardous waste (e.g. [The Decision of the Council on the Control of Transboundary Movements of Wastes Destined for Recovery Operations, OECD/LEGAL/0266](#), or the [US-Canadian bilateral agreement](#), or the [US-Mexican bilateral agreement](#) but they are only Party to [one valid Article 11 Agreement](#) (with Canada) for *non-hazardous* waste that might* include the new category of non-hazardous e-Waste known as Y49. This means that actors in the US will be violating the laws

of the importing Basel Party countries should they wish to export Y49 non-hazardous e-waste to them after January 1, 2025.

4. Which e-wastes are we talking about with respect to being controlled as Y49? Likely to be included for new trade controls are the following equipment or components, their components, or process residues:

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| --computer power supply units | --routers, modems, TV cable units, UPSs |
| --keyboards, mice, power packs | --vapes, battery-powered appliances |
| --solar panels, solar powered devices | --battery or AC-powered toys, readers |
| --electric car parts, e.g. alternators | --music playing equipment, speakers |
| --household appliances e.g., vacuums | --black mass (processed Li-ion batteries) |
| --non-haz LED monitors, flat screens | --non-haz tablets, computers, printers, etc. |
| --alkaline, or other non-haz batteries not conforming to a specification | --internet-of-things devices, projection equipment |

5. What are some of the types of e-waste which are likely to be controlled as hazardous e-waste category A1181? While hazardous e-waste was always controlled under the Basel Convention as A1180, the new listing of hazardous e-waste (A1181) has become more comprehensive in that it covers whole equipment, components and process residues from all electronic equipment and components, and now likely includes:

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| --laptops, computers, printers, | --mobile phones, tablets |
| --any device with a circuit-board | --any e-waste derived waste containing, lead, cadmium, mercury, asbestos PCBs, brominated flame retardants |
| --any device with cathode-ray-tube | |
| --lithium-ion batteries | |

6. What about tested, working equipment/components for direct reuse? If equipment or components have been tested and shown to be working as originally intended for the primary functions of the device and have a demonstrated re-use market in the importing country, then it will not be considered a waste under the Basel Convention and will, therefore, be exempt from any trade controls. The equipment/components are likely to require a declaration as such. See [Basel Convention Guideline on e-Waste](#) for how to label and declare such exports.

7. What about equipment/components that are not functioning but are destined for repair? The Basel Convention Guideline on e-Waste (not binding on Parties) allows for consideration that exports for repair can be exempt from the definitions of waste under certain conditions (see paragraph 33(b) in the Guideline). However, this interpretation is controversial and is not shared by all Parties. For example, the African Continent's Bamako Convention has passed a decision at their 3rd Conference of Parties calling all non-functional e-waste to be considered as a waste. Certainly, it would be prudent to ensure that both the exporting and importing countries agree to the Basel e-Waste Guideline interpretation before exercising this avenue.

8. Are there any other possible exceptions to the new controls on e-Waste? Yes. Any waste stream derived from electronic equipment that meets the description of any Annex IX (presumed non-hazardous waste list) or another Annex II (waste for special consideration) listing. These will all be presumed to be controlled under the old Annex II or IX listing. The listings of import here include:

-- B1010 Metal and metal-alloy in metallic, non-dispersible form

Cannot contain mercury or fines (e.g. shredded fractions), cannot contain Annex I hazardous materials that exhibit Annex III hazardous characteristics. (Including: **precious metals, iron and steel scrap, copper scrap, nickel scrap, aluminum scrap, zinc scrap, tin scrap, tungsten scrap, molybdenum scrap, tantalum scrap, magnesium scrap, cobalt scrap, bismuth scrap, titanium scrap, zirconium scrap, manganese scrap, germanium scrap, vanadium scrap, scrap of hafnium, indium, niobium, rhenium, gallium, thorium scrap, rare earths metals scrap, chromium scrap.**

-- B1020 Clean uncontaminated metal scrap, including alloys in bulk finished form (e.g. sheet, plates, beams, rods, etc.) of: antimony scrap, beryllium scrap, cadmium scrap, lead scrap (excluding lead-acid batteries), selenium scrap and tellurium scrap.

-- B1040 Scrap assemblies from electrical power generation not contaminated with lubricating oil, PCB, or PCT to the extent to render the hazardous.

-- B1070 Waste of copper and copper alloys in dispersible form unless they contain Annex I constituents to an extent that they exhibit Annex III characteristics.

-- B1090 Waste Batteries conforming to a specification excluding those made from mercury, lead or cadmium (note: all will still need to not contain Annex I constituents to an extent that they exhibit Annex III characteristics, thus we can expect that Lithium-ion batteries will be considered as hazardous waste in due to solvents and flammability.)

-- B1115 Waste metal cables coated or insulated with plastics not listed in A1190, excluding those destined for Annex IVA operations or any other disposal operations involving at any stage, uncontrolled thermal processes, such as open burning.

-- B3011 Plastic Waste (non-hazardous) (Note: This includes clean separated polymer streams, the only mixture allowed being PP, PET and PE. Wastes cannot contain halogens except for those listed as, and cannot be destined for incineration, final disposal or waste-to-energy operations, waste cannot be contaminated)

-- Y48 Plastic Waste (plastic wastes for special consideration and thus subject, at a minimum to PIC trade procedure) (Note: this list contains those plastics largely not subject to consideration as B3011 above.)

9. Are there any possible avenues for US export of Y49 to OECD Countries now or in the future? Possibly. As noted above Canada and the EU have indicated that they will seek to apply the PIC procedure for all imports from OECD countries, presumably, including the US, but it's not clear on a legal basis that will be used as the OECD agreement does not include Y49 due to Japan's objection to adopting it within the OECD Council Decision Article 11 agreement. It appears that Japan is poised to abandon its Basel obligations with respect to OECD countries and may allow the old OECD electronics listings to be imported as green listed (not subject to controls of any kind) as before January 1, 2025. Finally, it may be possible, if both OECD countries agree, to allow Y49 to be exported and imported as hazardous waste (A1181), using the PIC procedure. Exports from the US to non-OECD Basel Parties would be forbidden however due to Article 4a of the Basel Convention.

10. If the US were to ratify the Basel Convention what would change? The United States has certainly let itself become an outlier in the world's waste trading rules. There are only 5 countries left in the world that have not become Parties to the Convention. These countries are Haiti, Fiji, South Sudan, East Timor and the US. If the United States were to finally ratify the Basel Convention, a lot would change for the betterment of the environment. First, and most importantly, the US government would finally have the authority to prevent the indiscriminate dumping of hazardous and other wastes from the US to other countries. With respect to this discussion, the Party to non-Party ban would no longer be in effect and thus all of the new Annex II waste listings -- Y48 (e.g. mixed and contaminated plastics) as well as Y49 (non-hazardous e-waste) would no longer be *prohibited* from import or export from or to the United States but rather could be traded subject to PIC controls. Exports of hazardous wastes (e.g. Annex VIII listed wastes) would be allowed to be traded with the PIC procedure between the group of countries known as Annex VII (OECD/EU/Liechtenstein and including the US) but would not be allowed to be exported from that group to other countries (see Article 4a -- The Basel Ban Amendment). Hazardous wastes would be allowed to be imported from the non-Annex VII countries (e.g. developing countries) to Annex VII (e.g. developed) countries and could provide a source of new income for recyclers. BAN fully supports US ratification of the Basel Convention as long as the implementation legislation fully respects and enacts the Basel Ban Amendment, and all other major obligations of the Convention as intended.

**Note: While theoretically the recent US-Canada Arrangement would legally encompass Y49, and provides for free trade between the two countries, the Canadian government has noted in conversations with BAN that they will be requiring the PIC procedure for trade in Y49 between the US and Canada. It is uncertain to date which legal basis will be used for the PIC procedure. Likewise, it is unclear upon which legal basis European countries might likewise allow for trade with the US in Y49.*



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