

Exporting Harm: The High-Tech Trashing of Asia

The Canadian Story



Prepared by the Basel Action Network
22 October 2002

Introduction

On February 25th of 2002, the Basel Action Network and the Silicon Valley Toxics Coalition, with support from other environmental organizations around the world, released its report "Exporting Harm: The High-Tech Trashing of Asia." This report sent shockwaves around the world and in particular within the electronics and electronics recycling industries. This supplement, dealing with the special case of Canada, is meant to be read in conjunction with that report. Copies of "Exporting Harm: The High-Tech Trashing of Asia" are available at the BAN or SVTC websites: www.ban.org and www.svtc.org.

The primary findings of our report that focused primarily on the US are virtually identical with respect to Canada, except that in Canada the export of hazardous electronic waste is illegal due to Canada's obligations under the international treaty called the Basel Convention.

The primary findings of “Exporting Harm”, as amended to reflect the actual Canadian situation, is as follows:

- **Millions of pounds of electronic waste (E-Waste) from obsolete computers and TVs are being generated in the U.S. and Canada each year and huge amounts -- an estimated 50% to 80% collected for recycling from each country -- are being exported to developing countries.**
- **This export is due to cheaper labor, lack of environmental standards in Asia, and because such export, while illegal under binding international law, is not being prohibited by Canadian authorities.**
- **The E-waste recycling and disposal operations found in China, India, and Pakistan are extremely polluting and likely to be very damaging to human health and the environment. Examples include open burning of plastic waste, exposure to toxic solders, ashes and emissions, river dumping of acids, and widespread general dumping.**
- **Contrary to the principles of environmental justice, Canada, rather than strictly controlling or forbidding the export of toxic E-waste to developing countries, is actually facilitating the export.**
- **China has banned the import of E-Waste and yet Canada refuses to honor that ban by furthering the exports of E-Waste into China in direct contravention of the Basel Convention.**
- **Due to a severe lack of responsibility on the part of the Canadian government and the electronics industry, consumers, recyclers and local governments are left with few viable, sustainable options for E-waste.**

In sum, there is a close similarity with respect to Canada’s export of hazardous E-waste and the United States’, except for the fact that Canada’s exports are clearly illegal under its international law obligations and thus, the Canadian government can be said to be even more culpable in allowing such export to take place.

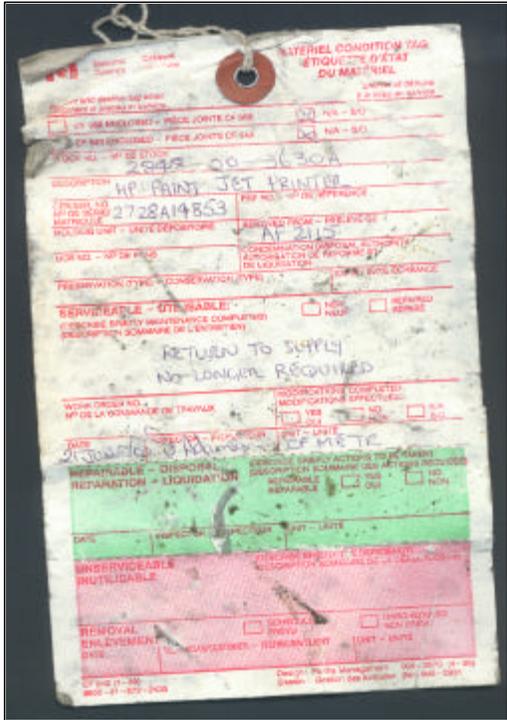
The opportunity to change Canada’s ways with respect to its hazardous waste exports is upon us. Environment Canada is currently in the process of rewriting its “Export and Import of Hazardous Waste and Recyclable Materials Regulations”, and yet current drafts do not address the serious issues explored below. It is imperative that such changes are made to address Canada’s “dirty little secret” of its high-tech revolution – the trashing of Asia.

Below we will explore some of the evidence of Canadian exports to Asian destinations and then discuss the legal questions involved.

Canadian Hazardous Electronic Waste in China

While in the region known as Guiyu in the Guangdong province of China, the BAN investigative team came across a very large shipment of E-waste that seemed to have all originated from Vancouver, British Columbia. Institutional labels and service agreements found taped or attached to the various electronic wastes proves this fact. Among the labels found:

- ❑ An official Material Condition Tag from the **National Defense Department of Canada**, stating “No Longer Required – Return to Supply” for an HP Jet Printer. (see photo at left)
- ❑ A tag off of a computer or printer from **Air Canada** (Phone number in Vancouver: 604-270-5835)



National Defense Department of Canada tag found in Guiyu, China. December 2001. © BAN

- ❑ Roland Digital Group product label from **Roland DG Canada, Inc.**
- ❑ A service record of a printer with the Name: **Eastons Snelgrove**, 2030 Marine Drive, 414-545 West Vancouver.

All of these labels were attached to waste printers or computers containing leaded circuit boards and/or cathode ray tubes (CRTs), both of which are considered as hazardous waste under the Basel Convention (see explanation below). Canada is a full party to this international treaty and as such must adhere to strict obligations with respect to export of Basel-listed hazardous wastes. The presence of undisputable Canadian E-waste in Chinese soil is evidence of Canada's breach of its treaty obligations.

Amount Exported by Canada

Data, particularly, amount of exports of E-waste are very difficult to come by as the government and customs officials don't keep them for any reason.

However, we can try for rough estimates. Figures provided in a report entitled Information Technology

and Telecommunication (Telecom) Waste in Canada claim that about 80,000 tonnes of computers were discarded in Canada in 1999, with an expected 60% increase by 2005 – 170,491 tonnes. 15% of those discards were estimated to be destined for recycling facilities in 1999, and 25% estimated in 2005. Using figures of 50-80% rate of export estimated by industry insiders, we can expect that 7,796 (50%) to 12,474 (80%) were exported in 1999, and it will be an expected 21,714 tonnes (50%) to 34,742 tonnes (80%) in 2005. A rough estimate, therefore, for computer waste exports from Canada to Asia in 2002 would be around 20,000 tonnes.

One Vancouver Exporter – Electronics-Recycling.com

Vancouver, BC is home to one of the more visible exporters of electronic waste in western Canada -- a company called Electronics-Recycling.com (Canada) Ltd (ERC). According to Brian Martell, VP of Operations at ERC, in a phone conversation on October 21, 2002, ERC exported about 25 million pounds (5,000 metric tonnes) of E-waste in the last year. Industry insiders tell us that this is the equivalent of about 400 - 500 sea-going containers. In a report released by Environment Canada, ERC was described to have exported most of the 7,000 tons of E-waste it collected from Western Canada to its facility in China in 2000.¹

According to information available on their website and e-mail dialogue with their president, Edward Wu, ERC is 'partnered' with a facility (or "many factories") called Electronics-Recycling.com (China) Ltd., located in Jiangsu Taicang Importing and Processing District in the southern region of Jiangsu Province in China. Some pictures of their Chinese facilities can be viewed on the World Wide Web:

<http://www.electronics-recycling.com/english/process.htm>

¹ INFORMATION TECHNOLOGY (IT) AND TELECOMMUNICATION (TELECOM) WASTE IN CANADA, ENVIRONMENT CANADA, October 2000.



Recycling Depot



Processing Building

ERC has in the past, and is currently, aggressively pursuing large volumes of electronic waste not only in Canada, but also more recently in Portland, Oregon, USA, where they have leased a large warehouse for collecting electronic wastes from the USA. Although president Edward Wu and his former operational manager Burt Kelm refrained from ever using the words “export” or “China” during their public presentation at the recent Recycling Council of British Columbia (RCBC) conference in May of this year, their company has been in the business of collecting massive amounts of electronic waste and sending it Offshore.

Vancouver’s Electronics-Recycling.com exported about 25 million pounds (5,000 metric tonnes) of E-waste in the last year.

In a phone conversation with Mr. Wu on October 17, 2002, Mr. Wu called ERC’s Vancouver facility “just a collection site”, and said that “at the moment I am not shipping to China,” and stated that this has been the case since August 15th – a date when China reiterated and strengthened its domestic ban on importing E-waste. When asked where his material is now processed, he responded by saying it stays “within the company system”, but would not tell us where those facilities are. Given that the ERC website lists Korea, China, Philippines, and Egypt across the top of its homepage, one can only surmise that “within the company system” could easily include exporting to other developing nations.

Instead of presenting themselves as exporters, ERC describes their business as *the* environmental solution to everyone’s electronic waste problem, including the “residential, retail, commercial, institutional and governmental sectors”, according to their marketing material. Their website (www.electronics-recycling.com) claims they avoid (presumably in China) burying, burning, leaching or landfilling any waste whatsoever – hazardous or otherwise.

While ERC’s efforts to avoid incineration and landfilling may be laudable, they claim to avoid these by mixing the inevitable waste at the end of recycling processes, with a resin, in order to create new products out of it. “Circuit board residue and glass (fibre) residue are blended into kinds of special resins we [ERC China] developed as filler to produce a plastic lumber used in floor tile, wall tile, roof tile and various other related products. 0.3% mixed metal still remains in the mix. Today’s technology will reduce to 0.1%.”²

What isn’t mentioned is that any time hazardous materials are ‘recycled’ or processed, there is always end-waste that will likely contain immortal elements such as lead, mercury and cadmium or very persistent organic pollutants (POPs) such as brominated flame retardants. Even if ERC is able to accomplish these processes as stated, it is still questionable whether it is environmentally appropriate to place toxic end-waste material into building materials and other consumer products, and whether such

² See <http://www.electronics-recycling.com>.

products are labeled as containing toxic contaminants before they are put into use in China or shipped around the globe.

Furthermore, ERC repeatedly claims – on their website, in presentations and sales pitches - to have permits from the Chinese government for their E-waste processing plant in China, which would seem to contradict China's total ban on importing E-wastes. Indeed, the International Bureau of Recycling (BIR), headquartered in Brussels, Belgium, has reported this ban to all of their global recycling industry members to make them aware not to export electronic wastes to China.

In an effort to reconcile the discrepancy between the Chinese import ban and the claim of ERC in China to have the legal permits to import them, the Basel Action Network (BAN) has repeatedly requested that Mr. Wu show BAN these permits, if they exist. As of this writing, Mr. Wu has refused to send us copies of the alleged permits.

BAN has repeatedly requested that Mr. Wu show BAN these permits, if they exist. As of this writing, Mr. Wu has refused to send us copies of the alleged permits.

Mr. Wu followed up a civil confrontation with BAN at the RCBC conference by offering to send BAN to his company facilities in China in order to prove that they are environmentally sound. When BAN requested to first see the permits from the Chinese government before making such a trip, Mr. Wu angrily withdrew his offer, saying permits were not necessary to see.

Some of the latest services reportedly offered by ERC include providing shipping containers at established collection sites, not only to collect most electronic waste, but in some locations, to also collect additional solid wastes such as plastics, small batteries, cardboard and Styrofoam, which will be commingled with electronics in one container. All of this is designed to be highly user-friendly, as Electronics-Recycling.com is hoping to convince local governments and recycling businesses to let them take away Canada's waste problems. With the breadth and scope of services ERC is offering, the question still remains that if their hazardous E-waste is not being processed in Canada or China, as ERC claims, then where is it being processed?

Canada in Violation of Their Treaty Obligations

I. OECD Decision-Recommendation

In 1986, the Organization for Economic Cooperation and Development (OECD) adopted Council Decision-Recommendation C(86)64(final)³ (OECD Decision) which has to do with hazardous wastes exported from the 30 developed nations who comprise the OECD. Decisions of the OECD Council are legally binding upon Member countries at the time of the adoption of the decision.⁴ Since Canada was a member country in 1986, the OECD Decision is legally binding on Canada. Some of the more pertinent, OECD Decision elements that Canada agreed to implement are as follows:

³ Decision-Recommendation of the Council on Exports of Hazardous Wastes from OECD the Area, 5 June 1986, C(88)90(Final) *see* <http://www.oecd.org>. Note that Decision-Recommendations include both Decisions and Recommendations.

⁴ Art. 5(a), OECD Convention, *see* <http://www.oecd.org>.

- i. Monitor and control exports of hazardous wastes to a final destination which is outside the OECD area; and for this purpose shall ensure that their competent authorities are empowered to prohibit such exports in appropriate instances;

>> Reality in Canada today: Canadian competent authorities are empowered to forbid exports but remarkably do not consider electronic wastes to be hazardous waste.

- ii. Apply no less strict controls on transfrontier movements of hazardous wastes involving non-member countries than they would on movements involving only Member countries;



Women picking through wires torn out of computers. The wires are sorted by day and burned by night in this village. The families live right in the burn yards. Cancer causing polycyclic aromatic hydrocarbons and dioxins will result from burning wires made from PVC and brominated flame retardants. Guiyu, China. December 2001. © BAN

>> Reality in Canada today: Transfrontier shipments between OECD Member States of CRTs and/or CRT glass, for example, must in fact be controlled within the OECD as it is part of the “amber” list under Council Decision C(92)39/Final, as amended by C(2001)107/Final⁵ (governing recycling trade in hazardous wastes between member states). Thus, in fact, Canada is violating this provision.

- iii. Prohibit movements of hazardous wastes to a final destination in a non-Member country without the consent of that country and the prior notification to any transit countries of the proposed movements;

>> Reality in Canada today: Canada does not require the consent of the receiving country for hazardous electronic waste exports and thus, is in clear violation of this obligation.

- iv. Prohibit movements of hazardous wastes to a non-Member country unless the wastes are directed to an adequate disposal facility in that country.

⁵ See <http://www.oecd.org/pdf/M00029000/M00029772.pdf>

>> Reality in Canada today: Canada exercises no control, nor shows any concern as to whether the hazardous electronic wastes they export are destined for adequate facilities.

II. The Basel Convention

The Basel Convention on the Control of the Transboundary Movements of Hazardous Wastes and Their Disposal (Basel Convention)⁶, to which Canada is a full and active party, has many more obligations than its precursor, the OECD C(86)64(final) regime. Some of the more significant obligations are listed below:

- i. Parties shall prohibit or shall not permit the export of hazardous wastes or other wastes, to the Parties which have prohibited the import of such wastes, when notified pursuant to subparagraph (a) above. (Article 4,1, b)
- ii. Wastes that are not covered under paragraph (a) [list of wastes in annexes] but are defined as, or are considered to be, hazardous wastes by the domestic legislation of the Party of export, import or transit shall be hazardous wastes for the purposes of the Convention. (Article 1, 1, b)

>> Reality in Canada today: Canada outrageously has ignored fellow Basel Party country China in their import ban on electronic wastes. Even if Canada's interpretation that electronic waste is not hazardous was correct, they are still forbidden to export to countries that have banned the import of these wastes as these countries consider these wastes hazardous under their national law. Basel Parties are obliged to respect the bans and definitions of other Parties such as China in this case. (more on this in Part IV below)

- iii. Parties are to take the appropriate measures to ensure the availability of adequate disposal facilities, for the environmentally sound management of hazardous wastes and other wastes, that shall be located to the extent possible, within it, whatever the place of their disposal. (Article 4, 2, b)

>> Reality in Canada today: Contrary to this requirement of national self-sufficiency for hazardous waste management, Canada has seen fit to export much of its electronic waste problem, rather than build up waste prevention legislation and recycling infrastructure domestically.

- iv. Parties are to take the appropriate measures to ensure that the transboundary movement of hazardous wastes and other wastes is reduced to a minimum consistent with the environmentally sound and efficient management of such wastes, and is conducted in a manner which will protect human health and the environment against the adverse effects which may result from such movements. (Article 4, 2, d)
- v. Parties are to take the appropriate measures to not allow the export of hazardous or other wastes to a State, particularly developing countries, which have prohibited by their legislation all imports, or if it has reason to believe that the wastes in question will not be managed in an environmentally sound manner. (Article 4, 2, e)

>> Reality in Canada today: Canada has taken no precautions to ensure that the hazardous electronic wastes exported from their territory are being handled in an environmentally sound manner. Since the publishing of "Exporting Harm", Canada has done nothing to stem the tide of export to such disastrous recycling operations as found in China, India and Pakistan.

⁶ See <http://www.unep.ch/basel/text/text.html>

Likewise Canada has taken no steps to minimize such transboundary movements of hazardous waste.

- vi. Parties shall prohibit or shall not permit the export of hazardous wastes and other wastes if the State of import does not consent in writing to the specific import, in the case where the State of import has not prohibited the import of such wastes. (Article 4, 1, c)



Laborer heating *aqua regia* – a mixture of 25% pure nitric acid and 75% pure hydrochloric acid – a mixture that will dissolve gold. Without any respiratory protection workers inhale acid fumes, chlorine and sulphur dioxide gas all day as they swirl computer chips removed from circuit boards in acid to collect tiny amounts of gold. The sludges from the process are dumped directly into the river. Guiyu, China. December 2001. © BAN

>> Reality in Canada today: Canada has not required that notifications be sent and consent be given by the recipient government, prior to export of hazardous electronic wastes.

- vii. The Parties consider that illegal traffic in hazardous wastes or other wastes is criminal. (Article 4, 3)
- viii. For the purposes of this Convention, any transboundary movement of hazardous wastes or other wastes without notification and consent pursuant to the provisions of this Convention shall be deemed to be illegal traffic. (Article 9, 1, a and b)

>> Reality in Canada today: All parties, including government officials who conduct illegal traffic in hazardous electronic waste should be held criminally liable.

III. Canada's Incorrect Claim that Electronic Waste is not Hazardous Waste

The only possible excuse Canada could have for ignoring the obligations of either the OECD or the Basel treaties highlighted above is to claim that electronic wastes do not fall under the scope of Council Decision-Recommendation C(86)64(final) nor the Basel Convention. So we shall examine the definitions

of hazardous waste under these agreements. The definitions in the two treaties are virtually identical with the primary difference being that the Basel Convention has better elaborated and specified what waste streams are to be considered hazardous than the older OECD agreement.



Typical E-Scrap operations in Guiyu, China. 100,000 such migrant workers labor in Guiyu breaking down imported computers in hundreds of small operations like this one in a 4 village area surrounding the Lianjiang River. Guiyu, China. December 2001. © BAN

OECD Decision-Recommendation Definitions of Hazardous Waste

The definitions applicable to C(86)64(final) that have to do with wastes exported from the OECD area have been amended to those found in Council Decision C(88)90(Final)⁷, which in turn has been amended by C(94)152(Final)⁸.

The definition of hazardous waste in C(94)152(Final) calls any waste listed in a core, Y list of hazardous constituents to be controlled as a hazardous waste, as long as they possess hazardous characteristics listed in Table 5. The Y list includes lead, listed as Y31 – “Wastes having as constituents lead or lead compounds”. Table 5 includes substances considered H11 -- “toxic”, H12 -- “ecotoxic” and H13-- “capable, by any means, after disposal, of yielding another material, e.g. leachate, which possesses any of the characteristics listed above.”

Clearly, lead, listed as Y31 (“Wastes having as constituents lead or lead compounds”) from CRTs and circuit boards has been demonstrated to create toxic lead leachate by virtue of their failure to pass the Toxic Characteristic Leachate Procedure (TCLP) test’s threshold of 5mg/l (see below for more detail). So, it is clear that CRTs and circuit boards, as well as equipment containing CRTs, CRT glass or circuit boards fall under the OECD Council Decision-Recommendation C(86) 64 (final) having satisfied both the list and Table 5.

⁷ OECD Council Decision C(88)90(final), *see*

<http://www.olis.oecd.org/horizontal/oecdacts.nsf/a0da5457376d5a1f412569750054d65b/eca14832de914b75c1256acb005158fb?OpenDocument>

⁸ OECD Council Decision C(94)152 (final), *see* [http://www.olis.oecd.org/olis/1994doc.nsf/linkto/c\(94\)152-final](http://www.olis.oecd.org/olis/1994doc.nsf/linkto/c(94)152-final)

Canada's claim that CRTs and circuit boards are not hazardous as they do not leach lead while in the state in which they are being transported, is clearly out of step with all norms of hazardous waste definitions.

Canada's claim (phone conversation between BAN and Suzanne Leppinen of Environment Canada) that CRTs and circuit boards are not hazardous as they do not leach lead while in the state in which they are being transported is clearly out of step with all norms of hazardous waste definitions. The definitions of hazardous waste in the OECD and Basel regimes have never been dependent on whether the material only causes harm during transport. If that were the case, well-packaged pure PCBs, asbestos or pure dioxin would fail to qualify as hazardous waste. Rather the definitions refer to inherent characteristics of wastes that may cause harm at any point in their existence after being defined as waste.



BAN investigator Clement Lam taking a soil sample along riverside where circuit boards were treated with acid and burned openly. Massive amounts of dumping of imported computer waste takes place along the riverways. Guiyu, China. December 2001. © BAN

One of the standard tests for determining whether or not some wastes will create harm over time in a land disposal situation is the TCLP, which as of 15 August 2002, Canada is said to have adopted. This test is a means to determine inherent hazardousness of wastes under the Basel and OECD H13 characteristic (“capable, by any means, after disposal, of yielding another material, e.g. leachate, which possesses any of the characteristics listed above”). The key words here are “capable” and “after disposal”. In other words the material has the *capability* or potential to create hazard “*after disposal*”. This test involves methods that simulate beforehand the capability to leach after disposal. This is done by cutting down the material to about a 9mm round size, and using solvents to simulate leaching characteristics through time in land disposal situations.

The statement by Environment Canada that CRTs and circuit boards are not hazardous because while the wastes are transported they are not subject to cutting and are not soaked in solvents is absurd; it is an incorrect interpretation of what a TCLP is all about and what the hazardous characteristic H13 actually states. By such incredible reasoning, nothing will fail the TCLP that is transported because nothing that is transported is going to be shredded down to small sizes and then soaked in solvents. Likewise anything well-packaged will not be considered hazardous waste. However, this is clearly not what the OECD and Basel Convention hazardous waste definitions conclude – this is a fabrication of Canada alone.

According to Canada, anything well-packaged will not be considered hazardous waste. However, this is clearly not what the OECD and Basel Convention hazardous waste definitions conclude – this is a fabrication of Canada alone.

Basel Convention Definitions of Hazardous Waste

The Basel definitions of hazardous waste, at their core, also rely on the Y and H listings. But for practical reasons the Basel Parties in 1997 adopted two new annexes that help clarify *when* waste actually meets *both* the Y listing *and* the H characteristic, and thus is *presumed to be hazardous* by the Parties. Annex VIII is a list of waste streams presumed to be hazardous and Annex IX is a list of wastes presumed to not be hazardous.

On Annex VIII (presumed to be hazardous) are the following listings:

A1180 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.

A2010 Glass waste from cathode-ray tubes and other activated glasses

With respect to A2010, Cathode Ray Tubes or CRTs, under the Basel Convention, regardless of whether or not the CRT, or CRT glass, is going for repair, recycling or reclamation, is processed or not, or is generated by a small quantity generator – it is all considered hazardous waste by virtue of its hazardous constituents, its hazardous characteristics and its ultimate type of destination. There can be little room for interpretation on this one as CRTs do not vary much in their characteristics and the Parties in their Working Group of Technical Experts (including Canada's representative) already presumed these to be hazardous. There is virtually no wiggle room for Canada to suddenly claim that these don't meet the tests of the Y and H lists, because that is what Annex VIII is all about – a shortcut for regulators to know whether or not a Y listed waste indeed possesses a hazardous characteristic.



Broken leaded cathode ray tube (CRT) glass found dumped in rice irrigation canals now turned into disposal sites for imported computer monitors. Guiyu, China. December 2001. © BAN

With respect to circuit boards, they are known to fail the TCLP test at levels far exceeding those of CRTS and thus fall into A1180 quite readily. Indeed, this was the correct interpretation of Australia – a country that usually sees eye to eye with Canada in all things Basel Convention-related⁹. Furthermore, Environment Australia concluded that due to the high level of failure of the TCLP by lead based soldered circuit boards, equipment containing circuit boards (such as whole computers and other electronic equipment) were also a hazardous waste under the Basel Convention. This interpretation is the obvious and proper one for Canada and all other countries with respect to defining electronic waste as hazardous under the Basel Convention. Again a plain reading of A1180, in good faith, creates certainty that there is virtually no room for interpretation in this regard.

With respect to circuit boards, they are known to fail the TCLP test at levels far exceeding those of CRTS

IV. Exports to China

Even if Canada believes they have wiggle room under the hazardous waste definitions of the Basel Convention, (a possibility that still stretches the limits of credibility), they cannot evade the fact that with respect to exports to China, which BAN has fully documented, these exports are illegal. This is due to the fact that the Basel Convention forbids Parties from exporting wastes to other Parties that have, by their own national laws deemed a material to be a hazardous waste.

The Basel Convention defines hazardous waste in two ways. First it lists them in Annex I and Annex VIII. But in addition to these lists, any wastes that a Party deems as hazardous are also under the scope of the Convention:

The following wastes that are subject to transboundary movement shall be “hazardous wastes” for the purposes of this Convention:

- (a) Wastes that belong to any category contained in Annex I, unless they do not possess any of the characteristics contained in Annex III; and*
- (b) Wastes that are not covered under paragraph (a) but are defined as, or are considered to be, hazardous wastes by the domestic legislation of the Party of export, import or transit.*

In Article 3, the Convention asks Parties to report their national definitions of hazardous wastes and applicable control procedures for transboundary movement to the Secretariat of the Basel Convention who in turn must communicate this to the Parties.

In Article 4, it is made manifestly clear that export of hazardous wastes (including those defined as such by the domestic law of Parties) to countries that have banned their import is illegal.

GENERAL OBLIGATIONS

1. (a) Parties exercising their right to prohibit the import of hazardous wastes or other wastes for disposal shall inform the other Parties of their decision pursuant to Article 13.

(b) Parties shall prohibit or shall not permit the export of hazardous wastes and other wastes to the Parties which have prohibited the import of such wastes, when notified pursuant to subparagraph (a) above.

⁹ Australia’s entire interpretation of electronic waste under Basel can be found at: <http://www.nrc-recycle.org/resources/electronics/docs/tg352.pdf>

(c) Parties shall prohibit or shall not permit the export of hazardous wastes and other wastes if the State of import does not consent in writing to the specific import, in the case where that State of import has not prohibited the import of such wastes.

Since April of 2000, the Chinese government has banned the import of certain electronic wastes including cathode ray tubes, copiers, telephones and computers. This ban was made public in SEPA Document No. 19/2000 of January 24, 2000 in a document entitled "Notification on Import of the Seventh Category of Wastes." This year on August 15, the government extended the list to more explicitly include such electronic wastes as printed circuit boards, keyboards and mice (data entry devices), printers, fax machines etc. The complete list can be seen on at: <http://www.ban.org/Library/chinese.gif>

Since April of 2000, the Chinese government has banned the import of certain electronic wastes including cathode ray tubes, copiers, telephones and computers.

These laws have been widely publicized in international media and trade journals, and China has even reported their ban to the Basel Secretariat. It is impossible to believe, therefore, that Canada is not well aware of this situation.

V. The Basel Ban Amendment

The Basel Ban Amendment¹⁰ was passed in 1994 at the insistence of developing countries. It was then transformed into an amendment to the Convention in 1995. The Ban Amendment, upon entering into force will effectively ban all exports of hazardous wastes from any countries belonging to a list comprising OECD countries and Liechtenstein to non-OECD countries for any reason. This decision was passed by consensus twice and has already been implemented by all 15 European Union countries. It is viewed as a landmark decision and the first of its kind dealing with international environmental justice. The Basel Ban is designed for two fundamental reasons. First, it prevent the poor from being forced to accept a disproportionate burden of poison simply because they are poor. Second, when cheap and dirty outlets for pollution are closed, it serves as a powerful incentive to ensure that waste producing countries deal with waste issues upstream through clean production methods.

The Basel Ban is designed for two fundamental reasons...it prevents the poor from being forced to accept a disproportionate burden of poison simply because they are poor...and, it serves as a powerful incentive to ensure that waste producing countries deal with waste issues upstream through clean production methods.

It is unacceptable that despite repeated urgings by the Contracting Parties of the Basel Convention¹¹ calling on all Basel Parties to ratify the Basel Ban Amendment at the earliest possible date, Canada has ignored these pleadings and is known to openly oppose the Amendment. Indeed, Canada was one of the principle Parties that in 1998 attempted to dramatically weaken the Amendment prior even to its entry into force. At that meeting (COP IV) Canada was rebuffed in its effort and its delegate stormed out of the meeting in a rage after being defeated in his efforts to water down the Amendment.

¹⁰ <http://www.unep.ch/basel/pub/BaselBan.html>

¹¹ Decision IV/8, Decision V/3 of Basel Convention.

It is unacceptable that despite repeated urgings by the Contracting Parties of the Basel Convention calling on all Basel Parties to ratify the Basel Ban Amendment at the earliest possible date, Canada has ignored these pleadings and is known to openly oppose the Amendment.

Canada, especially now, when we see that its hazardous waste exports to developing countries are beyond all control, must cease its inexplicable and unwarranted opposition to the Basel Ban Amendment and simply ratify it and join the rest of the globe in closing the sad chapter of waste colonialism.

V. Conclusion

It is clear that much like the United States, Canada has been exporting very significant quantities (20,000 our estimate) of hazardous electronic wastes to China and perhaps to other Asian countries for several years now. BAN has physically brought back proof of Canadian exports of this material to China – even from the Canadian National Department of Defense.

It is estimated by industry insiders that about 50-80% of the electronic waste that is currently sent to recyclers in Canada and the United States are not recycled domestically at all, but are very quickly placed on container ships bound for destinations like China. This toxic trade is an export of real harm to the poor communities of Asia and is an affront to international environmental justice as it clearly places a disproportionate burden of harm on people simply because they are poor. The open burning, acid baths and toxic dumping pour pollution into the land, air and water, and exposes men, women and children of



Meeting of the Basel Convention, which in 1995 passed an amendment to the Convention that places a full ban on all exports of hazardous wastes from developed to developing countries. Canada refuses to ratify this ban and in fact is taking every opportunity to weaken this ban. © BAN

Asia's poorer peoples to poison. The health and economic costs of this trade are vast and, due to export, are not born by the western consumers nor the waste brokers who benefit from the trade.

The export of hazardous electronic waste by Canada to Asia, is not only an affront to environmental justice, but also to the principles of producer responsibility, clean production and pollution prevention. Such export stifles the innovation necessary to actually solve the problem at its source – upstream at the point of design and manufacture. As long as manufacturers can evade paying the ultimate costs of their hazardous products via eventual export to Asia, they can delay aggressively deploying their ingenuity to make sure their products are less toxic and burdensome to the planet.

The export of hazardous electronic waste by Canada to Asia, is not only an affront to environmental justice, but also to the principles of producer responsibility, clean production and pollution prevention.

Until now, the export of E-waste remained a dirty little secret of the high-tech revolution. Scrutiny of it has been studiously avoided by the electronics industry, by government officials and by many involved in E-waste recycling. This, often willful denial, has been aided by the cynical labeling of this trade with the ever-green word – “recycling”.

Despite Canadian governmental claims to the contrary, this export is illegal and in contradiction to Canadian obligations under the Basel Convention – an international environmental treaty to which they are a full party. The Canadian government’s claim that electronic waste is not hazardous simply because it is in assembled form is spurious both from a legal and scientific point of view. Even if such claims could legitimately be asserted, China’s ban on the import of E-waste establishes Canada’s culpability under international law.

Despite Canadian governmental claims to the contrary, this export is illegal and in contradiction to Canadian obligations under the Basel Convention.

Canada’s refusal to honor its obligations in the Basel Convention follow a longer track record within that Convention of refusal to promote international environmental justice in its resistance to a global community decision to put a halt to economically motivated toxic waste trade via a full global ban. This ban on the export of hazardous wastes from OECD (the group of richer, industrialized, developed countries) to non-OECD countries, was passed against Canada’s wishes as a Basel Convention decision in 1994 and passed again against Canada’s wishes as an amendment to the Basel Convention in 1995. Canada, throughout that process from 1992 to this day, has worked vigorously in opposition to this Basel Ban Amendment which is now seeking the necessary ratifications to enter into force. Indeed, Canada led a charge by a handful of rich countries including the United States, in 1998 at the 4th Conference of the Basel Parties, to weaken the ban even prior to its entry into force by promoting a decision that would change the ban to be a voluntary, opt-in, opt-out ban. The global community overwhelmingly rebuffed this effort. Yet Canada’s active opposition to the Basel Ban Amendment remains to this day.

Currently Canada is revising their waste export and import regulations. This revision process provides the opportunity to rectify past policy.

It is high-time that Canada as a nation immediately reverse its regressive policy of using the poor communities of the world as cheap escape valves for their industries’ and consumers’ toxic, post-

consumer waste. Currently Canada is revising their waste export and import regulations. This revision process provides the opportunity to rectify past policy. They must immediately announce a *prohibition on the export of hazardous electronic wastes* including whole computers and monitors and define such as hazardous waste as does the rest of the world. Furthermore, they must immediately take steps to *join* the 31 countries (including the all of the European Union states) that have already joined a global call to ratify the Basel Ban Amendment and once and for all end the sad chapter of waste colonialism.

END

BASEL ACTION NETWORK (BAN) -- SECRETARIAT

c/o Asia Pacific Environmental Exchange (APEX)

1305 Fourth Ave., Suite 606

Seattle, Washington 98101 USA

Phone: 1.206.652.5555, Fax: 1.206.652.5750

Email: info@ban.org

Website: <http://www.ban.org>