

## BAN Intervention on TBM Guideline

Thank you Mr. Chair. As many of you know, BAN was the organization that first brought the problem of the mass dumping of electronic wastes on developing countries to global attention. That was in 2002, 15 years ago, and at that time the word recycling was used as the green password to justify these unsustainable exports that have left swaths of China and Africa contaminated, to say nothing of the irreversible human health impacts. Recycling was the pretext.

Then in 2006 we likewise exposed similar dumping in West Africa, but this time the pretext was "reuse". We documented all manner of obsolete, broken hazardous electronic waste being exported by developed nations "for repair and reuse", but most of the equipment was not economically repairable and when it could be repaired, the repair entailed the dumping of hazardous residues and parts.

We brought the issue of this new form of toxic trade for reuse and repair to the European Union, and to the Basel Convention. Almost all countries agreed that the basic rule should be that if electronic equipment is untested, or tested and found to be not functional then it must be considered a waste and subject to the Convention. This position was, in fact, incorporated into the Mobile Phone Partnership Initiative and PACE Guidelines.

But then, when the Parties requested a formal technical guideline to provide a single interpretation of the Basel Convention for trade in e-wastes, we were all surprised to find that manufacturers pushed a new agenda. This new agenda proposed removing repairables from the Convention -- as a non-waste. This position was taken on by some by some powerful developed countries. Even the EU, which had previously made the greatest strides in legislating against exports of broken equipment, all pushed for this sweeping, "repairables loophole" in the Technical Guideline as a new paragraph 31(b).

Of course, this "repairables" exemption was not easily accepted by developing countries. Developing countries already inundated with electronic junk, know that anything can be claimed to be repairable, and traders would certainly make such claims in order to take advantage of a new era of a free trade in e-waste -- all done outside of Basel controls.

This new "repairables loophole" runs contrary to the rules already established in the WEEE directive by the EU, is in direct opposition to decisions taken at the Bamako Convention, and is contrary to what many in Asia and GRULAC countries have already agreed. Further, this new loophole would be an obvious way to circumvent the Ban Amendment even before its entry into force.

At COP12, there remained strong disagreement to the very end on this matter. But there was also a strong desire after more than 3 years of work to adopt a document. So instead of completing the guideline later, or removing the unfinished section on exports for repair, the very weak, non-controversial criteria accepted by all were left in, while the stronger criteria still being discussed were swept away into an Annex V for further work.

While the Guideline has been adopted on an interim basis, paragraph 31(b), is unfinished. And as it stands, is unacceptable, dangerous and unusable.

Distinguished Delegates, one does not solve a crime by making that crime legal. 31(b) currently does that -- albeit in a guideline.

BAN has submitted to this meeting a Non-Paper on "Closing the Repairables Loophole" which can be found on the intranet. We strongly urge action, intercessional or otherwise to fix this loophole. However, until the kinds of reforms we have proposed are put in place, the Guideline's paragraph 31(b) should not be used.

Thank you.