



delegate alert

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DELEGATES MUST NOT ALLOW BASEL EXEMPTIONS FOR E-WASTE

We Must Not Give Up All that We Have Gained in 25 Years

Written by the Basel Action Network during the Conference of Parties to the Basel Convention

Which Headline?

Much is at stake this week. There are two possible headlines that will be atop the environmental news on Tuesday. One could read as follows: *Basel Convention Removes e-Wastes from Waste Definitions*. Or it could read: *Basel Convention Moves to Prevent Global e-Waste Dumping*. Which of these do we want? Which of these does the world need?

Basel Ban under Threat

25 years of very hard work by the Parties to bring the Ban Amendment into force of law is under threat of being lost at this 11th Conference of the Parties. Electronic waste is the single most traded hazardous waste on earth today. Yet in the Contact Group on Technical Matters, there is an effort currently underway by the JUSCANZ, EU, and industry (ITI and others) to undermine the wishes of developing countries as represented by GRULAC and the African Group to keep e-waste within the Basel Convention control system.

Africa and GRULAC Say No To Exemptions Proposed by EU, JUSCANZ and ITI

In the contact group the African and GRULAC group made it clear that they wanted to remove all exemptions. That is, if you want to export non-functional or untested used electronic equipment you will need to do so under the Basel Convention. Japan, Canada, Australia and the EU countries are pushing for exemptions for equipment that is claimed to be "repairable". This marks the first time since 1994 that the EU has not sided with the developing countries on matters involving the export of hazardous wastes. This move even undermines EU law, which has already transposed the Ban Amendment.

Taking e-Waste Outside of the Convention Means No Control

Those proposing the very large loophole exemptions offer importing countries various promises of environmentally sound management, labeling, tracing, or confining use of exemptions to certain actors, but

they fail to discuss the obvious and fatal flaw – that once you take materials outside of the Basel Convention by calling them non-waste, they are outside of any legal framework or control, and therefore no amount of promises matter:

1. No enforcement infrastructure will exist;
2. There will be no ability for notifications to governments;
3. There will be no ability of governments to consent or refuse shipments;
4. There will be no legally binding mandate for environmentally sound management;
5. There will be no possibility of prosecution as they will only be violating a guideline; and
6. There will be no possibility to even know who the perpetrators of the exports are.

Thus all of the promises are meaningless as they are outside of any legal framework and thus unscrupulous traders can take full advantage of new institutionalized loopholes

All e-Waste Can be Called “Repairable” so the Loophole is Infinite

If the only way to export e-waste under this guideline is to call it repairable, then all e-waste will be deemed repairable by those that will profit via export. And, because there will be no legal framework, those wishing to make use of these loopholes can simply make the claim that they meet the criteria and use them without fear of accountability. Such exports, even when moving to repair, could result in massive amounts of hazardous materials such as mercury lamps, leaded circuit boards, old batteries, etc. ending up in receiving territory outside of authorities’ controls.

Basel Will Become Irrelevant to Address Global Problem

If these exemptions are accepted, the Basel Convention will become irrelevant in controlling the e-waste dumping crisis, as all e-waste will be able to be disposed of in developing countries, under the guise of ‘repair’. Basel will become greatly diminished, not because we will have minimized hazardous waste, but because we will have minimized the Convention.

Any Exemptions Must be Enforceable, and be the Small Exception – Not the Rule

There may be some legitimacy for an exception for large medical equipment and, if so, the exception should be written for that type of equipment only and clearly stipulate how the resulting waste should be managed and designate who the responsible party is. It should not be written for all electronic equipment or all professional electronic equipment but a very small specific subset of such.

Better to Have no Guideline than to Exempt e-Waste from Basel

The MPPI/PACE guidelines only have a warranty return exemption. If the Draft e-Waste guideline is far weaker, then we should not accept it. It will haunt us for many years by creating a free trade in e-waste.

Altering or Creating Waste Definitions via a Guideline is Illegal

Already e-Waste is listed on Annex VIII and IX. Thus we already know it is a waste. It is impossible therefore that a Guideline can override the established definitions in the Convention. That can only be done by amendment of the Annexes. This Guideline if it seeks to re-define waste cannot survive a legal challenge nor should it.

Which Headline Will We See on Tuesday?

There is only one headline that is legal and will honor the Objectives and Purpose of the Basel Convention: *Basel Convention Prevents Global e-Waste Dumping.*

END