

BAN Intervention on Compliance and Canadian Household Waste Dumping

25 April 2017

Thank you Mr. Chair. Those of you who attended the last COP here in Geneva remember the strong intervention and protest from BAN, IPEN and many other NGOs against the refusal by Canada to repatriate more than 50 containers loads of Basel Annex II wastes, illegally exported from Canada to the Philippines. The first shipments happened more than four years ago and still to this day the containers remain. Still to this day we are very disappointed to report that, despite our pleas to Canada, Philippines and the Secretariat, this very important case was never triggered by them and thus never taken up by the Basel Implementation and Compliance Committee.

However, despite this lack of attention, following our protests, which spanned three continents and several years, I am very happy to report that some real progress is being made.

First, in the Philippines the importers of the first consignment has been taken to both criminal and civil court and it is expected that a ruling requiring the importer to pay for the storage and repatriation of the waste back to Canada will be made.

Secondly, Canada has stated that, if the illegally imported containers are loaded on a ship, they will accept them back into the territory of Canada.

Thirdly, Canada has now admitted that their domestic law contained a gap with respect to controls of Basel Annex II wastes; and they have now taken the steps to close this gap and properly implement controls on Basel Annex II wastes.

So it's a case of better late, than never! And we applaud Canada and the Philippines as it is clear that the wheels of environmental justice, ignored for so long, are starting to turn.

But, let us not forget that the wastes remain and it is very likely that the importing company will declare bankruptcy and inability to pay for the repatriation and storage. It is very important to remember therefore, that Canada, under the terms of the Vienna Convention on the Law of Treaties to which they are a Party, is still legally bound to apply the Basel Convention rules even for the period of time where their domestic legislation was found inadequate. It is still incumbent on them to not only arrange and pay for the repatriation but also to bring criminal charges on the exporter. Once the containers clear the court system in the Philippines, Canada must waste no time to pay the upfront costs as might be necessary and ensure their rapid repatriation and proper disposal.

We would also encourage the Secretariat next time to not spend so much time finding reasons not to trigger the compliance mechanism on such a case, but to do what is right for the environment and find the reasons to utilize this vital mechanism.

Thank You.