

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

Questions and Answers provided by Basel Action Network (BAN)

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1. What happened on January 1, 2025? At that time, the Basel Convention, which already controlled the trade in hazardous e-waste, for the first time, required 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. Amendments adopted in June of 2022 have now entered into force. These also make the previous 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 published [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 when engaged in 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 PIC procedure is the normal default control procedure that applies to the 191 Basel Parties. What is new is that now following the January 1, 2025 date this PIC procedure will also be the default control procedure applied to non-hazardous e-waste (Y49) under the rules of how wastes on Annex II are to be managed.

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 which is as environmentally sound as the Basel Convention itself (see Article 11). Currently, the United States is part of only 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. However, a subset of Y49 was previously listed in the OECD Council decision mentioned above. These former listings known as GC010 and GC020 were on the OECD "Green" list allowing a free trade in these. Now as of January 15, 2025 it has become clear in an OECD reporting of OECD country positions, that several OECD countries, including the United States believe they can still rely on the old OECD Green listings despite these not being as strict as the Basel Convention itself -- requirement of Article 11.

GC010: Electrical assemblies consisting only of metals or alloys

GC020: Electronic scrap (e.g. printed circuit boards, electronic components, wire, etc.) and reclaimed electronic components suitable for base and precious metal recovery

4. Please explain more about how OECD countries are reacting to the absence of a consensus to adopt the e-Waste Amendments of Basel and what that means for trade between OECD members. The OECD would normally have accepted the new Basel Amendments by default, but Japan objected to the automatic acceptance of these. The lack of consensus on the new Basel Amendments meant that the OECD had to decide how to proceed amongst its own members. They decided to grant considerable leeway to its members to do as they pleased, despite the fact that Article 11 agreements are meant to be as strict as the Convention itself and of course anything less than considering Y49, or subsets of Y49, as not needing Basel control procedures should have been considered unlawful. The OECD ignored this fact.

Today we can find a list [here](#), of the OECD countries that have reported on their intentions going forward vis a vis the new e-Waste Amendments. In that list one can find many OECD countries seeking deviation from what would normally have been expected. In summary, **Costa Rica, Switzerland, the United Kingdom** (excluding Northern Ireland), **Mexico, and Norway** all agreed to implement the Basel Convention Amendments as envisioned by the Convention and apply a form of PIC for all e-wastes. **Canada, Israel and New Zealand** voiced support for the Amendments but indefinitely postponed their implementation leaving big questions about when and how they intend to adopt them. **Japan** suspended the PIC procedure for their trade in GC2010 and GC2020 with other OECD countries but applied the amendments for non-OECD normally. The 27 Member States of the **European Union (EU)** banned the export of all e-wastes to non-OECD countries and will apply PIC between the EU and other OECD countries as would normally be required. However the EU wished to continue to not apply a PIC procedure for GC2010 and GC2020 for trade between their own member states for another two years. **Northern Ireland, Iceland** and followed the EU. Finally the **United States** declared that they would only require PIC if RCRA applies at the same time as A1181. They would not require PIC for any of the Y49 listed categories, nor for GC2010 and GC2020 unless its required under RCRA. Several OECD countries have yet to report on their determination.

It is important to note that despite what the United States wishes to do, exports of Y49 from the US to other Basel Parties outside of the OECD will be illegal due to the prohibition of trade between Parties and non-Parties of Basel controlled wastes. These will only be illegal once they have been exported from the US and are on the high-seas sailing towards a Basel Party.

5. 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:

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

6. 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:

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

7. 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.

8. 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.

9. 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 listing (presumed non-hazardous waste) or another Annex II (waste for special consideration) listing will

all be presumed to be controlled under the old Annex II or IX listing. The listings of import here include:

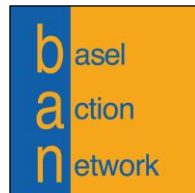
- **B1010 Metal and metal-alloy in metallic, non-dispersible form**
Cannot contain mercury or fines (e.g. shredded fractions), cannot contain Annex I hazardous materials that exhibit Annex III hazardous characteristics. (Including: **precious metals, iron and steel scrap, copper scrap, nickel scrap, 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.)

10. Are there any possible avenues for US export of Y49 to OECD countries now that we have seen the reactions of OECD countries? While the OECD has a valid Article 11 agreement known as the Council Decision on the Regulation of Transboundary Movement of Waste Subject to Recovery Operations (OECD/LEGAL/0266 that includes the US, it appears it can only be utilized with other OECD countries that agree to a deviation of the Basel rules within the confines of the

OECD decision.

Thus it would appear based on the summary above that US recyclers can export GC2010 and GC2020 to Japan without PIC. US exports to **Canada, Israel and New Zealand** may be possible as before January 1, 2025. US exports to all other OECD countries will require PIC and again to non-OECD countries will be illegal in the importing country.

11. 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 five countries left in the world that have not become Parties to the Convention. These countries are **Haiti, Fiji, South Sudan, East Timor** and the **United States**. 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 outside that group (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 including US 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.



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