

BAN INTERVENTION

RE: e-Waste Guideline

Thank you Mr. Co-chair. At COP15 a large and vocal compliment of 22 developing country Parties took the floor at plenary to say that the current criteria distinguishing waste from non-waste in the e-waste Technical Guideline was unacceptable and needed further work. **Algeria, Argentina, Dominican Republic, Ecuador, El Salvador, Gambia, Ghana, Guatemala, India, Indonesia, Iran, Kazakhstan, Mexico, Nigeria, Pakistan, Peru, South Africa, Trinidad and Tobago, Togo, Uganda, Vanuatu, and Venezuela** all intervened to say the status quo is no longer acceptable for the Guideline. I am sure many other Parties are of like mind.

The shared concern centers around paragraph 32b otherwise known as the "claim of repair loophole" which explicitly allows exports of used, non-functional electronic to be freely traded outside of the controls of the Convention no matter how hazardous, as long as a trader simply makes a claim that the equipment will be repaired and they agree to adhere to 5 minimal, voluntary and unenforceable criteria.

While Guidelines should have never been used to create or remove treaty obligations, this is precisely what is attempted in Paragraph 32(b), creating an escape clause from the Convention, despite the fact that repairs entail the replacement and disposal of non-functional parts and much equipment proves to be unrepairable and must be disposed of, following export.

While we all wish to promote an ethical and responsible circular economy, we cannot justify opening loopholes that can be exploited to do the opposite. We all want *responsible* repair and re-use, just as we all wish want responsible recycling, but the goal for promoting recycling has never meant we stop applying the Basel Convention controls. Similarly, we cannot simply remove the legally binding safeguards of the Basel Convention when we hear promises of "re-use" and "repair". To ensure ethical circularity any Re-use claims for non-functional hazardous electronic equipment must be subject to the very same scrutiny, transparency and consent that we require for e-waste recycling.

Today, the loophole is especially concerning following the adoption of the Swiss-Ghana proposal where we have agreed to control even non-hazardous e-waste as of 2025. This leaves the 32(b) loophole now as the last available resort for the export of e-waste outside of the control procedures of the Convention. And it's all too easy to exploit. Now, it is almost certain that unscrupulous actors will simply claim "Repair" as a ruse to circumvent Basel controls to continue their history of dumping e-wastes on developing countries.

It is ironic and illogical that while the Basel Convention will now require controls on the export of non-hazardous e-wastes for recycling -- we will not be requiring Basel controls on non-functional, *hazardous* e-waste as long as a promise of repair is given.

In conclusion, BAN agrees with the many developing countries that the 32(b) claim of repair loophole must be closed as it creates a dangerous departure from the fundamental principles and purpose of the Basel Convention, the Basel Ban Amendment and of the recent e-waste amendments.

COP16 provides us with an opportunity to close this last remaining global highway for e-waste dumping. This we can do at the same time that we adjust the Guideline to bring it up to date with the new COP15 e-waste amendments. We can choose either to simply eliminate paragraph 32(b) or, alternatively utilize the compromise procedure proposed in BAN's Alternative Ethical e-waste Guideline. Our proposal requires those wishing to export for repair be limited only to qualified, and pre-registered traders using only qualified pre-registered facilities.

Distinguished delegates, this year should be the year we fix the e-waste guideline so that is finally legally consistent with the Basel Convention.

We thank you.