

**BAN Intervention on the e-Waste Technical Guideline before the 10<sup>th</sup> Meeting of the Open-Ended Working Group of the Basel Convention**

May 29, 2016

Thank you Mr. Co-Chair.

BAN has recently completed a two-year study known as the e-Trash Transparency Project. This project involved the installation of 200 GPS geo-location tracking devices in obsolete hazardous electronic equipment, delivering them to charity thrift shops and recyclers in the United States, and then waiting many months to see where these old printers and monitors ended up. Of the devices deployed at recyclers, almost 40% of these were exported, mostly to Asia. And, most of these transboundary movements were illegal under the Basel Convention and under the laws of the importing countries. BAN will hold a side event to discuss the initial findings of this project on Wednesday, at the lunch break.

Clearly, one of the findings of our initial work is that there are still many hundreds of waste brokers scouring the developed world looking to find ways and means to export massive quantities of hazardous electronic waste to developing countries. And there are still too many actors willing to make use of these brokers to make profit at the expense of the environment and human health in developing countries.

In that regard, we regret to note that the e-Waste Guideline, adopted at COP12 in the late evening of the final session, will provide these same global polluters great comfort, with an even wider avenue to continue their dirty trade and do so now with impunity.

Indeed this Guideline gaveled into existence despite a lack of consensus, and in fact with a great deal of protest from many Parties, must be viewed with alarm. Never before in the history of the Convention had Parties been asked to adopt a document so fundamentally unfinished, especially in regard to the most controversial and potentially dangerous question. I refer to the section of the guideline now known as 31(b) -- regarding the highly controversial matter of *if* and under what conditions could hazardous e-waste be moved across borders exempt from any Basel control, simply by claiming it as repairable.

Making matters worse, instead of just leaving this unresolved section empty with brackets saying (this section to be completed later), what transpired was to adopt only that which was agreeable. In other words, only those conditions that were so weak as to have no objections or controversy attached to them, were included, and all of the conditions that could be meaningful in terms of protecting the environment, were left out or relegated to an annex as unfinished.

As a result, the interim guideline, due to the missing criteria, paragraph 31(b), is far weaker than any of the participants ever envisioned it would or should be. It now provides guidance to allow exports of broken, untested, or non-working equipment for repair without any of the Parties ever being aware of what is leaving or entering their countries, as long as the export meets the most minimal set of requirements – requirements that could easily be met by the unscrupulous waste brokers.

As worded 31(b) departs radically from the long-standing consensus that non-functional equipment should be considered waste – which is established policy by many countries including the European Union as well as the African continent as expressed in the Bamako Convention and its first decisions.

As all exports can be called "exports for repair" and because almost all such exports involve the movement of non-functional parts or equipment that are hazardous and will be discarded in the importing country, the e-waste TBM Guideline is in fact actually advocating illegal traffic.

Distinguished delegates, e-waste is the most trafficked hazardous waste stream on earth today. How is it possible then, that we, who are charged with protecting the environment and human health from illegal trafficking in hazardous waste, have decided that rather than prosecuting illegal traffic we would instead simply move to make what has been rightfully illegal -- legal.

This meeting has the first opportunity to recognize and remedy the mistake made at COP12. We must move quickly to do this before unscrupulous actors begin to make use of this dangerous paragraph 31(b), as prosecutors worldwide are suddenly finding themselves helpless to act against illegal traffic when the perpetrators simply wave the e-Waste Guideline to justify *all* that they do as "export for repair."

I am optimistic that the Parties will move with urgency and diligence to plug this gaping hole which renders the entire document unacceptable. BAN today has posted under the submissions section of the Intranet website, a document in English and Spanish, listing 4 recommendations designed to provide solutions for the 31(b) problem. And this week we look forward to working in the technical contact group towards this much needed remedy. I Thank you.