

## **BAN Intervention to COP11 Plenary on the Subject of the Draft Guidelines on the Transboundary Movement of e-Wastes**

Distinguished Delegates, friends and colleagues. The last time the Parties met together in Cartagena, Colombia, was a time of great celebration. We toasted a new life for the Basel Convention and its original intent – to protect developing countries from becoming global dumping grounds for the world's hazardous waste. The Ban Amendment which was the original goal of developing countries since the beginning, was set free and a light at the end of a long tunnel for its entry into force is now finally visible. I did not think I would have to be here one meeting later with grave concerns. But we find ourselves remarkably facing a situation where all of that which we gained can be thrown away.

It has been 24 years since I have attended my first Basel Conference of Parties and I have never missed a COP in all of that time and in these years I have seen a lot. But something is happening in this meeting that I did not think possible. For the very first time we are being persuaded by commercial interests to abandon science-based definitions of what is a waste or hazardous waste and make commercial based definitions instead.

And we are changing the definition of what is waste, not by an amendment as is proper but by a guideline.

Specifically we are being asked to make a claim that all manner of non-functional hazardous electronic waste may be suddenly claimed as non-waste as long as it is claimed to be repairable and under a warranty, or moving off-lease, or is used professional equipment, or might be moving for service diagnosis and repair. Make any of these new claims and your shipment will never be subject to the Ban Amendment, never subject to the PIC procedure. In other words – out of control. Why?

Certainly we are not doing this because the material does not meet current waste definitions due to its lack of functionality. It does.

Certainly not because the material is not toxic. It is. And no it is not because it is a relatively small amount of waste we are talking about. The volumes of hazardous waste that can flow through these exemptions are massive.

It is presumably because an industry which has become infamous for intentionally not building equipment for a long life, wants to get special exemptions and have its equipment in its industrial sector outside of Basel controls– all in the name of giving its products longer life.

Never mind that some of this material will not be repairable. Never mind that the repairs will entail the generation of many thousands of tonnes of hazardous wastes every year in the form of cathode ray tubes, mercury lamps, lead-tin soldered circuit boards, cadmium based batteries etc. which will be left in the recipient developing country. Never mind that these exemptions will de-classify massive amounts of the most offending and illegally trafficked waste on earth today. Never mind that the amount of exempted equipment as defined is massive and endless. Never mind that almost any actor can claim anything to be repairable and find a way to exploit these new loopholes. But this is what is being proposed at this meeting with all seriousness.

I ask you, what good is the Ban Amendment we celebrated and fought for these last 25 years, if we undo by exempting our most voluminous and problematic waste streams from it? What our right hand gave the world at Cartagena, we would strip away from that world two years later in Geneva by our left hand?

And all of this is being done under the magic word of repair. Of course everybody supports repair, but not at all costs. Just as we all support recycling we have wisely not exempted recyclables from being considered a waste.

If we exempt exports for REPAIR this week, not only will all exports of electronic waste be claimed as repairable but all manner of other equipment, furniture, toys, appliances, locomotives, cars, chemical factory equipment, will take advantage of the same rationale and call to be declared as non-waste -- outside of the control of Basel rules. Not subject to the Basel Ban, and not even subject to the long established prior information and consent procedure. Not because it is NOT hazardous, not because it is NOT broken, junk, but because somebody declared it as being REPAIRABLE.

If repair is the way to avoid Basel rules, you can bet that all manner of unscrupulous actors will exploit this new loophole. And all manner of broken, obsolete, toxic junk containing any amount of hazardous content will flood the ports of Africa, Asia, Latin America and Eastern Europe.

Recyclers that have set up shop in developed countries to responsibly dismantle, shred and separate electronics will suddenly have their businesses undermined and and uncompetitive. No longer will there be any rationale for proper domestic recycling. When it becomes legal to load up ships with all manner of broken, non-functional junk of any vintage and send it direct to developing countries. Why ship commodities when it is now suddenly legal to ship allegedly repairable junk?

We can foresee a growing list of countries that will be forced to protect themselves from this new interpretation by using national definitions and regional conventions to classify the material correctly again as hazardous waste. Rather than creating global unity and single purpose, we will have created a patchwork of legislation.

Distinguished delegates, our PACE and MPPI Guidelines had but one exemption – customer returns under warranty. It was to be the exception not the rule. If these exemptions are accepted, the Basel Convention will have very little left to meaningfully control -- not because we have minimized hazardous waste, but because we have minimized the Convention.

This Guideline must not be adopted with these new ill-defined, and overreaching exemptions. They cannot be justified scientifically, legally, or morally. I urge you all to preserve the integrity of this Convention for your children and your grandchildren and think, as we did at Cartagena of them, above all else.

THANK YOU.