

Report on the 6th Conference of the Parties of the Basel Convention

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Prepared by the Basel Action Network
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Note: BAN's meeting reports cover the issues important to the mission of the Basel Action Network (BAN) and provide both a reporting of these events and an analysis of them. The BAN reports are not meant to be comprehensive. For an excellent comprehensive report, please see the Earth Negotiations Bulletin Report online at <http://www.iisd.ca/linkages/basel.cop6>. For the official report contact the Basel Convention Secretariat at <http://www.basel.int>.

Institutional Matters

Languages

Perhaps the most important development of COP6 was the re-establishment of full translations and interpretation in all 6 United Nations languages. BAN is very glad to see countries outside of Western Europe and the JUSCANZ (Japan, USA, South Korea, Canada, Australia, and New Zealand) strongly demand this much needed reform. For too long, English-speaking nations and European countries have dominated the Convention experienced in regular use of English. In our view, this has had a profound political impact on decision-making to the detriment of the aims of the Convention itself. The involvement of developing countries in the Convention, which was largely born because of their wishes, should never again be so substantially eroded by financial and linguistic restraints.

Re-organization

BAN is also pleased to see a rationalization of the subsidiary bodies into one "Open Ended Working Group" (OEWG). This will hopefully save money with less meetings and travel costs, less opening and closing ceremonies and procedures, and ultimately foster efficiency in tackling the work.

Basel Ban Amendment Issues

Support for Ratification

Steady progress continues to be made with respect to gaining ratifications of the Basel Ban Amendment. Below is a chart of ratifications per year.

	1995	1996	1997	1998	1999	2000	2001	2002	2003 so far
Ratifications	0	1	6	4	5	5	5	8	0

Clearly from this chart we can see that the ratifications proceed steadily with a small increase in 2002. However, the most important signal that the Basel Ban Amendment is succeeding very well is the ratification rate among those countries to which it applies – the OECD group. Of the 39 OECD countries, those that have ratified or have implemented it, by virtue of membership in the European Union or in the European Economic Area are: 19. Of the remaining 10 OECD countries it is BAN's observation that 8 of these are respecting the ban (not exporting hazardous wastes to non-OECD countries) with only 2 openly defying the ban (one of these being a non-Basel Party).

OECD Countries and the Basel Ban	Implementing	Respecting	Ignoring
	Austria	Australia	Canada
	Belgium	Hungary	United States
	Czech Republic	Japan	
	Denmark	Mexico	
	Finland	New Zealand	
	France	Poland	
	Germany	South Korea	
	Greece	Turkey	
	Ireland		
	Italy		
	Luxembourg		
	Netherlands		
	Norway		
	Portugal		
	Slovak Republic		
	Spain		
Sweden			
Switzerland			
United Kingdom			

One of the exciting developments of COP6 was the recent ratification of a very influential OECD country and host of the Convention – Switzerland. Additionally, strong support was reiterated for the ban in the Ministerial Level Meeting of the Conference.

In this regard, it was very gratifying to hear Dr. Toepfer speak passionately about the need to ratify the ban at the earliest opportunity. He warned that without sure

and timely ratification, the Convention could send a message that the Parties' agreements cannot be taken seriously. He warned about the ban becoming a "paper tiger". He called it "distasteful" that developing countries should have to store the poisons of the earth for the rich. This speech was especially refreshing in contrast to the Basel Secretariat's seeming fear of promoting the ban vigorously in light of the JUSCANZ's tiresome and bad faith efforts to erode support for the ban. At least the UNEP Executive Director seems undeterred from promoting this far reaching and landmark agreement for international environmental justice.

In addition to Dr. Toepfer's remarks, many other delegations also stressed the need for ratification of the ban amendment further isolating the views of the JUSCANZ group. These countries included Malaysia, Tanzania, Tunisia, and Denmark. In further support, Kenya, Poland, Moldova, Ghana, and Jamaica, indicated that they were in the process of ratifying the Ban. Malaysia indicated that the Regional Centers (BCRCs) should play a much larger role in promoting ratifications of the Basel Convention.

Finally, the EU called for an amendment to the decision regarding the Implementation of the Basel Ban Amendment that would appeal to the Parties to ratify the Amendment before COP7. While this received support from developing countries, the proposal was promptly killed by objections from Canada and Australia.

Annex VII Study

Ever since COP4 in early 1998, when Canada and the rest of the JUSCANZ group were defeated in their attempts to punch gaping loopholes in the Ban Amendment even prior to its entry into force (see BAN report on COP4 for an account of this effort) the Convention has been saddled with the face-saving charade known as the Annex VII study. The terms of reference of this study were debated for almost 3 years. The exercise was one of a minority of JUSCANZ countries trying to tug a majority of Parties in an opposite direction. The result of this tugging and pulling was a set of terms of reference that were were impossibly vague and immense in scope. A true fulfillment of these terms of reference could fill many volumes with text, and the pockets of many, many consultants. It is shameful that the JUSCANZ insists on perpetuating this charade when money is tight and we could be using scarce resources for meaningful pilot projects, development of new supplemental instruments to drive waste minimization, assisting in true capacity building, etc.

At COP6, two proposals were placed on the table with respect to a way forward for the Annex VII study -- one to finalize by COP7, and another to end it immediately. But despite the call by the Arab group and African group, and joined by the EU, to once and for all finish the study with no further work being done on it, Canada, New Zealand, Australia, and the USA, including Chile,

Colombia, and Mexico (countries that initially pushed for the Ban) insisted on going forward with the study. A so-called compromise was arranged whereby the study would be finished no later than COP7, and that the financing to complete the analysis would come from the Secretariat budget and could not exceed 30,000 US dollars. However, Parties and others are invited to provide the Secretariat with relevant materials and documentation.

Thus, what we can now expect is that with the final deadline looming in two years, the JUSCANZ group will now expend yet more money to frantically hire their own consultancies to conduct more case studies similar to those conducted by UNCTAD and the Lead industry in the past, in a last ditch effort to try and show that the Basel Ban actually stifles capacity building in the field of hazardous waste recycling by preventing capacities of scale and the opportunity to get foreign investment. Developing countries will be asked to accept bold preposterous arguments that import of hazardous wastes are actually good for poorer countries because it is the only way poor countries are going to learn how to deal with such wastes. They will likely continue the trend of seeking to enlist non-OECD country industrial and trade ministries to contribute to the undoing of this agreement that their own countries worked so vigorously for just a few years ago.

This is what can be expected, but what will likely not be forthcoming is an accurate economic analysis of what importing hazardous waste means for any country when all costs, future and externalized, are accounted for. Such costs include, management of residual pollution including long-term landfill management, long-term liability and sacrifice of land for landfill and other storage of contaminants, health costs of workers and communities from routine and accidental exposure, infra-structural costs to mitigate damage from pollution, and enforce necessary laws, etc.

It is very doubtful that this process and the extra expenditure will sway anyone towards a new point of view. The only ones that will benefit will be the consultants, while the study will end up lost on a shelf – a testament to the bad faith of those nations that refused to respect and abide by “consensus” decisions.

Guidance Document on Bilateral and Multilateral Agreements

Sadly, the Parties are likewise wasting precious time and resources on a document designed to give guidance on the use of Article 11 (bilateral, and multilateral agreements). This document which has also become a “political football” being kicked around by those that would seek to use any means available to undermine the Basel Ban. Despite the clear rejection of the notion of using Article 11 to circumvent the Basel Ban, when this was proposed at its adoption, the JUSCANZ continues to reject verbiage that will ensure against this, and continues to introduce language attempting to cloud the issue. Due to this

tug-of-war, it is unlikely that this Guidance document will be completed anytime soon though it has been slated for completion by COP7.

In the view of BAN, there are only two possible remaining reasons for entering into Article 11 agreements and those are either to enter into trade between a Party and a non-Party using provisions equivalent to those of the Basel Convention itself, or to enter into agreements that are stronger than the Basel Convention between Parties and/or non-Parties (e.g. Bamako Convention). Those seeking other uses of Article 11 are seeking to stretch the intent of the Convention beyond recognition.

Basel Declaration, Strategic Plan and Regional Centers

Strategic Plan

In spite of all the pomp that surrounded the introduction of the Strategic Plan at the plenary and up to its vitriolic 11th hour of negotiations during the preparatory segment at COP6, what really was achieved at the end, is the planting of a hopeful seed for the future of the Basel Convention. The adoption of the Strategic Text is this seed. The Strategic Text outlines the vision and aims of the Strategic Plan, echoing the concerns laid out by the Basel Declaration on Environmentally Sound Management. It presents a solid document to guide the next 10 years of the Basel Convention. Further, the Parties developed criteria to determine how the Activities are to be prioritized. However, the Activities (the actions to make the fine words really live) remain largely undecided and will be taken up at the first meeting of the OEWG. It remains to be seen if the plan is ever really finished, most importantly, funded and implemented.

The heated debates on the Strategic Plan centered on two issues: the Basel Convention Regional Centers and the adoption of the Activities Table. These debates underscored the impetus that will drive the Strategic Plan in the next ten years – the need of developing country Parties for support from developed country Parties, and the insistence that activities truly serve developing countries and thus take place at a regional level. The insistence by developing countries on prioritizing the debate over formalizing and institutionalizing the Basel Convention Regional Centers BCRC *before* beginning work on the Strategic Plan in the working group, was a strong signal that developing countries are intent on gaining more ownership of this Convention.

BAN is pleased that the aims and vision of the Basel Declaration have been reiterated in the Strategic Text and are included in the very first criteria to be used to prioritize funding. However, we have yet to see if this is indeed carried forward in actual implementation. If these criteria and the strategic thrust is actually followed, funding must be channeled first toward waste prevention and

clean production projects in developing countries or toward activities that will minimize transboundary movements of hazardous waste.

Regional Centers

The Relationship between the Basel Convention Regional Centers or BCRCs was finally formalized legally through the drafting of a Framework Agreement. Annexed to this agreement is a list of core functions of the BCRCs. BAN is pleased to see that indeed the BCRCs are to be used to promote the implementation of the Basel Convention and its instruments – e.g. the Basel Ban Amendment. We would like to see some more programs to that effect in regions that need such assistance and understanding of the Convention, the Ban Amendment and the Liability Protocol.

Also in the BCRC draft and framework decisions there is enough language to indicate that stakeholders such as NGOs should be involved at the BCRC level. This should include international regional and local NGOs. However, very few NGOs have been asked to attend workshops at Basel's regional centers. As a case in point, BAN to date has only been invited to one regional workshop held in Bratislava at the regional center for Eastern and Central Europe. Further, BAN was prevented from even attending the recent workshop in China regarding Electronic Waste – a meeting that took place as a result of BAN's e-waste exposé -- "Exporting Harm: The High-Tech Trashing of Asia". If the Basel Convention is serious about involving more NGOs, then they must make a place on the agenda for them at all regional workshops. BAN has indicated an interest to the Secretariat in assisting the BCRCs with workshops and expertise, or in finding other NGO experts as appropriate.

The BCRCs are extremely important as a tool for furthering the outreach and tangibility of the Basel Convention, its Amendment and Protocol and in fostering their implementation. It is important that they don't become isolated and set adrift. In the balancing act between giving regions more clout, it is also important that the BCRCs do not set their own separate agenda but rather reflect the regional embodiment of the Convention's goals and strategy.

Partnership Theme

The theme of COP6 was "partnership." And of course "partnership" sounds very much like a good thing. However, one must examine the motivation behind new calls for partnership in order to determine how constructive such partnerships will be. All too often the motivation lies in a lack of funds and thus the partnerships formed are with stakeholders with largesse. When this is the case we are certainly talking about partnership with industry and not with NGOs or intergovernmental bodies.

And in fact, it is our experience so far, that more often than not, when the Basel Convention Secretariat and Parties speak of “partnership” it appears that the relationship sought is not one with civil society, but rather they are speaking of partnerships with industry.

However, let's be clear. Industry does not and really cannot exist as philanthropic institutions -- but as businesses driven and in servitude to the profit motive. It is unlikely therefore that they can be expected to enter into partnerships without an enhancement of profits being the outcome of the projects entered.

The relationship between industry's profit motive and the Basel Convention's motive of improving the environment has not, historically, signaled a compatible agenda. While the two are not completely inherently incompatible, it is likely that great conflict will exist that will likely sway the Basel Convention from its agenda and mission of environmental protection. For example, it is important to recall the Basel Technical Guidelines on Plastics Wastes that was drafted initially by industry. The resulting paper is dishonest in that it pointedly fails to recognize the inherent hazards prevalent in the production, use, and disposal of PVC plastic. It further contradicts the Stockholm Convention's preference against the use of incineration. And worse, despite the fact that the Basel Convention calls for all guidelines to contain a section on waste avoidance, industry fought against this section vehemently. One can only surmise for example, that waste avoidance of plastics, works contrary to the motivation of the plastics industry -- in particular the packaging industry. Waste avoidance runs in direct conflict to consumption, consumerism and the unlimited growth in sales of plastic products.

This is but one example of how partnerships with industry can be a very dangerous proposition, particularly if the relationship excludes the balancing influence of other stakeholders. An exclusion that can easily occur when money is at issue and the Convention is needy and industry well-endowed. Very quickly we could have a case of the industry tail wagging the Convention dog.

At COP6 examples were replete with the apparent urge of the Secretariat and certain influential Parties to cozy-up to industry to the exclusion of other stakeholders. First, there was the hiring of a special industry liaison within the Secretariat. There was no similar hiring of a civil society or NGO liaison. There was the recent workshop in China on Electronic waste without one single NGO invited, but with plenty of industry representatives invited. There was the development of the mobile phone initiative without any NGO involvement even as advisors and still no concrete plans for NGO involvement. There were the dual decisions -- One called “Partnership with Industry” and the other entitled partnership with industry, NGOs and other stakeholders. While these were eventually adopted as one, the intended imbalance at the outset was disturbing.

Meanwhile rhetoric continues that NGO participation in the Convention is desired but the rhetoric so far does not match the reality. If NGO participation was

indeed a priority, then the Secretariat and the Parties would encourage NGOs to prepare or join in preparing workshops at BCRCs on subjects important to both the Convention and their mission – a true partnership benefiting both. Such subjects and programs would include ratification of the Basel Ban Amendment, Toxics Use Reductions and Avoidance, Extended Producer Responsibility, Trade and Environment conflicts, Ecological Economics etc.

The Secretariat would also forbid countries from preventing attendance of NGOs at BCRC meetings. The Secretariat and the Parties would also consider a fund for NGOs to participate in key meetings and to conduct programs. NGOs would be consulted before and during development of new initiatives alongside with industry. A special liaison to ensure the above took place would be hired, as has been the case with industry. NGOs have a lot to offer but currently we are marginalized. Ironically, those that blame NGOs for being too shrill, do not realize that the shrill are those that have been locked out of the process and have little recourse but to raise their voices ever more loudly so they can be heard behind closed doors. Lets hope the next few years of the Basel Convention sees a balance in participation and partnership with all stakeholders!

Compliance Mechanism

Once again a lowest common denominator of key JUSCANZ countries prevailed in limiting the Compliance Mechanism to something that will not ensure compliance.

Further, the apparent distrust of their own citizenry by so-called democracies such as Australia was apparent when they, with others, argued adamantly against the possibility that individuals or NGOs could trigger the “mechanism” even through a Secretariat or other filter.

Ironically this will relegate NGOs to the traditional means of airing possibilities of non-compliance – via the mass media, an effective if blunt instrument, that many of the same countries that bar NGO triggering would rather avoid.

In their comments the Netherlands, one of the countries that must be praised for entering into the debate with the actual expectation of achieving a true compliance mechanism, stated that the mechanism was a disappointment and could not be considered a worthy precedent for other treaties. We second that assessment. In our view it is shameful for any country to enter into international law unless it is also willing to be subject to the enforcement of that law.

Electronic Waste

Thanks in large part to the investigation and report of the Basel Action Network (BAN), the Silicon Valley Toxics Coalition (SVTC), along with other NGOs worldwide, on the export of hazardous electronic waste being dumped in Asia from countries such as Canada and the USA, the subject of electronic waste was high on the COP6 agenda. The Secretariat convened a workshop on the subject in China just prior to the COP, a side-event on the subject at COP6 for the Ministers as well as a special initiative on the end-of-life of mobile telephones.

While the rapid focus and attention on this subject is welcomed, the very pointed exclusion from many of these activities of the very organizations that had gained expertise and knowledge of this alarming waste trade and non-compliance with the treaty was a cause for distrust and dismay. Ironically, this exclusion spoke volumes about the legitimacy of the rhetorical theme of the Conference – that of partnership.

Regional Workshop in China

As has been stated previously, the China workshop was held and the organizers chose to not invite the very NGO that had been to China to investigate the subject matter of the workshop which in no small way was the reason for the workshop ever being conceived in the first instance. Meanwhile many representatives from Industry were invited as well as well-known anti-Basel Ban Amendment advocates.

Lacking the voices of NGOs, to perhaps balance the industrial view, the workshop's findings as reported in the Secretariat's press release declared that "importing countries can earn significant income from refurbishing used PCs and disassembling obsolete PCs, monitors, and circuit boards and then recovering the gold, copper and other precious metals." Yet this statement is contradictory to the goals and obligations of the Convention and while possibly true, without a reiteration of that fact, seems to send a conflicting if not self-destructive message. The fact is that a massive amount of this trade is illegal under the Basel Convention and that which is not illegal runs counter to the Convention's obligations. Yet this was not stated. The workshop findings also failed to state that the long-term remediation of pollution caused by e-waste recycling practices are far more costly than the short-term profits gained from precious metals recovery in e-waste.

In the summary of the meeting itself one of the crucial findings of the workshop is that "technical assistance to upgrade capacity of developing countries is urgently needed...." This conclusion glosses over the fact that presently, the problem of e-waste arises from its export from developed to developing countries, and it is not primarily an endemic problem created by developing countries themselves. The e-waste crisis at the moment for developing countries is a crisis of waste import. Thus, again the misguided and anti-Basel conclusion from the workshop findings

is that rather than enforce the Basel Ban Amendment and the other existing obligations of the Convention, the answer is to ask developing countries to urgently spend and upgrade capacity for imported e-waste recycling.

No representation was amply devoted to prevention, minimization, “green” product design, or mandatory take-back programs such as is now required in Europe. The Basel Ban amendment appears not to have been mentioned as a powerful tool to address the immediate waste import crisis and to force producer and consumer responsibility. In the final analysis, from the perspective of seeking real solutions to the e-waste dilemma, the workshop appears to have fallen short of what should be expected from the Basel Convention.

Electronic Waste Side Event

Ravi Agarwal of BAN was given an opportunity to very quickly present the case left out of the China workshop at the Ministerial Side Event on Electronic Waste during COP6. We applaud the Secretariat for holding this event.

Mobile Phone Initiative

It is too early to tell whether the initiative will truly rise to the occasion of an actual workable solution to the hazardous waste problem posed by cell phones. But the program holds much promise. It was a major accomplishment of the Swiss organizers of the initiative to get all of the giant mobile phone makers to agree to work together at all and to do so in such a short time frame. That is an achievement that cannot be denied to Minister Philippe Roch, his staff, including Marco Bulletti, as well as the Basel Secretariat.

As we mentioned earlier, getting in bed with industry can be a dangerous proposition, particularly if the relationship excludes other stakeholders that might serve as a check and balance on the relationship. Thus, the success of the program may well hinge on how inclusive and open it becomes. To date we have not been invited to join the process.

Another barometer is whether or not the manufacturers are truly willing to address upstream issues and get to the heart of the problem by addressing rapid obsolescence, toxics use reductions and “green-design”. What would not be acceptable would be an outcome which ended up in an elaborate collection and shredding and then smelting regime, devoid of re-use possibilities and devoid of green-design, longevity and components including the use of less harmful signal energy, and materials. It is BAN’s wish that an immediate and meaningful solution to the cell phone e-waste problem be arrived at by the manufacturers, the Secretariat, the Parties, and with the inclusion of civil society.

Technical Guidelines

Plastics

The Technical Guidelines on Plastic Wastes and their Disposal, finally adopted at COP6 are nothing short of an environmental greenwash. With respect to these Guidelines the Parties have made three very serious procedural mistakes:

a) first they have allowed an obviously prejudiced plastics industry to take initial and primary responsibility for drafting the guidelines. This led to the creation of a document with a serious bias in fact and presentation. In fact in many irrelevant passages the text still reads like an advertisement for the plastics industry.

b) second, the Parties have relented to the plastics industry and have allowed the inappropriate combining of the issues related to PVC with all other plastics in one set of ESM guidelines despite a well established environmental chasm of difference between the two types of plastic – halogenated and non-halogenated;

c) they have allowed for the completion of the guidelines to be developed before a decision has been made as to PVC's designation on Annex VIII or IX – a matter still pending before the Convention. This is surely the “cart before the horse” as it is impossible to know how to manage PVC until its hazards have been fully assessed; and

d) the Parties ultimately ignored and rebuffed concerns raised by some Parties and NGOs alike regarding about points a-c above and have instead catered to industrial interests, creating the most imbalanced guideline to date.

As a result of these procedural mistakes, the guidelines on such an important waste stream, remain seriously deficient.

- For example, the guidelines lack any section on waste avoidance which is required of technical guidelines and is especially pertinent in this issue of plastics, where so many uses can and should be, avoided.
- The guidelines gloss over the problems of additives in plastics such as heavy metals and brominated flame retardants which cause pollution problems of their own and prevent safe and effective recycling.
- Furthermore, the guidelines are now in serious conflict with the goals and obligations of the Stockholm Convention and indeed the LRTAP Convention due to the cavalier attitude towards dioxins and furans. For example, the guidelines call for residues from incineration of mixed plastics which are surely to be considered POPs wastes due to dioxin and

furan content to be spread upon roadways or placed into landfills whereas the Stockholm Convention calls for their destruction.

- Further the concerns about recycling and disposal of PVC, particularly by incineration are glossed over and almost completely ignored.

Any government making use of these guidelines do so at their own peril. They are erroneous and obsolete even upon adoption.

Shipbreaking

It has been our experience that after the promulgation of a major document that addresses a particular issue of concern, more often than not, people begin to adopt a belief that the document itself will take care of the problem it was created to help address. We sincerely hope that this not be the case in shipbreaking.

The technical guideline is a step towards addressing the issue, and is by no means, in and of itself the solution to the problem.

It is important to point out, that even if we were to expect that the best technologies in the world were feasible to set up in developing countries, and even if we were to expect these technologies could be monitored and enforced by the local authorities so that these technologies would maintain optimal operating conditions (almost certain that this will not be the case due to lack of resources), it still cannot justify the export of the world's pollution to such countries simply because they are poor as indicated by depressed labor costs. The logical outcome of this mentality would be that all of the world's pollution would be exported to the poor. Is this the kind of world in which we want to live?

Such a mentality is completely at odds with the principle of environmental justice which states that no peoples should be disproportionately burdened with environmental harm. But in the case of shipbreaking, already, the poorer countries of Asia are disproportionately burdened with the pollution from the export of ships to them.

The Basel Ban Amendment is precisely designed to counter this disproportionate burden which not only victimizes the poorest laborers and environments on earth, but at the same time prevents incentives for "green design" of ships to solve the problem in the first instance.

While we know that there are some difficulties in implementing and honoring the Basel Ban Amendment with regard to ships, it is crucial that we not abandon the principle of the Ban and continue to honor it. It is vital therefore, that the future work on shipbreaking with respect to the legal aspects of the Basel Convention are taken up and considered both in the OEWG and in the work now forseen by the IMO. The Parties to the Basel Convention should be ever vigilant in exerting

and maintaining their authority to examine the issue under the focus of the legal aspects of the Basel Convention. This is especially important as the IMO becomes increasingly involved as that body has not as yet demonstrated a good understanding and respect for the Basel goals, obligations and decisions.

One outcome of the meeting which is singularly promising in this regard is the announcement of a coordinating meeting with the International Maritime Organization (IMO) and the Basel Parties. This is a welcome development as this allows each body to synchronize the steps they are taking in addressing the issue, and allows each body to exercise co-equal authority on the issue as well as educate each body to their respective needs and obligations.

The recent discovery (highlighted by BAN and Greenpeace at COP6) of the lifting of the US moratorium on export for ex-Navy vessels now under the jurisdiction of the US Maritime Administration (MARAD), bolsters the need to quickly and definitively define the Basel Convention's legal role vis a vis ships. This case brings to fore the undeniable role that the Basel Convention plays and in this case the legal aspects are clear. That is, we know who the exporting country is, we know the ships are destined for disposal and we know that the ships are indeed hazardous by the US government's own admission. The Parties must ensure that import of hazardous waste ships from the non-Party (USA) are only accomplished in accordance with the Convention.

Lead-Acid Batteries

BAN finds this technical guideline especially well done except for the fact that the Guideline fails to have a section in it regarding waste avoidance as indicated is necessary in the Convention's Guideline on how to prepare Technical Guidelines. Such a section would have and should have, covered the issue of increasing battery longevity, and the outlook for lead alternatives in future.

Bio-medical and Healthcare Wastes

This guideline is unfortunately weak in that it gives far too much credence to incineration disposal technologies that are now highly dubious as legal, or environmental solutions due to the substitution principle instated in the Stockholm Convention. Also the guideline hardly has any information on waste avoidance, and this is unacceptable given that this waste stream is highly applicable to waste avoidance strategies.

POPs

The Persistent Organic Pollutant (POPs) guidelines are still in the early stage of development. It is especially important that these guidelines are fully consistent with the Stockholm Convention. Thus, any technologies involving incineration (or any other technology that creates new POPs such as dioxins), deposit, (e.g.

landfill), and POPs recycling are not acceptable as stipulated in the Stockholm Convention. This is especially true when there exists alternative technologies that do not produce POPs which can be substituted. Thus it is clear that the bulk of the document should be used to explore non-incineration treatment alternatives. Additionally it will be important to make sure that a section on avoidance of future POPs is added here.

The work on this will continue intercessionally and within the OEWG. Greenpeace has taken the NGO lead on this issue and has released extensive, detailed comments and critique of the POPs guidelines.

The Future of the Basel Convention – Binding Waste Minimization

So far, the Basel Ban Amendment, without even being in force has had a tremendous global impact. With just some exceptions, such as electronic waste, and ships for breaking, most of the toxic waste trade schemes witnessed in the late 1980s and early 1990s have ceased. The Ban Amendment is in *de facto* force with the notable exceptions of exports primarily from Canada and the USA. Indeed those are the only two OECD countries that appear to not be either respecting the Basel Ban Amendment, or implementing it (See chart above).

While a concerted effort to halt the export of hazardous electronic waste, ships-for-scrap, and other post-consumer waste to developing countries is needed urgently. And while striving to accelerate the Ban ratification rate, the Convention must move forward and start to address its most fundamental goal – hazardous waste prevention and avoidance.

The fact that hazardous waste continues to increase globally, is a signal of failure in the global community and a remaining, clear and present challenge for the Basel Convention. As a living institution of international law, the Basel Convention should strive to continue to evolve legally. It should not remain dormant with respect to providing legal remedies to global problems, but rather should move forward boldly to meet its stated goals.

Recognizing the principle of common but differentiated responsibilities, what is needed, is a new supplemental legal instrument (protocol or amendment) to introduce a cap on hazardous waste generation, and then to reduce national and global levels of hazardous waste. For over 20 years now, the world has recognized that the true solution to the hazardous waste crisis is to be gained only through waste reductions in both volumes and toxicity through prevention and avoidance. And yet the numerous voluntary methods, pilot projects and rhetoric have succeeded only in showing us that waste prevention is viable. Meanwhile we still manage to leave a greater and greater debilitating, toxic legacy to our children and grandchildren. We have not yet succeeded in actually reducing their burden. It is clear therefore that no amount of volunteerism or

market instruments alone will be sufficient to drive the process forward. What is needed is a bold new legally binding instrument that will challenge us to reduce hazardous waste generation and thus provide for a cleaner and healthier tomorrow. In the coming years, let us work together to meet this remaining goal head-on.

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