



turn back the toxic tide

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BAN's Response to the ISRI Letter to CBS's 60 Minutes Program Regarding US e-Waste Exports

Recently, the Institute of Scrap Recycling Industries (ISRI) wrote the following open letter to CBS Executive Jeff Fager regarding the *60 Minutes* program on U.S. e-waste dumping in China. ISRI has a long history of opposing international controls on hazardous waste, first in their opposition to the U.S. ratifying the Basel Convention and more recently, their opposition to national or state initiated controls on electronic waste exportation to developing countries that are consistent with the Basel Convention. In the interest of further education on this important issue, BAN wishes to exercise the opportunity provided by this letter and the *60 Minutes* story to gain a better understanding of the problems we face with current U.S. policies and practices with respect to export of hazardous electronic waste. To that end we provide our annotated commentary on the ISRI letter (in black) below.

November 19, 2008

Jeff Fager
Executive Producer
60 Minutes
524 West 57th Street
New York, NY 10019

Dear Mr. Fager:

Your program recently aired a segment entitled "Following the Trail of Toxic E-Waste," which exposed a recycling company in Guangdong Province in China for illegal pollution practices and associated blame to a recycler in Colorado. Fortunately, a few bad actors are not representative of the entire electronics recycling infrastructure despite what *60 Minutes* would have you believe.

Actually, the exportation activities of the Colorado recycler are very typical of the U.S. recycling industry, where there are few laws or regulations to prevent this unfortunate transfer of toxic waste to developing countries. Those in the industry--such as many of ISRI's members--know this to be the case. BAN tracked, not just one, but 20 containers from the Colorado company and all of them were exported to developing countries often in open defiance of these country's laws.

The real story is about more than just one container. It is a story about hundreds of containers per day flowing from the U.S. into the ports of developing countries around the world. And sadly, it is not just a story of "a few bad actors" but many recyclers and brokers in this country. Recently, Executive Director of Redemtech, Robert Houghton, stated that he believes that about 90% of his industry is acting unscrupulously in this regard. Export of hazardous electronic waste to developing countries is more profitable, and as long as it remains legal in

the United States, it is not difficult to understand the immoral practice continues with many ISRI members, and even our own EPA turning a blind eye to it. A policy that allows this type of global dumping is simply wrong.

There exists today a vibrant, established, global recycling infrastructure that relies on environmentally sound management practices for the recovery of the various commodities that are contained in electronic equipment—including steel, aluminum, gold, silver, titanium, copper, nickel, plastics and glass—for use as valuable raw material feedstock in the manufacture of new products.

This statement is just one half of the truth. While these non-toxic recyclables are traded globally, when mixed with hazardous materials such as lead, cadmium and mercury, they present significant risk to anyone processing them, particularly in countries lacking the resources to manage them properly both from a technological, but more importantly, from a legal, social, and infrastructural standpoint. Many of the materials that the U.S. uniquely calls “commodities” are in fact considered hazardous waste under international law.

And it is important to take this opportunity to speak the truth about the seemingly wonderful notion of sending our hazardous waste to be processed in facilities with “environmentally sound management practices” in developing countries. It must be understood first that there are precious few recycling facilities and smelters in developing countries for toxic electronic wastes that offer “environmentally sound management” from a strictly technological standpoint. Even if they were to exist, there is almost no chance that the surrounding infrastructure and legal framework in a developing country could support them so they achieve the expected result.

There is a reason wastes move from rich to poorer countries, and it is all about what economists call “externalizing costs”. It is not just about finding cheaper labor. For, what comes with cheap labor is an entire context of opportunity to pass on to others the real environmental and social costs, liabilities and harm. This context includes a lack of infrastructure and facilities to manage hazardous waste residuals and pollution; a lack of monitoring and enforcement, not to mention adequate laws to require such enforcement; a lack of tort law and other basic rights to address damage caused to workers and communities; a lack of training and expertise on occupational health and safety; and a lack of labor unions to organize for the protection of workers. In developed countries, we pay for these things (internalizing such costs) which drive the costs of waste management higher. In developing countries, opportunities still exists for real costs and liabilities to be externalized and therefore paid for -- not with dollars to prevent or mitigate such harm, -- but with the health and damaged environment of those at the end of the global pipeline.

For reasons having to do with the ease by which real environmental costs and liabilities can be externalized via the pathways of globalization, the developing world receives a disproportionate burden of harm from toxic products, technologies and wastes. This is not justice. In effect, U.S. policy advocates the outsourcing of poisons as well as jobs, hurting all of us, north and south, east and west.

Your viewers may also be surprised to learn that your program neglected to show footage of some of the most sophisticated recycling parks in the world, located throughout China, including Guangdong province. If done responsibly, electronics recycling provides a number of environmental benefits including energy savings, carbon emission reductions, and recovery of recyclables such as steel, gold, platinum, palladium and plastics thereby reducing the need to mine virgin ores from the earth to produce new materials. Electronics recycling stimulates the economy and creates jobs in China and throughout the world.

This statement ignores the reality that the more promising technologies in China cannot compete with the vast informal sector—the cheap and dirty operations like those operating in Guiyu, China, that exploit many thousands of migrant workers under the yoke of local bosses. Just as U.S. brokers of hazardous materials undercut responsible U.S. recyclers, the cheaper

(and more toxic) solutions in China offer their services for far less by externalizing the toxic impacts onto workers and the local environment.

This vast informal sector thrives because of the massive export trade from developed countries and primarily the United States. State-of-art facilities can certainly be built in China, but there is simply no way proper recycling can take hold there when it must compete head-to-head with the cheaper cost-externalizing practices prevalent in locales like Guiyu. Even if these technologies could survive economically, we also must remember that China still lacks the safety-net of infrastructure, laws, and worker and community rights described above. As China and other developing countries develop environmentally sound technology to properly manage their own electronic waste, it is still not appropriate or legal for the U.S. to send its hazardous materials to them, sending them a disproportionate global burden of toxic wastes and technologies. The Basel Convention adopted in 1989 calls on all developed nations to recycle their own hazardous waste, not export it to developing countries.

If ISRI is genuinely interested in responsible management of hazardous electronic waste, and committed to respecting international laws already in place to regulate toxic waste trade, it will develop policies and programs that keep as much of the processing in the U.S. as possible and that only exports of such toxic wastes go to developed countries. The irony of the current export practice is that it hurts ISRI's own members who seek to do the work in North America rather than brokering it offshore. It is unfortunate that ISRI's policies reflect the lowest common denominator of their industry's interests rather than playing a leadership role in improving an industrial sector that is largely acting unsustainably and irresponsibly.

The segment missed a great opportunity to get groups like the Basel Action Network (BAN), to make a real commitment to improve facility operational conditions in Guangdong Province. Rather than trying to help an industry in a developing nation to become a world-class environmentally friendly operation, their tone seemed condescending and suggested that the Chinese lack the sophistication to improve recycling conditions in China.

Nowhere and at no time did BAN state that China lacks sophistication to improve recycling conditions. On the contrary, China has the technological prowess to adopt any kind of technology currently available. As stated above, the problem is two-fold. First, such technologies cannot compete with informal sector recyclers in Guiyu which are fueled by the export trade primarily coming from U.S. businesses including many ISRI members seeking the pathway of greatest cost externalization and greatest profit – that is by making somebody else pay for the pollution. Second, China, society wide, does not have the safety-nets in place through its political, democratic, infrastructural, and institutional support mechanisms to adequately protect workers and the environment as yet. Even in the U.S., we have much to improve in this regard. It is not condescending or patronizing to make this claim: it is a fact. It is very likely that were it possible to put all of these protections in place, and the playing field was thus truly leveled with respect to safeguards; there would no longer be any economic reason to export hazardous wastes. The shipping costs alone would make it more expensive than doing the job in the USA.

But apart from the poor economics, there are the legal questions. ISRI appears determined to ignore the fact that the government of China seeks to improve its own recycling infrastructure and has banned the importation of this type of waste as they know it works at cross purposes to the development of a sustainable domestic recycling infrastructure.

How is it that ISRI can argue for continuing something that is forbidden by Chinese law? That would seem to be the height of condescension -- asking China to ignore its own laws. Indeed, there is no reason why we as consumers and industries operating in the United States should expect other, poorer nations to accept our toxic discards. Remember how angry we all got when we saw toxic toys and other products coming across our border from China? Should we accept this form of toxic imports simply because we have the technologies to deal with it?

There are real costs associated with properly managing these problematic waste streams and that is why they are furtively shipped across borders. Is it acceptable to expect one part of the

world to accept a disproportionate burden of the growing global mountain of electronic waste? This is contrary to what the global community decided in the Basel Convention and agreed to when they adopted - by consensus - the Basel Ban Amendment, which forbids all exports of hazardous wastes for any reason from developed to developing countries. For example, all 27 European nations that have already implemented this agreement can not legally send toxic electronic waste to developing countries for any reason.

Is ISRI ready to provide leadership here in the U.S. to respect the global laws and norms? The quickest way to help China, if ISRI is serious about doing so, is to honor their laws and wishes and stop sending them toxic waste to burden their environmental and human health for many years to come.

While there can be no argument that the environmental quagmire that was depicted in Guiyu is horrific, we were disappointed by BAN's callous response to Scott Pelley's question as to how BAN would suggest the people of Guiyu otherwise support themselves.

BAN stated that people should not be asked to choose between poverty and poison. The fact that there are desperate people out there is no excuse to abuse that desperation. One would think that such a policy of exploiting the poor and desperate would more accurately fit the term "callous." It is an established human right to have a safe job. It is an established fact that China has declared this type of importation into their country to be illegal. Not only is the job unsafe from a pollution standpoint, but this informal sector is being run by mafia-like gangs that beat the workers and have corrupted local politicians.

It is stunning to hear ISRI arguing to continue something that not only is damaging human health and the environment in China but that is also a violation of human rights, and finally, just plain illegal.

Your segment likely misled viewers by suggesting that American exporters are to blame, and that, if the United States would simply ban those exports, the illegal pollution in China would end. This is simply not true. In today's global economy, there are voluminous amounts of new and used electronic devices being manufactured, sold, used, and ultimately meeting the end of their useful lives within China, Southeast Asia, and throughout the world. Collectively, this creates a huge demand for used and end-of-life electronics in the Chinese market that is independent on exports from the U.S and other developed nations. It is a "red-herring" to suggest that if the U.S. banned exports of all new and used electronics that we could solve the problems in Guangdong Province.

Clearly China is manufacturing products for the world and therefore has had a "huge demand" for raw materials for this manufacturing. However, we're not sending them pure commodities (such as copper, aluminum, steel, etc.); rather we are sending them toxic waste which must be processed further in very challenging conditions to recover separated materials. It is both dangerous and illegal for them to import our toxic waste (as defined in the Basel Convention and Chinese domestic laws). It is not illegal for them to import clean recycled commodities for manufacturing.

It is surprising then to hear ISRI condoning and excusing from blame the exporters whose shipments violate the laws of the importing countries. Even if the exports are not technically illegal from the point of view of U.S. or Canadian law (because these two countries have not adopted or accurately interpreted the Basel Convention), these exports knowingly violate the laws of importing countries. Having been to Guiyu just this year, BAN can confirm that virtually all of the waste arriving in Guangdong Province via Hong Kong and found on the streets of Guiyu is coming from the United States and to a lesser extent from Canada. It is a fact that, were the U.S. and Canada to forbid this export in support of the Basel Convention decisions, the vast majority of polluting operations witnessed by 60 Minutes in Guiyu would dry up. It is the illegal import trade that is feeding these informal operations.

Already, it is very difficult to find European wastes in Asia. The export of hazardous waste from Europe to developing countries is forbidden by law, and countries like Japan and Australia are doing a far better job of controlling their exports as Parties to the Basel Convention. ISRI

does not want to hear this, but it is a fact that the United States and Canada are defying the rest of the world's acceptance of established international rules on the trade in toxic waste.

ISRI was at the forefront of lobbying the United States not to ratify the Basel Ban Amendment or even the Basel Convention itself. It is largely due to the lobby of the scrap industry in the U.S. that this problem has reached global crisis proportions. Yet ISRI, when faced with the facts, continues to defend the practices. One would hope that, rather than staying entrenched in denying the problem with tired arguments, ISRI would seek to remedy the problem. A problem that has now been ably documented not just by BAN, but by CBS, CBC, BBC, National Geographic, and our government's own GAO.

Make no mistake, the U.S. scrap industry, which is represented by The Institute of Scrap Recycling Industries (ISRI), does not condone *illegal* shipments and encourages all efforts to end such *illegal* shipments of electronic scrap to China. ISRI and the scrap recycling industry supports the trade of scrap commodities—including e-scrap—in the global marketplace in full compliance with existing international and national laws that allows industrial consumers worldwide to meet their raw material needs for the production of new products.

This statement is unfortunately completely at odds with the rest of what we have read in this letter. The subject we are addressing is electronic waste, and virtually all of that trade is illegal when it moves from the United States to developing countries. And yet this is precisely what ISRI has been defending herein. Further, if we could believe ISRI's statement above of not condoning illegal shipments, ISRI's RIOS standard for electronics recyclers would have called for an export ban of all electronic waste that is moving to developing countries that are Basel Parties. It does not. Further, ISRI has argued vehemently within the R2 (responsible recycling) negotiations to NOT ask importing countries whether certain types of known hazardous waste electronics (e.g. certain circuit boards) are legal to be imported. We have seen absolutely no effort on the part of ISRI to "end such illegal shipments of electronic scrap to China." All evidence is to the contrary.

To address the environmental problems highlighted by your segment, ISRI encourages efforts to strengthen and enforce Chinese environmental laws.

If ISRI wishes to "encourage efforts to strengthen and enforce Chinese laws," should they not first ask their members not to violate them? And what about our own laws such as the Resource Conservation and Recovery Act that used to control these exports? As early as 1986, the OECD group of developed countries called for such control. Then, at the request of ISRI and other business interests, the EPA revoked the RCRA export controls for hazardous e-waste and other hazardous wastes. They did this not because the waste became less toxic but rather because it was going to be recycled – no matter how or where on earth. And now we are the only developed country on in the world with almost no controls on hazardous waste exports.

If we are to stop that toxic trade that moves in contravention of international law, it makes sense to take action first from exporting countries. It is the exporting country where the perpetrators of the illegal traffic are based and can thus be prosecuted and where preventative controls can be put in place. Import bans, particularly in resource deficient developing countries, are never as effective as export bans. That is why the Basel Ban Amendment (now ratified by 63 nations and implemented by 32 of the 39 exporting developed countries) is precisely that: a trade ban placed on developed countries that demands they internalize their own costs and take care of their own poisons.

Further, the U.S. EPA, environmental groups such as BAN, and others should be prepared to share their knowledge of best management practices with the governments of developing nations to help them implement environmental controls that will preclude the horrific scenes that *60 Minutes* showed to its viewers.

As stated above, China has the technological capacity to manage electronic waste as well as anyone. But such technologies are not able to compete with the voracious, highly polluting

informal sector. The problem is primarily economic, not technological. The complexity of consumer electronics is particularly challenging: mercury-containing fluorescent lamps can be buried inside a laptop; leaded solder and brominated flame retardants are found throughout. Proper management, including proper smelting of the metals and recycling of the plastics, ultimately requires a great deal of resources to internalize and mitigate the costs and risks. And because any technology must be policed, resources are required for proper management both in the private and public sectors. It is true that hazardous waste is very difficult and dangerous to manage anywhere on earth. It takes money to do it right. The technological know-how exists, but too few are willing to pay what is necessary and until now our own government has not forced us to do so – rather it has facilitated a policy that makes others pay, often with their health.

As it is impossible to ignore forever the catastrophic externalities, importing toxic waste therefore represents a severe economic burden. A burden that requires constant vigilance of the risks at the occupational, community and global level. For example, careful monitoring of worker exposure is necessary. Proper management also requires sacrificing tracts of land to ensure final and safe disposal of residues such as lead, cadmium and mercury.

Is it fair trade then to foster a policy that allows rich countries to export this burden to the countries least capable of managing these problems? Is it fair trade to let developing countries receive a disproportionate share of the global problem? Is it fair trade particularly when those receiving the waste equipment never enjoyed the economic benefits of the equipment during its useful life? ISRI's position appears to first victimize those that are desperate and then blames the victims for not properly addressing the problem we have given them. No, that is not fair trade. It is dumping. We would be better off economically and from a moral standpoint if we keep these dangerous jobs in the US and export clean commodities once we have properly managed our own hazardous waste.

In fact, ISRI is a strong proponent of the U.S. Environmental Protection Agency's recently completed Responsible Recycling (R2) program. R2 is an independent set of voluntary operational practices specific to electronics recycling. The practices were developed over the past two years through a multistakeholder effort, led by the EPA and is supported by a diverse group including state governments, electronics manufacturers, recyclers, and organizations such as ISRI. Whereas R2 reflects a consensus approach—comprising the views of federal regulators, state governments, recyclers, manufacturers and activists—the “ban all exports” approach advocated in some quarters enjoys no such broad-based consensus.

ISRI knows full well that the R2 process was not a “consensus approach”. One very key stakeholder group, the environmental community (represented by BAN and the Electronic TakeBack Coalition) walked away in protest from R2 because the standard was weakened by ISRI's insistence on loopholes to allow toxics to illegally move to developing countries. To those that care about environmental quality and social justice, R2 is a failure. R2 allows toxic e-waste export, use of prison labor, and the use of municipal landfills and incinerators. Unfortunately R2 can actually be harmful as it puts the mantle of “responsibility” on some practices that remain environmentally and morally bankrupt. It will not be sufficient to alter toxic trade business as usual. For more information on the problems with the R2 standard please find these three documents:

What's Wrong With R2: http://www.e-stewards.org/documents/Whats_Wrong_With_R2.pdf

How to Scam R2: http://www.e-stewards.org/documents/How_to_Scam_R2.pdf

Detailed Analysis of R2: http://www.e-stewards.org/documents/Detailed_R2_Analysis.pdf

Let's give R2 a chance to work—and, more importantly, let's consider the long-term implications of slash-and-burn approaches that feel good in the moment but ignore the vital role recyclers can play in meeting our global communities' needs for the safe and environmentally sound processing of electronic devices such as personal computers and televisions. Electronics recycling isn't going to “go away,” nor should it, so don't blindly punish those who can help solve the problem.

The problem that 60 Minutes brought to TV screens across America was first revealed by BAN 6 years ago. Back then, industry responded in a similar fashion as witnessed in this letter -- decrying the horrors while refusing to take responsibility for them. Our recent trip to Guiyu with 60 Minutes indicated that things are today worse, not better. Enough is enough.

We cannot afford to wait 6 more years, and indeed the recycling industry cannot afford to let these despicable practices continue to outsource jobs, reputations, and toxics. They are destroying the good name of our country, our industry, and recycling in general – all while destroying lives. Nobody is asking the electronics recycling to go away. Rather, we are asking those companies and trade associations who operate under a dark cloud of shame to stop the denial and make real strides toward making it go the right way. Currently, ISRI is offering the world and our country the exportation of American jobs and poisons. The irony of it all is that many of ISRI's members that want to do the job right in this country, with proper glass, plastic and metal processes and smelters located in developed countries are ill-served by the outsourcing of employment and global pollution. Indeed, all of us, as U.S. and Canadian and global citizens, are ill-served by clinging to this, the last bastion of irresponsibility and exploitation – all done in the name of recycling.

Most of all, let's look for ways to work together—we have much more uniting us than dividing us.

“Working together” means first and foremost respecting the rights, the health, the environment and the laws of our global neighbors.

Yours sincerely,

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