

# Basel Action Network

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## **Dear Participants of the OECD 3<sup>rd</sup> Workshop on Environmentally Sound Management for Wastes Destined for Recovery Operations:**

As you may know, the Basel Action Network (BAN) has, together with the Silicon Valley Toxics Coalition and several other Asian organizations, released a report on February 25<sup>th</sup> entitled "Exporting Harm: The High Tech Trashing of Asia." This report and an accompanying video film by the same name is available from our website at [www.ban.org](http://www.ban.org).

In addition to that report, BAN has been vocal in raising issues critical of the Workshops on Environmentally Sound Management of Wastes for Recycling. Additionally, in July of 2000, in a letter to Mr. Bob Tonetti, USA OECD representative, the Silicon Valley Toxics Coalition, raised concerns shared by BAN and reiterated below.

Although we would have liked to have been able to attend the Third Workshop to raise pressing issues regarding the ESM guidelines, the workshop and electronic waste exports in particular, unfortunately due to costs and time constraints, it was impossible for us to attend *both* the Workshop and the later March 25-26 WGWR meeting. For these reasons, we decided that we would attend the latter meeting and not the workshop. At the WGWR meeting we will show our film and circulate the above mentioned report. We hope to see many of you there.

For those that will not be attending the latter meeting however, we have, together with the Silicon Valley Toxics Coalition, herein submitted some concerns to the participants about the overall ESM process undertaken by the OECD which we hope will be seriously reflected upon in the overall workshop proceedings.

### **Statement of Concern of BAN and SVTC**

The Silicon Valley Toxics Coalition and the Basel Action Network wish to raise the following issues of concern with the participants of the

#### **ESM Work Must Include Waste Prevention and Clean Production**

BAN and the Silicon Valley Toxics Coalition continue to object to the OECD separation and isolation of issues related to upstream waste management via prevention and waste avoidance and downstream waste management via disposal and recycling. The definition of ESM as stated in the Draft Guidance Document on Scrap from Personal Computers reads as follows:

*"a concept for ensuring that wastes, and used and scrap materials are managed in a manner which will save natural resources and protect human health and the environment against adverse effects which may result from such wastes and materials."*

This definition is woefully insufficient in that it clearly does not include upstream management -- before the waste is produced. This belies the new name of the working group and presumably its mission. Further it is out of step with the interpretation of the Basel Convention ESM definition as indicated in the Basel Declaration on ESM passed at the 5<sup>th</sup> Conference of the Parties. That declaration not only included waste minimization as part of the scope of ESM, but in fact stated a clear *emphasis* on waste minimization as the most important element of ESM.

While some may argue that it is legitimate to address the issues of recycling in different meetings and documents from those covering issues of waste avoidance, this in our view, is misguided and betrays a fundamental lack of understanding of an integrated approach to waste management. It also enforces the current lack of communication between manufacturers and waste recyclers and waste managers.

The fact remains, that most consumer products today are not designed to be recycled, and therefore, the recycling of these products, is extremely harmful or inadequate and thus may create more environmental and occupational harm than simply dealing with these waste issues via final disposal. However, if products were *designed* for recycling this would not be the case.

This can be very well illustrated by the contradictions found in the draft guidance document for computer scrap. For example, the paper cites phosphor as a serious hazard and inhalation risk, and states that the phosphor should be recovered and disposed of as a hazardous waste. However, the paper provides no guidance for doing this and glosses over the fact that currently nobody is accomplishing this. Thus currently recyclers all over the world are being exposed to phosphor dusts and the OECD appears to be advocating this as they have discussed CRT recycling in depth without stating that phosphor exposure is unacceptable. Likewise, the OECD cites the fact that furans and dioxins can be emitted from the melting of BFR impregnated plastics, and indeed the shredding of BFR plastic can release the BFRs to workers and the environment but fails to state unequivocally that this should not be done but simply goes on to discuss plastics recycling. Likewise, beryllium is mentioned as a hazard from shredding, incineration and combustion of electronics but little information is given about how to prevent exposure to beryllium and how to dispose of it once it is recovered. The impression clearly given is that despite the fact that nobody is adequately addressing these exposure issues, of BFRs, phosphor and beryllium, recycling must and should continue.

It can be stated without hyperbole that currently nobody is fully recycling electronic waste in a manner which can be considered environmentally sound. In fact, we would argue that these types of exposures (e.g. beryllium, phosphor, brominated flame retardants) can be far worse in a recycling process than in a landfill disposal scenario. The crisis of electronic waste, as but one example, is clearly first and foremost a crisis of design, more than a matter of insufficient recycling, for until the design questions can be resolved, the recycling of this material may very well be completely inappropriate.

In order to resolve these questions, every forum discussing recycling must also be a forum discussing design. The separation and isolation of manufacturers from those dealing with downstream impacts is a serious problem and yet this is precisely the approach that is advocated by the OECD.

In sum, we strongly object to this separation and limited definition of ESM for the following reasons:

1. The waste crisis and particularly, the hazardous waste crisis, is largely a crisis of design and lack of upstream remedies rather than a crisis of a lack of recycling. The independent development of an enhanced recycling guidance, leads to a presumption that recycling, independent of upstream management is in fact always preferable to disposal and therefore tends to ignore and downplay the very real hazards of recycling.
2. The separation of upstream waste prevention issues exacerbates the current disconnect and lack of communication between downstream managers and recyclers with product manufacturers. This disconnect, and lack of attention by manufacturers to downstream impacts, is the root cause of our current waste crisis.
3. The limited definition of ESM to downstream impacts, means that we will never be truly solving our hazardous waste and waste crisis, but will in fact be forever chasing the problem, attempting to mitigate it, rather than prevent it.

Therefore, we would ask that the participants seek to re-define ESM to include upstream waste prevention and waste avoidance as part of waste management and, moreover to include these issues in the next workshops and in all guidance documents.

#### OECD Process Must Not Be Used to Undermine the Basel Convention and Basel Ban

In the wake of the release of our report “Exporting Harm”, the United States EPA representative, Ms. Elizabeth Coatsworth, has indicated on more than one occasion, that the United States intends to utilize the OECD’s Guidance document on Computer Scrap Recycling and indeed the process of establishing criteria of Core Performance Elements for the Environmentally Sound Management of Wastes, as the way by which the United States will in future be able to certify and accomplish the export of hazardous wastes to foreign recycling facilities. Such statements were clearly made in the context of Asian non-OECD destinations. The most recent such statement by Elizabeth Coatsworth took place at the Electronics Product Resource and Recovery Conference which took place in Washington, March 11-12.

The United States is currently exporting hazardous electronic wastes to China in violation not only of the Basel Convention which they have signed but remain a non-Party, but also *in legal violation* of the OECD Council Decision-Recommendation (86)64(final) which requires that OECD member states only export hazardous wastes to adequate disposal facilities in non-OECD countries and with prior-informed-consent (PIC) and shall empower its authorities to forbid such shipments. “Hazardous wastes” for the purposes of (86)64(final) are defined not only by the definitions of the exporting state but also of the state to or through which the waste is conveyed (e.g. China which has adopted Basel definitions).

Although the OECD Secretariat has stated that the work of the ESM workshops is designed only for use within the OECD member states, the United States clearly sees the exercise serving another purpose. And, judging by their selective implementation of established OECD decisions, we in BAN and SVTC are forced to conclude that they will likely utilize the OECD process and its criteria to undermine globally established decisions and norms of the Basel Convention such as the Basel Ban Amendment and the Basel Convention’s requirements for PIC etc.

This is unacceptable and it is what we have feared for some time as expressed in BAN’s letters to the OECD secretariat in the past (available in Library Section of BAN website: [www.ban.org](http://www.ban.org)) .

These are the issues which we will be raising at the WGWRP. However in the context of the Workshop, we believe that due to the concerns raised above, it is imperative that the OECD Workshop take every opportunity to add to each of the guidance documents and other papers produced in the workshop, language to the effect that in no way can the products of these ESM workshops be utilized to justify export of hazardous wastes to countries outside of the OECD member area in accordance with the Basel Ban Amendment, nor can they be used to justify violations of the obligations of the Basel Convention itself.

Sincerely yours,



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Director, Silicon Valley Toxics Coalition