

ICT Sector Position on the Swiss/Ghanaian Proposal to Control All Non-Hazardous E-Waste under Annex II of the Basel Convention

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The Information Technology Industry Council (“ITI”) and DIGITALEUROPE appreciate the opportunity to share the position of the information and communications technology (“ICT”) sector on the Draft Amendment Proposal of Switzerland and Ghana for the Classification of Non-Hazardous E-waste on Annex II of the Basel Convention (the “Amendment Proposal”). At present, non-hazardous waste electrical and electronic equipment (“WEEE”) is not controlled under the Basel Convention. The Amendment Proposal as drafted would move all non-hazardous e-waste to Annex II, requiring prior informed consent for shipments and triggering some trade bans. Switzerland has indicated its intent to formally introduce a version of the Amendment Proposal in December 2020 to be considered for adoption in July 2021 at the fifteenth Conference of the Parties to the Basel Convention.

- The ICT sector supports environmentally sound management (“ESM”) of all waste, including WEEE, regardless of whether it is hazardous or non-hazardous.
- We agree that ESM and material efficiency are best achieved by ensuring both hazardous and non-hazardous WEEE is recovered at “state of the art treatment” facilities. We note that all countries have a role in ensuring the proper collection and management of WEEE but, in many instances, transboundary movement of WEEE to high-performing recovery facilities is needed to ensure ESM.
- We are not opposed to extending Basel Convention controls to certain types of mixed non-hazardous waste that the parties conclude presents a high risk of mismanagement. **However, we do not support the draft Amendment Proposal to classify and control all non-hazardous WEEE under Annex II of the Convention. As proposed, the Amendment Proposal, in our view, would have the unintended effect of increasing barriers to the efficient collection and movement of non-hazardous WEEE to facilities capable of ensuring ESM thereby increasing the risk that this WEEE will be mismanaged or simply disposed of in-country (instead of being responsibly recycled), forfeiting significant materials value present in the WEEE.**
- The proposed Annex II listing could also impede the movement of used electrical and electronic equipment (“UEEE”) for repair and refurbishment if ongoing negotiations regarding revisions to Annex IV operations and related text in Annex IX, as well as the finalization of the Technical Guidelines, do not reaffirm that used equipment and components managed for legitimate repair, refurbishment and reuse are non-wastes.
- Governments should conduct further study of the potential social, environmental, and economic effects of the proposal to avoid inadvertent impacts on, for example, circular economy initiatives and trade in used equipment for repair and refurbishment. In addition, we urge governments to assess the benefits, burdens and unintended impacts on the management of plastic wastes arising from the expansion of Annex II before considering the addition of non-hazardous WEEE to Annex II.

- In order to improve the management of all UEEE and e-waste in the near term, the final proposal put forward by Switzerland and Ghana must also:
 - Reform and modernize prior informed consent procedures. The proposal must include provisions to improve the capacity of competent authorities to implement the prior informed consent (“PIC”) procedure for wastes controlled under the Convention, including newly covered plastic wastes. These reforms need to be expressly tied to any future expansion of controls over non-hazardous e-waste. These processes are currently so burdensome and inefficient that it is unworkable to require prior informed consent for vast new classes of low-risk wastes. One idea to explore might be to establish an administrative opt-in process that governments could join, which would function quickly and efficiently to expedite approvals for controlled e-wastes that are being moved in legitimate processes by OEMs for materials recovery.
 - Expressly exclude UEEE from the Basel Convention. The proposal should explicitly recognize that UEEE managed for repair and reuse is outside the scope of the Basel Convention. Such recognition should be accompanied by support for the finalization and national implementation of the Technical Guidelines and corresponding changes to Annex IV to promote the proper classification of equipment managed for legitimate repair and reuse as non-waste in order to extend the life of equipment and reduce the generation of e-waste.

- If parties are interested in taking action to further control WEEE, the ICT sector believes that it will be essential to take a more targeted approach. In addition to the criteria noted above (i.e., reforming PIC procedures and explicitly excluding UEEE), we suggest that any expansion of Annex II to control non-hazardous waste should be tailored to:
 - include only the most problematic and highest volume waste-flows;
 - exclude e-waste flows that all stakeholders agree are not problematic and should be encouraged, such as responsible well-managed resource recovery and circular economy programs by OEMs and their partners.

- Parties should therefore consider two steps in revising the Swiss proposal:
 - Creating a narrower Annex II e-waste listing (e.g., “unsorted non-hazardous mixed consumer electrical and electronic wastes, other than those identified in [Annex IX entry]”).
 - Combining that with one or more new Annex IX entries (similar to the B3011 listing for plastics) setting out categories of non-hazardous e-waste that would continue to be outside Basel controls. Below are some potential formulations for such exclusions from Switzerland and Ghana’s Annex II proposal:
 - Shipments of non-hazardous e-waste that are moving transboundary as part of an original equipment manufacturer’s closed-loop manufacturing or materials recovery program.
 - Sorted non-hazardous e-waste that consists of highly specialized equipment, i.e., professional use or B2B enterprise equipment and components from such equipment.

- Non-hazardous materials and components that have been separated from e-waste in a pre-processing step, which may still be waste, but which are themselves no longer electrical and electronic equipment but belong to another Annex IX entry.
- Exports of e-waste to a specialized recycling facility that the importing party has designated as pre-consented to receive such waste, in a registry to be maintained by the Secretariat.

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