

THE EVOLUTION OF THE BASEL CONVENTION

Implications for the Circular Economy & Global Corporations

Introduction. From May 1-12, 190 global governments (the Basel Parties) will convene in Geneva for Basel Convention COP-16. Governments may adopt a formal amendment to the Convention restricting global shipments for repair and refurbishment, and are deliberating relevant proposals with broad implications for the circular economy and global corporations. The United States is the only developed country that is not a Basel Party, thus placing American companies at a significant disadvantage.

The Basel Convention, which began as a regulatory regime to control exports of hazardous wastes, has evolved to become the global legal framework for the circular economy.

Governments have recently expanded the Convention to cover non-hazardous wastes (e.g., certain plastics and WEEE), and efforts are underway to drive it further up the value chain. Beyond the formal proposal to extend the Convention to products for repair, governments have suggested bringing used, functional goods within its orbit.

Here's what's at stake at COP-16 and beyond (skip to):

- [“Preparing for Reuse”](#)
- [Technical Guidelines on E-Waste](#)
- [PIC Reform](#)
- [Technical Guidelines on Plastic Wastes](#)
- [Emerging Basel Topics \(Functional Products & Batteries\)](#)

“Preparing for Reuse”. The private sector's main concern at COP-16 involves a formal amendment proposal from the EU to introduce a new Basel waste operation: “Preparing for reuse (e.g. checking, cleaning, repair, refurbishment).” If adopted, exporters would need to subject these shipments to a costly and inefficient government notice and consent regime, known as Prior Informed Consent (PIC), developed decades ago to control shipments of hazardous waste. The PIC regime, which also mandates contracts, insurance coverage and financial guarantees, would add significant delays and expense if applied to global movements of used products and high-value components.

While Brussels has stated it only intends this listing to apply to products that have already been designated as waste (e.g., those that have been surrendered at a community collection center), the proposal as drafted could cause uncertainty in global markets and restrict shipments for legitimate repair and refurbishment. Classifying these beneficial operations as waste activities and subjecting them to the Convention's costly and arcane regime for waste movements could incapacitate the circular economy.

Influential Basel Parties, supported by the private sector, have raised concerns over the phrasing of the EU proposal. Brussels may be drafting revised language for formal consideration at COP-16.

Technical Guidelines on E-Waste. At COP-15 in 2022, the Basel Parties adopted formal amendments to the Convention to extend PIC controls to all non-hazardous WEEE. (Hazardous WEEE is already covered.) The [Basel WEEE Amendments](#) are set to enter into force on January 1, 2025. Now, Basel Parties are poised to approve an updated version of the Technical Guidelines on E-waste¹ (TGs on E-waste).

The TGs on E-waste recognize that, under carefully prescribed conditions, certain shipments of non-functional electronic equipment can move across borders outside of Basel PIC controls for legitimate repair and refurbishment activities. These conditions – e.g., proper packaging, contracts, feedback reports, movement documents, proper waste management, etc. – are crafted to ensure environmentally-sound outcomes and to allow governments to distinguish legitimate shipments for repair from illicit shipments of WEEE. While Basel guidelines do not carry legal force, they can exert considerable influence on national regulations and policies.

Developing countries, joined by civil society, are concerned that illicit brokers are exploiting the “non-functional equipment” provisions of the TGs on E-waste to conceal illegal WEEE shipments. They are demanding governments close the so-called “Repair Loophole” by subjecting all claimed shipments of product repair to the PIC procedure.

COP-16 is the last opportunity for Parties to revise the TGs on E-waste before the new WEEE Amendments take effect. Green Cognition participates as an official Observer in the Basel Expert Working Group (EWG) on the TGs on E-waste. The EWG is poised to recommend at COP-16 that Basel Parties revise the TGs on E-waste only as necessary to reflect the 2022 Basel WEEE Amendments. While that outcome seems likely, critics of the “Repair Loophole” will continue to agitate for changes at future COPs.

PIC Reform. Governments, the private sector and civil society agree that the Basel PIC process demands significant reform. In many nations, PIC notification requests are still sent via mail or fax machine. The country of export, country of import and every transit country involved has a right to consider a covered shipment. It commonly takes months, and often more than a year, for governments to respond to requests. While illegal actors mask the true contents of their shipments to avoid PIC controls, legitimate operators incur significant costs and delays as exports are held in port.

As the Basel Parties have expanded PIC to certain shipments of plastics (effective 2021) and now to non-hazardous WEEE (2025), these challenges will become even more acute. Recognizing this, the Convention has authorized work to consider ways to

¹ UNEP/CHW.14/7/Add.6/Rev.1

streamline the PIC notification system and has approved a parallel effort to explore digital notifications. Green Cognition is participating as a formal member of the Small Intersessional Working Group (SIWG) on Electronic Approaches to the Notification and Movement Documents under the Basel Convention.

Given the complexity of the discussion, it will likely take years for Basel Parties to agree on reforms, and even longer for those reforms to be realized.

Technical Guidelines on Plastic Wastes. The Basel Parties intend to finalize the Technical Guidelines on the Environmentally Sound Management of Plastic Wastes (TGs on Plastics) at COP-16. Basel Parties and stakeholders have collaborated to achieve substantive progress on key topics including:

- Waste prevention and minimization;
- Distinguishing hazardous from non-hazardous plastic wastes;
- The status of chemical recycling; and,
- Environmental impacts of recycling (e.g., water resources).

There is strong momentum to adopt the TGs on Plastics at COP-16 to inform the next meeting of the [Intergovernmental Negotiating Committee \(INC\) on Plastic Pollution](#).

Emerging Basel Topics. There are other emerging dialogues underway at the Basel Convention that could impact the private sector. These include:

- Some governments have suggested that nations apply Basel PIC controls to shipments of used, functional goods. While we have yet to see an official proposal along these lines, governments have expressed concerns that underground brokers are disguising illicit cargo by falsely claiming their shipments of WEEE are exports of working goods. Without proper enforcement, many of these waste shipments are arriving at ports in developing countries.
- Basel has extended existing work on used lead-acid batteries to encompass “other” batteries. Many Basel Parties have expressed concerns over the fate and transport of used and waste batteries, especially lithium-ion batteries. Green Cognition is participating as a formal member of the Small Intersessional Working Group on Batteries.

Contact. Rick Goss of Green Cognition has been engaged on Basel electronics priorities since 2006 and will be in Geneva for COP-16 to advocate on behalf of the private sector. For more information, please contact: rick@greencognition.com