

## Our position

# Basel Convention on the transboundary movements of hazardous waste

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## Executive summary

The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal is an international treaty that controls cross-border movements of hazardous and certain other waste to promote environmentally sound management (ESM) of those materials within the Convention's signatory countries.

During the upcoming 17th Conference of the Parties (COP-17), Basel Parties will discuss amendments proposed by the EU to add a new waste operation, notably *R14: Preparing for re-use (e.g. checking, cleaning, repair, refurbishment)* and *R17: Other treatment than covered by R1 option 2, R3 option 1, R4 option 1, R5 option 1 and R14*, to Annex IV of the Convention, which covers waste disposal and recovery operations. However, these proposed amendments may diverge from EU law and the EU's circularity policies.

For this reason, the EU must withdraw its proposals to enable further consideration of the potential implications across sectors. The EU should work with Parties on a global impact assessment prior to adopting this new waste entry.

## Introduction

On 28 April through 9 May 2025, the Basel Parties – the 190 global governments and the EU – are convening at COP-17 in Geneva and will discuss the EU's proposal to include new amendments (R14 and R17).

If adopted, these amendments would likely result in Parties imposing waste controls on the transboundary movement of used electronics intended for legitimate repair, refurbishment and re-use, thereby putting up new barriers to their entry into the EU. Consequently, these amendments could significantly undermine the EU's circular economy and the policy goals of several laws adopted over the past years, including the Right-to-Repair Directive, the Critical Raw Materials Act (CRM) and the Ecodesign for Sustainable Products Regulation (ESPR). More broadly, the proposals clash with the European Commission's key objectives to reduce administrative burden and simplify the implementation of existing laws.

As an important legal regime for furthering global circular economy efforts, the Basel Convention has the potential to promote or hinder critical circularity investments and activities. The international agreement has been ratified by 191 Parties and governs transboundary movement of hazardous waste and a growing category of 'other' waste (eg many household plastics and non-hazardous waste of electrical and electronic equipment that was recently brought under the Convention).

The Convention seeks to meet several policy objectives by controlling these materials, including:

- Reducing hazardous waste generation.
- Promoting the ESM of hazardous and other wastes.
- Controlling and tracking transboundary movements when permissible through a government-to-government regulatory prior informed consent (PIC) system.
- Restricting transboundary movements of hazardous wastes to destinations without ESM capacity via PIC.

The Convention does not cover products or used equipment that are not waste. Under the Basel Convention (specifically, the E-Waste Technical Guidelines, adopted on an interim basis with broad support from Parties), used electronic goods shipped for legitimate repair, refurbishment and re-use are not waste. Electronics and other goods/materials sent for recycling or disposal (eg to a landfill) are considered waste. The Convention’s primary mechanism for controlling covered waste shipments is the PIC procedure, which requires pre-shipment consent from the exporting and importing governments and from any transit countries.

Most Parties manage the PIC process through outdated paper-based systems, which cause long delays for shipments and significant business interruptions and costs. The processing time for PIC notifications and the costs associated with awaiting approval can be a barrier for recyclers to ship e-waste, especially when multiple transit authorities are involved. For example, it can take several months – and sometimes over one year – to clear shipments in some regions. As of 1 January 2025, most Parties apply PIC to all e-waste shipments, hazardous and non-hazardous. Notably, the Basel Convention bans shipments of covered wastes to and from non-Basel Party countries like the US, absent a special bilateral or multilateral trade agreement under Article 11 of the Convention.

Basel controls serve important policy goals supported by the information and communications technology (ICT) sector. Clarity around what constitutes covered waste is critical to avoid trade barriers. The paper below explores the primary risks of the proposed *R14: Preparing for re-use* and *R17: Other treatment than covered* amendments.

## Legal uncertainty with waste classification: most Basel Parties define ‘waste’ with reference to the operations in Annex IV

In recent discussions at the various Basel Convention meetings, including the COP, Open-Ended Working Group (OEWG) and Expert Working Group on the Review of Annexes (EWG-RA), most Parties indicated that they determine if a substance or object is a ‘waste’ based on whether it is destined for one of the disposal operations listed in Annex IV of the Basel Convention. As such, expanding Annex IV to include a new R14 operation would practically expand the definition of ‘waste’ to cover a large number of used products for repair, refurbishment and re-use under the Convention. This outcome would undermine current criteria for non-waste classifications set out in the Basel E-waste Technical Guidelines, which the EU has supported and which the Parties have adopted on an interim basis as instructive guidance with resounding agreement.

Similarly, adopting the R17 amendment as a catch-all operation could lead to ambiguity, vastly increase the scope of what might be considered ‘waste’ and hamper circularity efforts. Injecting more legal uncertainty and complexity into the waste/non-waste determination for electronics would further burden regulators and responsible industry stakeholders and slow momentum toward a more circular economy for used products.

The approach of the vast majority of Basel Parties to Annex IV contrasts with the EU’s approach to defining ‘waste’ with reference to the concept of ‘discard.’ However, the EU should consider the ramifications of amending the scope of the Convention – applicable to all Parties – to solve a regulatory issue in the EU. The EU does not control how other Parties would implement or interpret the proposed R14 and R17 amendments, and it is likely that implementation approaches outside of the EU would make it harder for valuable used product to be moved to highly specialised, best-in-class repair and reuse facilities in the EU.

## Lack of broad consensus would likely hamper global circularity

Although the R14 and R17 proposals have been discussed extensively at previous COPs, OEWG meetings and EWG-RA meetings, Parties have yet to agree on proposed text. Instead, bracketed text has been put forward for consideration at COP-17, creating uncertainty on the final text and its implications for various sectors and – as noted above – the EU’s own circularity ambitions. The EWG-RA recommendation to COP-17 include two bracketed text proposals, neither of which have gained consensus:

**[R14** Preparing for re-use (e.g. checking, cleaning, repair, refurbishment)]

**[R14 ALT**

Preparing for re-use of [obsolete] objects, or components thereof, that would otherwise go to other operations in sections A or B, and that will be used for their original purpose after the operation is completed (e.g. checking, [cleaning,] repairing, refurbishment)]

The bracketed R17 proposal put forth for consideration at COP-17 is:

*[R17 Other treatment than covered by R1 option 2, R3 option 1, R4 option 1, R5 option 1 and R14]*

Should negotiations resume at COP-17, new text proposals could be put forward without adequate assessment of the unintended trade disruptions that could follow for various types of used products shipped for repair, refurbishment and re-use (eg ICT hardware, medical devices, textiles etc). The Parties must avoid rushing through the drafting of compromise text at COP-17. Given the significant ramifications on the Convention’s scope and circularity efforts, Parties must conduct further impact assessments on the global environmental, economic and social consequences of the current proposals.

## Inconsistencies would likely impede the EU’s integrated approach to circularity

Parties have shared a wide range of views on the introductory text for Annex IV and the text proposals that could be included under R14 and R17 amendments. There is a high degree of uncertainty and some risk that the final text may not align with EU waste legislation or broader policy goals for advancing circularity.

The new proposed R14 waste operation in Annex IV contains significant changes from the original EU amendment proposal, making the amendment’s implications for EU waste and product legislation uncertain. Additionally, the text proposed is not clear enough and would increase the risk of divergent interpretations and applications across Basel Parties. Such confusion could lead to trade barriers on valuable materials, disadvantaging the EU and working against the EU’s recent legislation to promote circularity.

The universal ‘waste hierarchy’ established in Article 4 of the EU’s Waste Framework Directive (included in many other laws worldwide) prioritises ‘prevention’ of waste generation as the highest priority.

Expanding the definition of waste to include used goods destined for repair and re-use would contravene this hierarchy. Adopting R14 text that departs from EU precedents may further complicate the implementation of evolving EU legislation aimed at advancing circularity. Examples include misalignment with the Waste Shipment Regulation and evolving Corporate Sustainability Reporting Directive and ESPR measures, which are expected to promote durability, ease of repair, the incorporation of used components in refurbished products and circularity.

## Existing global trade channels for valuable used products would be disrupted

Even if the COP adopted the EU's original R14 text, EU trade in durable goods for repair, refurbishment and re-use would face new trade friction and legal uncertainty that would undermine the goals of waste prevention and circularity.

If countries outside the EU interpret the 'preparing for re-use' waste entry to classify shipments of used products destined for repair, refurbishment and re-use controlled as 'wastes' shipments (a high risk), they can be expected to impose full Basel PIC, documentation and financial assurance obligations on a wide range of used goods currently imported into the EU for repair, refurbishment and reuse. The EU would have little influence over how exporting countries classify used goods or the timelines needed for authorisations. Discussions within the EWG-RA suggest that many Parties would conclude that they are obligated to control a wide range of used products shipped for repair, refurbishment and re-use, regardless of the EU's interpretation and waste classification for such goods.

If the Parties adopt a new R14 operation, Basel-implementing measures in many countries would provide little room for limiting the scope of 'wastes' to be controlled when managed for repair and refurbishment. This would result in extensive administrative delays and logistical barriers to the movement of ICT equipment and other complex durable goods back to the EU for management in well-established repair and refurbishment operations.

When discussing amendments R14 and R17, the Basel Parties must carefully scrutinise and consider trade flows and new trade barriers, notably for ICT products (and other complex durable goods).

## Conclusion

Moving waste for recovery in compliance with the Basel Convention is a top priority to ensure ESM and advance the circular economy. Given the complexity of the issues raised by the R14 and R17 amendment proposals and the limited information available about potential impacts on the diverse sectors involved in the trade of used goods for repair, refurbishment and re-use, the EU should withdraw its support for the proposals or alternatively, discuss more limited R14 and R17 amendment proposals after conducting a comprehensive global impact assessment. At COP-17, the Parties must not undermine the ability of the EU and others to minimise waste generation and advance circularity goals.