



Basel Action Network
206 1st Ave. S., Suite 410
Seattle, Washington 98104
Telephone 206 652-5555, Fax 206 652-5750
Web: www.ban.org

BAN Toxics
Unit 321, Eagle Court Condominium
26 Matalino Street
Diliman, Quezon City
Telephone +63 2 239 4392, Fax +63 2 355 7640
Web: www.bantoxics.org

A Great Injustice: Illegal Waste Shipment from Canada and the Basel Convention

Atty. Richard Gutierrez
Executive Director, BAN Toxics

(This speech was given by environmental justice group BAN Toxics executive director and international environmental law expert Atty. Richard Gutierrez, in front of the delegates of the ongoing Conference of Parties of the Basel, Rotterdam, and Stockholm Conventions in Geneva, Switzerland.)

Basel Action Network / BAN Toxics Compliance Intervention: Illegal Waste Shipment from Canada

Thank you Mr. President and distinguished delegates:

During the negotiations of the Basel compliance mechanism, BAN expressed to the Parties that it was a mistake that there was no trigger for civil society to report on non-compliance concerns. Lacking access to the Implementation and Compliance Committee mechanism, BAN takes the floor at this time to appeal to the Parties and to the Secretariat regarding one of the most serious acts of non-compliance we have witnessed in our many years as watchdog of the Convention.

Distinguished delegates, a firestorm of protests is raging in the Philippines. Filipinos are crying foul over the illegal waste export from Canada that has been festering in the port of Manila for over 700 days.

The issue facing my country and Canada over this illegal shipment poses a serious concern not only between the two countries but also for the Convention. It is a concern that goes to the core of Basel, its efficacy and its basic obligations - prior-informed-consent, control of illegal traffic and the duty to re-import.

The case for non-compliance is straightforward: 50 40-foot seagoing containers from Canada was misdeclared as recyclable plastics. Upon inspection in the Philippines in June 2013, the shipment predominantly yielded Annex II wastes. The Philippines took steps to resolve the issue, but Canada has sought to evade its Basel obligations by claiming that it has inadequate Basel implementation legislation and that the illegal export is a private commercial matter.

More than 700 days since the seizure of the containers, the waste still remains in the Philippines. This case has raised many questions: how long has this Annex III trade gone on without following Basel and to which countries? What will keep this from happening

again? The Philippine government has charged its importer with 12 counts, but the Canadian perpetrator goes uncharged. We are concerned that Canada's failure to observe its obligations and prosecute the illegal waste trader will only serve to embolden others, and put all Basel parties, especially developing country parties at risk.

It is equally disconcerting to witness how two years later, our Department of Foreign Affairs, pressured by Canada in the lead-up to a Philippine – Canadian summit happening this week, has buckled to pressure and has agreed to bury the wastes on Philippine soil. Diplomatic bullying has snuffed the Philippines' resolve to enforce Basel. Thus, even if the Philippines is reluctant to take this matter of non-compliance to the Implementation and Compliance Committee, such non-compliance cannot simply be forgotten. Bilateral non-Compliance is not acceptable under the Convention.

As Filipinos continue to take to the street in the coming days to express our collective anger at the indignity of accepting soiled diapers, electronic wastes, dirty plastics, and other household rubbish from Canada; as Filipino taxpayers are left paying the 1.7 million dollar cost of demurrage for the Canadian wastes; as our justice department expends its resources to hold criminally liable the Philippine importer, it is not lost on us that the Canadian exporter is running scot free to dump such wastes again. The irony is not lost on us, that a powerful country has used that power to exploit a weaker country – the very dynamic the Basel Convention was designed to stop and why we are all here today.

Distinguished delegates, in this Convention and around the world we are mustering all of our resources to better enforce the Convention and halt illegal traffic, but if Parties themselves are complicit with the illegal traffic, we are in a hopeless situation. Unless this matter is taken up by the Convention, the Convention will have failed the Filipino people. Our government has been muted diplomatically. We certainly don't expect Canada to trigger its own non-compliance. We have asked them to meet with us many times to discuss this matter and they have refused.

Together with Filipino friends and civil society partners, BAN calls on the Secretariat to trigger the non-compliance mechanism of Basel. This is our Convention. It is a living Convention. Unless Canada is compelled to take back its waste and prosecute its criminal traffic, a great injustice will have occurred on the watch of everyone in this room. We cannot allow that to happen and we will be submitting the case to the Secretariat in writing.

Thank you Mr. President.

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