

# Basel Action Network

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August 9, 2001

Kenneth C. Brill  
Acting Assistant Secretary of State,  
Oceans and International Environmental and Scientific Affairs (OES)  
United States State Department  
2201 C Street, NW  
Washington, DC 20520

Dear Kenneth C. Brill:

On July 11th the State Department held a presentation to Washington D.C. based NGOs on the U.S. Administration's intent to ratify the Basel Convention. At that meeting it was stated that NGO input on this proposal was sought. Please consider this letter as such input.

We the undersigned environmental organizations wish to express our strong disagreement with the State Department's recently stated position that they will seek to selectively ratify and implement the 1989 Basel Convention while refusing to ratify and implement the 1995 Amendment to that convention.

The Basel Ban Amendment effectively bans the export of hazardous wastes from member states of the Organization of Economic Cooperation and Development (OECD) countries (and Liechtenstein), to all other countries. The Basel Ban Amendment was agreed by a consensus decision of the 65 Parties to the Basel Convention on the Transboundary Movement of Hazardous Wastes and Their Disposal in 1994 and was adopted again by consensus as an amendment by 82 Parties in 1995. In 1998 at the Fourth Conference of the Parties and most recently at the Fifth Conference of the Parties another decision by over 100 countries reaffirmed the Basel Ban Amendment and "strongly appeals to Parties to ratify the Amendment...as soon as possible."

The Basel Ban has been hailed as the most significant achievement to date for international environmental justice. Already it has been ratified and implemented in national legislation by all 15 member states of the European Union, and has so far been ratified as well by Andorra,

Bulgaria, China, Cyprus, Czech Republic, Ecuador, The Gambia, Norway, Panama, Paraguay, Slovakia, Sri Lanka, Trinidad and Tobago, Tunisia, and Uruguay.

For most of the world, the adoption of the Basel Ban was seen as the beginning of the end of a sad chapter of “toxic colonialism” which saw the toxic effluent of the affluent nations being exported to developing countries, endangering the health and environment of peoples that can ill afford more problems. In fact, the original Basel Convention was to have included such a ban and when it did not, it was condemned by many developing countries and environmental groups alike for doing more to legitimize international waste trade than to prevent it.

The Basel Ban is also one of our best opportunities for promoting waste prevention as it removes a huge disincentive to reduce hazardous wastes at home -- the goal of toxics activists and policy makers alike. Once all cheap and dirty waste disposal options are closed, industry will finally have a real incentive to produce less waste and reduce its toxicity. Externalizing pollution costs is always wrong, particularly when such pollution is externalized to developing countries. Indeed without cheap and dirty escape routes for toxic wastes, a whole new industry dedicated to clean technologies will arise which can appropriately be subject to free trade.

On February 28, 1994 Vice-President Al Gore and EPA chief Carol Browner announced to the world a new set of “Principles,” foremost of which was the intention to ban hazardous waste exports beyond North America. Quickly however, following an industry backlash the Clinton administration caved in on that commitment. Now, four years later the United States has still not realized that appropriate goal. Instead the United States has spent significant amounts of time and money trying to convince the rest of the world that the Basel Ban is a bad idea. At each Basel meeting from 1992 to date US delegations to the Basel Convention have tried to convince the Basel Parties to reject or weaken the ban.

Unlike the recently negotiated Stockholm Convention on Persistent Organic Pollutants, the Basel Convention itself without the subsequent Ban Amendment was never hailed by environmental groups, but was seen as more of a problem than a solution. This remains our position.

We believe, that unless the United States accedes to *all* of the Basel Convention, including the Basel Ban Amendment, the United States must not accede to the treaty at all. The arguments that Ratification of the Convention is better than nothing, and is all that can realistically be accomplished does not hold water for such a weak and outdated text, and is especially suspect when the administration has failed to even *try* to seek advice and consent from the Senate on the Basel Ban Amendment.

The argument that the United States lacks statutory authority to control waste exports while it remains a non-Party to the Convention is likewise disingenuous as it is already party to a 1986 OECD agreement which is virtually identical to the 1989 Basel Convention, and the United States meanwhile continues to try and hold open the door for more legal exports to developing countries by its active opposition to the Basel Ban. It appears, under the circumstances, that rather than trying to move in the right direction, the United States is simply trying to move into a treaty in order to move it in the wrong direction.

The environmental community in the United States and throughout the world stands ready to support the administration in any effort to *properly* ratify the whole Convention, amendments and all. But we the undersigned organizations oppose the United States' cynical move to ratify and implement only the minimalist and inadequate 1989 Convention.

Signed,



Jim Puckett  
Coordinator, **Basel Action Network (BAN) Secretariat**

*on behalf of the following additional signatory organizations:*

Mr. John Passacantando, Executive Director, for **Greenpeace USA**  
Mr. Michael Gregory, POPs Issue Coordinator, for **Sierra Club**  
Mr. Brent Blackwelder, President, for **Friends of the Earth**  
Ms. Betsy Apple, Director, for **Earthrights International**  
Ms. Monica Moore, Co-Director, for the **Pesticides Action Network North America (PANNA)**  
Mr. David Hunter, Executive Director, for the **Center for International Environmental Law (CIEL)**  
Ms. Ann Leonard, Co-Director, for **Essential Action**  
Mr. Michael Bender, Director, for the **Mercury Policy Project**  
Mr. Jim Mahon, Coordinator, for the **Clean Production Network, Local 1520 CAW**  
Mr. Jack Weinberg, Project Director, for the **Environmental Health Fund**  
Mr. and Ms. Paul and Ellen Connett, Editors, for **Work on Waste**  
Ms. Carolyn Raffensberger, Executive Director, for the **Science and Environmental Health Network**  
Ms. Alex McPherson, Director, for the **Clean Production Network**

cc: **Mr. Nigel Purvis**, State Department, Director, Office of Environmental Policy  
**Mr. Robert Ford**, State Department,  
**Ms. Julia Gourley**, State Department, Office of Environment Policy  
**Congressman W. J. "Billy" Tauzin**, Chairman of House Committee of Commerce  
**Senator James Jeffords**, Chairman of Senate Committee on Environment and Public Works  
**Senator Joseph Biden**, Chairman of Senate Committee on Foreign Relations  
**Ms. Christine Whitman**, EPA Administrator  
**Ms. Anna Tschursin**, Environmental Specialist, Environmental Protection Agency  
**Congressman John Dingell**, Ranking Member, House Commerce Committee  
**Mr. Colin Powell**, Secretary of State