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We the undersigned are an informal coalition of associations that represent numerous industry sectors across the United States as producers of electrical and electronic equipment (EEE). We have been alerted to pending developments with regard to the transboundary movement of used equipment under the Basel Convention, and wanted to formally submit our perspectives, concerns and recommendations.

We support U.S. and international efforts aimed at ensuring end-of-life electrical and electronic equipment (e-waste) is managed in an environmentally sound manner. Many
of us already exceed national and international legal requirements, and work with
governments around the world to promote improved collection, reuse and recycling of
equipment. Unfortunately, the proposed guidance on transboundary movements of
used equipment for repair and refurbishment put forward in the draft Technical
Guidelines on Transboundary Movements of Used Electronic and Electrical Equipment
and E-waste, in Particular Regarding the Distinction Between Waste and Non-Waste
Under the Basel Convention (Version 21 February 2011) (Technical Guidelines) and in
the Guidance Document on the Environmentally Sound Management of Used and End-
of-Life Computing Equipment (March 15, 2011) (Overall PACE Guidance) threaten to
disrupt legitimate international trade in used equipment that is managed as product for
reuse through existing commercial channels. If adopted, the approach proposed in
these documents would discourage legitimate repair and refurbishment activities,
prematurely divert valuable equipment to waste recycling channels, and impose new
and unjustified barriers to legitimate international trade in used equipment.

U.S. industry (and other sectors of U.S. manufacturing) would be uniquely impacted by
an overly expansive reading of the Convention’s waste definition because of the non-
party status of the United States under Basel. It is therefore imperative that the USG
take decisive action in the coming weeks to advance a more environmentally sound and
economically beneficial approach in the draft Technical Guidelines on E-waste.

Summary of Key Concerns

- A small number of NGOs and some governments have advanced an approach on e-
waste in both the draft Technical Guidelines and draft Overall PACE Guidance that
  would encourage governments to classify used equipment exported for legitimate
  repair, refurbishment and reuse as wastes under the Basel Convention.
- If adopted, this approach would extend stringent prior informed notice and consent
  controls and trade bans typically applied to hazardous waste shipments to legitimate
  exports of used equipment destined for repair and refurbishment.
- The approach threatens to erect new trade barriers to U.S. exports of used goods. It
  would also have the unintended effect of increasing the generation of e-waste in the
  United States and other countries by discouraging transboundary shipments for
  legitimate repair and reuse.
- The approach is inconsistent with the plain language and scope of the Basel
  Convention. It is also inconsistent with the fundamental environmental policy
  objective, embraced in the United States and elsewhere, of promoting waste
  minimization through continued product reuse.

Recommendations

- We urge the USG to take a more active role in the work underway to finalize the
draft Technical Guidelines.
- Specifically, the USG should ensure that both guidance documents recognize
  additional exclusions from the waste definition for used equipment destined for reuse
  so as to reduce the risk that governments will regulate used equipment exported for
legitimate refurbishment and repair as wastes. In addition to the exclusion for warranty returns already noted in the documents, governments should expressly recognize exclusions for lease returns, service agreement returns and other instances that involve movements of used equipment back to manufacturers or their contractual agents where there is clear indication that the used equipment is being managed as an asset for reuse.

- The Secretariat has announced that comments on the current draft Technical Guidelines will be taken until June 30, 2011. It is critical that the USG provide input into the drafting of the Technical Guidelines and also work with key trading partners to improve the direction of this important document. ITI and its overseas partners are also working to engage other governments, but active and sustained USG support will be critical.

- If the critical issues regarding the recommended management of used equipment destined for repair and refurbishment are not resolved in these preliminary processes, the USG should consider options for deferring the final adoption of guidance documents specifically addressing waste definitions and transboundary movement until after COP-10 (October 17-21, 2011 in Cartagena, Colombia) to allow governments and stakeholders additional time to refine the recommendations.

We welcome the opportunity for further discussion as needed.

Sincerely,

IPC - Association Connecting Electronics Industries
Medical Imaging & Technology Alliance (a division of NEMA)
National Association of Manufacturers
National Electrical Manufacturers Association

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