

January 19, 2022

The Honorable Gina M. Raimondo
Secretary
Department of Commerce
1401 Constitution Ave, N.W.
Washington, D.C. 20230

RE: Basel Convention and the Circular Economy
ETTAC Recommendation 2021-05

Dear Secretary Raimondo:

The Environmental Technologies Trade Advisory Committee (ETTAC) is a Federally-established committee whose purpose is to advise on the policies and procedures of the U.S. government that affect environmental technology, goods, and services exports. In this capacity, we appreciate the opportunity to provide these comments and suggestions regarding the Basel Convention.

Although the U.S. signed the Convention in 1990 and received Senate advice and consent for ratification in 1992, it was never implemented. Currently, there are 188 Parties to the Convention. ETTAC recommends that the United States formally join the Basel Convention and pass needed implementing legislation.

The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal controls the international trade in hazardous wastes and certain other wastes through a "notice and consent" or prior informed consent (PIC) process for the export of applicable waste. As such, trade in such wastes cannot take place without the importing country's consent or when the wastes will not be handled in an environmentally sound manner.

In general, the U.S. does not engage in exporting large amount of hazardous wastes to other countries. However, it does engage in the trade of recyclable materials, often termed "waste." These recyclable materials are key to a circular economy and provide important inputs into many final U.S. technologies, products, and services. However, in 2019, the Basel Convention was amended in a way that subject the majority of exports of non-hazardous plastic recyclables and electronic wastes to the Convention's PIC requirement beginning in 2021. Even worse, the Convention's restrictions on non-party trade essentially eliminates the possibility for U.S. exporters to trade with most other countries. Limited exceptions exist under Article 11 of the Convention.

Article 11 of the Basel Convention provides that Parties may enter into agreements or arrangements allowing transboundary movement of applicable materials with non-

Parties provided that they maintain environmentally sound management similar to those provided for by the Convention.

An example of such an arrangement includes the 2020 Arrangement Between the Government of the United States of America and the Government of Canada Concerning the Environmentally Sound Management of Non-Hazardous Waste and Scrap Subject to Transboundary Movement which addresses the non-hazardous plastic recyclables recently added to the Basel Convention.

Currently, EPA has authority under the U.S. Resource Conservation and Recovery Act to control transboundary movements of most hazardous recyclables and waste, but not all Basel-controlled waste, under the amended Convention.

The United States Interagency Community should work with Congress to pass Basel Convention implementation legislation and explore other options for strengthening U.S. participation in the Convention.

Marine litter and ocean plastics pollution is a global challenge that requires a comprehensive internationally recognized instrument providing guidance to all nations. As such, we had previously recommended that the U.S. support calls for such an instrument, as progress continues in the United Nations Environment Assembly.

We also encourage environmentally sound management practices to support protection of human health and the environment including a circular economy that reuses valuable resources and promotes free market solutions. Supporting a circular economy and protecting the ocean from marine litter should not be mutually exclusive activities. To that end, we encourage the U.S. to consider options for strengthening U.S. participation in the Basel Convention while identifying ways to enhance practices to ensure that environmentally sound management of scrap and recyclable materials can benefit circular economy approaches.

We appreciate the Administration's consideration of these comments and suggestions.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. Decker', with a long horizontal flourish extending to the right.

William Decker
ETTAC Chair