

**TESTIMONY OF WENDY NEU
COALITION OF AMERICAN ELECTRONICS RECYCLING
BEFORE THE UNITED STATES INTERNATIONAL TRADE COMMISSION
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Good morning, I am Wendy Neu, executive vice president of Hugo Neu Corporation and a steering committee member of the Coalition for American Electronics Recycling (CAER). Thank you for the opportunity to talk with you today about an issue that is the sole focus of our Coalition – toxic electronic waste exports from the United States. We appreciate the Commission’s interest in this important topic.

CAER includes some of the largest electronics recyclers in the world, as well as a diverse assortment of small and medium sized recyclers in every corner of the U.S. In the six months since launching, CAER has grown to include 67 U.S. companies operating more than 125 electronics recycling and disposition operations in 33 states as well as the District of Columbia.

Our members have come together to support the Responsible Electronics Recycling Act (RERA). This legislation, introduced in the U.S. House of Representatives and U.S. Senate in June 2011, would prohibit the export of certain types of toxic unprocessed and non-working electronics and e-waste from the U.S. to developing countries. We appreciate the opportunity to share our perspectives on the need for this trade legislation, which will provide useful insights for the Commission’s investigation on exports of used electronics.

We applaud the USTR’s mandate to study the flow of toxic e-waste. However, the methodology suggested is fraught with risk because the underlying assumption is that companies will voluntarily disclose their export of toxic e-waste. We do not think this is realistic. No one is going to admit they are in violation of the Basel Convention by exporting toxic e-waste to developing countries.

The Government Accounting Office reported in 2008 that when the recycling industry understands there is no active enforcement of law, irresponsible members of the industry will not be stopped from exporting hazardous used electronics. In terms of the GAO report, this involved violations of EPA regulations. The adoption of RERA would address this lack of enforcement, but until the law is in place the self-reporting method will not yield reliable data.

In order for the survey to be accurate and useful to policymakers, one would need to know not only the volume of exports to developing countries but also the nature of those exports – whether they are non-working and hazardous. Without this data the results will be suspect and thereby jeopardize the overall intent of the study. Additionally, in order for this data to be truly reliable there will need to be more customs inspections of containers at the loading port while coordinating with customs officials at the discharging ports.

DEVELOPING COUNTRIES WANT WORKING EQUIPMENT AND CLEAN COMMODITIES – NOT TOXIC E-WASTE

There is a market demand in developing countries for used electronics, but they overwhelmingly want functioning electronic equipment and components. The problem we hope to address – a goal I assume to be shared by the USTR – is to reduce the massive amounts of toxic non-working and obsolete electronics sent to developing countries.

Members of the Coalition have traveled to developing countries and we've heard from the people that live there that they don't want America's e-waste junk. Indeed, the Chinese government and others have passed legislation expressly prohibiting the import of e-waste. They want quality IT equipment to help them build their infrastructure. This is supplied through the wide availability of new computer equipment and the affordability of quality refurbished computer equipment. They also want jobs and a clean environment. We do no favors when we effectively promote an informal, unsafe and polluting electronics recycling infrastructure abroad.

TOXIC TRADE EXPORTS U.S. JOBS

As you know, electronics contain toxic materials which must be handled carefully to prevent worker and environmental exposure. Developing countries substitute cheap labor for a proper recycling infrastructure, with few environmental or worker safety laws that add cost. As a result, domestic American recyclers operate at a cost disadvantage compared to the unfair export trade, restricting expansion of their businesses and hiring.

As a member of the industry and in conversations with other members it is pretty clear to us, based on anecdotal evidence, that more than half of electronics that companies claim to be recycled in the U.S. are really just “packed and stacked” into shipping containers and exported. This is largely due to the cost differential. Aggregators of used electronics work through brokers to ship equipment overseas and get paid pennies per pound for this mixed assortment of electronics.

Coalition members regularly get solicitations from companies in China, Pakistan as well as countries throughout the Middle East and Africa, that are willing to buy our equipment, tested or not. Unscrupulous brokers send enough valuable equipment to help compensate for the fact that they also include the junk electronics that are costly to dispose at home. This practice has been dubbed as sending “toxics along for the ride.” The practice is pervasive and will be the most challenging to quantify.

It is very simple to ship a container of mixed, untested electronics to a developing country and claim it has either “working computers” or to identify it as something completely different. “Auto parts” is a typical false description. The number of containers actually inspected by Customs agents is minimal, so the risk of getting caught is a cost of doing business for most brokers. While China specifically bans the import of any used electronics, anyone can ship them to Hong Kong or Vietnam. Once in that port, it is very easy for these items to get repacked and make their way into Mainland China.

U.S ONLY DEVELOPED COUNTRY TO ALLOW EXPORT OF NON-WORKING E-WASTE

The United States is the only developed country that does not restrict this type of e-waste export. Other countries have codified this into their laws by adopting the Basel Convention on the Transboundary Movement of Hazardous Waste. Indeed, electronics contain many kinds of hazardous materials and in exporting products, parts, and materials which are hazardous we are violating the laws of many importing countries. Exporting most toxic e-waste and non-working or untested used electronics from the US to developing nations is completely illegal. It violates international laws that govern trade in hazardous waste – the Basel Convention – ratified by 179 nations. While in most cases, these exports don't violate U.S. laws, this is considered trafficking in hazardous waste under international laws, and is such a problem that INTERPOL has established a global e-waste crime unit to address this illegal trade.

RERA includes several exceptions for what can be exported to developing countries, including warranty returns to overseas manufacturers, and recalled product. These exceptions were requested by manufacturers. In addition, electronics from vehicles are not restricted from export. This exception was requested by the scrap processing industry.

If this bill passes, we do not expect it will completely shut off improper exports of used electronics. However, we contend it will flip the equation so that the more than 50 percent now being exported, will be processed in the U.S. This would lead to tremendous growth in the American electronics recycling industry through existing and new businesses and the creation of tens of thousands of new manufacturing type jobs with benefits. Arguing that exporting unprocessed toxic e-waste creates jobs is laughable. It takes 2 people and a forklift to load a container.

CURRENT POLICIES DISTORT MARKETPLACE

The consumer and corporate marketplace is increasingly insistent that electronics be recycled responsibly because of extensive publicity on the global e-waste problem. However, while the U.S. electronics market is the largest in the world, the American electronics recycling industry lacks a robust domestic infrastructure -- and the jobs that come with it -- because of unrestricted and unfair trade in electronic scrap with developing countries. American electronics recyclers struggle to attract the investment needed to expand and meet this market demand.

BENEFITS OF STOPPING EXPORTS OF NON-WORKING E-WASTE

The changes in trade policy outlined in RERA would result in three primary benefits relevant to the Commission's study.

First, the overall value of U.S. exports related to used electronics will increase. While RERA would stop the export of non-working e-waste, the Coalition believes tested, working electronic products should be freely traded. We also believe processed commodities that do not contain "restricted electronic waste" should be freely traded, but for full value as finished commodities, rather than e-waste which is heavily discounted from the global market price. The growth in exports of commodities and working equipment will drive an increase in overall trade activity.

Second, domestic investments in plants and equipment here in the U.S. will increase. Responsible recyclers will find it rational to invest in expansion of their operations once the competition from unfair exports is removed. Electronics recycling technology is "off the shelf," making feasible the rapid expansion of industry capacity.

Finally, tens of thousands of jobs will be created here in the U.S. For every worker participating in the export trade, seven are required for domestic recycling. Many of those currently involved in e-waste exports will shift their business models to become collectors of electronics, and brokers of finished commodity materials.

EXPORT BAN CONFORMS TO INTERNATIONAL TRADE AGREEMENTS

One critic of the legislation has also claimed, absurdly, that it will violate WTO rules. In fact, the Responsible Electronics Recycling Act conforms with international jurisprudence – the Basel Convention and the Basel Ban Amendment – relating to the export of electronics commodities. In fact, it ought not to go unnoticed that the WTO has been present at Basel and Basel Ban proceedings. The bill only seeks to do legislatively what other countries have done by treaty in the implementation of what is now accepted international law. Consistent with our obligations under WTO rules, no costs or trade restrictions are imposed on other countries. Restrictions imposed on U.S. exporters under the bill are permitted under the World Trade Organization GATT Article XX exemption for meeting “justifiable” objectives related to protecting the environment and human health.

The majority of our WTO members have ratified the Basel Convention and some, notably China, have passed their own laws prohibiting the import of e-waste. As manufacturing hubs, these same countries will be eager buyers for responsibly processed – and legal – electronics commodities offered by American electronics recyclers.

CAER POSITION: PROMOTE EXPORT OF WORKING EQUIPMENT, COMMODITIES

.In conclusion, CAER members believe U.S. export policy should provide a framework for free and open trade in used, functioning electronic equipment and the commodities recovered from electronic waste. However, the current irresponsible trade in toxic non-working electronics needs to be converted to responsible trade in higher value processed commodities. This will expand overall trade activity, stimulate investment and create jobs in the United States, protect the environment, and conform with international law.

Thank you for the opportunity to talk with you today. Our Coalition looks forward to supporting your study as you progress.