



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2005/NGO/192
4 March 2005

ENGLISH ONLY

COMMISSION ON HUMAN RIGHTS
Sixty-first session
Item 10 of the provisional agenda

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

**Written statement* submitted by Human Rights Advocates,
a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[10 February 2005]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

THE ADVERSE EFFECTS OF THE ILLICIT TRANSFER OF TOXICS ON HUMAN RIGHTS

1. Human Rights Advocates welcomes the Commission's appointment of the new Special Rapporteur on Toxics, Dr. Okechukwu Ibeneau. His expertise will be a tremendous asset to the Commission's work in monitoring and seeking to prevent the human rights abuses related to the dumping of harmful chemicals and toxics. We hope that the Rapporteur will continue to emphasize the effect of toxics on all rights, including the rights to life, health, water, food, housing and work. The illicit transboundary transport and dumping of toxic substances has a direct impact on the enjoyment of these human rights. The mandate of the Special Rapporteur is more critical than ever given the rise of international transfers and dumping of harmful substances, and the scientific recognition that exposure to such toxins can result in serious harm to human health, particularly to women, children and other vulnerable groups.

2. The trade in toxics affects the ecosystems where the toxics are dumped, through seepage into the groundwater and contamination of food supplies. Further, as with electronic waste, or "e-waste", dismantling of equipment exposes workers to toxics such as lead, mercury, and others, directly affecting the human right to work. The right to housing is affected through the displacement of citizens resulting from the pollution of their communities. The transfer of toxics must be further regulated to promote safer disposal of toxics and to protect human rights. Following are examples of the direct impact toxic wastes have on human rights.

Production and Disposal of Toxics—Corporate Liability

3. Waste management corporations, such as Waste Management Incorporated and Allied Industries, seek to extend their trade in waste throughout the world.¹ The World Trade Organization (WTO) gives cover to these corporations by allowing them to circumvent local and community control of waste shipments.² If left unregulated, not only will profits increase for these corporations, but environmental degradation and the resultant effects on human rights will also become more severe.

4. While major corporations profit from lax waste transfer regulations, it is important to recognize the responsibility of corporations in regulating and reducing amounts of toxic wastes. Adoption of a code regulating corporate activity would be advantageous, such as the Sub-Commission's Norms on the Responsibilities of Transnational Corporations. The Norms summarize existing legal standards relevant to corporate human rights obligations. Collecting the Norms into a binding legal instrument, that can serve as an enforcement mechanism, will further the goal of corporate accountability for human rights.

Electronic Waste

5. The export of e-waste has been a major concern to electronic industry officials and governments for more than three years.³ Used electronic products are the most rapidly growing

¹ Eddie J. Girdner and Jack Smith, *KILLING ME SOFTLY: TOXIC WASTE, CORPORATE PROFIT, AND THE STRUGGLE FOR ENVIRONMENTAL JUSTICE*, Monthly Review Press, New York, 2002, p. 117.

³ Juliet Eilperin, *Dead Electronics Going to Waste*, Washington Post, January 21, 2005. Accessed at

waste problem in the world due to their quantity, rapid obsolescence, and toxicity.⁴ Even though officials are becoming aware of the increasing e-waste problem, the situation continues to deteriorate. Americans dispose of 2 million tons of electronic products a year, including 50 million computers and 130 million cell phones, and by 2010, the nation will be discarding 400 million electronic units annually, according to the International Association of Electronics Recyclers. Exporting these materials to developing nations for “recycling” constitutes a severe threat to human rights.

6. The increasing amount of e-waste directly affects the environments where it is disposed. Computers, televisions and other devices contain neurotoxins and carcinogens that are leaching into waterways and entering the air through burning or dust. An average computer monitor contains an estimated 4 kilograms of lead, which, if not properly disposed will seep into and contaminate the groundwater.⁵ Improper disposal can cause respiratory illness, skin infections, stomach disease and nervous system conditions, directly affecting the human rights to health and life.

7. Four U.S. states: Massachusetts, California, Maine, and Minnesota, now prohibit disposing of computer monitors in landfills. More states are likely to enact similar legislation, preventing those monitors from leaching lead into ground water. This trend could mean more computer monitors will be sold for disposal abroad.⁶

8. Recycling of computers and electronics can provide cover for violations of the human rights of work and health. Recycling programs allow shipping of units to India, China and Bangladesh, where low-wage workers dismantle the machines and are themselves exposed to the toxic chemicals that the electronics contain. Recycling programs should include standards that prevent pollution from occurring and should regulate the dumping and burning of remnants of the dismantled electronics.⁷ The process of extraction uses many chemicals, like acids, which get dumped into the soil and leach into groundwater. Burning of excess materials releases very toxic chemicals like dioxins. HRA is concerned that the recycling process, an unregulated industry in India, is very harmful to the health of those employed in the process and may violate article 12 of the Covenant on Economic, Social and Cultural rights, recognizing the right of everyone to physical health, and the continuing improvement of “environmental and industrial hygiene.”⁸

9. Corporations must be encouraged to use environmentally friendly substances in the electronic products they produce. The European Union's Restrictions of the use of certain Hazardous Substances (RoHS) legislation will become effective next year, banning the use of six toxins from most electronics. Many manufacturers have already eliminated some of the toxins

http://story.news.yahoo.com/news?tmpl=story2&u=/washpost/20050121/tc_washpost/a24672_2_005jan20

⁴ Product Stewardship Institute, http://www.productstewardship.us/prod_electronics.html.

⁵ Kanak Kriani Nautiyal, *E-waste: Send to Trash?*, Times News Network, January 25, 2004.

⁶ http://www.ban.org/ban_news/gadgets_to_040102.html.

⁷ http://www.ban.org/ban_news/growing_concern_031212.html.

⁸ International Covenant on Economic, Social and Cultural Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, *entered into force* January 3, 1976.

targeted by the restrictions, including certain kinds of flame-retardants. Legislation must be enacted to make future electronics more ecologically sound.

Pesticides

10. Toxic pesticides are commonly exported even when the exporting country bans the pesticide for domestic use. This practice directly affects the human right to work. Article 7 of the Covenant on Economic, Social and Cultural rights recognizes the right of everyone to just and favorable conditions of work, including “safe and healthy working conditions.”⁹ The importing country, and the workers who handle the chemicals, may be unaware of the dangerous character of the pesticide.

11. The human rights to water, health, life, and housing are also affected by the importation of toxic pesticides banned in the country of export. For example, in 1999, a subsidiary of Delta & Pine Land, the world's largest cottonseed producer (since acquired by Monsanto corporation), dumped 30,000 sacks of chemically laden cottonseed near a small Paraguayan village. The pesticides which contaminated the seeds were labeled as carcinogenic. The disposal site was on private land in the center of the rural population, and less than 170 meters from a primary school with 262 pupils. Symptoms of pesticide poisoning such as vertigo, nausea, headaches, neurological disorders, memory loss, insomnia and skin rashes, appeared immediately in the surrounding population and worsened after the first rains. Shortly after, a local resident died.¹⁰ It is clear that the rights to life, health, water and food are directly implicated by this disaster.

Recent Developments in the Regulation of Trade in Toxic Wastes

12. The top legislative body in China began deliberations in October 2004 over an amendment to their current Law on Solid Waste Pollution Prevention to avoid becoming the “world's largest dumping ground.” The law tightens control over the increasing trade in foreign garbage in China.¹¹

13. The European Union promulgated the Framework Directive on Waste, including the Hazardous Waste Directive, to control the movement and handling of hazardous wastes. The Hazardous Waste List, which controls the scope of the Directive, was amended in 2003 to include computer monitors, televisions and fluorescent lighting. All 25 members of the European Union must take implementing steps toward realization of the Directive. The EU has further issued laws implementing the Basel Ban as a regulation, immediately binding on all member states.¹²

14. In the United States, individual states have taken measures to address the growing problem of e-waste. In California, recent legislation has been passed requiring all cell phone

⁹ International Covenant on Economic, Social and Cultural Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, *entered into force* January 3, 1976.

¹⁰ <http://www.ethicalinvesting.com/monsanto/news/10057.htm>

¹¹ Basel Action Network, http://www.ban.org/ban_news/041104_china_revises.html.

¹² http://www.ban.org/Deposit_Box.html.

dealers to provide complimentary recycling programs by 2006. Additionally, California bans the export of e-waste to developing nations unless it can be safely disposed.

HRA Recommendations

15. Human Rights Advocates supports the work of the Special Rapporteur and requests that the Commission continue to provide support for his mandate.

16. The Commission should encourage governments to ratify the Basel Convention and Ban Amendment, which seeks to halt the transfer of toxic wastes from developed to developing countries. The Commission should also urge governments to ban the export of toxics that are banned domestically.

17. The Special Rapporteur should continue to focus his investigation on the effect of toxics on the human rights to life, health, water, food, housing and work.

18. The Commission should encourage governments to enact legislation banning the export of e-waste to "recycling" centers abroad which lack standards for safe disposal and promote corporate accountability for e-waste, including the obligation to produce goods with fewer toxic components.

19. The Commission should adopt the Norms on the Responsibilities of Transnational Corporations, or a similar code, that restates existing human rights obligations of corporations because such norms will further accountability for the transfer and trade of toxics.

- - - - -