

HR2791 is not the solution or responsible

Eric Harris, ISRI

E-Scrap, September 12, 2013



Institute of
Scrap Recycling
Industries, Inc.

- ISRI
- Snapshot: US Recycling Industry
- Is HR2791 really responsible?
- ISRI's Commitment



1,700

Member
companies

7,000+

Recycling facilities
worldwide

38

Countries



Ferrous &
non-ferrous
metals



Paper



Plastics



Glass



Rubber



Textiles



Electronics

135,000,000

Tons processed annually

2012 U.S. Scrap Exports

47.3

Total exported
(million metric tons)

\$28B

Value of materials
exported

160

Number of countries
exported to

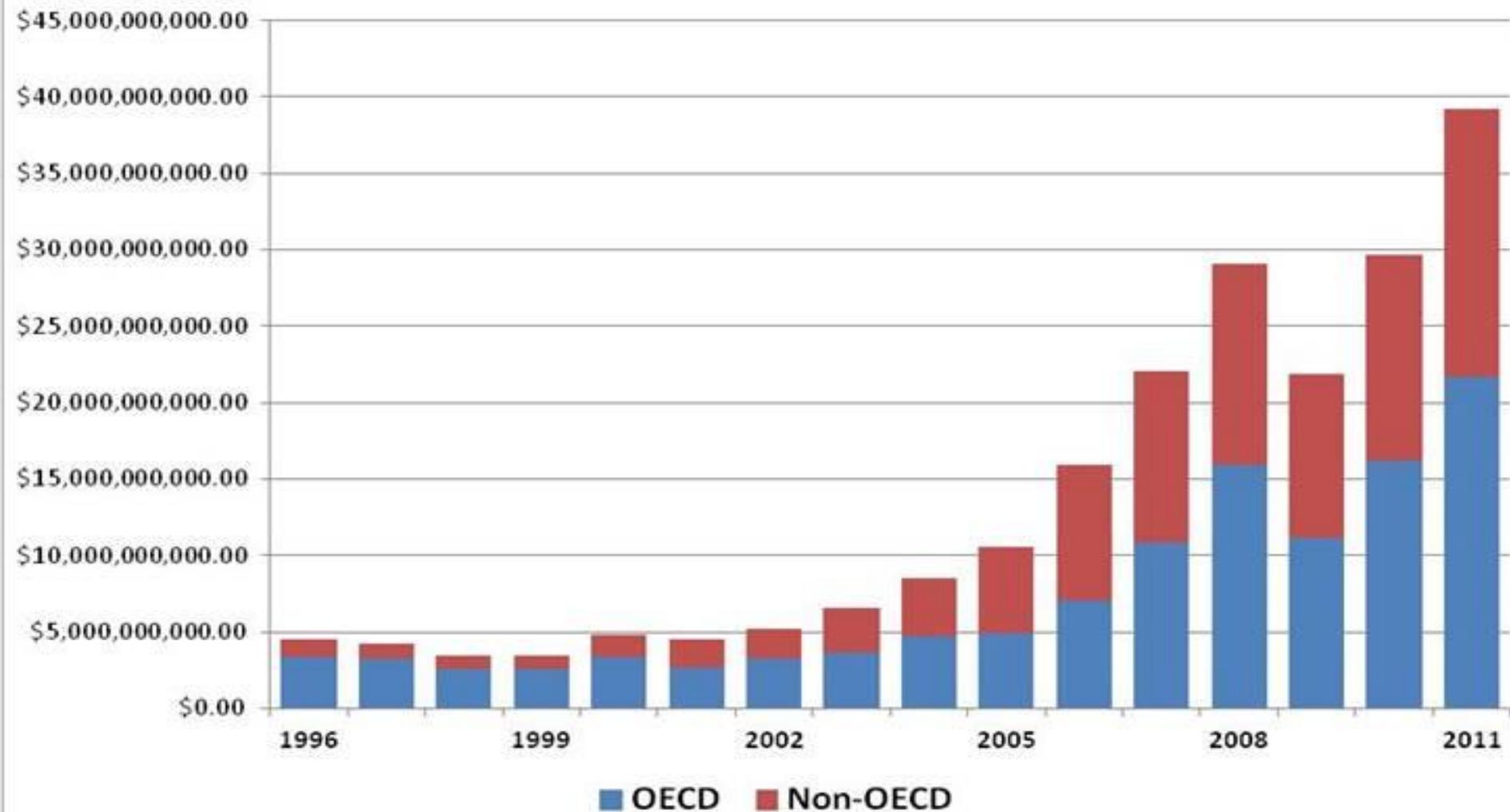
Worldwide Demand for Scrap Commodities

Scrap is the 1st link in the global manufacturing supply chain, meeting more than 40% of industrial consumers' raw material needs annually worldwide

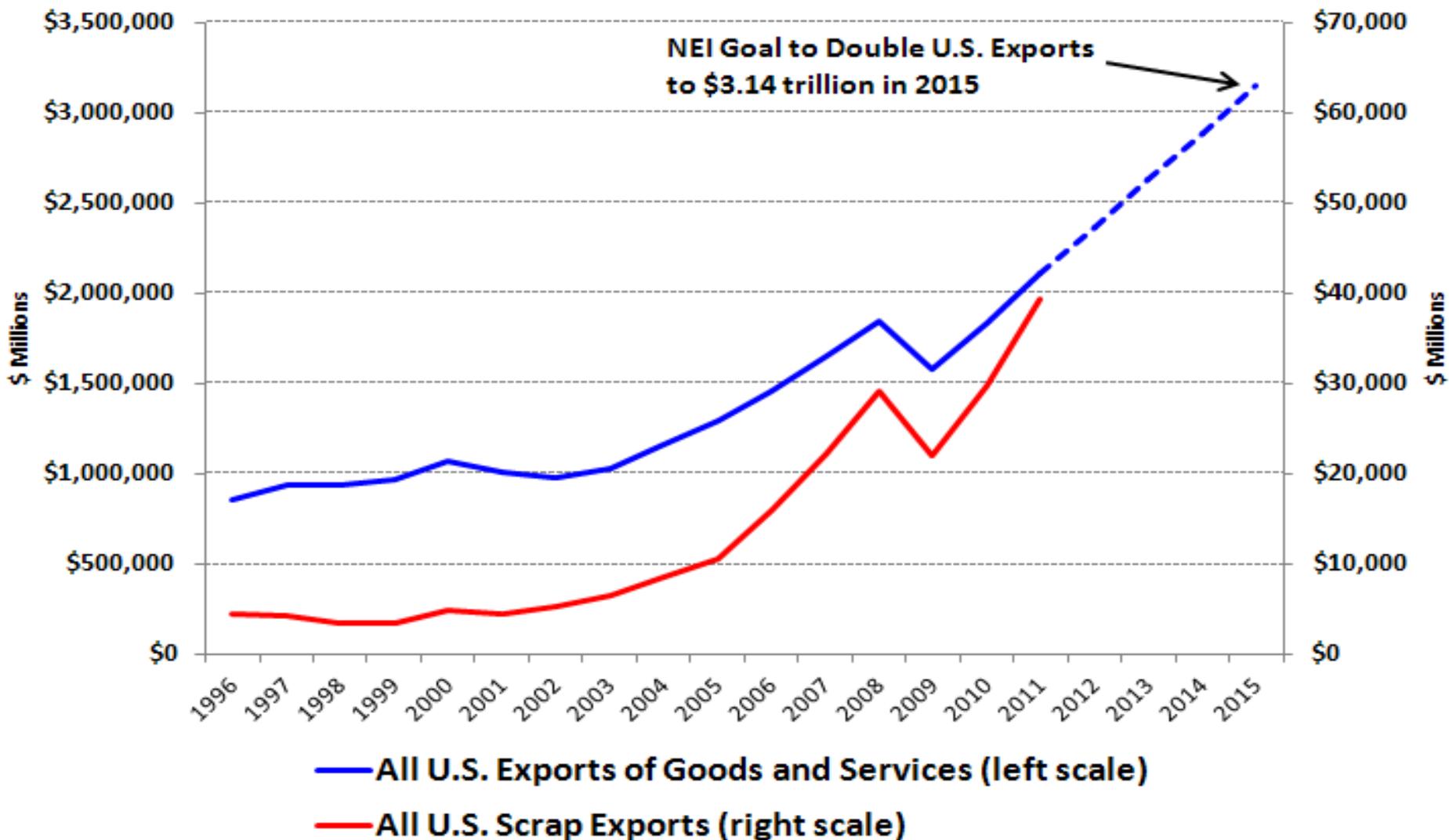
	2011
Total Exported (million metric tons)	51.7
Value of Materials Exported (Billion US\$)	39.2
Number of countries exported to	158
Aluminum exports (metric tons)	2,100,000
Copper (metric tons)	1,200,000
Iron and Steel (metric tons)	22,700,000
Zinc (metric tons)	86,000

FAS Value of All U.S. Scrap Exports to OECD and Non-OECD Countries, 1996-2011 (\$)

Source: U.S. Census Bureau/U.S. International Trade Commission



U.S. Scrap Exports: Helping to Achieve the National Export Initiative Goal of Doubling Exports in 5 Years



- Fastest growing segment
- Executive Committee - Industry Leaders
- 5 Committees
 - Education and Training
 - Legislative and Regulatory
 - Certification and Standards
 - Reuse and Recycling Services
 - Specifications and Definitions
- ISRI Annual Trade Convention and Exposition
- Electronics Recycling Education Programs

Is HR2791 really responsible?



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- Relies on Outdated Data
- Violates U.S. Trade Obligations
- Regulates as Hazardous Waste
- Politically Unachievable

No, HR2791 is not responsible

Is HR2791 really responsible?



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Relies on inaccurate data

Recent reports tell a different story

- International Data Corporation
- U.S. International Trade Commission
- United Nations University/MIT study
- Congressional Research Service

\$20+B

Industry in U.S. (Value)

4+M

Tons processed annually in the U.S. (Volume)

45,000+

Direct and Indirect (Employees)

Is HR2791 really responsible?



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UEP's are being recycled in the U.S.

Of the Used Electronic Products (UEPs) collected in the US each year,

80+%

Recycled, reused or
refurbished
domestically

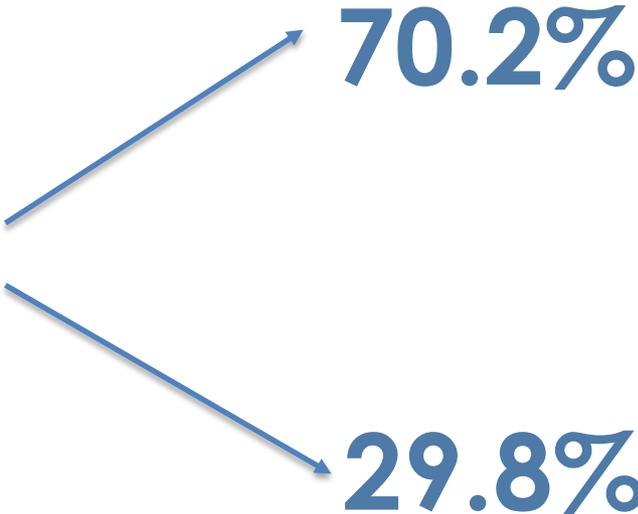
17.2%

Exported
(by weight)

March 2013: US International Trade Council (ITC) reported on significant positive changes in US & int'l e-recycling since initial NGO reports on the informal sector more than 10 yrs ago

Of the UEPs exported from the US each year,

Of the
17.2%
exports



- Exported as
- Testing & working UEPs
 - Working UEPs
 - Commodity grade scrap
 - Repair through warranty programs

Recycling/disposal at export destination
Final disposal
Unknown

**Only 5.1% of total
collected UEPs**

Relies on inaccurate data

“The BAN (Basel Action Network) estimates were not the result of a statistical analysis. Rather, the estimates **came from a non-scientific survey of industry experts’ opinions conducted over 10 years ago...**there are strong reasons to believe that industry conditions have changed since that time...”

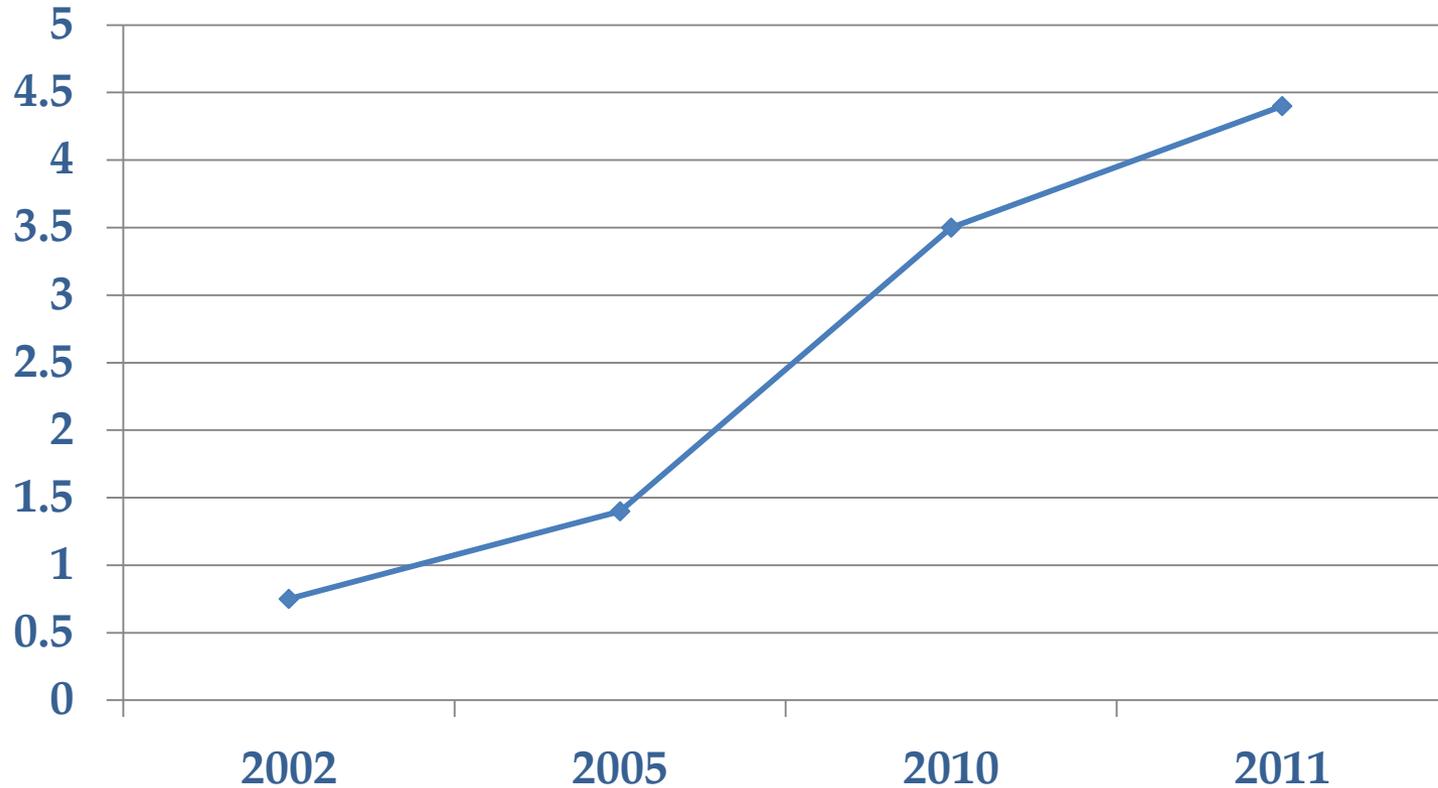
US ITC Report p.1-11

Total Volume of Electronics Recycled (U.S.)



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M Short Tons



Violates U.S. Trade Obligations

Trade experts from both parties and the Congressional Research Service have expressed strong concerns that RERA could cause **multiple violations of U.S. trade obligations** under the General Agreement on Tariffs and Trade (GATT) and World Trade Organization (WTO) rules.

Is HR 2791 really responsible?



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Violates Article 11.1 of the GATT

“Measures that ban or impose **a licensing system on e-waste exports could constitute export restrictions** prohibited by Article XI:1.”

Congressional Research Service, Issues in International Trade Law: Restricting Exports of Electronic Waste, February 24, 2012

HR 2791 places quantitative restrictions (export ban and licensing requirements) on commodity-grade materials and used electronics products.

Violates Article 1 of GATT

“Article I:1 **prohibits any rule or formality** affecting exportation from conferring a trade “advantage”—such as exemption from export licensing requirements—to **exports destined to particular countries unless it “immediately and unconditionally” confers that same advantage to “like” products destined to all other WTO Members.**”

Congressional Research Service, *Issues in International Trade Law: Restricting Exports of Electronic Waste*, February 24, 2012

Arbitrary Discrimination Violates GATT Article 1

HR2719 contravenes the ***most favored nation*** (MFN) provision in Article 1 of the GATT because the bill **discriminates between OECD/EU and non-OECD/EU** states.

Export Ban for Singapore, Vietnam, China, India

No Restrictions for Latvia, Bulgaria, Lithuania, Mexico

The HR2791 distinction is arbitrary and discriminatory

Is HR 2791 really irresponsible?

Is there a legitimate reason to discriminate? No.

Article XX Defense Unlikely

“There are **several aspects of export restrictions that may make them difficult to provisionally justify** under one of Article XX’s sub-paragraphs and characterize as consistent with the Article XX chapeau.”

Congressional Research Service, *Issues in International Trade Law: Restricting Exports of Electronic Waste*, February 24, 2012

Why is HR 2791 really responsible?



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Is there a legitimate reason to discriminate? No.

HR2719 is not “*necessary to protect human, animal or plant life or health*” because:

- The bill was **not intended to protect human health and the environment** (Isn't it a jobs bill? Plus, extraterritorial?)
- The bill is **not “necessary”** to achieve its objective
 - The National Strategy for Electronics Stewardship presents “**less restrictive [policy] alternatives**”
 - U.S. ITC Report **reframes the scale** of export issue
- **Not “justifiable”** unless the U.S. engages in serious negotiations with banned countries

Obama Administration's National Strategy

- Enforce existing rules (such as EPA's CRT rule) to deter recyclers who export improperly
- Utilize stringent third-party certification standards, such as "R2" for exporters to ensure that downstream due diligence is conducted
- Promote safe and environmentally responsible recycling in developing countries through hands-on learning and exchange of best practices and recycling technology
- Encourage OEMs to improve their Design for Recycling® to ensure their products can be safely and economically recycled
- Become a Party to the Basel Convention

Will not improve conditions in the developed world

“By ...2025 the developing world will generate double the developed world’s used and EOL computers.”

Journal of Environmental Science
and Technology, 2010

What about the Basel Convention?



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- How can Basel Party members get away with it?
- The U.S. is not a party to the Basel Convention
- HR2791 would be unilateral trade restriction taken by the U.S.
- HR2791 is more restrictive than the Basel Convention
- The Basel Convention does not define exports of UEPs for repair, refurbishment or upgrading as hazardous waste (Annex 9)

Regulates As Hazardous Waste

- HR 2791 fundamentally changes and expands hazardous waste classification, a leap from scientific based assessments to the precautionary principle
- HR 2791 presumes used electronics products and specification grade commodities as hazardous wastes (de-minimis thresholds)
- “OEM Carve-out” regulates electronics equipment under warranty and repair as hazardous wastes
- State and local impacts

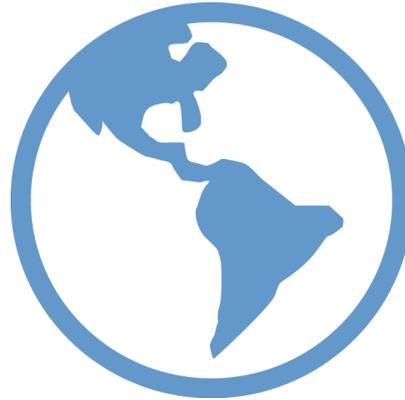
Is HR2791 really responsible?

Politically unachievable

- U.S. Congress is asking “where is the problem?”
- Violates U.S. trade law
- Regulates electronics recycling as hazardous waste
- Major authorization to EPA



No, HR2791 is not responsible.



Restrictions on export of UEPs containing focus materials (FMs) for repair, refurbishment, and recycling

- No geographic distinction (OECD vs non-OECD)
- 1-time notification + register with EPA
- Due diligence
- Incentivize accredited certifications like R2/RIOS™



Ban export of UEPs for landfill & incineration

No restrictions on export of -

- commodity-grade scrap
- fully tested & working UEPs for reuse

“Instead of banning trade the U.S. (and others) should teach developmental countries how to improve health and safety conditions and encourage environmentally responsible recycling practices.”

Eric Williams, Asst. Professor
Arizona State University Journal of
Environmental Science and Technology
Journal 2010

Thank You



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