



## Intercon case shows arbitration need

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By Sean Davidson

Rapid developments in action taken against Intercon Solutions Inc. and the company's subsequent pursuit of evidence it believes will serve as vindication has increased the need for arbitration or a structured due process before electronic recyclers are stripped of certification, according to market sources.

If Intercon Solutions is successful in proving it did not export two ocean containers allegedly carrying hazardous electronic waste, the Basel Action Network (BAN) move to de-certify the company based on evidence its own investigators uncovered (AMM, July 8) is likely to throw up questions of due process, some market sources told AMM.

Preliminary action by R2 Solutions, another certifying body, to delist the Chicago Heights, Ill.- based electronics recycler from its directory of recyclers also could come into question.

R2 Solutions' acting executive director, John Lingelbach, told AMM that the Intercon case—the first of its kind—had triggered a need to establish proper process. “In light of this, we will put in place procedures and criteria. We have to be careful about the integrity of our program,” he said.

The organization said in a release earlier in the week that “all entities involved in the auditing and certification of electronics recyclers to standards covering the export of various types of e-scrap will be working diligently to assess auditing procedures and make improvements to them.”

One market source called BAN's decision to revoke Intercon Solutions' certification “questionable,” saying: “It smacks of double standards. In a similar case earlier, they did nothing. And now they've gone to the other extreme. Something doesn't fit. There needs to be proper process.”

BAN executive director Jim Puckett said the action was in accordance with changes made two months ago to the organization's provisional policy on non-compliance with its e-Stewards standard.

But the changes have not yet been communicated to members, Puckett acknowledged. “The new policy has not yet been communicated because it is not fully developed. We haven't had a chance to inform the entire recycling community, but we're not obligated to do so,” he told AMM.

Puckett said that because the changes were part of a provisional policy, BAN had given Intercon Solutions “great latitude to change their story. We offered them the opportunity to view the evidence we had and perhaps offer a different explanation. But they insisted those containers were not theirs.”

Puckett did not comment on how BAN would respond if Intercon Solutions proved its innocence or whether an arbitration process is necessary.

But Intercon Solutions attorney Cathy Pilkington said the case highlights the need for structure. “You really should get a private investigation license before you get into private investigation. When you do things like this you really should know what you're talking about. We will bring the evidence to them and show them that their findings are wrong, and that we didn't deserve this,” she said. “The question of whether there is an arbitration process is a good one. It should exist.”

John Shegerian, chairman and chief executive officer of Fresno, Calif.- based Electronic Recyclers International Inc.—one of BAN's e-Stewards certification founders—told AMM that the development represented a paradigm shift in the industry mindset.

“Now an industry is finally maturing and growing up where certifications not only mean something but are also being enforced,” he said.

Lingelbach said R2 Solution's move was not coordinated with BAN.

Both organizations said they had received feedback from several industry players commending their action.