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Comments on the plastic waste amendments and on possible further activities that could be conducted under the Convention on plastic waste

SUBMISSION BY THE ENVIRONMENTAL INVESTIGATION AGENCY (EIA) IN RESPONSE TO THE BASEL CONVENTION SECRETARIAT'S REQUEST FOR COMMENTS ON THE PLASTIC WASTE AMENDMENTS AND POSSIBLE FURTHER ACTIVITIES THAT COULD BE CONDUCTED ON PLASTIC WASTE

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I. INTRODUCTION

The Environmental Investigation Agency (EIA) welcomes the opportunity to contribute to the Basel Convention's consideration of further action on the transboundary movement and management of plastic waste.

EIA is a non-governmental organisation with more than 40 years of experience investigating environmental crime and supporting effective policy development and implementation at international, regional and national levels, including the Basel Convention and the European Union (EU) Waste Shipment Regulation (WSR).

For years, EIA's work has uncovered systemic weaknesses in global waste governance, documenting how loopholes, misclassification and poor enforcement enable harmful and illegal waste trade. Drawing on our investigations, we have developed significant expertise in the review and interpretation of customs data, shipping records and field evidence to identify patterns of misdeclaration, regulatory avoidance and enforcement gaps.

The 2019 plastic waste amendments to the Basel Convention marked a vital first step toward bringing the majority of plastic waste under internationally agreed control mechanisms by expanding Annex II (Y48), Annex VIII (A3210) and Annex IX (B3011). These changes were intended to enhance transparency, ensure prior informed consent (PIC) for difficult-to-recycle streams and close longstanding avenues for waste dumping.

However, implementation experience, enforcement data and recent global modelling demonstrate that significant structural loopholes remain. Annual primary plastic production is projected to rise by 52 per cent from 450 Mt in 2025 to 680 Mt in 2040, while waste management capacity expands far more slowly, with annual costs to collect and dispose of plastic projected to rise by 30 per cent to approximately $140 billion, increasing fiscal pressure on governments and financial risk for businesses.[1]

These projections reaffirm that existing controls are insufficient and underscore the need to fully utilise, clarify and strengthen the Convention's legal architecture to address contemporary realities of plastic waste.

EIA's position on the review of the plastic waste amendments is as follows:

1. **Delete B3011 in its entirety.** All plastic waste should, as a minimum, be subject to the prior informed consent (PIC) procedure because there is no legitimate basis for "green-listed" plastic waste. The premise that certain plastic wastes can move freely outside the PIC procedure rests on assumptions of purity, homogeneity and environmentally sound recycling that are not realistic from a practical or technical perspective. In practice, plastic waste streams are routinely mixed, contaminated, degraded or economically marginal. The existence of a B3011 creates structural opportunities for misclassification, regulatory avoidance and environmental harm, which are demonstrably being exploited in practice.

2. **Reassess Annex IV recovery operations through a plastic-specific lens.** The current recovery codes do not adequately distinguish genuine preparation for reuse from material recycling or waste processing. A dedicated Annex IV B reuse code could strengthen transparency, prevent misuse of recovery classifications and improve regulatory oversight of shipments presented as reuse. Annex IV should also clearly distinguish mechanical from chemical recycling, recognising their distinct environmental harm and material recovery outcomes. Under current codes, there is a risk that energy recovery is presented as material recycling using an R3 code, undermining environmentally sound management (ESM) objectives and regulatory oversight.

3. **Introduce a dedicated hazard characteristic that captures microplastics in Annex III.** Microplastics are persistent, bioavailable and environmentally harmful. The absence of an explicit H-code that addresses persistent particulate pollution limits the Convention's ability to address risks arising from fragmentation, secondary microplastic generation and inadequate handling. A new Annex III hazard characteristic would provide a clear legal basis for classification and control of waste streams that pose long-term environmental risks.

4. **Address hidden and displaced plastics.** Plastic waste increasingly moves across borders embedded within textiles, paper scrap and other mixed streams and evades the existing annex listings, enabling regulatory displacement and underestimation of environmental risk. Parties can address these hidden flows by clarifying and revising Annex II, VIII and IX entries to properly capture plastic-containing waste streams, introducing new dedicated listings for all textiles, including synthetics, deleting B3011 and amending Y48 and A3210 for clarification.

5. **Initiate consideration of additional measures, including a Plastics Protocol, to operationalise waste minimisation obligations.** Classification reform alone cannot address the structural drivers of plastic waste generation and trade. Parties should begin exploring the development of a protocol focused on plastic waste prevention and minimisation, consistent with the Convention's objective of reducing transboundary movements and ensuring environmentally sound management. Such a protocol could provide a forward-looking framework

to address upstream drivers of plastic pollution, set out measures across the lifecycle of plastics and for specific sectors, provide financial assistance to developing countries to enhance implementation and reinforce Basel's role in preventing environmental harm.

EIA's submission is informed by this practical implementation experience. It reflects a conviction that the Convention must progressively strengthen its legal framework to protect human health and the environment by preventing the unregulated export of contaminated, low-value and unrecyclable plastic wastes to countries without adequate capacity for ESM. This includes addressing structural gaps in waste classifications, enforcement challenges and definitional ambiguities that continue to undermine the effectiveness of Basel controls.

II. IMPLEMENTATION OF THE PLASTIC WASTE AMENDMENTS

1. POSITIVE IMPACTS

The 2019 plastic waste amendments marked a significant and necessary shift in global waste governance. By expanding Annex II (Y48) and VIII (A3210) and narrowing the scope of Annex IX listings, the amendments improved transparency and strengthened importing countries' legal ability to refuse problematic shipments. PIC requirements increased regulatory visibility and shifted the normative baseline for plastic waste. There is now broader recognition that plastic waste is not inherently benign nor automatically recyclable and that international oversight is necessary to prevent environmental harm.

These gains demonstrate that annex reform can impact trade behaviour. However, transparency without structural safeguards does not prevent environmental harm where classification loopholes remain embedded in annex architecture.

2. PERSISTENT CHALLENGES

Despite the progress achieved through the amendments, implementation experience reveals structural weaknesses in the Convention's annex architecture and enforcement framework, including misalignment between Annex IX assumptions and contemporary plastic realities, subjective classification criteria, limited inspection capacity and opaque trade vulnerable to exploitation. At the same time, plastic's inherent chemical complexity, microplastic generation and insufficient global recycling capacity demonstrate that these challenges are systemic and require clarification and strengthening of existing controls.

a. B3011: Misalignment between legal design and operational realities

Annex IX was designed to facilitate the movement of wastes that pose minimal environmental and human health risk and can be reliably managed through ordinary commercial controls. Its purpose is to enable trade in materials that are demonstrably homogeneous, uncontaminated and destined for legitimate recovery operations without requiring the procedural safeguards of PIC.[2] Plastic waste traded consistently does not meet these assumptions.

The plastic waste amendments assumed Y48 as the default control category, with B3011 intended to facilitate the trade in well-sorted, clean material. The expectation was that B3011 would improve separate collection and sorting in exporting countries, while lower-quality or mixed streams would remain subject to PIC control and receive higher scrutiny, thereby incentivising reduction and better upstream management.

In practice, however, B3011 has become the primary trade pathway for plastic waste exports, even in circumstances that do not meet its narrow technical conditions. Rather than functioning as a channel for clearly high-quality material streams, its application as a plastic default combined with documentation-based compliance and weak verification incentivises misdeclaration. In this context, B3011 creates a loophole that departs from the integrity safeguards originally envisaged for Annex IX listings.

The rationale for maintaining Annex IX is sound where materials are objectively low risk, easily verifiable and supported by mature recycling markets. However, plastic waste streams are rarely materially pure, chemically simple or environmentally neutral. Even post-industrial plastics contain additives, colourants, fillers and residual contamination. Post-consumer plastics are often mixed, degraded and are prone to market instability.

B3011 is premised on cumulative conditions, that waste is almost free from contamination and other wastes, that it consists of specified polymers or mixtures meeting strict criteria and that it is destined for recycling in an environmentally sound manner. Implementation experience demonstrates that each of these conditions is difficult to verify in practice.

First, the contamination threshold is inherently subjective and lacks harmonised quantitative benchmarks. In systems where inspection rates are low, enforcement authorities make determinations based on paperwork or visual inspection rather than laboratory analysis. What constitutes "almost free" varies across jurisdictions, creating inconsistent interpretation and regulatory uncertainty. Illegal disposal and circumvention can yield very significant cost savings relative to compliant management, which creates persistent incentives to misdeclare marginal, contaminated or low-value material as compliant with lower-scrutiny categories. Exporters may rely on declarations of quality that are not independently verified, while importing authorities must assess compliance with limited resources and time.

Second, the homogeneity assumption does not reflect contemporary material realities. EIA's investigations have identified intentional and unintentional discrepancies between declared material streams and the actual composition of shipments.[3] Plastic products increasingly incorporate multilayer structures, polymer blends and complex chemical additives. Once they enter the waste stream, separation to a level that meets Annex IX purity expectations is often incomplete and reframes the burden on recyclers to absorb the cost of contamination, reject loads at their own expense or divert low-quality fractions to disposal or informal treatment pathways. This undermines the economic viability of legitimate recycling operations and creates incentives to downcycle, openly burn or otherwise mismanage residual material. Green-listing redistributes risk downstream to facilities operating with thinner margins and weaker regulatory oversight.

Third, the presumption of environmentally sound recycling is not systematically validated prior to shipment. The Annex IX rationale depends on confidence that downstream recovery will occur without environmental harm. Yet investigative findings consistently demonstrate cases where material declared under B3011 is downcycled, openly burnt, dumped or processed under inadequate environmental controls.[4]

Importantly, even within the polymers listed under B3011, there are substances that raise significant environmental and health concerns. Fluorinated polymers, including certain fluoropolymers used in industrial and consumer applications, are highly persistent and resistant to degradation.[5,6] Their production and disposal are associated with per- and polyfluoroalkyl substances (PFAS) and other long-lived chemicals. Mechanical processing of fluorinated polymer waste can generate contaminated residues and microplastic fragments, while thermal or chemical treatment can produce hazardous emissions if not strictly controlled. The inclusion of such polymers within B3011 underscores the mismatch between Annex IX's facilitative rationale and the material realities of contemporary plastics.

The volume and composition of trade currently conducted under B3011 raise legitimate concerns about the integrity of its application and the feasibility of consistent enforcement in practice. In a system where oversight and verification remain inconsistent, a green-listed entry that captures a considerable proportion of plastic waste trade, notwithstanding the inherent material complexity of such streams, cannot reliably function as a low-risk exemption. Where compliance with Annex IX cannot be consistently assured in practice, transboundary movements of plastic waste should, as a minimum, be subject to the PIC procedure.

The issue is not merely misuse; it is a structural tension between legal assumptions underpinning Annex IX and the material realities of contemporary plastic waste streams. Plastic waste, by virtue of its material complexity, additive chemistry, contamination profile, economic fragility and documented environmental impacts, does not consistently satisfy the policy rationale that justified the creation of Annex IX listings. When enforceability depends on consistent, high-quality sorting and verification across multiple jurisdictions with differentiated capacity, the exemption from PIC becomes legally and practically vulnerable to exploitation.

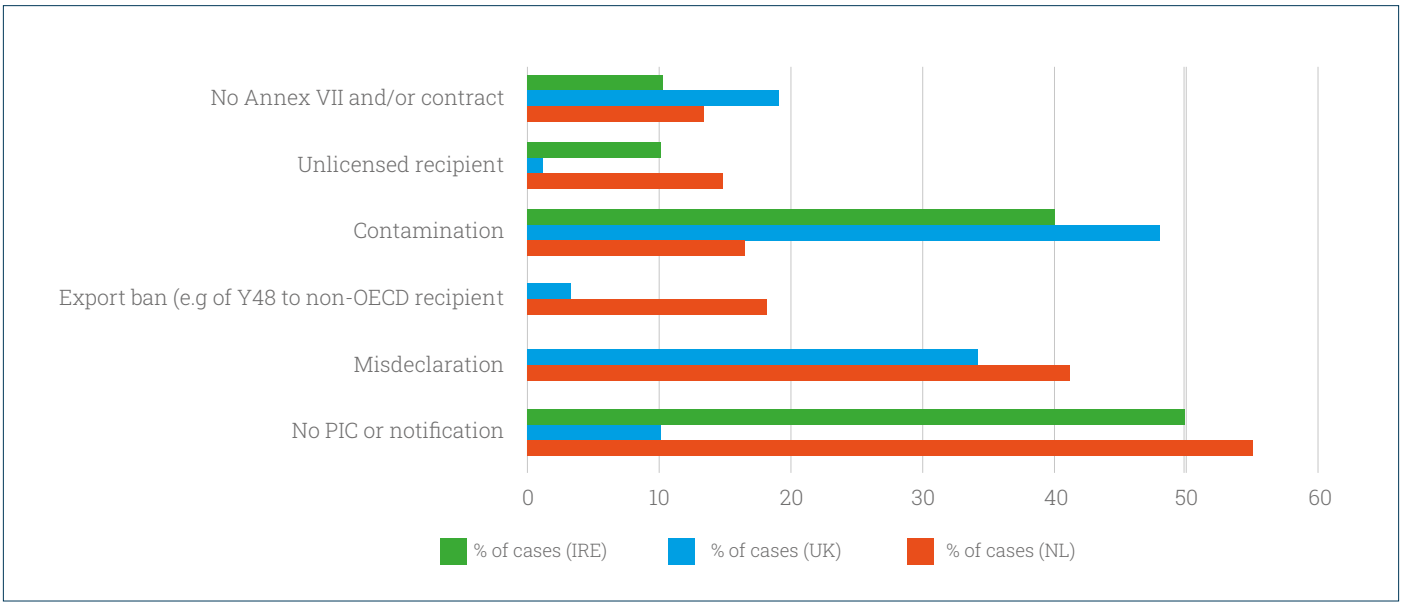
Maintaining B3011 as a green-listed category perpetuates regulatory ambiguity, shifts burdens and environmental risks downstream, incentivises expansive interpretation and weakens the integrity of the Convention's control regime. Deletion of B3011 is legally justified, operationally necessary and consistent with the Convention's precautionary and preventive purpose. Accordingly, EIA's view is that B3011 should be deleted and all plastic waste should, as a minimum, be subject to the PIC procedure under an updated Annex II, Y48.

b. Enforcement capacity, trade structures and organised criminality

The structural weaknesses of B3011 are amplified by enforcement realities and the evolving structure of the global waste trade. Inspection capacity remains limited relative to shipment volumes. According to UNODC, only approximately two per cent of maritime containers are physically inspected by customs authorities globally, and only a fraction of these inspections relate to waste.[7] Physical inspection is resource-intensive and enforcement authorities rarely verify polymer composition and contamination levels through laboratory analysis. In practice, documentation review and visual inspection are often decisive.

EIA's review of Freedom of Information (FoI) requests, analysed in our *Dirty Deals* reports, demonstrates that non-compliance is systemic.[8] In the review of Dutch, Irish and UK FoI responses, 41 per cent of shipments were misdeclared, 56 per cent lacked proper notification or failed to receive consent from the importing country and 67 per cent involved intermediaries.[9] These figures indicate persistent evasion of controls through documentation practices, not isolated operational error.

Figure 1: *Reasons for illegal plastic waste shipments.*
Source: *Data received in response to Freedom of Information requests to the Environment Agency (UK), ILT (The Netherlands) and Dublin City Council (IRL).*



The findings confirm what enforcement authorities have described: enforcement action is often triggered when loads plainly fail basic indicators of acceptability, including obvious mixed municipal waste, food residues and "discernible organic" smells.[10] Authorities disproportionately intercept the most egregious cases, while loads that are marginal, degraded or contaminated below an immediately detectable threshold can pass through the system unchecked.

This is not solely an operational issue, but a predictable interaction between low inspection rates and a green-listed category for which compliance conditions are subjective and difficult to verify. Where verification is limited, B3011 functions as a presumption of compliance, and incentives shift toward classifying shipments under Annex IX wherever arguable. The result is a system that depends less on objective material quality and more on whether contamination is sufficiently obvious to trigger enforcement intervention.

These vulnerabilities are compounded by the structure of the trade and the increased role of organised criminality in waste trafficking. EIA's investigations, UNODC, Europol and INTERPOL have all documented waste trafficking as increasingly professionalised and facilitated through complex intermediary networks, shell companies, falsified documentation and transit country routing designed to obscure origin, ownership and responsibility.[11,12,13,14] Operational methods include mislabelling hazardous waste as non-hazardous, mixing waste streams to dilute detectable contamination, concealing waste within legal shipments and using fraudulent authorisations or forged paperwork. These methods directly exploit subjective classification thresholds and documentation-heavy compliance systems.

Plastic waste trafficking is not merely an environmental regulatory issue but a conduit for financial crime. The sector presents significant risks of fraud, tax evasion, bribery, corruption and money laundering, facilitated by opaque brokerage structures and weak due diligence requirements. Intermediaries frequently operate without physical handling capacity, yet control documentation and routing decisions, allowing beneficial ownership and financial flows to remain obscured.[15] Dutch authorities have similarly characterised plastic waste crime as a business model, noting that illegality can occur across the entire value chain, from collection and brokerage through to export and downstream handling.[16]

In such a context, a green-listed waste stream provides fertile ground for manipulation by organised actors operating across jurisdictions. UNODC identifies waste trafficking as frequently linked to broader transnational criminal activities, including financial crime and corruption, and notes that low penalties relative to potential profits undermine deterrence. Waste crime has been characterised by enforcement agencies as a high-profit, low-risk activity.

The consequences of mismanagement are not abstract. Where plastic waste is exported under weak controls and handled in facilities lacking adequate environmental safeguards, the impacts include open burning, uncontrolled dumping, marine leakage, microplastic generation and the release of hazardous additives. These practices cause significant harm to ecosystems, public health and local communities. Even in high-income countries, remediation of plastic contamination, particularly microplastics in soils, waterways and marine environments, is technically difficult, costly and often incomplete.[17] In jurisdictions with more limited monitoring and enforcement capacity, such harm is even less likely to be effectively contained or remediated.

Recent analysis further observes that available data on waste trafficking are geographically skewed and likely underestimate the true scale of both domestic and transboundary waste crime. Fragmented reporting and limited digital traceability constrain risk assessment and coordinated enforcement action. This reinforces the need for strengthened transparency, harmonised digital PIC systems and improved data accessibility under the Convention.

In response to these systemic failures, numerous governments have moved to strengthen domestic legal frameworks to avoid becoming dumping grounds for foreign waste. Within the EU, the revised WSR (Regulation (EU) 2024/1157) substantially tightens controls on all plastic waste shipments, including prohibitions on exports to non-OECD countries unless equivalent ESM conditions are demonstrated and enhanced PIC requirements.[18] Similar restrictive measures have been adopted in several importing countries following documented environmental harm.

These national and regional responses underscore a broader structural reality: where the Basel framework fails to prevent problematic flows at source, governments resort to unilateral bans or emergency legislative action after harm has already occurred. Yet, UNODC notes that restrictions and import bans on plastics have, in some contexts, increased illegal recycling facilities and landfills in importing nations with limited enforcement capacity, illustrating that partial or uneven controls can displace rather than eliminate harm.[19] The persistence of organised criminal involvement, intermediary-driven opacity and financial crime risks demonstrates that the presumption of benign, freely tradable plastic waste is not supported in practice. The issue is not limited to individual cases of misuse but reflects a structural tension between Annex IX's facilitative rationale and contemporary trade realities characterised by low inspection rates, subjective thresholds, complex brokerage chains and documented criminal exploitation.

Maintaining B3011 as a green-listed category under these conditions perpetuates regulatory ambiguity, shifts burdens and environmental risks downstream and weakens the integrity of the Convention's control regime. Where compliance cannot be consistently verified in practice and where trade structures are demonstrably vulnerable to organised and financial criminal exploitation, the precautionary and preventive objectives of the Convention require that all plastic waste be subject, at a minimum, to the PIC procedure.

Accordingly, EIA considers that deletion of B3011 is legally justified, operationally necessary and consistent with the Convention's objective of protecting human health and the environment.

c. Ongoing pollution and harm

The environmental and socio-economic consequences of plastic waste mismanagement are pervasive, chronic and intensifying, even where plastic is formally "managed."[20] Recent global modelling indicates that 130 million tonnes (Mt) of plastic pollution enter the environment annually, a figure projected to more than double to 280 Mt per year by 2040 under BAU trajectories.[21] Plastic pollution is persistent: plastics do not biodegrade in the environment but fragment into ever-smaller particles, including microplastics and nanoplastics that resist natural remediation processes. Scientists have discovered particles across all ecosystems, in soils, freshwater, air and marine environments, and plastics are associated with ecological disruption and contamination pathways that extend far beyond point sources of mismanagement.[22]

Plastic pollution is not just waste piles or poorly controlled dumpsites. Even waste streams that are collected, sorted and routed through managed systems contribute to ongoing environmental contamination through microplastic shedding during mechanical processing, effluent discharges from washing and recycling operations, abrasion during transport and weathering of discarded products.[23,24] Microplastics are estimated to account for approximately 13 per cent of annual plastic pollution today and are projected to increase substantially in the absence of systemic intervention.[25] Recycling processes are a recognised source of significant microplastic generation. Microplastics and associated chemical additives enter waterways and soils from managed facilities, wastewater treatment plants and stormwater runoff and persist in the environment long after disposal.[26]

Transboundary plastic waste movements, therefore, carry not only the risk of improper disposal but also the risk of irreversible environmental contamination. Where exported material is processed under substandard conditions, the generation of microplastics can be accelerated through uncontrolled shredding, abrasion and open exposure. Informal recycling sectors, which often lack adequate containment systems, contribute further to environmental dispersion. More broadly, rising plastic production continues to outpace waste management capacity, leading to sharp increases in uncollected waste and open burning, both of which are significant contributors to terrestrial, aquatic and air pollution.[27]

Plastic waste also contains a complex mixture of additives, including plasticisers, flame retardants, stabilisers and pigments. When plastics are burnt, mechanically processed or exposed to environmental weathering, these substances can be released into the surrounding environments. Inadequate management creates both particulate pollution and chemical exposure risks. Scientific evidence increasingly demonstrates that plastic pollution harms human health across its life cycle. Health impacts from plastic production, waste and pollution are projected to rise significantly in the absence of robust global action, with the most vulnerable communities disproportionately affected.[28] Microplastics are now detected in human tissues and organs and have been associated with potential digestive, reproductive, endocrine and developmental risks.[29]

Even in jurisdictions with advanced regulatory systems, remediation of plastic contamination is technically challenging and costly. Microplastics embedded in sediments, agricultural soils or marine ecosystems cannot realistically be removed at scale. Studies suggest that terrestrial stocks of microplastic debris may exceed those found at the ocean surface, underscoring the diffuse and largely irreversible nature of this contamination.[30] In countries with limited monitoring, enforcement or waste management infrastructure, environmental harm is even less likely to be effectively contained or remediated.

These realities demonstrate that plastic waste mismanagement is not a short-term compliance issue but a long-term environmental liability. The current annex architecture does not adequately account for the inherent fragmentation and persistence characteristics of plastic materials.

For this reason, EIA supports the development of a dedicated hazard characteristic under Annex III addressing microplastic generation and environmental persistence, e.g., persistent particulate pollution. Certain plastic waste streams inherently generate significant microplastics through fragmentation during collection, storage, transport and recycling, for example, plastic scrap and synthetic textiles. Recognising persistent particulate pollution as a hazard characteristic would strengthen the Convention's ability to classify and control waste streams that pose diffuse, long-term environmental and human health risks. It would also align the Convention with the growing scientific consensus that microplastic contamination constitutes a significant and persistent form of environmental harm.

Without explicit recognition of microplastic generation and persistence within the hazard framework, the Convention risks treating plastic waste as materially equivalent to other non-hazardous solid wastes, despite its distinct environmental behaviour. Addressing ongoing pollution and harm therefore requires both strengthened control procedures and updated hazard recognition reflecting contemporary scientific understanding.

d. Hidden and displaced plastic waste streams

The structural challenges identified in relation to B3011 are not limited to conventional plastic waste streams. They also arise where plastics are embedded within broader product groups and traded under annex entries that were not designed to regulate high-volume polymer-rich waste streams. According to an IPEN analysis, conventional trade substantially underestimates overall plastic waste exports because plastics are frequently coded as textiles, contaminated paper bales, rubber or other commodities. When these broader categories are accounted for, estimated plastic waste exports are up to 1.6 to 2.4 times higher than official waste codes alone suggest.[31]

Modern waste streams are rarely materially pure. Plastics are now incorporated into textiles, composites, laminates, coated materials, electronic goods, automotive components and multi-layer packaging. When such products become waste, their plastic content does not disappear; it becomes part of a complex mixed stream that may be difficult to classify under the current annex structure. The question is not whether these are "plastic wastes" in the narrow sense, but whether their plastic content and environmental risk profile are adequately captured by existing listings.

Investigations by Indonesian civil society organisations illustrate how this regulatory opacity translates into environmental harm. In Indonesia, mixed paper and plastic scrap, imported from high-income countries, has been found dumped in villages and repeatedly mismanaged by local recycling companies.[32] Between 25-50 per cent of imported plastic waste assessed in these investigations was mismanaged, with contaminated paper bales often containing significant plastic fractions that local facilities are unequipped to process safely.[33]

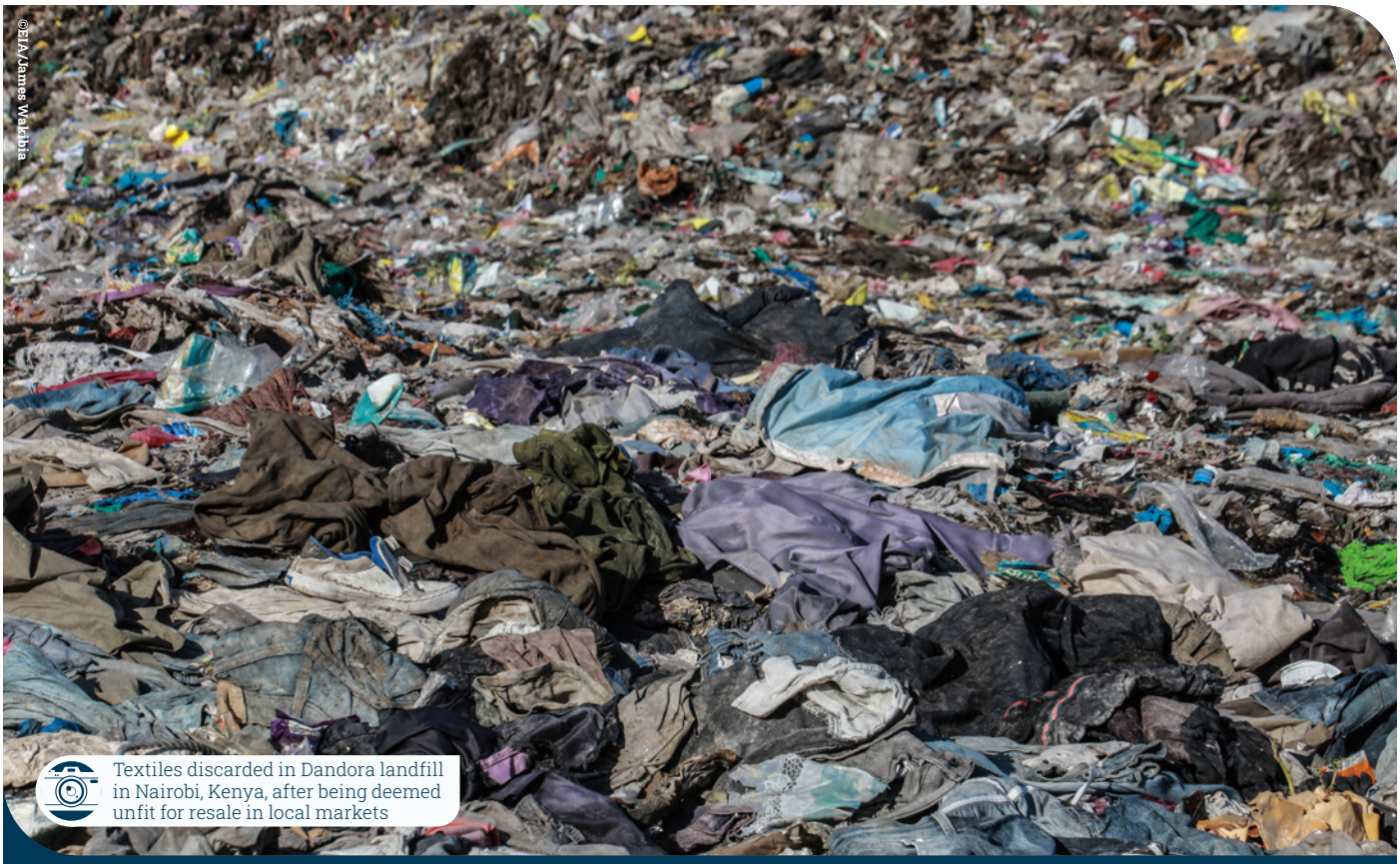
These mismanaged flows have become embedded in local economies in unexpected ways. In Tropodo and surrounding areas, imported "waste" is being used as a cheap fuel in industrial processes such as tofu production, despite Indonesia's bans on open waste burning and on imports of plastic.[34] Burning contaminated plastic waste releases hazardous emissions, including microplastics and persistent organic pollutants, which have been found in local poultry eggs and tofu products at levels far exceeding safe thresholds, making Tropodo one of the most dioxin-contaminated locations in Asia.[35] Such practices illustrate how plastic wastes hidden within broader commodity categories can displace regulatory oversight and generate widespread environmental and health risks.

Additionally, the displacement of imported waste into domestic waste systems can distort and overwhelm recycling capacity. EIA has documented that exports from high-income countries can take up limited recycling capacity in recipient countries, crowding out domestic waste streams and reinforcing dependence on low-value, low-integrity outlets rather than supporting local circular economies.[36]

EIA's analysis of OECD, World Bank, ICIS and UN Comtrade data shows the global plastics recycling market is structurally fragile: a small number of high-value polymers are recycled at significant scale, while low-value and mixed plastics routinely face limited or no economically viable recycling pathways.[37] This creates incentives for exporters to ship low-value, contaminated materials abroad, where they compete with domestic waste streams for scarce infrastructure.

These imported plastics often arrive in quantities that exceed local processing capacity, resulting in selective recovery of high-value fractions and diversion of residual waste to dumping, open burning or irregular recycling sectors.[38] This

dynamic undermines local circular economy development and displaces environmental burdens onto communities with weaker regulatory oversight.



Textiles discarded in Dandora landfill in Nairobi, Kenya, after being deemed unfit for resale in local markets

TEXTILES AS A CASE STUDY

Textile waste illustrates the material complexity challenge clearly.

Most contemporary textiles are synthetic or blended with synthetic fibres such as polyester, nylon or elastane. These fibres are plastics. During use, washing, handling and mechanical processing, they shed microplastics. At the end-of-life, textiles are frequently mixed, chemically treated and contaminated.

Currently, textile waste is primarily addressed under Annex IX entry B3030 and B3035. However, the premise of Annex IX codes — that clean, sorted, homogenous textile waste destined for recycling can be reliably distinguished from other waste — does not reflect the realities of global textile waste flows.

EIA therefore supports the creation of a dedicated Annex II entry (proposed Y50) for textile waste that does not clearly meet Annex IX conditions.[39] Such an entry would ensure that mixed, contaminated or low-value textile waste is subject to the PIC procedure. This would not collapse textiles into plastics. Rather, it would recognise that synthetic textiles present comparable environmental risks and enforcement challenges to plastics and should therefore be subject to equivalent safeguards.

The increasing material complexity of waste streams means that annex architecture must evolve. Plastics are no longer confined to discrete scrap categories; they are embedded across sectors. If the Convention maintains narrow green-list assumptions in sectors characterised by contamination, blending and fragmentation, regulatory displacement will persist.

For plastics, the logical conclusion remains that green-listed treatment under B3011 is not justified and that all plastic waste should be subject to PIC under Y48. For textiles and comparable polymer-rich streams, the appropriate response is the creation of a dedicated Annex II entry (Y50) to ensure that mixed and contaminated waste is subject to PIC.

Together, these reforms would restore coherence to the annex structure and align it with contemporary material realities rather than outdated assumptions of purity and separability.

III. POSSIBLE FURTHER ACTIVITIES UNDER THE CONVENTION

The implementation experience of the plastic waste amendments demonstrates that while Parties have made considerable progress, structural gaps persist within the annex architecture, enforcement mechanisms and existing scope of the Convention.

These gaps arise from misalignment between legal drafting assumptions and the contemporary material, economic and enforcement realities of plastic waste.

Further action under the Convention is therefore necessary not to expand its mandate, but to clarify, operationalise and strengthen existing provisions so that Parties can fully realise the Convention's preventive objectives in practice.

1. LEGAL AND TECHNICAL CLARIFICATIONS IN ANNEXES

a. Deletion of B3011

All plastic waste should be captured by Annex II (Y48) or Annex VIII (A3210) and therefore subject to the PIC procedure. There is no sound legal or practical basis for maintaining a green-listed category for plastic waste. Plastic streams are inherently prone to contamination, degradation, chemical additive complexity and misclassification.

The cumulative implementation evidence demonstrates that the assumptions underpinning Annex IX, namely that listed materials are homogenous, low-risk and reliably managed, do not consistently hold for plastic waste. Maintaining B3011 perpetuates regulatory ambiguity, incentivises expansive interpretation and shifts environmental risk downstream.

Comprehensive PIC coverage is necessary to restore regulatory integrity, ensure transparency and enable competent authorities to assess whether ESM can genuinely be ensured prior to shipment.

b. Establishment of a dedicated Annex IV reuse code and clear differentiation between mechanical and chemical recycling

Current Annex IV recovery operations do not clearly distinguish genuine preparation for reuse from material recycling or waste processing. This ambiguity enables the mischaracterisation of waste shipments as reusable goods, undermining regulatory oversight and creating opportunities to circumvent Basel controls.

The Conference of the Parties (CoP) should reopen Annex IV to establish a distinct operation code for preparation for reuse. Such a code should be accompanied by clear and verifiable criteria to distinguish legitimate life-extension activities from activities that constitute material recycling, downcycling or disposal.

In addition, Annex IV B should explicitly distinguish mechanical recycling from chemical recycling operations. These processes differ materially in environmental impact, material recovery outcomes, energy intensity and waste generation. Certain chemical recycling processes result primarily in fuel production or feedstock for combustion, rather than the recovery of materials in a closed loop.[40] Classifying such operations under R3 can obscure the actual recovery outcome and require competent authorities to undertake burdensome assessments to determine whether the operation constitutes material recycling or energy recovery.

Further, recent systematic analysis demonstrates that even under optimistic modelling assumptions, chemical recycling remains highly energy-intensive, dependent on fossil-derived inputs and vulnerable to hazardous waste generation.[41] Moreover, 93 per cent of LCAs assessed relied on theoretical process data rather than operating commercial plants and many failed to include human toxicity or ecotoxicity impacts.[42]

To ensure accurate characterisation of recovery outcomes, in light of recent technologies and to reduce administrative burdens on competent authorities under the PIC procedure, the CoP should consider the creation of a dedicated R-code for chemical material recovery of polymeric waste, clearly distinguishing such operations from both mechanical recycling and energy recovery.

c. Development of an Annex III hazard characteristic to capture microplastics

Plastic waste inherently generates microplastics through fragmentation during collection, storage, transport and recycling. These microplastics are persistent, bioavailable and capable of transboundary dispersion across all environments, harming all biodiversity.

The absence of a dedicated hazard characteristic addressing persistent particulate pollution limits the Convention's ability to classify and control waste streams that pose diffuse, long-term environmental risks. The CoP should work to develop a specific Annex III hazard characteristic addressing large quantities of microplastic generation and environmental persistence.

Recognising the persistent and bioavailable nature of microplastic pollution would align the Convention's hazard framework with contemporary scientific understanding and provide a clearer legal basis for classification and control of plastic waste streams whose environmental risks extend beyond legacy toxicity-focused criteria.

d. Addressing hidden and displaced plastic waste streams

Plastics are increasingly embedded within broader product categories, including textiles, paper scrap, composites, electronic goods and mixed municipal streams. These polymer-rich wastes are frequently traded under entries outside of the plastic waste amendments, resulting in classification ambiguity and regulatory displacement.

To address hidden and displaced plastic-containing waste streams, in coordination with the deletion of B3011, the CoP should undertake a review and amendment of Y48 and A3210 to ensure that plastic-containing waste streams are appropriately captured where contamination or mixing occurs. This should include clarifying the scope of Y48 to ensure that plastic content embedded within composite or mixed waste streams does not evade control through commodity-based coding practices. The CoP should also initiate a broader review of other waste streams that contain significant plastic fractions to determine where annex updates are warranted, beginning with textiles as a priority case.

Modern textile waste streams are predominantly synthetic or blended with synthetic fibres and are frequently contaminated or chemically treated. Existing Annex IX entries B3030 and B3035 were not drafted with contemporary global textile waste flows in mind and do not adequately reflect the polymer content and enforcement challenges associated with these materials.

The CoP should therefore initiate work to create a dedicated Annex II entry (Y50) for textile waste that does not clearly meet amended Annex IX B3030 and B3035. The CoP should also develop a corresponding Annex VIII entry for hazardous or contaminated textile waste. Together, these reforms would prevent the displacement of synthetic polymer-rich textiles into inappropriate categories and restore coherence to the annex framework.

2. STRENGTHENING IMPLEMENTATION AND COMPLIANCE ARCHITECTURE

Annex clarification must be complemented by strengthened implementation and compliance mechanisms. In practice, persistent misdeclaration, intermediary-driven shipments and limited inspection capacity mean that PIC controls are only as effective as the information available to competent authorities at the point of decision-making and the ability to verify it.

First, Parties should build on ongoing work within the Small Intersessional Working Group (SIWG) for PIC, to collaborate on digitalising and modernising Basel procedures by advancing end-to-end electronic PIC and interoperable systems that bring notifications, consents and shipment data online. This should include development of a centralised, searchable platform for Parties, comparable in function to the structured waste trade data tools available in OECD contexts, and targeted support for non-OECD Parties to develop compatible systems, improve data quality and participate effectively in digital PIC processes. Strengthening digitalisation should be treated as an enabling compliance measure, improving traceability, reducing document fraud and supporting real-time risk screening by authorities.

Second, implementation reform must address verification capacity at high-traffic export and transit hubs. Competent authorities require access to practical testing tools capable of verifying polymer type, detecting contamination and assessing declared composition, including portable or rapid screening technologies deployable at ports. However, the financial burden of verification should not fall disproportionately on importing authorities. Consistent with the preventive logic of the Convention and the polluter pays principle, exporting Parties and, where appropriate, exporters themselves should bear responsibility for supporting inspection, testing and compliance capacity in importing jurisdictions receiving significant volumes of plastic waste. This could include cost-recovery mechanisms, inspection fees, or financial contributions linked to shipment volumes to ensure that importing authorities are not structurally under-resourced in carrying out verification under PIC.

Third, transparency should be strengthened as a compliance tool. Parties should support the publication of aggregated, standardised and timely PIC data on plastic and plastic-containing waste flows, including imports and exports, declared waste descriptions, recovery operations and participating actors. At present, much transboundary waste trade data is fragmented, inconsistently reported across jurisdictions and, in some cases, accessible only through costly private commercial databases that purchase and repackage customs information. This limits equitable

access to information and creates asymmetries between well-resourced actors and under-resourced authorities, researchers and civil society organisations. Establishing accessible, standardised public reporting mechanisms under the Convention would reduce reliance on private data intermediaries, improve consistency across Parties and enhance accountability.

Public-facing data can facilitate effective public-private partnerships, enable responsible market actors to assess supply chain risks and strengthen the role of independent oversight by civil society and watchdog organisations. Transparency should extend to downstream management: where facilities are found to be in breach of ESM requirements, this information should be reflected in regulatory decision-making and, where legally appropriate, made publicly available to prevent continued routing of shipments to non-compliant operators.

Finally, the OEWG should consider structured follow-up mechanisms in cases of repeated non-compliance, including communication protocols between exporting and importing authorities and escalation pathways where patterns of misdeclaration or ESM breaches persist. Together, these measures would strengthen the operational effectiveness of Basel controls by improving traceability, verification capacity and accountability, particularly for high-volume plastic and polymer-rich waste flows.

Low penalties relative to potential profits, limited dedicated enforcement units and insufficient coordination between environmental regulators and criminal justice authorities undermine deterrence.[43] Strengthened Basel compliance mechanisms should therefore be complemented by effective, proportionate and dissuasive domestic sanctions, enhanced cross-agency cooperation and clearer accountability for legal persons engaged in transboundary waste movements.

3. WASTE MINIMISATION, NEW MEASURES AND A BASEL PLASTICS PROTOCOL

While clarification of annex listings and strengthened implementation mechanisms are necessary, they do not address the structural drivers of plastic waste generation and transboundary trade. Article 4 of the Basel Convention imposes binding obligations on Parties to prevent and reduce waste generation at source and to reduce transboundary movements to the minimum consistent with ESM. These duties are affirmative and preventive, extending beyond regulating waste once generated to measures that reduce the generation and demand for export outlets.

The Convention's objective *"to protect human health and the environment from the adverse effects of the generation, management and transboundary movement of hazardous and other wastes"*, confirms that Basel is not solely a trade control instrument, but a lifecycle instrument grounded in prevention. Where plastic production and waste generation continue to increase and export functions as a structural outlet for domestic overcapacity, reliance on procedural controls alone cannot fulfil this preventive mandate.

ESM must therefore be interpreted dynamically. Ensuring ESM requires not only safe downstream treatment practices, but also transparency regarding the material composition of plastics entering the waste stream, reduction of hazardous chemical additives and alignment between product design and domestic recycling capacity. Without transparency regarding polymer type, additive content and contaminant profiles, competent authorities cannot meaningfully manage plastic waste in an environmentally sound manner.

Reducing toxicity and hazardous chemical content in plastic products is directly relevant to Basel obligations. Where plastics contain additives that generate hazardous residues, release persistent pollutants or complicate recycling, downstream ESM becomes technically and economically constrained. Likewise, continued overproduction of difficult-to-recycle polymers and composite materials that lack viable recovery pathways increases the volume of low-value and contaminated waste streams destined for export.

Rising plastic production, combined with limited global recycling capacity and economic fragility of secondary material markets, drives increasing waste generation and transboundary movement.[44] In this context, shipment controls alone cannot ensure ESM if upstream production patterns continue to generate materials that are inherently difficult to manage safely and economically. Operationalising Article 4 minimisation obligations therefore requires consideration of measures that address production volumes, chemical composition and product design as integral components of ESM, as well as sector-specific approaches. Control measures that reduce the production of problematic polymers, restrict hazardous additives and promote design for recyclability are consistent with the Convention's preventive logic as they directly reduce waste generation and the need for transboundary movement.

Article 17 expressly provides for the adoption of protocols. A Basel Plastics Protocol would not expand the Convention's mandate but would elaborate existing minimisation obligations in the specific context of plastics. Such a protocol could establish measures to reduce generation of problematic plastic waste streams, promote transparency of material composition, strengthen alignment between production and domestic management capacity and provide financial and technical assistance to support implementation. If applied ambitiously and systemically, it can substantially reduce projected pollution, supporting the case for Basel Parties to elaborate practical minimisation

measures and sectoral approaches that reduce the generation of low-value, hard-to-manage plastic waste streams that drive exports.[45]

Considering continued growth in plastic production and transboundary plastic waste flows, advancing structured waste minimisation measures under the Convention is both legally grounded and necessary to ensure that Basel controls evolve from reactive containment to effective prevention. Without upstream intervention, environmentally sound management cannot be fully realised and transboundary controls will remain under structural strain.

IV. CONCLUSION

Considering persistent implementation gaps and structural weaknesses in the current annex architecture, EIA recommends that Parties undertake the following reforms under the Basel Convention:

Delete Annex IX entry B3011 in its entirety; reopen Annex IV to establish a distinct reuse operation and distinguish between mechanical versus chemical recycling codes; amend Annex III to include a dedicated hazard characteristic for persistent particulate pollution; addressing hidden and displaced waste streams by revising Annex II, VIII and IX; and, initiate formal consideration of a Plastics Protocol to address upstream measures for plastic waste minimisation and ESM.

These measures would close existing loopholes, strengthen legal certainty and reinforce the integrity of the Convention's control regime for plastic waste.

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