#BreakFreeFromPlastic

Plastic Waste Trade for “Recycling” A Symptom of Plastic Over–Production

The Global Plastic Treaty Can Fix This

POLICY BRIEF 2024

POLICY BRIEF | STATE OF PLAY: THE PLASTIC WASTE TRADE IN ASIA PACIFIC SERIES (NOVEMBER 2024)

OVERVIEW

As the Intergovernmental Negotiating Committee (INC) on plastic pollution enters its 5th and perhaps final negotiating meeting in Busan, South Korea, delegates are faced with a question: Is it appropriate for the new plastic treaty to address one of the worst symptoms of the plastic waste crisis – the plastic waste trade for recycling?

In 2019, the first international legal action was taken to address plastic pollution in a decision by Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (Basel Convention). The Parties voted to amend the multilateral environmental agreement to start controlling the trade in non-hazardous plastic wastes under the Basel Convention, for the first time.

The amendments went into force in 2021. Now, five years later, there's a chance to address this issue anew and in a more holistic manner. A key question arises – were those amendments enough, or should the new Global Plastic Treaty go further?

According to recent data sources, the often-damaging trade has not significantly abated and continues to externalize harm and costs disproportionately to developing economies and vulnerable communities. Should the new plastic treaty include obligations on waste trade, when that is within the scope and competency of the Basel Convention, and the latter had recently created new rules on plastic waste trade?

In the latest draft from the INC chair (non-paper 3.0), after prolonged discussions at INC-2 through INC-4, the chair continues to assert a position that calls for the new treaty to go beyond the Basel Convention. He proposed a baseline that all plastic waste be subject to the trade control of prior informed consent (PIC) by the importing state.

The language suggests that these new obligations would be done in concert with the Basel Convention. This makes great sense, as Basel has established the basic mechanisms of the PIC regime which are duly enforceable.

While it is the treaty's prerogative to cover this issue with some new obligations, which can then be implemented by the Basel Convention later, say in a resolution of cooperation, the proposal may be further strengthened.

RECOMMENDATIONS

This briefing paper offers five recommendations to reduce the transboundary movement of plastic waste, and five reasons why the plastic treaty must focus on reducing plastic production and ending waste colonialism.

The criteria for the new global plastic treaty should lay down a new baseline of obligations to reduce plastic waste trade, which should only be allowed under strict criteria as follows:

1. **Plastic waste trade of all kinds is restricted**, including those that are not included by HS Code 3915, or Basel listings B3011, A3210 and Y48, and can only take place for recycling only when the exporting country lacks the ability or resources to build its own capacity for domestic recycling. This is consistent with Basel Convention Article 4(2)(b) and (d) which respectively call for all Parties to build adequate capacity for their own waste and reduce exports to a minimum.
2. **Environmentally Sound Management (ESM) of wastes is required for all plastic recycling facilities which includes having official permits**, reporting to ensure all waste fractions (inputs and outputs as recyclate or residuals) are accounted for in weight to prevent dumping, installing systems to contain microplastics and VOC emissions, ensuring proper downstream residual waste management, and conserving water.
3. **Prior Informed Consent (PIC) is required for all countries and for all plastics as the default trade control procedure.**
4. **Exports are banned for all plastic wastes moving from Basel Convention Annex VII (OECD members, EC and Liechtenstein) to non-Annex VII countries.**
5. **All plastic wastes are considered as hazardous waste** unless it can be demonstrated conclusively otherwise.

And, most importantly, **the treaty must focus on reducing plastic production** as the best and only viable way to reduce plastic waste, and therefore, plastic waste trade and the resulting pollution.

THE GLOBAL PLASTIC TREATY MUST INCLUDE PROVISIONS TO CONTROL WASTE TRADE IN CONCERT WITH THE BASEL CONVENTION

United Nations Comtrade database illustrates that despite the desire by countries to minimize the problematic plastic waste trade by passing the Basel Plastic Waste Amendments, there has been **no significant reduction in plastic waste traded since the amendment's implementation in 2021.** In fact, several top destination countries that emerged after China's 2018 ban on plastic waste imports have seen increasing volumes of plastic waste arriving on their shores.

The Basel Convention has failed to fulfill its mandate of ensuring that all plastic wastes be managed under one of three listings (A3210, B3011, and Y48). **Many plastic wastes, referred to as forgotten or hidden plastic wastes, are excluded from these listings.** These include plastic textile wastes, synthetic rubber wastes, plastics mixed in paper bales and refuse derived fuel containing plastic waste. It is estimated that about half of the total plastic waste traded is not currently managed under Basel Convention listings.

Recent findings about the realities of plastic waste recycling in global plastic waste destination hotspots such as Malaysia and Türkiye show that the **recycling is very partial, with large percentages of the incoming material not economically viable to be recycled, resulting in the dumping or burning of much of the material outside the recycling facilities.** Other externalities inherent in mechanical plastic waste recycling include the releases of microplastics, Volatile Organic Compound (VOC) emissions, and over-consumption as well as contamination of fresh water. Thus, these exports are violating the Basel Convention as they are not truly managed in an environmentally sound manner.

New scientific findings regarding toxic plastic additives and harmful polymers in the body of research that has accompanied the plastic treaty developments indicate that much of the plastic wastes being traded are likely to be hazardous. Yet, the implementation of the Basel Convention has not required testing to ascertain toxicity. The Basel Convention requires a presumption of hazardousness in listed hazardous wastes if it cannot be demonstrated otherwise. Hazardous waste exports would normally be illegal by virtue of Article 4A of the Convention, which restricts the movement of hazardous wastes from developed countries to less industrialized economies. Stricter measures in the plastic treaty are needed to address the hazards of plastic wastes.

The Basel Convention calls on all countries to be self-sufficient in their waste management. Countries should develop their own capacity for managing their own waste. It is presumed that only countries that lack resources to properly manage their wastes would be forced to export their wastes. In reality, it is largely the richer, more developed countries that are exporting their plastic wastes to countries already struggling with overburdened waste management systems. Yet, the destination countries are presumed to manage imported plastic waste in an environmentally sound manner. This must stop.

Finally, it is increasingly clear that **the only way to begin to reduce the volumes of plastic waste suffocating the planet is to minimize production at the front-end**, and not pretend to manage it "sustainably" and "safely" at the back end, especially when the global waste pipeline ends in vulnerable communities in developing countries. This merely "sweeps the problem under a carpet", at a global scale. The longer this way of "cleaning the house" is tolerated, the longer the problem is pretended to be solved – plastic pollution went away. This game of pretend has deadly consequences.

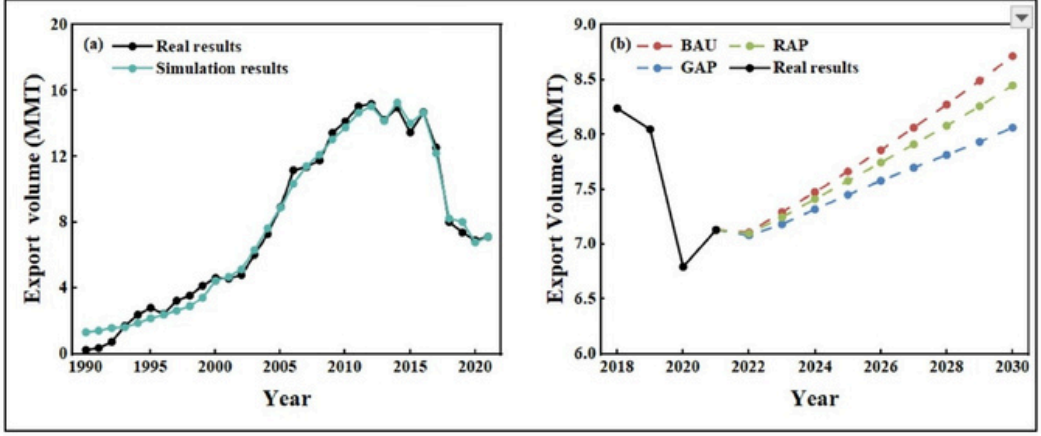
At present, the most developed law or policy on plastic waste trade can be found in the new Waste Shipment Regulation (European Union) 2024/1157. It brings into practice, in international law, the chair's non-paper 3.0, which calls for all plastic wastes to be subject to PIC by the importing country. However, the Regulation goes beyond that significantly by **banning the export of plastic waste from industrialised countries to less industrialised countries.** This should be seen as the new normal.

A RISE IN PLASTIC PRODUCTION WILL INCREASE PLASTIC WASTE TRADE

The global plastic waste trade and plastic production are both growing, and the two are linked in several ways. Global production of plastic has more than doubled in the last two decades. In 2023, the worldwide production of plastics was estimated at 489.14 million metric tons. If historic growth trends continue, the global production of primary plastic is forecasted to reach 736 million tons by 2040, and then 1,100 million tons by 2050. The global plastic market size was estimated at USD 624.8 billion in 2023 and is expected to grow at a compound annual growth rate of 4.2% from 2024 to 2030. The expanding manufacturing sector is expected to propel the demand for plastic compounds in automotive, industrial machinery, construction, packaging, and electrical and electronics industries.

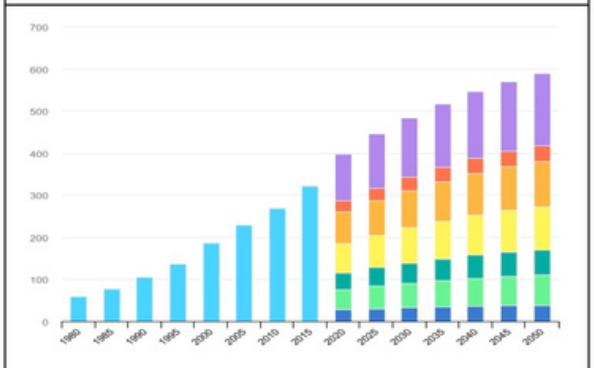
On the other hand, the global trade volume and value of waste plastic have exhibited a pattern of initial growth, subsequent decline after the Basel Plastic Waste Amendments, and then fluctuation but with an upward trend. Factoring in illegal and "hidden" trade, Xu et. al. (2024) forecasted that the plastic waste trade would continue to increase. In a business-as-usual scenario, the volume of plastic wastes exported globally in 2030 is estimated to be as high as 8.71 MT.

Fig. 1. Global waste plastic export volume modeling and forecasting



Based on reported trade, "in 1992, the annual global waste plastic trade volume began to increase sharply, alongside the exponential rise in plastic production and manufacturing. This long-term upward trend continued until 2012, when exports peaked at 15.2 MT—a 1949% and 1521% increase in exports and imports, respectively, compared to 1992. In 2013, influenced by China's 'Operation Green Fence', the export volume fell to 14.2 MT, and in 2014, it rose to 15 MT due to policy relaxation. The global export and import volumes declined substantially in 2018 following China's import ban, decreasing by 35.9 % and 20.1 %, respectively, compared to 2017". Nevertheless, exports to new destinations such as Indonesia and Mexico are increasing.

Fig. 2. Global plastic production and projections



Source: IEA (2020)

Southeast Asia remains a key export destination of plastic wastes. Malaysia was the second largest export destination for all trade globally in 2022. Vietnam was fourth. Indonesia was tenth. Notably, Indonesia saw a 26% increase in imports in 2022 compared to 2021. Japan, the United States, the Netherlands, and Germany are the top exporters of plastic wastes.

CHALLENGES OF REPORTING, HIDDEN NUMBERS

In an OECD environment working paper, Monitoring trade in plastic waste and scrap (2024), it was found:

- The volume of trade reported in national reports and submitted to the Secretariat of the Basel Convention suggests that OECD countries are not yet systematically reporting the plastics wastes exports subject to PIC procedure.
- For 2021, the total amount of reported plastic waste exports by OECD countries subject to PIC procedure was 17,194 tons.
- Illegal traffic in plastic waste for OECD countries was reported as 296 tons.
- In comparison, the total OECD exports as reported in UN Comtrade, minus the United States, amounted to a staggering 5,200,000 tons for 2021.- In addition, the reported trade in HS Code 3915 does not include all trade in plastic waste and scrap. Avenues to legally trade plastic wastes under other HS codes include declaring the wastes as an alternative fuel such as processed engineered (PEF) or refuse derived fuel (RDF), declared under HS Code 3825 and sold to countries for incineration with energy recovery. This affects the true amount and extent of plastic waste trade, bypassing the Basel 2021 controls.
- Exporters may also potentially categorize plastic waste and scrap not as “waste”, but as a primary form ‘recycled’ product (e.g. after having gone through some form of processing), thus this volume would also not be reported under HS 3915.

When plastic production increases, plastic waste increases. UN estimates that, with the current trend in plastic production, there will be 26 billion tons of plastic waste by 2050. This level of waste generation cannot be managed sustainably. Without global policies to reduce plastic production, the unequal exchange of plastic wastes from high-income countries to lower income countries will continue.

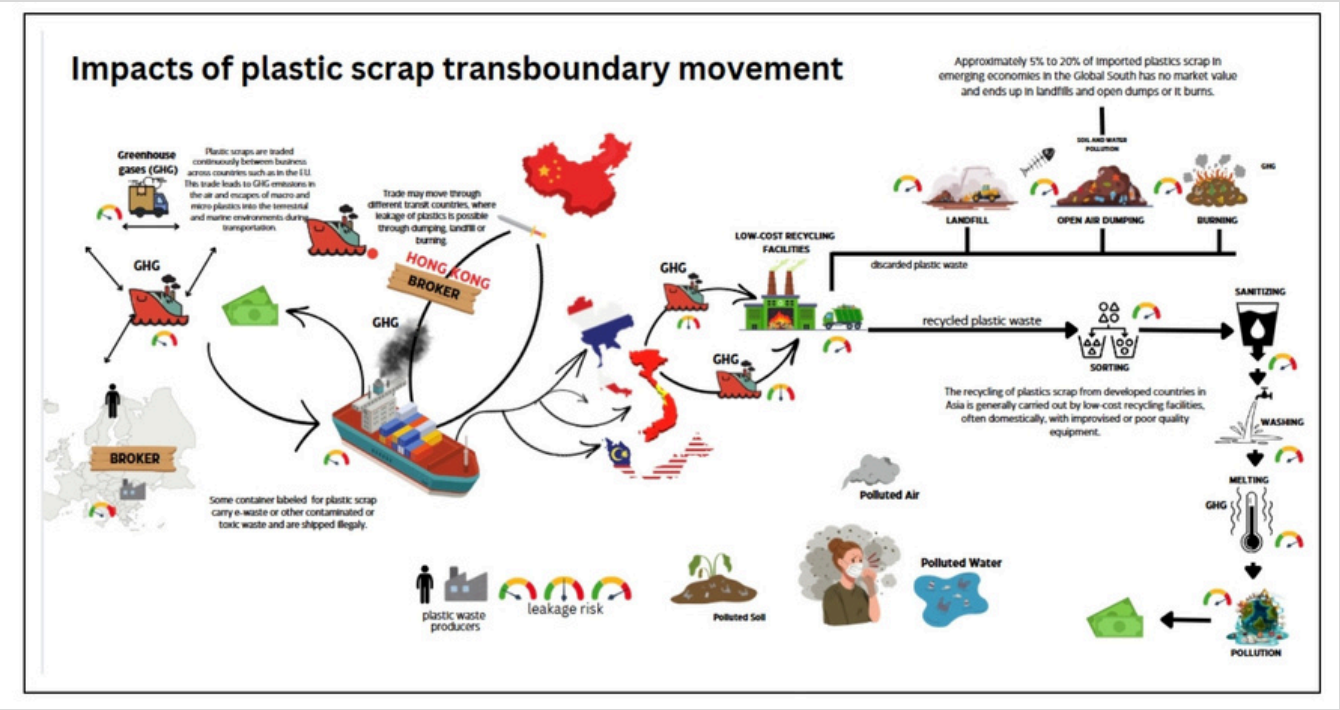
PLASTIC WASTE TRADE HAS DEVASTATING IMPACTS ON HUMAN RIGHTS, HUMAN HEALTH, ENVIRONMENTAL HEALTH, SOCIETY, AND THE ECONOMY

Plastic waste is often traded to avoid the true cost of negative externalities caused by waste processing. Communities that receive, process, recycle, and dispose of imported plastic wastes face intensified health and socio-economic challenges due to the massive volume of wastes that are continuously transported to their localities. Workers in these facilities are subjected to poor working and living conditions, and often resort to child labor, with children suffering from lack of schooling and inadequate education, affecting their futures. Other economic impacts reported by the Environmental Investigation Agency include cost of marine pollution to the global economy; clean-up costs; loss of livelihoods in the agriculture, tourism, and livestock industries; corruption, tax fraud, and money laundering; and displacement of domestic recycling efforts.

To make things worse, the implications of plastic waste on human health is alarming. These foreign plastic wastes contribute to land and water quality degradation; air pollution; and loss of biodiversity and ecological health. The communities near the facilities are exposed to toxic fumes, smoke, noise, and diseases associated with dumping sites.

Plastics are made with additives to give them specific properties, such as fire retardants, stabilizers, antioxidants, and plasticizers. These additives can include chemicals that are considered “substances of very high concern” (SVHC) or “persistent, organic pollutants” (POPs). Examples include polybrominated diphenyl ethers (PBDEs) and phthalates, and hexabromocyclododecane (HBCD). Traded plastic waste can contain these additives that are harmful to the environment and human health. When plastic waste is discarded, these additives can be released into the environment through abrasion, degradation, or leaching. Exposure to these additives can cause a range of health issues, including reproductive and genital organ disorders, cancers, impaired immunity, birth defects, endocrine disorders, and ophthalmologic disorders.

When the residues are burned, this leads to increased risks of respiratory diseases and other health hazards due to the accumulation of toxins such as dioxins in the environment and in people’s bodies.



AVOIDING CONTROLS ON PLASTIC PRODUCTION VIOLATES THE PRINCIPLES OF THE BASEL CONVENTION

The key Basel Convention principles violated by uncontrolled plastic production and waste trade are the principle to minimize the generation of waste, principle of national self-sufficiency, and principle of prevention of trade if there is reason to believe the wastes will not be managed in an environmentally sound manner. The persisting plastic waste trade with its adverse impacts on the environment and health can be viewed as an indication of failure of State Parties to live up to Basel's principles.

Article 4(2)(a) of the Basel Convention urges the State Parties to take appropriate measures to ensure that the generation of hazardous wastes and other wastes within it is reduced to a minimum considering social, technological and economic aspects. In conjunction, Article 4(2)(d) of the same Convention, requires Basel parties to ensure 1) available and adequate disposal facilities for the environmentally sound management of hazardous wastes and other wastes; and 2) that transboundary movement of hazardous wastes and other wastes is reduced to the minimum, consistent with the environmentally sound and efficient management of such wastes, and is conducted in a manner that will protect human health and the environment against the adverse effects which may result from such movement.

Pursuant to these principles, and as mentioned above, countries should develop their own capacity for managing their own waste, presuming that only those that lack resources to properly manage their wastes are constrained to export their wastes.

However, given the extensive production and use of plastics, especially single-use plastics, many parts of the world are not equipped to deal with the large amount of plastic waste they generate or import from abroad.Of all plastics produced since the 1950s, nearly 80% ended up in the environment or in landfills.

With no change in the way plastic is produced and used, another 33 billion tons of plastic is expected to accumulate on the planet by 2050. Thus far, there is no record of any country having capacity to safely and completely manage, collect and recycle its own plastic waste generated domestically. In the major plastic waste importing countries in Southeast Asia, a closer examination of the trade reveals only partial recycling due to lack of capacity and low profitability of recycling plastics.

Table 1. Volumes of domestic and imported wastes and recycling capacity of major export destinations of plastic waste.

Country	Annual Domestic Plastic Waste	Plastic Recycling Capacity*	Imported Plastic Waste
Indonesia	7.8 million tons per year	10% (2021)	164,523 tons (2021)
Malaysia	1.07 million tonnes (2021)	58% (2018) 31.52% (2021)	351,284 tons (2022)
Philippines	2.7 million tons each year	15% of post-use plastics (2018)	8,339 tons (2022)
Thailand	2 million tons per year	25% per year	158,650 tons (2021)
Vietnam	2.93 million tons per year	9% (2022)	742,800 million tons (2021)

*Note: Sources of information do not distinguish whether recycling capacity is environmentally sound as required by the Basel Convention. The breakdown of materials being recycled is also not available.

These countries have less than 50% recycling capacity, including for plastic waste, yet they are the top importers of plastic waste generated by the developed world. Large amounts of wastes, including plastic wastes, are landfilled or burned, leaking into the environment. When ESM of domestic waste is a challenge, how would these countries effectively meet Basel's ESM requirements for traded plastic waste and in dealing with residual wastes?

Waste pickers among plastic waste imported in contaminated paper and cardboard waste, much from Australia, in Sidoarjo, East Java, Indonesia.	**An illegal dump site burning in Selangor, Malaysia, composed largely of Italian plastic packaging waste, dumped next to shrimp aquaculture farms.**
	
Source: Ecoton, August, 2024	**Source: Basel Action Network, June 2024**

Article 4(2)(g) of the Basel Convention obliges each Party to "take the appropriate measures to [...] **prevent the import of hazardous wastes and other wastes if it has reason to believe that the wastes in question will not be managed in an environmentally sound manner** [....]".

The current waste trade, whether to Türkiye, Malaysia, Indonesia, Thailand, or elsewhere, results in severe pollution either from the release of microplastics, additives, VOCs, or from the blatant dumping and burning of residual, unrecyclable fractions. In fact, we cannot find examples of recycling operations of imported plastic waste without such externalities. ESM is defined as taking all practicable steps to protect the environment and human health. Clearly, such operations are not taking all practicable steps.

Indeed, if ESM of plastic waste cannot take place while keeping plastic recycling economically viable, as appears to be the case, then the only remedy to comply with the Basel Convention is to produce less plastic. Since all plastics are highly unlikely to be managed by ESM in recycling facilities, all plastic wastes should be subject to PIC to provide the necessary controls to protect peoples and environments against non-ESM aspects of the recycling detailed above.

Further, the Basel Convention requires full waste characterization, distinguishing hazardous from non-hazardous waste. It is unclear in each of the countries whether the basic Basel Convention default procedure of PIC premised on waste characterization is being implemented, and if it is, how effectively it is being carried out.

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Currently, all OECD countries that are engaged in exporting plastic waste are violating the general obligations to minimize plastic wastes, be self-sufficient in plastic waste management, to ensure ESM and to prevent plastic waste trade in the first place, as embodied in the Basel Principles. They are also violating their duties to characterize plastic waste and assure that all exported plastic wastes are being managed in an environmentally sound manner – not just those that end up as marketable pellets and flakes.

On the part of importing countries, there is much work to be done to properly incorporate the Basel Convention into the national laws and regulations, and to effectively enforce them on site.

WASTE PREVENTION AND AVOIDANCE ALWAYS COMES FIRST

The waste hierarchy embedded in the Basel Plastic Waste Guideline and other related literature call for prevention and ESM of wastes, and not final disposal of wastes. This obligation to reduce the generation of wastes to a minimum applies to all plastic waste included within the scope of the Convention, recyclable or otherwise. Waste under the Basel Convention is defined broadly as 'substances or objects which are disposed of or are intended to be disposed of or are required to be disposed of by the provisions of national law'. Disposal operations listed under the Convention include both final disposal and various recovery options. This suggests that even recyclable controlled plastic wastes should be minimized.

Once controlled plastic waste is generated, countries should ensure the availability of adequate disposal facilities for the ESM of controlled wastes (principle of self-sufficiency), and prevent and minimize any pollution from their waste management. This waste management should take place as close as possible to the source of generation (principle of proximity) and the transboundary movement of wastes should be minimized (least transboundary movement principle) as the movement of wastes carries a risk of pollution during transit and at destination, often due to mismanagement.

However, an exponential increase in plastic production undermines these Basel goals of waste prevention and avoidance. The reality is, "the global trade in plastic waste has mirrored the growth in global plastic production, allowing high income, high-consuming countries to avoid the direct social and environmental impacts of their plastic problem and driving the ever-expanding production and consumption of virgin (new) plastics". The production rate makes it impossible for any country to avoid, prevent or manage the massive volumes of plastic wastes generated. Therefore, to effectively curb plastic waste trade, reducing plastic production is imperative. Under the Basel Convention, the obligation to minimize all controlled wastes implies that there are up-stream obligations including reduction of plastic production.

CONCLUSION: OPPORTUNITY TO EFFECTIVELY CONTROL PLASTIC WASTE TRADE AND POLLUTION UNDER BOTH THE BASEL CONVENTION AND THE GLOBAL PLASTIC TREATY

In the possibly final round of INC meetings in Busan, it is recommended that the global plastic treaty, at a minimum, includes the baseline criteria for **minimizing plastic waste trade**, as outlined in the Recommendations. Urgently, the treaty must also control plastic production as this is the only effective and viable way to end plastic pollution.

Landfilling and incineration of plastic wastes have clear negative consequences and are widely opposed. Recycling has not proven effective in dealing with plastic waste and reducing plastic pollution, and recycling facilities consistently violate the Basel Convention's requirements for ESM of wastes. Export for recycling is even more damaging, clearly also violating the Convention as it is done without transparency on the hazards of plastic waste. **The only viable solution at hand at this point is to reduce the generation of the plastic waste through various means.** This is the key task of the global plastic treaty. All other avenues lead to violations of the world's only treaty on wastes – the Basel Convention.

The new global plastic treaty would undermine the Basel Convention if it does not address the fact that plastic production and the plastic waste trade as currently undertaken in today's marketplace violate the principle obligations of the Basel Convention. The Vienna Convention on the Law of Treaties requires that "[W]hen a treaty specifies that it is subject to, or that it is not to be considered as incompatible with, an earlier or later treaty, the provisions of that other treaty prevail" (Vienna Convention on the Law of Treaties, Article 30, Paragraph 2). Thus, the new plastic treaty cannot emerge as a treaty that fundamentally does not meet the obligations of another treaty, the Basel Convention, which it recognizes.

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STATE OF PLAY

THE PLASTIC WASTE TRADE IN ASIA PACIFIC

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