

# New International Requirements for Exports and Imports of Plastic Scrap

Northeast Waste Management Officials' Association

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## Main message on U.S. exports of plastic scrap

- Starting on January 1, 2021, exports of most plastic scrap (i.e., plastic recyclables) were significantly restricted by most countries under a treaty called the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.
- As a result of these changes, it is considered illegal for most countries to import the majority of plastic scrap from the United States.
  - This includes major importing countries for U.S. plastic scrap such as Malaysia, Vietnam, Hong Kong, Indonesia, Thailand, and India.

# Basel Convention on the Control of Transboundary Movements of Hazardous Waste and their Disposal

- A legally binding treaty establishing prior notice and consent for transboundary shipments of waste within its scope.
- Entered into force in 1992; 188 Parties\*
- The treaty's main objective is to control and ensure environmentally sound management of primarily hazardous wastes subject to transboundary movement.
- U.S. is a Signatory, but not a Party.
- The U.S. has participated as an Observer in Basel since the Convention's initiation.



\*including the European Commission

## Prior notice and consent process explained

Exports of wastes subject to Basel Convention prior notice and consent requirements are allowed only with the prior written consent of the importing country and any transit countries.

### Process

1. Exporter submits export notice to exporting country government
2. Exporting country government forwards notice to proposed importing country government
3. Importing country government reviews notice and consents, objects or conditionally consents to export notice and informs exporting country government
4. Exporting country government informs exporter of decision
5. If consent received, exporter generally has approval to export for one year under the conditions of the consent and/or import permit

## Key elements required for export under the Basel Convention\*

- Export notification (or import notice in some cases) – information about exporter, foreign receiving facility and importer, description of waste, specify how waste will be managed, etc.
- Movement document – international waste manifest
- Contract – between the exporter and the recycler specifying environmentally sound management
- Confirmation of receipt – the recycler must confirm receipt to the exporter and the Competent Authority of the exporting country
- Confirmation of recovery – the recycler must confirm the completion of recovery/recycling to the exporter and the Competent Authority of the exporting country

\*Basel Parties will not be allowed to trade most plastic scrap and waste with the United States (a Basel non-Party), except under a separate bilateral or multilateral agreement.

# New Basel Convention requirements for exports of plastic scrap

- In May 2019, Basel Parties decided to newly classify most plastic scrap and waste as subject to Basel Convention prior notice and consent requirements for export, effective January 1, 2021.
- These changes are referred to as the Basel Convention Plastic Waste Amendments.
- Because of a longstanding Basel Party/Non-Party trade prohibition, Basel Parties are not allowed to trade most plastic scrap and waste with the United States, except under a separate bilateral or multilateral agreement that meets certain Basel criteria.
  - The amendments were proposed to address marine plastic litter.

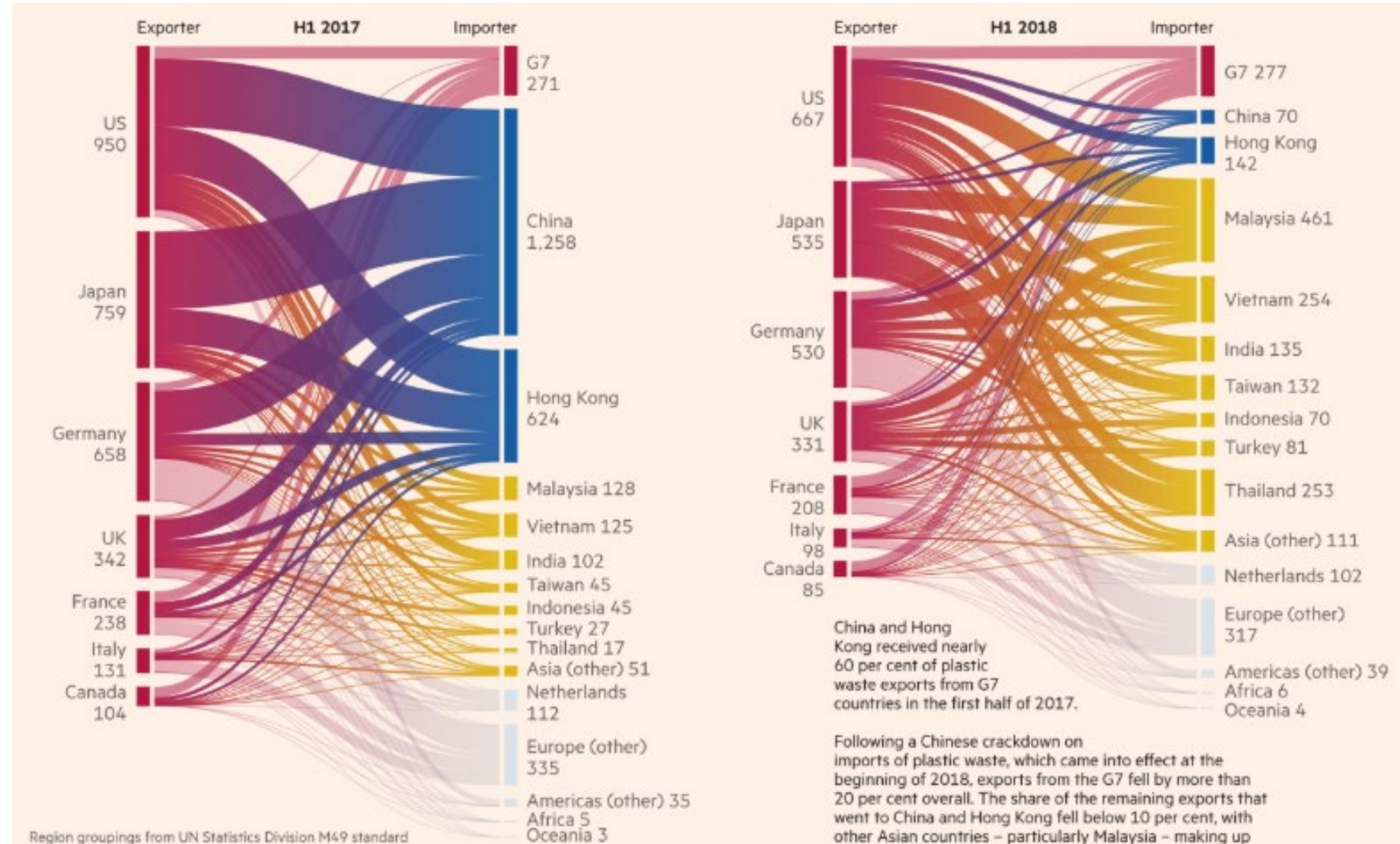




## Background

- In 2016, China imported about half of all plastic scrap intended for recycling globally (Brooks et al., 2018).
- Export flows changed when China implemented strict import restrictions on recyclables, including plastic scrap, in 2017.
- Concerns about capacity of 'new' importing countries to dispose of residual waste from recycling in an environmentally sound manner.

Exports of plastic scrap from G7 countries (000's metric tonnes)



Source: The Financial Times - <https://www.ft.com/content/360e2524-d71a-11e8-a854-33d6f82e62f8>

# What are the new Basel plastic scrap and waste amendments?

- The new Basel Convention plastic scrap and waste amendments classify plastic scrap and waste into 3 categories:
  - Basel Annex II contains the 1<sup>st</sup> category:
    - Covers most non-hazardous plastic scrap and waste; subject to Basel requirements
  - Basel Annex VIII contains the 2<sup>nd</sup> category:
    - Covers plastic waste classified as Basel-hazardous waste; subject to Basel requirements
  - Basel Annex IX contains the 3<sup>rd</sup> category:
    - Covers a small subset of non-hazardous plastic scrap; **not** subject to Basel requirements
- Because of the longstanding Basel Party/Non-Party trade prohibition, Basel Parties are not allowed to trade most plastic scrap and waste (the 1<sup>st</sup> and 2<sup>nd</sup> categories) with the United States, except under a separate bilateral or multilateral agreement.



## New Basel Convention requirements for plastic scrap exports

- Exports must meet a very narrow and strict set of criteria to be classified as not subject to Basel prior notice and consent requirements.
  - Plastic scrap must be “**almost exclusively**” of one non-halogenated polymer (e.g., PE, PP, PS, ABS), resin (e.g., thermoset plastics like epoxy resins) or one of a limited number of fluorinated polymers, “**almost free from contamination and from other types of waste,**” and destined for “**recycling in an environmentally sound manner.**”
  - Clean, mixed plastic scrap consisting of PE, PP, and/or PET must be destined for “**separate recycling of each material**”.



*Described in new **Basel B3011 listing** in Basel Annex IX (replaces current Basel B3010)*

- Uncertainty remains about how to interpret and implement these key terms. Expected that Basel Parties will try to clarify terminology.
- Exports not meeting these criteria would be subject to Basel's Party/non-Party trade prohibition.

# New Basel Convention requirements for plastic scrap exports

- Exports of most non-hazardous plastic scrap and waste (1<sup>st</sup> category), are subject to Basel requirements including:
  - plastic scrap that is contaminated (e.g., with food residue and/or other waste)
  - plastic scrap mixed with other types of scrap
  - plastic scrap containing halogenated polymers (e.g., PVC scrap)
  - mixed plastic scrap except for shipments consisting of polyethylene (PE), polypropylene (PP), and/or polyethylene terephthalate (PET) that meet criteria in Basel listing B3011



*Described in new **Basel listing Y48** in Basel Annex II*

- Exports of hazardous plastic scrap and waste (2<sup>nd</sup> category) are also subject to Basel requirements:
  - Plastic scrap and waste containing or contaminated with hazardous constituents in Basel Annex I to an extent that they exhibit a hazardous characteristic in Basel Annex III.

*Described in new **Basel listing A3210** in Basel Annex VIII*

# Unresolved questions

B3011, Annex IX

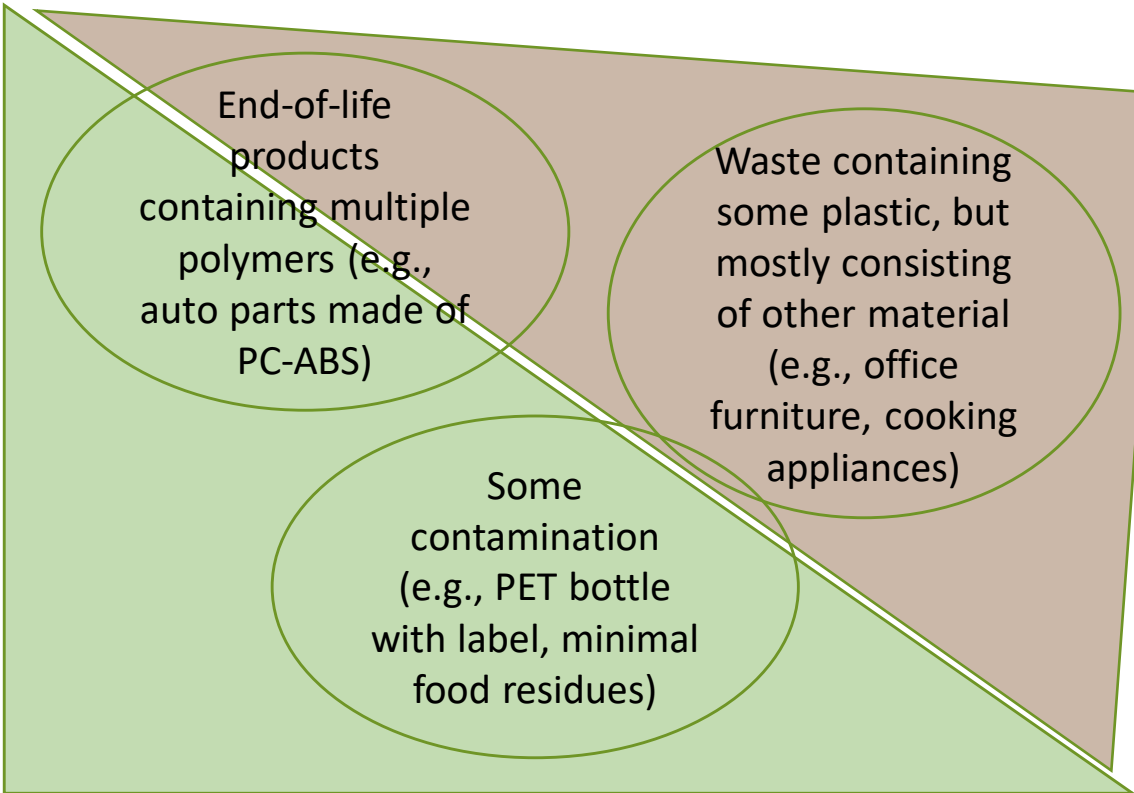
Clean, pre-sorted plastic scrap consisting of a single non-halogenated polymer, resin or certain fluorinated polymers sent for environmentally sound recycling

Mixed PP, PE and PET allowed in certain cases



Not subject to Basel Convention requirements

More clarity needed...



Will Basel Convention requirements apply?

Y48, Annex II

Mixed and/or contaminated plastic waste, halogenated polymers (e.g., PVC scrap)



Basel Convention requirements and Basel Party/non-Party trade prohibition apply

A3210, Annex VIII

Plastic waste characterized as hazardous waste under the Basel Convention

## OECD Council Decision (2001)



- Legally binding multilateral agreement governing the export and import of hazardous waste for recovery among the 37 developed countries that are members of the Organization for Economic Cooperation and Development (OECD).
- As a member country of the OECD, the Council Decision allows the U.S. to trade in Basel-covered waste with OECD countries that are Basel Parties.
  - In 2020, the U.S. traded nearly 440,000 metric tons of plastic scrap with OECD countries valued at more than \$189 million. This represents over 58% of U.S. trade in plastic scrap.
  - Mexico and Canada are our most important OECD trading partners.
- Basel and OECD waste listings are generally harmonized and new Basel scrap and waste listings are automatically incorporated into the OECD Council Decision unless an OECD Member country objects.

## Developing an OECD approach to trade in plastic scrap

- In July 2019, the U.S. objected to the automatic incorporation of the Basel amendments on plastic scrap and waste into the OECD Council Decision, triggering negotiations to develop an alternative approach.

### Rationale:

- OECD countries have an opportunity to incentivize recycling plastic scrap in countries that have strong recycling and waste management systems.
  - Regulating exports/imports of plastic scrap could make trade more difficult and undermine the value and market for plastic recyclables.
  - Could lead to fewer incentives to recycle and increase disposal of plastics.
- Negotiations to seek agreement on rules for intra-OECD trade in plastic scrap concluded in 2020.

# New OECD requirements for exports of plastic scrap and waste

- Hazardous plastic scrap and waste are subject to prior notice and consent requirements for export
  - Plastic waste containing or contaminated with hazardous constituents (OECD Appendix 1) and exhibits a hazardous characteristic (OECD Appendix 2).
- Much uncertainty remains about the requirements OECD countries will impose for intra-OECD trade in non-hazardous plastic scrap and waste
  - No agreement reached on an OECD approach to non-hazardous plastic scrap.
  - Many OECD countries will require prior notice and consent for non-hazardous plastic scrap under their domestic laws and regulations.
  - Some OECD countries may not be willing to trade in plastic scrap with the U.S.

Countries agreed to consider another attempt to try to reach consensus before the end of 2024.



# Updates for U.S.-Canada trade in non-hazardous plastic scrap

## U.S.-Canada Bilateral Arrangement finalized

- Allows for the continued export and import of non-hazardous scrap and waste, including Basel-controlled plastic scrap and waste, for environmentally sound management.
  - Non-hazardous scrap and waste is defined as that which is not covered by the U.S.-Canada bilateral agreement covering the transboundary movement of hazardous waste or Appendix 4 of the OECD Council Decision (i.e., the OECD list of hazardous waste).
- Transboundary shipments of non-hazardous scrap and waste between the U.S. and Canada are not subject to prior notice and consent requirements when destined for environmentally sound management in either country.
- Does **not** apply to trade between the U.S. and Canada involving third countries (i.e., U.S. export transits Canada en route to another country or Canadian export transits the U.S. en route to another country).

## Updates for U.S.-Mexico trade in non-hazardous plastic scrap

### Mexican requirements for exports to Mexico

- As of January 1, 2021, Mexico requires prior notice and consent for exports to Mexico of Basel-controlled non-hazardous plastic scrap and waste.
- Exports are not allowed unless consent received from SEMARNAT, the Mexican environmental agency.
- Send notifications for non-hazardous plastic scrap and waste (Basel code: Y48) directly to SEMARNAT using the OECD/Basel notification form.

### Mexican requirements for imports into U.S.

- Mexico is applying prior notice and consent requirements to Mexican exports of non-hazardous plastic scrap and waste to the U.S.
- EPA will issue a “neither consent nor object” (equivalent to a consent) because U.S. imports of non-hazardous scrap and waste are not regulated under RCRA.

# U.S. requirements for exports and imports of plastic scrap

- Plastic scrap and waste regulated as hazardous waste under the regulations implementing the U.S. Resource Conservation and Recovery Act (RCRA), is subject to RCRA hazardous waste export and import requirements, which include:
  - Prior notice and consent from importing and transit countries
  - Tracking requirements (e.g., international movement document)
  - Confirmation of receipt and confirmation of recovery

More information at <https://www.epa.gov/hwgenerators/>

- The majority of plastic scrap and waste is not regulated as hazardous waste under RCRA, and therefore, is not subject to RCRA export and import requirements.
- For exports of RCRA-regulated hazardous plastic waste, export notices must be submitted electronically to EPA via EPA's Waste Import Export Tracking System (WIETS).
  - Access WIETS via EPA's Central Data Exchange (CDX) at <https://cdx.epa.gov/>.
  - EPA webinar for registering in CDX and submitting notices in WIETS: [https://cluin.org/conf/tio/CDXWIETS\\_040317/](https://cluin.org/conf/tio/CDXWIETS_040317/)

## What if the importing OECD country controls plastic scrap and the exporting country doesn't?

- Scenario 1: For exports of non-hazardous plastic scrap, the U.S. exporter should contact the importing OECD country government to determine the required procedure. Potential processes could include:
  - 1. OECD *mutatis mutandis* provision may apply
    - Importer (rather than the U.S. exporter) must prepare an import notice (rather than an export notice) and submit the import notice to the importing OECD country government for consent, etc.
  - 2. Importing OECD country may require U.S. exporter to submit export notice to foreign competent authority directly
  - 3. Importing OECD country may not allow U.S. exports of Basel-controlled plastic scrap and waste

U.S. EPA cannot receive or forward export notices to OECD importing and/or transit countries for scrap and waste not regulated as hazardous waste under the U.S. Resource Conservation and Recovery Act.

## What if the importing OECD country controls plastic scrap and the exporting country doesn't (cont'd)

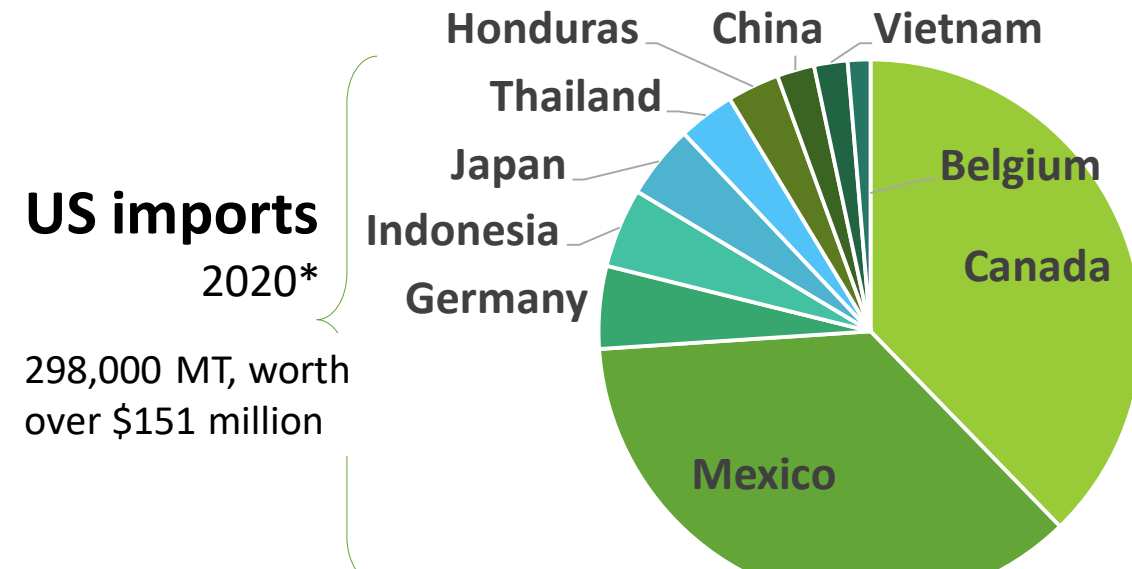
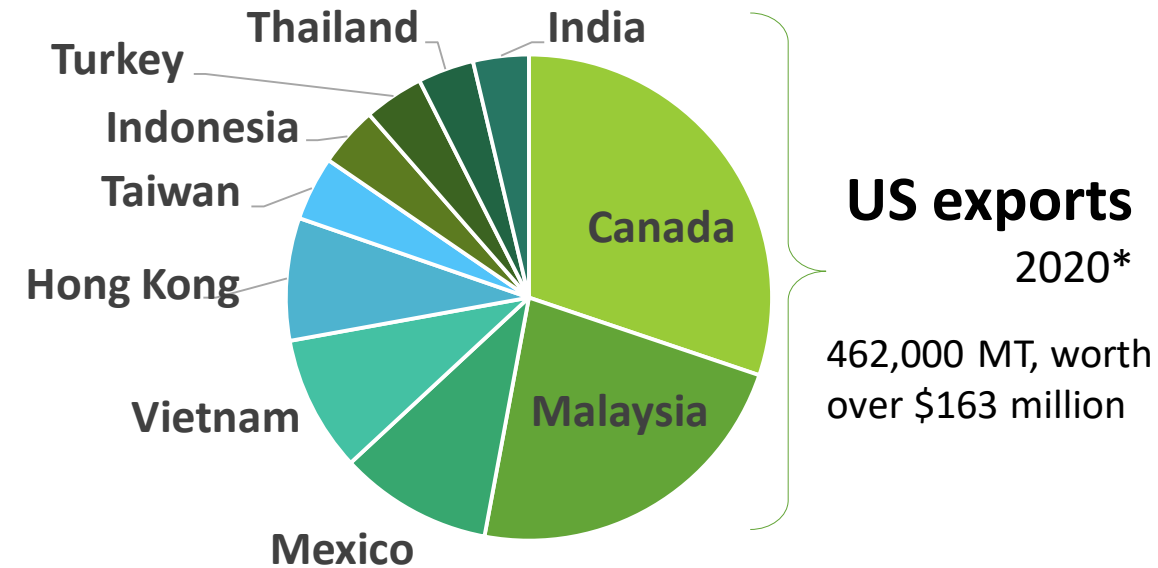
- Scenario 2: For exports of hazardous plastic waste not regulated under RCRA, the OECD *mutatis mutandis* provision applies.
  - Importer (not the exporter) prepares an import notice (rather than an export notice) and submits the import notice to the importing OECD country government for consent, etc.
- While the vast majority of plastic waste is not regulated as hazardous waste under RCRA, anticipate countries will increasingly consider certain plastic waste as hazardous waste.

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- U.S. exports are subject to applicable laws and regulations in importing and transit countries, as well as applicable international law.
- U.S. exporters should contact country competent authorities and/or work with the foreign importer to determine the requirements that apply.

## Potential U.S. impacts

- Effectively stops U.S. trade in most plastic scrap with non-OECD countries.
- Probable decrease in U.S. exports for plastic recycling and increased disposal in U.S. landfills.
- Anticipate significant adverse impacts on U.S. recycling programs that have benefitted from the revenue generated by higher value plastic scrap exports.
- Anticipate confusion by the regulated community on technical issues and procedural requirements.
- EPA anticipates receiving import/export notifications for non-hazardous plastic scrap, even though the amendments do not change U.S. export and import waste requirements.



Data for first 3Q of 2020, Source: <https://dataweb.usitc.gov/>



# Resources

## U.S. EPA resources:

- Explanation of Basel Convention plastic scrap and waste amendments and OECD changes:  
**NEW!** <https://www.epa.gov/hwgenerators/new-international-requirements-export-and-import-plastic-recyclables-and-waste>
- U.S. international agreements for transboundary shipments of waste:  
<https://www.epa.gov/hwgenerators/international-agreements-transboundary-shipments-hazardous-waste>
- U.S. hazardous waste export requirements:  
<https://www.epa.gov/hwgenerators/information-exporters-resource-conservation-and-recovery-act-rcra-hazardous-waste>
- U.S. hazardous waste import requirements:  
<https://www.epa.gov/hwgenerators/information-importers-and-receiving-facilities-resource-conservation-and-recovery-act>
- Webinar on submitting notices electronically in EPA's Waste Import Export Tracking System (WIETS)  
[https://clu-in.org/conf/tio/CDXWIETS\\_040317/](https://clu-in.org/conf/tio/CDXWIETS_040317/)

## Resources (cont'd)

### Basel Convention resources:

- Basel Convention copy of Plastic Waste Amendments: <https://www.informea.org/en/decision/amendments-annexes-ii-viii-and-ix-basel-convention-advance>
- Basel Convention overview of Plastic Waste Amendments: <http://www.basel.int/Implementation/Plasticwaste/PlasticWasteAmendments/Overview/tabid/8426/Default.aspx>
- Export and Import Control Tool for country-level requirements for export and import: <http://www.basel.int/Implementation/Controllingtransboundarymovements/ExportandImportControlTool/tabid/4284/Default.aspx>
- Contact information for points of contact (“competent authorities”) for implementation of the Basel Convention: <http://www.basel.int/Countries/CountryContacts/tabid/1342/Default.aspx>.
- Guide to the Control System: <http://www.basel.int/Implementation/LegalMatters/Compliance/GeneralIssuesActivities/Activities201213/GuidetotheControlSystem/tabid/3193/Default.aspx>
- Notification and Movement documents + Instructions: <http://www.basel.int/Procedures/NotificationMovementDocuments/tabid/1327/Default.aspx>

## Resources (cont'd)

### Other resources:

- EU requirements for exporting and importing plastic scrap and waste: [https://ec.europa.eu/environment/news/plastic-waste-shipments-new-eu-rules-importing-and-exporting-plastic-waste-2020-12-22\\_en](https://ec.europa.eu/environment/news/plastic-waste-shipments-new-eu-rules-importing-and-exporting-plastic-waste-2020-12-22_en)
- UK requirements for exporting and importing plastic scrap and waste: <https://www.gov.uk/guidance/importing-and-exporting-waste-plastic>

# Questions?



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For more information, see EPA's webpage:

<https://www.epa.gov/hwgenerators/new-international-requirements-export-and-import-plastic-recyclables-and-waste>