



turn back the toxic tide

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The Norwegian Amendments: Implications for Recyclers

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Before the Amendments

Currently there is no listing for hazardous plastic waste in Annex VIII (the presumed hazardous listing) and, there is no listing for plastic wastes on Annex II (wastes requiring special consideration). There is only an entry (B3010) for Annex IX (presumed non-hazardous). One can believe that without a mirror entry to B3010 for hazardous plastics, very few countries would have described plastics as being hazardous by scrutinizing the plastic exports, looking for an Annex I constituent and an Annex III hazardous characteristic. It is unlikely therefore that in the past any controls on plastic waste trade took place under the Basel Convention. That will change.

When in Force (January 1, 2021)

1. New Listing on Annex VIII: A new listing (A3210) on Annex VIII (presumed to be a hazardous waste) has been created. Such wastes will be subject to the full regime of Basel control procedures and obligations and will be subject to the Basel Ban Amendment when it enters into force (2 countries still needed for global entry into force). The Ban Amendment prohibits all exports of hazardous wastes from developed countries to developing countries for any reason.

2. New Listing on Annex II: With the exception of the 4 categories (a-d) listed below, all plastic waste that are not subject to the new hazardous waste listing noted above (A3210) will be listed on new Annex II (wastes requiring special consideration) as (Y48). Annex II will normally be subject to the Prior Informed Consent (PIC) procedure for Basel Parties. The USA however is not a Basel Party (see implications in 4. below) and cannot export Annex II wastes to Basel Parties outside of the OECD group for any reason. Similarly, the EU will not be able to export Annex II wastes to developing countries but for a different reason: by their own legislation any wastes appearing on either Annex II or Annex VIII cannot be exported to developing countries.

3. Exemptions: To qualify for an exemption to Annex VIII and II, and thus to be considered non-hazardous and listed on Annex IX, (new B31011), the wastes must be non-hazardous, clean, unmixed, uncontaminated plastic waste, going only to an Annex IV R3 (organic compounds recycling) operation, (not energy recovery or final disposal, such as landfill or incineration), and can only be wastes described by one of the following 4 categories:

- a. Plastic wastes almost exclusively consisting of one non-halogenated polymer. This means that mixed plastics will need to be sorted prior to export to avoid PIC procedure

being on Annex II. The one exception to the mixing is found in "d" below. As PVC is halogenated it cannot qualify for the exemption.

b. Plastic waste almost exclusively consisting of one cured resins or condensation product. Again, these will need to be sorted or be disqualified. This section is subject to further work by the parties during the next few months and could change.

c. Plastic waste consisting of one of 6 (listed) fluorinated polymer wastes. This section is subject to further work by the parties during the next few months and could change.

d. Mixed plastic waste but only consisting of PP, PE and/or PET provided they are destined to be separately recycled upon arrival in the importing country.

4. Party to Non-Party Trade: For trade between Parties where at least one of the countries concerned (export, import, or transit) is not a Party to the Basel Convention (e.g. the US) there will be a ban on such trade absent a special valid multinational or bilateral agreement being in place. The US is part of such an agreement for trade in recyclables reached by the OECD group of countries. Thus, the US can only trade in unexempted waste (not in a-d above) with other OECD countries and only for recycling.

5. National Legislation: For trade between countries where at least one of the countries concerned has listed the plastic waste as hazardous waste on a national basis, the Basel Convention will apply (e.g. PIC procedure). Likewise, when a country or group of countries have banned the export of Annex II wastes then that ban will apply. Such is the case with the European Union with respect to exports of Annex II wastes to developing countries.

6. Halogenated Plastics: For halogenated plastics other than the fluorinated polymers listed in "c" above, like PVC, they are going to be considered as belonging to Annex II and so will be controlled under the Basel Convention.

Take-aways for recyclers (after January 1, 2021)

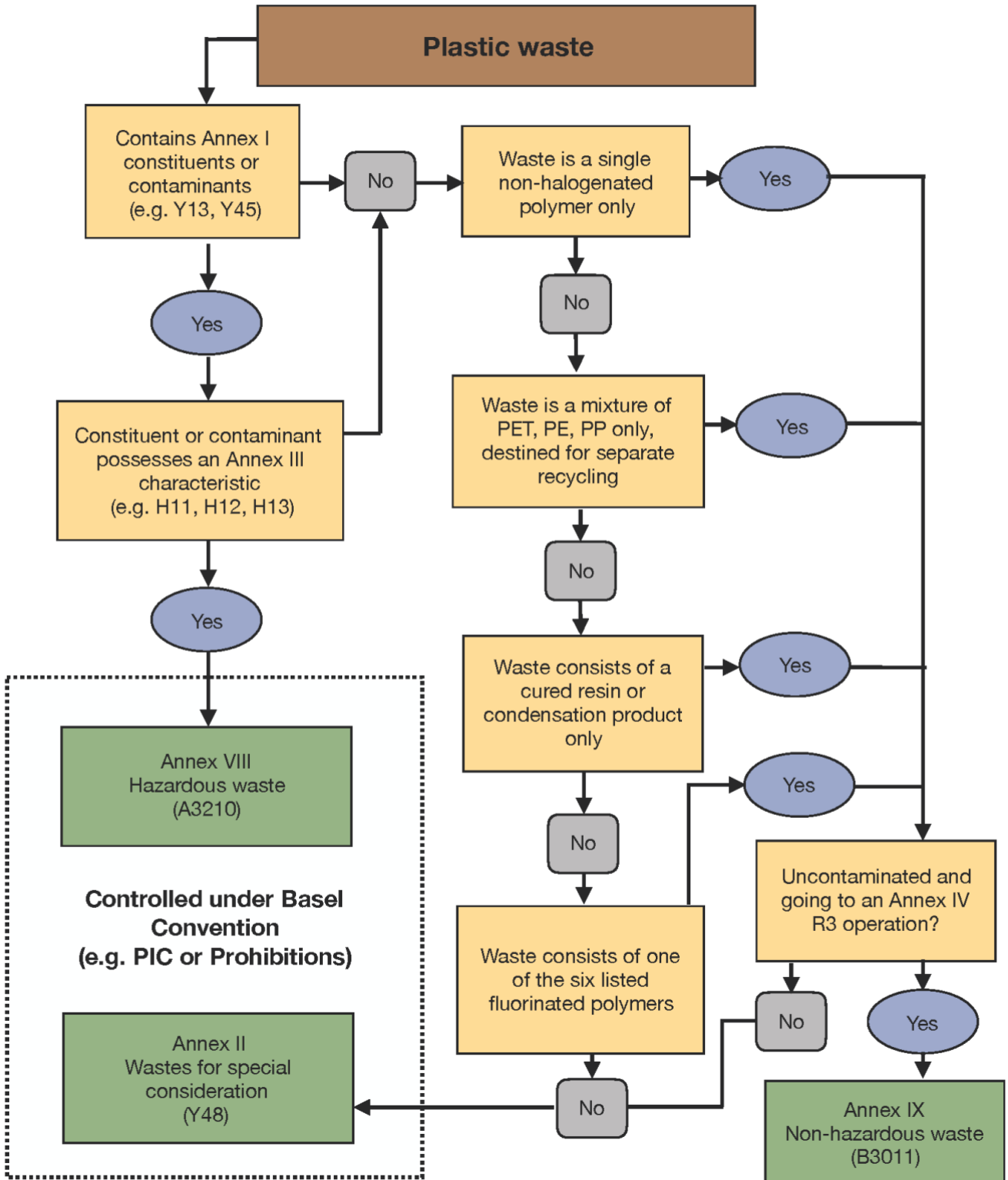
1. For US (non-party) recyclers all exports except for a-d above will be prohibited to export to non-OECD countries that are Parties to the Basel Convention. For OECD country destinations PIC will apply for US exporters.

2. For EU recyclers, all exports except a-d above will be prohibited to export to a non-OECD country. It is expected that the EU will press the OECD to put the new Annex II entry on the green list so that the intra OECD trade will be seen as non-hazardous for recycling. For OECD countries outside of the EU, PIC will apply to both Annex VIII and Annex II for exports to non-OECD countries.

3. If recyclers are hoping to avoid Basel controls (PIC procedure or prohibitions mentioned in 1 and 2 above) they will need to carefully sort the different polymers (e.g. HIPs, ABS, PVC) with the exception of mixtures of PE, PP, PET, prior to export; be sure that all such plastics exports are only going to an R3 destination (no final disposal, no energy recovery); and are cleaned of non-target contaminants (e.g. paper, metal).

4. Halogenated polymers like PVC will be controlled (PIC, or export prohibition to non-OECD in US and in EU).

Decision Flow Chart for Basic Listings of Plastic Wastes (Effective January 2021)



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