

EXECUTIVE SUMMARY

PLASTIC WASTE HAS ARRIVED IN LATIN AMERICA: trends and challenges in the region



GAIA Alliance consists of 130 organizations in Latin America and the Caribbean, and more than 800 globally. GAIA seeks to promote zero waste strategies and build a society where the use of resources respects ecological limits and local communities are recognized as socio-environmental managers.

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Country Reports: Basel Convention Plastics Amendment:
Analysis of the situation in Argentina; Mexican scenario in preparation for the implementation of the Basel Convention Plastics Amendment; Current status on the import and export of plastic waste in Chile; Heading 3915: import of waste in Ecuador.

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The present document is a synthesis of a series of reports by organizations and researchers in Mexico, Ecuador, Chile, and Argentina on imports of plastic waste in each of these countries. GAIA supported this initiative to perform the first assessment on the progress and impacts of the transboundary trade of these wastes in the region.

Latin America and the Caribbean are joining Asia and Africa as emerging destinations for global plastic waste. This trend has gained momentum since 2018 when China restricted such imports to stop being the largest landfill on the planet. It did so to protect its territory from contamination by imported plastic, which arrived dirty or was difficult to recycle. The impact of that decision is still being felt: the international trade flows of plastic waste have changed and adapted to the search for new destinations for the waste produced by world powers, with the United States at the forefront.

The impact has reached our region, and now countries such as Mexico and Ecuador are among the most significant plastic importers, having legislation with loopholes and lack of controls. According to the U.S. international free trade database USA Trade Online, between January and August 2020, 44,173 tons of plastic waste arrived from the United States to 15 Latin American countries. That meant the shipment of approximately 35 containers per day to the region.

This problem takes on greater importance after the Basel Convention's Plastics Amendment came into effect, which seeks to regulate transboundary movements of plastics 'requiring special consideration,'¹ which have become an epidemic of humanity with devastating environmental impacts. Its implementation runs from January 2021. In the region, governments have adapted their legislation in accordance with the agreement, signed by 187 countries. However, it seems that these actions are losing the race against the accelerated increase of plastic waste exports to Latin America.

This study, promoted by the Global Alliance for Incinerator Alternatives (GAIA), involves teams of researchers in four countries to gather information on this type of import and the implementation of the Basel Convention, especially its **Plastics Amendment**. The results are worrying.

1. Listing Y48 of Annex II of the Basel Convention

IMAGE 1.

Plastic Waste Exports from the U.S. Between January and August, 2020. In tons.	
Mexico	32,650.60
El Salvador	4,054.30
Ecuador	3,665.00
Guatemala	1,438.30
Brazil	635.60
Honduras	624.30
República Dominicana	436.10
Colombia	181.80
Peru	140.40
Costa Rica	137.90
Chile	102.00
Nicaragua	59.00
Argentina	27.80
Bolivia	20.00
Haití	0.50
TOTAL	44,173.60

Source: *The Last Beach Cleanup, 2020. Latin America US Plastic Waste Exports (2020 through August)*

The Basel Convention in our countries

The Basel Convention has been in effect for more than 30 years. It entered into force in 1992 for the control of transboundary movements of hazardous wastes and their disposal. Argentina, Ecuador, Chile, and Mexico - the countries analyzed in this study - signed it in 1989. Each country created or modified different laws to align with the objectives of this agreement, which initially focused on limiting the international transboundary trade of hazardous wastes.

For example, in 1988, Argentina detected requests from importers and shipments of hospital waste and sewage sludge. These wastes were incorrectly labeled as 'health aid,' 'humanitarian aid,' or raw material for fertilizer manufacture². The Convention impacted its legislation, and, in 1992, Argentina enacted the National Hazardous Waste Law No. 24,051 and its respective decrees facilitating the control of these wastes and prohibiting their entry into the country.

With this regulation, Argentina anticipated the 1995 **Ban Amendment**, which modified the Convention, since the original version of the Convention did not prohibit member states of the Organization for Economic Cooperation and Development (OECD), the European Union (EU), and Liechtenstein from exporting toxic waste anywhere in the world, except for Antarctica. Argentina shielded its borders long before the richer economies discussed this amendment, which the United States has opposed.

2. PNUD, 2011. *Guía para la Interpretación y Aplicación del Convenio de Basilea en la República Argentina.*

In countries such as Mexico, there is also early legislation to regulate the import and export of hazardous wastes. In 1990 it published the Authorization Procedure for the Import and Export of Hazardous Materials and Waste, intending to keep a record of these transboundary movements to reduce environmental contamination³ in its territory. However, three decades later, this country's legislation is spread out in different legal systems with gaps, inconsistencies, and duplicities in a series of regulations⁴.

Following the ratification of the Convention, Ecuador created the Environmental Management Law in 1999. It established the definition of hazardous wastes, and its regulations stipulated that imports, exports, and transit of hazardous wastes must be regulated and approved by the Ministry of Environment.

According to the documents submitted to the Convention, of the four countries studied, Chile was the slowest to modify its legislation. The first legislation to regulate the management of hazardous wastes came into force in 2004, although it does not mention regulations on the trade of these wastes⁵.

However, the **Ban Amendment** left out controls on plastics except for those that are contaminated or contain hazardous waste or materials. Thus, given the growing global pollution by plastic residues and marine microplastics, in May 2019, at the fourteenth meeting of the Conference of the Parties to the Basel Convention, the Plastics Amendment was adopted. All countries party to the Convention, including Mexico, Ecuador, Chile, and Argentina, accepted it.

The **Plastics Amendment** adds to the agreement the control of mixed, non-recyclable, dirty, and halogenated plastic waste (which generates toxic emissions when subjected to certain temperatures or burned) and all plastic waste not destined for environmentally sound recycling. Its purpose is to improve the control of transboundary movements of plastic waste and to prevent, among other things, industrialized countries from flooding developing countries with their garbage. It is not an import ban, but it requires exporters to obtain prior informed consent (PIC) from their government and the recipient countries.

In the meantime, apart from controlling the trade of hazardous plastic waste through PIC and other measures, the Convention prohibits: 1) the export of such wastes from OECD, EU, and Liechtenstein countries to other party countries, provided the ban has been ratified; and 2) the trade of such wastes with countries that are not a party to the Convention. Countries may also expand the Convention's definition of hazardous waste and adopt additional controls in their national legislation. The agreement requires compliance with such regulations during export, import, or transit.

3. Diario Oficial de la Federación de México, 1990. **Procedimiento de Autorización de la Importación y Exportación de Materiales y Residuos Peligrosos en México**

4. Various organizations, 2021. Cuando la basura plástica nos alcanzó y rebasó: Escenario mexicano frente a la entrada en vigor de la Enmienda de plásticos del Convenio de Basilea.

5. Ministry of Health of Chile, 2004. **Reglamento sanitario sobre manejo de residuos peligrosos**

In the studied countries, the competent authorities have reported on their work to bring their legislation in line with the new **Plastics Amendment**, effective January 1, 2021. In Argentina, the Ministry of Environment sought to define the scope of “wastes that are not contaminated and do not contain other types of wastes” particularly concerning plastic wastes in the amendments to the Convention. This definition marks one of the main boundaries between plastic wastes whose trade remains uncontrolled and wastes subject to PIC. Another boundary is “environmentally sound recycling”; what it is and what it is not are other questions that this phrase leaves open. The Argentine Ministry intervenes in all imports and exports of waste. According to this entity, there are enough national regulations and controls to comply with the Basel amendment on plastic waste.

In Mexico, environmental organizations are demanding, for now, the implementation of the Basel Convention for imports of plastics from all countries in the world, including the United States. Later on, they aspire to prohibit this type of imports, whether as a final destination or in transit. They call for treating waste in sites close to where it is generated. They believe that because their northern neighbor is not a signatory to the Basel Convention, they will only export waste classified as non-halogenated, clean, separated, and destined for environmentally sound recycling.

Ecuador is undergoing the process of updating the national lists of hazardous and/or special wastes and residues, considering the **Plastics Amendment**. There are rules, including from 2015, that regulate imports and exports of these wastes. One of them is the Organic Environmental Code and its regulations that establish that any transboundary movement of waste or residues, whether hazardous, special, or non-hazardous, must have the authorization of the Ministry of Environment. However, according to the information gathered by the Ecuadorian team, the Ministry has only registered three requests.

Despite the regulations and the initial governmental actions in the countries investigated, the condition in which thousands of tons of plastic waste—mainly from the United States—enter through ports and borders is still unknown. Their trade occurs through broad and ambiguous tariff headings, subheadings, and fractions, which do not track these materials until their final use. From the experiences of Asian countries, there is ample international evidence that these wastes arrive contaminated or are difficult to recycle, which causes an impact on the receiving countries.

The above raises questions about the role of Latin America in the global context of the plastic waste trade and its impacts, also taking into consideration that the region already has four OECD member countries. The present report on this phenomenon in the region.

Latin America in the global context of the plastics trade

Latin America and the Caribbean are emerging as new destinations for plastic waste from world powers, especially the United States. This has been reported in publications by international organizations that have observed a significant growth in these shipments to countries such as Mexico, Ecuador, and some Central American countries in recent years.

According to an Interpol report from August 2020, the recycling sector is growing in Latin America, possibly opening new markets for plastic waste, especially from the United States. There is increasing investment in the region for new recycling facilities in Mexico, Argentina, and other Central, South American, and Caribbean countries.

The report suggests that these investments come from U.S. and Chinese recycling companies. The former is set up to divert U.S. waste previously exported to China to the Latin American Region. Similarly, Chinese recycling companies are set in emerging economies in the Americas to import plastic waste from the United States⁶.

Chinese investors have shown interest in Latin America and the Caribbean to set up their factories. They are enthusiastic about the cheap labor and the proximity of Latin American countries to the United States, the largest producer of these wastes. They see an opportunity in Mexico, but also in small countries such as Haiti⁷.

This pattern occurs in a growing context of routes and illegal processing of plastic waste on a global scale. According to Interpol, legal and illegal trade in waste go hand in hand, usually to the same importing countries. Their study, which gathers data from 40 countries, compiled evidence on the involvement of organized criminal groups, whose infiltration often occurs through legal companies that serve as fronts for illegal businesses.

These trends have emerged following China's blockade of plastic waste imports and the rise of restrictive measures in Southeast Asian countries, which has led to increases in the surplus of plastic waste since 2018 when China stopped importing it. Although Southeast Asian countries became the new destination, they have also started to set limits and have requested exporting countries repatriate these containers. However, the long distance between the exporting countries and Asia has caused these deposits to accumulate in ports or be re-exported illegally to neighboring countries.

Interpol estimates that with the emergence of greater import restrictions, the plastic waste trade will adapt and redirect its routes to countries with weak legislation and little control.

Among these new possible destinations are Latin America and the Caribbean. The figures gathered by GAIA and its allied organizations warn of accelerated growth in imports from the United States. The most alarming data, however, comes from Mexico and Ecuador.

Mexico and Ecuador, among the largest importers

Mexico, El Salvador, and Ecuador are the leading importers of plastic waste in the region. According to data compiled by The Last Beach Cleanup (LBC)—an independent North American initiative that seeks to reduce plastic pollution—based on USA Trade Online records, between January and August 2020 alone, 32,650 tons arrived in Mexico; 4,054 tons in El Salvador; and 3,665 tons in Ecuador. This study includes the analysis of Mexico and Ecuador only.

6. Interpol, 2020. *Strategical Analysis on merging Criminal Trends in the Global Plastic Waste Market since January 2018*

7. Toloken, Steve, 2019. *China Recyclers Look at Latin America Caribbean*

Between July and August 2020, there were record exports of plastic waste from the United States to Mexico. In those months, Mexico received between 6,800 and 6,700 tons of waste per month, equivalent to shipping approximately 42 large containers per day. In Ecuador, there was also a spike in August when it imported 1,100 tons of plastic waste in that month alone. That meant the shipment of seven containers per day. Imports in August 2020 more than doubled the purchases of waste in January of the same year.

The pandemic did not limit this trade, which boomed in the first months of 2020 in both countries; between January and August of that year, Mexico's exports grew by 135%⁸. In 2019, shipments did not exceed 4,000 tons monthly, a figure that had a significant drop in April 2020 to less than 2,000 tons. But from July onwards, there was a sudden increase to more than 6,700 tons.

IMAGE 2.

Importaciones de desechos plásticos a México entre enero y agosto 2020. En toneladas									
Periodo	Hasta agosto 2020	Enero 2020	Febrero 2020	Marzo 2020	Abril 2020	Mayo 2020	Junio 2020	Julio 2020	Agosto 2020
Mercancía									
Desperdicios plásticos total	32,650	2,851	3,853	3,209	1,798	2,689	4,649	6,885	6,713
Desperdicios y desechos depolímeros de etileno	6,323	653	787	579	423	772	735	1,373	999
Desperdicios, recortes, desperdicios de plástico; de polímeros de estireno	1,712	198	152	584	106	74	192	232	170
Desperdicios, recortes, desperdicios de plásticos; depolímeros cloruro de vinilo	3,032	485	457	371	248	287	522	380	279
De tereftalato de polietileno (PET)	9,417	760	801	632	386	924	1,874	2,081	1,956
Otros plásticos distintos de los plásticos de PET	12,164	752	1,654	1,042	634	631	1,324	2,816	3,307

Source: *The Last Beach Cleanup, 2020. Monthly Plastic Exports & Facts Briefing October, 15, 2020.*

In Ecuador, there was a similar upturn. In January 2020, it imported 446.3 tons from the United States and in August 1,059.7 tons, a growth of 137% in only eight months. Only in April of that year, there were no exports to Ecuador.

8. Dell, Jan, *The Last Beach Cleanup, 2020. Monthly Plastic Exports & Facts Briefing, October 15, 2020.*

IMAGE 3.

Importaciones de desechos plásticos a Ecuador entre enero y agosto 2020. En toneladas									
Period	Up to August 2020	January 2020	February 2020	March 2020	April 2020	May 2020	June 2020	July 2020	August 2020
Merchandise									
Total plastic waste	3,665,2	446,3	835,5	56,3		328,2	260	678,9	1,059,7
Waste and residues of ethylene polymers	3,352,4	280	835,5			238,2	260	678,9	1,059,7
Polyethylene terephthalate (PET)	295	166,3		38,7		90			
Plastics other than pet plastics	17,6			17,6					

Source: Source: *The Last Beach Cleanup, 2020. Ecuador 2020 Monthly Data / United States Census.*

Other sources such as Datasur also agree with this trend. Between 2019 and November 2020, 14,988 tons arrived in Ecuador. That means 2,820 containers for maritime transport in that period, of which 1,552 arrived in 2020, a figure higher than that recorded in 2019. Despite the pandemic, shipments with this type of waste increased⁹.

Mexico received mainly PET (Polyethylene Terephthalate) waste and non-PET mixed plastics. Mexico is the second-largest consumer of PET soft drink containers globally and the third-largest consumer of bottled water, after China and the United States. Ecuador has received mostly “plastic waste,” according to customs records. This is too broad a classification because it does not divulge the type of plastics and in what state they arrive at Ecuadorian ports. These imports are almost six times greater than the PET bottles arriving in that country.

By state, California was the leading exporter of plastic waste to these two countries in the region. The waste entered Mexico, mainly by trucks, through San Diego. Waste has also arrived from Texas and other states through Laredo and El Paso. According to USA Trade Online, containers arrived in Ecuador from four North American ports, receiving 1,400 tons of plastic waste from California and 1,300 tons from Mississippi. Based on this information, California leads in exports of plastic waste to countries with poor waste management. Mexico, El Salvador, and Ecuador are among the 13 countries that receive the most plastic waste from California.

9. Information compiled with three databases from DataSur, a firm specializing in foreign trade.

IMAGE 4.

Exportaciones desde California de desperdicios plásticos. De enero a agosto de 2020	
País	En toneladas
Total mundial	97,041
Malasia	24,625
México	20,257
Vietnam	11,083
Taiwán	9,781
Alemania	5,655
Letonia	5,155
Hong Kong	3,870
Indonesia	3,649
El Salvador	2,841
Corea del Sur	2,435
Tailandia	2,082
Turquía	1,890
Ecuador	1,459

Source: *The Last Beach Cleanup, 2020. CA Plastic Waste Exports from January to August 2020.*

Based on the records of the firm Datasur, Ecuador was able to trace the origin of this type of imports, their dimension, and the importing companies. Between 2014 and 2020, shipments of plastic waste came from 37 countries on three continents: America, Europe, and Asia. 36% of these depart from the United States, the main supplier of this waste to Ecuador. Ecuador also imports waste from Colombia, Panama, Peru, Mexico, Costa Rica, and Brazil.

The increase in imports of plastic waste is also evident in the number of companies dedicated to it. From five companies involved in imports in 2014, more than 36 carried out this type of import between 2019 and 2020. These companies' imports are annually equivalent to the total plastic waste generation of 40 districts in Ecuador. This is a severe contradiction for a nation that buries 96% of its garbage.

This waste has been used mainly by Ecuador's recycling, metallurgical, plastics and packaging industries. According to business people consulted by the Ecuadorian team, these imports are due to the lack of domestic supply of recycled material. The recycling capacity of these materials is more significant than what Ecuador offers, they say.

Their testimonies indicated that Ecuador is receiving large quantities of dirty plastic waste mixed with other products or other types of plastics, especially from the United States. An example is the company Productos Paraíso, the primary importer of plastic waste in Ecuador. Its plant is one of the largest in South America and buys waste plastic pipes

used for irrigation from North American agricultural companies. 50% of these shipments arrive with soil. For its recycling processes, Paraíso uses large quantities of water to wash the waste from the United States, and it has been denounced for discharging sewage and plastic waste into nearby streams. In one incident in August 2020, about 20 tons of plastic microchips were discharged into a nearby creek.

The case of Chile and Argentina

Between January and August 2020, Chile imported 102 tons of plastic waste, a minimal amount compared to the other countries in this study. In the same period, Mexico imported 320 times more and Ecuador 36 times more, both countries with poor waste management.

Yet for more than a decade, Chile has registered another type of imports. In 2017, 7,636 tons of semi-finished PET waste arrived in Chile, consisting of shredded waste that remains in the form of flakes. It has not been possible to have more information to differentiate whether they are clean and high purity waste - which could be outside the Convention - or dirty and mixed, meaning they would need PIC to enter a party country.

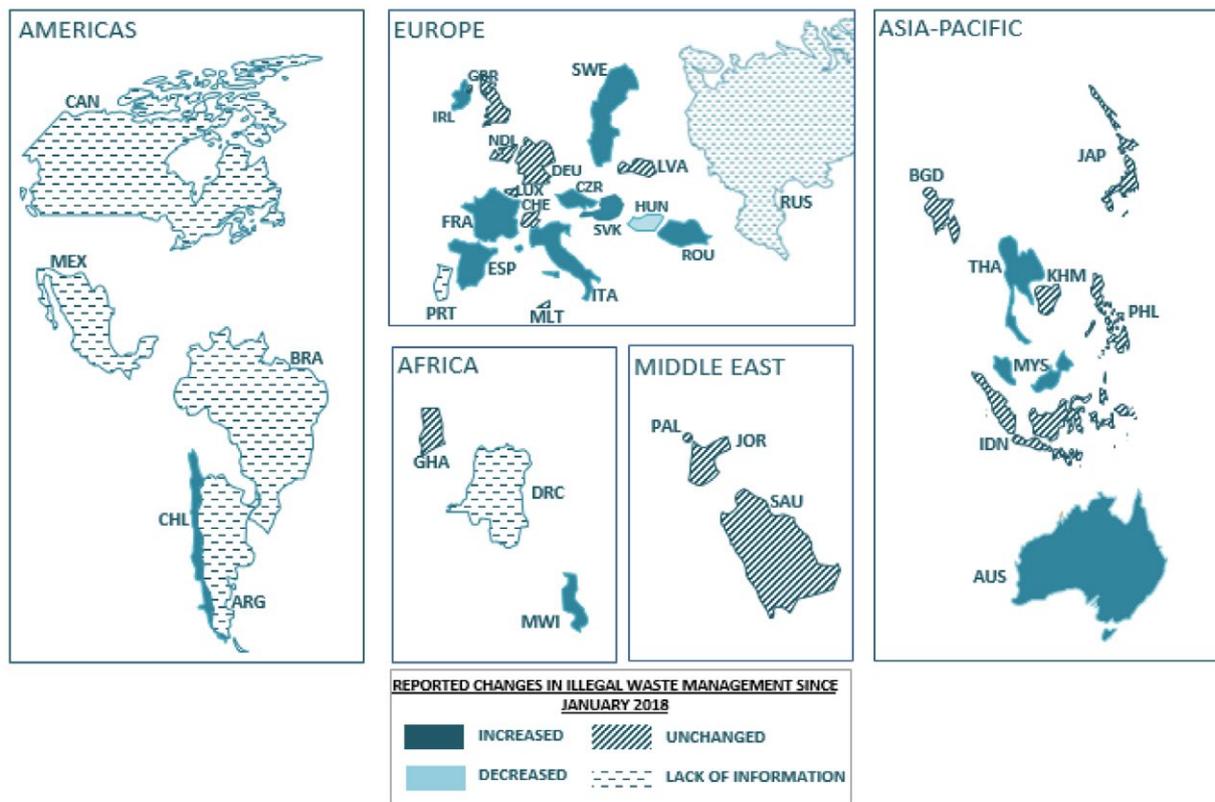
These imports are paradoxical for a country that recycled only 8.6% of the 990,000 tons of plastic resins it consumed in 2019¹⁰. These resins, virgin or recycled, are used to manufacture bottles, containers, or packaging. The lack of policies and support for base recyclers is evident and contrasts with recycling infrastructure that remains unused.

Chilean companies import semi-finished PET waste from Peru, Paraguay, Argentina, and Ecuador to meet demand. These materials enter the country under generic tariff codes, making it difficult to trace them as recycled material. Chile is also an exporter of pre-treated plastic waste, possibly screen-printed PET-type plastic that has been shredded and washed, mainly to the Brazilian market.

Chile was part of the 40 countries that provided information to Interpol on the evolution of the illegal treatment of plastic waste in its territories since 2018. From that year, the surplus of this waste increased due to China's blockade, and practices such as incineration, dumping in unauthorized sites, illegal dumping in legitimate sites, and illegal recycling increased. A total of 12 countries reported an increase in these illegal activities, one of them being Chile.

10. ASIPLA, 2019. Estudio de reciclaje de plásticos en Chile.

IMAGE 5.
Changes in illegal waste treatment since January 2018



Source: Interpol, 2020.

Another Latin American country that participated in the Interpol study was Argentina. The international organization reported that in this country, together with Mexico, there are growing investments to install recycling plants, which would mean a new destination for plastic waste from the United States. However, the same study mentions that there is still a lack of information on Latin America in general to assess its risks.

The Argentinian team involved in this research found an incipient increase in plastic waste imports in recent years. Between 2011 and 2019, the country brought in 1,263 tons of PET waste, although 1,063 tons of this corresponds to 2018 and 2019 alone. Between January and August 2020, Argentina imported 301 tons of PET. This figure is low compared to the PET discarded in Argentina, estimated at 200,000 tons per year¹¹. On a regional scale, its share is also minimal: in one year or less, Mexico imported 25 times more, Chile six times more, and Ecuador almost three times more.

Argentina has highly restrictive national legislation on importing hazardous waste and street-collected or industrial waste, the latter regulated under Decree 181 of 1992. But in August 2019, former president Mauricio Macri revoked this decree to loosen the entry of waste composed of materials used for industry. Macri officials, including Environment

11. Mara Gabriela Ensínck, 2017. **Basural PET: en la Argentina se tiran 12 millones de botellas de plástico por día**

Secretary Sergio Bergman, backed the decision under the argument that waste is a resource and a solution for industries that require it. The Argentine Federation of Cardboard and Recyclers (FACyR) and environmental organizations rejected the measure because it put their work at risk. They are the main suppliers of recycled materials for Argentine industry¹². But the change lasted only six months, as Alberto Fernández reinstated Decree 181/92 in February 2020.

Although the recent increase in plastic waste imports to Argentina is slight compared to other countries of the region, it is a situation that requires careful monitoring, according to the Argentinian research team.

IMAGE 6.

Residuos importados por Argentina entre 2011 y agosto 2020. En toneladas										
Tipo de desecho	2020*	2019	2018	2017	2016	2015	2014	2013	2012	2011
Papel y cartón	58,681	92,978	45,137	12,576	40,465	41,835	37,465	31,559	19,909	40,389
Chatarra ferrosa	416	8,177	14,126	32,394	6,491	32,394	14,126	965	5,056	4,427
Chatarra no ferrosa	398	2,141	3,244	2,481	5,595	8,710	12,440	6,764	6,430	9,180
Caucho	350	826	2,442	1,886	1,829	4,348	2,548	6,176	2,912	5,190
PET	301	302	761	0	0	0	100	0	100	0
Vidrio	270	1,722	2,217	3,197	3,487	2,977	4,671	2,727	3,487	6,802
Textil	252	103	434	0	0	0	0	0	0	0
Cáscara de arroz	0	290	644	0	278	312.8	614.4	1,012	462	0
Totales:	60,668	106,539	69,005	52,534	58,145	90,577	71,964	49,203	38,356	65,988

Tons / Waste: Paper and cupboard, scrap metal, non metal scrap, rubber, PET, textile, rice husks.
Source: Report on the Environment in Argentina, 2019.

Likewise, other materials are entering Argentina in addition to plastic waste imports. Over the last few years, the amount of paper and cardboard waste entering Argentina has increased. On average, 40,000 tons per year used to enter the country. In 2019, however, these imports doubled and reached 90,000 tons. In 2020, FACyR expressed its discomfort because it impacts the prices of the materials they sell¹³.

12. Taller ecologista, 2019. ¿Importar residuos? ¿Para qué?

13. Grasso, Agustina, 2020. La Federación de Cartoneros denuncia que se está importando basura de otros países

Common threats and challenges for the region

All four countries analyzed face significant challenges concerning the implementation of the Basel Convention *Plastics Amendment*. Among them is the creation and application of adequate legislation regarding transboundary trade in waste and an efficient and transparent registry of imports coming into the region from countries such as the United States.

In Latin America, what first emerges is a possible conflict between free trade agreements and the Basel Convention. The United States is not a party to the Convention. Therefore, according to Article 4, paragraph 5, countries that are parties to the Convention are prohibited from importing wastes regulated by the Convention from non-parties to the Convention, such as the United States. However, the Convention itself provides an exception through bilateral or multilateral agreements (Article 11). These agreements must not undermine environmentally sound management of hazardous wastes and other wastes or stipulate provisions that are no less environmentally sound than those provided for in the Convention, taking into account, in particular, the interests of developing countries.

The Organization for Economic Co-operation and Development (OECD), where Latin American countries like Mexico belong, has become an open door. The OECD includes specific rules on the trade of certain wastes but has failed to agree on regulating plastic waste that is dirty, halogenated, mixed, or not destined for environmentally sound recycling. Thus, it does not offer equivalent or greater environmental protection than the Basel Convention and does not constitute a valid alternative legal framework to the Convention for such plastic wastes¹⁴. The U.S. government continues these illegal exports with impunity, and its official representatives minimize international environmental law. Meanwhile, waste trade controls within the OECD are lighter than outside the OECD, and the OECD represents a risk for illegal trade in plastic waste. According to the U.S. Environmental Protection Agency, the United States traded approximately 55% of its plastic waste with OECD countries in 2019¹⁵. Currently, Chile, Colombia, Mexico, and Costa Rica are the Latin American countries that are members of the OECD.

The United States has maintained continuous international pressure to keep the Basel *Plastics Amendment* from regulating OECD members. In July 2019, it opposed the automatic incorporation of these Amendments into the OECD regulatory system. The only consensus was on the transboundary management of hazardous plastic waste streams. Members of the OECD agreed to review the issue of other plastic waste (mixed, contaminated, contaminated, soiled, halogenated, or not destined for environmentally sound recycling) in 2024. In the meantime, each country will apply the corresponding controls according to their national legislation and international environmental law, including the Basel Convention¹⁶.

14. Center for International Environmental Law, 2021. **Legal Analysis of the Consequences of the OECD Non-Consensus Determination on the Basel Plastic Amendment**

15. Sidley Austin LLP, 2020. **New International Restrictions on Plastic Waste Will Disrupt U.S. Plastic Waste Exports**

16. Sidley Austin LLP, 2020. **New International Restrictions on Plastic Waste Will Disrupt U.S. Plastic Waste Exports**

The Mexican research team has also identified a potential practical incompatibility between the Treaty between the United States of America, the United Mexican States and Canada (T-MEC), and the Basel Convention. Chapter 24 of the T-MEC has soft language, with little legally binding force, simply imposing cooperation between countries. Unlike NAFTA, the T-MEC (i) does not include the Basel Convention in its Article 24.8, (ii) is not precise about how a possible incompatibility between the Basel treaty and the T-MEC would be resolved, and (iii) does not recognize that in case of incompatibility, it should be resolved in favor of the Basel Convention.

Among the tariff-free items in the T-MEC is 3825.10.01, which refers to municipal waste and residues. Municipal wastes are collected from homes, restaurants, hotels, and other places, which may include materials and plastic waste regulated under the Basel Convention amendments. The Convention governs the trade of household waste through CIP. The same applies to waste that “requires special consideration.” This agreement prohibits trade in these two types of waste with countries not parties to the agreement, such as the United States. But the T-MEC fails in this regard.

Similarly, tariff item 3825.41.01, which refers broadly to halogenated wastes, is duty-free under the T-MEC but considered hazardous waste under the Convention’s *Plastics Amendment*.

These household wastes and residues are imprecisely and ambiguously classified in the tariff items containing them. It is impossible to determine what type of plastics are traded and whether they have contaminated plastic materials included in the Basel Convention *Plastics Amendment*.

A common problem in the region is the use of ambiguous and generic tariff classifications to import plastic waste, which hinders traceability as recycled material—procedures that allow the location and trajectory of a product—and increases the likelihood of illegal operations under the Basel Convention. Authorities and organizations have recognized these limitations. In Chile, the Sustainability and Climate Change Agency and the National Association of the Recycling Industry recommended updating the current generic tariff codes for transboundary movements.

In Ecuador, authorities are considering a proposal to review the names of the subheadings corresponding to plastic waste because their terms are broad and do not divulge what is being imported. According to the Ministry of Environment, the initiative will even be extended to Andean Community countries (Bolivia, Colombia, Ecuador and Perú). At the national level, the Ministry assured that it will request a national code to differentiate, classify, and identify the uses of plastic waste and residues.

16. Center for International Environmental Law, 2021. **Legal Analysis of the Consequences of the OECD Non-Consensus Determination on the Basel Plastic Amendment.**

17. Sidley Austin LLP, 2020. **New International Restrictions on Plastic Waste Will Disrupt U.S. Plastic Waste Exports.**

18. Sidley Austin LLP, 2020. **New International Restrictions on Plastic Waste Will Disrupt U.S. Plastic Waste Exports.**

Another difficulty shared among the countries in the study was the lack of access to official or contradictory information. In Mexico, there is little data on the transboundary movement of plastic waste. But in the few records that do exist, the researchers found profound inconsistencies. Regarding the import of plastics and electronics in 2020, the Federal Attorney's Office for Environmental Protection (Profepa) reported 3,555 tons. LBC's figures for Mexico, based on USA Trade Online, were almost ten times higher: 32,650 tons between January and August 2020 alone. Meanwhile, the Mexican Ministry of Environment and Natural Resources (Semarnat) did not record any imports in that year. This situation points to the existence of significant under-reporting and poor accounting by the Mexican government.

The same happened in Ecuador. The Ministry of Production and the National Customs Service provided figures on plastic waste imports in the last five years, but there was a difference of more than 28,000 tons. Customs also blocked any possibility of accessing the companies' commercial information, arguing that it was private information and therefore required authorization from each importing company.

The Argentine researchers for this report received a similar response when it asked the Ministry of the Environment for information on waste imports, quantities, countries of origin, importers, and destinations of the waste. The Ministry replied that this information "may affect commercial or industrial confidentiality, as well as the privacy of personal data" and declined to release the data. It also recorded divergences between the data of the Transboundary Movements Unit and Argentina's Foreign Trade portal and difficulties in accessing them. For example, PET, one of the types of imported plastic waste, has no tariff fraction, so it is not possible to search it in the Foreign Trade database.

In Chile, researchers reported that polyethylene (PE) and polypropylene (PP) plastic waste is recycled locally and exported without specifying exact quantities and destinations. As for the transboundary movement of "dirty" plastic waste, no records were found.

Yet, there are other fears, such as the shadow of plastic waste co-processing in Latin America. Countries like Mexico consider waste and hazardous waste incineration and burning in cement kilns as recycling and part of a circular economy. In 2019, 546 tons of empty agrochemical containers were sent to "final destination," with 155 tons for burning in cement kilns. In that country, intense lobbying has been reported for municipalities to sign agreements for municipal solid waste to be incinerated in their ovens, a practice with severe environmental consequences.

BIBLIOGRAFÍA

Reports and organizations from each country:

- **Enmienda de Plásticos del Convenio de Basilea: análisis sobre la situación en Argentina.** Autor: Taller Ecologista.
- **Situación actual sobre la importación y exportación de residuos plásticos en Chile.** Autor: Alianza Basura Cero Chile. Resumen ejecutivo en **español**. Resumen ejecutivo en **inglés**
- **La partida 3915: importación de desechos en Ecuador.** Autores: Universidad Andina Simón Bolívar, Alianza Basura Cero Ecuador, VLIR-UOS.
- **Cuando la basura plástica nos alcanzó y rebasó: Escenario mexicano frente a la entrada en vigor de la Enmienda de plásticos del Convenio de Basilea.** Autores: Acción Ecológica, AMDA, Asociación Ecológica Santo Tomás, Fronteras Comunes, Greenpeace, LIDECS.

Otras referencias bibliográficas:

- ASIPLA, 2019. Estudio de reciclaje de plásticos en Chile.
- Center for International Environmental Law, 2021. Legal Analysis of the Consequences of the OECD Non-Consensus Determination on the Basel Plastic Amendment.
- DataSur, bases de datos.
- Dell, Jan. The Last Beach Cleanup, 2020. Monthly Plastic Exports & Facts Briefing Octubre 15, 2020.
- Dell, Jan. The Last Beach Cleanup, 2020. Latin America US Plastic Waste Exports
- Diario Oficial de la Federación de México, 1990. Procedimiento de Autorización de la Importación y Exportación de Materiales y Residuos Peligrosos en México.
- Ensinck, Mara, 2017. Basural PET: en la Argentina se tiran 12 millones de botellas de plástico por día.
- Grasso, Agustina, 2020. La Federación de Cartoneros denuncia que se está importando basura de otros países.
- Interpol, 2020. Strategical Analysis on merging Criminal Trends in the Global Plastic Waste Market since January 2018
- Listing Y48 of Annex II of the Basel Convention.
- Ministerio de Salud de Chile, 2004. Reglamento sanitario sobre manejo de residuos peligrosos.
- PNUD, 2011. Guía para la Interpretación y Aplicación del Convenio de Basilea en la República Argentina.
- Sidley Austin LLP, 2020. New International Restrictions on Plastic Waste Will Disrupt U.S. Plastic Waste Exports.
- Taller Ecologista, 2019. ¿Importar residuos? ¿Para qué?
- Toloken, Steve, 2019. China Recyclers Look at Latin America Caribbean.

