Legal Frameworks to Address Waste Trafficking in the ASEAN region – Review and Gap Analysis

Unwaste
Tackling waste trafficking to support a circular economy
ACKNOWLEDGEMENTS

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ABBREVIATIONS

ASEAN %W W S G M E X M S R W S J 7 S Y X L I E W X % W M E R 2 E X M S R W
UNEP United Nations Environment Programme
UNODC 9 R M X I H 2 E X M S R W 9 R M X I H 2 E X M S R W

Glossary

Environmentally sound management of hazardous wastes or other wastes means taking all practicable steps to ensure that hazardous wastes or other wastes are managed in a manner that will protect human health and the environment against the adverse effects which may result from such wastes.

Exporter means any person under the jurisdiction of the State of export who arranges for hazardous wastes or other wastes to be exported.

Financial or other material benefit shall include any type of financial or non-financial inducement, payment, bribe, reward, or other advantage, including services.

Illegal traffic means any transboundary movement of hazardous wastes or other wastes under certain conditions that contravene the law.

Importer means any person under the jurisdiction of the State of import who arranges for hazardous wastes or other wastes to be imported.

Management means the collection, transport and disposal of hazardous wastes or other wastes, including after-care of disposal sites.

Organized criminal group shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more offences in order to obtain, directly or indirectly, a financial or other material benefit.

Person means any natural or legal person.

Serious crime means an offense punishable by a maximum deprivation of liberty of at least four years or a more serious penalty.

Waste crime means conduct that relates to waste that is criminal in nature, including in the trade, treatment or disposal of waste in violation of international or domestic laws, which cause harm or risk to the environment and/or human health.

Waste trafficking means imports, exports, transports, buys, sells, brokers, treats, processes, collects, sorts, labels, handles, utilizes, stores, recycles, disposes of or burns without lawful authority where such authority is required by law; without a license or permit; contravening the conditions of said licence or permit.

Transboundary movement means any movement of hazardous wastes or other wastes from an area under the national jurisdiction of one State to or through an area under the national jurisdiction of another State or to or through an area not under the national jurisdiction of any State, provided at least two States are involved in the movement.

Wastes are 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.
EXECUTIVE SUMMARY

In recent years, many Member States of the Association of Southeast Asian Nations (ASEAN) have become major destinations for waste from developed countries. Waste trade in the region typically covers the transboundary movement and disposal of hazardous waste, plastic waste, e-waste, metal, paper and other types of waste. Much of the inflow to the region arose after China's waste import ban, which became effective at the start of 2018. In particular, a substantial increase in waste imports was recorded in Indonesia, Malaysia, Thailand and Viet Nam. Due to the influx, many ASEAN countries have enacted stricter regulations and controls for the importation of waste. Policy responses in reaction to the huge inflow of waste include partial and complete bans on specific types of waste imports and updated legal frameworks that govern the waste trade.

The ASEAN Member States have actively sought to comply with international legal frameworks relevant to combating waste crime. Demonstrating the region's recognition of the need to tackle the issue, all ASEAN Member States have enacted national laws and regulations that address waste crime. However, challenges remain, such as the loopholes and weaknesses in the national legislative frameworks, that need to be addressed through legal and policy reform.

Regional overview of legal frameworks on waste trade

All ASEAN Member States have acceded to the Basel Convention on the Control of Transboundary Movements of Hazardous Waste, although challenges remain in its effective implementation, especially in terms of establishing enabling comprehensive legal frameworks and building up capacities on the issue. However, most ASEAN Member States have not ratified the Basel Convention Ban Amendment, which prohibits European Union member states, OECD countries and Lichtenstein from exporting hazardous waste to all other countries from exporting hazardous waste to developing countries for final disposal or recycling. The management and trade of plastics and e-waste, which are the subject of the more recent amendments to the Basel Convention, still pose considerable challenges for ASEAN Member States due to incomplete regulations and limited capacity.

Most ASEAN Member States have endorsed the Rotterdam Convention on certain hazardous chemicals and pesticides, the Stockholm Convention on persistent organic pollutants and the Minamata Convention on Mercury. Although most ASEAN Member States have implemented these Conventions to varying degrees, challenges remain, and there is a need to strengthen the regulatory frameworks that enable effective enforcement. All ASEAN Member States have ratified the United Nations Convention on Transnational Organized
Crime, the United Nations Convention Against Corruption and the ASEAN Treaty on Mutual Legal Assistance on Criminal Matters, which are all relevant to tackling waste offences as a crime and deterring criminality.

National legal frameworks

To implement the Basel, Rotterdam, Stockholm and Minamata Conventions, ASEAN Member States have enacted national laws that regulate the importing, exporting, production and use of hazardous wastes and chemicals. These include legislation with provisions for prohibiting and punishing violations related to the transboundary movement of waste. Although most countries rely on older regulations for specific waste, such as plastics and electronic waste, others are in the process of updating or have enacted laws that implement the Basel Convention Plastic Waste Amendments and E-waste Amendments.

Specific provisions under the national laws target a range of illegal activities associated with waste, including its disposal, transport and management. Although the nature and scope of the waste crime laws differ among the ASEAN Member States, most countries have a legal framework in place that includes penalties, such as fines and imprisonment, as well as administrative sanctions, including license and permit revocation.

The degree of criminal penalty for waste crime offences differs across the region. For imprisonment, some countries have stricter penalties, with maximum prison terms ranging from 5 to 15 years, while others have less severe penalties, ranging from one to three years.

Many ASEAN Member States impose fines in addition to imprisonment as criminal penalty for waste crime offences. These fines can serve as a deterrent to potential offenders and generate revenue for governments. However, the severity of fines also varies, with one country imposing more than $1 million, while other countries impose fines of only a few thousand dollars. Countries also differ in imposing penalties for body corporates and individuals; in some jurisdictions, whether penalties apply only to individuals or also to corporations is not clearly spelled out.

All ASEAN Member States have taken measures to put the provisions of the United Nations Transnational Organized Crime Convention, the United Nations Convention Against Corruption and the ASEAN Treaty on Mutual Legal Assistance on Criminal Matters into effect, including passing national laws to criminalize transnational organized crime and creating law enforcement and judicial cooperation mechanisms. Many ASEAN Member States have established anti-corruption agencies and provided a framework for cooperation in extradition and mutual legal assistance, which are essential to prosecute waste offences across jurisdictions in the region.

Policy implications and considerations

To help countries move against their lingering challenges to the stronger enforcement of the Conventions' requirements, the national legal framework in each ASEAN Member State was reviewed against the desired states for national legal frameworks, with analysis of apparent gaps. The review and analysis led to the following policy implications and considerations.

1. Strengthen the waste crime framework

It is crucial that waste crime and waste trafficking and their attendant illegal activities be criminalized through updating and enhancing national legislation or regulations. For waste
trafficking offences, three physical elements should be present: (a) the acts amounting to trafficking; (b) waste and objects trafficked; and (c) elements in waste crime that constitute criminal trafficking. It is also important for ASEAN Member States to ensure that the penalties for the offences criminalized are effective, proportionate and dissuasive. Provisions under national legislation may consider criminal sanctions to cover both imprisonment and non-custodial penalties, such as tougher fines and community service orders as well as additional ancillary orders.

Enabling legislation should ensure that the criminal provisions incorporate additional crimes, such as fraud and misdeclaration. This should include all the opportunities for falsification, from customs and tax fraud to licensing and immigration. In relation to prosecuting waste offences as organized crime, legislation should ensure that waste crime constitutes predicate offences to link it to organized crime, money laundering and tax evasion. It is also important to qualify waste trafficking as a “serious crime” and to thus apply the more stringent provisions of the United Nations Convention Against Transnational Organized Crime. There should be provisions imposing liability for legal persons as well as secondary liability for different players aside from the main offender. Such provisions should also include liability for attempt of waste crime offences. Lastly, a legal basis should be developed for the attribution of liability to legal persons for acts of natural persons.

2. Strengthen the waste-specific frameworks

Each country should enact a comprehensive legal framework for Basel Convention implementation to address the transboundary hazardous waste trade. States should be further guided to fully transpose the Convention into national law, while other ASEAN Member States that have not done so should be encouraged to ratify the Basel Convention Ban Amendment.

Comprehensive waste-specific regulations should also be developed, especially for specific waste types, such as plastics and e-waste. These regulations must ensure that definitions, conditions and waste schedules are clearly set out in legislative provisions, annexes and lists. Accompanying regulations should include definitions and distinguishing factors that would be key to enhance detection, investigation and sentencing for specific wastes. Technical and legal guidance must also be provided on the interpretation of annexes and terminology of the Plastic Waste Amendments and eventually the E-waste Amendments.

3. Strengthen institutions and enhance cooperation

A coordinated approach among government stakeholders is key to addressing waste crime. Interagency cooperation can be enhanced through institutional arrangements that ensure appropriate responses to the waste crime challenges. This might take the form of a national environmental security task force that has the competence to address waste crime as part of a wider strategy for transnational, organized environmental crime. Comprehensive rules or guidelines should also be developed to assist prosecution and other investigation agencies on waste crime issues, particularly on detection, investigation and case-building. Adopting tools and methodologies for forensic use in waste crime investigation and detection should also be considered.

Heightening international cooperation to address and successfully prosecute waste crime requires strengthened ASEAN cooperation through regional platforms, such as the ASEAN Cooperation on Environment and the ASEAN Working Group on Chemicals and Waste. Pursuant to the ASEAN Mutual Legal Assistance Treaty, countries should further develop interfaces for cooperation in terms of criminal investigations as well as information-sharing.
Mainstream gender, environmental and human rights considerations into the legal framework

Aside from the waste-relevant legal framework, legislation should be strengthened by promoting sound environmental governance across gender responsiveness and environmental and human rights. First, gender considerations should be mainstreamed at all levels of policy development and participation. Second, countries should further enhance the regulatory framework for transparency across all levels of government for public access to environmental information at any point in the value chain. This in turn will advance public participation and access to remedies for violations of environmental rights, thereby promoting accountability for environmental harm caused by waste offences. Countries should also integrate the issue into the development of a business, human rights and environment framework, thereby mainstreaming environmental due diligence standards that address potential criminality and environmental harm within the industry.


INTRODUCTION

This report features the findings of a review of the legal frameworks that target waste trafficking in Member States of the Association of Southeast Asian Nations (ASEAN). The assessment was undertaken as a contribution of the United Nations Environment Programme (UNEP) to the work of the Unwaste project on tackling waste trafficking to support a circular economy, which is being implemented by United Nations Office on Drugs and Crime (UNODC) in cooperation with UNEP. The Unwaste project focuses on combating trafficking in waste between Europe and Southeast Asia by promoting enhanced partnerships between the European Union and ASEAN Member States, in support of ongoing efforts towards a circular economy transition.

With the gap analysis of the legal and governance frameworks, the report forms part of the first comprehensive study of waste flows from Europe to Southeast Asia. The review of legal frameworks of the 10 ASEAN Member States looked at offences, violations, crimes and penalties to address waste trafficking and curb waste crime and identifies policy and legislation gaps to facilitate further discussion in multilateral dialogues in ASEAN for the region's strategies.

Overview of waste crime and trafficking

The international waste trade has developed as a thriving business over the past few decades. The tremendous increase in trade started in the 1980s as costs of treatment and disposal of hazardous waste rose in industrialized countries and receiving developing countries were seen as a cost-effective destination to transfer the waste. Such countries engaged in the practice for the potential revenue promised by accepting waste from the developed countries. But the inflow of waste also brought a multitude of problems because many developing countries were not equipped to handle the influx of shipments, which increasingly included outlawed waste, in a manner that safeguards local people and environment.

The waste trade has brought about a specific line of criminal activity throughout its operations. The illegal waste trade refers to the transboundary movement of waste in violation of various laws and regulations that were adopted as the waste trade proliferated. Broadly, waste crime can be defined as conduct that relates to waste that is criminal in nature. In more specific terms, waste crime encompasses the trade, treatment or disposal of waste in violation of international or domestic laws and causes harm or risk to the environment and/or human health.

Financial profit is the fundamental motive of waste crime, and there are different roles for illegal actors throughout the shipment and waste trade cycle. These roles include exporters, middlepersons, importers and recyclers. Exporters of waste oftentimes conduct illegal trade to avoid recycling costs. By engaging in illegal waste exports to developing countries, they enjoy minimal labour costs and flout environmental laws and regulations in many areas of the Global South.
The illegal waste trade provides greater opportunities for financial crimes, such as tax fraud and money laundering, because these activities take advantage of the lack of or weaknesses in monitoring and reporting. Criminal activities are typically embedded within legal operations, and many legal entities are involved in the illegal trade, making it more difficult to identify violations along the supply chain. Such activities require knowledge of the control systems and regulatory regimes in various jurisdictions. Players in the industry commonly use loopholes in the rules while exploiting the weak enforcement regimes of destination countries.

The illegal waste trade is an organized crime in nature because it requires engaging in attendant activities with a range of people who facilitate the illegal shipment. This includes conduct that would violate both export regulations of an origin country as well as import rules of a destination country. The illegal waste trade can occur at different stages along a shipment chain, from origin, during transit and at destination.

Considering the low costs and potential high returns from the illegal waste trade if shipments are not apprehended, waste crime provides great incentive as a lucrative business for waste trade players in many developing countries. The amounts and volume of waste involved are significant, with the estimated value of global electronic wastes alone at $410 billion a year, excluding economic activities in the informal sector.

This proposition is also a dangerous one. For the transboundary movement of hazardous waste, numerous studies reveal that it is oftentimes dumped or unsafely recycled, and much of it was illegally shipped. Hazardous components are oftentimes mixed with recyclable items or are disposed untreated. Mislabelling or misdeclaration of hazardous waste as non-hazardous waste is also frequently done, with e-waste entering importing countries as second-hand goods.

Aside from hazardous and electronic waste, the transboundary movement of plastic waste has emerged as an issue in recent years. It contributes to the plastic pollution problem in many developing countries and is the third-highest waste source worldwide, after food and paper. For many developing countries without the necessary infrastructure to process plastic waste, the influx becomes highly susceptible to leakage into the oceans, which is estimated at 8 million to 12 million tonnes per year.

In recent consultations, the influx of illegal waste from developed countries has been identified as contributing partly to the mismanagement that has led to plastic waste leaking into the environment. Addressing waste crime and waste trafficking is considered a matter of high international priority that requires urgent attention. Conventions that contribute to addressing the issue include the Basel Convention on the Control of Transboundary Movements of Hazardous Waste and its various amendments and other multilateral environmental agreements focusing on specific waste types. Multilateral cooperation to combat the illegal waste trade are also ongoing, such as the Unwaste project and circular economy initiatives from the Regional Seas Programme, which is UNEP's regional institutional framework to facilitate progress towards Sustainable Development Goals relating to oceans. Yet, addressing the problem requires further legal and policy reforms to shift systemic issues and curb the widespread practice of waste crime.
International legal frameworks

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The Basel Ban Convention Amendment (Basel Ban Amendment) was adopted in 1995 and became effective in 2019. The amendment imposes additional obligations on States Parties and prohibits the transboundary movement of certain classes of waste to many developing countries (non-Annex VII countries). The prohibition refers to the movement of hazardous waste from a list of wealthy countries (members of the Organisation for Economic Co-operation and Development (OECD), the European Union and Liechtenstein).\textsuperscript{16}

Due to difficulties in implementation and differing interpretation, States Parties to the Basel Ban Amendment are called upon to create enabling conditions and country-led initiatives towards reaching its objectives.

Another amendment to the Basel Convention relates to plastic waste (Plastic Waste Amendments).\textsuperscript{17}

The three amendments were adopted in 2019 and became effective in 2021. The amendments seek to implement a legally binding structure to improve the transparency and regulation of the global trade in plastic waste. As a result, plastic waste is now categorized into categories: (a) hazardous waste; (b) other waste that requires special consideration; and (c) non-hazardous waste. The Plastic Waste Amendments clarify plastic waste that is presumed hazardous and subject to an export-control regime, whereby the prior informed consent of importing countries must be secured. In 2022, the States parties to the Basel Convention adopted amendments covering waste electrical and electronic equipment (WEEE) through the E-waste Amendments, whereby non-hazardous and hazardous e-wastes are listed in new codes and will be subject to the Basel Convention's Prior Informed Consent procedure. The E-waste Amendments become effective on 1 January 2025.

Other multilateral environmental agreements relevant to the waste trade and that cover specific types of waste and materials include the 2001 Stockholm Convention on Persistent Organic Pollutants, the 1988 Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade and the 2017 Minamata Convention on Mercury. The Stockholm Convention provides measures to reduce or eliminate releases from stockpiles of certain chemicals (persistent organic pollutants) or contaminated waste and to regulate their export. The Rotterdam Convention covers other hazardous substances, such as pesticides, while the Minamata Convention regulates the management of mercury waste.

In 2022, the United Nations Environment Assembly (UNEA) adopted the UNEA Resolution to End Plastic Pollution: Towards a Legally Binding Instrument', establishing an Intergovernmental Negotiating Committee to develop the content of a new plastic pollution treaty. In its initial discussions, the illegal trade

\textsuperscript{13} International legal frameworks

\textsuperscript{14} The Basel Convention was adopted in 1989 and entered into force in May 1992. With 190 State party ratifications, it has become one of the most widely accepted multilateral environmental agreements to date. The Convention seeks to prevent the dumping of waste by developed countries into developing countries and to ensure that measures are taken for its management and disposal. The scope covers different types of hazardous waste based on origin and characteristics.

\textsuperscript{15} It also seeks to restrict the transboundary movement of hazardous wastes while providing a regulatory system in which such movements are permissible; its overarching aim is to ensure that transboundary movements of waste are reduced to a minimum, in accord with environmentally sound and efficient management. The Basel Convention is a unique multilateral environmental agreement that defines a prohibited act as criminal.

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The introduction of plastic waste has been identified as an issue to be included in the internationally legally binding instrument being negotiated, with target completion by 2024. This is part of an attempt towards holistic global governance of plastics and associated chemicals and possible options for control measures, core obligations and voluntary measures.

These multilateral environmental agreements require transposition into national laws, which thus govern the definitions and establishment of offences that may be prosecuted, the penalties and the nature of proceedings (administrative, civil or criminal) that may be taken against perpetrators of waste crime.

Review methods and objectives

The legal assessment and gap analysis were undertaken through a comprehensive literature review as well as interviews and focus group discussions with government officials and experts in Indonesia, Malaysia, Thailand and Vietnam, along with a regional consultation event attended by government focal points from ASEAN Member States. The report starts by taking stock of the status of the legal framework in each of the 10 ASEAN Member States. It proceeds to map the legal and regulatory framework that speaks to the waste trade for each country, with focus on crimes, offences and penalties. The review narrative then moves into the gaps that became apparent in the assessments and could be tackled through legal and policy reforms.

Understanding the current legislative and regulatory framework of each country is of utmost importance when analysing legal measures needed to address waste trafficking. Enabling conditions, such as the institutional framework, and which sectors of government have responsibility are discussed along with ongoing and upcoming efforts that may be relevant to tackling waste crime. The gap analysis starts with evaluating the legal framework against the desired outcome for future interventions, which are referenced from various reports of United Nations agencies, the International Criminal Police Organization (INTERPOL) and other relevant publications.

Recommendations for reforms and development of legal measures are presented in response to the assessed needs. Ultimately, this report is intended to become a practical tool for governments and policymakers to further develop their laws and regulations, with guidance on considerations to respond to conditions for each country. The analysis is timely in highlighting law and policy implications and considerations to enable reforms and enhancement of legislative frameworks aimed at combating waste trafficking. It also provides value for initiatives in the field of waste trade, including for investigators, prosecutors, judges and authorities involved in the criminal justice system.
ASEAN IN FOCUS: REGIONAL OVERVIEW

Waste trade in ASEAN

Waste trade into the region typically covers the transboundary movement and disposal of hazardous waste, plastic waste, e-waste, metal, paper and other types of waste. As previously discussed, the waste trade and accompanying criminal activity, including waste trafficking, have thus become a major environmental and health concern in the region, and countries are taking measures to reduce the risk of turning into a dumping ground for such waste.

Although several factors drive the waste trade in the ASEAN region, such as the high cost of waste disposal in developed countries, important policy developments in China regarding waste imports have heavily influenced the situation of waste trafficking in Southeast Asia. Long an importer and processor of global waste, China launched a stricter regulation for the importation of solid waste in 2013 through its Operation Green Fence. In 2017, China then enacted its National Sword Policy, which became fully effective at the start of 2018. The policy banned different types of solid waste imports, including plastic waste, unsorted paper waste, metal waste, waste textiles and others.

Although initially encompassing 24 types of solid waste in its 2018 ban, China decided in 2020 to ease the import restrictions, specifically on certain categories, like high-grade copper, aluminium and brass scrap, thus permitting their entry into the country. This adjustment signified China's shift towards increased recycling practices to address a shortage of raw materials and marking the end of stringent import regulations on select high-quality scrap metals.

In 2021, China instituted a comprehensive prohibition on all imports of solid waste. The illegal waste trade, including plastics, e-waste and other types of waste, has become a major concern for the ASEAN region. Since 2018, there has been a marked increase in illegal waste shipment cases and in requests from Southeast Asian countries to repatriate illegal containers of waste. Recent reports show that unloaded containers of waste have been piling up in Asian ports, and there has been a spike of cases in which waste is re-exported to neighbouring countries. The tremendous increase in waste imports is also leading to growth in illegal recycling facilities as well as illicit landfills in the region.

Among the challenges in addressing waste trafficking in the ASEAN region are the loopholes and weaknesses in the national legislative frameworks. This includes a lack of adequate sanctions for illegal waste trade activities in some jurisdictions. Fraud in legal documents and misdeclaration of waste shipments are common modalities for illegal waste flow across countries. It is also often challenging to distinguish the legal and illegal actors in waste crime because of the grey zones of interface between them. Waste crime is often tied with other felonies, such as money laundering, corruption and tax evasion, along with human trafficking, fraud and illicit drugs and firearms trafficking.

This has been documented globally, but within the region, there is a need for more evidence to substantiate these links. Nevertheless, transnational and crossover crimes are becoming more apparent, requiring a coordinated response at the national, regional and international levels. The reported types of violations across...
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ASEAN countries primarily involve issues with notifications or misdeclaration. These include the absence of the Basel Convention’s Prior Informed Consent procedure, the provision of incorrect information or the acquisition of consent through deceptive means. There are also other encompassing issues, such as lack of compliance with the regulation in the destination or transit countries, violation of bans, lack of permits, or unverified or nonexistent receiving entities. Illegal shipments often involved false declarations, missing or incomplete notifications and incomplete shipping documents or for European Union countries, lack of compliance with the Annex VII of the European Union Waste Shipment Regulation. Violators tend to be companies operating in the recycling and waste treatment sector. Thus, seemingly legitimate companies falsely declare waste as “green listed” even when it is hazardous or prohibited by importing countries.

The prevalence of the illegal waste trade in many ASEAN Member States exacerbates the already precarious situation of these countries in the waste crisis. ASEAN countries have had to cope with massive and ever-increasing volumes of domestic waste. Although national efforts on waste management and promoting circular approaches have led to prohibitions and bans and stricter regulations on importations, the uncontrolled waste trade aggravates broader waste management challenges in these developing countries.

This includes stretching overburdened waste management processes dealing with domestic waste. Such challenges and weaknesses in infrastructure have contributed to the deterioration in waste management in many countries of the region. This coincides with the mismanagement of waste in many parts of Southeast Asia. Marine plastic pollution is also closely associated with the weaknesses in waste management systems. The illegal waste trade certainly adds to the growing problems in the region on waste management and needs to be addressed as part of a holistic approach for proper waste management in the region.

Government responses to China’s waste import ban

The decision by China to prohibit the importation of 24 types of solid waste in 2018, including plastic waste, had considerable influence on waste trade in the ASEAN region. Due to the increased shipments of illegal waste and the adverse effects on the environment and public health, as well as the new risks to the waste management systems, Indonesia, Malaysia, Thailand and Vietnam in particular have moved to bolster their boundaries with stricter regulations and controls for imports through tax policies and partial and complete bans on specific types of waste.

Environmental non-profit organizations and civil society have had a crucial role in pressuring governments to act by expressing concerns over the waste inflow and the prevalence of open dumping and burning of waste in most ASEAN countries. In 2020, the Indonesian Government, for example, created an interagency task force comprising different ministries and law enforcement agencies to oversee and regulate the importation of non-hazardous waste. It was followed with strict regulations, such as Minister of Trade Regulation No. 20/2021 on the Import Policy and Procedure Control and its amendment (Minister of Trade Regulation No. 25/2022), which limits the conditions and type of waste that can be exported to six commodities (glass, paper, metals, plastics, rubber, textiles) and designated 15 ports to receive such imports. The country also requires the legalization of registered exporters (Bukti Penusahaan Ekspor), and the importation of waste must be declared and registered with the relevant authorities. Compliance with these regulations is monitored through regular inspections and penalties for non-compliance.

The government has also strengthened law enforcement and, in collaboration with customs and police, has intensified efforts to combat illegal waste shipments. This includes the deployment of advanced technology, such as satellite monitoring, to detect and track illegal waste movements. The government has also increased public awareness campaigns to educate people about the risks associated with illegal waste trade and the importance of proper waste management.

In addition, the government has worked with international partners, such as the United Nations, to strengthen global regulations on waste trade and improve information sharing among countries to better monitor and address illegal shipments.

Overall, the government’s response to China’s waste import ban has been comprehensive, with a focus on strengthening domestic waste management systems, deterring illegal waste trade and enhancing international cooperation. However, ongoing challenges remain, particularly in ensuring effective implementation of policies and regulations, as well as addressing the root causes of illegal waste trade.
Ekspor Terdaftar). The Indonesian Embassy in the exporter or waste country of origin must first authorize the licensing documents of the exporter that are issued by the responsible authority of the country of origin to ensure that the exporter is a legitimate company that has a permit to export waste and ease the re-export process when necessary.

Malaysia temporarily halted imports in 2018 through a three-month freeze on import permits for plastic waste in response to the influx of waste imports diverted to the country. It also announced plans to tighten permit requirements. The Malaysian Ministry of Investment, Trade and Industry released guidelines on the importation and inspection of metal scrap and paper waste, which became effective in January 2022 and outline the conditions and criteria for importing and exporting various types of scrap metal. The Ministry also initiated a two-year suspension, beginning 15 March 2022, on issuing paper manufacturing licenses. These moves echo similar approaches across other South-East Asian countries, with other countries also adopting stricter regulations and interventions.

In 2018, Thailand stopped issuing new import permits for plastic waste, all of which will be expired by 2020. In early 2020, a Subcommittee for Plastic and E-Waste Management, led by the Minister of Natural Resources and Environment, was established to provide guidance and oversee the plastic and electronic waste landscape in Thailand. This eventually led to a ban on 428 specific types of electronic waste in 2020. Thailand then announced a ban on foreign plastic waste imports by 2021 and subsequently revised the timeline to announce a ban on all plastic waste imports in all areas as of 1 January 2025, in accordance with a Cabinet ruling issued in February 2023. The ban will be carried out in phases for the 14 factories in customs-free zones, with an import quota reduction starting in 2023 and subsequently reducing plastic waste imports at half capacity in 2024 and then the total ban in 2025. However, importers may be granted exceptions on an exceptional basis.

Viet Nam introduced significant measures early on after China's waste import ban, including the announcement in April 2019 of its intention to fully prohibit the import of plastic scrap by the end of 2025. The Ministry of Natural Resources and Environment established an inspection department tasked with the verification of scrap imports and with the authority to revoke business licenses and permits for non-compliance. The Government is also taking steps to deal with scrap consignments stuck at ports by eliminating unnecessary procedures that are causing delays and has ordered the Ministry of Natural Resources and Environment to work with other government agencies to address this.

Impacts of waste crime

The illegal waste trade and attendant criminal activity have led to many adverse effects on the environment and human health. These impacts often flow from the mismanagement of waste due to the lack of environmentally sound management, especially when this waste is dumped in the natural environment. Such accounts have been reported across many ASEAN countries, some of them in highly publicized cases. In many ASEAN Member States, occupational health is an issue during the processing and treatment of waste as workers operate without wearing protective equipment in Facilities. Repairers and recyclers are oftentimes unaware of adverse side effects resulting from exposure to hazardous materials.

Further health impacts include inhalation or ingestion of dangerous chemical compounds or possible electric shocking. Environmental impacts due to hazardous materials and waste include obnoxious smell and noise disturbance, residues discharged and surface or ground water contamination and

The Legal waste trade and attendant criminal activity have led to many adverse effects on the environment and human health. These impacts often flow from the mismanagement of waste due to the lack of environmentally sound management, especially when this waste is dumped in the natural environment. Such accounts have been reported across many ASEAN countries, some of them in highly publicized cases. In many ASEAN Member States, occupational health is an issue during the processing and treatment of waste as workers operate without wearing protective equipment in facilities. Repairers and recyclers are oftentimes unaware of adverse side effects resulting from exposure to hazardous materials.

Further health impacts include inhalation or ingestion of dangerous chemical compounds or possible electric shocking. Environmental impacts due to hazardous materials and waste include obnoxious smell and noise disturbance, residues discharged and surface or ground water contamination and
Plastic waste includes toxic impacts as well, which is problematic because it breaks down into microplastic and leaks into the marine environment. Waste crime and trafficking also negatively affect trade and competition when law-abiding industries are disadvantaged economically by players who defy legal frameworks and evade enforcement regimes.

In many areas in Southeast Asia, local communities bear the brunt of the negative impacts of different types of waste, especially hazardous types, which harm ecosystems and human health. A great deal of work in the waste trade involves the informal sector and vulnerable sectors of society, including households that are poor and marginalized.

Legal and policy responses must consider the impacts to protect the health of people and the environment, especially populations disproportionately affected by illegal waste trade impacts, in addition to combating that illegal waste trade and crime through strengthened legal regimes.

Regional efforts in ASEAN

The weaknesses of regulatory frameworks as well as lack of resources for monitoring, investigation and prosecution has facilitated organized waste crime networks to operate. In response, ASEAN issued a Joint Declaration on Hazardous Chemicals and Wastes Management in 2017. Through this Declaration, ASEAN Member States agreed to strengthen cooperation and coordination towards the environmentally sound management of hazardous chemicals and wastes, particularly its recycling, recovery and treatment; and continue efforts to minimize the adverse impacts of released hazardous waste, especially on human health and the environment. It calls for technical cooperation and capacity-building as well as greater information exchange to prevent the illegal traffic of such waste. The Declaration also encourages each ASEAN Member State not yet party to the Basel Ban Amendment and the Minamata Convention to ratify them and to accelerate their implementation.

The ASEAN Working Group on Chemicals and Waste has since been established as a platform for consultation among ASEAN Member States to enhance regional coordination and cooperation pursuant to country commitments to relevant multilateral environmental agreements on chemicals and hazardous wastes.

Other types of waste are being targeted at the ASEAN level. Notably, plastic waste has become a prominent issue, including its leakage into the ocean as marine debris. The link of illegal plastic waste trade to plastic pollution has become even more pronounced with the ASEAN region becoming a hotspot for the illegal trade of plastics since the 2018 ban of certain waste imports into China. The ASEAN Foreign Ministers’ Statement on Illegal Transboundary Movement of Hazardous Waste and Other Wastes in Southeast Asia in 2019 is a move to create a united front. That same year, ASEAN adopted the Bangkok Declaration on Combating Marine Debris. The Bangkok Declaration seeks to promote intersectoral coordination to effectively address the impacts and stem the sources of marine debris pollution. ASEAN then adopted the Framework of Action on Marine Debris, also in 2019, which comprises four priority areas for collaboration to combat marine litter: (a) policy support and planning; (b) research, innovation and capacity-building; (c) public awareness, education and outreach; and (d) private sector engagement. Each of these priorities are accompanied with suggested actions and corresponding activities. To further implement both the Declaration and Framework, the ASEAN Regional Action Plan for Combating Marine Debris, 2021–2025 was adopted in May 2021.

Table 1 outlines the collective regional response to protecting human health and the environment by illegal waste trade impacts, in addition to combating that illegal waste trade and crime.
### Table 1: Policy development relating to waste trade in ASEAN

<table>
<thead>
<tr>
<th>Policy Development</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ASEAN Charter (2007)</strong></td>
<td>The ASEAN Charter serves as a guiding document for ASEAN Member States in promoting regional cooperation and integration, including in areas related to the environment. One of the principles outlined in the ASEAN Charter is the promotion of sustainable development and environmental protection.</td>
</tr>
<tr>
<td><strong>ASEAN Socio-Cultural Community Blueprint 2025 and Strategic Plan (2015)</strong></td>
<td>The blueprint and strategic plan serve as a guideline for ASEAN Member States to achieve a common vision and goals in education, health, environment, culture, and social welfare. They provide guidance for country-specific plans of action for promoting ASEAN cooperation on the environment until 2025, with strategic priorities regarding chemicals and waste management.</td>
</tr>
<tr>
<td><strong>ASEAN Joint Declaration on Hazardous Chemicals and Wastes Management (2017)</strong></td>
<td>The Declaration calls upon ASEAN Member States to strengthen their cooperation and coordination towards the establishment of environmentally sound systems for the management of hazardous chemicals and wastes. It also calls upon ASEAN Member States to establish networks to improve the supervision of trade in hazardous chemicals and waste and to enhance information exchange to prevent the illegal waste traffic. It encourages ASEAN Member States to ratify the Basel Convention Ban Amendment and accelerate its implementation.</td>
</tr>
<tr>
<td><strong>Protocol on the Legal Framework to implement the ASEAN Single Window (2017)</strong></td>
<td>The Protocol seeks to enhance ASEAN trade efficiency and competitiveness by enabling the electronic exchange of trade-related documents through an ASEAN Single Window initiative. The ASEAN Single Window is a step towards the goal of an ASEAN Economic Community by significantly expediting cargo shipments and promoting ASEAN economic integration.</td>
</tr>
<tr>
<td><strong>ASEAN Foreign Ministers’ Statement on Illegal Transboundary Movement of Hazardous Waste and Other Wastes in Southeast Asia (2019)</strong></td>
<td>The Statement expresses serious concern on the growing threat and adverse effects to human health and the environment posed by the increased transboundary movement of illegal waste. It emphasizes that all States must impose necessary measures to ensure the environmentally sound management of hazardous waste and chemical waste. It enhances cooperation with other jurisdictions, including through the exchange of relevant information and capacity-building. It reiterates readiness to work with the international community to enhance cooperation in preventing the illegal transboundary movement of waste.</td>
</tr>
<tr>
<td><strong>Bangkok Declaration on Combating Marine Debris in the ASEAN Region (2019)</strong></td>
<td>The Declaration calls on States to strengthen their national and collaborative actions to prevent and reduce marine debris, particularly from land-based activities.</td>
</tr>
<tr>
<td><strong>ASEAN Framework of Action on Marine Debris (2019)</strong></td>
<td>The Framework comprises four priority areas towards reducing marine litter: policy support and planning; research, innovation, and capacity-building; public awareness, education, and outreach; and private sector engagement.</td>
</tr>
<tr>
<td><strong>ASEAN Regional Action Plan for Combating Marine Debris (2021–2025) (2021)</strong></td>
<td>The Regional Action Plan calls for 14 actions to implement the Bangkok Declaration and Framework by enhancing coordination at the regional and international levels for achieving the sustainable management of coastal and marine environments and responding to marine plastic pollution.</td>
</tr>
<tr>
<td><strong>ASEAN Framework on Circular Economy (2021)</strong></td>
<td>The Framework calls on ASEAN Member States and stakeholders to adopt the circular economy approach in achieving sustainable economic development objectives. It aims to guide ASEAN towards achieving its long-term goals of a resilient economy, resource efficiency, and sustainable and inclusive growth across the region.</td>
</tr>
</tbody>
</table>
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Other regional initiatives

The Basel Convention Regional and Coordinating Centres, including the Basel Convention Regional Centre for Training and Technology Transfer for South-East Asia located in Jakarta, Indonesia, provide training and technology transfer regarding the proper management of hazardous and other types of waste as well as reducing the amount of waste generated. They are established within either intergovernmental institutions or national institutions possessing relevant expertise and capability to provide technical assistance and capacity-building at the regional level.

Japan's Ministry of the Environment and the Basel Convention Regional Centre for South-East Asia jointly organize annual workshops as part of the Asian Network for Prevention of Illegal Transboundary Movement of Hazardous Wastes, which comprises ASEAN Member States and East Asian countries.

The network promotes the exchange of information on the cross-border movements of hazardous waste and offers support to implementing the Basel Convention. The Environmental Network for Enhancing Adherence to the Basel Convention Regulations on Illicit Waste Trafficking (ENFORCE) also provides a dedicated network by bringing together qualified experts to encourage compliance with the Basel Convention.

The World Customs Organization’s Operation DEMETER is a project that focuses on detecting and stopping illicit transports of dangerous waste, with emphasis on plastic waste. The World Customs Organization’s Asia–Pacific Plastic Waste Project is a regional effort that assists in implementing the Basel Convention on hazardous waste and promoting sustainable waste management practices, specifically regarding plastic waste. The project focuses on enhancing the capabilities of customs administrations in the Asia–Pacific region, particularly Southeast Asian countries, to prevent the illegal waste trade and facilitate legal trade through harmonized customs procedures and encouragement of the exchange of information.

A Regional Action Plan that proposes actions to promote a unified approach to plastic waste trade among participating countries is being developed through the project.

Other relevant initiatives in the region include the UNODC–World Customs Organization Container Control Programme’s Hazardous and Plastic Waste Project; the Basel, Rotterdam and Stockholm Conventions Secretariat’s Marine Litter Project; the World Trade Organization’s Informal Dialogue on Plastics Pollution and Environmentally Sustainable Plastics Trade, the ASEAN Customs Enforcement Working Group and the World Bank’s Southeast Asia Regional Program on Combating Marine Plastics.

Regional overview of national legal frameworks

Illegal waste activities significantly threaten the environment and local communities in Southeast Asia. The region has actively sought to comply with international legal frameworks relevant to combating waste crime (table 2). This includes accession to the Basel Convention, which provides a framework for the safe and environmentally sound management of hazardous waste, as well as other multilateral environmental agreements relevant to the waste trade. All ASEAN Member States have enacted national laws and regulations that address waste crime, thus demonstrating the region’s recognition of the need to tackle the issue.
| Table 2 Status of ASEAN Member States on multilateral environmental agreements related to chemicals, mercury and waste management and trade |
|---------------------------------|---------------------------------|---------------------------------|---------------------------------|
| **Types of waste covered**      | **Brunei Darussalam**           | **Cambodia**                    | **Indonesia**                   |
| **Basel Convention**            | E*EVHSYW[EWXI]                  | %GGIWWMSR[IGIQ - FIV (R XV)[MRXS]SVG1 EVGL | 6EXM® GEMS$ 1993                |
| **Basel Convention 1995 Ban Amendment** | E*EVHSYW[EWXI]                  |                                   |                                 |
| **Basel Convention 2019 Plastic Waste Amendments** | Plastic waste                  |                                   |                                 |
| **Basel Convention 2022 E-waste Amendments** | EWXI]IGXVMGEPMRI 1PIGXVSMG IU G MTQIRX |                                   |                                 |
| **Rotterdam Convention**        | 4IWXMGHM IWERHMRHYWXVMEP chemicals | 6EXM® GEMSSR1E |                                 |
| **Stockholm Convention**        | Persistent organic pol-PY XERXW | 6EXM® GEMSSR.YRI                 |                                 |
| **Minamata Convention on Mercury** | GV]QMWMSRWERH releases          | 6EXM® GEMSSR%TVM FIV (R XV)[MRXS]SVG1 E |                                 |
| **Minamata Convention on Mercury** | 2IVG]QMWMSRWERH                   | 6EXM® GEMSSR7TXIQ - FIV (R XV)[MRXS]SVG1 (GIQFI V) | %GGIWWMSR7TXIQ - FIV (R XV)[MRXS]SVG1 (IGQFI V) |

Note: Year specified refers to date of ratification or acceptance.
<table>
<thead>
<tr>
<th>Malaysia</th>
<th>Myanmar</th>
<th>Philippines</th>
<th>Singapore</th>
<th>Thailand</th>
<th>Viet Nam</th>
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<tr>
<td>%GGIWWMSR3GXSIV 1993</td>
<td>%GGITXERGIELRYEV</td>
<td>%GGIWWMSR3GXSIV 1993</td>
<td>%GGIWWMSR3EYEV</td>
<td>%GGIWWMSR3EYEV</td>
<td>%GGIWWMSR3EVGL 1995</td>
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<tr>
<td>JRV</td>
<td>MRXS</td>
<td>JSVG</td>
<td>GYEV</td>
<td>JRV</td>
<td>MRXS</td>
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Malaysia and the Philippines.

Most ASEAN Member States have ratified the Rotterdam Convention, and most have incorporated its regulations into their national legislation (table 3). Nevertheless, difficulties persist in effectively executing the Prior Informed Consent procedure and enforcing compliance. Similarly, despite most ASEAN Member States having ratified the Stockholm Convention on persistent organic pollutants and the Minamata Convention on Mercury, challenges that need to be addressed include ensuring the proper disposal of wastes that contain persistent organic pollutants and ensuring the safe management of mercury waste.

Thus, although ASEAN Member States have ratified and implemented the Basel, Rotterdam, Stockholm and Minamata Conventions to varying degrees, challenges remain, such as the need to strengthen the regulations.
Table 3 National legislative frameworks implementing multilateral environmental agreements related to chemicals, mercury and waste management and trade

<table>
<thead>
<tr>
<th>Country</th>
<th>Implementing legislation: Basel, Rotterdam, Stockholm and Minamata Conventions</th>
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<tbody>
<tr>
<td>Brunei Darussalam</td>
<td>RZM VSRQIR XEP4V SXIGXM SREH2 EXY VE P6I WS Y VGIW 1 QIRX</td>
</tr>
<tr>
<td>Cambodia</td>
<td>0E(SR) RZM VSRQIR XEP4V SXIGXM SREH2 EXY VE P6I WS Y VGIW 1 QIRX</td>
</tr>
<tr>
<td>Indonesia</td>
<td>RZM VSRQIR XEP4V SXIGXM SREH1 ERKIQIRX 0E[25 ; EWXI1EREKIQIRX 0E[25 ; SF'VIEXSMR0E[25]</td>
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<tr>
<td>Lao PDR</td>
<td>RZM VSRQIR XEP4V SXIGXM SR0E[</td>
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<tr>
<td>Malaysia</td>
<td>RZM VSRQIR XEP5Y EPM X]%GX</td>
</tr>
<tr>
<td>Myanmar</td>
<td>RZM VSRQIR XEP'SR WIV ZEX M SR0E[</td>
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<tr>
<td>Philippines</td>
<td>8S IM G7Y FW XER GIW ERH, E&quot;EVHSY WERH2 Y GPEV; EW X W'SRX V W 6%</td>
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<tr>
<td>Singapore</td>
<td>GSPSKM GEP75PM H; EWXI1EREKIQIRX %GX 6%</td>
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<tr>
<td>Thailand</td>
<td>,E&quot;EVHSY W; EWX I'SR X VSP5J)TSVX-QTSV X ERH VBERWM X %GX</td>
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<tr>
<td>Viet Nam</td>
<td>0E(SR) RZM VSRQIR XEP4V SXIGXM SR</td>
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Legislative framework and institutional capacity for implementation, and promoting regional cooperation.

For the Basel Convention, these laws must include provisions for classifying, prohibiting and punishing violations related to the transboundary movement of hazardous waste as well as implementing the Prior Informed Consent procedure and promoting the environmentally sound management of hazardous waste.

The Rotterdam Convention also requires provisions for the Prior Informed Consent procedure and regulations on hazardous chemical transport while the Stockholm Convention's implementing rules cover monitoring, reporting and disposing of persistent organic pollutants.

Regulations for mercury require a framework for mercury imports, exports, use, emission reduction and waste management.

All ASEAN Member States have, to varying degrees, enacted national laws to implement
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#### Implementing legislation: Basel, Rotterdam, Stockholm and Mina

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<tbody>
<tr>
<td>Brunei Darussalam</td>
<td>Hazardous Waste (Control of Export, Import and Transit) Order, 2013</td>
<td>No regulations</td>
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<tr>
<td>Cambodia</td>
<td>Law on Environmental Protection and Natural Resource Management, 1996</td>
<td>Sub-Decree No. 36 on Solid Waste Management (dated 27 April 1999)</td>
<td>Sub-Decree No. 17 on the Enforcement of the List of Prohibited and Restricted Goods</td>
<td>Sub-Decree No. 16 on Electrical and Electronic Equipment Waste Management (dated 1 February 2016)</td>
<td>Sub-Decree No. 17 on the Enforcement of the List of Prohibited and Restricted Goods</td>
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<tr>
<td>Indonesia</td>
<td>Environmental Protection and Management Law No. 32/2009</td>
<td>Waste Management Law No. 18/2008</td>
<td>Job Creation Law No. 2/2022</td>
<td>Ministry of Trade Regulation No. 20/2021 on the Import Policy and Procedure Control</td>
<td>Ministry of Trade Regulation No. 53/2021 Amending Ministry of Trade Regulation No. 118/2018 Concerning Importation of Used Capital Goods (16 July 2021)</td>
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<tr>
<td>Lao PDR</td>
<td>Environmental Protection Law, 2012</td>
<td>Ministerial Instruction on Plastic Waste Processing Factory (No. 0682/MOIC)</td>
<td>Decision on Pollution Control (No. 1687/ MONRE, 2021)</td>
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</tr>
<tr>
<td>Singapore</td>
<td>Hazardous Waste (Control of Export, Import and Transit) Act</td>
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</table>

These Conventions (table 4). Some other countries have enacted laws and regulations that are relevant and seek to implement the Basel Convention Plastic Waste Amendments and E-waste Amendments, while others rely on older regulations and are in the process of updating them. Challenges persist in effectively implementing and enforcing these laws, and there is a need for greater efforts to support national law reform while enhancing institutional capacity for waste-related issues.

The United Nations Convention Against Transnational Organized Crime is a global treaty that promotes international cooperation among States. The United Nations Convention Against Corruption seeks to prevent corruption through both preventive and punitive measures, addressing the cross-border nature of corruption with provisions on international cooperation and enhancing transparency and accountability.
Organized Crime, the United Nations Convention against Transnational Organized Crime (UNTOC), and the United Nations Convention Against Corruption (UNCAC) are relevant because the activities they target are closely related to waste trafficking. These agreements are designed to combat waste crime, as offenders often seek to disguise their illegal activities and profit from them. Money laundering can be a significant issue in this context, as waste traffickers may use it to launder the proceeds of their illegal activities.

The enactment of national laws on money laundering and asset forfeiture is crucial for combating waste trafficking. All countries in the region have enacted such laws, including anti-money laundering laws and asset forfeiture laws. This helps to prevent waste traffickers from profiting from their illegal activities by disguising the proceeds.

Effective cooperation and communication among ASEAN Member States are also important in addressing waste trafficking. Mechanisms such as sharing compatible procedures and providing training and capacity building for law enforcement and judicial cooperation remain issues that need strengthening. This includes sharing information on mutual legal assistance (table 5). In relation to extradition, a framework for cooperation in extradition and mutual legal assistance (table 5) is highly relevant for combating waste crime and trafficking, cross-border cooperation with the enforcement of anti-corruption agencies, and the promotion of regional cooperation and strengthening judicial and law enforcement institutions for cooperation in criminal matters.

### Table 4 Status of ASEAN Member States on other international agreements that are relevant for addressing waste crime

<table>
<thead>
<tr>
<th>Agreement</th>
<th>Brunei Darussalam</th>
<th>Cambodia</th>
<th>Indonesia</th>
<th>Lao PDR</th>
<th>Malaysia</th>
</tr>
</thead>
<tbody>
<tr>
<td>Convention Against Transnational Organized Crime (UNTOC)</td>
<td>6EXM9  GEXMSR IGIQFIV</td>
<td>6EXM9  GEXMSR7T IGIQFIV</td>
<td>6EXM9  GEXMSR7T IGIQFIV</td>
<td>6EXM9  GEXMSR7T IGIQFIV</td>
<td>6EXM9  GEXMSR7T IGIQFIV</td>
</tr>
<tr>
<td>UN Convention Against Corruption (UNCAC)</td>
<td>6EXM9  GEXMSR IGIQFIV</td>
<td>6EXM9  GEXMSR7T IGIQFIV</td>
<td>6EXM9  GEXMSR7T IGIQFIV</td>
<td>6EXM9  GEXMSR7T IGIQFIV</td>
<td>6EXM9  GEXMSR7T IGIQFIV</td>
</tr>
<tr>
<td>ASEAN Treaty on Mutual Legal Assistance in Criminal Matters</td>
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<td>7MKRIH25ZIQQFIV</td>
<td>7MKRIH25ZIQQFIV</td>
<td>7MKRIH25ZIQQFIV</td>
<td>7MKRIH25ZIQQFIV</td>
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</tbody>
</table>

Thus, to combat waste crime, they are highly relevant. XSER%KEMRWX 'SVY XTMR EREH XL1%7%28VIEX] XSEHIVWMMPPIKPEGXZMXMIWVIXPEIXH [EWWWGEMPWPY3ELYWHGJEM YGSEPWWXERGISRVMQMRREP1EXIIVW [EWXIERGLQMGEPWYGLEWEW[XIEVEIOIRQEWYVWYSTXXLIMTVSZWMWSRMRKEGVSWFVSHVWHERGSSVYTXMSRMRKTEWWMRKREXMSREPPEI VGMQMREPMP VXWHRSGSSTIVEMXRSMGVMQMREPQEXXIVWIRLERGRMRKXLIVYERHXWVIRKLXIRMRKNYHMGEPEHMRRHPSRJVEP[SVQSGQROMMRKMPPIKEPSMMRKSREXRHEGOMRKGSVYTMSMRERHQSRIJPRYXEDUREH GEMWZEMRDILELYKILERHMR[EWWWXIEVGOVMRVRKJVRMVRKJHEKMRHRMVRKRMKHERQ][JREKEMRJVEYHMMPPIKEPSGYQIRLMVRMPGYHIWLEVMRGQSTEXMFITPVSGIHYS EREHTETIV[SVQOSVXWIHHVW[SQRRK%7]21IQQFI7EXEEIWEHRIHWYVMRKMJKTVEGXMIGISGGYTVETXPRHYSRERGSRMRKM[EXRHERGSQGQRMGEXMSREQRKVIKYPESVREHPIKEIPRZMSRSQIRXXLEHSITXSVXIGYMSMRSERHHEP[RSVQGIQRXKMREXGMR [JYP]GRSRMHWMLERGMEPETWIGXWERHQSRIPEYRHIVMRKVMWOWSXJXLII[EGIMEMJBL81 [EIRERGQIXRXSREXMSREPPEWSRQJRI SJGSSVYTXMRSRLI[EWWIXIGXSVWGRSRYRHIHMRKMW QTSXERXJSV%7]%21IQQFIEWLMKLVMWOSJGSVYTXMSRHYIXXLSIGSQTREMNI [FYEGLYXWILIVIKSMLERFWIRMRHIXMJIH SJXLI[EWWXIEVHIPS [VMWOSXJHXIGXMSREX LMKLVMAWJOSVQSRE[PEYRHIVMRKHERHPMMR MWSQINYVMWHGMXSMRSWRKPKMIFITIP[ [EWWXIXEJQIK [EWWXISJRIIRIGSVVYTXRVRMMWOWQET][FTIXTPEYRHYIVMRKGERFIEWMRRKMRGEXMWYWIIP RROLGI ROLL SM JVMQOCI0G X WIL V URM SS | [EWXIVGMO M JIGE XIWIS J]JRIHIVWQVEWIIOSX VMWOTVIZIXMSREXZMXMIXMRGYPHPMMRI[SMWLI[SRHUM VXMVSMRGSQTPMIGIRJVSQXIRXERHTVQD RATION.57

In response to the challenges of waste management and anti-corruption, the governments of the ASEAN countries have taken measures to put their provisions into effect, including passing national laws to criminalize transnational organized crime, creating a legal framework for cooperation in extradition and mutual legal assistance (table 5), and providing training and capacity building for law enforcement and judicial cooperation. In addition, the region has identified measures for waste crime prevention and law enforcement cooperation, as well as for waste crime prevention and law enforcement cooperation.
<table>
<thead>
<tr>
<th>Myanmar</th>
<th>Philippines</th>
<th>Singapore</th>
<th>Thailand</th>
<th>Viet Nam</th>
</tr>
</thead>
<tbody>
<tr>
<td>%GGIWWMRS1EVGL</td>
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<td>6EXM° GEXMSR%KY</td>
<td>6EXM° GEXMSR3GX</td>
<td>6EXM° GEXMSR.YR</td>
</tr>
</tbody>
</table>

Brunei Darussalam
Cambodia
Indonesia
Lao PDR
Malaysia
Myanmar
Philippines
Singapore
Thailand
Viet Nam

Convention Against Transnational Organized Crime (UNTOC)

- **Accession: 25 March 2008**
- **Ratification: 12 December 2005**

UN Convention Against Corruption (UNCAC)

- **Ratification: 2 December 2008**
- **Accession: 5 September 2007**

ASEAN Treaty on Mutual Legal Assistance in Criminal Matters

- **Signed: 29 November 2004**
- **Signed: 29 November 2004**
- **Signed: 29 November 2004**
- **Signed: 29 November 2004**
- **Signed: 29 November 2004**
- **Signed: 17 January 2006**
- **Signed: 29 November 2004**
- **Signed: 29 November 2004**
- **Signed: 29 November 2004**
- **Signed: 29 November 2004**

Myanmar also enacted a range of laws and regulations to combat corruption. Despite these efforts, challenges persist in ensuring the effective use and enforcement of this legislation, especially as applied to environmental laws, such as waste management. Challenges in combating corruption include limited transparency, the weak rule of law and insufficient institutional capacity for enforcement and prosecution.

Mutual legal assistance refers to the process of cooperation among different countries' criminal justice systems to conduct criminal investigations and gather evidence. In the context of waste crime, mutual legal assistance can be utilized to promote cooperation among countries in prosecuting waste offences. All 10 ASEAN Member States have enacted national laws on mutual legal assistance, in line with the ASEAN Mutual Legal Assistance Treaty. The full and effective implementation of these national frameworks is essential in promoting regional cooperation in combating transnational crime.

There is still a need for a system that facilitates enhanced mutual legal assistance among the Member States of ASEAN, which would involve sharing information and evidence, extraditing suspects and providing legal aid. Establishing clear communication channels and assigning competent authorities are vital to manage the requests for expediting the mutual legal assistance process.
### Table 5: National legislative frameworks implementing other international agreements that are relevant for addressing waste crime

<table>
<thead>
<tr>
<th>Country</th>
<th>UNTOC, Corruption Convention</th>
<th>ASEAN Mutual Legal Assistance on Criminal Matters</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brunei Darussalam</td>
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</tr>
<tr>
<td>Cambodia</td>
<td>0E [SR %RXM 15RI] 0EY RHIV M RK ERH ' SQFEX * M RERG M RK S] 0BIVSV WMQ P%VXM GPI</td>
<td>1YX YEP0IKEP%WWM WXERGIMR ' VMQM REP1EXXIVW</td>
</tr>
<tr>
<td>Indonesia</td>
<td>%RXM 2SR 4VIZIRX MSR ERH ' VEHM GEX MSR S] 1SR] 0EY RHIV M RK</td>
<td>0E [SR 1YX YEP0IKEP%WWM WXERGIMR ' VMQM REP1EXXIVW0E[2S</td>
</tr>
<tr>
<td>Lao PDR</td>
<td>0E [SR %RXM 15RI] 0EY RHIV M RK ERH ' SY RX RERG M RK S] 0BIVSV WMQ %VXM GPI</td>
<td>0E [SR ' VMQM REP4V5GVHIY VL 2% 4EVX</td>
</tr>
<tr>
<td>Malaysia</td>
<td>%RXM 15RI] 0EY RHIV M RK ERH ' %RXM 8V RERG M RK %GXEWEQIRHIH7IXMSR</td>
<td>SY XVEQ %VMQM REP1EXXIVW %GX</td>
</tr>
<tr>
<td>Myanmar</td>
<td>%RXM 15RI] 0EY RHIV M RK0E[7IXMSR</td>
<td>1YX YEP%WWM WXERGIMR ' VMQM REP1EXXIVW 0E[2S</td>
</tr>
<tr>
<td>Philippines</td>
<td>%RXM 15RI] 0EY RHIV M RK %GX 6% 2S EQIRHIH7IXMSR</td>
<td>1YX YEP%WWM WXERGIMR ' VMQM REP1EXXIVW6YPIW</td>
</tr>
<tr>
<td>Singapore</td>
<td>0E [SR %RXM 15RI] 0EY RHIV M RK %GX &amp; ) EW</td>
<td>SYXIVP8SMM WXERGIMR ' VMQM REP1EXXIVW %GX ' LETXIV %6IZMWIHM GEX MSR</td>
</tr>
<tr>
<td>Thailand</td>
<td>%RXM 15RI] 0EY RHIV M RK %GX &amp; ) EW</td>
<td>%GX SR1YX YEP%WWM WXERGIMR ' VMQM REP1EXXIVW &amp; )</td>
</tr>
<tr>
<td>Viet Nam</td>
<td>0E [SR 4VIZIRX MSR ERH ' MLX MK R %K ERM RWE [SR] 0EY RHIV M RK 255, %VXM GPI</td>
<td>0E [SR H6KH] 0EY RHIV M RK 255, %VXM GPI</td>
</tr>
</tbody>
</table>
Regional overview of waste crime framework

Many ASEAN Member States face a significant problem with waste crime, which has prompted the introduction of laws and regulations concerning waste management and disposal. Specific provisions under national laws target a range of illegal activities associated with waste, including its disposal, transport and management. Waste crime presents significant risks to human health and the environment and undermines sustainable development efforts. While the nature and scope of waste crime laws vary among Member States, most countries have a legal framework in place that includes penalties, such as fines and imprisonment, as well as administrative sanctions that include license and permit revocation. The key to tackling waste crime is to have effective, proportionate and dissuasive criminal penalties, which may include imprisonment and fines, that exceed any economic gains made by waste crime players who fail to follow waste management regulations and that also reflect the harm and damage caused by their actions.

As shown in table 6, the degree of criminal penalties for waste crime offences differs across the ASEAN Member States. Some countries have stricter penalties, with maximum prison terms ranging from 5 to 20 years. For instance, waste crime can result in imprisonment for up to 15 years in Indonesia while in Thailand it can lead to imprisonment up to 10 years for exceptional hazardous waste crime, although in general, waste crime is only punishable to up to two years of imprisonment. Conversely, Brunei Darussalam and Singapore have a maximum prison sentence of two years, while other ASEAN Member States have even less severe penalties, with a maximum prison term ranging from one to three years. To deter waste crime actors from gaining any financial benefit, it is imperative that criminal penalties for these offenses are effective, proportional and discouraging. However, challenges still exist in the successful implementation of these laws due to a lack of resources and training. Additionally, enforcement efforts can be undermined by corruption and political pressure.

To address these challenges, it is essential to ensure that legal frameworks are robust and effectively enforced. This includes providing adequate resources and training to law enforcement agencies and promoting transparent and accountable systems. Furthermore, international cooperation and information sharing among ASEAN Member States can help to strengthen efforts to combat waste crime. By working together, ASEAN Member States can create a more secure and sustainable environment for all.
### Table 6 Regional overview of criminal penalties – Imprisonment

<table>
<thead>
<tr>
<th></th>
<th>Brunei Darussalam</th>
<th>Cambodia</th>
<th>Indonesia</th>
<th>Lao PDR</th>
<th>Malaysia</th>
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</thead>
<tbody>
<tr>
<td>Prohibition of import</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
</tr>
<tr>
<td>Prohibition of export</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
</tr>
<tr>
<td>Prohibition in course of transit</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
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<tr>
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<tr>
<td>Violating waste control measures</td>
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<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
</tr>
<tr>
<td>Failure to comply with order</td>
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<td>A</td>
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<td>A</td>
<td>A</td>
</tr>
</tbody>
</table>

### Table 7 Regional overview of criminal penalties – Fines

<table>
<thead>
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<th>Brunei Darussalam</th>
<th>Cambodia</th>
<th>Indonesia</th>
<th>Lao PDR</th>
<th>Malaysia</th>
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<tbody>
<tr>
<td>Prohibition of import</td>
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<tr>
<td>Prohibition of export</td>
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<tr>
<td>Prohibition in course of transit</td>
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<td>A</td>
<td>A</td>
</tr>
<tr>
<td>Fraud or false statements</td>
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<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
</tr>
<tr>
<td>Permissible business</td>
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<tr>
<td>Violating waste control measures</td>
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<tr>
<td>Failure to comply with order</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
</tr>
</tbody>
</table>

Note: Figures in US dollars, conversion rate May 2023; C=corporation, I=individual.
<table>
<thead>
<tr>
<th>Myanmar</th>
<th>Philippines</th>
<th>Singapore</th>
<th>Thailand</th>
<th>Viet Nam</th>
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<tbody>
<tr>
<td>ÅEVW</td>
<td>QSRXLÅEVW</td>
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<th>Thailand</th>
<th>Viet Nam</th>
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</tbody>
</table>

Note: The table seems to be fragmented or incomplete, possibly due to a mix of cell styles and formatting issues. The data includes prohibitions for import, export, in transit, fraud, false statements, permissible business, and violations of waste control measures.
Many ASEAN Member States impose fines in addition to imprisonment as penalty for waste crime offences. These fines can help deter potential offenders and generate revenue for governments. However, the severity of fines for waste crime offences varies across the ASEAN Member States, with some governments imposing far higher fines than others. For instance, Indonesia imposes fines of more than $1 million for illegal waste importation and Singapore imposes fines of more than $200,000, while Cambodia and the Philippines impose fines of less than $20,000. But some ASEAN Member States have less severe fines, such as the Lao People's Democratic Republic, with maximum fines ranging from the equivalent of a few hundred dollars to a few thousand dollars. In some countries, it is ambiguous whether these penalties apply only to individuals or also to body corporates. Although “persons” generally encompass natural and legal persons, this is not clearly defined. Brunei Darussalam, the Philippines and Singapore provide different penalties for corporations and individuals. This ambiguity may need to be addressed in the reforms of waste laws and criminal penalties.
BRUNEI DARUSSALAM

Context
Brunei Darussalam’s waste generation was considered the highest in the ASEAN region in 2019, with the country generating 1.15 kilograms of waste per capita per day. Waste disposal in the country typically ends up in landfills. The recycling of other waste has yet to be established. There appears to be one waste recycling facility targeting industrial waste, used lubricants and oils derived mostly from Brunei Shell Petroleum. The lack of facilities and services for recycling remains challenging for waste management in the country due to the lack of scale for managing the small volume of domestically generated waste.

After China’s 2018 waste import ban, there was a nearly fourfold increase in plastic waste volume imported into Brunei Darussalam in 2019, when compared with the 2017 figures, though it dropped massively in 2021, to 53 tonnes (figure 1).

According to government data, nearly 2,000 tonnes of hazardous waste was exported in 2018 through 19 transboundary shipments. These consisted mainly of lead acid batteries bound for the Republic of Korea and transiting through the Hong Kong, China.

Laws and regulations
Main legal framework
Hazardous Waste Order (Control of Export, Import and Transit), 2013

Related regulations and instruments
Customs Order, 2006
Poison Act Regulation (Ministry of Health)
Environmental Protection and Management Order, 2016
Ports Act, 1984
Customs Import and Excise Duties Amendment, 2017

Other relevant laws and regulations
Anti-Money Laundering Act (CAP . 209)
Prevention of Corruption Act (CAP .131)
Criminal Asset Recovery Order 2012
Mutual Assistance in Criminal Matters Order, 2005 and Regulations, 2005

Regulatory framework
Overview of the national regulatory framework
Brunei Darussalam acceded to the Basel Convention as well as the Basel Ban Amendment in 2002. Thereafter, the Hazardous Waste Order, 2013 was enacted to provide control regimes for the importing, exporting and transiting of hazardous waste in the country. The Order was decreed to comply with the country's obligations under the Basel Convention. The management of hazardous and poisonous waste within the country is also regulated by the Poison Act Regulation, issued by the Ministry of Health.

Under the Environmental Protection and Management Order, 2016 and in line with the environmentally sound management of hazardous waste, prescribed activities with potential environmental impacts are required to submit environmental impact assessments before commencing. Pursuant to the Hazardous Waste Order, Brunei Darussalam prohibits the importation of hazardous waste. This also applies to the importation of all types of plastic waste, which is done in practice through administrative processes. The exportation of plastic waste with no hazardous characteristics is not subject to the Basel Convention procedures. There is no specific regulation on the ban of importation of plastic waste, although a consultation for a possible ban was initiated in 2019.

Currently, there is no regulation on electronic waste in Brunei Darussalam. Complementing the Hazardous Waste Order are the Customs Order, 2006, which empowers the Royal Customs and Excise Department as the authority to tackle the illegal waste trade; and the Ports Act, 1984, on rules and regulations applicable to ports. Other relevant instruments for waste imports include the Amendment to the Customs Import and Excise Duties, 2017, which prescribes a 3% increase in excise duties on plastic products and aims to reduce the volume of the plastic waste trade. Other laws that may be relevant for criminal activities in the waste trade include the Anti-Money Laundering Act (CAP 209) and the Prevention of Corruption Act (CAP 131).

Main provisions in the law

The Hazardous Waste Order defines “hazardous waste” as “waste prescribed by any regulations made under this Order, where the waste has any of the characteristics mentioned in Annex III to the Basel Convention” or “waste that belongs to any category contained in Annex I to the Basel Convention, unless it does not possess any of the characteristics contained in Annex III to that Convention”. Procedures on the exporting, importing and transiting of hazardous wastes are in line with and derived after the requirements of the Basel Convention, including the securing of permits for export, import and transit.
**Stocktaking of Regulatory Frameworks**

Crimes, offences and penalties

The main offences and penalties relating to the illegal waste trade in Brunei Darussalam are as follows.

<table>
<thead>
<tr>
<th>Offences</th>
<th>Penalties</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Prohibition of import</strong></td>
<td></td>
</tr>
<tr>
<td>Hazardous Waste (Control of Export, Import and Transit) Order, 2013</td>
<td></td>
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<td></td>
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<tr>
<td>%REYXLSVM “H TIVWSRWLEPPRSXMQTSXV I “GITXMREGGSVHERGI</td>
<td></td>
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<tr>
<td>with the order.</td>
<td></td>
</tr>
<tr>
<td><strong>Prohibition of export</strong></td>
<td></td>
</tr>
<tr>
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</tr>
<tr>
<td>ÂVIEGLER[S]JXLIITIVQM XGSRHM XMSRW</td>
<td></td>
</tr>
<tr>
<td><strong>Prohibition of bringing waste in course of transit</strong></td>
<td></td>
</tr>
<tr>
<td>Hazardous Waste (Control of Export, Import and Transit) Order, 2013</td>
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<tr>
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</tr>
<tr>
<td><strong>False statements</strong></td>
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</tr>
<tr>
<td>ÂMZIEYXLSVMXIWEHSGYQIRXXLXEMWJEPWISVQM WPIEHMRK</td>
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</tr>
</tbody>
</table>
Institutional framework

The Department of Environment, Parks and Recreation under the Ministry of Development is the main government agency responsible for environmental affairs in Brunei Darussalam. It is also the designated national focal point as well as the relevant authority for the Basel Convention. Cooperation for enforcement and implementation is organized by the Department with enforcement agencies, such as the Royal Customs and Excise Department, the Ministry of Finance and the Border Control. For specific activities in waste management, the Energy and Industry Department at the Prime Minister’s Office may also be involved as the responsible authority for the management of the industrial sector.

Other matters

Efforts to address plastic waste issues through a holistic manner are under way, such as with the Brunei Vision 2035 (Wawasan Brunei 2035), which aims to cultivate a green-oriented and long-term sustainable economy. This includes the adoption of the reduce, reuse and recycle (3Rs) practices to tackle plastic waste issues and the zero waste strategies that look into the upstream problems of plastic waste.
Cambodia faces pressing problems in waste management due to its expanding urbanization and inadequate waste management.

In the wake of China’s waste import ban in 2018, Cambodia became an emerging recipient of diverted waste. Plastic waste imports increased, from 188 tonnes in 2017 to more than 1,800 tonnes at the end of 2018 (figure 2).

The illegal importation of plastic waste into Cambodia in 2019 was recorded at 536 tonnes. Some of the illegal plastic imports were traced back to Japan and the United States. In July 2019, Cambodia announced plans to repatriate 1,600 tonnes of illegal waste to the exporters in Canada and the United States, with the Cambodian Government pursuing a more stringent application of the Basel Convention and local regulations.

### Regulatory Framework

#### Overview of the National Regulatory Framework

Figure 2: Quantity of plastic waste imports into Cambodia, 2017–2021 (tonnes)

Source: Trade Map (accessed September 2023).

#### Laws and Regulations

**Main Legal Framework**

- Law on Environmental Protection and Natural Resources Management, 1996
- Sub-Decree No. 26 on Solid Waste Management, 1999
- Sub-Decree No. 16 on Electronic Waste, 2015
- Sub-Decree No. 17 on the Enforcement of the List of Prohibited and Restricted Goods, 2020
- Sub-Decree No. 168 on the Management of Plastic Bags, 2017

**Related Regulations and Instruments**

- Water Pollution Control, 1999
- Sub-Decree on Air Pollution Control and Noise Disturbance, 2000
- Sub-Decree on Ozone-Depleting Substances, 2005
- Sub-Decree on Business Facilitation by Risk Management, 2006
- Declaration No. 287 on Enforcement to Standard Level the Amount of Toxic or Hazardous Substance, 2005
- Environmental Guideline on Solid Waste Management, 2006
- Guideline on Solid Waste Management at Factories, Enterprises and Companies
- Direction No. 87 on Industrial Hazardous Waste Management

**Other Relevant Laws and Regulations**

- Cambodian Law on Customs
- Anti-corruption Law
- Law on Anti-money Laundering and Combating the Financing of Terrorism
Cambodia acceded to the Basel Convention in 2001. It has since enacted several regulations, primarily through sub-decrees, in relation to the waste trade in the country. Cambodia's Law on Environmental Protection and Natural Resources Management, adopted in 1996 and implemented by the Ministry of Environment, is relevant for the management of toxic chemicals and hazardous waste. The law seeks to prevent environmental pollution through environmental impact assessments and proper monitoring of chemical and hazardous waste.

In particular, the law aims to manage the different types of hazardous waste and substances and non-hazardous waste to minimize the public health impacts and safeguard the environment. The legal framework for hazardous waste management is elaborated mainly through Sub-Decree No. 26 on Solid Waste Management, 1999. The sub-decree provides the control regime for hazardous waste and all activities related to hazardous waste generation and disposal. The types of hazardous waste are further listed in an annex. Sub-Decree No. 16 on Electronic Waste, 2015 provides for the regulation and import prohibitions of e-waste. Sub-Decree No. 168 on the Management of Plastic Bags, 2017 provides the required permits for the manufacturing and import of plastic bags to meet a minimum thickness of 30 microns. Sub-Decree No. 17 on the Enforcement of the List of Prohibited and Restricted Goods, 2020 details that the importing of plastic waste is prohibited, with certain exceptions. The Environmental Guideline on Solid Waste Management, 2006 was issued pursuant to a mandate from the Law on Environmental Protection and Natural Resources Management, for the Ministry of Environment to establish guidelines on the safe management of hazardous waste.

Other related sub-decrees include regulations on Water Pollution Control, 1999, Air Pollution Control and Noise Disturbance, 2000 and Ozone-Depleting Substances, 2005. The Sub-Decree on Business Facilitation by Risk Management, 2006 is relevant because it aims to improve the importing and exporting processes for goods for compliance with international agreements, along with the Cambodian Law on Customs. Other laws that may be relevant for waste crime include the Anti-corruption Law and the Law on Anti-money Laundering and Combating the Financing of Terrorism.

Main provisions in the law

Among the purposes of the Law on Environmental Protection and Natural Resources Management is “protect and promote environmental quality and public health through the prevention, reduction and control of pollution” (article 1). The law calls for the Ministry of Environment to collaborate with other ministries to develop an inventory that indicates waste being imported, generated or transported and quantities of toxic substances and hazardous substances being imported (article 10). Sub-Decree No. 36 on Solid Waste Management provides for the strict prohibition of hazardous waste imports and details compliance procedures in accord with the Basel Convention for any exporting of hazardous waste. It also includes prohibitions on the importing of specific types of waste, such as household waste (articles 11 and 12). Because some used electronic and electrical equipment (UEEEs) are classified as hazardous goods, permits are required pursuant to Sub-Decree No. 16 on Electrical and Electronic Equipment Waste Management. Sub-Decree No. 17 on the Enforcement of the List of Prohibited and Restricted Goods details that the importing of UEEEs is subject to approval from the Ministry of Environment but that the importing of UEEEs for repairing or refurbishment purposes is prohibited.

The list for prohibited and restricted goods details that the importing of parings and scraps of plastic (made from polymer of ethylene, non-rigid cellular products) is not prohibited, but the process must comply with Basel Convention.
STOCKTAKING OF REGULATORY FRAMEWORKS

requirements. In case of domestic demand for production, certain types of plastic scrap are allowed for import as long as it is: (a) clean, homogenous and ready to use as raw material without generating residual materials in the production process; and (b) must be free from contamination and not mixed with other waste.

The importing of plastic waste is strictly prohibited.

**Offences**

<table>
<thead>
<tr>
<th>Hazardous waste management</th>
<th>Penalties</th>
</tr>
</thead>
<tbody>
<tr>
<td>ATS VX EX MS RS J LE ^EV HS YW [EWX IEF VSEHGS RM WX IRX WIP ^SRZ IRX MS R]</td>
<td>- SV ZMS PEX MS RS J VIU M VIQIR RXXW XL IMM RM WX V[S] FRZ MS RQIRX M P [MV PR] WY IE [MV XXIR SVHVIVI Y XM VRK]</td>
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<tr>
<td>AV SL FM X MS RS JR XLIM QTSVX EX MS R SL ^EV HS YW [EWX XSRW SRWTIGM G [EWX I]] ERHT PEX MG [EWX I]</td>
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</table>

**Household waste management**

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**Crimes, offences and penalties**

The main offences and penalties relating to illegal waste trade in Cambodia are as follows.
Institutional framework

The Department of Environmental Pollution Control under the Ministry of Environment is the focal point for the Basel Convention and the management of hazardous waste. Other responsible authorities within the Ministry include the General Directorate of Environmental Protection and the Department of Hazardous Substance Management. The General Department of Customs and Excise and the Department of Customs under the Ministry of Economy and Finance support in matters of imports and customs, along with the Cambodia Consumer Protection Competition and Fraud Repression Directorate-General. The Directorate-General is responsible for the quality and quantity controls and fraud repression of imported and exported goods. Recent news coverage from illegal waste cases highlight concerted efforts of collaboration between the Ministry of Environment and relevant institutions, including the General Department of Customs and Excise, to tackle the illegal waste trade.

Other matters

Other pending regulations relevant to the waste trade include draft regulations on the management of plastic products and materials as well as draft regulations on hazardous waste management.
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Figure 3 Quantity of plastic waste imports into Indonesia, 2017–2021 (thousand tonnes)

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Figure 4 Value of paper waste and ferrous waste imports into Indonesia, 2017–2021 (US$)
Source: UN Comtrade (accessed September 2023).

Figure 5 Quantity of paper waste and ferrous waste imports into Indonesia, 2017–2021 (million tonnes)

Indonesia ratified the Basel Convention in 1993 and ratified the Basel Ban Amendment in 2005. The main implementing laws of the Convention are the Environmental Protection and Management Act No. 32/2009 and Waste Management Law No. 18/2008. These two laws prohibit the importation of waste (household trash) as well as hazardous and toxic waste. However, the importation of waste is permissible if there is a specific law and regulation governing it.

Government Regulation No. 22/2021 on the Implementation of Environmental Protection and Management provides notification procedures for exporting hazardous and toxic waste from Indonesia. The importation into Indonesia of non-hazardous and non-toxic waste, which includes used goods that can be imported (barang impor dalam keadaan tidak baru), are specifically regulated under the trade policy, such as Government Regulation in Lieu of Law No. 2/2022 on Job Creation and other relevant regulations, such as Government Regulation No. 29/2021 on the Organization of Trade Sector, the Minister of Trade Regulation No. 20/2021 on Import Policy and Procedure and its Amendment (the Minister of Trade Regulation No. 25/2022).

Main legal framework

- Environmental Protection and Management Act No. 32/2009
- Waste Management Law No. 18/2008
- Law No. 6/2023 on the Stipulation of the Government Regulation in Lieu of Law No. 2/2022 on Job Creation

Related regulations and instruments

- Government Regulation No. 27/2020 on the Management of Specific Waste
- Government Regulation No. 22/2021 on the Implementation of Environmental Protection and Management
- Government Regulation No. 29/2021 on the Organization of Trade Sector
- Minister of Trade Regulation No. 20/2021 on Import Policy and Procedure
- Minister of Trade Regulation No. 25/2022 on the Amendment of Minister of Trade Regulation No. 20/2021 on Import Policy and Procedure
- Attorney General Guidance No. 8/2022 on Handling the Criminal Cases Pertaining to Environmental Protection and Management

Other relevant laws and regulations

- Law No. 8/2010 on the Countermeasure and Eradication of Money Laundering
- Law No. 31/1999 on the Corruption Eradication and its Amendment (Law No. 20/2001)

The importation into Indonesia of goods that can be imported (barang yang dapat di import dalam keadaan tidak baru) is subject to the bar of import (barang yang dapat di import dalam keadaan tidak baru).
homogenous and should not: (a) originate from landfill activities; (b) be considered as waste; (c) be mixed with other waste; (d) be contaminated with hazardous and toxic substances; and (e) be contaminated with hazardous and toxic waste. The Minister of Trade Regulation No. 25/2022 defines the 15 ports in Indonesia that are acceptable destinations for the imports.

84 The contaminant level for non-hazardous and non-toxic waste categorized as paper and plastic is set at 2%. But there is no further explanation on how to calculate the threshold. The tolerance and contaminant standard for oil, emulsion oil, lubricant oil and grease for non-hazardous and non-toxic waste categorized as metal (iron or steel scraps) are defined visually (through the naked eye) – essentially the contaminants should not be in large quantities and should not be dripping.

86 Yet, there is no formal explanation on this matter through rules and regulations. The Minister of Trade Regulation No. 25/2022 allows the importation of used lithium batteries (HS code 8507.60) and electrical and electronic waste and scraps (HS code 8549). Specifications of used lithium batteries cover: cannot be recharged or damaged, cannot work properly, are degraded or are waste and scrap. There is no further explanation regarding the specification of electrical and electronic waste and scraps.

Crimes, offences and penalties

The main offences and penalties relating to illegal waste trade in Indonesia are as follows.

<table>
<thead>
<tr>
<th>Offences</th>
<th>Penalties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Law No. 6/2023 on the Stipulation of the Government Regulation in Lieu of Law No. 2/2022 on Job Creations as a Law</td>
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<tr>
<td>Permissible business Conducting business and/or activities that cause loss or damage to health and safety of people and/or the environment without: –business license –approval from the central government or local government</td>
<td>Violators are subject to, upon conviction –imprisonment of 1–3 years and a fine of 1,000,000,000 rupiah to 3,000,000,000 rupiah.</td>
</tr>
<tr>
<td>Law No. 32/2009 on Environmental Protection and Management</td>
<td>Violators are subject to, upon conviction –imprisonment of 4–12 years and a fine of 4,000,000,000 rupiah to 12,000,000,000 rupiah –imprisonment of 5–15 years and a fine of 5,000,000,000 rupiah to 15,000,000,000 rupiah. If performed by, for or on behalf of a corporation, criminal charges and sanctions can be imposed on –the corporation –the person who commanded or ordered such action or criminal acts –person who led the criminal acts.</td>
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<table>
<thead>
<tr>
<th>Offences</th>
<th>Penalties</th>
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<tr>
<td>Prohibition of import ÅVLMFMXSMRSRFVMRKMRKMQTSXVXMRK [EWXIW TIGM] GEPP[VXKPEXMHMPRE[ERHKIVKPEXMSRX WMMFVLSXSMRSLSRFVFMKMRKMRKMQTSXVXMRKLÉEVH</td>
<td>Violators are subject to, upon conviction -imprisonment of 5–15 years and a fine of 5,000,000,000 rupiah to 15,000,000,000 rupiah. If performed by, for or on behalf of a corporation, criminal charges and sanctions can be imposed on –the corporation –the person who commanded or ordered such action or criminal acts –person who led the criminal acts.</td>
</tr>
</tbody>
</table>
Institutional framework

The Ministry of Environment and Forestry is the focal point for the Basel Convention. The Ministry is responsible for waste management and environmental protection in general. In terms of the waste trade, the Ministry provides recommendations for importers. The recommendation letter from the Ministry is a requirement for issuing an Import Permit from the Ministry of Trade. The relevant departments under the Ministry are the Directorate General of Waste and Hazardous Waste Management and the Directorate General of Law Enforcement.

A task force to monitor the importation of non-toxic and non-hazardous waste was established in 2020, based on Ministerial Joint Decree (Surat Keputusan Bersama/SKB) No. 482 of 2020, No. S.235/MENLHK/PSLB3/PLB.3/5/2020. The members of the task force are representatives from the Ministry of Trade, the Ministry of Environment and Forestry, the Ministry of Industry, the Ministry of Finance, the Ministry of Foreign Affairs and the National Police.

Other matters

The Joint Decree (SKB) mandates the Ministry of Industry, the Ministry of Forestry and Environment and the Ministry of Trade to formulate a road map on the management of non-hazardous and non-toxic waste as raw materials for industry. The road map should have been formed within six months after the stipulation of the Decree (May 2020). At present, it is still being discussed.

The current importation procedure under Minister of Trade No. 20/2021 and No. 25/2022 for commodities under the plastic waste category (polyvinyl chloride), used lithium batteries and used electrical and electronic items do not follow the Basel Convention's Prior Informed Consent procedure. The task force is thus discussing the importance of harmonizing the current importation policy with the Prior Informed Consent requirement, based on the Plastic Waste Amendments and the E-waste Amendments.

Law No. 18/2008 on Waste Management

Prohibition of import

- Prohibition on bringing in (importing) household waste and/or type of household waste.
- Prohibition on bringing in (importing) specific waste (waste containing hazardous or toxic waste).

Violators are subject to, upon conviction:

- imprisonment of 3–9 years and a fine of 100,000,000 rupiah to 3,000,000,000 rupiah.
- imprisonment of 4–12 years and a fine of 200,000,000 rupiah to 5,000,000,000 rupiah.
LAO PEOPLE’S DEMOCRATIC REPUBLIC

Context

Much of the Lao PDR’s waste is not disposed of properly because the country’s waste management is oftentimes limited only to urban areas. Even in cities, though, only 40%–60% of waste is collected. Waste is then commonly taken to landfills, which are typically poorly managed.

Reports on imports of waste show a steady increase in recent years. The import of plastic waste, for example, rose sharply, from 3,909 tonnes in 2017 to 7,881 tonnes in 2018 (coinciding with China’s waste import ban) and further up to 98,533 tonnes in 2019 (figure 6).

Govern-mental data reveal that the import of secondary raw plastic materials increased exponentially, from only 1,543 tonnes in 2017 to 18,361 tonnes in 2019. The usual countries or territories of origin include neighbours Thailand and Viet Nam, but also Hong Kong (China), European Union countries, Canada, Japan, Republic of Korea and the United States.

Plastics in the Lao PDR are mostly collected by informal workers, but there are no major recycling industries or facilities in the country.

Figure 6 Quantity of plastic waste imports into Lao PDR, 2017–2021 (thousand tonnes)

Source: UN Comtrade (accessed September 2023).

Laws and regulations

Main legal framework

Environmental Protection Law, 2012
Ministerial Instructions on Hazardous Waste Management, 2015

Related regulations and instruments

Ministerial Order on Suspend Establishment of New Industries That Use Plastic Waste as Raw Material, 2019
Ministerial Instruction on Plastic Waste Processing Factory, 2020
Decision on Industrial and Handicraft Waste Management, 2012
Decision on Pollution Control, 2021

Other relevant laws and regulations

Anti-corruption Law
Law on Anti-money Laundering and Counter-financing of Terrorism

Regulatory framework

Overview of the national regulatory framework
The Lao PDR acceded to the Basel Convention in 2010. Since then, legislation has addressed the waste trade within the context of proper waste management. The Environmental Protection Law, 2012, along with its Ministerial Instructions on Hazardous Waste Management, 2015, is the main law that deals with the management and disposal of toxic and hazardous waste, defines procedures and classifies waste based on the Basel Convention classifications. Related regulations on specific waste include the Decision on Industrial and Handicraft Waste Management, 2012. On plastics, the Ministerial Order on Suspend Establishment of New Industries That Use Plastic Waste as Raw Material (No. 0930/MoIC.DIH, 2019) and the Ministerial Instruction on Plastic Waste Processing Factory (No. 0682/MOIC, 2020) prescribe the rules for plastic waste management, in line with the Basel Ban Amendment and including suspension of new facilities.

There is no comprehensive regulation nor technical guidance on hazardous waste management, nor specifically on e-waste control.

Main provisions in the law
The Environmental Protection Law categorizes waste into two types: general waste and toxic and hazardous waste. Article 39 of the Environmental Protection Law (Amended) prohibits hazardous waste imports, excluding cases that have specific permission under the law. The Ministerial Instructions on Hazardous Waste Management, 2015 details the classification of hazardous waste based on the Basel Convention. Instruction on the Management of Hazardous Waste (No. 0744/MONRE, 2015) by the Ministry of Natural Resources and Environment prescribes guidance on the transport, storage and handling of hazardous waste. For plastics, the Ministerial Instruction on Plastic Waste Processing Factory (No. 0682/MOIC, 2020) requires that the contents related to plastic waste permitted for import must be in the form of sheet, plastic bag or bar; must be clean; and at least 80% is recyclable as a product (section 5.2). Importation will not be permitted if the plastic waste exhibits the following characteristics: (a) contains or is contaminated with disease; (b) unclean and has odour; (c) contains toxic or hazardous chemicals; and (d) is non-recyclable (section 5.3). The Lao PDR does not have technical guidance or rules on e-waste, but the Decision on Pollution Control (No.1687/MONRE, 2021) prohibits imports of all types of e-waste, along with chemically contaminated waste, radioactive waste and used batteries (article 8).
### Legal Frameworks to Address Waste Trafficking in the ASEAN Region – Review and Gap Analysis

#### Offences and Penalties

<table>
<thead>
<tr>
<th>Offences</th>
<th>Environmental Protection Law</th>
<th>Penalties</th>
</tr>
</thead>
</table>
| **General prohibitions**                                      | - Prohibition on importing, exporting, transiting, selling, storing, using, reproducing and demolishing of toxic and hazardous substances without permissions.  
- Prohibition on operators to operate projects, activities and services inconsistent with permission and certification. | - Based on the seriousness of each case and in accordance with regulations, violators are subject to, upon conviction:  
  - re-education and warning (for first-time offenders with an offence not harmful or serious)  
  - disciplinary sanctions  
  - fine or civil remedy (fine rates depend on specific regulations).  
  - Violators are subject to criminal penalties (punishment based on the Penal Law, seriousness of the case and inclusion of remedies to damages caused).  
  - Additional measures may include:  
    - suspension  
    - withdrawal of license  
    - termination of operation. |
| **Toxic and hazardous waste management**                      | - Prohibition of importation of toxic and hazardous wastes that are contaminated with chemicals and radiation.  
- Obligations of operators involved with toxic chemicals and wastes to install compliance equipment.  
- Responsibility of consumer in controlling toxic chemicals and in eliminating wastes for household consumption. |                                                                                           |
| **Penal Law 2017**                                            | - Importing items that fail to satisfy the environmental protection criteria:  
  - Prohibition on importing or permitting the import of technologies, machinery, equipment, toxic chemicals, radioactive substances or discarded materials that fail to satisfy the environmental protection criteria.  
  - Violators are subject to, upon conviction:  
    - imprisonment for a term ranging from 6 months to 3 years or re-education without deprivation of liberty and a fine ranging from 5,000,000 kip to 50,000,000 kip. |
| **Breaching chemical and dangerous waste control measures**   | - Breaching regulations relating to dangerous and chemical waste control measures in the production process in business or in services or breaching the control measures on storage, disposal and destruction.  
  - Violators are subject to, upon conviction:  
    - a fine ranging from 50,000,000 kip to 100,000,000 kip.  
  - Where the offence is committed on a regular basis or causes serious damage, the offender shall be subject to:  
    - imprisonment for a term ranging from 3 years to 5 years and a fine ranging from 100,000,000 kip to 500,000,000 kip. |
| **Failing to comply with a restoration order**                | - Non-compliance with a restoration order as issued by a court.  
  - Violators are subject to, upon conviction:  
    - imprisonment for a term ranging from 1 year to 5 years and a fine ranging from 6,000,000 kip to 100,000,000 kip. |
Institutional framework

The responsible authority dealing with the waste trade in the Lao PDR is the Ministry of Natural Resources and Environment, which also has jurisdiction over the planning and management of hazardous waste and is the focal point for the Basel Convention. The Ministry of Industry and Commerce supports in matters relating to the trade of imports and exports and the waste trade industry regulation. These agencies are also responsible for certifying recycling facilities; technology and equipment, which was the mandate of the recently dissolved Ministry of Science and Technology. Insofar as they might be concerned for waste trade impacts and activities, the Ministry of Health, the Ministry of Public Works and Transportation, the Ministry of Agriculture and Forestry and the Ministry of Energy and Mines may also be involved.

Other matters

The Lao PDR intends to develop policies that promote plastic waste recycling, which is reflected in the Ministry of Natural Resources and Environment’s Ten-Year Strategy 2016–2025. The strategy also details its aim for hazardous waste reduction, aside from the promotion of reducing, reusing and recycling (3Rs) in waste management. The Pollution Control Department under the Ministry is tasked to develop a plan of action to implement the strategies. Other initiatives that may be relevant to the transboundary waste movement include the development of the National Policy of Hazardous Waste and Plastic Waste Management and specific regulations and technical guidelines for hazardous waste management for the enhancement of Basel Convention implementation.
Context
Malaysia imports wastes from other countries due to its low domestic recycling rates. Many recycling facilities were established subsequent to China’s waste import ban, and there has been a rising number of companies and industries obtaining licenses for scheduled waste recovery. The licenses granted increased from 52 in 2003 to 276 in 2018.

Plastic waste, in particular, is a major issue in Malaysia. Following China’s ban in 2018, Malaysia emerged as the world’s top importer of plastic waste between January 2018 and November 2018. According to UN Comtrade data, Malaysia imported more than 2.6 million tonnes of plastic scrap between 2017 and 2021, with more than 872,000 tonnes of the total plastic waste imported in 2018 (figure 7).

Other types of wastes, such as e-waste and toxic waste, have also found their way to Malaysia through illicit routes. Malaysia has experienced an increasing trend in terms of the value of paper waste imports, rising from $59,330,000 in 2017 to $470,220,000 in 2021 (or almost a sevenfold increase in quantity, from 263,124 tonnes in 2017 to 1.8 million tonnes in 2021) (figure 8).

Also in 2021, Malaysia became the second-largest recipient of metal waste in Southeast Asia, driven by the substantial and steady growth over the years, importing a total of 9.89 million tonnes between 2017 and 2021 (figure 9). Malaysia stands out as the primary destination in Southeast Asia for both aluminium and copper waste imports.
Malaysia became a party to the Basel Convention in 1993 and ratified the Basel Amendment in 2001. The Basel Convention is implemented through the Environmental Quality Act, 1974 and the Environmental Quality (Scheduled Waste) Regulation, 2005. The imports and exports of waste are governed primarily by the Customs (Prohibition of Imports) Order, 2017 and Customs (Prohibition of Exports) Order, 2017, which are subsidiary laws enacted pursuant to the Customs Act, 1967. Port authorities gazetted under the Port Authorities Act, 1963 have enforcement authority over goods that are placed at the port for import or export purposes. To that extent, the port authorities also have jurisdiction over trafficked wastes if they are discovered at the port.

The legal framework relating to waste management exists at different levels of government. The Ninth Schedule to the Malaysian Federal Constitution sets out the list of subject matters falling within the purview of the federal Government (the Federal List), the state governments (State List) or falling under both (Concurrent List). Matters pertaining to waste management fall under “public health, sanitation and the prevention of diseases, drainage and irrigation”. Hence, legislation dealing with waste management is enacted at both the federal and state levels. Management of waste domestically is primarily carried out through local authorities under Local Government Act, 1976. The primary federal law on waste management is the Solid Waste and Public Cleansing Management Act, 2007. It is in force in the states of Perlis, Kedah, Pahang, Negeri Sembilan, Malacca and Johore and in the federal territories of Kuala Lumpur, Putrajaya and Labuan. The territories of Sabah and Sarawak and the states of Selangor, Penang, Perak, Kelantan and Terengganu have opted not to enforce the law.

Laws pertaining to criminal activities associated with the illicit waste trade include the Penal Code, Malaysia Anti-Corruption Commission Act and the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act, 2001.

Main provisions in the law
Section 34B of the Environmental Quality Act, 1974 prohibits any person, without prior approval of the Director General of Environmental Quality, from (a) placing, depositing or disposing of or causing or permitting the depositing or disposing of any scheduled waste on land or into Malaysian waters; (b) receiving or sending or causing or permitting the receipt or sending of any scheduled waste in or out of Malaysia; or (c)...

Other relevant laws and regulations
Port Authorities Act, 1963
Malaysia Anti-Corruption Commission Act, 2009
Penal Code, 1976
Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act, 2001

### Laws and regulations

<table>
<thead>
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<th>Main legal framework</th>
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<tbody>
<tr>
<td>Environmental Quality Act, 1974</td>
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<td>Customs Act, 1967</td>
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<td>Environmental Quality (Scheduled Waste) Regulations, 2005</td>
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<td>Customs (Prohibition of Export) Order, 2023</td>
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<td>Customs (Prohibition of Import) Order, 2023</td>
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**Related regulations and instruments**

### Related regulations and instruments

<table>
<thead>
<tr>
<th>Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Environmental Quality Act, 1974</td>
</tr>
<tr>
<td>Customs Act, 1967</td>
</tr>
<tr>
<td>Environmental Quality (Scheduled Waste) Regulations, 2005</td>
</tr>
<tr>
<td>Customs (Prohibition of Export) Order, 2023</td>
</tr>
<tr>
<td>Customs (Prohibition of Import) Order, 2023</td>
</tr>
</tbody>
</table>

**Other relevant laws and regulations**

<table>
<thead>
<tr>
<th>Laws and regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Port Authorities Act, 1963</td>
</tr>
<tr>
<td>Malaysia Anti-Corruption Commission Act, 2009</td>
</tr>
<tr>
<td>Penal Code, 1976</td>
</tr>
<tr>
<td>Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act, 2001</td>
</tr>
</tbody>
</table>

**Regulatory framework**

**Overview of the national regulatory framework**

...
transiting, or causing or permitting the transit of scheduled waste. The list of "scheduled waste" is set out in the First Schedule to the Environmental Quality (Scheduled Waste) Regulations, 2005.

The Customs (Prohibition of Import) Order, 2023 cites four categories of goods that are subject to either absolute or conditional prohibition from importation into Malaysia. The importation of mixed waste and scrap of miscellaneous paper or paperboard are absolutely prohibited.

The importation of plastic waste is prohibited except under an import license issued by the Department of National Solid Waste Management.

Solid waste may not be imported into the country without approval from the Director General of the Department of National Solid Waste Management for import to Peninsular Malaysia and Labuan or the Director of the Environment Protection for import to Sabah or the Controller of Natural Resources and Environmental Board for import to Sarawak.

Toxic and hazardous waste may only be imported if the importer obtains a letter of approval issued by the Director General of Environmental Quality. Waste and scrap paper, paperboard and scrap metal may only be imported into Malaysia if the importer obtains a Certificate of Approval by or on behalf of SIRIM Berhad (an agency under the Ministry of Investment, Trade and Industry), in accordance with its guidelines.

As for exporting of wastes, the Customs (Prohibition of Exports) Order, 2023 prescribes that metal waste and scrap of iron, steel, copper, nickel, aluminium, lead and zinc and waste and scrap paper or paperboard may only be exported with an export license issued by the Ministry of Investment, Trade and Industry.

Wood waste and scrap may only be exported with an export license issued by (a) the Malaysian Timber Industry Board, for exporting from Peninsular Malaysia and Labuan; (b) the Forestry Department of Sabah, for exporting from Sabah; (c) the Sarawak Timber Industry Development Corporation, for exporting from Sarawak.

The exporting of toxic and hazardous waste requires approval from the Director General of Environmental Quality.

Crimes, offences and penalties

The main offences and penalties relating to illegal waste trade in Malaysia are as follows.

<table>
<thead>
<tr>
<th>Offences</th>
<th>Penalties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Environmental Quality Act, 1974</td>
<td></td>
</tr>
<tr>
<td>Unlawful disposal and transmission of scheduled wastes by way of placing, depositing or disposing of, or causing or permitting to place, depositing or disposing of, except at prescribed premises only, any scheduled wastes on land or into Malaysian waters or receiving or sending or causing or permitting to be received or sent any scheduled wastes in or out of Malaysia or transiting or causing or permitting the transit of scheduled wastes without any prior written approval of the Director General.</td>
<td>Violators are subject to, upon conviction—fine not exceeding 500,000 ringgit or imprisonment for a period not exceeding 5 years or both.</td>
</tr>
</tbody>
</table>
STOCKTAKING OF REGULATORY FRAMEWORKS

Customs Act, 1967

Making incorrect declarations and on falsifying documents in the form of

– making or signing any declaration, certificate or document required under the legislation that is untrue or incorrect or
– counterfeiting or falsifying any document that is required under the legislation or used in any business relating to customs or
– fraudulently altering any document or counterfeiting the seal, signature, initials or other mark of or used by any officer of customs for the verification of any such document or for the security of any goods or any other purpose in the conduct of business relating to customs or
– failing to make declaration of dutiable goods imported or exported or
– failing to produce to a proper officer of Customs any document required to be produced or
– failing to make a declaration in the prescribed form within the stipulated period of goods imported or exported.

Violators are subject to, upon conviction—fine not exceeding 500,000 ringgit or to imprisonment for a term not exceeding seven years or both.

Refusing to answer questions or giving false information whereby

– refusing to give such information or furnishing as true information that the person in question knows or has reason to believe is false.

Violators are subject to, upon conviction—imprisonment for a term not exceeding 5 years or to a fine not exceeding 100,000 ringgit or both.
Smuggling offences, evasion of duty, fraud, etc. in the form of:

- importing or exporting any uncustomed goods or any prohibited goods or
- shipping, unshipping, delivering or assisting or is concerned in the shipping, unshipping or delivery of any uncustomed goods or any prohibited goods or
- knowingly harbouring, keeping, concealing or is in possession of or permitting, suffering, causing or procuring to be harboured, kept or concealed any uncustomed or prohibited goods or
- knowingly concerned in conveying, removing, depositing or dealing with any dutiable, uncustomed or prohibited goods or
- is in any way knowingly concerned in any fraudulent evasion or attempt at fraudulent evasion of any customs duty or in evasion or attempt at evasion of any prohibition of import or export.

In the case of goods included in a class of goods subject to customs duty under an order issued by the Minister, violators are subject to, upon conviction:
- in the first offence, a fine of not less than 10 times the amount of the customs duty or 50,000 ringgit (whichever is the greater amount) and customs duty of not more than 20 times the amount payable or 500,000 ringgit (whichever is the greater amount) or imprisonment for a term not exceeding 5 years or both.
- in the second offence or any subsequent offence, a fine of not less than 20 times the amount of the customs duty or 100,000 ringgit (whichever is the greater amount) and customs duty of not more than 40 times the value of the goods or 1,000,000 ringgit (whichever is the greater amount) or imprisonment for a term not exceeding 7 years or both.
- When the amount of the customs duty cannot be ascertained, the penalty may amount to a fine not exceeding 500,000 ringgit or imprisonment for a term not exceeding 5 years or both.

In the case of uncustomed goods, such goods not being dutiable or prohibited, a fine not exceeding twice the value of the goods or 10,000 ringgit (whichever is the greater amount) and where the value cannot be ascertained the penalty may amount to a fine not exceeding 10,000 ringgit.

In the case of prohibited goods (which includes certain wastes that are prohibited from importation), violators are subject to, upon conviction:
- in the first offence, a fine of not less than 10 times the value of the goods or 50,000 ringgit (whichever is the greater amount) and of not more than 20 times the value of the goods or 500,000 ringgit, whichever is the greater amount or imprisonment for a term not exceeding 5 years or both.
- in the second offence or any subsequent offence, a fine of not less than 20 times the value of the goods or 100,000 ringgit (whichever is the greater amount) and of not more than 40 times the value of the goods or 1,000,000 ringgit (whichever is the greater amount) or imprisonment for a term not exceeding 7 years or both.
- Where the value of the goods cannot be ascertained, the penalty may amount to a fine not exceeding 500,000 ringgit or imprisonment for a term not exceeding 5 years or both.
STOCKTAKING OF REGULATORY FRAMEWORKS

Every omission or neglect to comply with and every act done or attempted to be done contrary to the provisions of this Act or any breach of the conditions and restrictions subject to or upon which any licence or permit is issued or any exemption is granted under this Act, shall be an offence against this Act.

Any such offence for which no penalty is expressly provided the violator is liable to a fine not exceeding 50,000 ringgit or imprisonment for a term not exceeding 5 years or both.

Port Authorities Act, 1963

Giving false statement

Any person who makes any statement that is false in any material particular in any return, claim, application, declaration or other document that is requested or authorized to be made by or under this Act or any by-laws made thereunder.

Violators are subject to, upon conviction—a fine not exceeding 5,000 ringgit.

Institutional framework

The responsible authority designated to oversee the implementation of the Basel Convention is the Department of Environment. The two primary enforcing authorities for the illegal waste trade in Malaysia are the Royal Malaysian Customs Department and the Department of Environment. Different bodies are empowered to grant approvals for the importation of different types of waste into Malaysia: The Department of Environment has the power to issue permits for the importation of scheduled wastes. The power to grant approvals for the importation of plastic waste is delegated to the Department of National Solid Waste Management under the Ministry of Housing and Local Government of Malaysia. SIRIM Berhad issues certificates of approval for the importation of waste and scrap paper, paperboard and scrap metal.

The export license for metal waste and scrap of iron, steel, copper, nickel, aluminium, lead, zinc and waste and scrap paper or paperboard is under the purview of the Ministry of Investment, Trade and Industry. The export license for wood waste and scrap is under the purview of the Malaysian Timber Industry Board, the Forestry Department of Sabah and the Sarawak Timber Industry Development Corporation.

A Joint Ministerial Committee was established at the end of 2018 comprising the Ministry of Energy, Technology, Science, Climate Change and Environment, the Ministry of Housing and Local Government, the Ministry of Water, Land and Natural Resources and the Ministry of Investment, Trade and Industry to deliberate on plans to resolve issues related to plastic waste importation.

Other matters

In October 2022, the Environmental Quality (Amendment) Bill was tabled for its first reading at the Lower House of Parliament. The proposed legislation calls for any individual found guilty of committing an offence under the Environmental Quality Act, 1974 to be jailed for a term not exceeding five years and fined not less than 100,000 ringgit and not exceeding 1 million ringgit.

Environmental sustainability features prominently in the Twelfth Malaysia Plan (2020–2025), with the Government...
committing to managing waste holistically and sustainably by enforcing waste separation at source and intensifying the reduce, reuse and recycle (3Rs) initiative. Facilities for waste separation and recycling will be enhanced, and efforts will be strengthened to reduce single-use plastics, especially at eateries and public events. These efforts are in line with the National Cleanliness Policy, 2019 to reduce waste pollution and promote the circular economy.
Waste management is a growing problem in Myanmar. The average waste generation per capita is quickly rising while the country makes the transition to expand its consumer economy and urbanization accelerates. Combined with a lack of proper management infrastructure, the rise in illegal waste trade in Myanmar presents significant economic, environmental and health challenges.

Myanmar has been markedly affected by China’s ban on the importing of waste because the country exported large amounts of recyclable plastic waste to China for processing and repurposing.

Following the ban, Myanmar reported a significant increase in plastic waste imports, from 1,855 tonnes in 2017 to 12,082 tonnes in 2021 (figure 10), of which Thailand was the main exporter, amounting to 14,159 tonnes over the course of five years.

**Figure 10 Quantity of plastic waste imports into Myanmar, 2017–2021 (thousand tonnes)**

**Laws and regulations**

**Main legal framework**

- Environmental Conservation Law, 2012
- Environmental Conservation Rules, 2014
- Environmental Impact Assessment Procedures, 2015
- National Environmental Quality (Emission) Guidelines, 2015
- Myanmar National Waste Management Strategy and Master Plan, 2018–2030
- Export and Import Law, 2012
- Notification 22/2019 Ministry of Commerce (Import Negative List)
- Notification 36/2020 Ministry of Commerce (Imported Used Machines)

**Related regulations and instruments**

- Anti-corruption Law, 2013
- Anti-money Laundering Law, 2014

**Other relevant laws and regulations**

- Notification 36/2020 Ministry of Commerce (Imported Used Machines)
The Environmental Conservation Law, 2012 governs environmental matters, including the waste management system of Myanmar. All hazardous wastes defined by the Basel Convention are not allowed to be imported. Hazardous waste generators are required to be registered under the Myanmar Investment Law, the Special Economic Zone Law and the Environmental Conservation Law and Rules. The Myanmar Foreign Investment Law, 2012 has provisions to restrict or prohibit investment activities that affect public health, the environment and ecosystems and that produce toxic waste or that engage with toxic chemicals. Duties of investors cover conducting their business in such a way as to avoid environmental damage and air and water pollution, in accordance with the existing laws. Myanmar ratified the Basel Convention in 2015. The Procedure on Transboundary Movement of Hazardous Wastes and Other Wastes (Final Draft) has been revised according to the Basel Convention Plastic Waste Amendments, although it has not been finalized.

Main provisions in the law

The Myanmar Environmental Conservation Law remains the main legislation governing all types of waste, including hazardous waste, treatment of solid waste, disposal and standards. It contains general prohibitions on the importing, exporting, producing, storing, carrying or trading of prohibited material, which includes hazardous waste. The main development on hazardous waste, however, is the expected adoption of the Procedure on Transboundary Movement of Hazardous Wastes and Other Wastes, which is now in its final draft. The objective of the procedure is to control the transboundary movement of hazardous waste and other wastes and implement the obligations under the Basel Convention. The procedure will articulate the mandates of the responsible authorities on the transboundary movement of waste, the duties of importers and exporters, transshipments, prohibitions and inspections and monitoring.

For plastics, Myanmar has import regulations through Notification 22/2019, issued by the Ministry of Commerce (Import Negative List), whereby importer and exporter licensees must secure a government recommendation, pursuant to the Import Negative List of the Department of Trade or the Ministry of Commerce for the importation and exportation of recyclable wastes and scraps. The Environmental Conservation Department, which is under the Ministry of Natural Resources and Environmental Conservation, provides the recommendation for the Ministry of Commerce's final approval. Under the rules, recyclable plastic scrap may be imported if it has the following characteristics: (a) clean, homogenous and ready to use as raw material without generating residual materials in the production process; (b) free from contamination and other types of wastes; and (c) recycling facility or factory must have approval for environmental management plan or initial environmental examination or environmental impact assessment. Prior approved cases have included polyethylene terephthalate (PET) scrap and film and plastic pellets. E-waste in Myanmar lacks comprehensive technical guidance. However, the Ministry of Commerce Notification 36/2020 on Imported Used Machines is instructive for the import of used machines for direct use in production processes and not for redistribution.
Crimes, offences and penalties

The main offences and penalties relating to illegal waste trade in Myanmar are as follows.

<table>
<thead>
<tr>
<th>Offences</th>
<th>Penalties</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>General prohibitions</strong></td>
<td></td>
</tr>
<tr>
<td>– Prohibition of business operations without required prior permission.</td>
<td>– Imprisonment for a term not exceeding 3 years or a fine from a minimum of 100,000 kyat to a maximum of 1 million kyat or both.</td>
</tr>
<tr>
<td>– Violation of prohibitions under rules, notifications, orders and directives.</td>
<td>– Imprisonment for a term not exceeding 1 year or a fine or both – Damage compensation. If such compensation is not paid, recovery must be in accord with the revenue laws.</td>
</tr>
<tr>
<td>– Prohibition of import, export, production, storage, carrying or trade of prohibited material without permission.</td>
<td>– Imprisonment for a term from a minimum of 3 years to a maximum of 5 years or a fine from a minimum of 100,000 kyat to a maximum of 2 million kyat or both – Order for expenditure of treatment and disposal.</td>
</tr>
</tbody>
</table>

**Myanmar Investment Law**

| Prohibited investment | |
| – Investment activities that may bring or cause hazardous or poisonous wastes into Myanmar. | |
| False information or concealment | – Describing false information or concealment of information for proposals, accounts or contracts. | – Censure – Temporary suspension of business – Temporary suspension of tax exemption and relief – Revocation of the permit or endorsement – Blacklisting the business. |

For violation of any provision including prohibited investments, prosecution under relevant laws.
Institutional framework

The responsible authority for waste management and trade is the Ministry of Natural Resources and Environmental Conservation, in accordance with its pollution policy and regulation mandate. The Environmental Conservation Department is the focal enforcement agency therein. The Environmental Conservation Law provides the Ministry with a statutory basis to regulate relevant issues that may arise, including those concerning all types of waste management. The Ministry has the jurisdiction on the implementation of the Basel Convention in Myanmar. The Ministry of Industry supports the coordination with the private sector for involved industries to prevent pollution and industrial waste, while the Ministry of Health may be involved in health-related movements of waste.

Other matters

The Procedure on Transboundary Movement of Hazardous Wastes and Other Wastes (Final Draft) is expected to be the seminal technical document for the rules on the transboundary movement of hazardous waste, with updated provisions to reflect the Plastic Waste Amendments. Upcoming regulations and policy instruments include the Hazardous Waste Management Rules and the Myanmar National Hazardous Waste Management Master Plan. A Ministry of Commerce Notification of Import Prohibited List is also being developed. The National Waste Management Strategy and Master Plan for Myanmar, 2018–2030, which was launched in January 2020, provides holistic guidance for waste management, including the waste trade.
The Philippines generates increasingly large amounts of solid waste, at an approximate rate of 0.4 kilograms per person. Urban areas contribute considerably greater waste volumes. The country has long been a player in the waste trade. After China’s waste import ban was imposed, plastic waste inflow into the Philippines increased 2.76 times, from 4,266 tonnes in 2017 to 11,761 tonnes in 2018 (figure 11). Most of the waste imports originated in the United States, Japan, Australia and other Asian neighbours. With highly publicized cases of repatriation, the Philippines has successfully seized illegal waste shipments and re-exported them to origin countries. For instance, the Philippines returned 69 containers of illegally imported plastic waste in 2019 to Canada after robust pressure by activists and government support.

### Regulatory framework

**Overview of the national regulatory framework**

**Laws and regulations**

**Main legal framework**

- Toxic Substances and Hazardous and Nuclear Wastes Control Act, 1990 (RA 6969)
- Customs Modernization and Tariffs Act, 2016 (RA 10863)
- Ecological Solid Waste Management Act, 2000 (RA 9003)

**Related regulations and instruments**

- Department of Environmental and Natural Resources Administrative Order No. 2013-22 (Revised Procedures and Standards for the Management of Hazardous Wastes)
- Department of Environmental and Natural Resources Administrative Order 04-36 (Procedural Manual for Hazardous Waste Management)
- Department of Environmental and Natural Resources Administrative Order 92-29 (Implementing Rules and Regulations of RA 6969)
- Customs Memorandum Order 48-2019
- Department of Environmental and Natural Resources Memorandum Circular 2017-11

**Other relevant laws and regulations**

- Anti-graft and Corrupt Practices Act (RA 3019)
- Anti-money Laundering Act (RA 9160)
The Philippines ratified the Basel Convention in 1993, leading to the Toxic Substances and Hazardous and Nuclear Wastes Control Act as the implementing legislation. The law declares the state policy "to regulate, restrict or prohibit the importation of chemical substances and mixtures that present unreasonable risk and/or injury to health or the environment". The main legislation governing waste management is the Ecological Solid Waste Management Act, which promotes the state policy towards a systematic, comprehensive and ecological solid waste management programme. The Customs Modernization and Tariffs Act governs customs rules and procedure for faster trade and service delivery across the supply chain.

Other regulations include issuances by the Department of Environmental and Natural Resources, such as Administrative Order No. 2013-22, or the Revised Procedures and Standards for the Management of Hazardous Wastes, which provides for the classification of hazardous wastes and registration of hazardous waste players and facilities, the importation of recyclable materials and the exporting of hazardous wastes. The Department of Environmental and Natural Resources' Memorandum Circular 2017-11 details the requirements for the importation of recyclable materials containing hazardous substances, while Customs Memorandum Order 48-2019 prescribes guidelines against the illegal waste importation in customs processes.

Main provisions in the law

The main laws relevant to the waste trade in the Philippines include the Toxic Substances and Hazardous and Nuclear Wastes Control Act, specifically for hazardous waste. Department of Environmental and Natural Resources Administrative Order 92-29 or the law's implementing rules and regulations provides further details for administrative implementation by the Department, along with the DAO 04-36 or the Procedural Manual for Hazardous Waste Management and the updates in DAO 2013-22 or the Revised Procedures and Standards for the Management of Hazardous Wastes. The latter regulation includes a list of recyclable materials containing hazardous substances that may be imported, which includes electronic assemblies and scraps, scrap metals, solid plastic materials, used oil and fly ash. Waste trade primarily for recycling is permitted. The guidelines detail the prohibitions for importation of certain goods, such as heterogeneous and unsorted plastic materials and materials with traces of toxic chemicals. The Ecological Solid Waste Management Act prohibits the "importation of toxic wastes misrepresented as recyclable or with recyclable content". And the general Customs Modernization and Tariffs Act prohibits certain goods under Customs jurisdictions. Applicable to plastics waste imports, the Revised Procedures and Standards for the Management of Hazardous Wastes provides that importers must register with the Environmental Management Bureau for compliance documents and that an Importation Clearance should be secured at least 30 days prior to the arrival of shipment. For e-waste, there is no distinction between waste electrical and electronic equipment or used (second-hand) electrical and electronic equipment as long as it is imported for reuse, recycling or recovery.
### Offences and Penalties

<table>
<thead>
<tr>
<th>Offences</th>
<th>Toxic Substances and Hazardous Nuclear Wastes Control Act</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prohibited acts entail</td>
<td></td>
</tr>
<tr>
<td>– knowingly using chemical substance or mixture that is imported, manufactured, processed or distributed in violation of law</td>
<td></td>
</tr>
<tr>
<td>– failure or refusal to submit required reports or information or access to records</td>
<td></td>
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<tr>
<td>– failure to permit inspection of establishment where chemicals are held</td>
<td></td>
</tr>
<tr>
<td>– failure or refusal to comply with the pre-manufacture and pre-importation requirements</td>
<td></td>
</tr>
<tr>
<td>– causing, aiding or facilitating importation or bringing into Philippine territory, including transit, of hazardous and nuclear waste.</td>
<td></td>
</tr>
<tr>
<td>Violators are subject to, upon conviction</td>
<td></td>
</tr>
<tr>
<td>– for first 4 offences, imprisonment of 6 months to 6 years and a fine from 600 pesos to 4,000 pesos</td>
<td></td>
</tr>
<tr>
<td>– for last offence, imprisonment of 12–20 years.</td>
<td></td>
</tr>
<tr>
<td>If violator is a foreigner, deportation and barring from subsequent entry into the country.</td>
<td></td>
</tr>
<tr>
<td>If committed by a juridical person, the partner, president, director or manager consenting or knowingly tolerating such is criminally liable as a co-principal</td>
<td></td>
</tr>
<tr>
<td>– for corporations or association, penalty imposed upon managing partner, president or chief executive in addition to 500,000 pesos exemplary damage</td>
<td></td>
</tr>
<tr>
<td>– if foreign firm, cancellation of license and director and all officers barred from subsequent entry into the country.</td>
<td></td>
</tr>
<tr>
<td>If violator is a government official, automatic dismissal from office and permanent disqualification for public position, in addition to above penalties.</td>
<td></td>
</tr>
<tr>
<td>Confiscation and forfeiture of proceeds, instruments, tools, vehicles, sea vessels and aircraft.</td>
<td></td>
</tr>
<tr>
<td>Administrative penalties include</td>
<td></td>
</tr>
<tr>
<td>– a fine from 10,000 pesos to 50,000 pesos.</td>
<td></td>
</tr>
<tr>
<td>Person or firm responsible under obligation to transport or send back prohibited wastes.</td>
<td></td>
</tr>
</tbody>
</table>
LEGAL FRAMEWORKS TO ADDRESS WASTE TRAFFICKING IN THE ASEAN REGION – REVIEW AND GAP ANALYSIS

CUSTOMS MODERNIZATION AND TARIFFS ACT

Prohibited importation and exportation

- Prohibition of importation and exportation of goods prohibited by law.
- Prohibited importation and exportation - imprisonment of 30 days to 1 year or a fine of 100,000 pesos to 300,000 pesos or both.
- If violator is a foreigner, deportation.
- If the violator is a public officer or employee, a 10-year disqualification from holding public office, exercising right to vote, or participation in any public election.

Restricted importation and exportation

- Prohibition of importation and exportation of restricted goods except when authorized by law or regulation.
- Other offences - forfeiture of the vessel, fine without prejudice to penalties under special laws.

OTHER OFFENCES

- Owner or operator of a vessel, aircraft or train transporting hazardous waste, radioactive waste and other toxic substances.
- For other offences - forfeiture of the vessel, fine without prejudice to penalties under special laws.

ECOLOGICAL SOLID WASTE MANAGEMENT ACT

Prohibited acts

- Importation of toxic wastes misrepresented as "recyclable" or "with recyclable content".
- Criminal penalties include a fine from 10,000 pesos to 200,000 pesos or imprisonment from 30 days to 3 years or both.

OTHER MATTERS

- The Revised Procedural Manual for Hazardous Waste Management is undergoing amendments, which may possibly include more prohibitions and reclassification for importation of wastes and definition of terms, including illegal traffic, transboundary movement and environmentally sound management of hazardous wastes, among others. Proposed policies under way also include Guidelines on the Environmentally Sound Management of Waste Electrical and Electronic Equipment.
SINGAPORE

Context
As the wealthiest State in Southeast Asia, Singapore is characterized by its heavy consumer economy and prevalent use of plastic packaging that has led to a surge in plastic waste. Singapore is known to incinerate its waste, and its waste-to-energy initiatives save on landfill space. Singapore’s domestic recycling rate is continually dropping, from 22% in 2018 to 13% in 2021.

Most of Singapore’s recycling is exported abroad for processing, traditionally to Asian or Pacific countries, such as China, India, Indonesia, Malaysia, Republic of Korea and Thailand. Government decisions by countries like China or Indonesia to cut their imported waste have led to an increasing amount of recyclable trash being incinerated in Singapore.

Following China’s waste import ban, plastic waste imports to Singapore slightly increased in 2018 (9,059 tonnes) before plummeting to 1,277 tonnes in 2021 (figure 12).

Figure 12 Quantity of plastic waste imports into Singapore, 2017–2021 (thousand tonnes)
Source: UN Comtrade (accessed September 2023).

Regulatory framework
Overview of the national regulatory framework
Laws and regulations
Main legal framework
Hazardous Waste (Control of Export, Import and Transit) Act, 1998 and its Regulations
Related regulations and instruments
List of Controlled Hazardous Substances (hazardous substances listed in the second schedule of the Environmental Protection and Management Act), 2023
Environmental Protection and Management (Hazardous Substances) Regulations, 2023
Other relevant laws and regulations
Prevention of Corruption Act, 1960
Corruption, Drug Trafficking and other Serious Crimes (Confiscation of Benefits) Act, 1992
Singapore acceded to the Basel Convention in 1996 and enacted the Hazardous Waste (Control of Export, Import and Transit) Act, 1998 along with its Regulations to implement obligations under the Convention. A List of Controlled Hazardous Substances, included in the second schedule of the Environmental Protection and Management Act, regulates specific hazardous substances. Singapore has published Technical Guidelines for the Import and Export of Plastic Waste, primarily to guide local waste industry players, such as traders and recyclers, on the proper processes for the transboundary movement of plastic waste under the law. Waste traders in Singapore must go through the TradeNet System, which is an online platform to regulate the importing and exporting of goods and which is operated by Singapore Customs with other agencies.

Main provisions in the law

According to the Hazardous Waste (Control of Export, Import and Transit) Act, any person who intends to export, import or transit hazardous wastes must obtain a permit from the Chemical Control and Management Department to start the Prior Informed Consent procedure pursuant to the Basel Convention.

Singapore's definitions of "hazardous waste" and "other waste" and procedures for transboundary movement are in line with the Basel Convention. The law provides for enforcement mechanisms for the requirements of transboundary movements of wastes. It also provides for offences and penalties for violations of rules on the importing, exporting and transiting of hazardous waste. Notably, amendments to the law were made in 2020 to further implement the Plastic Waste Amendments of the Basel Convention.

The importing of plastic waste under Annex II and VIII of the Basel Convention, including goods with such constituents exhibiting hazardous characteristics, are included in this regime, with plastic waste listed in B3011 in Annex IX as an exemption. Requirements for the importing of plastic waste include ensuring that it is:

(a) clean and not contaminated by hazardous waste or other waste;
(b) homogeneous or single stream without mixture with other types of plastic (with exception for polyethylene, polypropylene and polyethylene terephthalate);
(c) destined for recycling in an environmentally sound manner. In line with technical guidelines, declarants are guided to use the appropriate Harmonized System (HS) code and the product code in the TradeNet platform.

The technical guidelines further provide threshold limits for non-plastic contaminants and homogeneity level requirements for plastic waste.

Singapore also has provisions for the management of used (second-hand) electrical and electronic equipment and used telecommunications equipment. Administrative requirements through the internal circular PCD and Basel/07-01 and registration guidelines under Infocomm Media Development Authority and the National Environment Agency require importers to ensure that the equipment will be for direct reuse. They also must comply with the technical specifications, while a telecommunications dealer's license is required for the sale and re-export of repaired or refurbished telecommunications equipment.
The main offences and penalties relating to illegal waste trade in Singapore are as follows.

<table>
<thead>
<tr>
<th>Offences</th>
<th>Penalties</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Prohibition of import</strong></td>
<td></td>
</tr>
<tr>
<td>A person must not import hazardous or other waste unless</td>
<td>Violators are subject to, upon conviction,</td>
</tr>
<tr>
<td>- holder of an import permit</td>
<td>- fine not exceeding SG$300,000 for a body corporate</td>
</tr>
<tr>
<td>- authorized by order under regulation</td>
<td>- fine not exceeding SG$100,000 or imprisonment for a term not exceeding 2 years or both</td>
</tr>
<tr>
<td>- import has been ordered under regulation</td>
<td></td>
</tr>
<tr>
<td>Export permit holder must not</td>
<td></td>
</tr>
<tr>
<td>- import hazardous or other waste except in accordance with the permit</td>
<td></td>
</tr>
<tr>
<td>- breach any of the permit conditions</td>
<td></td>
</tr>
<tr>
<td>- import or deal with the waste except in accordance with the order</td>
<td></td>
</tr>
<tr>
<td><strong>Prohibition of export</strong></td>
<td></td>
</tr>
<tr>
<td>A person must not export hazardous or other waste unless</td>
<td>Violators are subject to, upon conviction,</td>
</tr>
<tr>
<td>- holder of an export permit</td>
<td>- fine not exceeding SG$300,000 for a body corporate</td>
</tr>
<tr>
<td>- export has been ordered under regulation</td>
<td>- fine not exceeding SG$100,000 or imprisonment for a term not exceeding 2 years or both</td>
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<tr>
<td>Export permit holder must not</td>
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<tr>
<td>- export the hazardous or other waste except in accordance with the permit</td>
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<tr>
<td>- breach any of the permit conditions</td>
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<tr>
<td><strong>Prohibition in course of transit</strong></td>
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<tr>
<td>A person must not bring hazardous or other waste in the course of</td>
<td>Violators are subject to, upon conviction,</td>
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<tr>
<td>carrying out a transit proposal unless</td>
<td>- fine not exceeding SG$300,000 for a body corporate</td>
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<td>Transit permit holder must not</td>
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<tr>
<td>- bring into Singapore the hazardous or other waste except in accordance</td>
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<td>with the permit</td>
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<td>- breach any of the permit conditions</td>
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<tr>
<td><strong>Orders from Director-General</strong></td>
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<tr>
<td>The Director-General may order the person to deal with the waste in a</td>
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<tr>
<td>specified way at the person's expense</td>
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<td>Person who refuses or fails to comply with an order is subject to, upon</td>
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<tr>
<td>conviction,</td>
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<tr>
<td>- a fine not exceeding SG$10,000 or imprisonment for a term not exceeding</td>
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<tr>
<td>12 months or both</td>
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<tr>
<td>- if a continuing offence, a further fine not exceeding $1,000 for every</td>
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<td>day.</td>
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**Hazardous Waste (Control of Export, Import and Transit) Act**

<table>
<thead>
<tr>
<th>Offences</th>
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<td>- fine not exceeding SG$300,000 for a body corporate</td>
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<tr>
<td>- authorized by order under regulation</td>
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LEGAL FRAMEWORKS TO ADDRESS WASTE TRAFFICKING IN THE ASEAN REGION – REVIEW AND GAP ANALYSIS

**Furnishing of information**
- Every permit holder must cause tests to be conducted to verify waste.
- Every permit holder must notify the Director-General of any discharge or spillage.
- Every permit holder must complete a movement document.
- Every permit holder must notify the Director-General of the import, export or transit of the hazardous or other waste within 14 days of movement.
- Every permit holder must keep records of the waste.

Violators are subject to, upon conviction:
- A fine not exceeding SG$10,000 (for first 2 requirements).
- A fine not exceeding SG$5,000 (for others).

**False statements**
- A person must not knowingly or recklessly make a false or misleading statement in a material particular.
- A person must not knowingly or recklessly give authorized officer a document containing false or misleading information that is false or misleading in a material particular.

Violators are subject to, upon conviction:
- A fine not exceeding SG$10,000 or imprisonment for a term not exceeding 12 months or both.

**Permit surrender**
- Permit holder shall surrender the permit if proposal under permit not carried out.

Violators are subject to, upon conviction:
- A fine not exceeding SG$5,000.

**Institutional framework**
- The National Environment Agency, through the Chemical Control and Management Department, implements the Hazardous Waste (Control of Export, Import and Transit) Act and its Regulations and administers the Prior Informed Consent procedure for the shipments and issues Basel Permits. The Infocomm Media Development Authority works jointly with the National Environment Agency on managing the import of telecommunications equipment, while Singapore Customs monitors the movement of goods through the TradeNet System for trade declarations and electronic exchange of information.

**Other matters**
- The National Environment Agency is empowered to undertake random audit checks on TradeNet declarations to monitor compliance.
- Since the Plastic Waste Amendments of the Basel Convention took effect in 2021, the National Environment Agency has not issued any permits for the import or export of plastic waste under Annex II or VIII.
THAILAND

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Figure 13 Quantity of plastic waste imports into Thailand, 2017–2021 (thousand tonnes)

Source: UN Comtrade (accessed September 2023).

Figure 14 Value of paper waste imports into Thailand, 2017–2021 (US$)

Source: UN Comtrade (accessed September 2023).
Figure 15 Quantity of paper waste imports into Thailand, 2017–2021 (million tonnes)

Figure 16 Quantity of metal waste imports (8 HS codes) into Thailand, 2017–2021 (million tonnes)
STOCKTAKING OF REGULATORY FRAMEWORKS

Laws and regulations

Main legal framework

- Hazardous Substance Act, B.E. 2535 (1992)
- Export and Import of Goods, Act B.E. 2522 (1979)

Related regulations and instruments

- Notification of Ministry of Industry Re: List of Hazardous Substances (No. 6), B.E. 2563 (2022)
- Notification of Ministry of Industry Re: Criteria for Permission of Importing Plastics, Either Used or Unused, and Its Scraps into the Kingdom of Thailand, B.E. 2551 (2008)
- Notification of Department of Industrial Works Re: Condition imposed on import permission of chemical wastes, listed hazardous substances, into the Kingdom of Thailand, 1996
- Notification of Department of Industrial Works Re: Importing conditions for used electrical and electronic equipment which is hazardous substance into the Kingdom of Thailand, 2003 (Amended in 2006 and 2007)
- Notification of Department of Industrial Works Re: Postponement of permission for import into the Kingdom, 2018
- Notification of Department of Industrial Works Re: Criteria, procedures and conditions for declaration, application and issuance of re-export permit concerning hazardous substances under responsibility of Department of Industrial Works, B.E. 2562 (2019)
- Notification of Department of Industrial Works Re: Criteria, procedures and conditions for allowance of re-import or re-export of hazardous substance under responsibility of Department of Industrial Works, B.E. 2564 (2021)
- Notification of Ministry of Commerce Re: Prohibition of electronic waste from importing into the Kingdom, B.E. 2563 (2020)
- Notification of Ministry of Commerce Re: Prohibition of Municipal Waste from importing or transiting into the Kingdom, B.E. 2562 (2019)
- Notification of Ministry of Commerce Re: Prohibition from Importing into the Kingdom (No.112), B.E.2539 (1996)

Other relevant laws and regulations

- Customs Act, B.E. 2560 (2017)
- Money Laundering Control Act, B.E. 2542 (1999)
- Act on Mutual Assistance In Criminal Matters, B.E. 2535 (1992)
- Prevention and Suppression of Involvement in Transnational Criminal Organization Act, B.E. 2556 (2013)
- Enhancement and Conservation of the National Environmental Quality Act, B.E. 2535 (1992)
- Factory Act, B.E. 2535 (1992)
- Public Health Act, B.E. 2535 (1992)
Thailand ratified the Basel Convention in 1997 and the Basel Ban Amendment in June 2023. The Convention is implemented in Thailand through the Hazardous Substance Act, B.E. 2535 (1992) and its regulations. The Enhancement and Conservation of the National Environmental Quality Act, B.E. 2535 (1992) is another law on chemical and waste management that allows the Minister of Natural Resources and Environment, with advice of the Pollution Control Committee, to issue ministerial regulations to control the collection and storage, safety measures, transportation, importation, exportation and management, treatment and removal of such hazardous waste.

The Factory Act, B.E. 2535 (1992) provides provisions to supervise the operations of factories. The Minister of Industry, with approval of the Cabinet, can determine a list of raw materials that can be imported into the country. However, the Export and Import of Goods Act, B.E. 2522 (1979) restricts importation of waste into the country.

The Navigation in Thai Waters Act, B.E. 2456 (1913) is relevant to waste trafficking with its provisions on controlling the transport of dangerous goods, such as hazardous waste, in either Thai or foreign vessels. The Act on Maintenance of Cleanliness and Orderliness of the Country, B.E. 2535 (1992) imposes the maintenance of cleanliness in the country, which includes provisions on waste management. Similarly, Public Health Act, B.E. 2535 (1992) empowers local governments as responsible for managing the disposition of any sewage and garbage that is not hazardous waste. The Customs Act, B.E. 2560 (2017) is the main legislation to control the trafficking of goods in and out of the country.

Main provisions in the law

The Hazardous Substance Act, B.E. 2535 (1992) is the primary legal instrument for implementing the Basel Convention. Section 18 provides provisions to control the importing, exporting, transiting or having in possession of hazardous substances. It divides hazardous substances into four categories: Category 1 for hazardous substances that the relevant person must follow prescribed criteria and procedures; Category 2 for hazardous substances that require advance notification to the responsible official; Category 3 for hazardous substances that require a permit; and Category 4 for hazardous substances that are prohibited for importing, exporting, transiting or having in possession. The list of hazardous substances is determined by the Notification of the Ministry of Industry Re: List of Hazardous Substances (No. 6), B.E. 2563 (2022).

The Export and Import of Goods Act, B.E. 2522 (1979) authorizes the Minister of Industry and the Minister of Commerce to notify the list of wastes that are prohibited or restricted from importing into the country, such as plastic (Notification of Ministry of Industry Re: Criteria for Permission of Importing Plastics, Either Used or Unused, and Its Scraps Into the Kingdom of Thailand, B.E. 2551 (2008)); used electrical and electronic equipment (Notification of Ministry of Commerce Re: Prohibition of Electronic Waste From Importing Into the Kingdom, B.E. 2563 (2020)); or municipal waste (Notification of Ministry of Commerce Re: Prohibition of Municipal Waste From Importing or Transiting Into the Kingdom, B.E. 2562 (2019)).

The Navigation in Thai Waters Act, B.E. 2456 (1913) and the Customs Act also provide control provisions on illegal waste trafficking. This includes the duty to inform the Harbour Master when transferring dangerous goods from one vessel to another vessel, duty to have clear labels, power of customs officers in searching when there is reasonable doubt that such transport is used to bring or take prohibited goods, restricted goods or goods that have not been passed through a Customs formality into or out of the country and power to forfeit when finding any prohibited goods or restricted goods that have not been passed through a Customs formality.
### Offences and Penalties

<table>
<thead>
<tr>
<th>Hazardous Substance</th>
<th>Act, B.E. 2535 (1992)</th>
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</thead>
<tbody>
<tr>
<td>Transit Category 1 hazardous substances</td>
<td></td>
</tr>
<tr>
<td>ÁEMPWXSRSMXJ</td>
<td>ILIGSQTIXIRXSMEP</td>
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<tr>
<td>ÁEMPWXSGSQTAP</td>
<td>MXLXLRSMGEXMSRW</td>
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<tr>
<td>Transit Category 2 hazardous substances</td>
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<tr>
<td>ÁEMPWXSRSMXJ</td>
<td>ILIGSQTIXIRXSMEP</td>
</tr>
<tr>
<td>ÁEMPWXSGSQTAP</td>
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<tr>
<td>Transit Category 3 hazardous substances</td>
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<td>ÁEMPWXSRSMXJ</td>
<td>ILIGSQTIXIRXSMEP</td>
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<tr>
<td>Transit Category 4 hazardous substances</td>
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<tr>
<td>4VSHYGRM PKTVSXMKIVITSVXMRKSVLEZMKMRT</td>
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<tr>
<td>LE“EVSHEWWWFWXERGIIW</td>
<td>MSPEXSVWMSVJS</td>
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### Crimes, Offences, and Penalties

The main offences and penalties relating to the illegal waste trade in Thailand are as follows.
| Intentionally or negligently agrees to be hired to make or affix unlawful label or to destroy an essential part of lawful label of any of the hazardous substances. | Violators are subject to, upon conviction – imprisonment for a term not exceeding 6 months or a fine not exceeding 50,000 baht or both. |
| Fails to comply with the competent official order to stop, rectify or correct such act of violation or comply with the law. | Violators are subject to, upon conviction – imprisonment for a term not exceeding 3 months or a fine not exceeding 30,000 baht or both. |
| Fails to comply with the competent official order to rectify any activity that causes harm, damage or nuisance to people or property in the business establishment or its vicinity. | Violators are subject to, upon conviction – imprisonment for a term not exceeding 3 months or a fine not exceeding 30,000 baht or both. |
| Repeat offender for sections 71 and 72. | Violators are subject to, upon conviction – the Court prohibiting such persons from engaging in any business operation in connection with hazardous substance for a period not exceeding 5 years from the date the punishment is fully served. |

**Export and Import of Goods Act, B.E. 2522 (1979)**

| Prohibition of import and export |
| AQTS| SV | !TCSV| TX | TSLO| MFM| XIH| KSSHW| F | RSX| GSOTP | MRK | MRMER | MRMER | MRMER | MRMER | MRMER |
| – Import or export prohibited goods by not complying with notification. |
| – Import or export prohibited goods without permit. |
| Violators are subject to, upon conviction – imprisonment not exceeding 10 years or a fine equivalent to 5 times the value of exported or imported goods or both, and the goods including containers and vehicles used in connection with the transport thereof as well as vehicles used in the haulage thereof will be confiscated. |

**Prohibition of transit**

| AVERWM | TVSLM | MFM | XIH | KSSHW | F | RSX | GSOTP |
| – Transit prohibited goods by not complying with notification. |
| – Transit prohibited goods without permit. |
| Violators are subject to, upon conviction – imprisonment not exceeding 5 years or a fine equivalent to 2 times the value of exported or imported goods or both, and the goods including containers and vehicles used in connection with the transport thereof as well as vehicles used in the haulage thereof will be confiscated. |

**Customs Act, B.E. 2560 (2017)**

| 7YFQM | XWSV | GEYWI | WERSX | TV|VT|W|S|S|V|EPP|WERSX | MRJ| SVQEMS | MRRGSRRIXG | MXLX | QIXRX | H | HWI | SVL | MRW | GLRX | VQUGH | QIXRX | SVR | VQEXMS | A5V | KS | V | SH | IH | E | H | G | Q | R | Y | W | H | R | X | L | I | G | M | | % | G | A |
| – Submits or causes another person or allows another person to submit to the Customs official an entry form, document or information in connection with the payment of duties or the compliance with this Act, in an incorrect or incomplete manner likely to cause misunderstanding in any particular shown in such entry form, document or information. |
| – Forges or modifies any document used in the execution of this Act. |
| – Alters a document officially issued for the purpose of the execution of this Act. |
| – Forges a seal, signature or any other mark of the customs official as used for any purpose in connection with this Act. |
| Violators are subject to, upon conviction – fine not exceeding 500,000 baht. |
| Violators are subject to, upon conviction – imprisonment for a term not exceeding 6 months or a fine not exceeding 500,000 baht or both. |

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**Export and Import of Goods Act, B.E. 2522 (1979)**

| MSPEXSV W SV E WI FYN G X SYT SRG SRZM GXM SR | RQTV M WSRQIRX J SV EX IV Q RSX IG IH HRM K QRSLX LW S V E |
| MSPEXSV W SV E WI FYN G X SYT SRG SRZM GXM SR | RQTV M WSRQIRX J SV EX IV Q RSX IG IH HRM K QRSLX LW S V E |
| MSPEXSV W SV E WI FYN G X SYT SRG SRZM GXM SR | RQTV M WSRQIRX J SV EX IV Q RSX IG IH HRM K QRSLX LW S V E |
| MSPEXSV W SV E WI FYN G X SYT SRG SRZM GXM SR | RQTV M WSRQIRX J SV EX IV Q RSX IG IH HRM K QRSLX LW S V E |
| MSPEXSV W SV E WI FYN G X SYT SRG SRZM GXM SR | RQTV M WSRQIRX J SV EX IV Q RSX IG IH HRM K QRSLX LW S V E |

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**Export and Import of Goods Act, B.E. 2522 (1979)**

| ALISYVXTSLOFMXMRWYGLTVWSRWVJSQIRKEMKMRMRR | FYWMRIWWSTIVEXMSMRMRSGRRIGXMSR | XSMXQIWXLLIZEPYIS | ITCSVXSVMQTSVXHKSXWSV | FSXLVHERXHLLKSSHWMRGPHMHRKGSRXERMIVWHERZIMMPGIV | YIWIRMGRGSRRIGXMSR | MXLMXLIVERXTSVXHLIVIS | EWYIPPEWZMGRGPIWYWIHMRLILEYPEKIXLIVIS | MPPPFIGSRW | WGEIXH |
STOCKTAKING OF REGULATORY FRAMEWORKS

Imports into the country the goods that have undergone Customs clearance or are under Customs clearance or exports such goods from the country or imports the goods for transit or transshipment by means of circumventing the limitations or prohibitions in connection with such goods. Violators are subject to, upon conviction
– imprisonment for a term not exceeding 10 years or a fine not exceeding 500,000 baht or both
– the Court ordering confiscation of such goods, whether any person is sentenced to any penalty by judgment of the Court or not.

Provides assistance by concealing, distributing or taking away, purchasing, taking a pledge of or accepting in any manner the goods knowing that they are the goods connected with the offence of import, export, transit or transshipment by means of circumventing the limitations or prohibitions in connection with such goods. Violators are subject to, upon conviction
– imprisonment for a term not exceeding 5 years or a fine not exceeding 500,000 baht or both.

Loads onto or unloads from a vehicle prohibited goods, restricted goods or goods that have not yet undergone Customs clearance or allows another person to do so. Violators are subject to, upon conviction
– imprisonment for a term not exceeding 10 years or a fine not exceeding 500,000 baht or both.

Fails to fly the flag or make any mark or give any signal as prescribed for vessels that carry the dangerous goods. Fails to exercise due care as appropriate to the case so as to prevent the bringing of the dangerous goods onto the vessel. Violators are subject to, upon conviction
– imprisonment for a term not exceeding 3 months or a fine not exceeding 10,000 baht or both.

Fails to label clearly showing the dangerous nature of the goods on its package. Violators are subject to, upon conviction
– imprisonment for a term not exceeding 6 months or a fine not exceeding 20,000 baht or both.

Violating or failing to comply with the Ministerial Regulations. Violators are subject to, upon conviction
– fine not exceeding 200,000 baht.

The Ministry of Natural Resources and Environment is the main authority responsible for natural resources and environment management in Thailand. The Pollution Control Department is an agency under the Ministry and responsible for preventing and mitigating environmental issues, such as pollution, in accordance with the Enhancement and Conservation of the National Environmental Quality Act. The Pollution Control Department is the focal point for the Basel Convention, the Rotterdam Convention and the Stockholm Convention. The Ministry of Industry and the Department of Industrial Works are responsible for issues related to waste trade by controlling the importing and exporting of hazardous waste, in line with the Basel Convention. In addition to addressing waste trafficking, the Ministry of Commerce has power to issue notifications that specify prohibited goods from importation, exportation or transiting in and out of Thailand. The Customs Department is also involved in preventing waste trafficking by investigating illicit activities, such as the entry of prohibited goods.

Thailand is continuing to develop policies to reduce waste in the country, such as the Roadmap on Plastic Waste Management 2018–2030 and WEEE Integrated Management Action Plan, B.E. 2565–2569 (2022–2026).

Navigation in Thai Waters Act, B.E. 2456 (1913)

-Other matters-

Factory Act, B.E.2535 (1992)
VIET NAM

Between 2017 and 2021, annual plastic waste imports into Viet Nam grew by 153%, with the largest increase from 2018 to 2019, at 46% (figure 17). In the past five years, Viet Nam received 133,928 tonnes of plastic waste from the European Union and 16,563 tonnes from the United Kingdom.

For paper waste, there has been a consistent rise in the import values, increasing from $341 million in 2017 to $843 million in 2021 (figure 18). In the ASEAN region, Viet Nam emerged as the primary destination for metal waste imports from 2017 to 2021, with a total of 28.8 million tonnes imported and accounting for nearly 49% of the entire imports in the region.
STOCKTAKING OF REGULATORY FRAMEWORKS

Main legal framework

| Law on Environmental Protection, 2020 |
| Decree 08/2022/ND-CP on guiding in detail a number of articles of Law on Environmental Protection |
| Circular 02/2022/TT-BTNMT of the Ministry of Natural Resources and Environment on providing guidance for implementation of Law on Environmental Protection |
| Decision 13/2023/QĐ-TTg by the Prime Minister on promulgation of the list of scrap permitted for import as production materials, comes into effect 01/06/2023 (replaced Decision No. 28/2020/QĐ-TTg by the Prime Minister on promulgation of the list of scrap permitted for import as production materials) |
| Decision No.18/2019/QĐ-TTg by the Prime Minister on the import of used machinery, equipment and technological lines |

Related regulations and instruments

| Law on Handling of Administrative Violation, 2012 and its Revision, 2020 |
| Decree No. 69/2018/Nd-CP on guidelines for the Law on Foreign Trade management |
| Decree 45/2022/NĐ-CP of the Government dated 7 July 2022 on sanctions for administrative violations against regulations on environmental protection |
| Decision No. 23/2019/QD-TTg on the list of imports required to follow Customs procedures at the checkpoint of entry |
| Circular No. 11/2018/TT-BTTTT of the Ministry of Information and Communication dated 15 October 2018 on detailing a list of used information technology appliances banned from import, with their HS code |
| Joint Circular No. 05/2016/TTL T-BNNPTNT-BTNMT of the Minister of Agriculture and Rural Development and the Minister of Natural Resources and Environment promulgating the Joint Circular guiding the collection, transport and treatment of pesticide packaging after use |

Other relevant laws and regulations

| Law on Customs, 2014 |
| Law on Anti-corruption, 2018 |
| Law on Preventing and Combating Money Laundering, 2022 |

Overview of the national regulatory framework

Viet Nam acceded to the Basel Convention in 1995. Since ratification, Viet Nam has fulfilled its obligations through enabling policy, enhanced coordination among ministries, departments, domestic sectors and international organizations for hazardous waste management and the prevention of cross-border illegal transportation of hazardous wastes. Through the Law on Environmental Protection, 2014 and its amended Law on Environmental Protection, 2020, Viet Nam has strictly prohibited the importing of waste, including hazardous waste. Viet Nam has not issued any law to implement the Basel Convention, but all the different laws and regulations on environmental protection create a legal framework for implementing its requirements. The Law on Environmental Protection, 2020 and its guiding decrees and circulars are the legal basis for waste management, and they contain direct stipulations for waste imports and waste trafficking.

The issue of waste management with prohibition of waste imports has been regulated since the Law on Environmental Protection was adopted. A range of decrees further regulate waste management, waste imports and waste trafficking by threshing out details of the law. Decree 08/2022/ND-CP and Circular 01/2022/BTNMT were issued to implement the updated Law on Environmental Protection and address gaps and overlaps in other decrees guiding the law. The sanctions and penalties for violations are not stated directly within the law but are provided for by the Decree on Administrative Sanctions for Minor Violations of Law or by the Penal...
Code for environmental crimes or more severe violations. Decree 45/2022/ND-CP, which took effect in 2022, updates the new provisions of the Law on Environmental Protection, 2020 with proper sanctions and civil penalties.

Main provisions in the law Viet Nam prohibits the importation of waste in general but allows for the importing of scrap as production material. The Law on Environmental Protection prohibits “importing, temporarily importing, re-exporting and transiting waste from abroad in any form; illegally importing used vehicles, machinery and equipment for demolition and recycling” (article 6). The law also contains basic environmental definitions of waste, hazardous waste and scraps. Organizations and individuals are not allowed to import used machinery, equipment or vehicles for dismantling purposes as well as machinery, equipment, vehicles, goods, raw materials and scrap contaminated by radioactive substances, germs or other toxins that have not yet been cleaned or cannot be cleaned. The law also provides conditions for entities to import and demolish used ships (article 70).

Import of scrap is allowed under certain conditions. Organizations and individuals are only permitted to import scrap as production material for their manufacturing establishments and must have: (a) manufacturing facilities equipped with technologies and equipment serving scrap recycling and reuse; with warehouses and sites exclusively reserved for aggregation of scrap that satisfy requirements of environmental protection and plans to treat impurities in imported scrap; (b) ownership of relevant legal license on environment (article 71); (c) deposit payment made for environmental protection; and (d) a written commitment on the re-export or treatment of such scrap if the imported scrap does not meet the requirements on environmental protection. Importing scrap from foreign countries as production material for projects that pose a high risk of adverse environmental impacts (Group 1) are subject to the implementation of an environmental impact assessment and ownership of an environmental license (articles 28, 30 and 39).
STOCKTAKING OF REGULATORY FRAMEWORKS

Offences

Law on Environmental Protection in relation to Penal Code, 2015 and its 2017 Revision

Penalties

Violators are subject to, upon conviction

<table>
<thead>
<tr>
<th>Tier</th>
<th>Offences</th>
<th>Penalties</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Bringing waste into territory of Viet Nam</td>
<td>- Tier 1: a fine ranging from 200,000,000 dong to 1,000,000,000 dong, non-custodial reform for a term not exceeding 3 years or at least 6 months to 3 years.</td>
</tr>
<tr>
<td>2</td>
<td></td>
<td>- Tier 2: a fine ranging from 1,000,000,000 dong to 2,000,000,000 dong or imprisonment of 2–7 years.</td>
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<tr>
<td>3</td>
<td></td>
<td>- Tier 3: A fine ranging from 2,000,000,000 dong to 5,000,000,000 dong or imprisonment of 5–10 years.</td>
</tr>
</tbody>
</table>

Administrative penalties

- a fined of at least 50,000,000 dong, up to 200,000,000 dong
- prohibition from holding position, performing professional practices or carrying out certain professions for 1–5 years

For legal persons

- Tier 1: a fine of at least 1,000,000,000 dong up to 3,000,000,000 dong
- Tier 2: a fine of at least 3,000,000,000 dong up to 5,000,000,000 dong or suspended from operating for a term of neither less than 6 months nor more than 1 year
- Tier 3: a fine of at least 5,000,000,000 dong, up to 7,000,000,000 dong or suspended from operating for a term of neither less than 6 months nor more than 3 years;

Administrative penalties

- termination of operations
- a fine at least 100,000,000 dong, up to 500,000,000 dong
- prohibition from trading and operating in certain areas for 1–3 years.

Crimes, offences and penalties

The main offences and penalties relating to illegal waste trade in Viet Nam are as follows.
### Decree 45/2022/NĐ–CP on Sanctions for Administrative Violations Against Regulations on Environmental Protection

#### Bringing waste into territory of Viet Nam

Violators are subject to, upon conviction for illegally bringing ordinary solid waste:
- Incremental penalties from 2,000,000 dong to 150,000,000 dong, based on weight.

Violators are subject to, upon conviction for illegally bringing hazardous waste:
- Incremental penalties from 100,000,000 dong to 500,000,000 dong, based on weight.

#### Remedial measures
- Forced re-export or destruction in case re-export is impossible.

### Management of persistent pollutants

- Failing to send a written notice to the Ministry of Natural Resources and Environment, together with results of conformity assessment for materials, volume and name of persistent or organic pollutants before carrying out import activities.

Violators are subject to, upon conviction:
- A fine ranging from 30,000,000 dong to 50,000,000 dong.

- Failing to label and disclose information or to label and disclose incorrect information about materials.

Violators are subject to, upon conviction:
- A fine ranging from 50,000,000 dong to 100,000,000 dong.

### Environmental protection for hazardous waste owner

- Failing to store and manage used hazardous waste documents, records, documents and diaries related to hazardous waste management; failing to provide sufficient hazardous waste documents to competent agencies.

- Failing to notify the competent authority in writing that it is more than 6 months from the date of hazardous waste transfer.

Violators are subject to, upon conviction:
- A fine ranging from 10,000,000 dong to 20,000,000 dong.

### Hazardous waste transportation

- Failing to report to the environmental licensing agency in case of hiring public transport vehicles.

- Failing to make and send registration dossiers for cross-border transport.

- Failing to keep or send to the Ministry of Natural Resources and Environment dossiers of cross-border transport.

- Failing to report to the licensing agency before implementing the plan for collection, transportation and treatment of hazardous medical waste.

Violators are subject to, upon conviction:
- A fine ranging from 10,000,000 dong to 20,000,000 dong.
STOCKTAKING OF REGULATORY FRAMEWORKS

Hazardous waste treatment
- Failing to store used hazardous waste documents, hazardous waste management reports and other records and documents.
- Failing to declare and use hazardous waste documents as prescribed or online on the information system.
- Failing to transfer hazardous waste documents to competent agencies.
- Failing to store used hazardous waste documents related to hazardous waste management activities.
- Failing to publicize or provide information on the type and quantity of hazardous waste collected, treated and treatment methods.

Violators are subject to, upon conviction
- a fine ranging from 10,000,000 dong to 20,000,000 dong.

- Failing to sign contracts for hazardous waste collection, transportation and treatment with hazardous waste generators.
- Failing to make hazardous waste delivery and receipt books, operating log books of hazardous waste treatment systems, means and equipment and record of the quantity, quality.
- Failing to notify the hazardous waste generator for temporarily storing hazardous waste.
- Having no tripartite contract on the collection, transportation and treatment of hazardous waste or there is no written consent.

Violators are subject to, upon conviction
- a fine ranging from 20,000,000 dong to 50,000,000 dong.

Manufacturer’s or importer’s responsibility to recycle products and packages
- Failing to disclose or disclosing incomplete information about products and packages according to regulations.

Violators are subject to, upon conviction
- a fine ranging from 50,000,000 dong to 100,000,000 dong.

Waste treatment responsibilities of manufacturers and importers
- Failing to disclose or disclosing incomplete information according to regulations.

Violators are subject to, upon conviction
- a fine ranging from 50,000,000 dong to 100,000,000 dong.

Importing scrap from abroad
- Importing scrap for use as raw production materials.

Violators are subject to, upon conviction
- a fine ranging from 170,000,000 dong to 200,000,000 dong for importing scrap in excess of the volume permitted in the environmental permit.
- a fine ranging from 23,000,000 dong to 250,000,000 dong for importing scrap that is not of the right type in the environmental permit as prescribed.
Institutional framework

The Ministry of Natural Resources and Environment is the national focal point for implementing the Basel Convention and performs state management of solid waste in accordance with legislation, including exports and imports. It has jurisdiction over guidance to and inspection of establishments using imported scrap as raw production material and provides technical guidance on the prevention of and the response to waste incidents. The departments involved within the Ministry relevant to waste trade include the Legal Department and the Pollution Control Department, the latter of which was established in January 2023. The Ministry of Industry and Trade implements legal provisions on environmental protection in its jurisdiction of industry and trade, while the Ministry of Agriculture and Rural Development is responsible for the production, importing and use of chemicals, pesticides, fertilizers and agricultural waste. There are potential overlaps of responsibilities between the Ministry of Natural Resources and Environment and the Ministry of Industry and Trade for industrial waste and chemical management and between the Ministry of Natural Resources and Environment and the Ministry of Agriculture and Rural Development regarding agricultural waste.

Other matters

There are ongoing changes and reorganization within the Ministry of Natural Resources and Environment and the Ministry of Agriculture and Rural Development. Decree 68/2022/ND-CP on the functions, tasks, powers and organizational structure of the Ministry of Natural Resources and Environment (replacing Decree 36/2017/NĐ-CP) took effect on 1 November 2022, with some newly reorganized departments responsible for solid and hazardous waste management taking effect by 2023. Decree 105/2022/ND-CP on stipulating the functions, tasks, powers and organizational structure of the Ministry of Agriculture and Rural Development went into force as of 15 January 2023 with a reorganization. All these institutional changes will have impact on institutions involved in the waste trade.
GAP ANALYSIS

The gap analysis and needs assessment framework used for this study is divided into four categories. Each category is further classified into thematic tracks, whereby desired interventions from the literature are first laid out and then the legal and regulatory gaps are identified in accordance with the issues. For each category, the desired state for interventions is laid out along with the status of each ASEAN Member State towards such outcome. The policy implications and considerations were drawn from this assessment exercise that aim to help achieve the desired goals. They are included here in the discussions on policy and legal reforms that can be considered.

Strengthened waste crime framework

<table>
<thead>
<tr>
<th>Desired state</th>
<th>BD</th>
<th>CM</th>
<th>ID</th>
<th>LA</th>
<th>MY</th>
<th>MR</th>
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<th>TH</th>
<th>VN</th>
</tr>
</thead>
<tbody>
<tr>
<td>Robust overarching waste crime framework</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
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<tr>
<td>Effective, proportionate and dissuasive criminal penalties</td>
<td>P</td>
<td>P</td>
<td>P</td>
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<td>P</td>
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<tr>
<td>Comprehensive provisions on fraud</td>
<td>P</td>
<td>N</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>F</td>
<td>P</td>
<td>P</td>
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<tr>
<td>Effective legal framework on criminal convergence and organized crime</td>
<td>P</td>
<td>P</td>
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<td>P</td>
<td>P</td>
<td>F</td>
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<tr>
<td>Proper liability for actors across the criminal chain</td>
<td>F</td>
<td>P</td>
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<tr>
<td>Strong provisions for legal and illegal interface</td>
<td>N</td>
<td>N</td>
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</table>

A major challenge in addressing waste trafficking in Southeast Asia are the weaknesses and loopholes in the national legislative frameworks. The immediate need is to develop comprehensive legal instruments to curb waste crime in each ASEAN Member State. As opposed to regional blocs, such as the European Union, there is no ASEAN-wide regional framework that could govern and harmonize waste crime among the member countries. Investigators and prosecutors thus must look at the national regulatory frameworks for definitions, offences, prohibitions, restrictions and overall rules on the handling and disposition of the waste that is flowing in each country’s territory.

All ASEAN Member States have regulations on waste management, which generally cover solid waste and oftentimes hazardous waste and corresponding waste crime provisions. Most countries in the region, notably Brunei Darussalam, Philippines and Singapore, have dedicated legislation for Basel Convention implementation. In Cambodia, Lao PDR and Viet Nam, waste crime and trafficking frameworks are governed by general environmental protection laws. There have been several high-profile cases of repatriation of illegal waste from Cambodia, Indonesia, Malaysia, Philippines and Viet Nam, especially following the full implementation of China’s ban on waste imports. However, there exists many legislative and regulatory loopholes that enable the proliferation of transboundary waste crime across countries in the region.

Gaps include:

- Difficulties in proving elements of the crime and, in some cases, lack of a clear definition and description of the offence.
- Need for a comprehensive set of regulations and interventions to curb waste crime that cover detection and investigative processes to prosecution.
- Complicated evidence collection, especially when there are limitations on the...
LEGAL FRAMEWORKS TO ADDRESS WASTE TRAFFICKING IN THE ASEAN REGION – REVIEW AND GAP ANALYSIS

Effective, proportionate and dissuasive criminal penalties

To successfully curb waste crime and deter potential perpetrators across jurisdictions, a suite of effective, proportional and dissuasive criminal penalties that include sentences for imprisonment and fines should be adopted. The sanctions must be greater than any economic advantage gained by waste crime players for not complying, as well as the damage and harm caused if any.

In Southeast Asia, strong penalties exist in Brunei Darussalam, Philippines, Singapore and Viet Nam. Gaps include:

• Penalties can be significantly low in many jurisdictions, especially considering that waste trafficking is an organized crime and considered a serious offence.
• Potential violators perceive waste crime activities as low risk and high profit because penalties are not sufficient for effective deterrence.
• Waste trafficking is often not considered a serious crime, which would make it subject to stronger provisions based on the United Nations Convention Against Transnational Organized Crime.
• Need to include both sufficient financial and custodial sanctions to deter illegal activities.

Comprehensive provisions on fraud

Fraud in legal documents and misdeclaration of waste shipments is the common modality for waste crime to flow into many ASEAN Member States. In recent years, trends have indicated that fraudulent activities are increasing in frequency and is becoming even more complex.

Although patterns in waste crime across the region have a tendency to rapidly shift, governments typically have knowledge about the primary methods employed by criminal entities involved in waste trafficking. For example, shipments could be declared as destined for recycling or recovery or misdeclared as non-hazardous material. Cases could also include shipping contaminated waste as permissible raw waste through false declarations as well as misrepresentations on the final destination.

Some jurisdictions, such as Brunei Darussalam and Singapore, address these offences more comprehensively. Gaps include:

• Need to address the complex trends in falsification through comprehensive rules and regulations. This includes potential falsifications in:
  – customs forms and declarations
  – tax fraud and invoices
  – online permitting systems
  – licenses and authorities.
• Need for clarity in definitions, classifications and codes to avoid mislabelling or misdeclaration.
• Lack of transparency measures necessary to enhance detection, inspection and monitoring of criminal activity.
• Need for proper guidance for authorities on proven methodologies to gather evidence for successful prosecution.

Effective legal framework on financial crime, corruption and organized crime

In many cases in the region, waste crime is also tied with other felonies, such as money laundering, corruption and tax evasion.

In most countries, criminal activities take place across the entirety of the waste chain and transboundary movement. Resulting damage may also cause significant harm to the public, such as exposure to toxic materials through criminal dumping and illegal disposal. Gaps include:

• Lack of regulation on the intersectionality with financial crimes, particularly tax evasion.

In cases where the waste is already in the region, efforts to enhance detection, inspection and prosecution can be made through existing legal mechanisms, cooperation among governments and increased awareness and education among the public.
GAP ANALYSIS

• Need to boost guidance and mandates of public authorities for the conduct of financial and criminal investigation.

• Difficulties in linking regulatory framework with criminal remedies taken against corruption, such as abuse of office, intimidation and threat and insider trading.

• Need for legal framework to address the liability of public officials, such as politicians, customs officials and border guards.

• Need to link the waste crime framework with provisions on organized crime that facilitate the pollution offence because waste crime and trafficking are commonly not a predicate offence that can be prosecuted as organized crime.

• Challenges in tagging waste offences as mainstream and serious crimes to pick up prosecution, resulting in low prioritization of waste crime for prosecution.

• Environmental agencies, as the main authorities responsible for investigating waste matters, lack legal mandates to investigate organized crime.

Proper liability for actors across the criminal chain

It is important to determine liability of actors for waste offences because both natural persons and legal persons could be involved across the waste chain and should be prosecuted.

• National statutes may limit what entities or corporate bodies may be prosecuted for. In Singapore, Philippines and Viet Nam, the legal framework prescribes the liability of individuals as well as juridical entities. Gaps include:
  - Lack of regulations for offences to apply directly to legal persons, such as corporations, associations and companies.
  - Need to clarify offences where acts or omissions of individual employees (and vice versa) could incur criminal liability.
  - Need to clarify liability for criminal attempt.

Strong provisions for legal and illegal interface

It is often challenging to distinguish the legal and illegal players in waste crime because of the grey zones of interface between them. Individuals and businesses that are compliant with regulations and operating above board may be used to conceal illegal and criminal waste activities. This practice has been typically used in many countries across Southeast Asia, with legitimate recyclers involved with illicit foreign businesses and used as a front for illegal importers. Gaps include:
  - Lack of legal provisions addressing use of legitimate business and corporate structures as cover for illegal activities.
  - Difficulties in proving organized crime and liability of other players because of the use of legitimate companies or businesses.

How to address gaps

Waste crime framework

• For waste trafficking offence, three physical elements of the offence should be present: (a) the acts amounting to the property being wasted; (b) the property being wasted being of specified value; and (c) the property being wasted being of the kind regulated. Gaps include:
  - Lack of legal provisions addressing use of legitimate business and corporate structures as cover for illegal activities.
  - Difficulties in proving organized crime and liability of other players because of the use of legitimate companies or businesses.
LEGAL FRAMEWORKS TO ADDRESS WASTE TRAFFICKING IN THE ASEAN REGION – REVIEW AND GAP ANALYSIS

• All these elements should coincide to consider the act as criminal waste trafficking.

- Add a clause to show that there is a requisite mental state as may be appropriate and necessary for proving elements of the offence. The offence may also be a situation of strict liability, in which case that should be clearly spelled out in the offence.

- This is in relation to personal criminal liability but in the context of waste crime – corporate criminal liability should also feature strongly in legal frameworks.

- Provide in the legislation or regulation for the broad offences of waste trafficking. Define the different acts and circumstances for each specific waste as appropriate.

- Although one criminal offence covering all acts could be taken, offences could also be criminalized through specific offences for different violations and for specific waste types.

- Include within the legislation a comprehensive set of rules covering detection, investigation, case-building and evidence collection, prosecution and sentencing.

Penalties.

- Cover both imprisonment and non-custodial penalties for each type of criminal sanction, which could include fines and community service orders. Additional ancillary orders should be considered, which could include:
  - restitution and compensation
  - confiscation orders for proceeds of crimes
  - disqualification orders
  - dissolution orders
  - cancellation of permits and licenses.

- Establish aggravating and mitigating factors for waste trafficking offences to ensure that sentences are proportionate to the severity of the act and that the sentence considers relevant circumstances.

- Adopt guidelines for use by judges when sentencing offenders for waste crime to ensure consistency in sentencing, as may be appropriate in each legal system.

Fraud.

This refers to misdeclaration that aggravates the waste-related offence. Because fraud and misdeclaration are the typical modus operandi used by waste crime offenders in facilitating waste trafficking into ASEAN Member States, there should be appropriate provisions that address such acts and deter its use. Considerations:

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  XSHM EPTIREXM [JW SV IEGL XJ TIS] GVMQM REP
  WERGX MSR [LMG GLSY PH MRPQY HI] MJ MWM VI JW XSQ MWHIGEPEVMX SRXL EXEKVE
  G SQO YR M X] WIVZ MG G SV HMI V 1E XIPISJ P[IR]G EY WJY V 
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siderations:

- **GAP ANALYSIS**
  - Ensure criminal provisions incorporate additional crimes, such as fraud and mis-declaration. This should include all the opportunities for falsification of Customs declarations, tax fraud, licensing and authorities, immigration, etc.
  - Allow for defences on accidental errors made in application, such as setting mental conditions (intention or negligence) within the offence.
    - Alternatively, it could also be an offence with strict liability, but with defence of a reasonable mistake of fact made in good faith.
  - Make provisions clear on definitions, classifications and codes to ensure proper labelling.
  - Provide rules for transparency that may include guidelines for traceability and monitoring using technology to secure prior informed consent and the use of technology if applicable.
  - Make information on imports and trade publicly accessible at any given time across the waste importation value chain.
  - Publish guidance for authorities on investigation and case-building to include safeguards against fraud and misdeclaration.

Criminal convergences and organized crime. It is important to address criminal convergences to ensure that offenders are prosecuted in accordance with the severity of their act. With comprehensive frameworks in place, waste trafficking offences necessarily qualify for different crimes under special laws. Notably, all ASEAN Member States are also signatories to the United Nations Convention Against Corruption, which aims to promote and strengthen measures to prevent and combat corruption more efficiently and effectively.

- Establish criminal liability for conspiracy or organized crime by adding elements that the accused agreed with others to commit the subject crime.
  - The two elements for this offence are (a) intention to agree with one or more other persons to commit the offence and (b) purpose of the agreement is to obtain financial or other material benefit.
- Ensure that waste crimes constitute predicate crimes to link it to organized crime laws and money laundering and tax evasion laws.
  - How a predicate offence could be defined could either refer to listing offences under legislation or defining it broadly for all crimes (or qualified crimes within a threshold).
- Enact legislation specifying waste trafficking offences as predicate offences to other serious offences, such as financial crimes.

- **Crimes**
  - Liability for actors - X
  - Liability for legal persons when they commit waste crimes.
  - Determine nature of the liability of actors.

Liability for actors. It is important to attribute proper liability for specific players, including legal persons, in accord with their degree of culpability for violators to be punished to extent of their involvement. All guilty actors should be included in sentencing or punishment, especially when there is a wide range of people involved.

Criminal convergences and organized crime. It is important to address criminal convergences to ensure that offenders are prosecuted in accordance with the severity of their act. With comprehensive frameworks in place, waste trafficking offences necessarily qualify for different crimes under special laws. Notably, all ASEAN Member States are also signatories to the United Nations Convention Against Corruption, which aims to promote and strengthen measures to prevent and combat corruption more efficiently and effectively.
Legal persons that may be criminal, civil or administrative.

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Legal and illegal interfaces. In waste crime and

- Legal and illegal interfaces. In waste crime and
  waste trafficking, the issue of the use of legit
 imate businesses as covers for illegal activity
  should be addressed, especially regarding the
  use of complex corporate structures by legal
  persons. Considerations:
  • Add legal basis for the attribution of lia
  bility to legal persons for acts of natural
  persons.
  • Hold legal persons liable for their role in
  offences committed by related organi
  zations (“piercing the corporate veil” to
  identify offences).

Strengthened waste-specific frameworks

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GAP ANALYSIS

The Basel Convention and its amendments recognize the right of parties to adopt national legislation to prevent and control hazardous waste and other waste. Across ASEAN Member States, it is thus important to have an overarching enabling framework to implement rules for the management of hazardous waste. Although all countries in ASEAN are parties to the Basel Convention, only Brunei Darussalam, Indonesia, Malaysia and Thailand have ratified the Basel Ban Amendment. There are challenges surrounding the transboundary movement of hazardous waste in the region, consisting of lacking environmental regulations coupled with weak enforcement. This leads to trafficking of hazardous waste among ASEAN countries.

Gaps include:

• Not all ASEAN State parties have fully implemented the Basel Convention into national law and regulations.
• Not all ASEAN parties have ratified the Basel Ban Amendment, leaving them susceptible for continued shipments of waste from developed countries that are more likely to be illegal.
• Need to update customs and ports regulations to include safeguards in the documentation and requirements.
• Need to develop measures for traceability of waste exports further down the value chain.
• Lack of adequate inspection and enforcement of the Basel Convention regulations.

Complete definitions of substance or object of waste

The Basel Convention allows States Parties to define waste and further terminologies beyond the Convention's definitions. It also provides for the right to regulate imports and exports of waste. Because implementation of the Basel Convention and its amendments rely on national legislation, regulations and institutional frameworks, it is important to prove the status of waste to qualify as offences and mete out penalties for waste trafficking and the illegal transboundary movement of waste.

Gaps include:

• Unclear definitions of subject wastes, leading to breaches, whether unintentional or intentional.
• Lack of harmonization between the definitions of wastes, codes, requirements and conditions.
• Lack of clarity on the "hazardous" nature of each waste.

Waste-specific legislation and regulation

There are many challenges in the regulation of the transboundary movement of specific waste types, such as e-waste, used electronic and electrical equipment (UEEE), plastics, paper and other scraps. Globally, 29% of the world's population is not covered by a national e-waste policy. Southeast Asian countries are no exception. This is particularly true for potentially hazardous waste and objects, such as e-waste that should be regulated in a stringent manner. The lack of specific regulations may bring challenges because the management and disposition of specific waste will need to have tailor-fit rules in place for proper management. Gaps include:

• Incomplete implementing of legislation across other specific types of wastes, specifically different types of e-waste.
• Lack of control measures, leading to e-waste without environmentally sound management.
• Different definitions of specific waste, leading to difficulties in implementing control rules.
• Lack of technical guidelines for specific waste management to support implementation of regulations.
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GAP ANALYSIS

Desired state

Coordinated approach and clear mandates for government agencies involved

Strong institutions for enforcement and prosecution

Enhanced international cooperation

Note: P=partial, F=full.

Plastics.

Pros for e-waste and UEEE that would be essential for enhancing detection, investigation and sentencing.

- Publish necessary circulars and technical guidance to guide the management of specific waste.
- Publish guidelines on the environmentally sound management of specific waste, such as e-waste and UEEE.
- Enact enabling regulations for other wastes depending on the issue prevalent in the country, such as paper, metals and scrap vessels.

Across ASEAN Member States, plastic waste is often misdeclared or does not comply with requirements or conditions for importation. Interventions must be introduced to ensure that the entry of illegal shipments is prevented. It is also essential to align action with the circular economy goals of each country and to ensure that there is prevention of leakage of waste at any point in the value chain once it enters a country.

Considerations:

- Provide technical and legal guidance on interpretation of annexes and terminology of the Plastic Waste Amendments. This could include defining plastic materials conditions permissible for import, standards, processes, customs codes and other related requirements.
- Consider policies that restrict imports of scrap plastic, which are often the object of illegal waste trafficking.
- Align policies and regulations with solid waste management and recycling targets, plastics pollution and marine debris plans and the circular economy goals of each country.

Strengthened institutions and enhanced cooperation

In the Southeast Asian countries, fragmentation of laws remains a major challenge and a barrier to the full implementation of laws, along with the lack of cooperation among responsible authorities. Cooperation and coordination among the agencies involved are important to ensure that the rules for illegal waste shipment and offtakes for waste crime are applied in an effective manner. In the region, gaps include:

- Inconsistent application and ineffectiveness of waste crime rules and regulations due to fragmentation.
- Unclear mandates and responsibilities among government agencies, especially on enforcement and investigation.
- Disjointed investigation processes because of limitations of investigative mandates in the agencies involved.
- Funding limitations and inadequacies of budgets, with a lack of resources for monitoring, investigation and prosecution of waste offences.

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Note: P=partial, F=full.
LEGAL FRAMEWORKS TO ADDRESS WASTE TRAFFICKING IN THE ASEAN REGION – REVIEW AND GAP ANALYSIS

**Strong institutions for enforcement and prosecution**

Institutions need to be strengthened across the ASEAN Member States, especially in boosting the efforts for enforcement and successful prosecution. This would ensure that government agencies implement their mandates and avoid opportunities that facilitate waste crime and trafficking, such as abuse and corruption. These challenges are present in all ASEAN Member States. Such institutional weaknesses exacerbate criminality and aggravate environmental issues due to the lack of a robust enforcement and compliance system. Gaps include:

- Difficulties in government agencies and enforcement authorities to work with prosecutors and the judiciary who have limited awareness of waste issues.
- Environmental crime remaining an under-sentenced area of criminal law, along with many environmental crime cases.
- Lack of access to information due to the right to information for waste investigations being limited.
- Lack of capacity for innovative inspection and investigation techniques, intelligence-gathering and financial investigations.
- General lack of capacity for waste of fences of many enforcement agencies involved in the regulatory and enforcement chain, including customs officials and the police.

**Enhanced international cooperation**

Coordinated government approaches. An integrated approach with robust institutional structures makes for an effective legal framework to address transnational waste crime and trafficking. This would require a coherent and coordinated method in policy and regulations as well as improved communication lines across different agencies. Considerations:

- Boost interagency cooperation through institutional arrangements to ensure proper appropriate responses against waste crime challenges. This should include:
  - Streamline statutory authorities, competencies and mandates for cooperation in investigations, not only on strictly waste crime issues but also on wider investigations for related environmental, financial and organized crime.
  - Improve data cooperation among agencies as well as resource-sharing through a standardized reporting system.

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Understanding the legal frameworks and institutions necessary to combat waste trafficking in the ASEAN region, this analysis highlights the need for stronger enforcement and prosecution. Moreover, enhanced international cooperation is essential to tackle transboundary issues effectively. The gaps identified require attention and concerted efforts to ensure robust and coordinated responses against waste trafficking and other related crimes.
system.

(GAP ANALYSIS)

Delineate responsibilities of authorities according to their mandates and establish mechanisms for effective cooperation, either through an enabling statute or institutionalized mechanisms, such as memoranda of agreement and understanding.

Constitute a national coordinating body comprising officials from different agencies, organizations and civil society, as appropriate, to coordinate and monitor action on waste crime.

Constitute a national environmental security task force that has authority to address waste crime as part of a wider strategy for transnational, organized environmental crime.

Ensure policy coherence through the drafting and reviewing of action plans on waste management, marine litter and the circular economy that would include combating waste crime to address the inconsistencies and misalignment with wider waste management goals.

Ensure that the issues driving waste crime are addressed through interventions pursuant to a circular economy framework.

Institutions for enforcement and prosecution. It is important to further strengthen institutions, especially on the core areas of enforcement and criminal prosecution that may be susceptible to abuse and corruption. This includes streamlining processes governing investigations and detection as well as promoting interagency cooperation.

Considerations:

- Develop comprehensive rules or guidelines to assist prosecution and other investigation agencies on waste crime issues.
- Provide capacity-building activities and resources for law enforcement, particularly on detection, investigation and case-building of waste cases.
- Develop rules that adopt tools and methodologies for forensic use in waste crime investigation and detection.
- Institutionalize transparency to shed light on illicit operations, thereby facilitating traceability and better monitoring of imports. This should include:
  - Require guidelines for traceability and monitoring using technology to secure prior informed consent.
  - Make information on imports and trade publicly accessible at any given time across the waste importation value chain.
  - Communicate databases of activities and permissions of licensed facilities to exporting countries' authorities for clearing.

International cooperation. It is important to have international and regional approaches for cooperation to address waste trafficking. There are many efforts under way to enhance cooperation that should be sustained, as enumerated in the ASEAN Joint Statement on Hazardous Waste. In criminal waste cases across ASEAN Member States, facilitating mutual legal assistance in criminal matters is necessary to combat waste crime across ASEAN countries' borders. Mutual legal assistance, as a process by which States seek and provide assistance for evidence gathering to curb crime, should be further strengthened. All ASEAN Member States have signed the ASEAN Mutual Legal Assistance Treaty to support and strengthen their respective efforts and capacity to combat transnational crimes.

Considerations:

- Boost ASEAN cooperation activities through regional platforms, such as the ASEAN Cooperation on Environment and the ASEAN Working Group on Chemicals and Waste.
- Strengthen such platforms for information-sharing and exchange within the ASEAN region and facilitate policy dialogues on matters concerning waste trade and combating waste national crimes.
- SRWMHVIXMSRWXGJIVGXJTPYMSR}
• Cooperate in terms of criminal investigations pursuant to the ASEAN Mutual Legal Assistance Treaty as well as with information-sharing. Through this process, for example, witnesses may be summoned and evidence gathered with warrants to be executed in other ASEAN countries.

• Designate waste offences and trafficking offences as extraditable to utilize extradition provisions in other countries.

• Update changes of policy and import regulations to the Basel Convention Secretariat and other countries.

• Enact legislation or rules that allow for the sharing of data on matters relevant to waste crime or amend provisions that restrict sharing of essential nominal data of suspects with other countries.

Mainstreaming gender, environmental and human rights considerations

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Note: P=partial.

There is a need to uphold the substantial right to a healthy environment across ASEAN Member States, which includes the right to have toxic-free environments. All ASEAN countries have legislation or a legal basis for the right to life that could be interpreted to refer to a safe, clean, healthy and sustainable environment. In many ASEAN countries, the right to a healthy environment is enshrined in the constitution, laws and/or jurisprudence. This right ensures the protection and preservation of the environment on behalf of the public and future generations.

As to procedural environmental rights or the so-called "access rights", there remain challenges. Access to information, hurdles on the right to public participation and to access effective remedies must be addressed because they are sometimes brushed aside, especially in cases where pollution has affected communities. Gaps include:

• Lack of transparency, especially in potential waste crime or pollution cases affecting the well-being of communities.

• Need to create a conducive environment for public participation through dialogue and exchange among stakeholders, particularly those who are disproportionately affected.

Gender equality is vital to uphold human rights in the context of waste management and pollution that might ensue, especially because the environmental risks cause lopsided impacts on women due to social gender roles. The potential negative consequences resulting from waste trafficking, such as health risks and limited health care access, are significant concerns for women. According to the World Health Organization, women and girls frequently encounter more obstacles than men and boys in obtaining health information and services due to factors like limited mobility, insufficient decision-making authority, lower literacy rates and discriminatory attitudes from health care providers.
GAP ANALYSIS also often engage in waste picking and waste separation, which exposes them to health risks with serious implications as well as threats to both their health and social protection.

Gaps include:
• Lack of targeted approaches to integrate gender considerations in developing policies and management measures as well as monitoring and evaluation.
• Need to meaningfully engage all genders as essential stakeholders in dialogues and opportunities for public participation to ensure diversity.

The business, human rights and the environment initiative is still at its nascent stages in Southeast Asia. Gaps include:
• Need to engage industries in addressing weaknesses in due regard to human rights and thus cultivate a corporate attitude to respect environmental standards and due diligence procedures.
• Need to address vulnerable populations susceptible to being disproportionately impacted by waste crime and trafficking, such as persons with disabilities, poor households, migrants and minorities – who typically experience the greatest impacts.

How to address the gaps

Protecting the public’s health and rights to a healthy environment entails safeguarding human rights and gender equality across the regulatory framework. The development of any legal framework needs to integrate human rights and gender considerations into the articulation of issues and throughout the decision-making processes. Considerations:
• Strengthen freedom of information laws at a national scale to ensure accountability of actors across all stages of the waste chain.
• Enhance the regulatory framework for transparency across all levels of the government for public access to environmental information at any point in the value chain.
• Promote public participation and reme- dies for violations of environmental rights and promote accountability for environmental harm caused by waste offences.

Gender considerations should be mainstreamed into all levels of policy development and participation. Considerations:
• Conduct gender analyses and include gender concerns in policy development as well as in the monitoring and evaluation of waste management, offences and crime.
• Ensure that women are represented in consultations and policy-development processes.
• Boost the capacity of the government to become gender-inclusive in its approaches.

Develop a business, human rights and the environment framework, which can provide opportunity to align with global best practices. This may be addressed through a national action plan on business and human rights, which would mainstream environmental due diligence standards in addition to relevant human rights principles, across the plastics and waste industries. Considerations:
• Ensure that due diligence processes effectively identify, avoid and address potential adverse criminality that causes environmental harm within industries.
• Boost the capacity of the government and industry on human rights and the environment, including social and governance standards to include environmental protection.
• Undertake social and economic impact assessments.

Undertake social and economic impact

Understand the business, human rights, and the environment implications as well as threats to both their health and social protection.
SYNTHESIS AND CONCLUSION

Over the past several years, ASEAN Member States have emerged as a hotspot destination for the global flow of illegal waste. Numerous laws and regulations have been put in place to address the problems brought about by the influx of such waste, complemented by rapidly changing policies to respond to emerging trends in the waste trade and criminality across Asia and beyond. Recent approaches have looked at developing regulations for specific types of waste, whether hazardous or not, and addressing the link between the illegal waste trade and plastic pollution.

The next few years represent opportunities for legal reform and policy coherence that address the challenges surrounding waste management and, specifically, waste crime and trafficking issues. At the top of the agenda are interventions to deter waste criminality across countries in the region. Central to this is strengthening the waste crime framework by enacting enabling policy and legislation, along with effective penalties, provisions for liability of players, and safeguards against fraud. Legal frameworks must also reference remedies for criminal convergence, organized crime, and the interfaces between legal and illicit operations. Robust waste-specific frameworks implementing the Basel Convention and rules for specific waste types, such as e-waste and plastics, must also be developed pursuant to the international commitments and global calls for their proper management.

There must be a coordinated approach and strong institutions so that the responsible authorities in ASEAN Member States can work in collaboration with different enforcement and prosecution agencies to abate the waste crime. Improved interministerial and cross-jurisdictional coordination and communication are not only essential to successfully enforce and prosecute waste cases but are necessary to initiatives for international exchange and cooperation. For all interventions, governments must uphold environmental and human rights and achieve a gender-inclusive framework to prevent waste crime and trafficking.

ASEAN Member States are well on their way in creating the enabling environment to combat waste crime. Ultimately, the development of policy and legal frameworks in accord with the identified gaps in each country is envisaged to address the problems of criminality and waste trafficking in the region.
ENDNOTES


7. Ibid.

8. Ibid.

9. Ibid.

10. Ibid.


13. See the Basel Convention Overview.


15. See Basel Convention Ban Amendment Overview.

16. This prohibition extends to a subset of hazardous wastes defined under article 1(1)(a) of the Convention, which cannot be shipped to non-Annex VII countries for recycling or recovery.


24 Su-Lin Tan, "China lifts import ban on scrap metals as coronavirus recovery heaps pressure on domestic metal supply", South China Morning Post (23 October 2020).


30 Ibid.

31 Ibid.


34 Ibid.


37 HKDTC Research, "Thailand: All imports of plastic waste to be banned by 2025" (2023).

38 D. Nguyen, "Vietnam to end plastic scrap imports from 2025", VN-Express International, 26 March 2019....

39 See "Asian Network for Prevention of Illegal Transboundary Movement of Hazardous Wastes country reports".

40 Ibid.

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44 See Basel Convention Regional and Coordinating Centres overview.

45 See Asian Network for Prevention of Illegal Transboundary Movement of Hazardous Wastes portal.

46 See Environmental Network for Optimizing Regulatory Compliance on Illegal Traffic (ENFORCE) overview.


51 See UN Convention Against Transnational Organized Crime overview.

52 See Convention Against Corruption overview.

53 See ASEAN Treaty on Mutual Legal Assistance on Criminal Matters overview.


55 Ibid.


60 Association of Southeast Asian Nations (ASEAN) Secretariat, ASEAN Handbook on Legal Cooperation to Combat Illegal Wildlife Trade 2021 (Jakarta, 2022).

61 United Nations Environment Programme (UNEP) and the European Union (EU), Guidance for Prosecutors of Waste Crime.

62 Ibid.

63 Ibid.


UN Comtrade.

See Brunei Country Updates at the Asian Network for Prevention of Illegal Transboundary Movement of Hazardous Wastes.


Ibid.


See C. Katz, "Piling up: How China's ban on importing waste has stalled global recycling", Yale Environment 360, 7 March 2019; see also A. Gunia, "'Cambodia is not a dustbin.' More plastic waste to be sent back to the U.S. and Canada", Time, 4 May 2019.

Trade Map – Mirror data (exports reported from world's countries to Cambodia) (accessed September 2023).

See Cambodia Country Updates at the Asian Network for Prevention of Illegal Transboundary Movement of Hazardous Wastes.

See "'Not a dustbin': Cambodia to send plastic waste back to the US and Canada", The Guardian, 17 July 2019.

Refer to articles 6 (paragraph 1), 8, 12 and 13.

See Sub-Decrees No. 36 and No. 17.

Wu Qin, "Cambodia takes tough measures to curb plastic waste imports"., Xinhua, 8 June 2019.


UN Comtrade.

Ibid.

Environmental Protection and Management Law No. 32 of 2009, Elucidation of article 69(1) c.

During the development phase of this publication, Indonesia’s legal framework for waste trade is primarily governed by Ministry of Trade Regulation No. 20/2021 on the Import Policy and Control and Ministry of Trade Regulation No. 25/2022 on the Amendment of MoT No. 20/2021 on the Import Policy Control. However, these two regulations will be revoked and replaced by Minister of Trade Regulation No. 36 of 2023 on the Import Policy Procedure, which was enacted on 11 December 2023 and will be effective by 11 March 2024. This regulation covers plastic, papers, metals, e-waste, textiles and other materials such as rubber and glass that can be exported to Indonesia as non-hazardous and non-toxic waste as raw material for industrial purposes.

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Trade Map data.

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Each of the four category tables abbreviates the Member State name as: BD=Brunei Darussalam, CM=Cambodia, ID=Indonesia, LA=Lao PDR, MY=Malaysia, MR=Myanmar, PH=Philippines, SG=Singapore, TH=Thailand and VN=Viet Nam.
131 United Nations Environment Programme (UNEP) and the European Union (EU), Guidance for Prosecutors of Waste Crime.


134 Ibid.

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