



Vinyl Council of Australia

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Inquiry into the Hazardous Waste (Regulation of Exports and Imports) Amendment Bill 2021

We refer to your letter by email of 24 March 2021 inviting the Vinyl Council of Australia to consider making a submission regarding the above inquiry. The Vinyl Council is the peak body representing the vinyl, or PVC industry and has over 110 corporate members drawn from across the industry value chain in Australia.

We understand a key consideration of the Hazardous Waste (Regulation of Exports and Imports) Amendment Bill is to amend the *Hazardous Waste (Regulation of Exports and Imports) Act 1989* (the Act) so as to implement Australia's obligations as an OECD member and a signatory to the Basel Convention and thus to implement the recent amendments to the Basel Convention.

We are also interested in the proposed amendment of the Act to replace the Hazardous Waste Technical Group with a requirement to consult with persons with appropriate expertise.

Industry concerns with the Basel Amendments

Our concerns about the May 2019 amendments to the Basel Convention on the Control or Transboundary Movements of Hazardous Wastes and their Disposal and the adoption of these by OECD countries, were communicated to the Australian Government (Department of the Environment and Energy, Chemicals Management, Environment Standards Division) in September 2019. We are very concerned about the implications the amendments have on transboundary movements of PVC waste and the fact the newly introduced clause B3011 under the Basel Convention excludes PVC but includes the polymers most of concern in respect of plastic leakage to the environment.

The Director of the Hazardous Waste Division informed us in December 2019 that the Australian Government made representations to other countries to ask them "to consider retaining the OECD Decision code GH013: Polymers of Vinyl Chloride, to better promote recycling of clean PVC material and support the transition of a circular economy for the material", rather than adopt the new B3011 amendment. However, the amendments to the Basel Convention were subsequently adopted by the OECD.

Very little PVC waste has been, or is today, imported or exported; nevertheless, the ability to export PVC waste from time to time is an important element in existing product stewardship initiatives and industry trade. While PVC is one of the most commonly consumed polymers, it is a very minor packaging material and is predominantly (>80%)



used in durable applications such as vinyl flooring, pipes and conduit, wire and cables, durable textiles & membranes, weatherboards and building profiles, window frames etc. Examples of PVC wastes that are or have recently been exported include granulated pipe, floorcovering and carpet underlay, PVC coated fabrics and PVC packaging in comingled packaging bales.

The amendment to the Basel Convention treats PVC differently to other common polymers.

The amendment proposed by Norway at the 14th Conference of the Parties to the Basel Convention was intended to increase the effectiveness of the Convention with regard to plastic wastes, and especially plastic wastes leading to marine litter and microplastics. Under the amendments, plastic waste and mixtures of plastic wastes, with the exception of waste covered by entry B3011 (see below), will be subject to transboundary control and the Prior Informed Consent (PIC) procedure.

The following changes to three annexes to the Convention were agreed:

- In Annex II (waste that requires special consideration and is subject to the PIC procedure): addition of new entry Y48 covering all plastic waste, including mixtures of plastic waste, except for the plastic waste covered by entries A3210 (in Annex VIII) and B3011 (in Annex IX). Y48 includes polyvinyl chloride (PVC).
- Annex VIII (waste presumed to be hazardous and subject to the PIC procedure): addition of new entry A3210 covering hazardous plastic waste; this will include plastics with hazardous constituents such as lead-based heat stabilisers and halogenated organic compounds used as flame retardants.
- Annex IX (waste presumed to not be hazardous: not subject to the PIC procedure): addition of new entry B3011, replacing the current entry B3010 after 31 December 2020, covering plastic waste consisting exclusively of one *non-halogenated* polymer or resin, or including mixtures of polyethylene, polypropylene and/or PET polyethylene terephthalate, or urea formaldehyde resins and epoxy resins, or selected fluorinated polymers, provided the waste is destined for recycling in an environmentally sound manner and almost free from contamination and other types of wastes.

The Vinyl Council and its members support the control and management of contaminated and co-mingled plastic wastes so as to encourage much needed investment in greater sorting and reprocessing locally of plastic packaging, and to minimise plastic leakage to the environment. We commend the governments in Australia for the introduction of policies and investment to encourage a circular economy for plastics.

However, the now agreed Basel amendment being adopted by OECD countries concerns us because the exemptions under Annex IX, B3011 to certain categories of plastics from the PIC procedure - that is, "Scrap plastic of non-halogenated polymers and co-polymers" - appears largely to exempt from the PIC procedure the commonly used polymers that dominate littering and marine plastic pollution.

Halogenated plastics such as PVC, or vinyl, are not similarly exempted from the PIC procedure. Given PVC's uses, it is not at significant risk of littering and leakage into the

environment. Clean, sorted PVC is no more of a “problematic” stream of plastic waste that should be made subject to the PIC procedure under Annex II than the other polymers listed under B3011. There is no justification for excluding PVC waste that is destined for recycling in an environmentally sound manner and almost free from contamination and other types of wastes, from the list of polymers in B3011 or treating it differently from those plastic wastes listed above.

Consequently, in Australia if the Act is to be amended to meet OECD obligations, transboundary movement of vinyl wastes – even as an uncontaminated single polymer stream – would be regulated under the “Hazardous Waste” (Regulation of Exports and Imports) Act.

This concerns us because:

- (1) it singles out PVC wastes (as the most common halogenated plastic) as ‘more problematic’, which may discourage investment in recovery and recycling initiatives and is unjustified on the grounds that PVC is recyclable and can be recycled safely with no more impact on the environment than other polymers.
- (2) it is likely to disincentivize existing and future product stewardship arrangements by local distributors, by adding complexity to the export of clean, recovered PVC waste recovered in take-back product stewardship initiatives to their original manufacturing bases overseas.

As an example, the majority of the 22 million square metres of vinyl flooring laid annually in Australia is manufactured offshore by global brands – there is a single local manufacturer in Australia today. Around 5.6 million square metres of vinyl flooring waste is estimated to be generated annually. Flooring installation offcuts or end-of-life materials are being collected in Australia by some product distributors under product stewardship schemes and the waste is shipped back to associated manufacturing plants offshore for reprocessing into new flooring. Since local flooring manufacturing is limited in Australia, there is a significant limit to how much vinyl flooring waste material might currently be able to be reprocessed into new product in Australia. A similar scenario exists for other durable vinyl products that are largely imported.

We would therefore like to see certain amendments to Australia’s Hazardous Waste (Regulation of Exports and Imports) Amendment Bill 2021:

- 1) According to paragraphs 15 and 16 of the Explanatory Memorandum, the Act does not differentiate between ‘hazardous’ and ‘other waste’ whereas the Basel Convention acknowledges that those materials that fall under Annex II (categories of wastes requiring special consideration), are considered within the scope of the Convention warranting PIC for transboundary movement, *even if they do not otherwise fall within the Basel Convention definition of hazardous waste*. If the Act fails to make this distinction between hazardous and other wastes, it may unfairly cause some plastic wastes to be categorized as ‘hazardous’ by stakeholders when they are in fact, not. This outcome would not aid the investment in the circular economy for plastics in Australia and we therefore strongly encourage the Act to include wording that differentiates ‘hazardous’ wastes and ‘other’ wastes.

2) According to the Explanatory Memorandum, the amendments made by Schedule 1 to the Bill (item 1) would implement changes to ensure Australia's compliance with the Basel Convention. In respect of introducing a new paragraph (e) into the Act to cover plastic wastes, including mixtures of such wastes, covered by the amendment to Annex II of the Basel Convention, we support the principle that the Act assist in reducing the amount of plastic waste entering the environment through the minimisation and environmentally sound management of plastic waste, as well as the effective control of its transboundary movement (paragraph 18). We see, however, an inconsistency in meeting this objective if the exemptions given in the Convention's Appendix IX B3011 are also adopted in the Act.

3) Clean, sorted PVC wastes should be treated in accordance with the same regulations as other major polymer types (polymers 1, 2, 4, 5, 6) requiring – or not – a PIC for transboundary movement under the same conditions as those other polymers.

4) That said, the new *Recycling and Waste Reduction Act 2020* is designed to address controlling the export of plastics from Australia, with the Rules for plastics waste exports currently being drafted. It is important there is a consistent approach between these two regulations and that the controls exercised on transboundary movements of plastic wastes do not impede product stewardship and effective recycling solutions through a doubling-up of financial and administrative burdens, particularly at this time when Australia has not yet developed adequate, local commercial-scale recovery, sorting and recycling solutions. The alternative to export may be local landfill.

5) In respect of Part 6 – Hazardous Waste Technical Group paragraph 751 of the Explanatory Memorandum, we support the amendment of the Act to remove references to the Hazardous Waste Technical Group and replace it with a mechanism for mandatory consultation with relevant stakeholders with appropriate expertise.

We accept that export of plastic wastes should be controlled and managed to help Australia develop a circular economy and to reduce the risk of harm in other countries by poor control of recycling and waste disposal practices. Nevertheless, material circular economies do not necessarily have to be restricted by borders where proven technologies and manufacturing capacities exist overseas and where Australia lacks the commercial parameters to justify (currently) investment.

Yours sincerely



Sophi MacMillan
Chief Executive