

# APPROACHES FOR A CIRCULAR ECONOMY IN THE EUROPEAN UNION AND ITS EFFECTS IN THIRD COUNTRIES: PROMOTING A VALUES-BASED DIALOGUE WITH LATIN AMERICA?

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## SUMMARY

INTRODUCTION; I. A CIRCULARITY APPROACH FOR THE UNION: PROMOTING SYNERGIES AND DIALOGUES WITH THIRD COUNTRIES?; 1.1- A Circular Economy Action Plan for the EU: dealing with plastic pollution just in theory?; 1.2- Identifying contradictory measures: transferring the problem to third countries?; II. STRATEGIES FOR ESTABLISHING A “CIRCULAR DIALOGUE”: A PATHWAY TOWARDS FIGHTING PLASTIC POLLUTION WITHIN AND OUTSIDE THE EU; 2.1- The EU’s role in the negotiations: promoting a dialogue with LA?; 2.2- A needed harmonisation: improving the EU strategies?; FINAL REFLECTIONS.

## ÍNDICE

INTRODUCCIÓN; I. UN ENFOQUE DE CIRCULARIDAD PARA LA UNIÓN: ¿PROMOVER SINERGIAS Y DIÁLOGOS CON TERCEROS PAÍSES?; 1.1- Un Plan de Acción de Economía Circular para la UE: ¿abordando la contaminación por plásticos solo en teoría?; 1.2- Identificando medidas contradictorias: ¿trasladando el problema a terceros países?; II. ESTRATEGIAS PARA ESTABLECER UN “DIÁLOGO CIRCULAR”: UN CAMINO HACIA LA LUCHA CONTRA LA CONTAMINACIÓN POR PLÁSTICOS DENTRO Y FUERA DE LA UE; 2.1- El papel de la UE en las negociaciones: ¿promoviendo un diálogo con la AL?; 2.2- Una armonización necesaria: ¿mejorando las estrategias de la UE?; REFLEXIONES FINALES.

## ABSTRACT

The United Nations and the European Union (EU) are natural partners, once the EU’s external actions are guided by the principles that have consolidated its own creation, and that are also enshrined in the United Nations Charter and in International Law. The European Union approach for implementing sustainable development and consequently the 2030 Agenda runs through the achievement of a circular economy, but the plastic pollution problem – a global transboundary crisis – arises as a challenge and an obstacle to implement sustainable development across the world. In attempts to handle the situation, the EU, despite of its advanced and innovative strategies on circular economy and plastics, has been permissive when it comes to exporting plastic waste towards third countries, increasing insecurity and inequality issues abroad. This study, through a qualitative approach, with bibliographical and documental research, intends to demonstrate that, since the very founding values and principles of the EU forbid it to be conniving with such practices, while actively participating in the negotiations for the future Global Plastics Treaty, the EU must look inwards and glimpse this moment as an opportunity for improving its strategies and promoting a values-based dialogue with third countries. It concludes that, by doing so, the EU could be recognized as a global exporter of positive values, leading a fair and equal transition for a future without plastic pollution.

## RESUMEN

Las Naciones Unidas y la Unión Europea (UE) son partners naturales, una vez que las acciones exteriores de la Unión Europea se guían por los principios que han consolidado su propia creación, y que también están consagrados en la Carta de las Naciones Unidas y en el Derecho Internacional. El enfoque

de la UE para implementar el desarrollo sostenible y, en consecuencia, la Agenda 2030, pasa por el logro de una economía circular, pero el problema de la contaminación por plásticos – una crisis transfronteriza global – surge como un desafío y un obstáculo para implementar el desarrollo sostenible en todo el mundo. Para manejar la situación, la UE, a pesar de sus estrategias avanzadas e innovadoras en materia de economía circular y plásticos, ha sido permisiva a la hora de exportar residuos plásticos hacia terceros países, aumentando los problemas de inseguridad y desigualdad en el exterior. Este estudio, a través de un enfoque cualitativo, con investigación bibliográfica y documental, pretende demostrar que, dado que los propios valores y principios fundacionales de la UE le prohíben confabularse con tales prácticas, participando activamente en las negociaciones para el futuro Tratado Global sobre Plásticos, la UE debe mirar hacia adentro y vislumbrar este momento como una oportunidad para mejorar sus estrategias y promover un diálogo basado en valores con terceros países. Si concluye que, al hacerlo, la UE podría ser reconocida como un exportador global de valores positivos, liderando una transición justa e igualitaria hacia un futuro sin contaminación por plásticos.

## KEYWORDS

European Union. Latin America. Circular Economy. Global Plastics Treaty. Values-Based Dialogue.

## PALABRAS CLAVE

Unión Europea. América Latina. Economía Circular. Tratado Global sobre Plásticos. Diálogo basado en Valores.

## INTRODUCTION

The European Union's (EU) actions on the international sphere are guided by the principles that have consolidated its own creation and which are also enshrined in the United Nations (UN) Charter and in International Law<sup>1</sup>. The EU, in the pursuit of its external relations, has a specific obligation to promote values<sup>2</sup> such as democracy and respect for human rights, which constitute the contribution of the Union to the sustainable development of the Earth<sup>3</sup>.

Sustainable development, therefore, is a priority goal for the EU's internal and external policies, as well as a core principle of the Treaty on European Union (TEU)<sup>4</sup>. It encompasses practices for economic growth and social progress which are viable in the future, not only for the present but also for the coming generations, combining economic development with protection of the environment and social justice<sup>5</sup>.

Ensuring sustainable development through the improvement of international measures to preserve and enhance the quality of the environment and the sustainable management of global natural resources is also provided for in art. 21 TEU<sup>6</sup>. Thus, this external action of the EU might be perceived as the engine for the promotion of sustainable development – based on the advancement of environmental protection.

Considering that the EU and its Member States are committed to the 2030 Agenda<sup>7</sup>, playing an active role in maximising progress towards the 17 Sustainable Development Goals (SDGs)<sup>8</sup>, the UN and the EU are natural partners<sup>9</sup>. In this scenario, it should be noted that the EU approach for implementing this agenda runs through the achievement of a Circular Economy (CE), which is particularly promising for achieving sustainable development in general, but also many SDGs<sup>10</sup>.

However, the plastic pollution crisis arises as an obstacle to the accomplishment of sustainable development and a challenge for the implemen-

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1 EUROPEAN PARLIAMENT. Fact sheets on the European Union [on line]. 2023 [Accessed on July 17, 2023]. Available at <https://www.europarl.europa.eu/erpl-app-public/factsheets/pdf-chapter/en/en-chapter-5.pdf>.

2 Art. 2, Consolidated version of the Treaty on European Union (TEU).

3 Art. 3.5, TEU.

4 Ibidem.

5 EUROSTAT. Glossary: Sustainable development [on line]. 2023 [Accessed on July 19, 2023]. Available at [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:Sustainable\\_development](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:Sustainable_development).

6 Art. 21, TEU.

7 Adopted by the United Nations in 2015. For more, see UNITED NATIONS. Transforming our world: the 2030 Agenda for Sustainable Development (A/RES/70/1) [on line]. 2015 [Accessed on May 12, 2023]. Available at <https://sdgs.un.org/2030agenda>.

8 EUROSTAT. Sustainable development in the European Union: Monitoring report on progress towards the SDGs in an EU context [on line]. 6th Edition. Luxembourg: Publications Office of the European Union, 2022. [Accessed on June 14, 2023]. p. 26. Available at <https://ec.europa.eu/eurostat/documents/15234730/15242025/KS-09-22-019-EN-N.pdf/a2be16e4-b925-f109-563c-f94ae09f5436?t=1667397761499>.

9 EUROPEAN COMMISSION. The EU and the United Nations – common goals for a sustainable future [on line]. 2023 [Accessed on May 11, 2023]. Available at [https://commission.europa.eu/strategy-and-policy/sustainable-development-goals/eu-and-united-nations-common-goals-sustainable-future\\_en](https://commission.europa.eu/strategy-and-policy/sustainable-development-goals/eu-and-united-nations-common-goals-sustainable-future_en).

10 Such as SDGs 7 (affordable and clean energy), 8 (decent work and economic growth), 11 (sustainable cities and communities), 12 (responsible consumption and production), 13 (climate action), 14 (life below water), and 15 (life on land). For more, see UN GENERAL ASSEMBLY, UN ECONOMIC AND SOCIAL COUNCIL. Circular Economy for the SDGs: From Concept to Practice [on line]. 2018 [Accessed on June 11, 2023]. Available at [www.un.org/en/ga/second/73/jm\\_conceptnote.pdf](http://www.un.org/en/ga/second/73/jm_conceptnote.pdf).



tation of CE schemes – not only inside the EU, but across the entire planet, once this is a modality of transboundary pollution<sup>11</sup>. The consequences of plastics production and pollution on the triple planetary crisis of climate change, biodiversity loss and pollution constitute an urgent challenge: plastics, when discarded, become part of an ecosystem flow between air and ocean, traveling unlimitedly<sup>12</sup>.

The million tonnes of plastic litter that end up in the ocean every year are one of the most visible and alarming signs of this problem, causing growing public concern, which led to the point that the international community adopted, in March 2022 at the fifth session of the United Nations Environment Assembly (UNEA), the Resolution 5/14 “End plastic pollution: towards an international legally binding instrument” (RES. 5/14), expressing the commitment of the UN Member States to use diplomacy for the common good to conclude a Global Plastics Treaty by 2024<sup>13</sup>. Among all the challenges identified in the document, the sound management of plastic waste is one of the biggest issues to address, and CE strategies are envisaged as the best solution for it<sup>14</sup>.

This paper – of a descriptive nature, through a qualitative approach, carried out by the bibliographical and documental research method –, while analysing the EU’s approaches for implementing a CE, tries to individualize some of the impacts that the EU has been causing in third countries and reflects if these actions are in accordance with the EU’s very own founding values. Further, the article argues that the current scenario of negotiations for the future Global Plastics Treaty might be the best arena for creating convergences and promoting a values-based dialogue with third countries, mainly those in Latin America (LA). In this way, the EU shall not allow itself to fall into contradiction and, in fact, should really work to “close the loop”<sup>15</sup> by exporting values, instead of plastic waste.

## I. A CIRCULARITY APPROACH FOR THE UNION: PROMOTING SYNERGIES AND DIALOGUES WITH THIRD COUNTRIES?

The CE, in contrast with the currently prevailing linear economy, is seen as a more sustainable economic arrangement where economic growth

11 WALKER, TONY R. (Micro)plastics and the UN Sustainable Development Goals. *Green and Sustainable Chemistry*. 2021. Vol. 30, p. 6. [Accessed on May 10, 2023]. Available at [www.sciencedirect.com/science/article/pii/S2452223621000535](http://www.sciencedirect.com/science/article/pii/S2452223621000535).

12 In a business-as-usual scenario and in the absence of necessary interventions, the amount of plastic waste entering aquatic ecosystems could almost triple, from around nine to 14 million tons per year in 2016 to 23 to 37 million tons per year by 2040. In: UNITED NATIONS ENVIRONMENT PROGRAMME (UNEP). *From Pollution to Solution: A global assessment of marine litter and plastic pollution* [on line]. 1<sup>st</sup> Edition. Nairobi: Norad, 2021. [Accessed on June 14, 2023]. p. 14. Available at <https://www.unep.org/resources/pollution-solution-global-assessment-marine-litter-and-plastic-pollution>

13 UNEP. UNEA Resolution 5/14 entitled “End plastic pollution: Towards an international legally binding instrument” (UNEP/EA.5/Res.14) [on line]. 2022 [Accessed on May 10, 2023]. Available at [https://wedocs.unep.org/bitstream/handle/20.500.11822/39812/OEWG\\_PP\\_1\\_INF\\_1\\_UNEA%20resolution.pdf](https://wedocs.unep.org/bitstream/handle/20.500.11822/39812/OEWG_PP_1_INF_1_UNEA%20resolution.pdf).

14 In the text of the Resolution, it is identified the engagement of Member States to “promote sustainable production and consumption of plastics through, among other things, product design and environmentally sound waste management, including through resource efficiency and circular economy approaches;” In: UNEP/EA.5/Res.14 (2022).

15 This term is used for expressing that the use and management of plastic in a more circular manner is mandatory to increase the recovery rate and reduce the leakage of plastics into the environment, supporting the implementation of the SDGs, in particular SDGs 11, 12, and 14. “Closing the loop” here, then, means fulfilling this gap through the use of circular economy strategies. For more, see ECONOMIC AND SOCIAL COMMISSION FOR ASIA AND THE PACIFIC (ESCAP). *Closing the Loop* [on line]. 2022 [Accessed on May 18, 2023]. Available at <https://www.unescap.org/projects/ctl#:~:text=Closing%20the%20Loop%20aims%20to,Goals%2011%2C%2012%20and%2014>.

is dissociated from resources use, through the reduction and the recirculation of natural assets<sup>16</sup>. The CE is governed by the rules of international law and the national law of different countries around the world.

In particular, within international law, in recent years, the CE has gained increasing importance as a tool that presents solutions to some of the world's most urgent cross-cutting sustainable challenges.

Engaging measures for the implementation of a CE, therefore, provides expectations to accelerate the implementation of the 2030 Agenda and, in this regard, at least since 2015 the EU has demonstrated a shift towards the CE, identifying plastics as a major management priority<sup>17</sup>.

Later, in 2017, the EU expressed its interest in investing in an smart, innovative, and sustainable industry, by adopting renewed industrial practices in the EU, as well as a strategy to move towards a CE in the field of plastics, which culminated in the Plastics Strategy (PS) of 2018<sup>18</sup>.

It is important to notice that, once the CE can be understood as a strategy that consists in avoiding excessive consumption, waste and the use of fossil fuels by renting, reusing, repairing and recycling existing materials and products, it has a lot of potential to deal with the plastic pollution crisis<sup>19</sup>, because – with the current linear model – millions of plastic items of various sizes, from macro to nano, are dumped into the environment daily<sup>20</sup>.

More recently, the European Commission has also adopted a new approach for a Sustainable Blue Economy, committing to act not only inside the EU, but also abroad, leading the efforts to reach the future Global Plastics Treaty and to promote the adoption of the Circular Economy Approach to Plastics<sup>21</sup>.

Based on a large consensus that an environment that allows a dignified life and well-being should be guaranteed for the present and for the future generations<sup>22</sup>, it is possible to affirm that promoting this transition from a linear economy to a CE consists, as well, of a solidarity duty of

<sup>16</sup> CORONA, B.; SHEIN, L.; REIKE, D.; CARREÓN, J.R., WORRELL, E. Towards sustainable development through the circular economy – A review and critical assessment on current circularity metrics. *Resources, Conservation and Recycling*. 2019. Vol. 151, p. 1. [Accessed on May 10, 2023]. Available at [www.sciencedirect.com/science/article/pii/S0921344919304045](http://www.sciencedirect.com/science/article/pii/S0921344919304045).

<sup>17</sup> EUROPEAN UNION. Communication from the European Commission 'Closing the loop – An EU action plan for the Circular Economy' [on line]. 2015. [Accessed on May 18, 2023]. Available at [https://eur-lex.europa.eu/resource.html?uri=cellar:8a8ef5e8-99a0-11e5-b3b7-01aa75ed71a1.0012.02/DOC\\_1&format=PDF](https://eur-lex.europa.eu/resource.html?uri=cellar:8a8ef5e8-99a0-11e5-b3b7-01aa75ed71a1.0012.02/DOC_1&format=PDF).

<sup>18</sup> EUROPEAN UNION. Communication from the European Commission 'A European Strategy for Plastics in a Circular Economy' [on line]. 2018. [Accessed on May 18, 2023]. Available at [https://eur-lex.europa.eu/resource.html?uri=cellar:2df5d1d2-fac7-11e7-b8f5-01aa75ed71a1.0001.02/DOC\\_1&format=PDF](https://eur-lex.europa.eu/resource.html?uri=cellar:2df5d1d2-fac7-11e7-b8f5-01aa75ed71a1.0001.02/DOC_1&format=PDF).

<sup>19</sup> UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE (UNFCCC). Shifting to a Circular Economy Essential to Achieving Paris Agreement Goals [on line]. 2021. [Accessed on May 22, 2023]. Available at <https://unfccc.int/news/shifting-to-a-circular-economy-essential-to-achieving-paris-agreement-goals>.

<sup>20</sup> DE-LA-TORRE, G.E.; ARAGAW, T.A. What we need to know about PPE associated with the COVID-19 pandemic in the marine environment. *Marine Pollution Bulletin*. 2021. Vol. 163, p. 1. [Accessed on May 22, 2023]. Available at <https://www.sciencedirect.com/science/article/pii/S0025326X20309978>.

<sup>21</sup> EUROPEAN UNION. Communication from the European Commission 'on a new approach for a sustainable blue economy in the EU Transforming the EU's Blue Economy for a Sustainable Future' [on line]. 2021. [Accessed on June 20, 2023]. Available at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021DC0240>.

<sup>22</sup> DESING, H.; BRUNNER, D.; TAKACS, F.; NAHRATH, S.; FRANKENBERGER, K.; HISCHIER, R. A circular economy within the planetary boundaries: Towards a resource-based, systemic approach. *Resources, Conservation and Recycling*. 2020. Vol. 155, p. 2. [Accessed on August 10, 2023]. Available at <https://www.sciencedirect.com/science/article/pii/S0921344919305798>.

the EU; more specifically, a commitment to inter-generational solidarity, in the light of EU's very own values<sup>23</sup>.

The central issue and reflection to be unraveled, nonetheless, is how the EU was (and still is) implementing its CE strategies and tackling issues regarding plastic waste: is the Union establishing dialogues with third countries and exporting its values or, instead, is the EU spreading its waste to the wider world?

### 1.1- A Circular Economy Action Plan for the EU: dealing with plastic pollution just in theory?

When the EU first adopted the Circular Economy Action Plan (CEAP) in 2015, it established concrete and ambitious actions for achieving the aimed transition towards circularity, with measures covering the whole life cycle of products and materials until their very end: from production and consumption to waste management, therefore providing measures for the sound management of residues and litter<sup>24</sup>.

Later, the EU also expressed its interest in investing in a sustainable industry, by adopting renewed practices, as well as a strategy to move towards a CE in the field of plastics, a goal also

present in its approach for a Sustainable Blue Economy<sup>25</sup>.

In this scenario, the newest CEAP, along with the European Green Deal, are important instruments to provide a future-oriented framework for accomplishing a cleaner and more competitive EU together with civil and economic actors. The Green Deal – a growth plan for a carbon neutral Europe until 2050 – declares that, while the CEAP will guide the transition of all sectors, the Green Deal actions are centred on resource-intensive sectors such as textiles and plastics. The European Commission will supplement the 2018 PS focusing, among other things, on measures to tackle intentionally added micro plastics and unintentional releases of plastics<sup>26</sup>.

In this regard, the EU Action Plan “Towards Zero Pollution for Air, Water and Soil” is another significant instrument that provides targets for zero pollution by 2030. Under EU law and in collaboration with other strategies, the EU demonstrates its aim to reduce 30% of microplastics released into the environment and 50% of plastic litter in the ocean<sup>27</sup>.

This overview shows that the EU, undoubtedly, is very well equipped with legal instruments and strategies aimed at achieving sustainable development, especially through the implementa-

<sup>23</sup> Arts. 2 and 3.5, TEU.

<sup>24</sup> EUROPEAN COMMISSION. First circular economy action plan [on line]. 2015. [Accessed on June 10, 2023]. Available at [https://environment.ec.europa.eu/topics/circular-economy/first-circular-economy-action-plan\\_en](https://environment.ec.europa.eu/topics/circular-economy/first-circular-economy-action-plan_en).

<sup>25</sup> EUROPEAN UNION. Communication from the European Commission 'on a new approach for a sustainable blue economy in the EU Transforming the EU's Blue Economy for a Sustainable Future' [on line]. 2021. [Accessed on June 20, 2023]. Available at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021DC0240>.

<sup>26</sup> The Green Deal was proposed in 2019 by the European Commission. For more, see EUROPEAN UNION. Communication from the European Commission 'The European Green Deal' [on line]. 2019. [Accessed on June 17, 2023]. Available at [https://commission.europa.eu/publications/communication-european-green-deal\\_en](https://commission.europa.eu/publications/communication-european-green-deal_en).

<sup>27</sup> EUROPEAN UNION. Communication from the European Commission 'Pathway to a Healthy Planet for All EU Action Plan: Towards Zero Pollution for Air, Water and Soil' [on line]. 2021. [Accessed on June 20, 2023]. Available at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021DC0400>.



tion of the CE. However, despite all these EU law mechanisms addressing circularity and the management of waste – including plastic residues –, 70% of discarded plastics in the EU are still put in landfills or incinerated.

The potential annual energy savings that could be achieved from recycling all global plastic waste is estimated to be equivalent to more than three billion barrels of oil per year – which demonstrates that managing plastic waste has also an effect on the carbon footprint, once recycling one million tonnes of plastics would be equivalent to taking one million cars off the roads<sup>28</sup>.

Hence, if the EU is truly committed to continue leading the way to a CE for plastics at the global level and to use its influence, expertise, and financial resources to accelerate the implementation of the SDGs, it needs to follow its own theoretical approaches and start acting appropriately, putting all these measures into practice.

This is affirmed because – as it will be analysed in depth below – the EU expressly recognizes that it will not achieve a transformative change by acting alone and that no one should be left behind<sup>29</sup>. But, instead, the EU still exports waste abroad, which means that it is limiting it-

self to transferring the problem to third countries (including those in LA).

It is, therefore, necessary to reflect if the current waste management practices of the EU are in line with its own core values and principles stated in the EU founding Treaties.

## 1.2- Identifying contradictory measures: transferring the problem to third countries?

As above stated, CE is governed by the rules of international law and the national law of different countries around the world. This means that many States have already implemented CE strategies for decades, modifying their application depending on cultural and social differences.

CE concepts may include system-wide technical innovation between government and industry, seeking to redefine products and services for eliminating waste, while trying to minimize negative environmental and economic impacts<sup>30</sup>.

From a global perspective, the movement or reuse of waste is an example of CE, which means that the simple transfer of waste from one country to another could fit the concept, but it would still raise a series of ethical questions about the

<sup>28</sup> EUROPEAN COMMISSION. Questions & Answers: A European strategy for plastics [on line]. 2018. [Accessed on June 12, 2023]. Available at [https://ec.europa.eu/commission/presscorner/detail/en/MEMO\\_18\\_6](https://ec.europa.eu/commission/presscorner/detail/en/MEMO_18_6).

<sup>29</sup> Leaving no one behind means that the entire society and especially the ones further behind have a real possibility to grasp the chances and are well prepared for managing the risks. For more, see EUROPEAN ECONOMIC AND SOCIAL COMMITTEE. Leaving no one behind when implementing the 2030 Sustainable Development Agenda [on line]. 2019. [Accessed on May 27, 2023]. Available at [www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/leaving-no-one-behind-when-implementing-2030-sustainable-development-agenda-own-initiative-opinion](http://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/leaving-no-one-behind-when-implementing-2030-sustainable-development-agenda-own-initiative-opinion).

<sup>30</sup> MCDOWALL, W.; GENG, Y.; HUANG, B.; BARTEKOVÁ, E.; BLEISCHWITZ, R.; TÜRKELI, S.; KEMP, R.; DOMÉNECH, T. Circular Economy Policies in China and Europe. *Journal of Industrial Ecology, Research and Analysis*. 2017. Vol 21, no. 3, p. 652. [Accessed on May 22, 2023]. Available at <https://onlinelibrary.wiley.com/doi/10.1111/jiec.12597>.



practice<sup>31</sup> – especially since current CE approaches rarely incorporate sustainable raw material extraction and safe final sink disposal, which are two of its essential components<sup>32</sup>.

For example, China's main national-level framework for implementing CE is the Circular Economy Promotion Law<sup>33</sup>. In both China and the EU, CE is generally described as a new model for reconciling economic and environmental imperatives. However, within this broad framework, there are discrepancies. The Chinese approach treats the CE as a mechanism that is intended to solve problems arising from the country's rapid industrialization and economic growth, which have brought serious environmental damage.

In the EU, diversely, the implementation of a CE is allied to the promotion of environmental objectives, economic competitiveness, and innovation<sup>34</sup>.

Due to these different proposals for the conception of a CE, it is possible to observe a flow of plastic waste between States, depending on how they envision their own CE strategies. Most of the global waste trade takes place between developed and developing countries. For in-

stance, between 2006 and 2012, China's plastic waste imports increased from around five to more than eight million metric tons, while at the same time, 87% of plastic waste exports from EU Member States were shipped to China<sup>35</sup>.

For the exporting countries, sending processed plastic waste to China and neighbouring countries offered an escape – or “a way out” – from managing this waste, preventing it from going to landfills or to be incinerated in their places of origin<sup>36</sup>, but obviously leaving the problem unresolved.

In these circumstances, the Chinese government announced a ban on the import of 24 categories of materials and solid waste, including plastics, which generated an enormous pressure on developed countries around the world<sup>37</sup>, and consequently triggered a new approach to the EU for the management of plastic waste.

The most incisive regional actions regarding the management of plastics, in the case of the EU, therefore, are closely related to the above-mentioned Chinese restriction.

After this ban, the EU has demonstrated great efforts to manage plastic waste within the Un-

31 LIU, Z.; ADAMS, M.; WALKER, T.R. Are exports of recyclables from developed to developing countries waste pollution transfer or part of the global circular economy? *Resources, Conservation and Recycling*. 2018. Vol. 136, p. 24. [Accessed on May 13, 2023]. Available at <https://www.sciencedirect.com/science/article/abs/pii/S0921344918301368>.

32 DESING, H.; BRUNNER, D.; TAKACS, F.; NAHRATH, S.; FRANKENBERGER, K.; HISCHIER, R. *Ob. cit.*, p. 2.

33 For more, see CHINA. Circular Economy Promotion Law of the People's Republic of China' [on line]. 2008. [Accessed on July 13, 2023]. Available at <https://leap.unep.org/countries/cn/national-legislation/circular-economy-promotion-law-peoples-republic-china#:~:text=Circular%20Economy%20Promotion%20Law%20of%20the%20People's%20Republic%20of%20China.,-Country&text=This%20Law%20is%20formulated%20for,environment%20and%20realizing%20sustainable%20development>.

34 MCDOWALL, W.; GENG, Y.; HUANG, B.; BARTEKOVÁ, E.; BLEISCHWITZ, R.; TÜRKELI, S.; KEMP, R.; DOMÉNECH, T. *Ob. cit.*, p. 3.

35 LIU, Z.; ADAMS, M.; WALKER, T.R. *Ob. cit.*, p. 3.

36 BROOKS, A.L.; WANG, S.; JAMBECK, J.R. The Chinese import ban and its impact on global plastic waste trade. *Science Advances*. 2018. Vol. 4, no. 6, p. 1. [Accessed on May 22, 2023]. Available at <https://www.science.org/doi/pdf/10.1126/sciadv.aat0131>.

37 LIU, Z.; ADAMS, M.; WALKER, T.R. *Ob. cit.*, p. 3.

ion, adopting strategies and directives, such as the 2018 PS<sup>38</sup> and the Directive 2019/904 on the reduction of the impact of certain plastic products on the environment. The latter, in addition to contextualizing the core of the problem that gave rise to its elaboration, intended to ban the use of certain single-use disposable plastics in the continent by 2021, such as disposable plastic plates, cutlery, straws and cotton swabs<sup>39</sup>.

This specific Directive expressly provides that, for the efforts regarding preventing and tackling marine litter to be effective, it is also essential that exports of plastic waste from the EU do not result in increased marine litter in other countries<sup>40</sup>.

Such an engagement is commendable and should be recognized, however the reality is that this is very difficult to evaluate, mainly because there is a lack of official information from the industry or governments concerning the true destiny of plastics exported outside the EU for recycling.

The fate of this material in importing countries is not well documented: a significant fraction of imported plastic destined for recycling ends up in landfills, and approximately 24% of rejected plastics potentially enters the ocean<sup>41</sup>.

Not to mention the working conditions of the recyclers, which involve several social issues, since the process of recycling plastic waste is typically carried out in an informal context, where children and women are involved and directly exposed to the risk of serious health problems<sup>42</sup>. Despite that, waste is still increasingly moving across EU borders<sup>43</sup>.

Due to regulatory differences, it is common that this waste leaks from the EU to jurisdictions with lower environmental standards, or the so-called “linear production heavens”<sup>44</sup>. In this sense, the exports of waste from the EU to non-EU countries have increased by two thirds since 2004. In 2019, these exports reached 31 million tonnes. Turkey is one of the largest destinations for waste exported from the EU (followed by In-

<sup>38</sup> EUROPEAN UNION. Communication from the European Commission ‘A European Strategy for Plastics in a Circular Economy’ [on line]. 2018. [Accessed on May 18, 2023]. Available at [https://eur-lex.europa.eu/resource.html?uri=cellar:2df5d1d2-fac7-11e7-b8f5-01aa75ed71a1.0001.02/DOC\\_1&format=PDF](https://eur-lex.europa.eu/resource.html?uri=cellar:2df5d1d2-fac7-11e7-b8f5-01aa75ed71a1.0001.02/DOC_1&format=PDF).

<sup>39</sup> EUROPEAN UNION. Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment [on line]. 2019. [Accessed on May 23, 2023]. Available at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L0904&qid=1694190120550>.

<sup>40</sup> *Ibidem*.

<sup>41</sup> BISHOP, G.; STYLES, D.; LENS, P.N.L. Recycling of European plastic is a pathway for plastic debris in the ocean. *Environmental International*. 2020. Vol. 142, p. 2. [Accessed on June 11, 2023]. Available at <https://www.sciencedirect.com/science/article/pii/S0160412020318481>.

<sup>42</sup> SALHOFER, S.; JANDRIC, A.; SOUDACHANH, S.; XUAN, T.L.; TRAN, T.D. Plastic Recycling Practices in Vietnam and Related Hazards for Health and the Environment. *International Journal of Environmental Research and Public Health*. 2021. Vol 18, p. 5. [Accessed on July 2, 2023]. Available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8071425/pdf/ijerph-18-04203.pdf>.

<sup>43</sup> EUROPEAN ENVIRONMENT AGENCY. EU exporting more waste, including hazardous waste [on line]. 2016. [Accessed on May 2, 2023]. Available at <https://www.eea.europa.eu/highlights/eu-exporting-more-waste-including>.

<sup>44</sup> THE WORLD BANK. Squaring the Circle: Policies from Europe’s Circular Economy Transition [on line]. 1st Edition. Washington DC: World Bank Publications, 2022. [Accessed on July 12, 2023]. p. 51. Available at <https://www.worldbank.org/en/region/eca/publication/squaring-circle-europe-circular-economy-transition>.

dia and Egypt), with a volume of around 14,7 million tonnes in 2021<sup>45</sup>.

In LA, for instance, a Circular Economy Coalition of Latin America and the Caribbean was launched in 2021<sup>46</sup>, coordinated by the United Nations Environment Programme (UNEP), during the XXII Forum of Ministers of Environment of Latin America and the Caribbean<sup>47</sup>.

In an effort to position the LA region as a significant actor and a global leader in the transition to a low-carbon and SDG-aligned economy, the Coalition seeks to forge a common perspective for the CE. The vision aims to build up existing CE transition initiatives that are now taking place in various countries throughout the region<sup>48</sup>.

Despite that, although LA is not one of the main destinations of the EU's plastic waste, it is still affected by imported waste that will most likely be mismanaged. Most of the plastic waste dumped in LA comes from the United States, but Ecuador, for example, was able to determine the source of plastic debris imported, which came from at least 37 nations across three continents between 2014 and 2020, including from Europe<sup>49</sup>.

The EU, therefore, founded and established as a global exporter of values, should not be known as a global exporter of waste, primarily because, by exporting plastic waste which will mostly likely end up in landfills, the EU is also exporting inequality and insecurity.

The very founding values and principles of the EU forbid it to be conniving with such practices, particularly since they are a basis for EU identity: as a foundation for policies, as guiding practices, or implementation of policies, and as a goal for action<sup>50</sup>.

A real shift in action must be taken and the current scenario of negotiations for the future Global Plastics Treaty seems to be a fertile ground for this.

## II. STRATEGIES FOR ESTABLISHING A “CIRCULAR DIALOGUE”: A PATHWAY TOWARDS FIGHTING PLASTIC POLLUTION WITHIN AND OUTSIDE THE EU

It is noticeable that concerns about plastic waste and support for CE for plastics have been

45 EUROSTAT. What are the main destinations of EU export of waste? [on line]. 2022. [Accessed on June 17, 2023]. Available at <https://ec.europa.eu/eurostat/web/products-eurostat-news/-/ddn-20220525-1>.

46 CIRCULAR ECONOMY COALITION. Latin America and the Caribbean launches the Circular Economy Coalition [on line]. 2021. [Accessed on July 3, 2023]. Available at <https://coalicioneconomicircular.org/en/latin-america-and-the-caribbean-launches-the-circular-economy-coalition/>

47 UNEP. XXII Forum of Ministers of Environment of Latin America and the Caribbean [on line]. 2021. [Accessed on July 3, 2023]. Available at <https://www.unep.org/events/unep-event/xxii-forum-ministers-environment-latin-america-and-caribbean>.

48 CIRCULAR ECONOMY COALITION. Circular Economy in Latin America and the Caribbean: A Shared Vision [on line]. 2022. [Accessed on July 7, 2023]. Available at <https://www.unep.org/resources/publication/circular-economy-latin-america-and-caribbean-shared-vision>.

49 GLOBAL ALLIANCE FOR INCINERATOR ALTERNATIVES (GAIA). Plastic waste has arrived in Latin America: trends and challenges in the region [on line]. 2021. [Accessed on May 15, 2023]. Available at <https://www.no-burn.org/wp-content/uploads/Executive-Summary-Plastic-waste-LA-ingles-1.pdf>.

50 CREMONA, MARCO. Values in EU Foreign Policy. In: SCISO, ELENA; BARATTA, ROBERTO; MORVIDUCCI, CLAUDIA (eds.). I valori dell'Unione europea e l'azione esterna. 1 ed. Torino: Giappichelli, 2016. p. 8.



growing in recent times<sup>51</sup>, and the example of the EU is quite significant.

This shared concern – not only coming from the EU, but also coming from a great part of the international community – has led to a historical moment, where UN Member States committed to develop a legally binding instrument (LBI) on plastics. The path until the beginning of the negotiations for the future LBI has been long, however it must be considered that the evolution of scientific knowledge is essential to support international legal measures and to provide sufficient communications to decision-makers, aimed specifically at fighting plastic pollution<sup>52</sup>.

Given the magnitude of the problem – with alarming data providing that microplastics, for instance, have by now dispersed everywhere in the planet, even to the most remote environments, and are present in potable water, and human bodies<sup>53</sup> –, it is possible to find some legal mechanisms that (even before the beginning of the negotiation) to a certain extent, already touch on the issue of plastics<sup>54</sup>.

Even so, it is only with RES. 5/14 that the international community declared the urgent call for strengthening global coordination, cooperation, and governance in order to implement immediate actions towards the long-term eradication of plastic pollution – this future LBI is already considered as the most significant multi-lateral environmental agreement (MEA) since the Paris Agreement.

In fact, at UNEA-5.2, it was clarified that the negotiation years are not a *moratorium* on pollution – as government and industrial actions against plastic pollution must continue to occur in parallel –, as well as it was expressly recognized that plastics have a direct impact on climate change<sup>55</sup>.

The resolution also sets parameters for the plastics LBI negotiation process and operates within the context of international law, establishing a negotiating process and drafting, as well as creating standards for the new LBI in the existing MEA practice<sup>56</sup>. To move forward with the process, the UNEA requested the convening of an Intergovernmental Negotiating Committee (INC) to begin its work on developing the plastics treat-

51 HSU, W.; DOMENECH, T.; MCDOWALL, W. Closing the loop on plastics in Europe: The role of data, information and knowledge. *Sustainable Production and Consumption*. 2022. Vol. 33, p. 942. [Accessed on May 17, 2023]. Available at <https://www.sciencedirect.com/science/article/pii/S2352550922002251>.

52 In this regard, it is important to emphasize that besides its relevance, ocean research remains poorly funded: it receives only a tiny part – less than 2% on average – of national research budgets. For more, see UNESCO-IOC. *The United Nations Decade of Ocean Science for Sustainable Development (2021-2030) Implementation plan – Summary* [on line]. 2021. [Accessed on May 12, 2023]. Available at <https://unesdoc.unesco.org/ark:/48223/pf0000265198>.

53 SILVA FILHO, C.R.V.; VELIS, C.A. United Nations' plastic pollution treaty pathway puts waste and resources management sector at the centre of massive change. *Waste Management & Research*. 2022. Vol. 40, no. 5, p. 487. [Accessed on May 19, 2023]. Available at <https://journals.sagepub.com/doi/pdf/10.1177/0734242X221094634>.

54 Such as the Basel, Rotterdam, and Stockholm Conventions. For more, see DI PASQUALE, A.I.B.S.L.; MONTALVERNE, T.C.F. Mecanismos multilaterais voltados à gestão de resíduos plásticos: o contexto fragmentado e a persistência de lacunas. In: *Governança Internacional e Poluição Transfronteiriça rumo a um acordo global sobre plásticos para enfrentar a emergência oceânica?* 1<sup>st</sup> Edition. Belo Horizonte: Arraes Editores, 2023. p. 80.

55 UNITED NATIONS ENVIRONMENT PROGRAMME. *Historic day in the campaign to beat plastic pollution: Nations commit to develop a legally binding agreement* [on line]. 2022. [Accessed on June 17, 2023]. Available at <https://www.unep.org/news-and-stories/press-release/historic-day-campaign-beat-plastic-pollution-nations-commit-develop>.

56 UNEP/EA.5/Res.14 (2022).



ty with the ambition to complete it by the end of 2024.

From that, four sessions of the INC have already taken place: INC-1 in Punta del Este (Uruguay), from 28 November to 2 December 2022; INC-2 in Paris (France), from 29 May to 2 June 2023; INC-3 in Nairobi (Kenya), from 13 to 19 November 2023; and INC-4 in Ottawa (Canada), from 23 to 29 April 2024. The last session, or the INC-5, is scheduled to take place in Busan (Republic of Korea), from 25 November to 1 December 2024<sup>57</sup>.

A brief overview on the role of the EU throughout this process, hence, is further analysed, as well as how it promotes a dialogue with the LA region, in order to provide reflections about the potential of the Union when it comes to exporting its values beyond its borders.

## 2.1- The EU's role in the negotiations: promoting a dialogue with LA?

The RES. 5/14 consolidated international efforts aimed at fighting plastic pollution, but before that, actions developed in the EU were already seen as advanced and innovative.

In this scenario, the 2018 PS had already situated the EU as the best actor to lead the transition<sup>58</sup>, once the EU has shown interest in leading efforts to reach the plastics LBI and, consequently, laying the basis for a stronger and more coordinated response to plastic pollution globally<sup>59</sup>.

Since the very beginning of the negotiations, the actions of the EU have been seen as a driving force to tackle plastic pollution. The EU has demonstrated to be determined to keep pushing for ambitious global action, emphasizing the need to integrate environmental agendas because of their complementarity<sup>60</sup>.

In this regard, it is worth exemplifying how environmental agendas are complementary and integrated. For instance, the climate emergency – which is mainly related to the emission of greenhouse gases (GHG) that contribute to rise temperatures – and the ocean emergency – reflected, among other consequences, in sea level rise, ocean heating, ocean acidification and GHG concentrations<sup>61</sup>– are strongly related; and plastic pollution – whether marine or terrestrial – is one of the factors that connect these environmental crises<sup>62</sup>.

<sup>57</sup> UNEP. Intergovernmental Negotiating Committee (INC) on Plastic Pollution [on line]. 2022. [Accessed on May 13, 2023]. Available at <https://www.unep.org/about-un-environment/inc-plastic-pollution>.

<sup>58</sup> EUROPEAN UNION. Communication from the European Commission 'The European Green Deal' [on line]. 2019. [Accessed on June 17, 2023]. Available at [https://commission.europa.eu/publications/communication-european-green-deal\\_en](https://commission.europa.eu/publications/communication-european-green-deal_en).

<sup>59</sup> EUROPEAN UNION. Communication from the European Commission 'on a new approach for a sustainable blue economy in the EU Transforming the EU's Blue Economy for a Sustainable Future' [on line]. 2021. [Accessed on June 20, 2023]. Available at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021DC0240>.

<sup>60</sup> EUROPEAN COMMISSION. EU helps launch negotiations on landmark global agreement on plastic pollution [on line]. 2022. [Accessed on June 17, 2023]. Available at [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_22\\_1466](https://ec.europa.eu/commission/presscorner/detail/en/ip_22_1466).

<sup>61</sup> Climate change has caused increasingly irreversible losses and substantial damages in open ocean, terrestrial, and other ecosystems. Ocean warming and ocean acidification have adversely affected food production from fisheries and shellfish aquaculture in some oceanic regions. In: INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE (IPCC). Climate Change 2023: Synthesis Report – A Report of the Intergovernmental Panel on Climate Change [on line]. 2023. [Accessed on June 17, 2023]. Available at [https://www.ipcc.ch/report/ar6/syr/downloads/report/IPCC\\_AR6\\_SYR\\_SPM.pdf](https://www.ipcc.ch/report/ar6/syr/downloads/report/IPCC_AR6_SYR_SPM.pdf).

<sup>62</sup> LAVERS, J.L.; BOND, A.L.; ROLSKY, C. Far from a distraction: Plastic pollution and the planetary emergency. *Biological Conservation*. 2022. Vol. 272, p. 2. [Accessed on July 17, 2023]. Available at <https://www.sciencedirect.com/science/article/pii/S0006320722002087>.

This is stated because GHG emissions occur at all stages of the plastics life cycle; besides, plastics released into the environment also slowly release GHG; and, lastly, the presence of (micro) plastics in the seas seriously interferes with the ocean's ability to fix carbon<sup>63</sup>.

The EU, therefore, has shown its interest in leading efforts to reach the plastics LBI, working actively for bringing together the coalition of States that spearheaded efforts towards adopting RES. 5/14, aimed at promoting the uptake of the CE approach for plastics, which would lay the basis for a stronger and more coordinated response to plastic pollution globally<sup>64</sup>.

The future LBI aims to close the gaps that existing initiatives and agreements do not address until now, especially regarding the design and the production phases of the plastics life cycle<sup>65</sup>, aspects that are all related to the CE.

This demonstrates the engagement of the EU, not only concerning CE, but relating to the fight against plastic pollution in its entirety. The main issue is that some of the concrete actions of the EU seem to simply “transfer” the problem, instead of properly dealing with it.

The role and influence of the EU are very important in this process, but other actors also need to be heard, especially because the negotiations must be guided by a fair and just transition, that is inclusive as well<sup>66</sup>.

An important advocate for this just and inclusive transition, in LA, is Brazil, which has already shown concern about the implementation measures that should be included in the future LBI, emphasizing that both the means and the obligations and implementation measures must be formulated simultaneously and proportionally, so that they are equally ambitious, in line with the Group of Latin American and Caribbean States (GRULAC)<sup>67</sup>.

It is evident that during the negotiations, the EU and the LA countries demonstrate different opinions and needs, as their realities are different in many aspects. However, since the first Summit between the EU and LA, the Rio de Janeiro Declaration of 1999 highlighted the importance of shared values inherited from the common history between the two regions<sup>68</sup>.

In the 2008 Summit, the EU and LA recognized that achieving sustainable development relies on strengthening international cooperation, for

<sup>63</sup> SHEN, M.; HUANG, W.; CHEN, M.; SONG, B.; ZENG, G.; ZHANG, Y. (Micro)plastic crisis: Un-ignorable contribution to global greenhouse gas emissions and climate change. *Journal of Cleaner Production*. 2020. Vol. 254, no. 1, p. 2. [Accessed on July 17, 2023]. Available at <https://www.sciencedirect.com/science/article/pii/S0959652620301852>.

<sup>64</sup> EUROPEAN UNION. Communication from the European Commission 'on a new approach for a sustainable blue economy in the EU Transforming the EU's Blue Economy for a Sustainable Future' [on line]. 2021. [Accessed on June 20, 2023]. Available at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021DC0240>.

<sup>65</sup> EUROPEAN COMMISSION. EU helps launch negotiations on landmark global agreement on plastic pollution [on line]. 2022. [Accessed on June 17, 2023]. Available at [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_22\\_1466](https://ec.europa.eu/commission/presscorner/detail/en/ip_22_1466).

<sup>66</sup> INTERNATIONAL UNION FOR CONSERVATION OF NATURE (IUCN). INC-2 Plastic Pollution Treaty [on line]. 2023. [Accessed on June 20, 2023]. Available at <https://www.iucn.org/sites/default/files/2023-05/inc-2-policy-brief-may-2023-final.pdf>.

<sup>67</sup> UNITED NATIONS. Pre-session Submissions for the First Session of the Intergovernmental Negotiation Committee on Plastic Pollution – Brazil [on line]. 2022. [Accessed on June 17, 2023]. Available at <https://www.unep.org/events/conference/inter-governmental-negotiating-committee-meeting-inc-1>.

<sup>68</sup> EUROPEAN PARLIAMENT. Cimeiras UE-CELAC - 1st EU-LAC Summit, Rio de Janeiro (Brazil), 29 June 1999 [on line]. 2023. [Accessed on June 15, 2023]. Available at [https://www.europarl.europa.eu/cmsdata/266739/1999\\_EN\\_rio\\_decl.pdf](https://www.europarl.europa.eu/cmsdata/266739/1999_EN_rio_decl.pdf).

which both regions reaffirmed their commitment to supporting environmental governance in the UN System and multilateral initiatives such as the 21 Agenda, the United Nations Framework Convention on Climate Change (UNFCCC), the Kyoto Protocol, the Convention on Biological Diversity and the Convention to Combat Desertification<sup>69</sup>.

The promotion of a values-based dialogue between the EU and the LA countries, then, has been developing for many years now, shaping and refining itself over the years.

It is expected that this contact will be increasingly closer, in order to guarantee sustainable development at all levels, not only economic and social, but above all environmental, perhaps also implementing environmental justice values in order to fairly distribute the benefits and burdens of economic activities – as well as providing equitable access to environmental services and needs.

If the EU wants to present itself as a prominent positive influence in the negotiation arena, it must also be ready to listen to the needs of third countries – which, together, are building a collective voice on plastic pollution and strengthening solidarity, that has been admittedly essential to successful resistance efforts and awareness-rai-

sing around many environmental issues<sup>70</sup> –, taking into account that there is still so much to be improved (also) inside the EU.

For instance, recently the EU, the LA and the Caribbean countries have sought to join forces, arranging meetings to discuss about how to speed up the transition to a CE and work together to reach a bold global treaty to fight against plastic pollution<sup>71</sup>.

## 2.2- A needed harmonisation: improving the EU strategies?

Aware of the dialogue established with third countries, especially those in the LA region, it becomes even more evident that the EU, by exporting plastic waste that will mostly likely end up in landfills, is also exporting inequality and insecurity<sup>72</sup> – therefore endangering the nature of its own founding values, such as solidarity, the sustainable development of the Earth, the eradication of poverty and the protection of human rights<sup>73</sup>; after all, the EU's actions on the international arena should be based on the export of the values and the principles of the Union itself<sup>74</sup>.

It is specifically for this motives that the EU is forbidden to be conniving with such (unsafe and improper) practices, especially when the TEU es-

<sup>69</sup> EUROPEAN PARLIAMENT. Cimeiras UE-CELAC - 5th EU-LAC Summit, Lima (Peru), 16 May 2008 [on line]. 2023. [Accessed on June 15, 2023]. Available at [https://www.europarl.europa.eu/cmsdata/266726/declar\\_de\\_lima\\_EN.pdf](https://www.europarl.europa.eu/cmsdata/266726/declar_de_lima_EN.pdf).

<sup>70</sup> Such as nuclear weapons testing, toxic dumping, drift netting, the impacts of climate change, and the renegotiating of the United Nations Convention on the Law of the Sea (UNCLOS). For more, see FULLER, S., NGATA, T., BORRELLE, S. B., FARRELLY, T. Plastics pollution as waste colonialism. *Journal of Political Ecology*, Vol. 29, p. 553. [on line]. 2022. [Accessed on December 22, 2023]. Available at <https://mro.massey.ac.nz/server/api/core/bitstreams/b111c791-7c99-4ae6-a3d9-3844d9d4bf14/content>.

<sup>71</sup> EUROPEAN COMMISSION. EU, Latin America and Caribbean step up cooperation on environment and climate action policies [on line]. 2023. [Accessed on July 22, 2023]. Available at [https://environment.ec.europa.eu/news/eu-latin-america-and-caribbean-step-cooperation-environment-and-climate-action-policies-2023-05-05\\_en](https://environment.ec.europa.eu/news/eu-latin-america-and-caribbean-step-cooperation-environment-and-climate-action-policies-2023-05-05_en).

<sup>72</sup> Overexposure to plastics is associated with hazards and risks that are borne unevenly and disproportionately by populations. For more, see DI PASQUALE, A.I.B.S.L.; MONT'ALVERNE, T.C.F. Ob. cit., p. 36.

<sup>73</sup> Art. 3.5, TEU.

<sup>74</sup> CREMONA, M. Ob. cit., p. 4.



establishes that *the Union in its relations with the wider world affirms and promotes its own values*.

The values in question also refer to those stated in Article 2 of the TEU and include the “respect for human dignity, freedom, democracy, equality, the rule of law” and the “respect for human rights, including the rights of persons belonging to minorities”. All these values, affirms the article, are “common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail”<sup>75</sup>.

These legal provisions provide a practical expression for the values that are symbolic to the EU. Whether they are imported into the EU legal system or derived from the Treaties, these norms have the potential to become fundamental or constitutional, thereby forming the basis of the EU’s self-projection, identity, and self-perception as an international actor<sup>76</sup>.

The aforementioned articles, thus, must be read in conjunction with article 21.1 of the TEU, which clarifies that the EU’s action on the international scene “shall be guided by the principles which have inspired its own creation, development and enlargement” and which it aims “to advance in the wider world”, among which, the “respect for human dignity, the principles of equality and solidarity, and respect for the prin-

ciples of the United Nations Charter and international law”<sup>77</sup>.

In this scenario, it is mandatory that the EU adequate its rules and strategies – in this case, specifically regarding plastics – from theory to practice, because its values are not only characteristics of the EU’s identity, but as well are a key to achieving specific objectives within Europe and its neighbourhood<sup>78</sup>.

Exporting plastic waste to countries that still do not have the verified or proven capacity to manage it means transferring the problem and worsening an environmental situation that affects the entire world’s population somehow; therefore, going against its own objectives.

To illustrate this situation, the case of Brazil can be explored: the country is at the top of the 18 megadiverse countries, harbouring between 15 and 20 percent of the world’s biological diversity, with more than 120,000 species of invertebrates, about 9,000 vertebrates and more than 4,000 species of plants<sup>79</sup>.

If the EU starts exporting more and more plastic waste to Brazil<sup>80</sup> without the guarantee that the residues that arrive there will be controlled and properly managed, it means that this export, on the one hand, transfers the problem of

<sup>75</sup> Art. 2, TEU.

<sup>76</sup> CREMONA, M. Ob. cit., p. 4.

<sup>77</sup> Art. 21.1, TEU.

<sup>78</sup> CREMONA, M. Ob. cit., p. 4.

<sup>79</sup> UNEP. Megadiverse Brazil: giving biodiversity an online boost [on line]. 2019. [Accessed on May 20, 2023]. Available at <https://www.unep.org/news-and-stories/story/megadiverse-brazil-giving-biodiversity-online-boost#:~:text=Brazil%20is%20at%20the%20top,more%20than%204%2C000%20plant%20species>.

<sup>80</sup> The impact of plastic has been reaching all Latin America, and today countries like Mexico and Ecuador are among the largest importers of plastic, with loopholes in legislation, which do not have efficient inspection and control. For more, see GLOBAL ALLIANCE FOR INCINERATOR ALTERNATIVES (GAIA). Plastic waste has arrived in Latin America: trends and challenges in the region [on line]. 2021. [Accessed on May 15, 2023]. Available at <https://www.no-burn.org/wp-content/uploads/Executive-Summary-Plastic-waste-LA-ingles-1.pdf>.



waste management to a third country; and, on the other hand, is potentially putting at risk natural resources that are important for the entire humanity.

For that – in addition to obeying European values –, advocating for the insertion of the principle of Extended Producer Responsibility (EPR), for instance, would be very useful.

This principle is essential to reinforce the responsibilities of the product manufacturer at various parts of the complete life cycle of plastics, and in particular its recovery, recycling, and disposal. The costs of negative environmental externalities of products should be passed on to producers, so that companies bringing plastic products to market help pay for the life cycle costs of plastics, including management and clean-up as well as the costs related to consumer awareness measures<sup>81</sup>.

In view of this, as the negotiation for the future LBI progress, there could be no better time for the EU to revisit its own initiatives regarding the fight against plastic pollution, so that concrete actions become more consistent with European values.

It is the EU's duty to defend and advance its interests alongside its values, which are mutually

arising from the third countries that also share them<sup>82</sup>: ensuring that measures employed to end plastic pollution are fair, equitable and inclusive for all parties across the plastics life cycle (by protecting livelihoods and communities affected by plastic pollution and corresponding control measures<sup>83</sup>) thus, is in complete accordance with EU values, possibly constituting an outgrowth of the European solidarity towards the LA region and other countries<sup>84</sup>.

In fact, it should be noted that beyond the arena of the negotiation for the future Global Plastics Treaty, the EU has already started to harmonise its values with its conducts regarding plastic waste management.

An interesting and promising example is the 2021 proposed revision of the current rules on waste shipments.

Before delving deeper into proposal – which was recently adopted and entered into force, starting to apply by 2026 –, it is worth noticing that waste transportation within and beyond EU borders is currently still regulated by the EU waste shipment regulation EC 1013 of 2006, and the recent amendment through Delegated Regulation (EU) 2020/2174, which restricts waste trade on certain plastics (like hazardous and non-hazard-

<sup>81</sup> ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD). Deposit-refund systems and the interplay with additional mandatory extended producer responsibility policies [on line]. 2022. [Accessed on May 14, 2023]. Available at <https://www.oecd.org/environment/deposit-refund-systems-and-the-interplay-with-additional-mandatory-extended-producer-responsibility-policies-a80f4b26-en.htm>.

<sup>82</sup> CREMONA, M. Ob. cit., p. 7-8.

<sup>83</sup> O'HARE, P., NØKLEBYE, E., STOETT, P., & KORTSEN, K. Policy Brief: Towards a Just Transition Away from Plastic Pollution. Zenodo, p. 1. [on line]. 2023. [Accessed on December 17, 2023]. Available at <https://doi.org/10.5281/zenodo.10021005>.

<sup>84</sup> Similarly to what can be observed with the Just Transition Fund (JTF), which besides the monetary aid serves as a symbol of solidarity with affected regions and the workers that often dedicated their lives to providing energy to others, the EU can advocate for implementing mechanisms that display its solidarity in the field of plastics as well. For more see MOESKER, K., PESCH, U. The just transition fund – Did the European Union learn from Europe's past transition experiences? Energy Research & Social Science, Vol. 91, p. 7. [on line]. 2022. [Accessed on December 19, 2023]. Available at <https://doi.org/10.1016/j.erss.2022.102750>.

ous plastic waste that are hard to recycle from the EU to non-OECD<sup>85</sup> states<sup>86</sup>).

Exports of waste from the EU to third countries, nonetheless, have increased significantly since the Regulation's adoption in 2006, particularly to nations outside of the Organisation for Economic Co-Operation and Development (OECD). Insufficient regulations aimed at guaranteeing environmentally sound waste management in the target countries have resulted in weak enforcement and environmental and public health adverse effects.

In 2020, the EU imported about 16 million tonnes of waste and exported about 33 million tonnes to non-EU nations. Furthermore, every year, almost 70 million tonnes of waste are transported between EU countries. The EU's transition to a CE, thus, is being slowed down by administrative procedures that restrict the movement of waste among its member states<sup>87</sup>.

Aware of these circumstances, the European Commission presented a proposal for a new Waste Shipment Regulation in 2021, putting forward a renovated approach to EU shipments of waste, implementing the commitments of many European policies, such as the new CEAP and the Zero Pollution Action Plan, the new EU Strategy

to tackle Organised Crime 2021-2025 and the European Green Deal.

It further presents three main goals, which are: making it simpler to transport waste for recycling and reuse in the EU; better addressing illegal waste shipments; and more importantly, ensuring that the EU does not export its challenges regarding waste to third countries<sup>88</sup>.

This new approach is expected to support the transition to an innovative CE by ensuring that the EU does not export its pollution abroad and that waste is treated sustainably both inside and outside the EU; which is very representative of the European awareness and engagement to harmonise its values from theory to practice, seeking to transform an unfair reality towards achieving a more resilient present and future – leaving no one behind.

Overall, the EU should be more engaged in preventing waste in order to become more resource-efficient, which is a key element of the 2020 Growth Strategy<sup>89</sup>. But of course, the EU can always go beyond: European countries of origin need as well to take greater responsibility for whom they export plastic waste to.

While actively participating in the negoti-

<sup>85</sup> Or the States that are not a part of the Organisation for Economic Co-operation and Development.

<sup>86</sup> PRATA, J.C., SILVA, A.L.P., DUARTE, A.C., ROCHA-SANTOS, T. The road to sustainable use and waste management of plastics in Portugal. *Frontiers of Environmental Science & Engineering*. Vol. 16, n. 5, p. 4. [on line]. 2022. [Accessed on December 20, 2023]. Available at <https://doi.org/10.1007/s11783-021-1439-x>.

<sup>87</sup> EUROPEAN COMMISSION. Questions and Answers on new EU rules on waste shipments [on line]. 2021. [Accessed on July 28, 2023]. Available at [https://ec.europa.eu/commission/presscorner/detail/en/qanda\\_21\\_5918](https://ec.europa.eu/commission/presscorner/detail/en/qanda_21_5918)

<sup>88</sup> Especially when the waste to be shipped poses particular challenges, so it is preferred that it remains in the EU. This option is expected to result in an overall significant positive environmental impact. For more, see EUROPEAN COMMISSION. Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on shipments of waste and amending Regulations (EU) No 1257/2013 and (EU) No 2020/1056 [on line]. 2021. [Accessed on December 26, 2023]. Available at [https://eur-lex.europa.eu/resource.html?uri=cellar:6c0588b1-4878-11ec-91ac-01aa75ed71a1.0001.02/DOC\\_1&format=PDF](https://eur-lex.europa.eu/resource.html?uri=cellar:6c0588b1-4878-11ec-91ac-01aa75ed71a1.0001.02/DOC_1&format=PDF).

<sup>89</sup> EUROPEAN UNION. Communication from the European Commission 'EUROPE 2020 A strategy for smart, sustainable and inclusive growth' [on line]. 2020. [Accessed on May 15, 2023]. Available at <https://ec.europa.eu/eu2020/pdf/COMPLET%20EN%20BARROSO%20%202007%20-%20Europe%202020%20-%20EN%20version.pdf>.

ations to advance on the future Global Plastics Treaty, the EU must look inwards and seize this moment to improve the 2018 PS along with its CE strategies and its synergies with EU law, in addition to the emerging international rules on plastics, working to raise international environmental standards for all.

The EU needs to keep on finding inspiration in its own roots, to rearrange its priorities and to promote harmonisation and synergies among all these legal instruments, so that the regulatory divergences do not lead to undesired failures and abuses.

## FINAL REFLECTIONS

Exporting plastic waste is just one symptom of a larger problem: the unsustainable linear model that still dominates the global consumer economy. The EU, much more resourced when compared to the rest of the world, should be among the first group of nations to achieve full waste self-sufficiency and stop acting as a global waste trader, going further on efforts to achieve a real change of mentality (and action) – and moving from linearity to circularity.

EU countries of origin need to more aware and responsible for whom they export waste to and, therefore, the EU must find inspiration in its own foundation to rearrange its priorities, and to think of coherent and effective answers to plastic pollution issues.

The promotion of the EU values in relations with the rest of the world is therefore at the heart of the Union's action; so, recalling art. 21 of the TEU, the EU shall build partnerships and develop connections with third countries, promo-

ting multilateral solutions to common problems, under the framework of the UN<sup>90</sup>.

In this regard, the plastic waste crisis – a transboundary and global crisis – can only be solved through a holistic strategy that includes all parties affected, leaving no one behind.

Promoting a values-based dialogue with LA – a historic partner in actions aimed at achieving sustainable development – is not only essential, but also vital to the success of the measures to be adopted in a near future. Despite being regions with cultural differences and particularities, both share important values that refer to a history of partnerships and strong connections.

Therefore, emphasising the promotion of sustainable development through a CE approach that is not limited to transferring the problem to third countries should be a primary concern of the EU – after all, trading plastic waste can benefit from being handled under the CE, because it contains valuable raw materials. General mismanagements, then, need to be tackled in all its manifestations, including exports of waste, so a real shift in action must be taken and the emerging Global Plastics Treaty is an excellent opportunity for it.

This contribution, although emphasizing some discrepancies between the theory and the practice of EU conduct when it comes to its values and how plastic waste has been handled so far, also highlights the recent proposal for a new Waste Shipment Regulation as a very promising demonstration of the European potential to transform an unfair reality and achieve a path towards greater circularity for everyone.

<sup>90</sup> Art. 21, TEU.



Beyond that, by implementing measures of this nature, the EU not only recognizes that waste shipped across borders can pose hazards to both human health and the environment (particularly if it is not adequately managed), but once again stands out and demonstrates its full potential and major role in establishing a values-based dialogue with other regions of the world, and promoting the sustainable development of the Earth everywhere.

Better practices for the management of plastic waste within the EU are essential, so that the Union do not allow itself to fall into contradiction and, in fact, close this loop by exporting values instead of waste.

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