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**Committee Administering the Mechanism
for Promoting Implementation and Compliance
Fifteenth meeting**

Geneva, 14–17 November 2022

Item 5 (b) of the provisional agenda*

**Review of general issues of compliance and
implementation under the Convention:
illegal traffic**

Illegal traffic

Responses to question 1 (c) of the reporting format¹

Note by the Secretariat

As is mentioned in section C of the note by the Secretariat on illegal traffic (UNEP/CHW/CC.15/4), the present note sets out in its annex a report on the responses to question 1 (c) of the reporting format for consideration by the Committee.

* UNEP/CHW/CC.15/1.

¹ This document has not been formally edited.

Annex

Report on the responses to question 1 (c) of the reporting format

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I. Introduction

1. By decision BC-15/17, the fifteenth meeting of the Conference of the Parties to the Basel Convention adopted the work programme of the Committee administering the Mechanism for Promoting Implementation and Compliance (Committee) for the biennium 2022–2023, whereby it requested the Committee to undertake a number of activities aimed at preventing and combating illegal traffic, including by:

(a) Reviewing the texts of national legislation and other measures adopted by Parties to implement and enforce the Convention and their responses to question 1 (c) of the national reports for 2019 and, using the legislator’s checklist², classifying Parties’ compliance performance in relation to the obligations set out in Article 9 of the Convention;

(b) Identifying best practices and case studies relating to the enforcement of legislation and punishment of illegal traffic and considering how to assess whether Parties’ current efforts are on target to achieve best practice.

2. The mandate for this work builds on the work of the Committee under its 2020–2021 work programme,³ and on the approach taken by the Committee to classify compliance performance with national reporting⁴.

II. Methodology

3. Since 2016, Parties have to report annually, as an integral part of the reporting obligation under paragraph 3 of Article 13 of the Convention, “Measures to implement and enforce the provisions of the Convention” pursuant to question 1(c) of the national reporting format.⁵

4. The information provided by Parties in their responses to question 1 (c) of their national report for 2019, including the attached files and referred links containing information regarding measures to implement and enforce the provisions of the Convention, was reviewed for the purpose of this report. The national legislation provided by Parties as attachments or as links to a webpage was assessed and Parties’ compliance performance was classified using the checklist for the legislator as it pertains to Article 9 of the Convention.

5. While reviewing the answers provided by Parties to question 1 (c) of the national reporting format, best practices and case studies relating to the enforcement of legislation and punishment of illegal traffic were identified.

III. Analysis

A. Introductory comments

6. As of 1 January 2022⁶, 110 Parties out of the 183 Parties required to do so transmitted their national report for 2019: 24 reports were transmitted by Parties in the Western European and Other States Group (WEOG) (which counts 27 Parties), 21 reports were transmitted by Parties from the Eastern Europe region (which counts 22 Parties), 19 reports were transmitted by Parties from the Group of Latin America and the Caribbean (GRULAC) (which counts 31 Parties), 25 reports were transmitted by Parties in the Asia and Pacific region (which counts 51 Parties), and 21 reports were transmitted by Parties in the African region (which counts 51 Parties).

² The legislator’s checklist is set out in annex I to the Manual for the Implementation of the Basel Convention, available in document UNEP/CHW.12/9/Add.4/Rev.1 and adopted by decision BC-12/7. It is also available as a publication at www.basel.int/Implementation/Publications/GuidanceManuals/tabid/2364/Default.aspx.

³ <http://www.basel.int/Implementation/LegalMatters/Compliance/WorkProgramme/20202021/tabid/8023/Default.aspx>.

⁴ UNEP/CHW/CC.14/3/Add.7/Rev.1.

⁵ The format is available at:

<http://www.basel.int/Countries/NationalReporting/Formatandmanualsfornationalreporting/tabid/8754/Default.aspx>.

⁶ The national report for 2019 was due by 31 December 2020. Subsequently to the cut-off date of 1 January 2022, three Parties transmitted their national report: Lesotho, Nigeria and Uzbekistan.

7. Question 1 c (i) reads as follows:

1c	Measures to implement and enforce the provisions of the Convention (Articles 4.4, 9.5 and 13.3(c))
(i)	Legislation Has your country adopted legislation to implement the provisions of the Basel Convention? Yes <input type="checkbox"/> No <input type="checkbox"/>
(ii)	Does the legislation make provision to <u>prevent illegal traffic</u> of hazardous and other wastes? (Articles 4.4, 9.5 and 13.3(c)) (optional) Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, please specify:
(iii)	Does the legislation provide that <u>illegal traffic is criminal</u> ? (Articles 4.3, 4.4, 9.5 and 13.3(c)) (optional) Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, what are the <u>punishments</u> provided: Fine <input type="checkbox"/> Prison <input type="checkbox"/> Other <input type="checkbox"/> If other, please specify
(iv)	Please attach the full text of your legislation(s) to implement the provisions of the Basel Convention, including any legislation referred to in response to other questions or provide the link where the legislation can be found: (Articles 4.4, 9.5 and 13.3(c)) Link: (<i>box to select and upload file</i>)

8. The national legislation provided by Parties was reviewed using the legislator's checklist for Article 9 which lists four elements:

- (a) Define "illegal traffic";
- (b) When the implementing Party is the State of export, ensure that it has the necessary powers to oblige the exporter or generator to take back hazardous wastes deemed to be illegal traffic;
- (c) When the implementing Party is the State of import, ensure that it has the necessary powers to oblige the importer or disposer to dispose of hazardous wastes deemed to be illegal traffic in an environmentally sound manner;
- (d) Introduce appropriate national/domestic legislation to prevent and punish illegal traffic, bearing in mind Article 4(3)⁷.

B. Classification of Parties' compliance performance with respect to the answers to question 1 (c) of the annual report for the year 2019 (as of 1 January 2022)

9. A majority of the reporting Parties (90) responded "yes" to question 1 (c) (i) "Has your country adopted legislation to implement the provisions of the Basel Convention?" 19 Parties responded that they have not adopted legislation to implement the provisions of the Basel Convention and one Party did not answer the question.

10. Responding to question 1 (c) (ii) "Does the legislation make provision to prevent illegal traffic of hazardous and other wastes?" is optional, yet a majority of Parties provided an answer to this

⁷ This fourth element combines question 1(c) (ii) and (iii) of the reporting format. Accordingly, Parties that responded "yes" to both questions in the reporting format would normally meet this element in the context of the classification against the checklist for the legislator as it pertains to Article 9 of the Convention. This is however not the case in instances where the Parties that reported "yes" to both questions did not attach to its national report legislation substantiating the information provided.

question. Parties who had answered “no” to the first question 1 c (i) were not able to answer the following questions. 73 Parties out of 90 responded that they have provisions to prevent illegal traffic of hazardous and other wastes, 9 Parties responded that they do not have such provisions and 9 Parties did not respond.

11. Responding to question 1 (c) (iii) “Does the legislation provide that illegal traffic is criminal?” is also optional, yet a majority of Parties provided an answer to this question. 68 Parties responded that the legislation provides that illegal traffic is criminal, 13 Parties answered that legislation does not provide that illegal traffic is criminal and 10 Parties chose not to answer that question.

12. In case the legislation provides that illegal traffic is criminal, Parties were also asked to specify what punishments are provided. A majority of Parties responded that both fines and prison are foreseen as punishments (see figure 1).

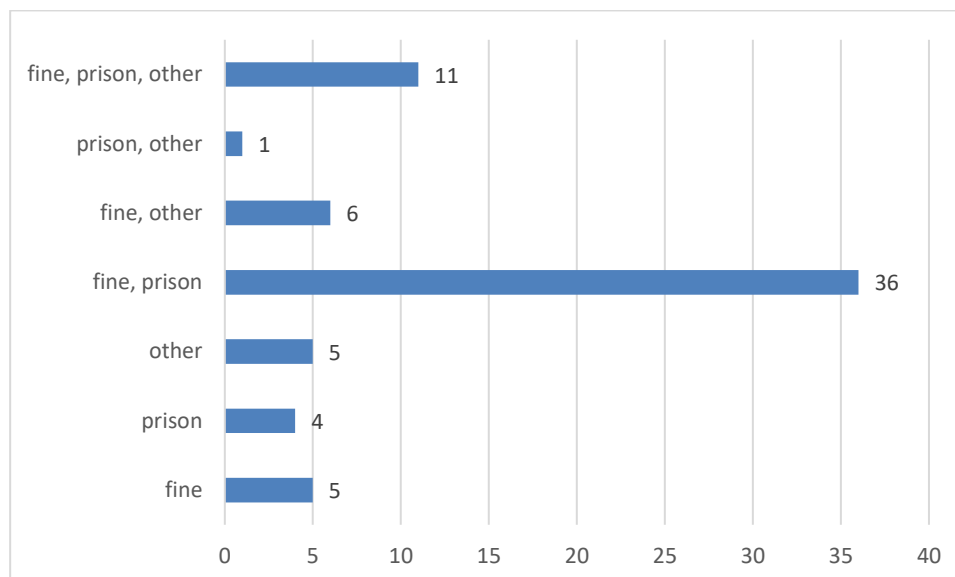


Figure 1 Punishments provided for illegal traffic

13. Question 1(c) (iv) is an invitation to attach the full text of the Party’s legislation(s) to implement the provisions of the Basel Convention, including any legislation referred to in response to other questions, or to provide the link where the legislation can be found. 85 Parties provided the information sought.

14. The breakdown of Parties’ answers to question 1(c) per region is provided in the 5 tables below. A blank cell means that no response to the question was provided by the Party.

Africa Region

Party	1c (i) Legislation to implement the provisions of the Basel Convention	1 c (ii) Prevent illegal traffic (optional)	1 c (iii) Illegal traffic is criminal/punished (optional)	1 c (iv) Attach the full text of your legislation(s)
Algeria	yes	yes	yes	yes
Cabo Verde	no			
Central African Republic	no			
Chad	yes	yes	yes	no
Cote d'Ivoire	yes			yes
Egypt	yes	yes	yes	yes
Eritrea	no			
Ethiopia	yes	yes	yes	no

Party	1c (i) Legislation to implement the provisions of the Basel Convention	1 c (ii) Prevent illegal traffic (optional)	1 c (iii) Illegal traffic is criminal/punished (optional)	1 c (iv) Attach the full text of your legislation(s)
Gambia				
Guinea-Bissau	no			
Lesotho	no			
Libya	yes			yes
Madagascar	yes	yes	yes	yes
Malawi	yes	no	no	yes
Namibia	yes			yes
Niger	yes	yes	yes	yes
Nigeria	yes	yes	yes	no
Rwanda	yes	yes	no	yes
South Africa	no			
Tunisia	yes	yes	yes	yes
Zimbabwe	yes	yes	yes	yes
TOTAL (yes/all)	14/21	10/21	9/21	11/21

Asia and Pacific Region

Party	1c (i) Legislation to implement the provisions of the Basel Convention	1 c (ii) Prevent illegal traffic (optional)	1 c (iii) Illegal traffic is criminal/punished (optional)	1 c (iv) Attach the full text of your legislation(s)
Azerbaijan	yes	yes	yes	yes
Bahrain	no			
Bangladesh	yes	yes	yes	yes
China	yes	yes	yes	yes
Cyprus	yes	yes	yes	yes
Democratic People's Republic of Korea	yes	yes	yes	no
Indonesia	yes	yes	yes	yes
Iraq	yes	yes	yes	yes
Japan	yes	no	no	yes
Kyrgyzstan	yes	yes	yes	yes
Malaysia	yes	yes	yes	yes
Maldives	yes	yes	yes	yes
Myanmar	no			

Party	1c (i) Legislation to implement the provisions of the Basel Convention	1 c (ii) Prevent illegal traffic (optional)	1 c (iii) Illegal traffic is criminal/punished (optional)	1 c (iv) Attach the full text of your legislation(s)
Oman	no			
Pakistan	yes	no	no	yes
Philippines	yes	yes	yes	yes
Qatar	yes	yes	yes	yes
Saudi Arabia	yes	no		yes
Singapore	yes	yes	yes	yes
State of Palestine	yes	yes	yes	yes
Tajikistan	yes	yes	yes	yes
Thailand	yes	yes	yes	yes
Turkmenistan	yes	yes	yes	yes
United Arab Emirates	yes	yes	yes	yes
Uzbekistan	no			
Viet Nam	yes	yes	yes	yes
TOTAL (yes/all)	22/26	19/26	19/26	21/26

Eastern European Region

Party	1c (i) Legislation to implement the provisions of the Basel Convention	1 c (ii) Prevent illegal traffic (optional)	1 c (iii) Illegal traffic is criminal/punished (optional)	1 c (iv) Attach the full text of your legislation(s)
Albania	yes			yes
Armenia	yes	yes	yes	yes
Belarus	yes	yes	yes	yes
Bosnia and Herzegovina	yes	no	no	yes
Bulgaria	yes	yes	yes	yes
Croatia	yes	yes	yes	yes
Czechia	yes	yes	yes	yes
Estonia	yes	yes	yes	yes
Georgia	yes	yes	yes	yes
Hungary	yes	yes	no	yes
Latvia	no			
Lithuania	yes	yes	yes	yes
Montenegro	yes	yes	yes	yes
Poland	yes	yes	yes	yes

Party	1c (i) Legislation to implement the provisions of the Basel Convention	1 c (ii) Prevent illegal traffic (optional)	1 c (iii) Illegal traffic is criminal/punished (optional)	1 c (iv) Attach the full text of your legislation(s)
Republic of Moldova	yes	yes	no	yes
Romania	yes	yes	yes	yes
Russian Federation	yes	yes	yes	yes
Serbia	yes	yes	yes	yes
Slovakia	yes	yes	yes	yes
Slovenia	yes	yes	yes	yes
TOTAL (yes/all)	19/20	17/20	15/20	19/20

GRULAC

Party	1c (i) Legislation to implement the provisions of the Basel Convention	1 c (ii) Prevent illegal traffic (optional)	1 c (iii) Illegal traffic is criminal/punished (optional)	1 c(iv) Attach the full text of your legislation(s)
Argentina	yes	no	no	yes
Barbados	no			
Bolivia (Plurinational State of)	no			
Brazil	yes	yes	yes	yes
Colombia	yes	yes	no	yes
Costa Rica	yes	yes	yes	yes
Cuba	yes	yes	yes	yes
El Salvador	yes	yes	yes	yes
Guatemala	no			
Guyana	no			
Honduras	no			
Mexico	yes	yes	yes	yes
Nicaragua	yes	yes	yes	yes
Panama	yes	no	no	no
Peru	yes	yes	yes	yes
Saint Lucia	no			
Suriname	no			
Trinidad and Tobago	no			
Venezuela	yes	yes	yes	yes

Party	1c (i) Legislation to implement the provisions of the Basel Convention	1 c (ii) Prevent illegal traffic (optional)	1 c (iii) Illegal traffic is criminal/punished (optional)	1 c(iv) Attach the full text of your legislation(s)
TOTAL (yes/all)	11/19	9/19	8/19	10/19

WEOG

Party	1 c (i) Legislation to implement the provisions of the Basel Convention	1 c (ii) Prevent illegal traffic (optional)	1 c (iii) Illegal traffic is criminal/punished (optional)	1 c (iv) Attach the full text of your legislation(s)
Andorra	yes	yes	no	yes
Australia	yes	yes	yes	yes
Austria	yes	yes	yes	yes
Belgium	yes			yes
Canada	yes	yes	yes	yes
Denmark	yes	yes	yes	yes
Finland	yes	yes	yes	yes
France	yes	yes	yes	yes
Germany	yes	yes	yes	yes
Greece	yes			yes
Iceland	yes	yes	yes	yes
Ireland	yes			yes
Israel	yes	yes	yes	yes
Italy	yes	yes	yes	yes
Luxembourg	yes	no	yes	yes
Malta	yes	yes	yes	yes
New Zealand	yes	yes	yes	yes
Norway	yes	yes	yes	yes
Portugal	yes			yes
Spain	yes	no	no	yes
Sweden	yes	yes	yes	yes
Switzerland	yes	yes	yes	yes
Türkiye	yes	yes	yes	yes
United Kingdom of Great Britain and Northern Ireland	yes	yes	yes	yes
TOTAL (yes/all)	24/24	18/24	18/24	24/24

15. The 5 tables above show that although most reporting Parties (90 out of 110) responded that they have adopted legislation to implement the provisions of the Basel Convention, there are notable

differences from one region to another. All the Parties from the WEOG region and most of the Parties from the Eastern Europe and Asia Pacific regions reported that they have adopted legislation to implement Basel Convention, while half of the Parties from the African and GRULAC regions reported that they have adopted legislation to implement Basel Convention.

C. Parties' compliance performance in relation to the obligations set out in Article 9 of the Convention

16. 85 Parties out of 90 reporting Parties that indicated they have adopted legislation to implement the provisions of the Basel Convention attached the legislation or submitted a link where the legislation could be found. From among those 85 Parties, in 4 instances the link was no longer available or did not open, in 8 instances the link was too general and it was not possible to identify the correct legal text the Party referred to, and in 2 instances the legal texts were not assessed due to a translation shortage. Accordingly, the texts of national legislations submitted by 71 Parties were assessed, when needed with the help of an unofficial translation tool, to classify Parties compliance performance in relation to the obligations set out in Article 9 of the Convention.

17. Legislation that was available was assessed against the four elements identified in the checklist for the legislator for Article 9, as mentioned in paragraph 13 above. For the purpose of this exercise, the fourth element "Introduce appropriate national/domestic legislation to prevent and punish illegal traffic, bearing in mind Article 4(3)" was split in two: measures to prevent and punish illegal traffic, and illegal traffic considered criminal. Accordingly, the legislation was assessed against the five following indicators:

- (a) Definition of "illegal traffic";
- (b) Take back;
- (c) Dispose in environmentally sound manner;
- (d) Measures to prevent and punish illegal traffic;
- (e) Illegal traffic considered "criminal"⁸.

18. The outcome of the assessment is shown in the five tables below. It is important to note the following limitations to the assessment. First, in terms of comprehensiveness, only legislation that was submitted or available through a link was assessed. If a Party answered "yes" to question 1 (c) (iii) "Does the legislation provide that illegal traffic is criminal?" but did not provide the full text of its legislation substantiating its answer, the table shows a "no" for the fifth indicator. Second, some legislative texts were available in an official language of the Party other than English, and an unofficial translation tool was used to access the information sought. This tool may not have properly captured the content of the legislation and its nuances. Finally, the assessment did not take into account the constitutional framework of the Party, for instance whether a Party is monist (in such case the provisions of Article 9 may apply directly irrespective of a text of national legislation) or dualist. For this reason, it would be recommended to check the outcome of the assessment with the Parties concerned.

19. Another important factor to bear in mind is that the assessment is based on the national reports for 2019 transmitted by Parties. The assessment therefore does not take into account the self-review of legislation undertaken by Parties, including the self review of legislation undertaken by the 7 following Parties that did not transmit a national report for 2019: Mali, Morocco, and the United Republic of Tanzania, for the African region; Bhutan, Cambodia and Nepal for the Asia and Pacific region; and Belize for the GRULAC region.

African Region

Party	Define "illegal traffic"	Take back	Dispose in environmentally sound manner	Measures to prevent and punish illegal traffic	Illegal traffic considered "criminal"
Algeria	Text of legislation could not be assessed				
Cabo Verde	No legislation				

⁸ In this assessment "criminal" was understood to mean that illegal traffic is considered to constitute a criminal offence, whether this offence is set out in a criminal act or in an environmental act.

Party	Define "illegal traffic"	Take back	Dispose in environmentally sound manner	Measures to prevent and punish illegal traffic	Illegal traffic considered "criminal"
Central African Republic	No legislation				
Chad	Text of legislation was not submitted				
Cote d'Ivoire	no	no	no	no	no
Egypt	no	no	no	yes	no
Eritrea	No legislation				
Ethiopia	Text of legislation was not submitted				
Gambia	Text of legislation was not submitted				
Guinea-Bissau	No legislation				
Lesotho	No legislation				
Libya	Text of legislation could not be assessed				
Madagascar ⁹	no	yes	no	yes	no
Malawi	no	no	no	yes	no
Namibia	no	no	no	no	no
Niger	yes	no	no	yes	no
Nigeria	Text of legislation was not submitted				
Rwanda	no	no	no	yes	no
South Africa	No legislation				
Tunisia	yes	yes	yes	yes	yes
Zimbabwe	Text of legislation could not be assessed				
TOTAL	3/21	2/21	2/21	6/21	1/21

Asia and the Pacific Region

Party	Define "illegal traffic"	Take back	Dispose in environmentally sound manner	Measures to prevent and punish illegal traffic	Illegal traffic considered "criminal"
Azerbaijan ¹⁰	yes	yes	yes	yes	no
Bahrain	No legislation				
Bangladesh	Text of legislation could not be assessed				
China (Hong Kong) ¹¹	no	no	no	yes	no
Cyprus	yes	yes	yes	yes	no
Democratic People's	Text of legislation was not submitted				

⁹ This Party also undertook a self review of its legislation, see document UNEP/CHW/CC.15/5/Add.1 and UNEP/CHW/CC.15/INF/8.

¹⁰ This Party also undertook a self review of its legislation, see document UNEP/CHW/CC.15/5/Add.1 and UNEP/CHW/CC.15/INF/8.

¹¹ For China the text of legislation could not be assessed.

Party	Define “illegal traffic”	Take back	Dispose in environmentally sound manner	Measures to prevent and punish illegal traffic	Illegal traffic considered “criminal”
Republic of Korea	Text of legislation could not be assessed				
Indonesia	Text of legislation could not be assessed				
Iraq	Text of legislation could not be assessed				
Japan ¹²	no	no	no	yes	no
Kyrgyzstan	no	no	no	yes	no
Malaysia	Text of legislation could not be assessed				
Maldives	no	no	no	yes	no
Myanmar	No legislation				
Oman	No legislation				
Pakistan	Text of legislation could not be assessed				
Philippines	no	yes	no	yes	yes
Qatar	no	no	no	no	no
Saudi Arabia ¹³	Text of legislation could not be assessed				
Singapore	no	no	no	yes	no
State of Palestine	no	no	no	yes	no
Tajikistan	Text of legislation could not be assessed				
Thailand	Text of legislation could not be assessed				
Turkmenistan ¹⁴	no	no	no	yes	yes
United Arab Emirates ¹⁵	no	no	no	yes	no
Uzbekistan	No legislation				
Viet Nam	no	no	no	no	no
TOTAL	2/26	3/26	2/26	10/26	2/26

Eastern European Region

Party	Define “illegal traffic”	Take back	Dispose in environmentally sound manner	Measures to prevent and punish illegal traffic	Illegal traffic considered “criminal”
Albania	no	no	no	no	no
Armenia	no	no	no	no	no

¹² This Party also undertook a self review of its legislation, see document UNEP/CHW/CC.15/5/Add.1 and UNEP/CHW/CC.15/INF/8.

¹³ This Party also undertook a self review of its legislation, see document UNEP/CHW/CC.15/5/Add.1 and UNEP/CHW/CC.15/INF/8.

¹⁴ This Party also undertook a self review of its legislation, see document UNEP/CHW/CC.15/5/Add.1 and UNEP/CHW/CC.15/INF/8.

¹⁵ This Party also undertook a self review of its legislation, see document UNEP/CHW/CC.15/5/Add.1 and UNEP/CHW/CC.15/INF/8.

Party	Define “illegal traffic”	Take back	Dispose in environmentally sound manner	Measures to prevent and punish illegal traffic	Illegal traffic considered “criminal”
Belarus	Text of legislation could not be assessed				
Bosnia and Herzegovina	yes	yes	yes	yes	no
Bulgaria	yes	yes	yes	yes	yes
Croatia	yes	yes	yes	yes	yes
Czechia ¹⁶	yes	yes	yes	yes	no
Estonia	yes	yes	yes	yes	yes
Georgia ¹⁷	yes	yes	yes	yes	no
Hungary	Yes	yes	yes	yes	no
Latvia	No legislation				
Lithuania	Yes	yes	yes	yes	yes
Montenegro	no	no	no	yes	no
Poland	yes	yes	yes	yes	yes
Republic of Moldova	yes	no	no	yes	no
Romania	yes	yes	yes	yes	no
Russian Federation	no	yes	yes	no	no
Serbia	yes	yes	no	yes	no
Slovakia	yes	yes	yes	yes	no
Slovenia	yes	yes	yes	yes	no
TOTAL	14/20	14/20	13/20	15/20	5/20

GRULAC

Party	Define “illegal traffic”	Take back	Dispose in environmentally sound manner	Measures to prevent and punish illegal traffic	Illegal traffic considered as “criminal”
Argentina ¹⁸	yes	yes	yes	no	no
Barbados	No legislation				
Bolivia (Plurinational State of)	No legislation				
Brazil	no	no	no	yes	no
Colombia	yes	yes	yes	yes	no
Costa Rica	no	yes	no	yes	yes

¹⁶ The link provided was too general and legislation was not found, however it was stated that the EU Regulation 1013/2006 applies.

¹⁷ The legislation provides that the provisions of the Basel Convention apply. This Party also undertook a self review of its legislation, see document UNEP/CHW/CC.15/5/Add.1 and UNEP/CHW/CC.15/INF/8.

¹⁸ This Party also undertook a self review of its legislation, see document UNEP/CHW/CC.15/5/Add.1 and UNEP/CHW/CC.15/INF/8.

Party	Define “illegal traffic”	Take back	Dispose in environmentally sound manner	Measures to prevent and punish illegal traffic	Illegal traffic considered as “criminal”
Cuba ¹⁹	yes	yes	yes	yes	no
El Salvador	no	no	no	yes	yes
Guatemala	No legislation				
Guyana ²⁰	No legislation				
Honduras ²¹	No legislation				
Mexico ²²	yes	no	no	no	no
Nicaragua	yes	no	no	yes	no
Panama	Text of legislation was not submitted				
Peru ²³	yes	yes	yes	yes	yes
Saint Lucia	No legislation				
Suriname	No legislation				
Trinidad and Tobago	No legislation				
Venezuela	Text of legislation could not be assessed				
TOTAL	6/19	5/19	4/19	7/19	3/19

WEOG

Party	Define “illegal traffic	Take back	Dispose in environmentally sound manner	Measures to prevent and punish illegal traffic	Illegal traffic considered as “criminal”
Andorra	yes	yes	yes	yes	no
Australia	no	no	no	yes	no
Austria ²⁴	yes	yes	yes	yes	yes
Belgium	yes	yes	yes	yes	yes
Canada ²⁵	no	no	no	no	no
Denmark	yes	yes	yes	yes	yes
Finland	yes	yes	yes	yes	yes
France ²⁶	yes	yes	yes	yes	no

¹⁹ This Party also undertook a self review of its legislation, see document UNEP/CHW/CC.15/5/Add.1 and UNEP/CHW/CC.15/INF/8.

²⁰ This Party also undertook a self review of its legislation, see document UNEP/CHW/CC.15/5/Add.1 and UNEP/CHW/CC.15/INF/8.

²¹ This Party also undertook a self review of its legislation, see document UNEP/CHW/CC.15/5/Add.1 and UNEP/CHW/CC.15/INF/8.

²² This Party also undertook a self review of its legislation, see document UNEP/CHW/CC.15/5/Add.1 and UNEP/CHW/CC.15/INF/8.

²³ In the legislation there was reference that provisions of the Basel Convention apply. This Party also undertook a self review of its legislation, see document UNEP/CHW/CC.15/5/Add.1 and UNEP/CHW/CC.15/INF/8.

²⁴ The link provided was for criminal activity, however it was stated that EU Regulation 1013/2006 applies.

²⁵ Several legal acts that were referred to were not available.

²⁶ The link provided was too general and legislation was not found, however it was stated that EU Regulation 1013/2006 applies.

Party	Define “illegal traffic	Take back	Dispose in environmentally sound manner	Measures to prevent and punish illegal traffic	Illegal traffic considered as “criminal”
Germany	yes	yes	yes	yes	yes
Greece	yes	yes	yes	yes	no
Iceland	yes	yes	yes	yes	no
Ireland	yes	yes	yes	yes	no
Israel	Text of legislation could not be assessed				
Italy	yes	yes	yes	yes	yes
Luxembourg	yes	yes	yes	yes	no
Malta	yes	yes	yes	yes	yes
New Zealand	no	no	no	yes	no
Norway	yes	yes	yes	yes	no
Portugal	yes	yes	yes	yes	no
Spain	yes	yes	yes	yes	no
Sweden	yes	yes	yes	yes	yes
Switzerland	yes	yes	yes	yes	yes
Türkiye	no	no	no	yes	no
United Kingdom of Great Britain and Northern Ireland	yes	yes	yes	yes	yes
TOTAL	19/24	19/24	19/24	22/24	10/24

20. The assessment of the legislative texts submitted by Parties shows that the provisions of the Basel Convention regarding illegal traffic are not always transposed into national legislation as per the checklist for the legislator. As mentioned above, 90 out of the 110 reporting Parties answered “yes” to question 1(c) (i) which reads “Has your country adopted legislation to implement the provisions of the Basel Convention?”. However, based on the above assessment, 1 out of 21 Parties in the African region²⁷ (5% of Parties), none of the 27 Parties in the Asia and Pacific region (0 %), 5 of 20 Parties in the Eastern European region²⁸ (25 %), none of the 19 Parties in the GRULAC region (0 %), and 10 out of 24 Parties in the WEOG region²⁹ (42 %), which amounts to an average of 15% of the reporting Parties, would appear to have legislation reflecting all the elements identified in the checklist for the legislator for the legislative implementation of Article 9.

21. As mentioned above, the assessment has several important limitations. It is also worth mentioning that even in instances where “illegal traffic” was not defined in the legislation, a majority of Parties still had enacted provisions to prevent and punish illegal traffic.

D. Best practices and case studies relating to the enforcement of legislation and punishment of illegal traffic

22. Two best practices per region were identified while reviewing the answers provided by Parties to question 1 (c) of the national reporting format and the legislative texts implementing the Convention. By “best practice” is understood, in the present context, examples of legislation reflecting the elements identified in the checklist for the legislator for the legislative implementation of Article 9.

23. Madagascar has banned the import of household waste and hazardous waste. The export of waste has to be authorized and has to strictly follow the procedures and provisions of Basel

²⁷ Tunisia.

²⁸ Bulgaria, Croatia, Estonia, Lithuania, Poland.

²⁹ Austria, Belgium, Denmark, Finland, Germany, Italy, Malta, Sweden, Switzerland, United Kingdom.

Convention. In case of illegal import of waste, the importer is obliged to return the waste to the country of origin.

24. Tunisia has defined “illegal traffic” in its legislation. The legislation also states that if waste has been imported or exported in a manner contrary to the provisions of the law, the authorities order their holder, carrier or producer to send them to the country of origin within a time limit set by authorities. If the offender does not proceed as directed, the competent authorities may take all the measures necessary to ensure the removal of the waste at the expense of those involved in the operation. In case the waste is imported or exported not in accordance with the regulation, the punishment is imprisonment from one month to five years and a fine in the amount of 10,000 to 500,000 dinars.

25. Azerbaijan has defined “illegal traffic” in its legislation. There are also provisions for the take back of the wastes and their environmentally sound disposal. When hazardous waste is illegally imported into or transits through the territory of the Republic of Azerbaijan, such waste is either returned to the country where the hazardous waste came from at the expense of the entities involved in the transportation, or disposed of in a sanitary and ecologically safe ways within 30 days in accordance with the Basel Convention. Physical and legal persons who violate the requirements of the relevant legislation shall bear administrative, criminal and civil responsibility in accordance with the legislation of the Republic of Azerbaijan.

26. The Philippines have not defined “illegal traffic”, but they have provisions for the take back of wastes in the event the wastes are imported into the Philippines without consent. Additionally, if the offender is a foreign firm, the director and all officers of such foreign firms shall be banned from entry into the Philippines in addition to the cancellation of the license to do business in the Philippines. The person or firm responsible or connected with the bringing into the country of hazardous wastes shall be under obligation to transport or send back the prohibited wastes. Any and all means of transportation, including all facilities and appurtenances that may have been used in transporting to or in the storage in the Philippines of any significant amount of hazardous wastes shall, if so decided by the government, be forfeited in its favor.

27. According to the Law on Waste Management of the Republic of Lithuania, the transit of waste, the shipment of waste out of the Republic of Lithuania and the shipment of waste into the Republic of Lithuania shall be governed by legal acts of the Republic of Lithuania, of the European Union and international treaties. Transboundary shipments of waste are regulated according to the Regulation (EC) No 1013/2006 of the European Parliament and of Council on Shipments of Waste of June 2006³⁰, which also implements the requirements of the Basel Convention. Lithuania has laid down the rules on penalties applicable for infringement of the provisions of the Regulation 1013/2006 in the Code of Administrative offences, in the Criminal Code and in the Law on Environmental protection. In the Law on Environmental protection there are fines for legal entities in case of import of hazardous waste into the territory of the Republic of Lithuania, export from the territory of the Republic of Lithuania and/or transit through the territory of the Republic of Lithuania without the right to do so. The exact penalty rate depends on the amount of the waste.

28. Like other EU Member States, Poland also implements EU Regulation 1013/2006. For criminal cases, the Criminal Code provides the following:

§ 1 Anyone who, contrary to the provisions of the law, stores, removes, processes, collects, recovers, neutralizes or transports waste or substances under such conditions or in such a way that it may endanger human life or health or cause a reduction in the quality of water, air or surface land or destruction in the plant or animal world is liable to imprisonment for between 3 months to 5 years.

§ 2. The same penalty shall be imposed on anyone who, contrary to the provisions of the law, imports substances hazardous to the environment from abroad.

§ 3. The penalty specified in § 1 shall be imposed on anyone who, contrary to his obligation, allows the commission of the act specified in § 1, 2 and 4.

§ 4. The penalty specified in § 1 shall be imposed on anyone who, contrary to the provisions of the law, imports waste from abroad or exports waste abroad.

³⁰ The regulation is implemented by all EU Member States as well as Iceland, Liechtenstein, Norway and the United Kingdom of Great Britain and Northern Ireland.

§ 5. Anyone who without the required notification or permit, or contrary to its conditions, imports, or exports hazardous waste from abroad, shall be subject to the penalty of deprivation of liberty for between 6 months to 8 years.

§ 6. If the perpetrator of the act specified in § 1-5 acts unintentionally, he shall be subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to 2 years.

29. The legislation of Colombia defines “illegal” traffic and includes provisions for the take back and the environmentally sound management of waste illegally trafficked. Anyone who intends to introduce cargo in which the presence of hazardous waste is detected in the national territory must return it immediately, in accordance with customs legislation, and with strict supervision by the competent environmental authorities, without prejudice to the penal sanctions that may apply. In the event of an emergency related to the transport of hazardous waste illegally introduced into the national territory, which puts human health or the environment at imminent risk, the sanction must be adjusted according to the impact generated.

30. The legislation of Cuba defines “illegal” traffic and includes provisions for the take back and the environmentally sound management of waste illegally trafficked. The legislation also sets out provisions in case of a transboundary movement of hazardous waste considered illegal traffic as a result of an import carried out by an operator in Cuba. In such cases, the Competent Authority ensures that the waste in question is disposed of in an environmentally sound manner by the importer or disposer within 30 days from the time the illicit traffic was reported, or within any other period of time to be agreed with the interested States.

31. In Switzerland, on the advice of the Competent Authority of the importing country, the Federal Office for the Environment obliges the exporter whose behavior is likely to cause the cross-border movement to be considered as illegal traffic to take back the exported waste. The waste has to be taken back no later than 30 days after receipt of the full notice or within a longer period agreed between the authorities concerned. If it is not possible to dispose of the waste in Switzerland in an environmentally sound manner, the exporter is obliged to ensure that it is disposed of in an environmentally sound manner abroad.

32. For EU Member States, the EU Regulation 1013/2006 applies. This Regulation covers all the provisions of the Basel Convention including the definition of “illegal traffic”, the take back obligations and the requirement of disposal in an environmentally sound manner. However, penalties are not regulated by this Regulation and each Member State has to establish penalties in its own legislation. There are nevertheless useful measures in the Regulation to prevent illegal traffic. By 1 January 2017, Member States are to ensure that, in respect of their entire geographical territory, one or more plans are established, either separately or as a clearly defined part of other plans, for inspections carried out pursuant to paragraph 2 (‘inspection plan’). Inspection plans shall be based on a risk assessment covering specific waste streams and sources of illegal shipments and considering, if available and where appropriate, intelligence-based data such as data on investigations by police and customs authorities and analyses of criminal activities. That risk assessment shall aim, inter alia, to identify the minimum number of inspections required, including physical checks on establishments, undertakings, brokers, dealers and shipments of waste or on the related recovery or disposal. An inspection plan shall include the following elements: (a) the objectives and priorities of the inspections, including a description of how those priorities have been identified; (b) the geographical area covered by that inspection plan; (c) information on planned inspections, including on physical checks; (d) the tasks assigned to each authority involved in inspections; (e) arrangements for cooperation between authorities involved in inspections; (f) information on the training of inspectors on matters relating to inspections; and (g) information on the human, financial and other resources for the implementation of that inspection plan. An inspection plan shall be reviewed at least every three years and, where appropriate, updated. That review shall evaluate to which extent the objectives and other elements of that inspection plan have been implemented.

IV. Conclusions and recommendations

33. Although most reporting Parties (90 out of 110) reported that they have adopted legislation to implement the provisions of the Basel Convention, there are notable limitations to enable a complete assessment of the situation. In spite these limitations, a number of clear differences appear from one region to another. All the Parties from the WEOG region and most of the Parties from the Eastern Europe and Asia Pacific regions reported that they have adopted legislation to implement Basel Convention, while half of the Parties from the African and GRULAC regions reported that they have adopted legislation to implement Basel Convention.

34. The classification of Parties' compliance performance in relation to the obligations set out in Article 9 of the Convention, using the legislator's checklist, was undertaken on the basis of the texts of national legislation submitted by 71 Parties in their national reports for 2019.
35. Based on the assessment, 15% of the reporting Parties would appear to have legislation reflecting all the elements identified in the checklist for the legislator for the legislative implementation of Article 9. Here again, there are notable differences from one region to another: the legislation of 1 out of 21 Parties in the African region³¹ (5 % of Parties), none of the 27 Parties in the Asia and Pacific region (0 %), 5 of 20 Parties in the Eastern European region³² (25 %), none of the 19 Parties in the GRULAC region (0 %), and 10 out of 24 Parties in the WEOG region³³ (42 %) appears to reflect all the elements identified in the checklist for the legislator. Nonetheless, most legislation reflects one or more of the elements identified in the checklist for the legislator related to implementation of Article 9. The assessment for instance evidenced that when illegal traffic was not defined in the legislation, there were still provisions to tackle the shipments of hazardous and other waste if the shipment was not undertaken in accordance with the legislation.
36. It is however worth emphasizing the limitations in undertaking the classification exercise, and it is recommended that the Committee check the outcome of the assessment with the Parties concerned. The Committee may also wish to consider the usefulness of taking into account, when undertaking a future classification exercise, the outcome of Parties' self-review of their legislation³⁴.
37. Some best practices were identified while reviewing the answers provided by Parties to question 1 (c) of the national reporting format and the legislative texts implementing the Convention. These best practices however pertain to the texts of legislation more than to the actual enforcement of legislation and punishment of illegal traffic.
38. The Committee may wish to:
- (a) Take note of the information and conclusions set out in the present report;
 - (b) Request the Secretariat to make the classification available to the 110 Parties that transmitted a report for 2019 with an invitation to comment thereon;
 - (c) Request the Secretariat to prepare a revised classification taking into account the comments received from Parties for consideration by the Committee during its sixteenth meeting, subject to the Conference of the Parties including this activity in the Committee's work programme for 2024–2025;
 - (d) Recommend that the Conference of the Parties at its sixteenth meeting urge Parties to transmit, pursuant to question 1 (c) (iv) of the reporting format the full texts of their legislation to implement the provisions of the Basel Convention, including any legislation referred to in response to other questions or provide the link where the specific legislation implementing the Convention can be found;
 - (e) Invite the Conference of the Parties at its sixteenth meeting to consider amending the manual for completing the format for national reporting regarding question 1 (c) with a view to encouraging Parties to provide information on the specific references in their legislation of text making provision to prevent illegal traffic of hazardous and other wastes (question 1 (c) (ii)), and of text providing that illegal traffic is criminal and the punishments provided (question 1 (c) (iii));
 - (f) Include in its draft work programme for 2024–2025 that it review the texts of national legislation and other measures adopted by Parties to implement and enforce the Convention, their responses to question 1 (c) of the national reports for 2021, the outcome of Parties' self-review of their legislation and, using the legislator's checklist,³⁵ classify Parties' compliance performance in relation to the obligations set out in Article 9 of the Convention.

³¹ Tunisia.

³² Bulgaria, Croatia, Estonia, Lithuania, Poland.

³³ Austria, Belgium, Denmark, Finland, Germany, Italy, Malta, Sweden, Switzerland, United Kingdom.

³⁴ See documents UNEP/CHW/CC.15/5/Add.1 and UNEP/CHW/CC.15/INF/8.

³⁵ The legislator's checklist is set out in annex I to the Manual for the Implementation of the Basel Convention, available in document UNEP/CHW.12/9/Add.4/Rev.1 and adopted by decision BC-12/7.