

BASEL CONVENTION

Secretariat of the Basel Convention

United Nations Environment Programme

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Geneva, 26 November 2022

Subject: Invitation to submit comments in follow up to the fifteenth meeting of the Implementation and Compliance Committee (14-18 November 2022, Geneva)

Dear Sir/Madam,

I am writing as a follow up to the fifteenth meeting of the Committee administering the mechanism for promoting implementation and compliance of the Basel Convention (hereinafter “the Committee”) which took place from 14 to 18 November 2022 in Geneva, and during which the Committee initiated implementation of its work programme for 2022-2023, as set out in the annex to decision BC-15/17.

The documents pertaining to the meeting are available at:

www.basel.int/TheConvention/ImplementationComplianceCommittee/Meetings/ICC15/ICC15Overview/tabid/9240/Default.aspx).

In light of the short intersessional between the 2022 and 2023 meetings of the Conference of the Parties, the Committee considered 8 prioritized specific submissions and adopted 8 decisions, including one whereby it decided that the matter of concern regarding Liberia had been resolved. Following its consideration of prioritized activities under its mandate to review general issues of implementation and compliance, the Committee also agreed on conclusions and on recommendations for the consideration of the sixteenth meeting of the Conference of the Parties.

The present letter brings to your attention several of the conclusions agreed by the Committee pursuant to which comments from Parties are invited in advance of the sixteenth meeting of the Conference of the Parties, as follows.

1. **Programme of work for 2024-2025**

In its decision, BC-15/17, the Conference of the Parties requested the Committee to consult Parties, in advance of the sixteenth meeting of the Conference of the Parties, on a draft work programme for the biennium 2024–2025. Annex I to the present letter sets out the draft work programme for 2024–2025 developed by the Committee during its fifteenth meeting, showing in track change mode changes brought forward from its work programme for 2022–2023. The changes reflect the outcomes of the consideration by the Committee of the activities of its 2022-2023 work programme prioritized for consideration during its fifteenth meeting.

Parties are invited to submit to the Secretariat (juliette.kohler@un.org) by **Wednesday 15 February 2023** their comments on the draft work programme for 2024–2025. Comments received will be made available on the website of the Convention for consideration by the Conference of the Parties at its sixteenth meeting.

To: FPs

2. National reporting: classification of compliance performance for 2018 and 2019

Pursuant to its work programme for 2022-2023, the Committee is to classify and, as appropriate, publish information on Parties' compliance with their annual national reporting obligations for 2018 and 2019 based on the assumptions, criteria and categories adopted by the Conference of the Parties at its thirteenth meeting and the targets adopted by the Conference of the Parties at its fifteenth meeting. These targets are:

- 25 per cent of the reports due are transmitted complete and on time;
- 50 per cent of the reports due are transmitted complete, whether on time or late;
- 70 per cent of the reports due are transmitted.

During its fifteenth meeting, the Committee considered draft classifications of Parties' compliance performance with their annual national reporting obligations for 2018 and 2019 on the basis of the information set out in document UNEP/CHW/CC.15/3/Add.1. Following its consideration of the draft classifications, the Committee:

- Took note of the draft classifications of Parties' compliance performance with their national reporting obligation for 2018 and 2019, as transmitted as at 30 August 2022, set out in the annexes to document UNEP/CHW/CC.15/3/Add.1;
- Requested the Secretariat to make the classifications available to Parties that appear to have transmitted an incomplete report with an invitation to comment thereon;
- Request also the Secretariat to prepare revised classifications taking into account the comments received from Parties for consideration by the Committee during its sixteenth meeting, subject the Conference of the Parties including this activity in the Committee's work programme for 2024-2025.

Annex II to the present letter sets out graphs reflecting the draft classifications of Parties' compliance performance with their annual national reporting obligations for 2018 and 2019 against the targets set by the Conference of the Parties.

Based on the draft classification, the following preliminary conclusions can be drawn from the reports for 2018 transmitted as at 30 August 2022:

- 20 percent of the Parties transmitted a report complete and on time, against a target of 25 percent;
- 30 percent of the Parties transmitted a report complete whether on time or late, against a target of 50 percent;
- 58 percent of the Parties transmitted a report, against a target of 70 percent.

Based on the draft classification, the following preliminary conclusions can be drawn from the reports for 2019 transmitted as at 30 August 2022:

- 25 percent of the Parties transmitted a report complete and on time, against a target of 25 percent;
- 34 percent of the Parties transmitted a report complete whether on time or late, against a target of 50 percent;
- 60 percent of the Parties transmitted a report, against a target of 70 percent.

The Secretariat will follow up with individual Parties that appear to have transmitted an incomplete report for 2018 and/or for 2019 with an invitation to comment.

Further consideration of the classification of compliance performance with national reporting for 2018 and 2019 would take place, subject to the Conference so deciding, under the 2024-2025 work programme of the Committee.

3. Illegal traffic: responses to question 1(c) of the national reporting format

Pursuant to its work programme for 2022-2023, the Committee is to review 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 checklist, classify Parties' compliance performance in relation to the obligations set out in Article 9 of the Convention.

During its fifteenth meeting, the Committee considered a report on the responses to question 1 (c) of the reporting format set out in document UNEP/CHW/CC.15/4/Add.3. Following its consideration of the report, the Committee:

- Took note of the information and conclusions set out therein;
- Requested the Secretariat to make the classification available to the 110 Parties that transmitted a report for 2019 with an invitation to comment thereon;

- Requested also 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.

The Secretariat will follow up individually with the 110 Parties with an invitation to comment on the draft classification.

Further consideration of 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 checklist, classification of Parties' compliance performance in relation to the obligations set out in Article 9 of the Convention would take place, subject to the Conference so deciding, under the 2024-2025 work programme of the Committee.

4. National legislation: review of legislation

Pursuant to its work programme for 2022-2023, the Committee is to review, subject to the availability of resources and according to the priorities established by the Conference of the Parties for the given biennium, Parties' implementation of the Convention in national law, starting with Parties that have not yet provided information to the Secretariat as to whether they have national legislation implementing the Convention.

During its fifteenth meeting, the Committee considered the matter on the basis of the information set out in documents UNEP/CHW/CC.15/5, UNEP/CHW/CC.15/5/Add.1 and UNEP/CHW/CC.15/INF/9. Following its consideration of the information, the Committee requested the Secretariat, in consultation with the Basel Convention regional centres, to reach out to the 20 Parties that have not provided information as to whether they have national legislation implementing the Convention or have indicated that they do not have such legislation, and that have not responded to the invitation by the Committee to complete a questionnaire seeking information on the reasons for the lack of legislation or other measures, and on steps that could be taken to resolve the matter.

The Secretariat will, in consultation with the Basel Convention regional centres, follow up with the 20 concerned Parties.

Further consideration of the review of legislation would take place, subject to the Conference so deciding, under the 2024-2025 work programme of the Committee.

The Secretariat (Ms. Juliette Voinov Kohler; e-mail: juliette.kohler@un.org) is available should you have any queries.

I look forward to receiving your submissions and thank you in advance for your kind attention.

Yours sincerely,

Rolph Payet

Annex I

Draft work programme of the Committee Administering the Mechanism for Promoting Implementation and Compliance for the biennium 2024–2025¹

I. Review of general issues of compliance and implementation under the Convention

<i>Objective</i>	<i>Activity</i>
1. National reporting Improve timely and complete national reporting under paragraph 3 of Article 13 of the Convention	<p>(a) Classify and, as appropriate, publish information on Parties' compliance with their annual national reporting obligations for 2018, and 2019, 2020 and 2021 based on the assumptions, criteria and categories adopted by the Conference of the Parties at its thirteenth meeting² and the targets adopted by the Conference of the Parties at its fifteenth meeting;³ <u>as revised, as appropriate, by the Conference of the Parties at its sixteenth meeting;</u></p> <p>(b) Develop recommendations on the revision of the targets referred to in paragraph 10 of decision BC-15/17 for the reports due for 20202 and subsequent years;</p> <p>(c) In cooperation, as appropriate, with the Compliance Committee of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, monitor United Nations Sustainable Development Cooperation Framework processes with a view to assessing the extent to which Parties with national reporting needs are including actions to address them in their Cooperation Framework, identifying best practices and, on the basis of the assessment, developing recommendations for the consideration of Conference of the Parties;</p> <p>(d) Establish a dialogue with the Basel Convention regional and coordinating centres, the Executive Board of the Special Programme to support institutional strengthening at the national level for implementation of the Basel, Rotterdam and Stockholm conventions, the Minamata Convention and the Strategic Approach to International Chemicals Management, the United Nations Environment Programme (UNEP), <u>the Strategic Approach to International Chemicals Management (SAICM)</u> and other entities such as the Food and Agriculture Organization of the United Nations (FAO), the Global Environment Facility (GEF), the United Nations Development Programme (UNDP), <u>the United Nations Institute for Training and Research (UNITAR)</u>, the United Nations Industrial Development Organization (UNIDO), the World Bank and <u>other relevant financial institutions regional development banks</u>, on their activities aimed at supporting Parties in the implementation of their obligation to transmit national reports, and develop recommendations for consideration by the Conference of the Parties;</p> <p>(e) Consider elaborating and further assessing measures not included under paragraphs 20 (a) and (b) of the terms of reference of the Committee that may be required when a Party has not submitted its national report for two or more years since the report due in 2016, and to report to the Conference of the Parties at its sixteenth <u>seventeenth</u> meeting.</p>

¹ The draft work programme for 2024–2025 developed by the Committee during its fifteenth meeting shows in track change mode changes brought forward from its work programme for 2022–2023.

² Decision BC-13/9, para. 12.

³ Decision BC-15/17.

Objective	Activity
2. Illegal traffic Prevent and combat illegal traffic	<p>Scoping exercise:</p> <p>(a) Review the information provided in table 9 of the national reports transmitted for the years 202018 and 202119 with a view to estimating: (i) how many cases of illegal traffic there were; (ii) with respect to which wastes <u>(including regionally-based information)</u>; (iii) in which regions; and (iv) how they were resolved; and make recommendations based on the outcome of the review;</p> <p>(b) <u>Assess the reasons for which Parties do not complete or have difficulties in completing table 9 of the reporting format and what measures could be recommended to the Conference of the Parties towards improving the rate of completion of table 9 as well as the quality of information provided therein; Review table 9 of the national reporting format to ascertain whether it would benefit from adjustments to facilitate access to and analysis of the information transmitted by Parties about cases of illegal traffic;</u></p> <p>(c) Identify discrepancies in the information reported by Parties on cases that could constitute illegal traffic and make recommendations based on the outcome of the review;</p> <p>(d) Review the form for reporting confirmed cases of illegal traffic to ascertain whether it would benefit from adjustments and make recommendations based on the outcome of the review;⁴</p> <p>(e) Consider whether a review of the information provided in tables <u>45</u> and <u>65</u> of the national reports for the years 202018 and 202119, <u>taking into account relevant experience of Parties and compliance bodies of relevant multilateral environmental agreements</u>, could help identify discrepancies in the information reported by Parties that may constitute cases of illegal traffic and make recommendations accordingly.</p> <p>National coordination mechanisms</p> <p>(fa) Monitor activities undertaken by the Secretariat, the Basel Convention regional and coordinating centres, the European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL), the International Criminal Police Organization (INTERPOL), UNEP, the United Nations Office on Drugs and Crime (UNODC), the World Customs Organization (WCO), <u>the International Maritime Organization (IMO)</u> and other entities that are aimed at assisting Parties in enhancing coordination between their competent authorities and enforcement entities and make recommendations based on the outcome of the monitoring;</p> <p>(gb) Monitor activities undertaken by Parties to enhance coordination and increase the flow of information between their competent authorities and enforcement entities, and between themselves and the Secretariat;</p> <p>(he) Develop recommendations to improve implementation of and compliance with Article 9 of the Convention.</p> <p>Responses to question 1 (c) of the reporting format</p> <p>(ja) Review the texts of national legislation and other measures adopted by Parties to implement and enforce the Convention, and <u>their responses to question 1 (c) of the national reports for 2021, the outcome of Parties' self-review of their legislation19</u> and, using the legislator's checklist,⁵ classify Parties' compliance performance in relation to the obligations set out in Article 9 of the Convention;</p>

⁴ www.basel.int/Portals/4/Basel%20Convention/docs/legalmatters/illegtraff/illetrafform.pdf.

⁵ 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.

Objective	Activity
	<p data-bbox="595 203 1382 315">(jb) Identify best practices and case studies relating to the enforcement of legislation and punishment of illegal traffic and consider how to assess whether Parties' current efforts are on target to achieve best practice.</p> <p data-bbox="595 338 692 360">Dialogue</p> <p data-bbox="595 383 1350 577">(k) Establish a dialogue and coordinate with the Basel Convention regional and coordinating centres, relevant international organizations and compliance bodies of other multilateral environmental agreements on their activities aimed at supporting Parties in preventing and combating illegal traffic and develop recommendations for consideration by the Conference of the Parties.</p> <p data-bbox="595 600 1331 656">Cooperative arrangements including the Environmental Network for Optimizing Regulatory Compliance on Illegal Traffic (ENFORCE)</p> <p data-bbox="595 678 1382 837">(l) Maintain under review the activities of ENFORCE, particularly any developments that stem from any of the recommendations made by the Committee to the Conference of the Parties, subject to their adoption, and consider, at the next Committee meeting whether the arrangements pertaining to ENFORCE need to be strengthened further.</p> <p data-bbox="595 860 991 882">Dissemination of guidance and tools</p> <p data-bbox="595 904 1362 1043">(m) Monitor activities undertaken by Parties, the Secretariat, the Basel Convention regional and coordinating centres, IMPEL, INTERPOL, UNEP, UNODC, WCO and other entities aimed at disseminating guidance and tools developed under the Convention that aim to prevent and combat illegal traffic.</p>
<p data-bbox="304 1086 560 1346">3. National legislation Improve implementation of and compliance with paragraph 4 of Article 4 and paragraph 5 of Article 9 of the Convention</p>	<p data-bbox="595 1086 1382 1245">(a) Invite Parties that have yet to undertake a self-review of their legislation for implementing the Convention, using the legislator's checklist, <u>to do so and also provide information on their legislative implementation of the Ban Amendment, the Plastic Wastes Amendments and the E-waste Amendments and to consider general trends;</u></p> <p data-bbox="595 1267 1382 1462">(b) <u>Invite the 49 Parties that undertook a self-review of their legislation for implementing the Convention, using the legislator's checklist, to consider updating their self review if needed, and, where applicable, to specifically review whether their legislation reflects the amendments pursuant to decision BC-III/1 (Ban Amendment), decision BC-14/12 (Plastic Wastes Amendments) and decision BC-15/18 (E-waste Amendments)⁶;</u></p> <p data-bbox="595 1485 1390 1570">(c) <u>Consider general trends with the implementation and compliance with paragraph 4 of Article 4 and paragraph 5 of Article 9 of the Convention;</u></p> <p data-bbox="595 1592 1382 1809">(d) <u>Monitor progress achieved by Parties in transmitting to the Secretariat texts of national legislation and other measures adopted by them to implement and enforce the Convention; giving adequate consideration to improving the implementation of and compliance with paragraph 4 of Article 4 and paragraph 5 of Article 9 of the Convention with respect to the amendments pursuant to decision BC-III/1 (Ban Amendment), decision BC-14/12 (Plastic Wastes Amendments) and decision BC-15/18 (E-waste Amendments);</u></p> <p data-bbox="595 1832 1382 1971">(e) <u>Monitor requests from Parties received by the Secretariat for information aimed at facilitating the development and review of national legal frameworks and for the technical assistance activities of the Secretariat aimed at promoting the implementation of paragraph 4 of Article 4 and paragraph 5 of Article 9 of the</u></p>

⁶ The E-waste amendments will come into effect on 1 January 2025.

Objective	Activity
<p>4. Review and updating Generally improve the implementation of and compliance with the Convention.</p>	<p>Convention <u>including the amendments pursuant to decision BC-III/1 (Ban Amendment), decision BC-14/12 (Plastic Wastes Amendments) and decision BC-15/18 (E-waste Amendments)</u>;</p> <p>(d)(f) Monitor activities undertaken by or with the support of the Basel Convention regional and coordinating centres, UNEP and other entities, <u>including national development agencies</u>, aimed at assisting Parties in developing legal frameworks for the implementation of the Basel Convention <u>including the amendments pursuant to decision BC-III/1 (Ban Amendment), decision BC-14/12 (Plastic Wastes Amendments) and decision BC-15/18 (E-waste Amendments)</u>;</p> <p>Develop recommendations on how to improve implementation of and compliance with paragraph 4 of Article 4 and paragraph 5 of Article 9 of the Convention;</p> <p>(e) When undertaking the activities listed in subparagraphs (a) to (e) above, give adequate consideration to improving the implementation of and compliance with paragraph 4 of Article 4 and paragraph 5 of Article 9 of the Convention with respect to the amendments pursuant to decision BC-III/1 (Ban Amendment) and decision BC-14/12 (plastic wastes amendments);</p> <p>(f)(g) Establish a dialogue and coordinate with the Basel Convention regional and coordinating centres, the Executive Board of the Special Programme to support institutional strengthening at the national level for implementation of the Basel, Rotterdam and Stockholm Conventions, the Minamata Convention and the Strategic Approach to International Chemicals Management, UNEP and other entities, such as FAO, GEF, UNDP, UNIDO, the World Bank and <u>other relevant financial institutions</u>, on their activities aimed at supporting Parties in performing their obligations related to the development of legal frameworks to implement and enforce the Convention, <u>including the amendments pursuant to decision BC-III/1 (Ban Amendment), decision BC-14/12 (Plastic Wastes Amendments) and decision BC-15/18 (E-waste Amendments)</u> and develop recommendations for consideration by the Conference of the Parties;</p> <p>(h) Review, subject to the availability of resources and according to the priorities established by the Conference of the Parties for the given biennium, Parties' implementation of the Convention in national law, starting with Parties that have not yet provided information to the Secretariat as to whether they have national legislation implementing the Convention,⁷ <u>also taking into account the information received by three Parties under the 2022-2023 work programme of the Committee⁸</u>, for consideration by the Conference of the Parties at its sixteenth and subsequent meetings;⁹</p> <p>(g)(i) <u>Develop recommendations on how to improve implementation of and compliance with paragraph 4 of Article 4 and paragraph 5 of Article 9 of the Convention.</u></p> <p>(a) Regularly review the guidance developed by the Committee on the basis of periodic feedback from users and suggestions from stakeholders and in the light of decisions adopted by the Conference of the Parties, and make recommendations to the Conference of the Parties on the updating of the guidance;</p> <p>(b) Update, on behalf of the Conference of the Parties and subject to the availability of resources, the Guide to the Control System and the</p>

⁷ See document UNEP/CHW.165/[14].

⁸ UNEP/CHW/CC.15/INF/9.

⁹ Appropriate allocations in the budget to provide support for the Committee to undertake this work are recommended, along with allocations in the technical assistance budget specifically to help individual Parties with implementation of the Basel Convention.

Objective	Activity
	Manual for the Implementation of the Basel Convention by including, as relevant, references to Article 4A of the Convention, the plastic wastes amendments, the e-waste amendments, the glossary of terms and technical guidelines and new guidance adopted since the twelfth meeting of the Conference of the Parties.
5. Country contacts Improve the implementation of and compliance with Article 5 of the Convention	RR Review Parties' implementation of and compliance with the obligation to designate competent authorities and a focal point pursuant to Article 5, including any common difficulties or issues being faced by Parties with respect to the obligation to inform the Secretariat, within one month of the date of decision, of any changes made by them to the designation of such country contacts, and make recommendations to the Conference of the Parties.
6. Enhanced cooperation coordination with the Compliance Committee of the Rotterdam Convention	Explore the possibilities for Enhancing cooperation coordination with the Compliance Committee of the Rotterdam Convention to facilitate compliance through, for example, the provision of joint secretariat support for the committees, facilitation of the exchange of <u>views and</u> information between the committees <u>on activities, operations and processes of joint interest, including as appropriate during joint sessions of the meetings of the committees,</u> including reports on the outcomes of each other's meetings, attendance by each chair at the meetings of the other committee and the appointment of committee members who have experience of the other compliance mechanism, and make recommendations to the Conference of the Parties.
7. Integration in United Nations Sustainable Development Cooperation Frameworks	Provide guidance, <u>including through consultation with the Open-ended Working Group,</u> for consideration by the Conference of the Parties at its sseventeenth ixteenth meeting, on how individual Parties can integrate action to address their needs under the Basel Convention into their United Nations Sustainable Development Cooperation Frameworks.

II. Specific submissions regarding Party implementation and compliance

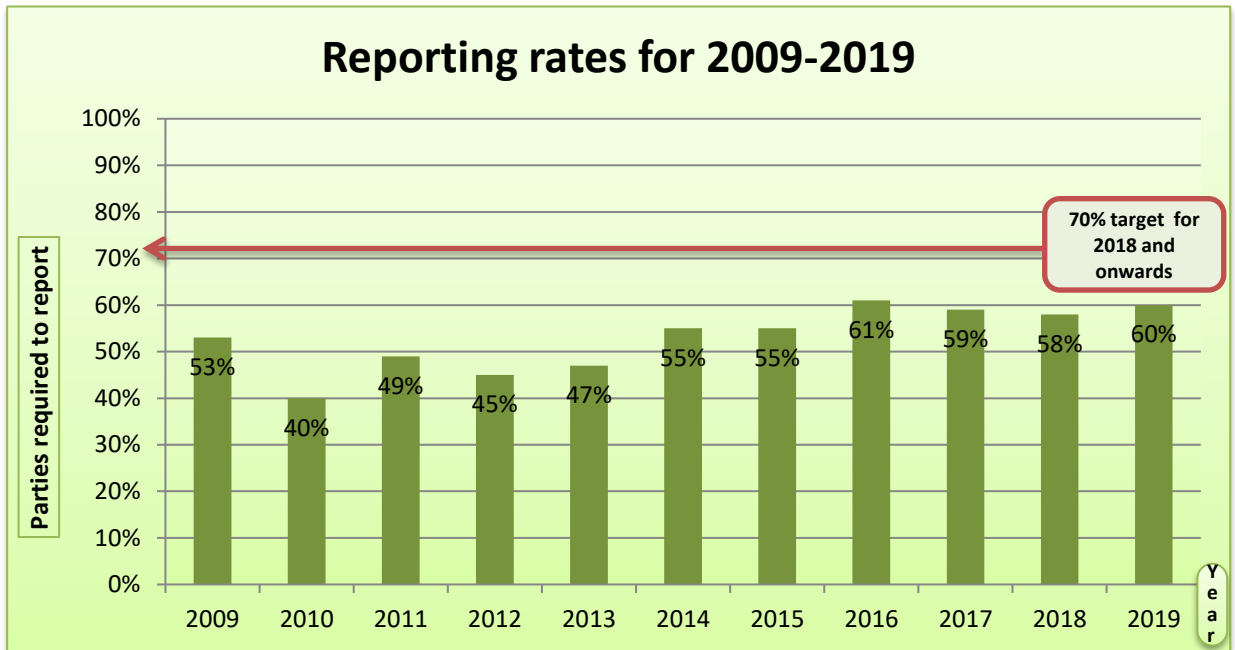
153. The Committee shall accord priority to dealing with specific submissions regarding Party implementation and compliance received or initiated in accordance with paragraph 9 of the terms of reference of the mechanism for promoting implementation and compliance.

254. In relation to the implementation fund, the Committee shall make recommendations to the Executive Secretary on the allocation of the available resources from the fund during the period between the ~~sixteenth~~ ~~fifteenth~~ and ~~seventeenth~~ ~~sixteenth~~ meetings of the Conference of the Parties to assist Parties in the context of the facilitation procedure set out in paragraphs 19 and 20 of the terms of reference of the mechanism for promoting implementation and compliance. The resources are intended to fund activities listed in the compliance action plans presented by Parties in relation to specific submissions and approved by the Committee.

Annex II

Draft classification of Parties' compliance performance with their national reporting obligation for 2018 and 2019 (status 30 August 2022)

Overall reporting rates for the years 2009–2019



Reporting rates for complete and on time or late reports (2014–2019)

