

# ICC Illegal traffic - Belgium

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BCFP\_BE

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Language

System language

## 1. 1. a. Has your country enacted laws, regulations, policies, procedures and other measures that embody the provision set forth in paragraph 3 of Article 9 of the Basel Convention?

No

**\* Yes \***

If yes, please provide the name of the relevant piece of legislation, regulation, policy, procedures or other measure

Art. 24 of the EU Waste Shipment Regulation 1013/2006/EC

Please also provide a copy of such relevant national provision implementing paragraph 3 of Article 9 (in English) or, alternatively, outline the main elements of the national provision implementing paragraph 3 of Article 9 of the Basel Convention

Not answered

If possible attach a copy

No file uploaded

If no, please indicate any reason for the lack of enactment of laws, regulations, policies, procedures and other measures embodying the provision set forth in paragraph 3 of Article 9 of the Basel Convention

Not answered

## 2. 1. b. Has your country enacted laws, regulations, policies, procedures and other measures that embody the provision set forth in paragraph 4 of Article 9 of the Basel Convention?

No

**\* Yes \***

If yes, please provide the name of the relevant piece of legislation, regulation, policy, procedures or other measure

Art. 24 of the EU Waste Shipment Regulation 1013/2006/EC

Please also provide a copy of such national provision implementing paragraph 4 of Article 9 (in English) or, alternatively, outline the main elements of the national provision implementing paragraph 4 of Article 9 of the Basel Convention

Not answered

If possible attach a copy

No file uploaded

If no, please indicate any reason for the lack of enactment of laws, regulations, policies, procedures and other measures embodying the provision set forth in paragraph 4 of Article 9 of the Basel Convention

Not answered

## 3. 2. a. Does your country have experience dealing with cases where paragraph 3 of Article 9 of the Basel Convention has been applied?

No

**\* Yes \***

If yes, provide the number of cases in the last 5 years, and if possible in the last 10 years, and provide details on the more relevant

cases that occurred in the last five years.

Number of cases: 8 (2010-2014)

Examples:

- Aluminium scrap from BE to FR / non-licensed recovery facility / shipments were stopped
- Aluminium dross from GR to BE / shipment of hazardous waste without notification / recovery in DE + legal file
- Railroad ties from DK to BE / shipment with notification but intended recovery facility was not willing and able to accept the waste / recovery in DE

#### **4. 2. b. Does your country have experience dealing with cases where paragraph 4 of Article 9 of the Basel Convention has been applied?**

No

**\* Yes \***

If yes, provide the number of cases in the last 5 years, and if possible in the last 10 years, and provide details on the more relevant cases that occurred in the last five years.

Number of cases: unknown (due to different terminology EU WSR (notifier) vs Basel Convention (exporter))

Examples:

- End-of-life vessel from BE to IN / export ban of hazardous waste to non-OECD country / recovery in TR with notification
- Hazardous wood waste from NL to BE / shipment of hazardous waste without notification / shipments were stopped
- Copper cement with Cadmium from FR to BE / shipment of hazardous waste without notification / return shipment to FR + legal file

#### **5. 3. a. Has your country faced any difficulties in implementing the provision in paragraph 3 of Article 9 of the Basel Convention?**

No

**\* Yes \***

If yes, provide the nature of the difficulty encountered:

#### **6. (i) Domestic difficulties:**

Lack of or inappropriate domestic legal or institutional framework to implement and enforce paragraph 3 of Article 9 of the Basel Convention;

Lack of access to adequate information about possible cases of transboundary movements of hazardous wastes or other wastes deemed to be illegal traffic as the result of conduct on the part of the importer or disposer;

Challenges in identifying that a transboundary movement of hazardous wastes or other wastes may be a case of illegal traffic as defined by paragraph 1 of Article 9 (constitutive elements);

Challenges in concluding that the illegal traffic is the result of the conduct on the part of the importer or disposer and/or identification of the relevant importer or disposer;

Lack of awareness of relevant entities that should be involved in combating illegal traffic;

**\* Lack of awareness by importers or disposers about the requirements of the Basel Convention; \***

Lack of cooperation by importers or disposers in complying with the requirements set out in paragraph 3 of Article 9 of the Basel Convention;

**\* Lack of coordination/cooperation at the national level among relevant entities involved in combating illegal traffic; \***

Difficulty to dispose of the waste in an environmentally sound manner;

Other difficulties (Please specify):

Please also elaborate on any box you have ticked

o Exporters often forget (or don't want to know) whether the recovery facility has a license or not

o Exporters often assume – wrongly - that goods that are considered

'non waste' in the country of dispatch are regarded in the same way in the country of destination

#### **7. (ii) International cooperation difficulties:**

**\* Difficulties in communicating and cooperating with other States concerned by the case of illegal traffic (State of transit, State of export); \***

**\* Lack of shared understanding among States concerned of how to operationalize paragraph 3 of Article 9; \***

Lack of guidance on how to operationalize paragraph 3 of Article 9;

Other difficulties (Please specify):

Please also elaborate on any box you have ticked

Requests to countries of dispatch for information regarding possible illegal shipments are usually met with silence, with the exception of authorities in neighboring countries with whom we have regular return shipment cases. Only when you propose to recycle the waste in the country of destination instead of sending it back, you will get a quick 'YES'.

### **8. 3. b. Has your country faced any difficulties in implementing the provision in paragraph 4 of Article 9 of the Basel Convention?**

No

**\* Yes \***

If yes, provide the nature of the difficulty encountered:

#### **9. (i) Domestic difficulties:**

Lack of or inappropriate domestic legal or institutional framework to implement and enforce paragraph 4 of Article 9 of the Basel Convention;

Lack of access to adequate information about possible cases of transboundary movements of hazardous wastes or other wastes deemed to be illegal traffic as the result of conduct on the part of the importer or disposer;

Challenges in identifying that a transboundary movement of hazardous wastes or other wastes may be a case of illegal traffic as defined by paragraph 1 of Article 9 (constitutive elements);

**\* Challenges in concluding that the responsibility for illegal the traffic cannot be assigned either to the exporter or generator or to the importer or disposer; \***

**\* Challenges in identifying the States concerned (State of transit, State of export); \***

Lack of awareness of relevant entities that should be involved in combating illegal traffic;

Lack of awareness/cooperation by importers or disposers;

Lack of coordination/cooperation at the national level among relevant entities involved in combating illegal traffic;

Difficulty to dispose of the waste in an environmentally sound manner;

Other difficulties (Please specify):

Please also elaborate on any box you have ticked

Not answered

#### **10. (ii) International cooperation difficulties:**

**\* Difficulties in communicating/cooperating with the relevant entities from the States concerned (State of transit, State of export); \***

**\* Difficulties in identifying or communicating with exporter or generator; \***

**\* Lack of shared understanding of how to operationalize paragraph 4 of Article 9; \***

Lack of guidance on how to operationalize paragraph 4 of Article 9;

**\* Differences in the level of "evidence" required that there might be a case of illegal traffic justifying the application of paragraph 4 of Article 9; \***

Lack of an adequate mechanism to handle cooperation difficulties between Parties (NB: Existing mechanisms include the role of the Secretariat under Article 16 (1) (i), a submission to the Implementation and Compliance committee, the verification procedure under Article 19 and the settlement of disputes under Article 20);

Other difficulties (Please specify):

Please also elaborate on any box you have ticked

o Communication with the country of dispatch is not always easy, especially when these authorities need to organize a return shipment

o Some dispatch authorities will request a very detailed report before accepting the fact that an illegal shipment has taken place; this means that they are not satisfied with a partial check of the shipment and that the entire shipment will have to be inspected in the country of destination

o There is no unanimity on how art. 9.4 should be interpreted; does this article apply:

§ Only in cases where there is a shared responsibility of the exporter and the importer?

§ Only in cases where the responsibility lies with a third party, e.g. the transport company who has taken a wrong decision?

§ in all cases that do not fit perfectly in art. 9.2 or 9.3

### **11. 4. Has your country been able to overcome difficulties stated under sections 3.a. and 3.b. above?**

No

**\* Yes \***

If yes, explain how

In many cases where we didn't get a reply from the authorities in the country of dispatch, we didn't have another choice than finding a recovery solution in our own country (of destination).

**12. 5. a. Please indicate consequences your country has faced as a result of difficulties encountered with the implementation of paragraph 3 of Article 9 of the Basel Convention (e.g. leaking of containers causing pollution; containers damaged by accident or storms; costs of storage or disposal borne by your country).**

- aluminium drosses: employees in recovery facility were overcome by toxic fumes
- when the authorities in the country of dispatch don't respond or the involved companies are not willing to cooperate in finding a solution, shipments tend to stay on port terminals for months or even years, mainly causing financial damage to the shipping agents

**13. 5. b. Please indicate consequences your country has faced as a result of difficulties encountered with the implementation of paragraph 4 of Article 9 of the Basel Convention (e.g. leaking of containers causing pollution; containers damaged by accident or storms; costs of storage or disposal borne by your country).**

see III.5.a

**14. 6. Please share examples of best practices your country or countries in your region have developed and used to implement and comply with the provisions set forth in paragraphs 3 and 4 of Article 9 of the Basel Convention (eg. existing mechanisms or arrangements in place).**

Not answered

**15. 7. Please share lessons learned (both negative and positive) that the Committee may wish to take into account in the development of guidance on the implementation of paragraphs 3 and 4 of Article 9 of the Basel Convention.**

Not answered

**16. 8. Please list and, if possible, share guidance documents or training materials developed at the national, regional or global level that you may be aware of that is aimed at assisting Parties implement these provisions.**

A guidance document was developed by IMPEL TFS in 2008.  
This manual for return shipments is currently being updated.

**17. 9. Does your country transmit to the Secretariat the "Form for confirmed cases of illegal traffic" (available at <http://archive.basel.int/legalmatters/illegtraffice/illegtrafform.pdf>)?**

No

Yes

**18. Please add any additional information or comments pertaining to the implementation of the provisions set forth in paragraphs 3 and 4 of Article 9 of the Basel Convention that is not included in answers to the above questions.**

Not answered

**19. Submitting Party:**

Submitting Party:

Belgium

**20. Contact details of the person who completed the questionnaire:**

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