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**Open-ended Working Group of the Basel Convention  
on the Control of Transboundary Movements  
of Hazardous Wastes and Their Disposal  
Fourteenth meeting**

Geneva, 25–28 June 2024

Item 3 (b) (ii) of the provisional agenda\*

**Matters related to the work programme of the  
Open-ended Working Group for the biennium  
2024–2025: scientific and technical matters:  
national reporting**

## Table 9 of the reporting format

### Note by the Secretariat

1. As is mentioned in the note by the Secretariat on national reporting (UNEP/CHW/OEWG.14/5), the present note sets out possible revisions to table 9 of the reporting format and to the manual for completing the format for national reporting.
2. The possible revisions to table 9 take into account the information set out in the reports on the scoping exercises considered by the Committee Administering the Mechanism for Promoting Implementation and Compliance pursuant to its work programmes for the biennium 2020–2021 and 2022–2023<sup>1</sup> and the Committee's findings<sup>2</sup>. The possible revisions also take into account information shared by Parties and preliminary findings set out in two reports prepared for the consideration of the Committee during its sixteenth meeting (to be held on 23 and 24 June and from 29 June to 2 July 2024) pursuant to its 2024–2025 work programme, namely a report scoping the extent of illegal traffic on the basis of the information provided in table 9 of the national reports transmitted by Parties for the years 2020 and 2021<sup>3</sup>, and a report on enhancing coordination between competent authorities and enforcement entities and on activities aimed at disseminating guidance and tools developed under the Convention<sup>4</sup>.
3. Annex I to the present note sets out possible revisions to table 9 of the reporting format and to the manual for completing the format for national reporting. For ease of reference, annex II to the present note sets out table 9 of the reporting format and the relevant abstract of the manual for completing the format for national reporting under the Basel Convention. The present note, including its annexes, has not been formally edited.

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\* UNEP/CHW/OEWG.14/1.

<sup>1</sup> UNEP/CHW/CC.14/4/Add.1 and UNEP/CHW/CC.15/4/Add.1.

<sup>2</sup> For the Committee's findings during its fourteenth meeting, see annex I to document UNEP/CHW.15/INF/14. For the Committee's findings during its fifteenth meeting, see annex I to document UNEP/CHW.16/INF/21.

<sup>3</sup> UNEP/CHW/CC.16/4/Add.1.

<sup>4</sup> UNEP/CHW/CC.16/4/Add.2, in particular paragraphs 37 to 50, and paragraph 99.

## Annex I

### Possible revisions to table 9 of the reporting format and to the manual for completing the format for national reporting

1. The possible revisions to table 9 of the reporting format are intended to bring more clarity to the information to be reported by Parties and are expected to enhance the quality and quantity of information reported. This is achieved by adjusting the format of the table (e.g. splitting columns) and moving away from free text whenever possible and having tick-the-box options instead, coupled with a box to provide any additional information if so wished. Substantive changes are also suggested with regards to both the scope of the information reported and the content of the information reported. The possible revisions to table 9 would lead to consequential adjustments to the manual for completing the format for national reporting.

2. In addition to revising table 9 and the manual, consideration could be given to aligning the form for reporting confirmed cases of illegal traffic<sup>5</sup> with that of the revised table 9.

3. The name of table 9 is: “Table 9: Cases of illegal traffic which have been closed in the reporting year”. The manual explains: “Provide information only on those cases of illegal traffic that have been closed in the reporting year, even though their detection may have happened in the year before or earlier. In that regard, the term “closed” means that either the court has taken a final decision on a fine or prison or that an administrative fine has been issued.” The scope of the cases of illegal traffic to be reported in table 9 therefore appears to be limited by the type of punishment imposed on the offender (fine or prison). Parties, however, report cases where the consequence for the offender is other than a fine or prison, as the explanation for completing column 7 on measures taken, including any punishment imposed, appears to allow such reporting. In order to clarify what is expected from Parties, possible revisions to column 7 are identified below. In addition, a possible revision to the format of table 9 could be that, in addition to cases where the court has taken a final decision on a fine or prison or that an administrative fine has been issued, Parties have the option to voluntarily report, in an aggregated manner, the cases of illegal traffic other than those for which a fine or prison was imposed. For such cases, the Party would have the possibility to report the number of cases, the total amount of waste, and the total measures other than fine or prison that were imposed on the offender (administrative measures such as a warning, the suspension or the revocation of an authorization, or civil measures).

4. Regarding column 2 on “waste code”, possible revisions could be to:

(a) Align with tables 4 and 5: In tables 4 and 5 of the national reporting format, which are to be used to report on the import and exports of wastes, the waste codes are divided into three sub-columns. It makes it clear that first you need to choose the waste code from Annex VIII, II or IX to the Basel Convention and, only if this is not possible, then you choose from a code in Annex I to the Basel Convention or a national code. A similar approach could be used in the waste code column of table 9 of the national reporting format. It would be made clear, through the use of a footnote, that if Annex IX is ticked, then the wastes also have to be Article 1.1 (b) wastes;

(b) Adjust column 2 to allow for the provision of a corresponding HS code (optional).

5. Regarding column 4 on “amount (metric tons)”, several Parties have difficulties in completing this column which prescribes only one measure by which to report. It is suggested to adjust the column by adding “estimated” amount, and to allow Parties to use other ways of measuring the amount of waste illegally trafficked such as the number of containers, the number of pieces of wastes (e.g. if vehicles), or another unit of measure that could be specified by the Party.

6. Regarding column 5 on “identification of the reason for illegality (possible reference to relevant articles of the Convention and national legislation)”, several Parties complete the column using free text not necessarily linked to Article 9. It is suggested to divide the column into two sub-columns:

(a) One sub-column about the reasons for illegality pursuant to paragraph 1, Article 9 of the Basel Convention, with tick-the-box options following the content of Article 9: (a) without notification pursuant to the provisions of this Convention to all States concerned; or (b) without the consent pursuant to the provisions of this Convention of a State concerned; or (c) with consent obtained from States concerned through falsification, misrepresentation or fraud; or (d) that does not

<sup>5</sup> <https://www.basel.int/Portals/4/Basel%20Convention/docs/legalmatters/illegtraffick/illegtrafform.pdf>.

conform in a material way with the documents; or (e) that results in deliberate disposal (e.g., dumping) of hazardous wastes or other wastes in contravention of this Convention and of general principles of international law;

(b) Another sub-column about the reasons for illegality pursuant to national legislation (free text).

7. Regarding column 7 on “measures taken including any punishment imposed”, the column combines two types of consequences: what happens to the person responsible for the illegal traffic upon which a punishment is to be imposed, and what happens to the waste which should ultimately be managed in an environmentally sound manner. It is suggested that the two types of information be distinguished by splitting the column in two sub-columns with tick-the-box options:

(a) One sub-column about what happened to the wastes (e.g., taken back, disposed of in the country of import, or exported to another Party for disposal);

(b) Another sub-column about what happened to the offender (e.g. fine, prison).

8. As mentioned above, in order to enable Parties to report cases of illegal traffic that did not lead to a fine or prison sentence, for instance other administrative measures such as a warning, the suspension or the revocation of an authorization, or civil measures, table 9 could be revised to allow Parties to voluntarily report in an aggregated manner such closed cases of illegal traffic. This could be within the format of a separate row for such aggregated reporting and as mentioned in paragraph 2 above.

## Annex II

### Table 9 of the reporting format and abstract of the manual for completing the format for national reporting under the Basel Convention

**Table 9: Cases of illegal traffic which have been closed in the reporting year(1)**  
(Articles 9.5, 13.3(c), 13.3(i) and COP decisions related to illegal traffic)

Were **cases of illegal traffic** closed in the reporting year: Yes No

If yes, please specify:

Country of export and country of import	Waste code	Type of waste <sup>(2)</sup>	Amount (metric tons)	Identification of the reason for illegality (possible reference to relevant Articles of Convention and national legislation)	Responsible for illegality (please tick as appropriate)			Measures taken including any punishment imposed
					Exporter or generator	Importer or disposer	Other	

Remarks:

(1) For a more detailed form on confirmed cases of illegal traffic, see webpage of the Basel Convention:

<http://www.basel.int/Procedures/ReportingonIllegalTraffic/tabid/1544/Default.aspx>

(2) Not required to fill in, if you have provided the waste code in column 2

#### **Instructions:**

The Basel Convention provides that each Party is to introduce appropriate national/domestic legislation to prevent and punish illegal traffic (Article 9 paragraph 5) and to take appropriate measures to implement and enforce the provisions of the Convention (Article 4 paragraph 4). The COP has invited Parties to report confirmed cases of illegal traffic to the Secretariat using the prescribed form for confirmed cases of illegal traffic.

Provide information only on those cases of illegal traffic that have been closed in the reporting year, even though their detection may have happened in the year before or earlier. In that regard, the term “closed” means that either the court has taken a final decision on a fine or prison or that an administrative fine has been issued.

Illegal traffic is defined in Article 9 paragraph 1 of the Basel Convention as follows:

“For the purpose of this Convention, any transboundary movement of hazardous wastes or other wastes:

- (a) **without notification** pursuant to the provisions of this Convention to all States concerned; or
- (b) **without the consent** pursuant to the provisions of this Convention of a State concerned; or
- (c) with **consent** obtained from States concerned **through falsification, misrepresentation or fraud**; or
- (d) that **does not conform in a material way** with the documents; or
- (e) that **results in deliberate disposal** (e.g. dumping) of hazardous wastes or other wastes **in contravention of this Convention** and of general principles of international law, shall be deemed to be illegal traffic.”

In column 1, indicate the countries involved in the case of illegal traffic (country of export and country of import), indicating the direction of transport as follows: “From country A to country B”; use 2-letter ISO codes to indicate countries. A list of ISO codes is available here.

In column 2, fill in the code from Annex VIII, II or IX of the Basel Convention or, if this is not possible, the code from Annex I of the Basel Convention or the national code. The Annexes of the Basel Convention are available on the website of the Convention.

In column 3, provide a description of the waste (not required to fill in, if you have provided the waste code in column 2).

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In column 4, fill in the amount in metric tons. Use the mathematical symbol “.” to indicate *only* decimal fractions. Avoid using any other mathematical symbols, such as “,” or “`” to indicate thousands. For example, for ten thousand and a quarter tons, enter 10000.25.

In column 5, specify for what reason the transboundary movement is a case of illegal traffic based on the definition of illegal traffic above and any additional national legislation.

In column 6, specify the entity that was identified as being responsible for the case of illegal traffic, bearing in mind that multiple entities may be responsible.

In column 7, specify the measures taken in your country as a result of the case of illegal traffic. These may include:

- Prosecution of those responsible for the illegal traffic, and the outcome e.g. conviction with fine or prison sentence, administrative measures such as revocation of an authorization, civil measures such as compensation for damage, or acquittal.
  - Cooperation measures taken such as: legal assistance provided to another country concerned by the case of illegal traffic to enable additional prosecutions, exchange with other countries so as to better prevent illegal traffic in the future, further investigations of related illegal activities or communication to the Secretariat of the form for confirmed cases of illegal traffic.
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