

Implementation of and compliance with paragraph 4 of Article 6 of the Basel Convention on transit

Questionnaire for Parties

Introduction

Background

By its Decision BC-12/7, the Conference of the Parties to the Basel Convention, at its twelfth meeting, adopted the work programme for the biennium 2016-2017, whereby the Committee for Administering the Mechanism for Promoting Implementation and Compliance with the Basel Convention (ICC) was requested to improve the implementation of and compliance with Article 6 of the Convention by considering what additional steps could be taken to improve the implementation of and compliance with that provision.

Within this mandate, the Committee has agreed to undertake activities more specifically aimed at improving paragraph 4 of Article 6 on transit. To assist the Committee with its work, Parties are invited to provide information about their experiences in implementing paragraph 4 of Article 6 of the Basel Convention by responding to this questionnaire, including the difficulties faced by Parties and possible ways to overcome them. Information collected from Parties will be used as a basis for the development of recommendations to the Conference of the Parties on way to improve the implementation of this provision.

Paragraph 4 of Article 6 reads as follows:

“Each State of transit which is a Party shall promptly acknowledge to the notifier receipt of the notification. It may subsequently respond to the notifier in writing, within 60 days, consenting to the movement with or without conditions, denying permission for the movement, or requesting additional information. The State of export shall not allow the transboundary movement to commence until it has received the written consent of the State of transit. However, if at any time a Party decides not to require prior written consent, either generally or under specific conditions, for transit transboundary movements of hazardous wastes or other wastes, or modifies its requirements in this respect, it shall forthwith inform the other Parties of its decision pursuant to Article 13. In this latter case, if no response is received by the State of export within 60 days of the receipt of a given notification by the State of transit, the State of export may allow the export to proceed through the State of transit.”

Instructions for completing and submitting the questionnaire

The ICC encourages focal points to seek the cooperation of competent authorities in completing this questionnaire.

Questionnaires are to be submitted to the Secretariat no later than **31 January 2016**. Any substantive questions pertaining to this questionnaire may be addressed to Mrs. Juliette Voinov Kohler (juliette.kohler@brsmeas.org). Any IT questions pertaining to this questionnaire may be addressed to Mr. Julien Hortonedá (julien.hortonedá@brsmeas.org).

We thank you in advance for your kind cooperation.

The Implementation and Compliance Committee

Implementation of and compliance with paragraph 4 of Article 6 of the Basel Convention on transit

Questionnaire for Parties

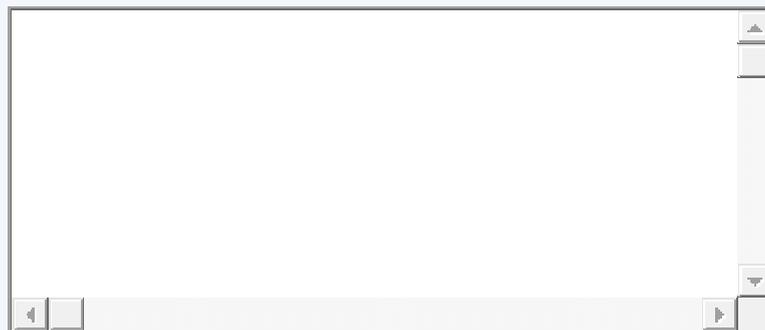
I. National or regional legal framework pertaining to the implementation of paragraph 4 of Article 6 of the Basel Convention

1. a. Has your country enacted laws, regulations, policies, procedures and other measures that embody the provision set forth in paragraph 4 of Article 6 of the Basel Convention?

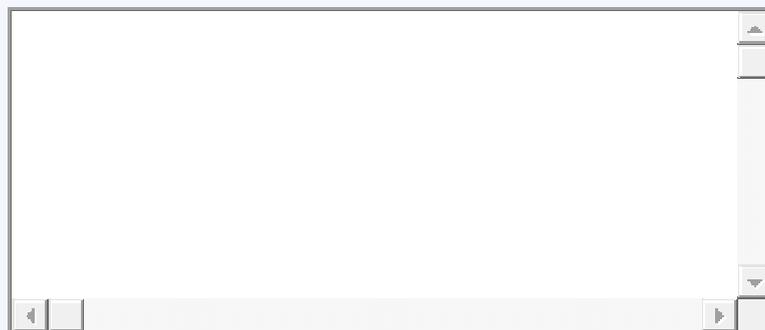
No

Yes

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



Please also provide the text of such relevant national provision implementing paragraph 4 of Article 6 (in English) or, alternatively, outline the main elements of the national provision implementing paragraph 4 of Article 6 of the Basel Convention



If possible attach a copy or indicate where this can be downloaded

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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 6 of the Basel Convention

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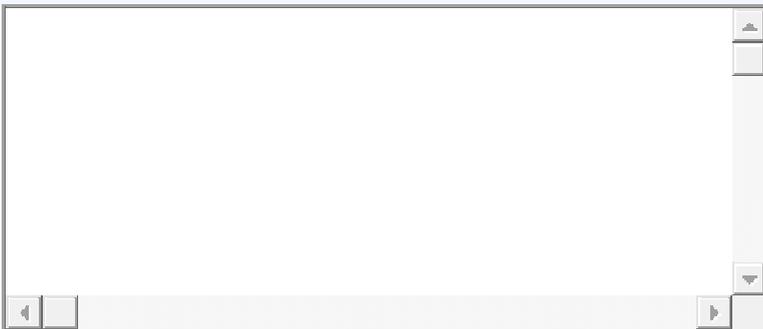
II. Definition of "transit" at the national level

The Basel Convention defines "State of transit" as "any State, other than the State of export or import, *through which* a movement of hazardous or other wastes is planned or takes place" (*emphasis added*).

2. a. Does your country have a definition of "transit"?

- No
- Yes

If yes, provide the definition.

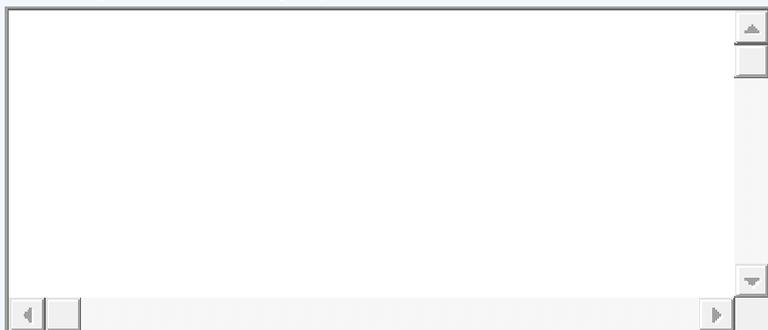


2. b. In your country, which of the following instances would fall within the meaning of "transit"?

- A ship transporting wastes covered by the Basel Convention enters the **Exclusive Economic Zone (EEZ)**¹;
- A ship transporting wastes covered by the Basel Convention enters **territorial waters** (territorial sea or internal waters);
- A ship transporting wastes covered by the Basel Convention enters the **free zone**;
- A ship transporting wastes covered by the Basel Convention calls at a port, **without offloading the wastes**, and leaves for a different port of discharge;
- A ship transporting wastes covered by the Basel Convention calls at a port, with **offloading and reloading of the wastes on the same ship**, and leaves the port for a different port of discharge;
- A ship transporting wastes covered by the Basel Convention calls at a port, with **offloading and reloading of the wastes on a different ship** destined for a different port of discharge;
- A ship transporting wastes covered by the Basel Convention calls at a port, with **offloading and reloading of the wastes on a different transporter** (eg. truck, train) destined for a different country;

- A transporter other than a ship (eg. truck, train) transporting wastes covered by the Basel Convention enters and leaves the territory **without offloading the wastes**;
- A transporter other than a ship (eg. truck, train) transporting wastes covered by the Basel Convention enters the territory, **offloads and reloads the wastes** and leaves the territory;
- A transporter other than a ship (e.g. truck, train) transporting wastes covered by the Basel Convention enters the territory, **offloads and reloads the wastes on a different transporter** that then leaves the territory;
- Other instances.

Please describe any such other instances in which a “transit” is deemed to take place (e.g. activities such as storage or repackaging of the wastes)

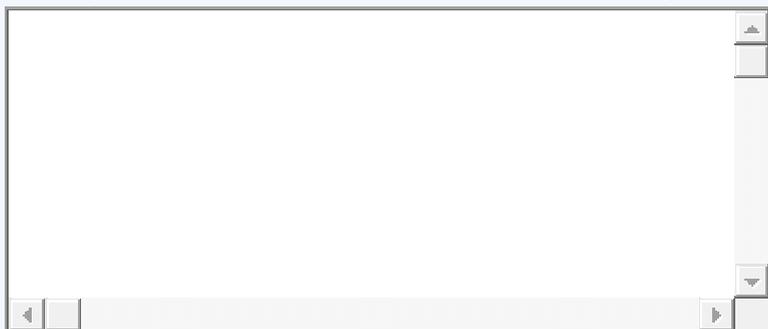


¹ Without prejudice to Parties' national legislation and views, definitions of “Exclusive Economic Zone”, “territorial sea” and “free zone” may be found in the United Nations Convention on the Law of the Sea, respectively in Articles 55, 2 and 3, and 128. See: http://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf

2. c. Would any answer above be different in the event a ship or transporter acted due to force majeure?

- No
- Yes

If **yes**, please explain what would amount to “force majeure” in your country and how it would impact the meaning of “transit” and the implementation of paragraph 4 of Article 6.



2. d. Does the definition of “transit” include temporal elements, e.g. is the amount of time needed to go “through” your country relevant?

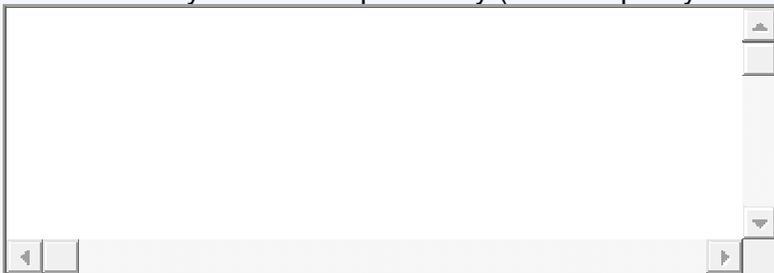
- No
- Yes

If **yes**, please elaborate.

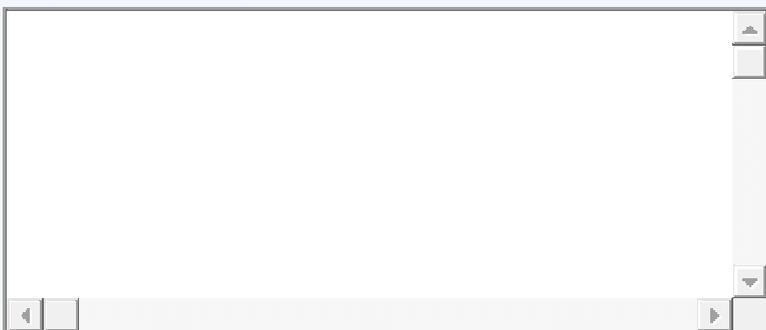


2. e. Do Customs have a responsibility in determining at the national level whether a “transit”, as defined under the Basel Convention, has occurred or may occur?

- No
- Yes
- Other entity has this responsibility (Please specify which)



If **yes**, please explain the responsibility of Customs and how they interact with the Basel Convention Competent Authority



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III. Other aspects of paragraph 4 of Article 6

3. a. Has your country decided to **not consent** totally or partially to the transit of hazardous wastes and other wastes?

No

Yes

If **yes**, please provide information on your country's restriction or ban of transit transboundary movements of hazardous wastes or other wastes

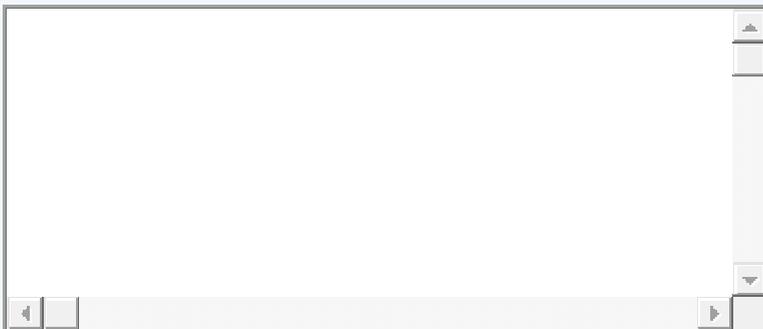


3. b. Has your country decided **not to require prior written consent**, either generally or under specific circumstances, for transit transboundary movements of hazardous wastes or other wastes?

No

Yes

If **yes**, please provide information on the scope of your country's decision and whether this information was notified to the Secretariat



3. c. Paragraph 4 of Article 6 ab initio reads: *“Each State of transit which is a Party shall promptly acknowledge to the notifier receipt of the notification. It **may** subsequently respond to the notifier in writing, within 60 days, consenting to the movement with or without conditions, denying permission for the movement, or requesting additional information. The State of export **shall not allow the transboundary***

movement to commence until it has received the written consent of the State of transit.” (emphasis added).

Please provide information on your country’s understanding and implementation of paragraph 4 of Article 6 ab initio:

- A transboundary movement cannot commence following the 60 days deadline if no written consent was received from the State of transit;
- A transboundary movement can commence following the 60 days deadline if no written consent was received from the State of transit;
- Other.

If your country has a different understanding of paragraph 4 of Article 6 ab initio, please elaborate.



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Questionnaire for Parties

IV. Experience in implementing paragraph 4 of Article 6 of the Basel Convention: challenges and best practices

4. a. Does your country have experience as a “transit” country?

No

Yes

If **yes**, please provide information on how often on average your State has been a transit State in the last five years

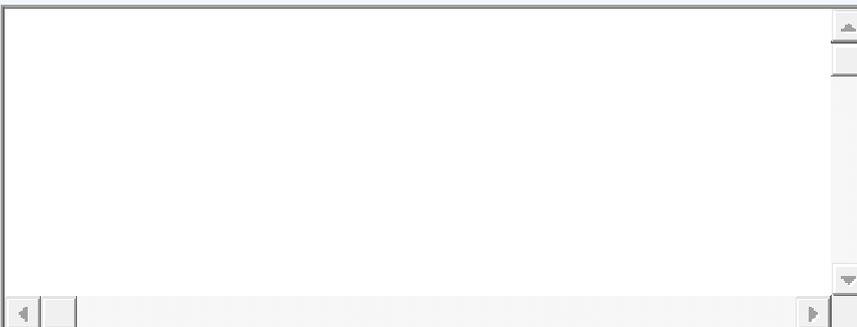


4. b. Can your country share **best practices** with respect to the implementation of paragraph 4 of Article 6 of the Basel Convention?

No

Yes

If **yes**, please elaborate



4. c. Has **your country** faced any **difficulties** in implementing the provision in paragraph 4 of Article 6 of the Basel Convention?

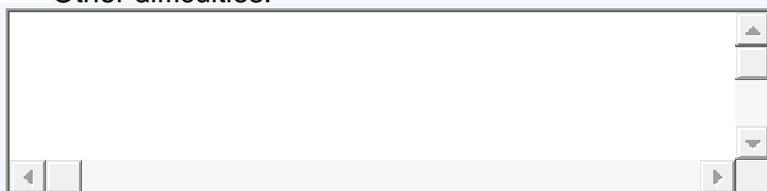
No

Yes

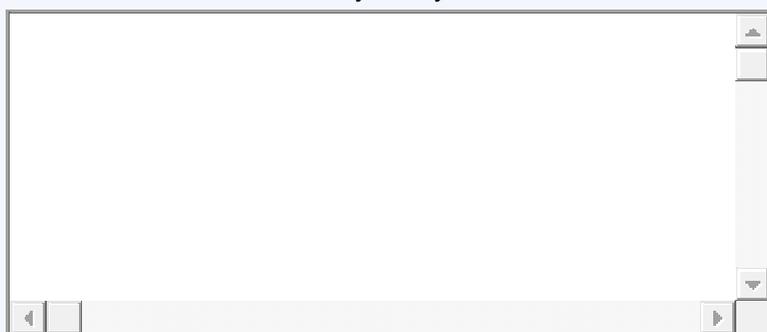
If **yes**, provide the nature of the difficulties encountered:

(i) Domestic difficulties:

- Lack of or inappropriate domestic legal or institutional framework to implement paragraph 4 of Article 6 of the Basel Convention;
- Lack of clarity about the definition of “transit” at the national level;
- Lack of clarity about the way to implement paragraph 4 of Article 6 ab initio (see question 3. c. above);
- Lack of awareness among relevant entities within the country involved in transit transboundary movements of hazardous and other wastes about the requirements of paragraph 4 of Article 6 (e.g. Customs, port authorities);
- Lack of coordination/cooperation at the national level among relevant entities involved in transit transboundary movements of hazardous and other wastes;
- Lack of awareness among stakeholders within the country involved in transboundary movements of hazardous and other wastes about the requirements of paragraph 4 of Article 6 (e.g. generators, transporters, exporters, importers, disposers);
- Other difficulties:

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Please also elaborate on any box you have ticked

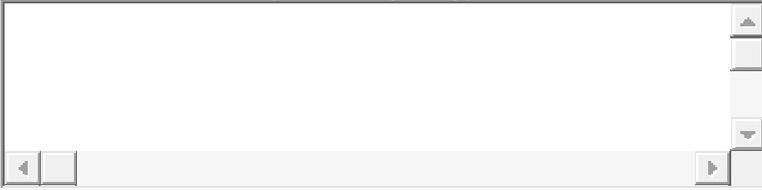
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(ii) International cooperation difficulties:

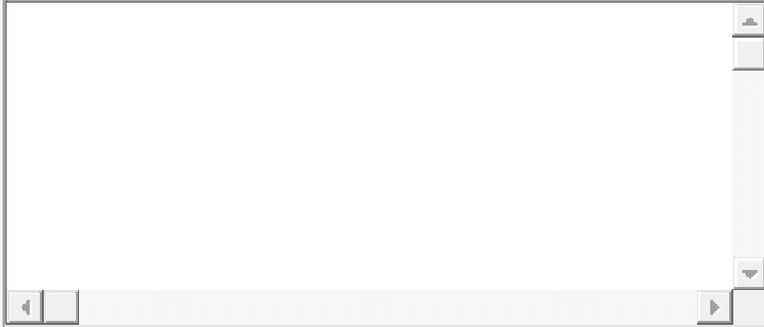
- Lack of information on other Parties’ definition or understanding of “transit”;
- Lack of information by other Parties or stakeholders within other Parties of your country’s definition or understanding of “transit”;
- Lack of harmonized definition or understanding of the meaning of “transit” at the global level;
- Lack of shared understanding among Parties of how to implement paragraph 4 of Article 6 ab initio (see question 3. c. above);
- Lack of response from transit States to a proposed transboundary movement;

Difficulties as a land-locked country;

Other difficulties (Please specify):



Please also elaborate on any box you have ticked

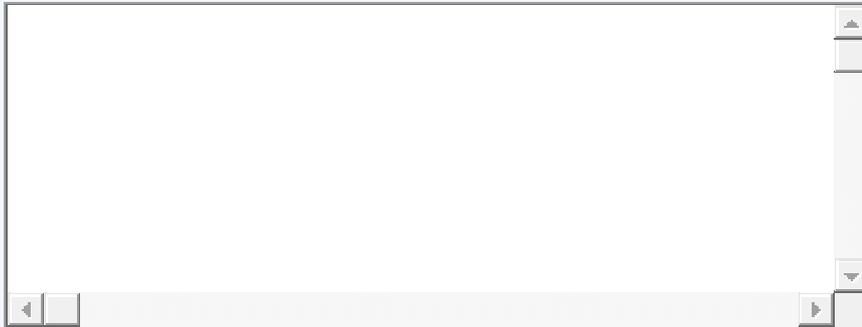


4. d. Is your country aware of any **difficulties** faced by **stakeholders** (e.g. generators, transporters, disposers) involved in transit transboundary movements with the implementation of paragraph 4 of Article 6 of the Basel Convention?

No

Yes

If yes, provide the nature of the difficulties encountered

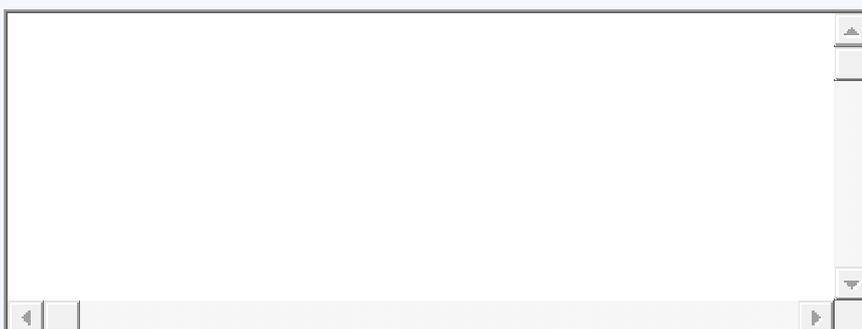


4. e. Has your country been able to overcome difficulties stated under sections 4. c. and 4. d. above?

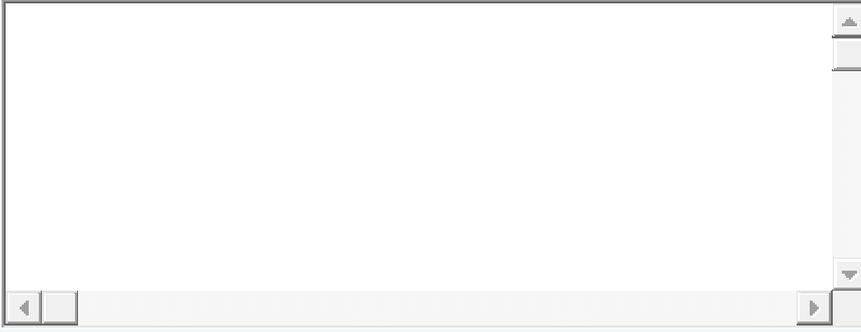
No

Yes

If yes, explain how



4. f. Would you have **suggestions** to the Committee on how to improve the implementation of paragraph 4 of Article 6 of the Basel Convention, whether at the national or global level (eg. development of guidance, information sharing, technical assistance)?



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V. Other relevant information

Please add any additional information or comments pertaining to the implementation of the provisions set forth in paragraph 4 of Article 6 of the Basel Convention that is not included in answers to the above questions.

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Questionnaire for Parties

VI. Submitter information

Submitting Party:

Party:

Contact details of the person who completed the questionnaire:

Name:

Title:

Address:

Telephone:

Fax:

E-mail:

To submit the questionnaire, please enter the Submission password provided and click on "Next page".

If you do not wish to submit the questionnaire at this time, you can click on the "Save" button and exit the questionnaire.

Submission password: