

I. Legal and institutional framework

1. Is legislation (any legal requirement: an act, regulation, ordinance, etc.) in place to implement paragraph 11 of Article 6 of the Convention?
 - a. **Yes** (please provide text): “Regulation on the Control of Transboundary Movements of Hazardous Wastes and their Utilization/Disposal” approved by Ukraine Cabinet’s Decree of July 13, 2000, No. 1120: par. 7 (The exporter, who intends to export hazardous wastes, shall apply to the Ministry ... and submit: ... sub-par. f (data on insurance of responsibility for exporter to repair the damage that may be caused to human health, ownership and environment in the course of transboundary movement of hazardous wastes); par. 17 (For consideration of the matter of giving consent to import of hazardous wastes the State of export shall submit to the Ministry the original notification (...)) and the importer/person responsible for utilization/disposal shall additionally submit:) ...sub-par. j (data on providing the responsibility of the exporter and person responsible for utilization/disposal with insurance on compensation for the damage that may be caused to human health, ownership and environment in the course of transboundary movement of hazardous wastes and utilization/disposal of hazardous wastes; par. 25 (The Ministry of Environmental Protection shall be notified ... about any possible transboundary movements of hazardous wastes via the territory of Ukraine. The notification shall contain the following detailed data: ... sub-par. e (guarantees on full compensation for any damage which may be caused to human health and environment in the course of waste transportation via the territory of Ukraine)
 - b. No
2. If answer to 1 above is “no”, is any legislation (any legal requirement: an act, regulation, ordinance, etc.) planned to implement paragraph 11 of Article 6 of the Convention?
 - a. Yes (please provide draft text)
 - b. No
3. Are any other mechanisms employed to implement paragraph 11 of Article 6 of the Convention?
 - a) Yes (please provide description)
 - a. **No**

If answers to questions 1 to 3 are “no”, you may stop here and submit your questionnaire.

4. Please identify to what types of transboundary movements the requirement of coverage by a financial mechanism applies:
 - a. **Import**
 - b. **Export**
 - c. **Transit**

5. Which entity is required to cover the transboundary movement with a financial mechanism:

- a. The generator
- b. **The exporter**
- c. The importer
- d. **The disposer**
- e. **The transporter**
- f. Other (please specify)

6. Which entity is the beneficiary of the financial mechanism covering the transboundary movement:

- a. The generator
- b. The exporter
- c. The importer
- d. The disposer
- e. The transporter
- f. The State export, import or transit
- g. **Other** (please specify): the third parties: natural persons and juridical persons whom damage has been caused to and who carried out preventive measures.

7. What type of financial mechanism is required to fulfil the requirements of paragraph 11 of Article 6 of the Convention?

- a. **Insurance**
- b. Bond
- c. **Guarantee**
- d. Other (please specify)

8. What is the scope of coverage of the financial mechanism:

- a. Costs of storage

- b. Costs of testing for identification, re-packaging and re-loading the wastes
- c. Costs of transport
- d. Costs of disposal in an environmentally sound manner (ESM)
- e. Loss of life or personal injury
- f. Loss of or damage to property
- g. Environmental damage e.g. costs of reinstatement or compensation
- h. Loss of income
- i. Other (please specify)

9. What period of time must be covered by the financial mechanism:

- a. From the export to the completion of disposal in an environmentally sound manner (ESM)
- b. From the export to the import
- c. During the transit
- d. Other (please specify)

10. In what context does the financial mechanism operate:

- a. Cases where the transboundary movement cannot be completed as intended
- b. Cases where the disposal in an environmentally sound manner (ESM) cannot be completed as intended
- c. Cases of illegal traffic
- d. Other (please specify)

11. How is the financial mechanism activated and what requirements apply:

- a. Request by the entity required to cover the transboundary movement with a financial mechanism
- b. Request by the beneficiary of the financial mechanism
- c. Insolvency of the entity required to cover the transboundary movement with a financial mechanism
- d. Other (please specify)

12. How is the total amount of the coverage calculated?

- a. **As specified in the legislation**
- b. By a specific formula employed by the Competent Authority/ies of export/transit/import (please specify)
- c. By a specific formula employed by the exporter/generator(importer/dispenser/transporter(please specify)
- d. By a specific formula employed by the company providing the financial mechanism
- e. No formulae applied
- f. Other method of calculation (please specify)

13. What mechanisms are in place to monitor the implementation of and compliance with paragraph 11 of Article 6?

- a. Inspection by relevant authority
- b. Reporting by company providing financial mechanism
- c. **Reporting by generator/exporter/transporter/importer/dispenser** (please specify): The control of transboundary movements of hazardous wastes and their utilization/disposal ... shall be based on the procedure of notifying ... the Competent Authorities of the States concerned about any transboundary movement of hazardous wastes and receiving their written consent for the movement to be carried out. A notifier can be by: a waste generator; exporter; the Competent Authority of the State of export (the person designated by the Competent Authority). The key documents ... accompanying transboundary movements of hazardous wastes are ... and the movement document, in which the facts of shipment, passing through frontier entry points, obtaining by an addressee and completion of utilization/disposal of wastes ... shall be registered.
- d. **Monitoring of notification/Movement document completion**
- e. Other (please specify)

II. Experience with implementation of paragraph 11 of Article 6 of the Convention

14. Have any proposed movements been not authorized or consented to due to non-compliance with paragraph 11 of Article 6 of the Convention?

- a. **No**
- b. Yes
- c. If yes what were the specific reasons:
 - i. Failure to complete box on notification/movement document

- ii. Lack of or insufficient insurance etc. cover provided
- iii. Unacceptable level of cover
- iv. Other (please specify)

15. What data are collected on application and use of the insurance, bond etc.?

- a. All movements
- b. All incidents requiring insurance etc. to be effected
- c. None

16. In what contexts has the financial mechanism been activated:

- a. Cases where the transboundary movement could not be completed as intended (please specify: import, transit or export)
- b. Cases where the disposal in an environmentally sound manner (ESM) could not be completed as intended
- c. Cases of illegal traffic
- d. Other (please specify): the financial mechanism has not been activated

17. What entity has activated the financial mechanism:

- a. The generator
- b. The exporter
- c. The importer
- d. The disposer
- e. The transporter
- f. The State of export, import or transit
- g. Other (please specify): no entity

18. For what purpose has the financial mechanism been activated:

- a. Costs of storage
- b. Costs of testing for identification, re-packaging and re-loading the wastes

- c. Costs of transport
- d. Costs of disposal in an environmentally sound manner (ESM)
- e. Loss of life or personal injury
- f. Loss of or damage to property
- g. Environmental damage e.g. costs of reinstatement or compensation
- h. Loss of income
- i. **Other** (please specify): no purpose

19. Have any actions for compliance and enforcement under paragraph 11 of Article 6 been taken by:

- a. Administrative warnings
- b. Administrative sanctions
- c. Prosecution
- d. **Other** (please specify): no actions

III. Improving the implementation of and compliance with paragraph 11 of article 6 of the Convention

20. Is any guidance made available within your country on compliance with paragraph 11 of Article 6 of the Convention? (if possible attach a copy): “Regulation on the Control of Transboundary Movements of Hazardous Wastes and their Utilization/Disposal” approved by Ukraine Cabinet’s Decree of July 13, 2000, No. 1120; Ukraine Cabinet’s Decree of August 19, 2002, No. 1219 “On Approval of the Procedure and Rules on Obligatory Insurance of Responsibility of the Exporter and Person Responsible for Utilization/Disposal of Hazardous Wastes for Compensation for the Damage that May Be Caused to Human Health, Ownership and Environment in the Course of Transboundary Movement and Utilization/Disposal of Hazardous Wastes”.

21. What challenges have been encountered in implementing paragraph 11 of Article 6?

- a. Differing system/calculation methods used by states of export/transit
- b. **Lack of or differing legal requirements**
- c. **Lack of clarity in legal requirements**

- d. Lack of common method
- e. Lack of mechanism by which the selected method(s) is implemented
- f. Failure by relevant entity to initiate action (testing, storing transport etc.)
- g. Failure by relevant entity to activate the financial mechanism
- h. Other (please specify)

22. What steps could be taken to improve implementation and compliance with paragraph 11 of Article 6?

- a. Development of legislation
- b. Development of guidance
- c. **Information exchange between Parties on their respective legal requirements as they pertain to insurance, bond or guarantee**
- d. Access to information on availability of relevant providers of financial mechanisms
- e. Analysis of the value for a Party to require that any transboundary movement be covered by insurance, bond or guarantee
- f. Measures to facilitate cooperation between:
 - i. competent authorities, or
 - ii. between entities, or
 - iii. between competent authorities and entities
- g. Other (please specify)

IV Additional Comments

Please add here any further commentary on Implementation of Paragraph 11 of Article 6 of the Basel Convention that is not included in answers to the above questions.