

ICC Transit – Croatia

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BCFP_HR

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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 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

REGULATION (EC) No 1013/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 14 June 2006 on shipments of waste (OJ L 190, 12.7.2006, p. 1)

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

Art. 6(4) of the Convention is implemented through Art. 9, 31, 35(2), 38(5), 42(2)(a), 45, 47 and 48 of Regulation 1013/2006. According to these provisions, a period of 30 days applies for tacit consent for shipments within the EU and involving countries to which the OECD decision applies. For shipments involving countries to which the OECD decision does not apply, the competent authority of transit outside the EU has 60 days to give written consent or, if the country concerned has decided not to require prior written consent and has informed the other Parties thereof according to Art. 6(4) of the Convention, tacit consent. A shipment may only take place if there are valid written or tacit consents of all competent authorities.

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

No file uploaded

Please refer to the following link for the text of the consolidated version of Regulation (EC) No 1013/2006:

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02006R1013-20140526&qid=1449226493874&from=EN>

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

Not answered

2. 2. a. Does your country have a definition of “transit”?

No

*** Yes ***

If yes, provide the definition.

Article 2(32): ‘transit’ means a shipment of waste or a planned shipment of waste through one or more countries other than the country of dispatch or destination

3. 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)

Not answered

4. 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.

Not answered

5. 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.

Not answered

6. 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

Not answered

7. 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

Not answered

8. 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

Not answered

9. 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.

The EU and its MS consider that Art. 6(4) should be read as a whole, because the remainder of the text that is not cited in the question contains a possible exception from the rule of written consent. Therefore, our understanding of Art. 6(4) as a whole is as follows (see also the reply to question 1.a):

The State of export shall not allow the transboundary movement to commence if it has not received the written consent of the State of transit. However, in case a country has informed the other Parties according to the third sentence of Art. 6(4) that it does not require prior written consent, the State of export may allow the export to proceed through the State of transit if no written consent was received from the State of transit within the 60 days deadline.

10. 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

The Republic of Croatia issues between 60-80 consents for transit of waste subject to Basel Convention per year. It means, shipments occur almost every day.

11. 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

Not answered

12. 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:

13. (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:
Please also elaborate on any box you have ticked

Not answered

14. (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

Not answered

15. 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

It is very common that due to unforeseen circumstances, ships without unloading any wastes may call temporarily at ports that are not shown in the original notification. The need for the notifier to submit a new notification and the necessity to have to wait oftentimes up to 60 days for the consent from the transit state(s) oftentimes causes significant delays with negative economic impacts to operators.

16. 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

Not answered

17. 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)?

The Republic of Croatia agrees with joint response by the EU and its Member States:

The EU and its MS consider that the development of guidance for a common understanding of the term "transit" would be useful. As regards suggestions relating to the global level, we think that the analysis of the replies to this questionnaire would help to further elaborate on such suggestions. We think it would be useful to share this analysis with Parties already at OEWG10.

At this stage, we think that the format for national reporting under Article 13 could be amended to include a question related to third sentence of Art. 6(4), using Art. 13(3)(c) or (i) as a basis, because the third sentence of Art. 6(4) is not reflected in Art. 13. In addition, Parties could be invited to inform the Secretariat to provide information as to whether they have decided not to require written consent pursuant to the third sentence of Art. 6(4) via a decision at the next COP (or if possible via a decision OEWG10). The Secretariat could be requested to publish the information provided on the Basel website. This would lead to better information as to which countries do not require written consent pursuant to the third sentence of Art. 6(4).

18. 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.

Not answered

19. Submitting Party:

Party:

Croatia

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

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