

ICC Transit – Malaysia

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BCFP_MY

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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

Section 34B(1)(c)Environmental Quality Act, 1974

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

Written approval of the Director General as stipulated under Section 34B, Environmental Quality Act, 1974.

Section 34B (1)(c) of EQA 1974 says that:-

(1) No person shall:-

(c) transit or cause or permit the transit of scheduled wastes

without any prior written approval of the Director General

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

No file uploaded

<http://www.doe.gov.my/portalv1/en/tentang-jas/perundangan/akta-kaedah-peraturan-arahan-2/akta>

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.

"transit" means the continuous passage from one boarder to another border through Malaysian territory and waters without storage. As spell out in the Section 2 Interpretation of EQA, 1974.

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.

Not answered

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

Data of notification for transit from year 2010 to 2015:

2010 - 18 notification

2011 - 32 notification

2012 - 40 notification

2013 - 49 notification

2014 - 89 notification

2015 - 100 notification

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:
- Monitoring of the movement of such ships transporting waste that transit into Malaysia waters and abide with the conditional imposed.
- Monitoring a transboundary movement that had commenced following the 60 days deadline if no written consent was issued by the state.

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

Not answered

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

The transit consent date validity is in accordance to the date of consent given by importing country. The transit consent only be issued by state of transit upon receiving consent from importing country

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)?

According to the last sentence in paragraph 4 of Article 6 of the Basel Convention execute that if within 60 days no transit consent

given by the State of transit the exportation may allowed to take place through the State of transit. The transit consent prior transboundary movement is very imperative in order to avoid any transshipment and illegal shipment to occur. The challenges and difficulties in implementation and compliance in other provision set forth in 4c. of questionnaire, Article 9 (Illegal Traffic)in ensuring no such action to happen and Article 8(Duty to Re-Import)responsibility and liability of such action. Such transit consent is mandatory before any exportation to take place.

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.

No.

19. Submitting Party:

Party:

Malaysia

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

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