

ICC Transit – Thailand

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Submitted on

2/3/2016 2:24:58 AM

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

- Hazardous Substance Act B.E. 2535 (1992)
- Export and Import of Goods Act (No.2) B.E. 2558 (2015)
- Customs Act (No.21), B.E. 2557(2014)

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

Hazardous wastes are classified as types 3 of which the production, import (including transit), export or having in possession must obtain a permit as defined in the List of Hazardous Substances, Item: chemical wastes in the "Notification of Ministry of Industry on List of hazardous substances" B.E. 2546 (2003) issued under the Hazardous Substance Act. B.E. 2535 (1992) in accordance with the wastes listed in Annex VIII of the Basel Convention (List A).

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

No file uploaded

Not answered

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.

1)Export and Import of Goods Act (No.2) B.E. 2558 (2015)defined the meaning of “Transit” as to bring or to transport goods through Thailand which has the start and end route of transportation in Thailand irrespective of pause, changing carrier or adding or changing container in Thailand for transportation’s interest and forbidden any use of such product in Thailand. Besides that, it is also empowering Thailand’s Ministry of Commerce to define goods that are required to get permission to transit through Thailand.

2) Hazardous Substance Act B.E. 2535 (1992) “Import” means bring or order to bring into, or transit, the Kingdom;

3) Customs Act (No. 21), B.E. 2557(2014)defined the definition of “border crossing” and “transshipment” as follows:

- the term “border crossing” is used to refer to goods that have both an origin and a final destination outside of Thailand, but that engage in transit through the country to reach their final destination.

- the term “transshipment” is used to refer to goods changing a conveyance while in transit in Thailand, whereby the starting point and the end point of transportation are outside of Thailand.

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

According to Thai Customs Law, “transit” refers to customs procedures in transporting goods out of the kingdom from the port of entry to the port of exit under the control of the customs department where the points of the origin and destinations are outside Thailand, regardless of whether there is any transshipment, warehousing, changing of container or mode of transportation involved. However, there will not be any usage of those goods within the country.

Section 58/1 “Customs officer shall have the authority to inspect goods that are imported into the country in transit or to transship from vehicles, containers or other packages as set by the Director-General without any search warrants if there is justifiable causes as described below:

(1) If the goods are related to or used for terrorism;

(2) If the type of goods or if the transportation or transshipment of the goods is in violation of international security, peace and safety;

(3) If the origin of the goods is falsely declared or the goods are illegal.

In case there is clear evidence that the goods are as described in paragraph 1, the goods shall be confiscated without considering whether any person involved would be liable for any wrongdoings, and the Director-General may order them to be destroyed by a procedure that is safe for people, animals, plants, assets and the environment, or may order their immediate exportation, or may order any operations as deemed fit to make the goods “uncorrupted” and have the officer on the ship, the person who is in charge of the vehicle, or the authorized representative of the aforementioned persons pay for any expenses that may have been incurred.”

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

Thailand uses specific notification and permit application forms for import (including transit) and export of hazardous wastes required by relevant national law.

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

Generally, any production, import (including transit), export and possession of the hazardous substance and wastes within the Kingdom of Thailand shall follow the procedures under the Regulation of Ministry of Industry B.E.2537 (1994). The transit countries must obtain a permit from Ministry of Industry.

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

Only once as "transit country" for hazardous waste. Any other transit cases are used electronic /electrical equipment including few cases for Annex 9.

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

- Establishment of Customs and Border Control officials Training Workshop
- Development of Manual on Strengthening national capacity regarding import-export control of hazardous wastes

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:

The difference in national framework and definition of controlled hazardous waste under the convention.

Please also elaborate on any box you have ticked

In national level, local laws and regulation concerning "transshipment" and "border crossing" are in process of being adjusted.

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

All stakeholders have to understand each single national regulation concerning transit cases including declaration and definition of

hazardous waste under the convention.

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)?

Information sharing and guideline for the parties indicating how to approach if the definition or declaration of hazardous waste are among stakeholder are not the same.

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:

Thailand

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

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Director-General

Title:

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