



Gatineau, Québec
K1A 0H3

May 12, 2011

Ms. Gabi Eigenmann,
Swiss Federal Office for the Environment
Swiss CLI Coordinator
Programme Officer
Switzerland

**RE: Indonesian-Swiss country-led initiative to improve the effectiveness of the Basel Convention.
Omnibus Decision**

Dear Ms. Eigenmann,

As Competent Authority for Canada, I would like to thank the Government of Indonesia and Switzerland for their commitments and efforts on the CLI initiative and preparation of the Omnibus Decision for Parties' consideration at the tenth meeting of the Conference of the parties (COP10).

Canada supports the work of the Indonesian-Swiss country-led initiative (CLI) and actively participated in this process, including the three consultative meetings. We are pleased to see the breadth of recommendations that have emerged from this process and appreciate the opportunity to provide additional comments.

Recommendation 1: Addressing the entry into force of the Ban Amendment:

Canada believes that the Ban Amendment has played an effective role in reducing unwanted movements of hazardous wastes from Annex VII to non-Annex VII countries. Based on the data and analysis conducted under the CLI, it appears that these movements are now a small proportion of total movements. There is also evidence of changing trade flows and that health and environment problems arising from hazardous waste management are now associated with waste flows not affected by the Ban. Canada considers that it would be important to remind Parties of this evidence in a more explicit way. This must be well understood in order to advance collective discussions beyond the question of the Ban Amendment, as was intended by the CLI.

We have examined records of CLI meetings and have discussed with colleagues who attended the three meetings and could not find a record of substantive discussions on the interpretation of Article 17(5) nor any other recommendations regarding the amending formula for the Convention. We consider that by linking the interpretation of Article 17(5) to the issue of the Ban Amendment, the Omnibus Decision reintroduces the debate that has plagued the Convention for the past 15 years. The Convention's amending formula is a very important policy issue and one that should be considered with the future of the Convention in mind instead of what would be most expedient to bring the Ban Amendment into force. Accordingly, we would like to see the specific reference to the Article 17(5) interpretation removed and replaced by one urging Parties to find a formula that takes into account both a timely ratification of the Ban Amendment and reasonable threshold for future amendments.



Canada is of the view that a successful outcome on the legal interpretation of Article 17(5) needs to be a priority at COP10 so that we can find a satisfactory outcome and focus future efforts on the implementation of the New Strategic Framework for 2012-2021, including recommendations put forth by the CLI process. Moreover, we understand that the proposed recommendation from the CLI interprets Article 17(5) as "the acceptance of three-fourths of the Parties at the time of adoption of the amendment is required for the coming into force of the adoption of the amendment". We consider this approach to be counterproductive for future amendments to the Basel Convention as three-fourths of the Parties at the time of adoption would require ratifications by 131 Parties or more, which is highly improbable. We need to find an alternative where the threshold set by the formula is meaningful but also provides an opportunity for growth and change of the Convention.

Recommendation 2: Developing standards and guidelines for ESM:

We believe the framework of requirements for the ESM of hazardous wastes and other wastes should take into account elements compatible with ESM criteria and "core performance elements" of existing work of the Basel Convention and Organization of Economic Cooperation and Development (OECD). ESM criteria were adopted by the Basel Convention Partnership for Action on Computing Equipment (PACE) and the future framework requirements for ESM should be consistent with these criteria. We have provided suggested text for your consideration in Annex 1 of this letter.

Recommendation 7: Building Capacity:

We understand that the issues faced by developing countries and countries with economies in transition in dealing with hazardous waste have evolved to include those generated in-country and arriving from a multitude of sources. We consider the proposed elements in the recommendation adequate and believe they will contribute to enhancing resources necessary to achieve Basel Convention goals. However, we would like to draw your attention to the fact that the issue of capacity building often comes at the end of the discussions and rarely gets the attention it deserves. You might want to consider advancing this issue in the list of elements towards the front of the list instead of presenting it last.

We have provided suggested text for your consideration in Annex 2 of this letter to include the life cycle approach in the management of waste. Also, we believe the Basel competent authorities should be invited to specify and quantify their needs for capacity building.

Finally, we believe that the priorities and directions coming from both the CLI and the New Strategic Framework will need to be reflected in a common strategy and concerted actions for moving forward at COP 10. We look forward to joining you in those discussions.

Regards,



Tim Gardiner
Director
Waste Reduction and Management Division
Environment Canada

c.c. Ms. Johanne Forest, First Secretary, Permanent Mission of Canada

Annex 1

Elements for the environmentally sound management of hazardous wastes and other wastes to be operationalised through tools or instruments for implementation and enforcement:

In developing the framework of requirements for the environmentally sound management of hazardous wastes and other wastes, the Secretariat shall take into account the ESM criteria and “core performance elements” under the work of the Basel Convention and Organization of Economic Cooperation and Development as well as the following elements:

- Occupational health and safety requirements (e.g. regarding safety, health, liability, emergency response)
- Facility related requirements (e.g. regarding construction and infrastructure)
- Waste related requirements (e.g. collection, sorting, pre-treatment, treatment, storage, downstream management)
- Emission related requirements (e.g. emission limit values to air, water, and soil)
- Organizational requirements (e.g. valid licence/permit, monitoring, record keeping, information to be provided to authorities, aftercare, insurance, management abilities/training level environmental management systems)
- Regulatory requirements (consistency/complementarity)

Tools and instruments operationalising these requirements may include the following:

- Legislation;
- Standards;
- Guidelines;
- Policies (e.g. green procurement);
- Codes of good practice;
- Voluntary agreements.

The measures needed to implement the requirements may include:

- Certification programs;
- Licences and permits regularly validated;
- Training, awareness raising and compliance promotion;
- Regular inspections and enforcement;
- Mechanism to ensure corrective action.

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Annex 2

1. Building Capacity

Recognising that some of the proposals in this decision may require additional funding, expertise and technology transfer;

Recognising further that the objective of the Basel Convention contributes towards the achievement of the United Nations Millennium Development Goals and as such should be taken up by development agencies:

1. Encourages Parties to endeavour to ensure that the management of waste is [part of a life cycle approach](#), considered in the preparation and implementation of development strategies and that waste management is recognized as part of meeting the Millennium Development Goals regarding environmental sustainability;
2. Encourages the Secretariat to forge links with high-profile initiatives such as climate change and human health, in particular taking into account resolution WHA.63.25 adopted by the WHO General Assembly, and to continue to explore the possibilities to use the synergy process and SAICM for these purposes;
3. Encourages the BCRCs [and competent authorities](#) to specify and quantify their needs for capacity building, ~~including capacity needed to improve of national reporting to monitor implementation;~~
4. Encourages the Secretariat, the BCRCs and Parties to take action to secure political and public engagement with the work of the Convention;
5. To that end, invites WHO to initiate a study into the impact on human health of failures to manage wastes in an environmentally sound manner, and to utilise the result of that study to demonstrate the importance of the Convention's work;
6. Encourages the Secretariat to continue to exercise its advocacy role to promote and stimulate the inclusion of hazardous waste issues and implementation into other international and UN organisations' work programs.
7. Encourages the Secretariat, the BCRCs and Parties to seek further collaboration with other agencies, NGOs and the private sector;
8. Encourages the Secretariat and the BCRCs to seek out and mobilise relevant expertise in other international and regional organisations;

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