



October 31, 2018

Ms. Susan Wingfield

Secretariat of Basel, Rotterdam and Stockholm Conventions

International Environment House

11-13 Chemin des Anémones

1219 Châtelaine (Geneva)

Switzerland

Subject: Canadian comments on the draft practical manual for stakeholders to ensure that notifications of transboundary movements meet environmentally sound management requirements

Dear Ms. Wingfield,

Canada is pleased to submit views on the draft practical manual for stakeholders to ensure that notifications of transboundary movements meet environmentally sound management requirements. We strongly support work on environmentally sound management (ESM) as reaching a common understanding between Parties of what ESM entails will lead to a better implementation of the Convention and additional environmental gains.

We appreciate the opportunity to provide comments on this important subject and thank the members of the Expert Working Group (EWG) for their work in preparing this first draft. The purpose of the regulatory system of the Convention is to control the transboundary movement of hazardous wastes and other wastes, through the prior-informed consent mechanism (PIC), and ensure they are managed in an environmentally sound manner. The procedure for the notification of transboundary movement is the central element of the PIC mechanism and practical guidance on how it relates to the requirement of environmentally sound management is welcomed.

Canada has undertaken an in-depth review of the draft practical manual with the following objectives in mind: (1) ensure it is consistent with other publications of the Convention; (2) ensure the scope is adequate; (3) ensure it is legally consistent with Parties core obligations under the Convention and legally binding documents that are the operational tools of the notification procedure (i.e. the notification document).

We strongly recommend that a thorough review of the draft practical manual be undertaken against these objectives.

Please find for your consideration more detailed comments:

- Consistency between publications of the Basel Convention is crucial if we want to achieve greater understanding between Parties. The Manual for the Implementation of the Basel Convention¹ and the Guide to the Control System², already provide detailed guidance on the PIC mechanism and the notification procedure. In these two documents, guidance on the notification procedure and its linkages to ESM requirements are presented against the legal obligations of the Convention. The draft practical manual must reflect these accurately and a thorough revision to identify inconsistencies between documents ought to be done prior to adoption.
- Some of the suggested assessments/elements currently provided in the draft practical manual could lead to a conclusion of illegal trafficking as defined by Article 9 of the Basel Convention. These

¹ UNEP/CHW.12/9/Add.4/Rev.1

² UNEP/CHW.12/9/Add.3/Rev.1

should be duly identified as such and integrated in a new section on illegal trafficking to be added to the document. The Guidance on the implementation of the Basel Convention provisions dealing with illegal traffic³ could be used to identify these assessments/elements. Moreover, a reference to Article 9, paragraphs 2, 3 and 4 should also be included in this new section to help identify the responsibilities of each stakeholder according to whose conduct resulted in illegal traffic.

- It is our understanding that ESM cannot be ensured without the implementation of the PIC mechanism and without thorough cooperation between stakeholders. This leads to a shared responsibility on making sure that notifications of transboundary movements meet ESM requirements. The practical manual should be expanded to clearly outline the respective responsibilities of competent authorities (States of import and export), exporters, importers, and generators on ESM. The responsibilities of each stakeholder should be identified and could be divided in three broad categories:
 - i. Before transboundary movement takes place
 - ii. During transboundary movement
 - iii. After the shipment has reached the country of import
- Several assessments/elements of the draft practical manual go beyond the legal requirements of the Convention. These should be clearly identified as such and presented in a separate section to differentiate them from other assessments/elements that are required by the Convention.

The procedure for the notification of transboundary movement is linked to several legal obligations of the Convention. Therefore, we consider that the Implementation and Compliance Committee of the Convention should also review the practical manual. We note that this was already identified in the agenda for the thirteenth meeting of the ICC⁴. Moreover, the COP in its decision BC-13/2 requested that draft documents developed by the expert working group on environmentally sound management be submitted for consultation with the ICC where appropriate.

We hope that you will find these comments useful and we look forward to participating in subsequent work on environmentally sound management of wastes. We would be pleased to discuss the matter further in a conference call or other means if needed.

Yours sincerely,



Sophie Bernier
Manager, Strategies and Coordination,
Waste Reduction and Management Division,
Environment and Climate Change Canada

³ UNEP/CHW.13/9/Add.1/Rev.1

⁴ UNEP/CHW/CC.13/1/Add.1/