**Comments from Colombia to the Indonesian-Swiss country-led initiative to improve the effectiveness of the Basel Convention.**

*General comments*

Colombia, welcomes the efforts made by Switzerland and Indonesia to develop a comprehensive proposal with the overarching objective of reaffirming the Ban Amendment objectives and to explore means by which they might be achieved. In our capacity as Presidents of CoP 10, we will endeavor to promote the adoption by consensus in Cartagena de Indias in October 2010 of the text of a decision that reflects the needs and interests of all the Parties to the Convention.

We would like to express our concern however, with the process as detailed in paragraphs 4 to 8 of document **CLI/2010/3/1**. While we recognize that the lack of financial resources is the underlining reason for not having a more inclusive process, the fact that participation at the three physical meetings have been very limited, undermines the basic principle of transparency and representation in international environmental agreements.

We are aware that the documentation and the outcomes of the meetings under the CLI were circulated to Parties and other stakeholders by e-mail and through the Basel Convention website, and thereby Parties and stakeholders were afforded the opportunity to comment on the issues. However, only few comments have been received so far and it seems that Parties are not yet familiar with the objective, the content and the implications of the proposal. In that regard, we are of the opinion that in order to ensure effective implementation of a comprehensive set of decisions as the ones included in the CLI, additional *face to face* discussions and negotiations are needed.

In that regard, we call upon the Secretariat to mobilize resources in order to convene a Fourth meeting to discuss the CLI prior to COP 10. The meeting should be open to all Parties to the Basel Convention and observers and financial support should be made available for participants from developing country parties in order to ensure equitable geographical representation. Such a meeting should take place in the GRULAC or AFRICA regions, since the other 3 meetings took place in Asia and Europe.

In order to contribute to this effort, Colombia offers to provide a venue for a **Fifth** informal meeting on Saturday October 15 and Sunday October 16, 2011, back to back with COP 10. In addition to that, the Colombian government is exploring the possibility of conveying a GRULAC regional meeting some time in July 2011, and therefore to provide an additional fora for the CLI to be discussed amongst participants.

Having said that, we agree with the general considerations contained in document **CLI/2010/3/1**, and we strongly support the statement that the entry into force of the Ban Amendment is a matter of political importance, in particular for developing country parties.

***Specific comments***

* 1. **ADDRESSING THE ENTRY INTO FORCE OF THE BAN AMENMENT**

Colombia supports the so called second variation of the “fixed-time approach” according to which an amendment to the Convention will enter into force when the Depositary has received a number of instruments of ratification equivalent to three-fourths of the number of Parties to the Convention when the amendment was adopted. On that basis, as there were 82 Parties to the Convention when the Conference adopted decision III/1, 62 ratifications received from any Party, including those that became party to the Convention after the adoption of the amendment, would bring the amendment into force.

COP 10 shall then take a decision stating that under Article 17 of the Convention, the Ban Amendment will enter into force immediately, as 69 Parties had ratified it to date.

In this regard, we wish also to inform Partiesthat the ratification of the amendment is under consideration by the Colombian legislative body and we expect to be able to deposit the instrument of ratification in 2012.

* 1. **DEVELOPING STANDARDS AND GUIDELINES FOR ESM**

The proposal implies that some elements will be developed at a later stage by the Secretariat in close cooperation with the Parties. However we would like some clarification in relation with the ways in which the ESM framework might be linked to the issue of the TBM. In particular we wish to know whether it is intended to include the elements refer to, as prerequisites for the control system.

It has to be noted that so far, the Parties to the Convention have adopted Technical Guidelines for ESM, and that those guidelines are of a voluntary nature and do not replace national legislation. In that regard, there is a need to discuss the appropriateness of introducing binding ESM standards, which would imply that the Parties would have to implement them at the domestic level. The implications for developing countries of the establishment of an international certification scheme for ESM also need further consideration.

In relation with item 4 we suggest the establishment of an Ad-Hoc Technical Working Group with a clear mandate agreed by all Parties. The terms of reference of this group shall include equitable regional representation, delegates nominated by Parties (as oppose to experts selected by the Secretariat). The negotiations on this issue need to be based, in particular on articles 2.5 and 4 c) and d) of the Convention in order not to prevent Parties to exercise their right to prohibit the import of hazardous wastes and other wastes.

**4.3 PROVIDING FURTHER LEGAL CLARITY**

Colombia fully supports the underlying objective of this provision and concurs with the preambular paragraph as suggested. However we still have doubts in relation with the role of the Committee for Administering the Mechanism for Promoting Implementation and Compliance in this context and therefore we wish to put the reference to this body in operative paragraph 1, 2 and 3 between brackets for the time being.

For Colombia there is no need for redefining the term waste *wastes/non waste, hazardous wastes/non-hazardous wastes*. A better approach might be to provide guidelines for the interpretation of the existing definitions in cases where difficulties are encountered; for example it would be very useful if Parties agree on thresholds for the presence of materials that causes a waste to exhibit an Annex III characteristic. The situation is different in relation with the terms that are not already define in the Convention and for which there is an undisputable need to get to a common understanding in the framework of the Convention.

Finally, Colombia is looking forward to have the opportunity to engage with Parties in negotiations about the details of the proposals on the table in relation with the BCRCs, the combat against illegal traffic and capacity building. We see positive elements in the draft as it stands. However at this point we wish to emphasise that without a robust financial mechanism the CLI will be empty and the efforts to agree on it will be lost. Therefore, means of implementing for all the activities contained in the CLI need to be addressed at the earliest.