

IMPEL-TFS VERIFICATION - 2 PROJECT REPORT

IS WHAT YOU SEE, WHAT YOU GET?

PROJECT REPORT

DECEMBER 2004 - MAY 2006



Final
23 June 2006



European Union Network for
the Implementation and Enforcement
of Environmental Law

Introduction to IMPEL

The European Union Network for the Implementation and Enforcement of Environmental Law is an informal network of the environmental authorities of EU Member States, acceding and candidate countries, and Norway. The European Commission is also a member of IMPEL and shares the chairmanship of its Plenary Meetings.

The network is commonly known as the IMPEL Network
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The expertise and experience of the participants within IMPEL make the network uniquely qualified to work on certain of the technical and regulatory aspects of EU environmental legislation. The Network's objective is to create the necessary impetus in the European Community to make progress on ensuring a more effective application of environmental legislation. It promotes the exchange of information and experience and the development of environmental legislation, with special emphasis on Community environmental legislation. It provides a framework for policy makers, environmental inspectors and enforcement officers to exchange ideas, and encourages the development of enforcement structures and best practices.

Information on the IMPEL Network is also available through its website at:

<http://europa.eu.int/comm/environment/impel>

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Executive summary This report describes the results of an enforcement project carried out by fourteen EU Member States, aiming at improving cooperation and information exchange on the verification of waste destinations within the framework of EU Regulation 259/93, on the supervision and control of shipments of waste within, into and out of the European Union. A management summary is enclosed further on in this report.	
Disclaimer: This report on the verification of waste destinations is the result of a project within the IMPEL-Network. The content does not necessarily represent the view of the national administrations or the Commission.	

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Foreword

I have much pleasure in presenting the final report of the second IMPEL-TFS project Verification of Waste Destinations and Waste Processing. This project was directed to advancing enforcement of the EU Regulation (EG 259/93) on the Transfrontier Shipment of Waste within, through and from the European Union.

Many regulations such as those on the transshipment of waste and hazardous substances can only effectively be enforced through international cooperation. All countries need to carry out frequent and rigorous inspections in order to reduce waste dumping in certain countries and regions and to eliminate unfair competition.

As inspections normally end at borders and many Member States doubt whether exported waste reaches the designated locations and waste processing is environmentally sound, 14 countries in Europe therefore have cooperated in this project. In addition to waste transshipment inspections, waste producing companies and waste processing locations were inspected. Thus, the project monitored enforcement throughout the waste chain at European level. It is clear that verification of waste processing within and also outside Europe (Africa and Asia) is vital and the focus must be on cooperation and achieving a balance between economics, environment and ethics.

Waste transshipment accounts for some 15% of all transport movements in Europe. This European enforcement project indicates that some 12% of waste transshipments do not meet the EU regulations with regard to administrative checks on notifications, illegal shipments (illicit trade) and waste processing within Europe.

Transport inspections are essential in order to gain insight into regional and national waste markets and to demonstrate that authorised agencies are enforcing the European regulations (deterrence). In the framework of the recently published report on IMPEL-TFS Seaport project II, the percentage of violations was 51% mainly in waste exports from Europe to non-OECD countries. The difference (51% as opposed to 12%) is mainly due to the fact that waste shipments by road or rail cannot be pre-selected for inspection. However, waste exported from the EU can be selected on the basis of the export declarations and this was also done in the Seaport project.

The project shows that there is still a long way to go before uniform enforcement of the regulations is achieved throughout the Member States. Many countries do not have sufficient resources for this purpose and have set other priorities.

Furthermore, interpretation of the European regulation – *definition of waste, applicable notification regime for various types of waste, and interpretation of description of recovery and final disposal operations* - is not consistent throughout the EU Member States and interpretations are even conflicting. Further, there are major differences between competencies, types and degree of sanctions, and cooperation between the various services needs to be strengthened.

As with the recently published report on the IMPEL-TFS Seaport II project, I am pleased with this final report. I call upon the project team, the 14 participating countries, other EU Member States, and IMPEL-TFS to strengthen enforcement of the EU regulations on transboundary waste shipments.

European regulations must be closely monitored in all Member States. In particular, verification of waste destinations and waste processing and any adjustments will contribute to achieving the policy objectives of the European regulations.

I heartily support the recommendations to the European Commission, IMPEL and the Member States to strengthen enforcement.

A handwritten signature in black ink, consisting of a stylized 'P' followed by a long horizontal stroke that curves upwards at the end.

Drs. P.L.B.A. van Geel
State Secretary for Housing, Spatial Planning and the Environmental
The Netherlands

Executive summary

About this report

This project report presents the main outcomes of an enforcement project (IMPEL-TFS Verification 2 project), carried out by fourteen European countries, focussing on the enforcement of waste shipment regulations (EU Regulation 259/93 and the Basel Convention), and – more in particular – the verification of waste destinations within Europe. Participating countries were Austria, Belgium, Croatia, Czech Republic, Denmark, Finland, Germany (Federal States of North Rhine Westphalia and Baden – Württemberg), Ireland, Malta, The Netherlands, Poland, Portugal, Slovakia and Switzerland. The project was carried out from December 2004 – May 2006, and was executed under the umbrella of the European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL).

The outcomes of the first verification project (IMPEL-TFS Verification 1), carried out from October 2003 until November 2004 by seven European countries focussing on the enforcement of the three day prior notification, showed the need to expand the network with more European countries and to enlarge its focus on other aspects of the Regulation and on other waste streams as well (green listed wastes, or declared as). It was therefore necessary to change the inspection method from waste facility as starting point into waste shipment inspection on strategic routes within Europe.

Project aims, -priorities and –set up

The IMPEL-TFS Verification – 2 project is focussing on the practical implementation of Article 30 of EU Regulation 259/93: enforcing waste shipment regulations. One of the main aims is to gain insight in and improve compliance of waste shipment legislation (EU Regulation 259/93 and the Basel Convention) regarding the verification of (the final destination of) waste shipments. European cooperation on operational level between enforcement authorities involved should be improved, as well as the exchange of practical knowledge and experiences on related issues. In doing so, the chance for being caught is enlarged, and the enforcement and compliance level of waste shipment legislation is improved.

The project was carried out within three central phases:

- Preparation phase (December 2004 – February 2005).
Preparatory actions were carried out, as well as the organisation of a starting conference in Berlin (Germany, 23, 24 and 25 February 2005);
- Operational phase (March 2005 – April 2006).
During the operational phase, participating countries carried out a number of joint, European coordinated enforcement activities, more in particular by the execution of transport inspections in three different months during 2005 and 2006. An interim meeting was organised in Zagreb (Croatia, 1 and 2 December 2005);
- Reporting phase (April 2006 – May 2006).
During this last phase the results of all enforcement activities were analysed and formed the bases for this final project report.

Key findings

Inspection results

A large number of countries performed inspections during the inspection months; in total, inspections have been carried out at 59 spots, in which 1.033 inspections with waste shipped over national borders have been checked. Moreover, a number of countries carried out transport inspections for the first time, like Croatia, Czech Republic, Finland and Malta. During the inspections a number of irregularities have been detected, such as incomplete documentation with reference to article 11 of the Regulation. In total 25 illegal transports were detected, most of them related to article 26 of the Regulation (like shipments without notification).

Based on verification results, the following main conclusions can be drawn:

- A large majority of the verification requests have been executed;
- A number of verification requests could not be performed, because requests were submitted to countries or competent authorities not participating in the project, lack of capacity for executing the actual verification, or inadequate national commitment. On the other side, a number of verification requests have been carried out by countries who did not actively participated in this project;
- The way of working in the verification process was also used to gain insight into eventual structural (illegal) characters of waste shipments and to stop them. Individual waste shipments, checked within the transport inspections, were verified and checked within a broader context at the site concerned;
- Verified waste streams were – in doing so - checked by two competent authorities of two European countries and if necessary clarified, stopped or legalised in close and effective cooperation;
- No “new” significant infractions or irregularities have been found, based on the verification process. Potentially this can be caused by the fact that there is no uniform definition and international standard of the understanding of a “duly authorised facility”, as described in the Regulation and the Waste framework directive (article 10 and 11 of EU Directive 75/442/EEC). And therefore environmental permits of waste facilities of destination do not steer on quantity and quality of the receiving waste and lack added value.

Execution of joint inspections during inspection months

Many countries carried out joint inspections during three inspection months, held in April/May 2005, September 2005 and March/April 2006. The united inspections were experienced as very useful. Enforcement activities, illegal shipments and administrative violations have been detected and tracked down. Moreover, cooperation has been established on ‘working floor level’, not only on international, but also on national and regional level. Specific cases are included in chapter 3.

Working method on verification: developed and applied

A working method on the verification of waste destinations has been developed and applied in a coordinated manner by all participating organisations/countries. A number of issues have been identified as critical in the application of the actual verification of waste destinations:

- Information exchange needs to be done quickly and in time;
- Smaller and mobile inspections seem to be more effective then static, large inspections;
- Enlargement of the enforcement network is needed to verify and enforce waste streams which are shipped to or originating from countries that do not participate in the project;

- Problems concerning the interpretation of (definitions of) waste, procedures to be followed and legal / administrative follow up actions need to be clarified between the competent authorities involved;
- In general it can be said that selection of waste shipments were more effective during the second and third inspection month.

Improved national and international coordination

National and international cooperation between involved organisations has been set up and improved, also based upon the established cooperation during the first IMPEL-TFS Verification project. Due to various circumstances (like capacity problems, lack of commitment) it was not possible to involve all European countries in this project. Also, some countries face serious difficulties in setting up cooperation with other enforcement networks, such as police and customs. EU wide cooperation can therefore be earmarked as a critical factor for a total guarantee that waste shipments are shipped in conformity with legislation. Insight has also been gained into the national enforcement structures of participating countries: legal tasks, jurisdictions, problematic waste streams and bottlenecks in the enforcement of waste shipment regulations.

Most important bottlenecks and points of attention in the enforcement of waste verification regulations, are:

- Large varieties in tasks, competencies and jurisdictions of organisations involved in the total “chain”, from the origin of waste, up to its final destination;
- Large varieties in the way provisions of EU Regulation 259/93 are executed in practice; most differences occur in the assignment of tasks/competencies and follow up actions in cases where illegal movements, or movements with infractions are detected;
- Handling – and in cases of detection of violations or infractions – of certain problematic waste streams, such as End of Life Vehicles (ELV’s), wastes from electric and electronic equipment (WEEE), and plastics;
- Large varieties in applied legal and administrative sanctions and penalties, which sometimes differ per Member State from 100 euro up to 10.000 euro for the same violation.

Exchange of information and knowledge

Information and knowledge has been exchanged during the project by means of:

- Execution of joint inspections (near national borders), as part of a training, and as part of the exchange of inspectors;
- An internet website (with restricted access), called “Viadesk”;
- Four newsletters.

Conclusions and recommendations

Conclusions

The following conclusions can be drawn:

- Joint European enforcement has been established.
Fourteen European countries cooperated in the enforcement of waste shipment regulations focussing on the verification of the destination of waste shipments. Countries collaborated in checking waste shipments “from cradle to grave”;
- Enforcement of regulations is absolutely needed.
Outcomes show that enforcement of waste shipment regulations is absolutely needed, as already presented at the project results above. Enforcement of legislation is therefore needed to protect the environment; but this is not yet the norm;

- Application of the combined inspection methods is effective and vital, but difficult. The execution of transport inspections and the verification of waste shipments have been applied, and are seen as methods with their own strengths and weaknesses:
 - Transport inspections are not always the most effective inspection method (no pre-selection possible) but sometimes the only possible way for inspection;
 - Transport inspections have strong added value because of increasing insight in the regional and national waste market and a way of deterrence companies that authorities do enforce (inter)nationally the regulation;
 - Actual verification of waste shipments has been identified as one of the key factors in checking if wastes are being processed in accordance with relevant permits. Verification up- and downstream is therefore vital;
- Project outcomes form no guarantee for a uniform European level playing field, because there are:
 - Large varieties in tasks, competencies, enforcement instruments, and application of legal and administrative penalties amongst countries involved;
 - No uniform waste interpretations, also with reference to problematic waste streams in various countries;
 - Inappropriate recourses for adequate and effective (international) enforcement of EU Regulation 259/93, like lack of human and financial recourses, other priorities, knowledge and information exchange on national and international level.

Moreover, some countries indicated that a European project as this one is needed to allocate recourses on national level for the enforcement of waste shipment regulations within their organisations.

Recommendations

To the European Commission:

- **Support international networking** and cooperation in enforcement, by e.g. providing financial recourses to support international networking, such as the TFS-cluster of IMPEL, and cooperation in enforcement seen in the light of the provisions on further collaboration of the revised and forthcoming Regulation;
- **Integrate a definition of adequate enforcement** of EU Regulation 259/93 in the European Commissions' Recommendation for Minimum Criteria for Environmental Inspections (RMCEI), which is currently under review;
- **Tackle interpretation problems** of EU Regulation 259/93, by including information and results of IMPEL-TFS projects in the revision of the Waste Framework Directive, like definitions of waste/no waste and criteria used in this, classification of waste, identified problematic waste streams, and other enforcement bottlenecks as indicated. And by financially supporting the establishment of an European wide waste database which is currently drafted by the IMPEL-TFS-cluster.

To IMPEL-TFS:

- **Improve structural enforcement** of TFS through improved international cooperation. IMPEL-TFS should take notice of adequate means to guarantee cooperation on short and long term, and should therefore continue and improve the structural enforcement of international waste shipment regulations;
- **Level differences in waste interpretations** by establishing a waste database. Waste interpretation differences should be levelled, firstly by establishing a waste database with a (long term) aim on working on harmonisation of these interpretations.

To national enforcement organisations:

- **Accept the enforcement challenge.** All European countries should accept challenge on the export of waste; existing rules must be enforced vigilantly;
- **Involve and programme verification activities** and inspections in daily practice;
- **Maintain a “black list”**, by providing IMPEL-TFS with (information) on illegal companies. This information should be exchanged within the network of competent enforcement authorities;
- **Raise awareness.** Last but not least, European countries and involved organisations should raise the awareness for an adequate enforcement of waste shipment regulations, by means of gaining political attention for these waste issues, and improving national cooperation between inspectorates, custom and police networks.

CHAPTER

1 Introduction

1.1

PROJECT BACKGROUND

Applicable waste regulations

Transfrontier shipments of waste are regulated by a number of international regulations to protect the environment, like the Basel convention and EU Regulation 259/93 on the supervision and control of shipments of waste within, into and out of the European Union. Large amounts of wastes generated in the OECD and EU area are shipped across international borders, because of lack of appropriate national waste facilities, cost savings or are earmarked as raw materials with high economic value (trade purposes). About 15% of all shipments within Europe are waste. A short outline of relevant waste shipment regulations is presented in annex 2, more in particular with reference to EU Regulation 259/93.

Cooperation in enforcement

Although provisions of EU Regulations are directly applicable in all Member States, organisations have to cooperate over their national borders because of the simple fact that transboundary movements of wastes exceeds these borders. Based on a number of experiences it can be assumed that specific amounts of (hazardous) wastes are disposed of illegally, either by means of false declarations, illegal shipments or inappropriate treatment. Moreover it is found to be difficult to contact the authorities which are responsible for control and enforcement of waste shipment regulations in other (EU-) countries, especially those who are responsible for the supervision of important waste processing facilities within countries of the European Union. International collaboration between these authorities involved is essential to enforce relevant legislation adequately and to protect the environment. Also on national level cooperation between various involved enforcement authorities is essential; environmental inspectorates, police and custom networks have to work together in the enforcement of waste shipment regulations because of their “eye and ear function”. There is a large variety in tasks and competences – also amongst various countries – between those networks, which is earmarked as a bottleneck for effective cooperation and coordination.

IMPEL-TFS Verification – 1 project

A first enforcement project, aiming at verification of waste within the chain of ‘production’ and final disposal or recovery focussing on the enforcement of the three day prior notification, was carried out between October 2003 and November 2004 by nine European countries. The project was an initiative of The Netherlands’ VROM Inspectorate. Main aims of the IMPEL-TFS Verification – 1 project were to:

- Establish an enforcement network and to improve the communication and collaboration with regard to the verification of waste destinations;

- Develop a method for the verification of waste destinations, with the essence of “chain enforcement” on European level: checking waste shipments from ‘cradle to the grave’;
- Verify the destination and treatment of (a number of) waste shipments throughout the chain;
- Use of a specific provision of the Waste Shipment Regulation, e.g. the three day prior notification;
- Improve the enforcement of waste shipment regulations (EU Regulation 253/93 and the Basel Convention) and to track down violations;
- Exchange knowledge and experiences in methods of enforcement.

Project results, conclusions and recommendations were laid down in a project report, which was published in January 2005. Main recommendations were:

- The obligation on the three-day prior notification should be reconsidered, because it can’t be enforced sufficiently;
- Annual reports about the proceedings of enforcement actions and their results should be submitted to the European Commission by Member States, based on a general enforcement strategy;
- Experiences of Member States with the enforcement of the three day prior notification should be reported to the European Commission as well;
- One central coordination point should be assigned per country in order to stimulate enforcement of specific provisions of the Regulation. Especially in those circumstances where the responsibility for the enforcement of notifications is lead down at regional levels;
- The project should be enlarged with more countries, and its focus should be extended with other waste streams, like green listed and non-notified wastes.

IMPEL-TFS Verification 2 project

Based on the outcomes of the first project, and its recommendation to enlarge the network and to focus on green listed wastes (or declared as) as well, The Netherlands’ VROM Inspectorate took the initiative to take the lead in starting a second project: the IMPEL-TFS Verification – 2 project was born. A number of experiences, conclusions and recommendations of this first project were practically implemented in this second enforcement project. Whereas the first Verification project focussed on notified waste streams, the second project focussed primarily on non-notified and green listed waste streams, and secondary at notified streams. The method of inspection was fundamentally changed. A transport inspection at various strategic points within Europe is a way of gathering insight into shipments. A number of EU-wide coordinated transport and site-inspections were essential activities within the second project. Transports with waste have been inspected at strategic points in Europe and this information is used to inspect the storage and treatment in the intended facility: the actual verification.

An outline of the main aims of this second project is presented in chapter 2.

1.2

PARTICIPATING COUNTRIES AND - ORGANISATIONS

Participating countries

The following countries (or specific regions) have been participating in this IMPEL-TFS Verification 2 project:

- Austria;
- Belgium (Flanders);
- Croatia;
- Czech Republic;
- Denmark (county of Sønderjylland);
- Finland;
- Germany (Federal States of Baden Wurttemberg and North Rhine Westphalia);
- Ireland;
- Malta;
- The Netherlands;
- Poland;
- Portugal;
- Slovakia;
- Switzerland.

The project management was carried out by the Netherlands VROM Inspectorate.

Regional focus and involved enforcement networks

Within above mentioned countries cooperation is focussed on specific regions and enforcement organisations, because of the various tasks and competencies that are laid down at national scale. Many organisations have been involved in the execution of enforcement activities within this project, such as environmental inspectorates, police networks, and custom authorities.

An overview of enforcement authorities and contact persons participating in this project is given in annex 1. More information about the way the management and enforcement of waste shipment regulations is organised within the countries involved, is presented in chapter 3 and annex 4.

1.3

RELATION WITH IMPEL AND IMPEL-TFS NETWORK

The European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL) is an informal network of the environmental authorities of the Member States, future Member States and candidate countries of the European Union and Norway. The network is commonly known as the IMPEL Network. The European Commission is also a member of IMPEL and shares the chairmanship of meetings.

The project is carried out under the umbrella of the IMPEL-TFS network. The IMPEL-TFS cluster (TFS is an abbreviation of TransFrontier Shipment) is a network of representatives from enforcement authorities of the Member States and some other European countries dealing with matters on waste shipment regulations. The IMPEL-TFS network was set up in 1992 in order to harmonise the enforcement of EU Regulation 259/93 on Transfrontier Shipments of Waste with regard to the supervision and control of waste shipments into, out of and through the European Union.

1.4

TARGET GROUPS OF THIS FINAL REPORT

This project report is addressed to:

- The European Commission;
- IMPEL;
- IMPEL-TFS;
- Competent Authorities for enforcement of the Waste Shipment Regulation in Member States of the European Union.

Recommendations for these target groups are presented in chapter 4.

1.5

SET UP OF THE REPORT

The project aims, set up and way of working is described in chapter 2.

The results of the project are presented in chapter 3.

Chapter 4 contains the conclusions and recommendations of the project.

The annexes contain background information, such as:

- Involved countries and contact information of country coordinators;
- A short outline of EU Regulation 259/93;
- The applied working methods;
- The enforcement structures of the participating countries, related to EU Regulation 259/93.

CHAPTER 2

Project aims, -set up and way of working

2.1

PROJECT AIMS

Main project aims

The main aims of the IMPEL-TFS Verification – 2 project are focussing on the practical implementation of Article 30 of EU Regulation 259/93 (see below) and are aiming at:

- Gaining insight in and improve compliance of waste shipment legislation (EU Regulation 259/93 and the Basel Convention) regarding the verification of (the final destination of) waste shipments;
- Improving European cooperation on operational level between enforcement authorities involved;
- Exchanging practical knowledge and experiences regarding this issue;
- Increasing the chance of being caught for transporters and waste treatment sites;
- Improving the enforcement of waste shipment legislation in general and to track down violations.

ARTICLE 30 OF THE REGULATION

According to article 30 of the Regulation, Member States have to take the necessary initiatives to check its provisions. Article 30 stipulates:

1. Member States shall take the measures needed to ensure that waste is shipped in accordance with the provisions of this Regulation. Such measures may include inspections of establishments and undertakings, in accordance with (...), and spot checks of shipments.
2. Checks may take place in particular:
 - at the point of origin, carried out with the producer, holder or notifier;
 - at the destination, carried out with the final consignee;
 - at the external frontiers of the community;
 - during the shipment within the community.
3. Checks may include the inspection of documents, the confirmation of identity and, if appropriate, the physical control of the waste.

Practical objectives

More practical, the objectives of this project can be achieved in general by:

- Transport inspections on waste shipments at strategic points in Europe.
For instance at border crossing points (highways) between (a number of) participating countries;
- Checking waste transports at the company of arrival by the responsible competent authority, and also checking storage and treatment of the waste;

- Checking of this waste transport – if necessary – by the competent authority in the country of dispatch;
- Exchange of inspectors, voluntary based.



Photo 2.1 Transport inspection

In doing so “chain enforcement” (enforcement of waste transports ‘from cradle to grave’) is being implemented by all enforcement authorities involved. See also section 2.3 on the project principles.

2.2

PROJECT SET UP

The project has been carried out between February 2005 and May 2006, amongst three main phases.

Preparation phase: December 2004 – February 2005

A number of preparatory activities were carried out, such as drafting the project plan and exploration of the interest of other countries to join the project. A starting conference was organised in Berlin (Germany, 23, 24 and 25 February 2005), in which agreement was reached on the final project aims, its strategy, the methodology/working methods to be applied and the way information should be exchanged. Also information on problematic waste streams was exchanged, including consequences for the focus of the project.



Photo 2.2 Participants at the Berlin conference

Operational phase: March 2005 – April 2006

During the operational phase, participating countries carried out a number of joint, European coordinated enforcement activities. One important element of the strategy was the execution of transport inspections in three different months during 2005 and 2006. Within a period of 3 – 4 weeks after these inspections, the destination of the waste was verified “upstream” (at its origin) or “downstream” (at its final destination). This final verification can be earmarked as a critical factor in achieving one of the essential aims of waste shipment regulations: to ensure that waste is being processed in an environmentally sound manner. Also inspectors exchanged enforcement experiences by a number of visits to other participating countries. Results of enforcement activities and outcomes of the verification process were reported to a central website, especially built for this project. Besides, an interim meeting was organised in Zagreb (Croatia, 1 and 2 December 2005), in which discussions took place on the interim results of the project, bottlenecks and solutions, and a first brainstorm about the conclusions and recommendations of the project, based on the outcomes so far.

Reporting phase: April 2006 – May 2006

During this last phase the results of all enforcement activities were analysed and formed the bases for this final project report.

2.3

PROJECT PHILOSOPHY, PRINCIPLES AND PRIORITIES

2.3.1

PROJECT PHILOSOPHY AND PRINCIPLES

The main project philosophy and its principles were agreed at the start of the project.

The most important elements are:

- Inspections of waste will be carried out during its transport (transport inspections) at strategic routes, and at companies (“on site”);
- Competent authorities at these countries gain information on the waste transport and – if necessary – enforce it, and provide competent authorities in the countries of dispatch and arrival about the outcomes. This enables them to control waste shipments at its origin and/or its final destination, to identify eventual differences in its composition and quantity, and to answer the question if waste is being processed in accordance with the granted permissions, also in its required environmentally sound manner. In doing so,

enforcement of waste shipments is being done 'from cradle to grave' and can be earmarked as 'chain enforcement' (see also below).

PHILOSOPHY OF CHAIN ENFORCEMENT

Reasons for chain enforcement

Considerable environmental risks appear during different stages in the chain of production processes (design, work, transport and dust, products and waste). Therefore enforcement in general has to be improved in all these chains. Chain enforcement focuses on enforcement of legislation at transfer moments.

Goals of chain enforcement

The goals of chain enforcement are to:

- Improve enforcement at transfer moments between the elements of the whole chain;
- Enlarge the overview and grasp of the separate elements within the chain;
- Enclose the chain of all relevant streams (environmental risks and compliance);
- Contribute to further professionalism of enforcement;
- Contribute to an effective and efficient enforcement.

The main advantage of verification is that operational bottlenecks in the enforcement of waste shipments can be handled on international level adequately and efficiently. Issues related to the interpretation of waste and EU Regulation 259/93 (like: questions on "is this waste or not", the classification of waste, definitions of recovery and final disposal) become clear.

VERIFICATION; A BRIEF DESCRIPTION

Within this project, transports with waste are being inspected at strategic points in Europe and this information is used as starting point to inspect the storage and treatment in the intended facility ("downstream") or at the facility where from the waste originates ("upstream"). Verification of the final destination can be earmarked as a critical factor in achieving one of the essential targets of waste shipment regulations: to ensure that waste is being processed in an environmentally sound manner, also as required by local environmental licences. By verification as such, enforcement of waste shipment regulations becomes more than a 'paper tiger'.

An illustration of the working procedure regarding verification is clarified in the following scheme.

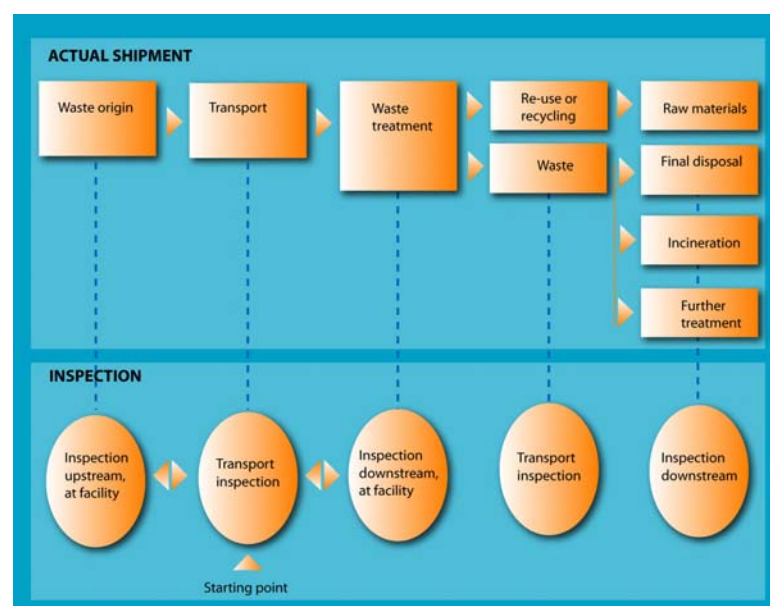


Figure 2.1 Transport inspection as starting point of verification

2.3.2

PRIORITIES

Focus on certain waste shipments

During the starting conference, as well as during the interim meeting, special attention was given to the waste streams which should be focussed on during the inspections.

Generally speaking, attention was paid to waste streams shipped between the various participating countries, with a special focus on waste streams that cause environmental hazards and/or are shipped in large amounts. Where possible, inspections focussed on green listed wastes and wastes declared as green listed, like wood waste, electronic waste, tires, demolition waste, plastic waste, end of life vehicles (ELV's) by selecting relevant routes, trucks and if possible inspections at site. From the other side, it is difficult to pre-select "suspected" waste shipments and/or transporters within transport inspections; only by choosing specific strategic transport routes pre-selection is possible, but "*what you see is what you get*". This is a consequence of the chosen method. Selections based on custom documents or waste shipment notifications have, on the other hand, a higher degree of making pre-selections possible.

However, doubts about final destinations of waste shipments and tips from other (enforcement) networks have not excluded enforcement actions and – if needed – international cooperation with other countries.

Focus on waste streams shipped between participating countries

Primary, waste streams are checked which are shipped between the countries participating in this project. Nevertheless, waste shipments were identified during inspections which have their origin and/or final destination at countries which are not participating in this project. In some circumstances networks of these countries have been involved in checking these waste shipments and – were needed – follow up actions.

Special point of attention were waste transports shipped outside the EU and to non OECD countries.

2.4

WORKING METHODS DEVELOPED

A working method for the inspection of waste shipments focussing on verification was developed during the first Verification project, and has been further improved during this second project. The working method described the strategy for performing inspections and the ways of information exchange during the operational phase of the project. The method was laid down in a manual which is summarised in annex 3.

CHAPTER

3

Project results

3.1

INTRODUCTION

This chapter presents the main project results. Most of these project results are related to the project aims, as described in chapter 1.

3.2

GENERAL EXPERIENCES WITH WORKING METHOD

General experiences with the developed working method were evaluated at the interim meeting (Zagreb, Croatia), and directly after the 1st and 2nd joint transport inspection weeks. The following issues were found to be important in improving the quality of the inspections:

- It is critical to argument the reasons for the verifications;
- Problems on waste interpretations, procedures to be followed and legal and/or administrative follow up actions to be taken, need to be clarified between the competent authorities involved. The instrument of “Viadesk” (secured internet website) was used to communicate;
- Information exchange between authorities involved needs to be done quickly and in time;
- Smaller and mobile inspections seem to be more effective then static, large inspections;
- A disadvantage of transport inspection is that no pre-selection is possible and is therefore not the most effective inspection method;
- Enlargement of the enforcement network is needed to verify and enforce waste streams which are shipped to or are originating from countries that do not participate in the project. The current network of competent and enforcement authorities should be expanded;
- Try – as much as possible – to focus on green listed wastes and wastes declared as green listed waste, like wood waste, electronic waste, tires, demolition waste, plastic waste, ELV’s, etc.

3.3

RESULTS OF INSPECTIONS/EUROPEAN INSPECTION MONTHS

Some results of inspection activities are illustrated with terms as “infractions” and “violations”. A short explanation of these terms is given below, before presenting the overall data.

SOME DEFINITIONS

Within the IMPEL-TFS Verification – 2 project distinction has been made between rather small administrative errors (infractions) and illegal activities (violations). Within the project special focus was given to a number of follow up actions, defined below as well.

Infractions, like: transfer of waste is not accompanied by information as required by article 11 of the Regulation, or transfer of waste is carried out without, before or after the three day notification (article 5 of the Regulation).

Violations, like: (illegal) export of waste to countries that are party of the Basel Convention (article 16 of the Regulation), ACS countries (article 18 of the Regulation), or (illegal) shipment of waste without a notification and without permission of the competent authorities (article 26 of the Regulation).

3.3.1

OVERALL INSPECTION RESULTS

Results of first inspections

The overall results of inspections performed during the transport inspections (as starting point) is presented in the table below.

	Inspection month 1	Inspection month 2	Inspection month 3	Total
Number of inspection spots	24	14	21	59
Participating countries	Austria Belgium Denmark Germany Ireland The Netherlands Portugal	Austria Belgium Czech Republic Denmark Germany Ireland Malta The Netherlands Portugal Switzerland	Croatia Czech Republic Denmark Finland Germany Ireland The Netherlands Portugal	-
Number of inspected TFS transports	412	227	394	1.033
Number of verification requests	97	35	37	169
Number of: infractions violations	29 9	22 9	50 7	101 25
Number of involved inspectors				500

Conclusions from the inspections

A large number of countries performed inspections during the inspection months; in total, inspections have been carried out at 59 spots, in which 1.033 inspections with waste shipped over national borders have been checked. Moreover, a number of countries carried out transport inspections for the first time, like Croatia, Czech Republic, Finland and Malta. In general it can be said that selection of waste shipments were more effective during the third inspection month. During the inspections a number of irregularities have been detected, such as incomplete documentation with reference to article 11 of the Regulation. In total 25 illegal transports were detected, most of them related to article 26 of the Regulation.

Verification results

The number of shipments which were subject of verification and have been performed are included in the scheme below. Also the number of verification requests, which did not lead to an actual verification, are presented.

The information below refers to the state of the art as of 30 May 2006; a number of verification requests were still under investigation by that date.

Performed/unperformed verifications ¹ :																	
	AU	B	HR	CZE	DK	FIN	D	D np ²	IRL	MLT	NL	PL	PT	SVK	CH	NP ³	No EU MS

Verification inspections requested by:	AU							0									
								43									
	B																
	HR	0						0							2	0	
		0						0							0	1	
	CZE							0									
								1									
	DK					12		5								0	
						0		0								0	
	FIN										2						
											0						
	D							13	0			12			0	0	
								0	1			1			3	1	
	D np ²																
	IRL	2						2	0	1		3				0	
		0						3	0	0		0				1	
	MLT																
	NL	1		1		5	9	0	1			12	3		2		
		0		0		0	0	2	0			5	0		0		
	PL																
	PT													10			
														0			
	SVK																
	CH																

Explanation of the data:

¹⁾ The data included in each cell represent (in vertical order):

= Verifications performed;

= Unperformed verifications;

²⁾ Addressed to Federal States within Germany, not participating in the Verification – 2 project;

³⁾ Addressed to non participating Member States.

Conclusions from the verification results

Based on the outcomes of the verification results, the following conclusions can be drawn:

- A large majority of the verification requests have been executed;
- A number of verification requests could not be performed, because of:
 - The requests were submitted to countries or competent authorities not participating in this Verification 2 project;
 - Lack of capacity for executing the actual verification;
 - Inadequate national commitment.
- On the other side, a number of verification requests have been carried out by countries who did not actively participated in this project;
- The way of working in the verification process was also used to gain insight into eventual structural (illegal) characters of waste shipments and to stop them. Individual waste shipments, checked within the transport inspections, were verified and checked within a broader context at the site concerned;
- Verified waste streams were – in doing so - checked by two competent authorities of two European countries;
- No “new” significant infractions or irregularities have been found based on the verification process. Potentially this can be caused by the fact that there is no uniform definition and international standard of the understanding of a “duly authorised facility”, as described in the Regulation and the Waste framework directive (article 10

and 11 of EU Directive 75/442/EEC). However verification was found to be vital because not only a single incident was solved but the whole waste stream was investigated and sometimes legalised or stopped (if illegal);

- A number of verified shipments have been detected with infractions (such as incomplete article 11 information), and shipments with violations (such as un-notified shipments as required by article 26 of the Regulation).

3.3.2

RESULTS EUROPEAN INSPECTION MONTHS

Three individual inspection months were agreed on during the start of the project. Within these months, coordinated enforcement activities have been carried out by (almost) all countries involved. Within a period of 3 – 4 weeks after the first inspections, the destination of the waste was verified “upstream” (at its origin) or “downstream” (at its final destination). A summary of the results of the three months is described below.

First inspection month: (TI1) start in week 17/2005

After national and international preparations, the first inspection period started in the last week of April 2005. At 24 strategic points transport inspections were organised. Totally 412 international waste shipments were inspected. In total 97 shipments were selected for verification at destination or dispatch. At the end of the inspection period, 9 violations were discovered. 29 Transports did not have the right documentation or the 3-day prior notification was not done. Main conclusions were:

- Relatively few illegal shipments were found;
- Better contacts have been established between authorities, on national and international scale;
- Some countries gained their first experiences with transport inspections;
- The strategic route is of vital importance in ‘pre-selecting’ the wanted waste shipments.

Second inspection month: (TI2) start in week 38/2005

The second inspection month started in the third week of September 2005. Transport inspections were organised at 14 strategic points. In total, 227 waste shipments were inspected, while 35 waste steams were requested to be verified. 9 Violations, and 22 infractions have been detected.

Main conclusions of this inspection week, also related to the outcomes of TC1, were:

- Inspections were carried out in more countries/regions;
- The number of inspected transport were less, because of less inspection spots and more effective (smaller) inspections;
- More violations have been detected, probably because of the smaller transport inspections.

Third inspection month: (TI3), start in week 13/2006

The third inspection month started in the last week of March 2006. Transport inspections were organised at 21 strategic spots by 8 participating countries. In total, 394 waste shipments were inspected, while 37 waste steams were requested to be verified. 7 Violations, and 50 infractions have been detected. A number of verification requests are still under investigation, at the date this report has been printed.

General conclusions

The executed inspection months were experienced as very useful. Enforcement activities, illegal shipments and administrative violations have been detected and tracked down. Moreover, cooperation has been established on ‘working floor level’, not only on international, but also on national and regional level.

3.3.3

SOME CASES

Denmark: ELV's from Denmark to German and final destination Nigeria

During the third joint inspection month (which started in week 13/2006), a transport inspection was carried out at the Danish-German border.

During this inspection a lorry with old cars was stopped and the police and the environmental authorities tried to check the lorry and the old cars (End of life Vehicles, ELV's). The lorry driver, which was also the owner of the lorry and of the waste, refused to cooperate with the inspection.



Photo 3.1 Export of ELV's from Denmark to Germany

The lorry driver stipulated that the inspection was “a waste of time” and a lot of money could be saved if the inspection should not proceed. The lorry driver argued that Denmark is a EU Member State and he was allowed to go everywhere in the EU with his old cars without any kind of “waste documents”.

While he was talking, the Competent Authorities tried to inform him about the Waste Shipment Regulation 259/93. Also they tried to find out if the ELV's were contaminated with liquids (like oil) and what was the final destination. Again, the lorry driver refused to give any information on these questions.

Finally, and after some discussions, the lorry driver gave the name of the company of destination. In the meantime, the Competent Authorities of dispatch and destination were contacted.



Photo 3.2 Joint inspection of ELV's at the company of destination

With both CA's agreement was reached on the execution of an inspection at the sites of dispatch, and at the final destination. The shipment could continue; nevertheless a fine had to be paid because of missing article 11 information.

The authority of dispatch is investigating if the liquids are being disposed off adequately.

Netherlands: Railway sleepers to Belgium

During the second inspection month the Dutch Inspectorate got a signal that a company shipped old railway sleepers to Belgium. According to Dutch legislation it is not allowed to reuse creosoted materials that consist PAH's. Therefore the railway sleepers have to be considered as waste. For transboundary shipment a notification is required. The company did not have a notification for shipments to the company of destination. A verification request was sent to Belgium. In Belgium reuse of railway sleepers is allowed. The railway sleepers that were found in Belgium were in good shape and so there was no violation according to Belgium legislation.

Netherlands: computer monitors to China

The Dutch Inspectorate detected an illegal shipment of discarded computer monitors. The shipper wanted to export 2308 pieces (27.000 kilogram) computer monitors to China for repair. Computer monitors contain cathode ray tubes and therefore it is hazardous waste and forbidden to export to non-OECD countries. The Dutch inspectorate blocked further shipment by sea. The shipper told the inspectorate he would repair them in The Netherlands. Several weeks later the Inspectorate found out that the same computer monitors were illegally shipped to Poland.



Photo 3.3 Discharged computer monitors from Netherlands to Poland

A verification request was sent to the Polish Inspectorate. They discovered the destined company in Poland and planned a company visit. During the company visit they found out that the monitors were repaired, but 41% was left over as (hazardous) waste. The two inspectorates worked together to return the monitors and the waste to The Netherlands. The shipper will be prosecuted in The Netherlands.

Portugal: Metals and end of life vehicles to Spain

An international transport inspection was carried out on the border of Portugal and Spain. During this inspection a lorry with metals was checked. The cargo contained not only metals but also compressed end of life vehicles, tires and barrels with contaminated used oil. The question was whether it was green listed waste or not. It was not possible to see what was inside the packages, when the hazardous waste was removed. The authorities of Portugal decided that it was unknown waste (amber list). This shipment has been sent back to the country of origin (Portugal). The problem was that the company of origin hadn't an environment permit. The company found a legal destination.



Photo 3.4 Metals and ELV's from Portugal to Spain

Netherlands: Plastic wastes to Germany

On the 29 of March 2006 the German and the Dutch authorities carried out a large transport inspection on waste shipments. One of the inspected vehicles transported plastic wastes according to the transport documents. Article 11 information of the Regulation accompanied the shipment. The producer of the waste was a Dutch company. According to the description of the company's name, the recovery of used barrels was the core business of the company. The destination of the shipment was a company in Germany. First the German colleagues checked the article 11 information, which seemed to be in accordance with the Regulation. Then the Dutch inspectorate inspected the cargo. When the driver removed the awning from the container, the smell of solvents was clearly there. On top of the cargo one could see shredded plastic wastes. Underneath this shredded material used plastic buckets were found. The buckets were contaminated with (wet and dry) remnants of paint. All buckets still had their metal handle. After the inspection was finalised, the shipment was sent back to the company of origin, because it should have been classified as hazardous/amber listed waste.

Czech Republic: Municipal waste from Germany

From September 2005 to January 2006 a vast quantity of partially sorted municipal waste was transported from Germany to the Czech Republic. The estimated total quantity is at least 30.000 tons, illegally stocked in approximately 15 places such as Sosnova, Arnoltice, Libceves and even periphery of Prague. The Czech Environmental Inspectorate gathered transport documents of transfrontier shipments of waste of ± 7.000 tons, the waste was declared as GH 010 and/of GJ 120 and "second-hand textile". Only 10 trucks were sent back to Germany – before unloading. Waste was stored in open area and under other inappropriate conditions. Some common characters of the known cases are that sender or producer of the waste comes from former East Germany federal states, frequently it concerns the collecting yards or sorting plants. The shipment of waste is realised on the bases of a sales contract. The way how the initial contact between the sender and the consignee is established is not yet known to the Czech Environmental Inspectorate. What however is absolutely clear is the fact that none of the Czech consignees was authorised to receive waste, and that none of the installations had the necessary environmental permits. It is impossible to track the exact quantity of transported waste since the illegal consignees

keeps very little or no evidence of the received waste. Shipments of waste was several times realised in the following manner: 6 or 8 trucks were accompanied by a car with representatives of the sender and the consignee. After the discharge of the first consignment list was validated and all representatives left. The load of the next trucks differed from the initial one. A very sophisticated net of waste receivers in the Czech Republic was created. Through this net a huge volume of waste of German origin was landfilled in the Czech Republic. Shipment of waste for disposal to the Czech Republic is prohibited by the national Act on Waste.

Three or four times a fire broke out. According to the results of police investigation fires were set on purpose. Burning of hazardous waste (including PVC) releases dangerous combustion products in the air.



Photo 3.5 and 3.6

[Illegal exported waste from Germany to Czech Republic dumped and set into fire](#)

Mentioned transfrontier shipment of waste from Germany to the Czech Republic show all aspects of organised crime. In connection with mentioned shipment the Czech Police charged 6 persons (5 Czech and 1 German) with criminal act of violation law about circulation of goods attached to abroad and with illegal treatment of hazardous waste.

3.4

NATIONAL AND INTERNATIONAL COOPERATION

Enlargement of the network

The network of enforcement authorities in participating countries was already based upon the existing cooperation in the IMPEL-TFS Verification 1 project, but has been further enlarged and improved by this second project to fourteen European countries. Many energy was mobilised to involve all European countries in this project. However, commitment for and cooperation in this project is a national responsibility. Moreover, many countries deal with capacity problems (human and financial recourses). EU-wide cooperation is therefore a critical factor for a total guarantee that waste shipments are shipped in conformity with legislation. Regarding the character of transfrontier shipments of waste international collaboration is crucial in realising the environmental goals of the Regulation.

Insight into national enforcement structures

An overview has been gained of the national structures responsible for the enforcement of waste shipment regulations in general, and with reference to the verification of waste destinations in particular. Detailed information on how enforcement of TFS regulations is being carried out in the countries participating in this project is presented in annex 4. Special

attention is being paid on the organisation of tasks and competences, problematic waste streams and bottlenecks that occur in the practical implementation and enforcement of EU Regulation 259/93 and the Basel Convention.

Improved national and international cooperation

Cooperation between various enforcement organisations on national scale has been improved seriously in a number of countries, due to the fact that cooperation between various enforcement organisations is essential in the framework of ‘chain enforcement’. Tasks and responsibilities have to be brought together during transport and/or company inspections, and factual information on waste shipments and eventual (legal) follow up actions has to be provided throughout the chain. Nevertheless, some countries still face difficulties in setting up national cooperation with other enforcement networks. Also on international level cooperation has been strongly improved, and many illegal shipments have been detected, and sent back to the country of origin, including legal or administrative follow up actions. Furthermore, the network has proven to be useful outside the international inspection months as well.

Experienced difficulties in enforcement

Nevertheless, a number of issues can be identified as important topics or bottlenecks in the enforcement of waste verification-regulations. These topics are based on the overviews of national enforcement networks, as presented in annex 4.

Most important topics are:

- There is a large variety in tasks, competencies and jurisdictions of organisations involved in the enforcement of waste shipment regulations. In some cases enforcement of waste shipment regulations is laid down on a regional or local level, while in other countries enforcement is a primary concern of one national oriented enforcement authority. Assigning competent authorities for EU Regulation 259/93 is in most circumstances not primarily based on the international dimension of waste shipments; many countries have assigned decentralised (regional or local) authorities, instead of one central competent authority. Moreover, enforcement of environmental legislation in general, and waste shipment regulations in particular, is still not a task with high political interest and well defined aims to be reached;
- Although EU Regulation 259/93 is directly applicable in all EU Member States, many differences occur in the way provisions are implemented in practice. Most differences occur in the assignments of tasks and competencies/legal powers and follow up actions in cases where illegal movements or infractions are detected. Also interpretation problems still occur, like “is this waste or not”, the classification of waste, recovery or disposal definitions, etcetera;
- Many countries face difficulties in the enforcement of certain waste streams. Some of these waste streams are commonly identified as problematic:
 - End of life vehicles (ELV's);
 - Waste from electric and electronic equipment (WEEE);
 - Plastics;
 - Pre-sorted demolition and construction waste.
- Difficulties in enforcement of relevant TFS regulations occur in all countries. In most of the participating countries lack of knowledge, means and human capacity are identified as serious bottlenecks to enforce waste regulations adequately.



Photo 3.7 Inspection of End of Life Vehicles (ELV's) and spare car parts

Variety in legal and administrative follow up actions

Based on information received of various countries participating in this project large variety can be seen in applied legal and administrative sanctions. For example, the criminal fines for transfer of waste without a notification and without permission of the competent authorities (article 26.1 of the Regulation) vary from one country to another, approximately € 10.000,- in one country to €100,- in the other. There is also difference in legal penalties. In some countries offences are defined as criminal offence, in other countries as infringement. The Regulation does not provide any obligations on these issues, because they are the primary responsibility of each individual Member State.

3.5

EXCHANGE OF INFORMATION AND EXPERIENCES

Exchange of knowledge

During the IMPEL-TFS Verification – 2 project, the following cross boundary exchanges have been taken place between inspectors:

Joint performed transport inspections

- Denmark – Germany;
- Netherlands - Belgium - Germany;
- Switzerland – Germany;
- Czech Republic – Austria;
- Portugal – Spain;
- Croatia – Austria.



Photo 3.8 Joint inspection by Dutch and German inspectors

As part of a training on the Regulation

- Netherlands in Czech Republic;
- Netherlands in Poland.

Exchange of inspectors

- Czech Republic visited Austria;
- Croatia visited Netherlands;
- Croatia visited Austria;
- Netherlands visited Finland;
- Netherlands visited Malta;
- Netherlands visited Greece;
- Netherlands visited Portugal.

Viadesk

The exchange of information on international level was facilitated by providing a virtual office called “Viadesk”, which was accessible via internet with only a username and password.

Newsletters

Four newsletters were released in the framework of the project. The newsletters gave a general view upon the state of the art in the project, and highlighted practical enforcement cases during the operational phase of the project. Target groups of the newsletters were project participants, participants within their own organisations and other stakeholders involved in TFS matters.

Electronic versions of the newsletters were placed on Internet, and are available at: <http://europa.eu.int/comm/environment/impel/workgroups.htm>.

3.6**IMPEL-TFS VERIFICATION PROJECT 2 AND COMMUNICATION****Press-releases**

Press releases were submitted a number of times during the project. Mostly the newsletters were based on the outcomes of the joint inspection weeks. The press releases were submitted to the organisations involved, and were used to inform their media in their own country.



Photo 3.9 Sewage sludge, from Austria to Germany, inspected in Czech Republic

Articles and TV/radio programmes

On the bases of above mentioned newsletters and press releases, but also on bases of illegal cases detected during the project, articles were published in newspapers. Also a number of programmes have been broadcasted on TV and radio, focussing on particular cases and/or events.

Compliance assistance

Before the second inspection period, the VROM Inspectorate of The Netherlands send a mailing to 6.000 companies involved with the processing of waste, transport etc. including information on the obligation of the Regulation, manners to accelerate inspections, and national legal obligations. In general terms the European traffic controls were announced. The reactions on this mailing were overwhelming and increased the attention for the chance of being caught. Besides regular inspections and enforcement, the VROM Inspectorate uses compliance assistance as aid to stimulate the performance of legislation.

Brochure for transport companies and truck drivers

A brochure was developed by Denmark for transport companies and their truck drivers, containing factual and practical information about EU Regulation 259/93. The example was used for the development of a similar brochure, by authorities of The Netherlands and Czech Republic. The brochures are also available on internet via http://europa.eu.int/comm/environment/impel/pdf/brochure_gde_cs.pdf and http://europa.eu.int/comm/environment/impel/pdf/brochure_gde.pdf.

CHAPTER

4

Conclusions and recommendations

4.1

CONCLUSIONS

1. Joint European enforcement has been established

By executing this project, fourteen European countries cooperated in the enforcement of waste shipment regulations focussing on the verification of the destination of waste shipments as regulated by EU Regulation 259/93. Countries collaborated in checking waste shipments “from cradle to grave”. Besides, information on problematic waste streams has been exchanged and uniform methods for the verification of waste destinations have been developed and applied.

2. Enforcement of the Waste Shipment Regulations is absolutely needed

The outcomes of the inspections show that enforcement of waste shipment regulations is needed. During 3 inspection months, executed by various participating countries, a total amount of 1.033 waste transports shipped over national borders were inspected at 59 inspection spots. From these waste transports, 169 shipments resulted in an actual verification request. From all transports from which the waste transport was inspected and verified, 101 shipments were earmarked as shipments with infractions (such as incomplete article 11 information), and 25 were earmarked as being illegal (mostly related to article 26 of the Regulation). It therefore can be said, that enforcement of transfrontier shipments of waste lead to better compliance, is important but is not yet the norm. Besides, enforcement of legislation is needed to protect the environment from potential hazards of waste.

3. Application of the combined inspection methods is effective, but difficult

The execution of transport inspections and the verification of waste shipments have been applied, and are seen as methods with their own strengths and weaknesses:

- Transport inspections are not always the most effective inspection method (no pre-selection possible: ‘*what you see is what you get*’), but sometimes the only possible way for inspection. An important aim of transport inspections however is to reach compliance by deterrence: showing that the competent authorities do enforce legislation. Transport inspections gain (additional) insight into waste shipments and (unknown) companies involved in waste transport activities;
- Actual verification of waste shipments has been identified as one of the key factors in checking if wastes are being processed in accordance with relevant permits. Verification up- and downstream is therefore vital, but in some cases logistically hard to arrange, in particular in/with countries that are not participating in the IMPEL-TFS Verification 2 project. Enlargement of the enforcement network within Europe and countries of destination outside Europe (like non-OECD countries) is therefore strongly needed.

4. No guarantee for uniform European level playing field on enforcement

Despite the energy all participating countries mobilised into this project and the success which has been realised, European collaboration has still a way to go because of:

4a. Large variety in tasks, competencies and enforcement instruments

There is an enormous variety in tasks and competencies in inspection and enforcement of EU Regulations 259/93 and the Basel Convention on national scale. Chaos is caused by variation in competent authorities, competencies, enforcement follow up and international collaboration, especially in those circumstances where violations of international shipments have been detected. Also the variety in the application of the height of legal and administrative penalties differ amongst countries involved.

4b. No uniform waste interpretations; problematic waste streams

No uniform interpretations of the Regulation exist on “waste or not”, classification, recovery and disposal, dispatch and destination countries, allowed or not allowed to send or receive green listed wastes. Also differences occur in the interpretation of other waste related regulations, like railway sleepers, and animal bone and fat meal. Besides, there is no uniform interpretation of “destined for duly authorised facilities”, as mentioned by the Regulation. And last but not least, it is also due to ambitious and un-temporary terms for disposal or recovery operations in the Waste Framework Directive (annexes II A and II B of Directive 75/442EC). Waste or product properties for disposal or recovery operations is not in every case comprehensible for every inspector due to national and international jurisdiction and ECJ-ruling, no matter where the staff person in question is organised (environmental inspectorate, police, custom or public prosecution). Also a number of waste streams are commonly identified as problematic, such as End of Life Vehicles (ELV's), waste from electric and electronic equipment (WEEE), plastic and rest fraction of sorted demolition and construction waste.

4c. Inappropriate recourses

Almost all countries indicate that there are no appropriate resources available for adequate and effective (international) enforcement of the Regulation. In particular, the following bottlenecks have been indicated as critical:

- Lack of human and financial resources;
- Lack of knowledge;
- Lack of information exchange on national and international level;
- No national enforcement planning;
- Other (environmental) priorities.

All above events lead to ineffective European collaboration and enforcement, resulting in:

- Possible environmental harm because of illegal waste shipments;
- Financial damage to business and competent authorities;
- Lack of consistency in the application of the Regulation within EU;
- Possible distortions of competition;
- Dumping or sham recovery;
- Lack of deterrence against illegal operators.

The question can be asked if a uniform level playing field can be guaranteed. Moreover, some countries indicated that a European project as this one is needed to allocate resources on national level for the enforcement of waste shipment regulations within their organisations and regarding the resistance of inspected companies.

4.2 RECOMMENDATIONS

4.2.1 EUROPEAN COMMISSION

1. Support international networking and cooperation in enforcement

Joint international and European cooperation in enforcement is needed to control legislation on transfrontier waste shipments. Enforcement can, in this way, contribute to achieving (European) environmental aims as set in the 6th Environmental Action Plan. However, a serious bottleneck in the enforcement of waste shipment regulations on national and international level is the lack of means (human capacity and financial resources), to be able to enforce relevant legislation adequately. This also to implement the essence of article 50.5 of the reviewed EU Regulation 259/93, which stipulates that "...Member States *shall* cooperate ... in the prevention and detection of illegal shipments ...".

The European Commission should therefore provide financial resources to support international networking, such as the TFS-cluster of IMPEL and cooperation in enforcement. Moreover financial support of the permanent secretariat of the TFS-cluster by the European Commission is very desirable in order to guarantee the successful progress of international enforcement of the Waste Shipment Regulation and related waste legislation.

2. Integrate enforcement of EU Regulation 259/93 in RMCEI

Furthermore, an adequate level of or minimum criteria for the enforcement of EU Regulation 259/93 should be discussed with IMPEL and should be integrated in the European Commissions' Recommendation for Minimum Criteria for Environmental Inspections (RMCEI). This recommendation is currently reviewed.

This adequate level of enforcement can also be taken into account within the current revision of the Waste Framework Directive (75/442).

3. Tackle interpretation problems of EU Regulation 259/93

In order to tackle interpretation problems of EU Regulation 259/93, practical information and results of IMPEL-TFS projects should be included in the revision of the Waste Framework Directive. Examples are the definitions of waste/no waste and criteria used in this, classification of waste, identified problematic waste streams, and other enforcement bottlenecks as indicated above.

It is advisable that the Commission financially supports the initiative of the IMPEL-TFS cluster to set up a European wide database of classifications and interpretations of the Waste Shipment Regulation in order to tackle a large bottleneck of the enforcement and implementation for authorities and companies.

4.2.2 IMPEL-TFS

4. Improve structural enforcement of TFS through improved international cooperation

Many countries indicated that a formal end of this project is too early. Some of the countries stressed that European projects as these are essential for "sustainable cooperation". The IMPEL-TFS cluster should take notice of adequate means to guarantee cooperation on short and long term. IMPEL-TFS should therefore continue and improve the structural enforcement of international waste shipment regulations through improved international cooperation, by:

- Continuing enforcement projects in this field;
- Developing and (continuously) improving the enforcement strategy on waste shipment regulations;

- Working out the requirement on international cooperation, as set in article 50 of the revised EU Regulation 259/93;
- Combining inspection methods. To be able to establish an added value between the IMPEL-TFS Verification and – Seaport project, both methods should be combined into one strategy and should be applied in future TFS activities, on national and international scale. An initiative on this has already been drafted into a Terms of Reference document and should be approved and executed.
- Expanding the network to (certain) non-OECD countries, to be able to enlarge the focus of ‘chain enforcement’ in a worldwide context;
- Developing and maintaining a “black list” of companies involved in illegal activities concerning transfrontier shipments of waste;
- Setting up training and exchange programmes of inspectors.

Outcomes of the continuing enforcement projects should be discussed with the European Commission, and could gain profound information to tackle interpretation problems. Furthermore, results should be used to intensify the mutual relationships with the Correspondents meeting and/or the Technical Advice Committee (TAC) for the Regulation.

5. Level differences in waste interpretations by establishing a waste data base

Waste interpretation differences form a serious bottleneck in a uniform (European) enforcement strategy. Differences should be levelled, firstly by establishing a waste database with a (long term) aim on working on harmonisation of these interpretations. An initiative on this has already been drafted into a Terms of Reference document and should be approved and executed.

4.2.3

NATIONAL ENFORCEMENT ORGANISATIONS

6. Accept the enforcement challenge

All European countries should accept challenge on the export of waste; existing rules must be enforced vigilantly.

7. Involvement of verification issues in daily practice

Verification activities should be integrated in daily practises: adequate recourses should be allocated in (multi-) year programmes and checking waste destinations should be integrated in existing enforcement programmes/activities.

8. Provide IMPEL-TFS with (information) on illegal companies

Involved enforcement authorities are asked to provide IMPEL-TFS with information on companies involved in illegal shipments of waste, in order to develop and maintain a “black list” (see above). This information should be exchanged within the network of competent enforcement authorities.

9. Awareness raising

European countries and involved organisations should raise the awareness for an adequate enforcement of waste shipment regulations, by:

- Gaining political attention, also on European level;
- Improving national cooperation between inspectorates, custom and police networks;
- Promoting compliance, by e.g. intensified communication.

ANNEX 1

Involved countries and project participants

National country coordinators and project participants

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ANNEX 2

Short outline of EU Regulation 259/93

International waste shipment agreements and regulations

A number of international regulations are in force, aiming at preventing shipments of environmentally harmful waste to countries that do not have the provisions to cope with these wastes. The most important regulations are the Basel Convention, the OECD Decision of 30 March 1992, EU framework Directive 75/442 and EU Regulation 259/93.

European waste shipment regulations

In 1994 the Council Regulation on the supervision and control of shipments of waste within, into and out of the European Community (EU Regulation 259/93), came into force. Regulation 259/93 gives effect in the EU to a number of important international agreements and conventions, including the aforementioned Basel Convention and the OECD Decision. EU Regulation 259/93 differentiates between recovery and disposal operations of waste and lays down the notification procedures. The definition of waste and which actions are defined as recovery and disposal, are laid down in EU framework directive 75/442.

Recovery operations

Waste mentioned for recovery is divided in annex II, III and IV (the green, amber and red list of waste) of the Regulation. Movements of green listed waste between Member States must be accompanied by information in Article 11. Transfrontier shipments of amber and red listed waste and not mentioned waste for recovery, always need to be notified to involved competent authorities.

Disposal operations

Transfrontier shipments of waste mentioned for disposal, always need to be notified to involved competent authorities.

Notification procedures

The notification procedure for waste shipments, and the administrative requirements following out of these procedure, depends on:

- The country of origin and the country of destination;
- The transport route (including the countries of transit);
- Purpose of the shipment: ultimate disposal or recovery;
- The type of waste.

Export ban

Additionally, EU Regulation 259/93 was amended by Council Regulation 120/97 implementing what is referred to as the Basel export ban. This amendment prohibits the export of hazardous wastes listed in Annex V of EU Regulation 259/93 to countries that are not parties to the OECD Decision.

Position of Croatia and Switzerland

Because Croatia and Switzerland are no EU Member States, enforcement of EU Regulation 259/93 was not possible for them. Enforcement of waste shipment regulation was primary based on the provisions of the Basel Convention and eventual additional national legislation.

ANNEX 3

Summary of working methods applied

Starting points and general preferences

The starting point of the checks occur during the shipment of the waste materials (a transport inspection), a port inspection or at a site visit. This depends on the national situation. The following preferences were given by countries involved:

Country:	Preference
Austria	Transport inspection
Belgium	Transport inspection
Croatia	Transport inspection
Czech Republic	Transport inspection
Denmark	Transport inspection, combined with site visits
Finland	To be decided as soon as possible
Germany	Both, focus on "upstream"
Greece	Transport inspection and site visit
Ireland	A combination of site visits and Port Inspections
Italy	To be decided after visit in May
Malta	Port inspection, related to the Seaport project
Portugal	Transport inspections combined with site and port inspections
Slovakia	To be decided as soon as possible
The Netherlands	Transport inspection, possibly combined with site visits

Transport checks as a start

Within the project, coordinated transport checks, port inspections or site visits have been organised on various 'strategic' points in Europe. The transport checks were made at or close to the borders so that neighbouring countries could cooperate directly with each other. With these actual transports, information was gained "upstream" (to the direction of the country of dispatch) and "downstream" (to the direction of the country of destination). Because all various waste streams could be detected (notified and un-notified wastes), the three-day prior notification could not primarily be used as a basic starting point for the inspection. Therefore agreements were made for simultaneous and coordinated inspections.

Passing information to countries of destination

After the transport checks, the individual details of the shipments were passed on to the authorities of the countries of destination. The authority of the country of destination checked in the subsequent three weeks whether the transport has arrived at the stated location and whether it is or will be processed in accordance with the regulation(s) or not. If necessary also an inspection was carried out to verify the processing of the waste at a later stage, for instance if the waste is stocked, bulked etc.

Actions in case of irregularities

In case of irregularities or illegal activities, the authority of arrival reported the results to the authority of the country of dispatch and asked to perform further investigation. If illegal shipments were detected during (transport) inspections, they were returned to the country of origin in accordance with the provisions of EU Waste Shipment Regulation 259/93. To this end, the procedure "IMPEL/TFS guidance for the return of illegal waste shipments" should/was used.

Aims of the manual and the uniform working procedure

The manual described in detail the method of transport inspections and – afterwards – the verification of its destinations. Working in accordance with the manual aligned the enforcement activities in participating countries. The manual was meant as a practical tool for inspectors while preparing, executing and following-up transport inspections, focusing on verification of destination of green listed and notified waste.

The aim of the manual was therefore to:

- Stimulate uniform working methods in the execution of transport inspections and the verification of waste destinations;
- Build up confidence in working with transport inspections as an (complementary) instrument for enforcement of EU Regulation 259/93;
- Propose a structure to exchange information by using standard report forms;
- Harmonise the input of communication as an instrument to influence deterrence and compliance.

Aims of the transport inspection and the verification process

The manual contained the action plan for the transport inspection.

The aim of this inspection method was to:

- Get an insight in international “networking transports”;
- Stimulate and intensify cooperation between national and international authorities (e.g. environmental inspectorates, customs, police, traffic inspectorate);
- Prevent and improve awareness: show transporters that the responsible authorities do enforce the TFS regulation and that information is shared internationally;
- Verify waste shipments, if these are transported in accordance with the regulation(s);
- Track down violations/ illegal transports.

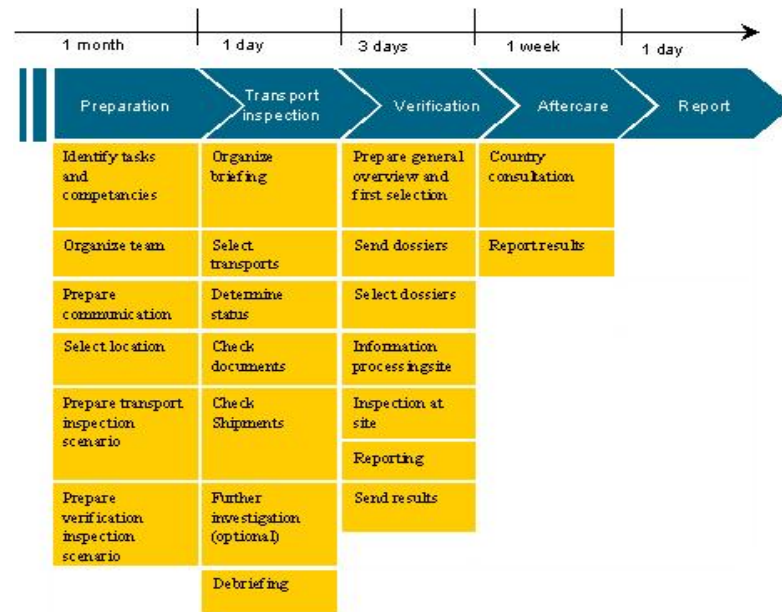
Structure and overall time schedule

The project was divided into a preparation phase, an implementation phase and an aftercare phase. Inspections were foreseen at three moments, during the implementation phase of the project. The operational phase of the project started at March 2005, and was ended in June 2006. During the project period, 3 transport inspections were performed.

A ‘typical’ inspection was scheduled as follows:

Week	Monday	Tuesday	Wednesday	Thursday	Friday
1-2	Preparation	Transport check	Transport check	Collect info	Pass on info
3-4	Destination check & Dispatch check	Destination check & Dispatch check	Destination check & Dispatch check	Pass on info	Conclusion

The way of working is presented in more detail below.



ANNEX 4

Enforcement structures participating countries

