

TERMS OF REFERENCE FOR IMPEL PROJECT

* Please read the supporting notes before filling in each section of this form.

1. Project details

Name of project IMPEL-TFS Prosecutor Project 2 2013/24

The ToR may need adjustments on account of the outcome of the workshop which will be held from 12-15 November 2012

2. Scope

2.1. Background	<ul style="list-style-type: none"> • The compliance deficit of the Basel Convention and the European Waste Shipment Regulation (1013/2006) or 'WSR' is very serious and past experience indicates that we are dealing with organised crime in many cases. Figures indicate that about 20% of all waste shipments are in violation. • Prosecution of environmental crime is a national competence. The differences in approach and the number of convictions in European countries are significant. There appears to be a lack of communication between authorities both on a national and on an international level. In practice, criminals who are involved in shipping waste may illegally take advantage of the differences in enforcement lack of communication between authorities. • To improve the collaboration and alignment within prosecution of the WSR, frequent contact between all relevant authorities is necessary. Prosecution is an important part of the enforcement and compliance cycle. Therefore, European prosecutors need structured, personal and frequent contact where they can strengthen their network, exchange experiences of case law and good practices and align prosecution actions of European environmental law and regulations in Europe. • In 2012 the IMPEL TFS Prosecutor Project was carried out which aimed to meet the needs as described above. One of the products of this is a workshop to be held on 12-15 November 2012 near Segovia, Spain. The workshop hosts 22 prosecutors and 3 representatives from IMPEL, the BASEL secretariat and Eurojust. This workshop will be the start of an network of prosecutors dealing with WSR. • In the workshop the need for a database/website in order to exchange information like good practices, case law and prosecution policy will be discussed. The assumption is that there is such a need and that the participants support the realisation of this database/website. While making the proposal for the database it became clear that the database will have to meet certain requirements like search options and access levels/rights which might imply hiring an web/database designer. • Another assumption is that the members of the network will feel the need for a yearly held prosecutors workshop in order to improve capacity building and cooperation. • During the organization of the workshop it became clear that inspectors occupied with the enforcement of the WSR were interested in the network initiative and the workshop. Furthermore in 2012 the European Network of Prosecutors for the Environment (ENPE) was established. The way of cooperation with both is to be considered. On November 30th the cooperation between ENPE and this project will be discussed. • A coordinated audit on the level of WSR enforcement was performed by eight National Audit Offices. The results will be published in the first half of 2013.
2.2. Directive /	<ul style="list-style-type: none"> ➢ European Waste Shipment Regulation (1013/2006);

Regulation / Decision	<ul style="list-style-type: none"> ➤ EC Directive 2008/99/ on the protection of the environment through criminal law ➤ Commission Regulation (EC) 1418/2007 concerning the export of certain wastes for recovery to NON-OECD countries; ➤ European Council Conclusions of 20 May 2010 (5956/5/10) on the 'Prevention and combating of illegal trafficking of waste, particularly in international trafficking'.
2.3. Article and description	<p><u>EC Regulation No 1013/2006 on the supervision and control of shipments of waste within, into and out of the European Community</u></p> <ul style="list-style-type: none"> ➤ Article 50(1): Member States shall lay down the rules on penalties applicable for infringement of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive; ➤ Article 50(2): Member States shall, by way of measures for the enforcement of this Regulation, provide, inter alia, for inspections of establishments and undertakings in accordance with Article 13 of Directive 2006/12/EC, and for spot checks on shipments of waste or on the related recovery or disposal; ➤ Article 50(5): Member States shall cooperate, bilaterally or multilaterally, with one another in order to facilitate the prevention and detection of illegal shipments. <p><u>EC Directive 2008/99/ on the protection of the environment through criminal law</u></p> <ul style="list-style-type: none"> ➤ Article 3 Offences: Member States shall ensure that the following conduct constitutes a criminal offence, when unlawful and committed intentionally or with at least serious negligence: (...) (c) the shipment of waste, where this activity falls within the scope of Article 2(35) of Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste and is undertaken in a non-negligible quantity, whether executed in a single shipment or in several shipments which appear to be linked; (...) <p>Article 5 Penalties: Member States shall take the necessary measures to ensure that the offences referred to in Articles 3 and 4 are punishable by effective, proportionate and dissuasive criminal penalties.</p>
2.4 Link to the 6th EAP	<p>Articles 3(2) and 9(d) of the European Community 6th European Action Programme.</p>
2.5. Link to MAWP	<p>The IMPEL-TFS cluster MAWP covers 2011-2015 and this project links to the following key partners, strategic goals and themes of the TFS cluster: <u>2. Key Partners:</u> Public Prosecutors (with links to the other key partners like ENPE and environmental inspectorates); <u>3. Strategic Goals 1, 2 and 3:</u> Increased Awareness, Capacity Building and Improved Cooperation; <u>4. MAWP Themes 3 and 4:</u> Better Collaboration Enforcement Partners and Interpretation Issues.</p>
2.6. Objective (s)	<ul style="list-style-type: none"> - Strengthen/continue the new network of prosecutors in Europe involved in the prosecution of environmental crime with a special focus on the WSR 1013/2006 through: - The development of an interactive database/website which will facilitate the exchange of relevant case law, prosecution information such as the level of fines, working methods, prosecution approach, interpretation and practical experiences. The exchange of information through the database will be of a non-operational nature. - Realisation of an effective database including hosting, moderating and promotion of filling and using this database. - The organisation of a workshop for prosecutors in 2013 which will be as cost neutral as possible by finding a free venue if possible and/or ask a contribution of participants for either travelling or accommodation expenses or both.

	- Strengthening ties with IMPEL, the BASEL secretariat, the European Commission, Eurojust, ENPE and other organisations dealing with WSR enforcement.
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3. Structure of the project

3.1. Activities	<ul style="list-style-type: none"> ➤ Set up a project team for the database and a project team for the organisation of the prosecutors workshop and the preparation of a specific session for the IMPEL conference in Malta ➤ Develop project plans for the projects ➤ Project 1: Two day workshop covering at least 2 topics: <ol style="list-style-type: none"> 1. Information exchange on WSR prosecution in practice; 2. Share relevant developments; 3. Other topics to be defined in a later stage ➤ Project 2: building of a database consisting of: <ol style="list-style-type: none"> 1. Analysis of infrastructure needed and budget 2. Building and testing of the infrastructure of the database 3. Filling of the database 4. Maintenance <p>The costs of this project cannot be estimated now as this will to largely depend on whether the website/database can be built in an already existing database or not</p> ➤ Project 3: on invitation by IMPEL the designing and leading of a specific session that highlights how, working with inspectors and others, can improve the implementation and enforcement of EU law during and IMPEL conference in the autumn 2013 in Malta (on condition that the conference will take place) ➤ Report results (continuation network, workshop, database etc)
3.2. Product(s)	<ol style="list-style-type: none"> 1. One 2-days-workshop for 30 participants 2. A database of environmental case law 3. Session by prosecutors for the IMPEL conference in Malta 4. Project report
3.3. Planning (Milestones)	<ol style="list-style-type: none"> 1. Project plan February 2013 2. Workshop second half 2013 3. Realisation database June 2013 4. Have a working database second half 2013 5. Session IMPEL conference Malta 6. Final report December 2013 7. Presentation and adoption report IMPEL GA 2014

4. Organisation

4.1. Lead	Mr. Rob de Rijck (Public Prosecuting Office, The Netherlands)
4.2. Project team	TBC
4.3. Participants	<p>Prosecutors of environmental crime specialised in WSR in Europe (or their representatives), project team, relevant organisations. Countries that will probably participate are:</p> <ul style="list-style-type: none"> • The Netherlands • Sweden • Spain • England • Belgium <p>And possibly other participants</p>

5. Quality review

The project manager will regularly report the process and outcomes to the IMPEL-TFS Steering Committee and the IMPEL General Assembly. IMPEL procedures are applicable and have to be followed by the project team.

6. Communications

6.1. Dissemination of results	News Item on IMPEL website and, inform national partners like inspectorates and main target groups as stated below about results
6.2. Main target groups	Prosecutors of environmental crime, IMPEL-TFS network, European Commission, Secretariat of the Basel Convention, Eurojust, International Association for Prosecutors, INECE etc.
6.3. Planned follow up	TBC

7. Project costs/Resources required

	Estimated costs	Budget requested from IMPEL (€)	Total payments committed by lead authority (€)	Payments by lead authority directly to the project (€)	Payments by lead authority via the IMPEL budget (€)
• Project meetings in total					
<i>Meeting 1:</i> project team meeting workshop					
No of Participants:	5				
Travel:		1550			
Accommodation:		450			
Catering:					
Meeting venue:					
Sub-Total:		2000			
<i>Meeting 2:</i> <i>Workshop</i>					
No of participants:	30				
Travel:		7000			
Accommodation:		2000 ¹			
Catering:		2250			
Meeting venue:					
Sub-Total:		11250			
• Consultant:		2500²			
• Translation:					
• Dissemination:					
• Attendance for Project Manager at Cluster meetings:					
• Other (specify):					
TOTAL		15750			
Human Resources					

¹ 3 nights (includes the accommodation of guests and external speakers, participants will finance their own accommodation)

² Consultant/webdesign costs (rough estimate depending on hosting organisation)

Supporting Notes for completing an IMPEL project Terms of Reference

3. Structure of the project

Please state what activities will be undertaken to achieve the objectives stated in 2.6. and what the products will be resulting from these activities.

For milestones, a GANT chart would be welcome but the main thing is to describe when the following actions will be carried out: 1) Approval is expected to be given, 2) the start of the project, 3) when communications actions and the dissemination of results will be carried out, 4) project milestones, 5) the products will be finished and can be circulated, 6) which General Assembly the project report will be presented to.

5. Quality review

Please state who will check the quality of the project work and when e.g. IMPEL Cluster, a consultant...

6. Communications

For 'Dissemination of results', the questions to be considered are:

- Will the report be posted on the IMPEL Website?
- Are you going to write a News item for the IMPEL website?
- Are you going to send the results to the Commission desk officer concerned?
- Are you going to write a press article for media in your country?
- Are you going to write a press article for media in Brussels/European wide media or environmental trade bodies?
- Are you going to send the results to each target group identified in 3.6? If not, why not?

For 'Main target groups', some examples include:

- Are the European Commission involved e.g. as a workshop or conference participant or as a core team observer? If not, why not?
- Expert Working Groups e.g. European IPPC Bureau in Seville
- Networks e.g. Interpol, REACH forum, Basel Convention, European Chemicals Agency (ECHA), INECE...
- Non Governmental Organisations (business and environmental) e.g. Business Europe, European Environmental Bureau, WWF...
- European Parliament Environment Committee e.g. specific MEPs interested in an issue, Chair and Vice Chairs of ENVI, rapporteurs on specific legislative dossiers
- Economic and Social Committee
- Committee of the Regions
- Domestic national, regional and local government

Please state which are relevant AND add to the list where appropriate.

7. Resources required:

Note: it would be helpful if for this item an excel sheet template (using these exact headings) would be provided!

- This matrix is for one year only. If your project is taking place over more than one year, please fill in another for each year your project is taking place
- Accommodation per person, per night should be priced at a maximum of € 125
- Travel should be priced at a maximum of € 500 per person for a return journey
- Under 'Human Resources', please consider how many days commitment this project will require from: a) the project manager, b) the project team members and, c) participants at workshops, seminars etc.

To understand IMPEL's financing mechanism, it is important to consider the following:

- IMPEL is financed partly through its Members and partly through the EU-Commission's share of the LIFE+ fund. The applicable budgetary rules for this kind of Commission's financing differ to some extent from the budgetary rules applicable for LIFE+ project funding in the EU Member States. For example, Member State's human resources put into a project cannot be accounted for in monetary terms.
- IMPEL Members have to pay at least 30% of the overall IMPEL-budget (minimum!), the Commission may then pay 70% of this overall budget (maximum!)
Therefore, the size of the Commission's payment is limited through the size of the IMPEL Member's payment. For every 3 Euros a Member pays into the IMPEL budget, the Commission may pay 7 Euros to IMPEL. As a rule, if Members pay more into the IMPEL budget, the Commission will pay more to IMPEL as well.
- Only direct payments of IMPEL Members into the IMPEL-budget are recognised by the Commission's financial rules as "payment of a Member towards IMPEL". Neither in-kind - contributions like rooms, meals, human resources NOR PAYMENTS of a Member which are paid DIRECTLY INTO A PROJECT are counted as part of the IMPEL Member's share of 30%.