

TERMS OF REFERENCE FOR IMPEL PROJECT

No	Name of project
2012/12	IMPEL-TFS Prosecutor Project

1. Scope

1.1. 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. • IMPEL-TFS project results illustrate that within the enforcement and prosecution of the WSR it is very necessary to work together as competent authorities. In the whole chain of one waste shipment, multiple authorities in countries of origin, transit and destination are responsible for the control of this shipment. • 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 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. • Since 2008, several initiatives have been undertaken by different organisations to improve collaboration between prosecutors of environmental crime in Europe. In June 2010 in The Hague, the International Seminar for European Prosecutors of Environmental Crime resulted in an official statement where the need of a European Network for prosecutors in their fight against international waste shipment related crime was expressed. • This project focuses on strengthening the cooperation between prosecutors for a more effective enforcement of the WSR. This is in accordance with the conclusions and recommendations in the European Council Conclusions of 20 May 2010 (5956/5/10) on the 'Prevention and combating of illegal trafficking of waste, particularly in international trafficking'.
1.2. Link to MAWP and IMPEL's role and scope	<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:</p> <p><u>2. Key Partners</u>: Public Prosecutors (with links to the other key partners);</p> <p><u>3. Strategic Goals 1, 2 and 3</u>: Increased Awareness, Capacity Building and Improved Cooperation;</p> <p><u>4. MAWP Themes 3 and 4</u>: Better Collaboration Enforcement Partners and Interpretation Issues.</p>
1.3. Objective (s)	<ul style="list-style-type: none"> - Stimulate and strengthen the start of a platform or (informal) network of prosecutors in Europe involved in the prosecution of environmental crime with a special focus on the WSR 1013/2006. - Exchange relevant case law, prosecution information like the level of fines, working methods, prosecution approach, interpretation and practical experiences. - Inform participants on new developments within the compliance of

	<p>the Basel Convention and WSR enforcement (e.g. Basel Convention Secretariat development of the 'Instruction Manual for Prosecutors and Judges on the Prosecution of Illegal Traffic of hazardous Wastes or Other Wastes').</p> <ul style="list-style-type: none"> - Explore the possibility to set up an interactive database of environmental case law including (translated) national case law and jurisprudence (e.g. EUR-Lex).
1.4. Definition	<p>The objectives will be achieved by the following approach:</p> <ul style="list-style-type: none"> ➤ Set up project team, approval ToR ➤ Develop project plan ➤ Two preparatory project team meetings ➤ Two day workshop covering 4 topics: <ul style="list-style-type: none"> 1. Establishment of a European Prosecutors Network; 2. Information exchange on WSR prosecution in practice; 3. Explore possibility of environmental case law database; 4. Share relevant developments. ➤ Prepare a proposal for a pilot case law database ➤ Report results (network, workshop, database etc)
1.5. Product(s)	<ol style="list-style-type: none"> 1. Two project team meetings 2. One workshop for 50 participants of two days 3. Proposal for a pilot database of environmental case law 4. Project report

2. Structure of the project

2.1. Participants	<p>Prosecutors of environmental crime specialised in WSR in Europe (or their representatives), project team, relevant organisations. Countries that have confirmed that participation are:</p> <ul style="list-style-type: none"> • The Netherlands • Belgium • United Kingdom • Sweden • Spain • Germany
2.2. Project team	<ul style="list-style-type: none"> - Anne Brosnan (Environment Agency England Wales) - Kathleen Desaegher (Parket Generaal Brussel) en Marc van Cauteren (Parket Antwerpen) - Kai Lindgens (District Court Frankfurt am Main) - Antonio Vercher (Ministerio de Justicia España) - Kristina Persson (Swedish National Environmental Crimes Unit) - Thera Boelhouwers (VROM-Inspectorate, The Netherlands)
2.3. Manager Executor	Mr. Rob de Rijck (Public Prosecuting Office, The Netherlands)
2.4. Reporting arrangements	Report to the IMPEL-TFS Steering Committee and IMPEL General Assembly in Republic of Ireland, May 2013
2.5 Dissemination of results/main target groups	Prosecutors of environmental crime, Basel Convention and the WSR, IMPEL-TFS network, European Commission, Secretariat of the Basel Convention, Eurojust, International Association for Prosecutors, INECE etc.

3. Resources required

3.1 Project costs and budget plan		2012	
	<u>1. Overhead (organisation) cost (€):</u>		0
	<u>2 Project meeting costs (€:)</u>		
	<u>Meeting 1¹: Project Team</u>		3.100
	No of Participants:	6	
	Travel ² :	2.160	
	Accommodation ³ :, 1 night	540	
	Catering: (lunch, dinner, coffee)	300	
	Meeting room:	100	
	<u>Meeting 2: Project Team</u>		3.100
	No of Participants:	6	
	Travel:	2.160	
	Accommodation:, 1 night	540	
	Catering: (lunch, dinner, coffee)	300	
	Meeting room:	100	
	<u>Meeting 3: 2 days workshop</u>		20.600
	No of Participants:	20	
	Travel:	7.200	
	Accommodation:, 3 nights	5.400	
	Catering: (2 lunches, 1 dinner coffee breaks)	5.000	
	Meeting:	3000	
	<u>3. Other costs (€:)</u>		
	Consultant costs (estimate)		5.000
	Consultant reporting (estimate)		1.000
	co-financing contribution, committed by partners		TBA
	Total costs 2012		32.800
3.2. Fin. from IMPEL budget			32,800
3.3. Co-financing by MS (and any other)			TBA
3.4. Human from MS			TBA

4. Quality review mechanisms

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.

5. Legal base

5.1. Directive/Regulation/Decision	<ul style="list-style-type: none"> ➢ European Waste Shipment Regulation (1013/2006); ➢ 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'.
5.2. Article and description	<p>EC Regulation No 1013/2006 on the supervision and control of shipments of waste within, into and out of the European Community</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

¹ specify, like Review Group Meetings, Workshop etc.

² normative: €360/person

³ normative: €90/person/night

	<p>Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive;</p> <ul style="list-style-type: none"> ➤ 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: <ul style="list-style-type: none"> (...) (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; (...) ➤ 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.
5.3 Link to the 6th EAP	Articles 3(2) and 9(d) of the European Community 6 th European Action Programme.

6. Project planning

6.1. Approval	IMPEL General Assembly, November 2011 Warsaw
(6.2. Fin. Contributions)	TBA
6.3. Start	January 2012
6.4 Milestones	<ol style="list-style-type: none"> 1. Project plan February 2012 2. Project team meeting 1 March 2012 3. Project team meeting 2 June 2012 4. Workshop September 2012 5. Proposal case law pilot database October 2012 6. Final report December 2012 7. Presentation and adoption report IMPEL GA 2013
6.5 Product	<ul style="list-style-type: none"> • Two project team meetings • Workshop • Proposal pilot case law database • Project report
6.6 Adoption	IMPEL General Assembly 2013