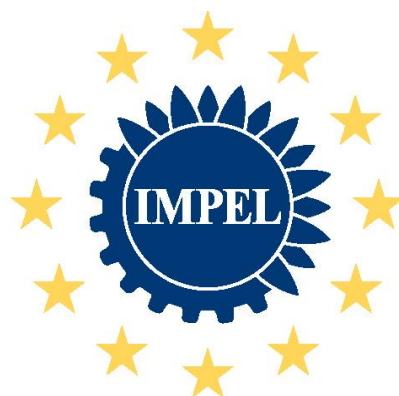


IMPEL-TFS Enforcement Actions III,
Interim Project Report September-October 2011

Final report: 5 November 2011



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 (IMPEL) is an international non-profit association of the environmental authorities of the EU Member States, acceding and candidate countries of the European Union and EEA countries. The association is registered in Belgium and its legal seat is in Bruxelles, Belgium.

IMPEL was set up in 1992 as an informal Network of European regulators and authorities concerned with the implementation and enforcement of environmental law. 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. The core of the IMPEL activities concerns awareness raising, capacity building and exchange of information and experiences on implementation, enforcement and international enforcement collaboration as well as promoting and supporting the practicability and enforceability of European environmental legislation.

During the previous years IMPEL has developed into a considerable, widely known organisation, being mentioned in a number of EU legislative and policy documents, e.g. the 6th Environment Action Programme and the Recommendation on Minimum Criteria for Environmental Inspections.

The expertise and experience of the participants within IMPEL make the network uniquely qualified to work on both technical and regulatory aspects of EU environmental legislation.

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

www.impel.eu

Title report: IMPEL-TFS Enforcement Actions III, Interim Project Report September-October 2011	Number report: 2011/25
Project manager: Katie Willis, Scottish Environment Protection Agency	Report adopted at IMPEL General Assembly: IMPEL General Assembly – Warsaw, 24-25 November 2011
Authors: Katie Willis, Scottish Environment Protection Agency Adam Liddle, Scottish Environment Protection Agency	Number of pages: 24 Report:18 Annexes: 6

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Executive summary:

The European Regulation (EC) No 1013/2006 on shipments of waste concerns the prevention of the illegal shipment of waste. Obligations are placed on Member States to carry out waste shipment inspections, to cooperate with each other and to establish appropriate penalties and fines to deter illegal shipments.

The interim Enforcement Actions III Project was the seventh inspection project under the umbrella of IMPEL-TFS. It follows on from the Seaport projects I & II, the Verification projects I & II (running from 2003 up to June 2006), the Waste Enforcement Actions I project (from September 2006 to June 2008), and the European Enforcement Actions II Project (from 2008 to 2010). It aimed to further promote and improve inspections and enforcement of waste shipments through and out of the European Union.

The project objectives included carrying out inspections on waste shipments, knowledge exchange and capacity building in order to harmonise the level of enforcement and expertise within the participating countries. For this purpose joint activities were carried out over a single inspection period throughout September and October 2011.

During the inspection period 1547 checks to place; documents for a total of 920 transports were checked and 1358 (roughly 88% of the total inspections) underwent physical inspections. Of the consignments that were physically checked during transport inspections, 23.71% related to transfrontier shipments of waste. Transport inspections were mainly conducted on roads or at ports, and were a mix of at random and targeted inspections. Of the waste inspections, 54 (16.77%) were in violation of the Waste Shipment Regulation (WSR).

Over the same period September to October 2011 a further 44 company inspections took place, with 10 WSR violations detected. Only five countries undertook company inspections, therefore it is difficult to draw conclusions from the results.

It should be noted that the reported figures do not reflect the number of inspections and violations in Europe. Nevertheless the results clearly show the active participation of sixteen Member States in the interim Enforcement Actions III project. The continued level of inspections, plus the participation of customs and police officers indicates that enforcement of the EU waste shipment regulation remains a priority in many Member States. The violations captured in this single short inspection period, however, also clearly demonstrate that there is still effort needed to move towards a level playing field of enforcement.

The most frequent violations were shipments subject to the export ban, closely followed by a missing notification. This is a clear shift from Enforcement Actions II where the most frequent violations were administrative (52%), and shows competent authorities placing greater emphasis on illegal shipments, rather than administrative offences.

There has also been a shift in the type of waste involved in violations. During Enforcement Actions II, paper and cardboard were the most frequent type of waste. This has now shifted to waste electrical and electronic equipment. The next highest was end-of-life vehicles and car parts. This shows a movement by competent authorities to detect and prevent the illegal export of hazardous waste. The majority of these exports were to non-OECD countries (countries not members of the Organisation for Economic Co-operation and Development).

One of the recommendations of the previous project was to direct inspections towards shipments to non-OECD countries, rather than intra-EU movements. This has been realised during this project.

Disclaimer:

This report is the result of a project within the IMPEL network. The content does not necessarily represent the view of the national administrations or the European Commission.

Table of content

1. INTRODUCTION	9
2. PROJECT APPROACH, WORKFLOW AND PROGRESS	11
3. FACTS AND FIGURES	12
3.1 Developments since 2003	12
3.2 Interpretation of results	12
3.3 Number of inspections	13
3.4 Participating countries	16
3.5 Exchange of inspectors	17
4. CONCLUSIONS AND RECOMMENDATIONS	18
5. ANNEX – Terms of Reference	19

1. INTRODUCTION

Over 1.8 billion tonnes of waste are produced in the European Union of which almost 50 million tonnes are classified as hazardous waste. This amount continues to increase year on year.

Improperly or inadequate treatment of waste can cause severe damage to the environment and human health. However, waste is a global resource in a world of rapidly declining reserves in raw materials. This pressure has led to an enormous increase in waste transports around the globe.

In order to minimise the risks associated with the management of waste, the European Community has set up strict rules for waste management and targets for recovery. European Regulation (EC) No 1013/2006 on shipments of waste (WSR) contains a number of measures to prevent the illegal shipment of waste, including obligations on Member States to carry out waste shipment inspections, to cooperate with other MS and to establish appropriate penalties and fines. In addition to the work of the environmental authorities, active participation is needed of the other authorities involved in the inspection, control and prosecution of illegal waste shipments, e.g. customs, police services and legal prosecutors.

Currently, the work of IMPEL is grouped into three active clusters; Cluster 2 concerns the Transfrontier Shipment of Waste (TFS). Since 2003 the IMPEL cluster TFS has carried out several enforcement projects with the aim of supporting effective cross-border control of waste shipments, targeting those waste shipments suspected of being illegal.

The Seaport I & II projects focussed on waste shipments via seaports; the Verification I & II projects concentrated on shipments within Europe. Both the Seaports and the Verification projects ran from 2003 until 2006. The objectives of these projects were continued in the Enforcement Actions I and Enforcement Actions II projects. These projects showed the need for cross-border collaboration at an operational level in order to effectively implement and enforce the WSR. During these projects valuable experience was gained on inspection methods, the planning of inspections and the exchange of staff and technical information.

Due to the results of previous projects, the Terms of Reference (ToR) for a follow up project was adopted by the IMPEL plenary earlier this year. This "IMPEL-TFS Enforcement Actions III Interim Project" covers the period of June - October 2011, with the inspection period being September to October. The main objectives of this project are similar to those of the previous Enforcement Actions project:

- to work towards an adequate level of inspections in all Member States,
- to introduce complete measures in order to prevent and detect illegal waste shipments and to deter illegal waste exporters,
- to verify waste destination and the treatment at destination within or outside Europe,

- to set up training and exchange programmes for inspectors, and
- to maintain and improve the network and collaboration of front line inspectors and other competent authorities.

This interim Enforcement Actions III project has now drawn to a successful end after a single short inspection period. This report contains the results, conclusions and recommendations of the project.

The results of this project will be distributed to various stakeholders such as the IMPEL network, the European Commission, Member States, IMPEL-TFS National Contact Points, the European Parliament, the Waste Shipment Correspondents Group, the Basel Secretariat and NGOs, and also be published on the IMPEL website.

2. PROJECT APPROACH, WORKFLOW AND PROGRESS

Joint inspections and exchange programmes under the project have been undertaken as Regulation EC (No) 1013/2006 requires Member States (MS) to co-operate bilaterally or multilaterally in order to facilitate the prevention and detection of illegal shipments. These inspections have included road inspections and inspections at ports, as well as waste producers and waste management companies.

Informal internal communication between the participants took place via a communication platform on the IMPEL-TFS Basecamp. Further development and adjustment of enforcement tools, and the organisation of exchange programmes further supported the inspection work.

The coordinator of the project has been the Scottish Environment Protection Agency (SEPA) under the umbrella of IMPEL-TFS.

3. FACTS AND FIGURES

3.1 Developments since 2003

In the first project of this series, the IMPEL-TFS-Seaport I project, six countries (Belgium, Germany, United Kingdom (England & Wales), Poland, Latvia and the Netherlands) started coordinated inspections at ports. The number of participating countries and the number of inspections increased during the follow up Seaport II and Verification I & II projects. In the Enforcement Actions I project 25 countries participated, with 17 performing inspections.

Enforcement Actions II saw the number of participating countries increase to 32, of which 25 were EU Member States and a further seven other European countries¹. From the participating 32 countries 29 countries conducted and reported inspection activities. The number of countries reporting data has tailed off during this project to sixteen, as although the majority of Member States indicated their intention to participate this has not necessarily materialised as there has only been one inspection period, instead of the usual three as under previous Enforcement Actions projects. This was an interim project before the commencement of Enforcement Actions III in 2012; this project will encompass three inspection periods a year.

3.2 Interpretation of results

General considerations

It should be emphasised that IMPEL-TFS Enforcement Actions III Interim Project did not aim, and was not designed to provide a complete picture of TFS inspections performed by participating countries in that time period. Therefore, non-participation in this project does not mean that inspections did not take place.

The overall objective is to compare approaches to enforcement and results, and bilateral or multilateral cooperation. This is done by restricting the inspection period to three days within each participating country in September and October 2011.

The countries participating in the project are shown in the results table. Some countries concentrated on transport inspections, whilst others, e.g. Slovenia, Sweden and the UK (NI and Scotland) undertook both. The Czech Republic was unable to carry out transport inspections during this period but did contribute to company inspections.

¹ Croatia, Norway, Serbia, Switzerland, FYR Macedonia, Turkey, Iceland

3.3 Number of inspections

Transport Inspections

The analysis and statistics of inspections closely followed the system applied during the preceding IMPEL-TFS Enforcement Actions projects for comparability of results. Table 3-1 below shows the total number of inspections carried out and violations found by each participating competent authority.

Table 0-1: Reported numbers of inspected transports and violation rate from September to October 2011

Participant	Total	Admin.	Physical	Waste Inspections	%	violations	%
Austria	105	105	105	9	8.57	6	66.67
Czech Republic	1	1	1	1	100	1	100
Denmark	84	84	84	84	100	18	18.1
Belgium/ Germany ²	23	23	23	23	100	9	39.13
Ireland	96	96	96	96	100	0	0
Luxembourg	3	0	3	3	100	1	33
The Netherlands	95	95	82	32	33.68	2	6.25
Poland	656	57	599	17	3	2	12
Romania	24	24	24	0	0	0	0
Serbia	9	9	9	0	0	0	0
Slovenia	205	205	101	25	12.2	1	4
Sweden	31	15	16	2	6.45	1	50
UK / England and Wales	9	0	9	9	100	9	100
UK / Northern Ireland	139	139	139	7	5	1	20
UK / Scotland	67	67	67	14	20.9	3	21.43
Overall total	1547	920	1358	322	23.71	54	16.77

Table 3-2 below shows the total number of inspections carried and violations found by each competent authority undertaking company inspections. These were inspections carried out either at waste producers' sites or waste storage or treatment facilities.

² Joint inspections undertaken as part of an exchange.

Table 3-2: Company inspections and violation rates September and October 2011

Participant	Total	Waste Inspections	%	violations	%
Czech Republic	1	1	100	1	100
Slovenia	2	2	100	1	50
Sweden ³	19	0	0	0	0
UK / Northern Ireland	2	2	100	0	0
UK / Scotland	20	20	100	8	40
Overall total	44	25	57	10	17.5

The ratio of transfrontier waste transports identified during inspections (usually related to physical inspections) varies largely from 0% to 100%, and has even been zero in some cases. The average was 23.7%. This range of results is largely influenced by the type of inspection activity, and connected with this the way of selection which transports to control.

The same holds for the percentage of violations, ranging also from 0% to 100% over the period of the project. The average was 16.77%; this is the average number of violations found as a proportion of the physical inspections. Road inspections for transit countries can be difficult to focus to find illegal waste shipments. Further work is being done as part of this project in order to increase the detection rate for road inspections. Differences in approach on reporting might also account for the difference in some cases, but this is thought to be a minor factor.

England & Wales used an intelligence-led approach for their inspections. This meant that it was able to achieve a 100% detection rate of illegal shipments in their port inspections. Scotland used a combination of approaches. Intelligence was used for the company inspections, ensuring that all company inspections concerned waste. The 40% detection rate reflects the fact that the companies inspected were exporters whom the competent authority had been trying to bring in to compliance previously. The fact that a 100% detection rate was not achieved, shows success in the compliance work previously undertaken. The port inspections undertaken were to assess the amount of waste moving between Ireland and Scotland and consequently the number of violations, resulting in a lower detection rate than if an intelligence-led approach had been used.

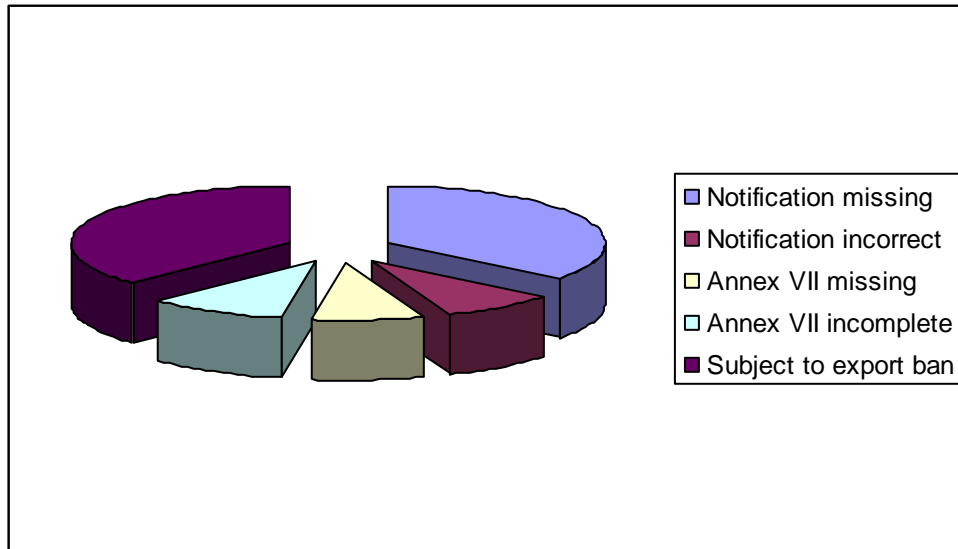
The total number of violations recorded during the project was 54. This is the combined figure for transport inspections and company checks. With regard to the underlying offence, two types of violation have been distinguished⁴:

³ Includes administrative checks

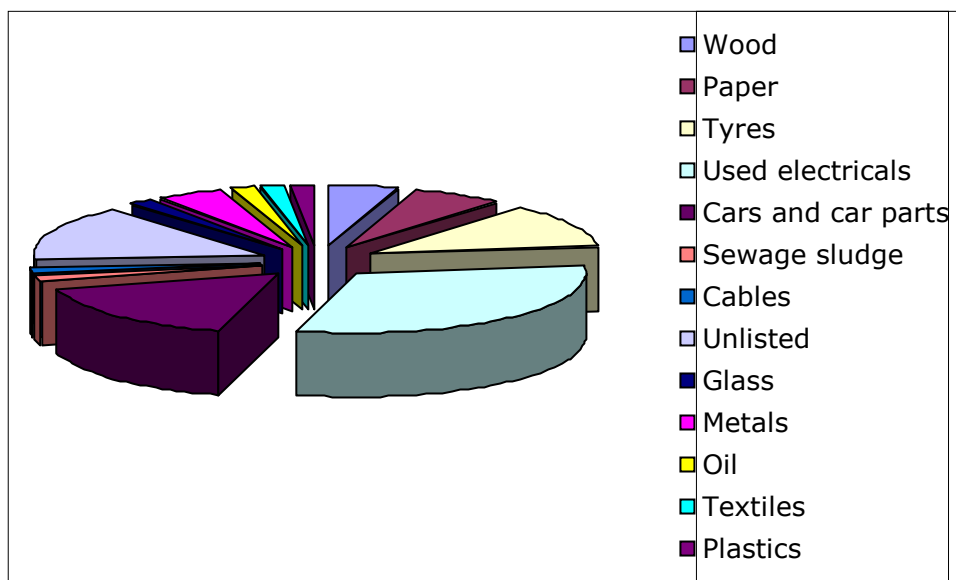
⁴ Administrative violations are Article 18 violations, mostly a missing, incomplete or incorrect Annex VII form. Illegal shipments are mostly violations related to export ban or a missing notification or deficits in notification documents, such as lacking permits. Other violations in most cases include those of national and regional legislation.

- Administrative violations
- Illegal shipments

The chart below shows that the most frequent violations were shipments subject to the export ban, closely followed by a missing notification. This is a clear shift from Enforcement Actions II where the most frequent violations were administrative (52%).



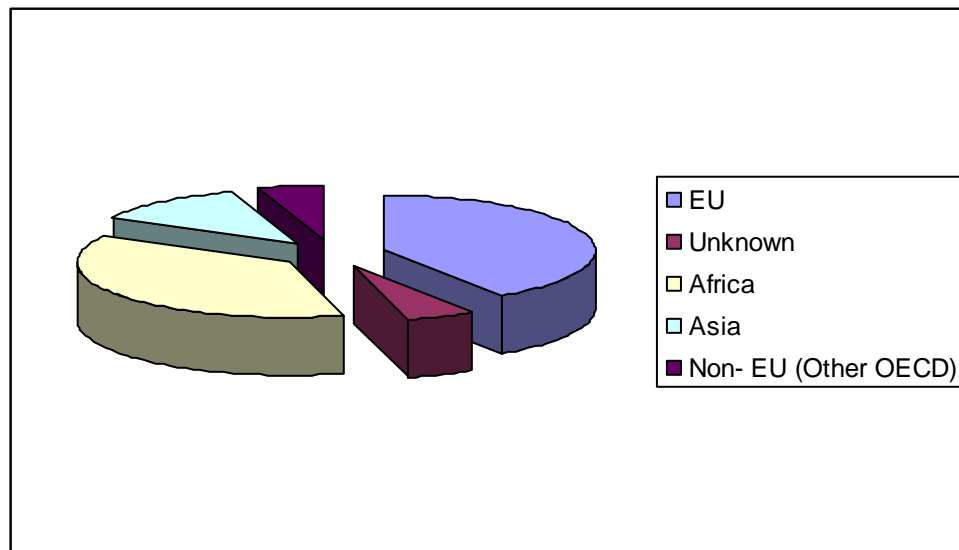
An analysis of the frequency of certain waste types involved in violations shows the following:



The offences relating to paper and cardboard and tyres are predominantly Annex VII violations. Exports of WEEE and ELVs are mostly illegal transports of prohibited waste movements; therefore these movements are seen as more significant. There has been a shift in the type of waste involved in violations detected. During Enforcement Actions II, paper and cardboard were the most frequent type of waste. This has now shifted to

waste electrical and electronic equipment. The next highest was end-of-life vehicles and car parts. This shows a movement by competent authorities to detect and prevent the illegal export of hazardous waste.

The following chart shows the destination countries for illegal shipments detected during the project:



There were 29 violations where the shipments were to non-OECD countries. Twenty-four were to other EU countries. This is also a change from the previous project where the majority of illegal exports concerned intra-EU movements (64%).

3.4 Participating countries

The countries participating are shown in the tables above. As stated previously, the number of participating countries was sixteen. This is most likely because the project only encompassed one reporting period, and competent authorities' resources could not be mobilised for that particular inspections period.

Partnership working was another objective of this project. In general, the environmental inspectorate of one country was the organiser of the inspection. The actions were usually assisted on the national, regional and local level by the authorities mentioned in the following. The participation of different authorities included:

- Environmental Protection/Inspection Agencies or Ministries for the Environment, Planning etc.
- Police authorities (transport, criminal, maritime, environmental, etc.)
- Customs / Ministry of Finance
- Port authorities
- Other national regulatory authorities level (e.g. transport inspectorates)

Joint international activities were carried out at the land borders between a series of European countries, but also within exchange activities.

3.5 Exchange of inspectors

One further element of the project was the exchange programme in order to share experiences and best practices. In general less experienced Member States are trained by more experienced countries. The exchanges can also focus on countries that have similar enforcement issues e.g. priority waste streams and trans-shipment methods.

Over the time frame of this project, there have been two official exchanges of inspectors financed by IMPEL. These were between Scotland and The Netherlands and Germany and Belgium. Serbia and Romania also undertook joint inspection work. It is possible that a further exchange may take place but this cannot be recorded at the time of writing.

4. CONCLUSIONS AND RECOMMENDATIONS

Throughout 2011 the interim project was further confirmation that the Enforcement Actions series has been very successful and further contributed to the overall objective of improved enforcement of the EC Waste Shipment Regulation.

The objective of this interim project was to sustain momentum with a voluntary round of inspections before the next phase of Enforcement Actions begins in 2012. Sixteen countries recorded inspection results, totalling 1547 transport inspections over September and October 2011. Of these inspections, 1358 were physical transfrontier shipment of waste inspections, resulting in 54 discovered violations.

Over the past eight years it can be concluded that the knowledge and experience of Member States has been considerably increased, meeting one of the objectives set in the project ToR.

The limited scope of this interim project only focussed on a single inspection period, therefore not all European countries were able to carry out inspections and record results. Consequently, it is difficult to draw sufficient robust conclusions from a smaller data set that was achieved in previous projects. However, it is clear that there has been a shift in detecting and preventing the movement of hazardous waste to developing countries. This is an important step and was one of the recommendations of Enforcement Actions II.

The most frequent violations were shipments subject to the export ban, closely followed by a missing notification. This is a clear shift from Enforcement Actions II where the most frequent violations were administrative (52%), and shows competent authorities placing greater emphasis on illegal shipments, rather than administrative offences.

Based on the project results the following recommendations for future joint enforcement actions and follow-up projects can be given for future project work:

1. Continue joint actions, exchange of best practices and sharing of results via the full Enforcement Actions III project over 2012-2014.
2. Continue and develop cooperation with customs and police and other regulatory authorities.
3. Expand and further strengthen regional capacity building, and information exchange.
4. Continue efforts to achieve more consistent participation and contribution to the IMPEL TFS enforcement activities.
5. Continue use of exchange platforms via electronic forums and physical meetings.
6. Promote the verification of waste shipments from point of loading to final destination.
7. Focus efforts and inspections on waste shipments to non-OECD countries.
8. Further promote risk profiling and threat assessment.

5. ANNEX – Terms of Reference

TERMS OF REFERENCE FOR IMPEL PROJECT

1. Project details

Name of project	Enforcement Actions Interim Project
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2. Scope

2.1. Background	<p>The Waste Shipment Regulation (1013/2006/EC) requires Member States to inspect shipments of waste and to co-operate with each other.</p> <p>The Enforcement Actions project was set up for the following reasons:</p> <ul style="list-style-type: none"> - Some Member States expressed the need for a formalised project framework in order to integrate this with the enforcement inspections in their own countries; - International cooperation is essential to tackle international environmental problems; and - The network of enforcers in the field should be maintained and extended to cover all Member States. <p>These reasons are still valid for extending the project are all still valid. Enforcements Actions II has allowed participants to gain valuable experience on inspection methods, enforcement structures, planning inspections and exchange of staff and information.</p> <p>Responses to a recent questionnaire of participants of the Enforcement Actions II project revealed that without this project, they would have less impetus to plan and undertake TFS inspections. Overwhelmingly, they want this project to continue.</p> <p>Draft terms of reference will be presented to the General Assembly in November 2011 for an Enforcement Actions III project.</p> <p>Given that Enforcement Actions II had participants from 25 Member States and seven other countries, it is felt that 'interim' inspections be undertaken in order to maintain the momentum for waste shipments enforcement.</p> <p>This project would also allow a handover between the project managers of Enforcement Actions II and Enforcement Actions III.</p>
2.2. Directive / Regulation / Decision	Regulation 1013/2006/EC on shipments of waste
2.3. Article and description	<p>Article 50(2) – 'Member States shall, by way of measures for the enforcement of this Regulation, <i>inter alia</i>, for inspections of establishments and undertakings.'</p> <p>Article 50(5) – 'Member States shall cooperation, bilaterally or multilaterally, with one another in order to facilitate the prevention and detection of illegal shipments'</p>
2.4 Link to the 6th EAP	Articles 3(2) and 8(1) of the EAP Council and EP Decision
2.5. Link to MAWP	IMPEL-TFS has a Multi-Annual Working Programme. A third phase of the Enforcement Actions Project would accord well with the aims of the MAWP in that it promotes:

	<ul style="list-style-type: none"> - Capacity building - Improving methodologies - Development of good practice, and - IMPEL and dissemination of its products
2.6. Objective (s)	<p>The objectives of this project are:</p> <ol style="list-style-type: none"> 1. To work towards an adequate level of inspections in all Member States and a consistent level of enforcement at all exit points of the EU; 2. Promote site inspections at points of loading and encourage a cradle-to-grave approach to inspection to minimise illegal shipments; 3. To verify waste destination and the treatment at their destination within or outside Europe; 4. To provide an easily accessible European enforcement project for all Member States, and encourage them to co-operate; 5. To detect illegal shipments and deter future ones through effective communication and guidance; 6. To facilitate take-back procedures after an illegal shipment has taken place; 7. To maintain and improve the network of front line inspectors, inspection methods, exchange of information and knowledge; 8. Demonstrate that the Member States take the enforcement of the WSR seriously; and 9. Handover Enforcement Actions project.

3. Structure of the project

3.1. Activities	<p>Co-ordinated inspections in September 2011.</p> <ul style="list-style-type: none"> - undertaking an adequate level of (joint) inspections on waste shipments (harbours, trains, companies and road traffic) - Chain approach: competent authorities to check the recovery facility in order to check that a shipment accords with the principle of 'environmentally sound management'. Also verification within non-OECD countries which have interrelation with another TFS-project on the establishment of an enforcement network in Asia. - Communication about this project and the different inspections. - Five exchanges of front-line inspectors during inspections. - Attendance at National Contact Point meeting in September 2011 to reflect upon Enforcement Actions II and discuss requirements for next phase. - Handover meeting with the Project Managers of Enforcement Actions II and Enforcement Actions III. - Attendance at General Assembly to present draft ToRs for Enforcement Actions III.
3.2. Product(s)	<ul style="list-style-type: none"> - A report that contains the following information: <ul style="list-style-type: none"> ▪ The results of the European inspections and verifications; ▪ An evaluation on existing enforcement gaps, based on

	<p>the results of inspections and verifications and Enforcement Actions II outcomes</p> <ul style="list-style-type: none"> • The maintenance of a network, including application of the network of focal points based on Article 50 of the EU waste shipment regulation, covering, if possible, all Member States, of contacts on operational level. • Recommendations for future activities. <ul style="list-style-type: none"> - A matrix for determining the location of road inspections. - Guidance on the use of risk assessment for inspections - Template press release for use by participant competent authorities. - A network of contacts in countries needed for the collaboration on the enforcement of the Regulation.
3.3. Planning (Milestones)	<p>June 2011 – Inform inspectors of exchange project</p> <p>July 2011 – dissemination of risk matrix and guidance, and approval of exchanges</p> <p>August 2011 – inspection planning</p> <p>September 2011 – inspections and dissemination of template press release. Presentation of Enforcement Actions III to National Contact Points.</p> <p>October 2011 – Compilation of results</p> <p>November 2011 – report to the IMPEL General Assembly</p>

4. Organisation

4.1. Lead	Katie Willis, Scottish Environment Protection Agency
4.2. Project team	Scotland, Northern Ireland and The Netherlands. (Sweden, Austria, Germany, Northern Ireland and The Netherlands have agreed to review the Road Inspections Matrix and guidance on risk assessments).
4.3. Participants	<p>The following Member States participate actively within the current Enforcement Actions project: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany (some Federal States), Hungary, Ireland, Latvia, Lithuania, Macedonia, The Netherlands, Northern Ireland, Poland, Portugal, Romania, Scotland, Serbia, Slovenia, Sweden, Malta, Luxembourg.</p> <p>Others to be encouraged to join: Greece, Italy, Iceland, Luxembourg, Spain, England and Wales, Switzerland and Slovakia.</p> <p>Also Croatia, Norway, Turkey, Serbia and Switzerland participate in the current Enforcement Action project.</p>

5. Quality review

NCP meeting and IMPEL-TFS Steering Committee
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6. Communications

6.1. Dissemination of results	When completed, the (interim) results will be disseminated to the various stakeholders: IMPEL network, European Commission, INECE, Member States, National Contact Points, European Parliament, Waste Shipment Correspondents Group, Basel Secretariat and NGOs. Furthermore shall the reports be published on the IMPEL Website.
6.2. Main target groups	European Commission, IMPEL and Member States' competent authorities.
6.3. Planned follow up	Enforcement Actions III (2012-14)

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: Exchange of Inspectors</i>					
No of Participants: Five countries (10 inspections)	5				
Travel:	4000	4000			
Accommodation:	3750	3750			
Catering:	750	750			
Meeting venue:					
Sub-Total:	8500	8500			
<i>Meeting 2: Presentation of Enforcement Actions III at General Assembly</i>					
No of participants:	1				
Travel:	400	400			
Accommodation:	250	250			
Catering:	50	50			
Meeting venue:					
Sub-Total:	700	700			
• Consultant:					
• Translation:					
• Dissemination:					
• Attendance for Project Manager at Cluster meetings (National Contact Point):	700	700			
• Other (specify):					
TOTAL	9900	9900			
Human Resources	Project Manager time – 12 days Project team – 5 days Inspector days – 96 days (based on 32 countries)				