

IMPEL-TFS PROJECT ON VERIFICATION OF WASTE DESTINATIONS

PROJECT REPORT, OCTOBER 2003 - NOVEMBER 2004



European Union Network for
the Implementation and Enforcement
of Environmental Law



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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

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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<p>Executive summary:</p> <p>This report describes the results of an enforcement project carried out by seven 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.</p> <p>A management summary is enclosed further on in this report.</p>	
<p>Disclaimer:</p> <p>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.</p>	

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Colophon

Management summary

Background and project aim

From October 2003 until November 2004 an enforcement project was carried out between seven EU countries in the framework of EU Regulation 259/93 on the supervision and control of shipments of waste within, into and out of the European Union, aiming at:

- § Establishing a network of enforcement authorities and to improve communication and collaboration between responsible authorities;
- § Developing a method for the verification of waste shipments 'from cradle to the grave';
- § Verification of the destination and treatment of a number of waste shipments, for which a notification has been given, based upon the three-day prior notification procedure as stipulated in the Regulation;
- § Improving the enforcement of the regulation, as required by Article 30 of the Regulation;
- § Exchanging knowledge and experiences in this field.

The project was carried out under the umbrella of the IMPEL-TFS network (European Union Network for the Implementation and Enforcement of Environmental Law, cluster Transfrontier Shipment of waste). A proposal for this project was presented and adopted at the IMPEL-TFS conference in Prague (Czech Republic), in June 2003. Representatives of enforcement authorities in Austria, Belgium, Czech Republic, Ireland, Finland, Malta and the Netherlands participated in the project. Active participation of Germany was strongly missed from the beginning; nevertheless, practical oriented cooperation has been established during the project with some German Competent Authorities.

The project set up and –focus is explained in more detail in chapter 2 of this report.

Main project approach and working procedure

Based upon proposals from individual countries, preferences for notified waste shipments to be inspected were identified and checked during the operational phase of the project (January – October 2004). Based on the three-day prior notification, the enforcement authority of the country of dispatch checks the waste shipment during its departure, and sends information on the nature and composition of the shipment to the enforcement authority at the waste disposal/-processing site of the country of arrival. The enforcement authority at the country of arrival checks if the shipment is transported in accordance with the Regulation and – eventually – is being processed in conformity with local (environmental) site permits (acceptance criteria, processing capacity).

Project results and main conclusions

Main project results and –conclusions derived from this project are:

- § The network of enforcement authorities in participating countries has been further improved and contacts have been specified for enforcement authorities within participating countries, responsible for supervision of main waste disposal and processing facilities. Nevertheless, there are large varieties in tasks, competencies and jurisdictions of involved organisations. Also the way in which the three-day prior notification is implemented into national legislation varies: the notification is normally addressed to a (the) Competent Authority(-ies) of the country/region in question, which is not automatically the responsible enforcement authority. Access to information systems on (three day prior) notifications is not an automatism;

- § A method (manual) for the verification of waste shipments has been developed, based on existing methods and experiences. The method contains administrative checks, inspections 'on spot' and the way of information exchange between (enforcement) authorities involved. The method has been used in practise and was found to be sufficient;
 - § Waste shipments have been verified. Participating countries intended to check 25 notified waste shipments. Eleven inspections have finally been checked 'from cradle to grave'. It turned out that a number of notifications (7 out of 25) have not been 'in use'; it seems that some permits have been applied for because of strategic reasons to ensure waste disposal/processing capacity. For some notifications, that were selected during the start of the project, the validity period expired and were not extended during the operational phase of the project. Irregularities were detected in three cases. In one case, the notification was withdrawn by the Competent Authority of Belgium, because the shipment did not comply with the notification. Another case concerned export of ink cartridges from the Netherlands to Czech Republic: the notification did not comply with the local environmental permit of the waste processing site. The last irregularity concerned a shipment of 18 containers of cable waste to China without authorisation. Also a transport check has been carried out by three countries involved. The results give input for further improvement of the enforcement of the regulation in the future;
 - § For a number of reasons the three-day prior notification was found to be very difficult to enforce. The prior notification is submitted to a/the Competent Authority/Authorities of the country/region which is not automatically the responsible enforcement authority. Also planning of inspection capacity in a time frame of a couple of days to verify the shipments has found to be difficult;
 - § Practical experiences and information has been exchanged.
- The project results are presented in more detail in chapter 3, and conclusions are laid down in chapter 4.

Recommendations

Based upon the experiences and enforcement results of the project, the following recommendations can be given:

- § The European Commission should reconsider the obligations on the three-day prior notification within the revision of EU Regulation 295/93. The notification procedure should be regulated in such a way that it can be enforced adequately, e.g. by stimulating electronic data exchange on notifications (like EUDIN), also between authorities responsible for these notifications and those who are responsible for enforcement. Experiences with the enforcement of the (three-day prior) notification should be reported by the Member States to the Commission;
- § The (revised) Regulation 259/93 has to obligate Member States to give an annual report about the proceedings of the enforcement actions. These results have to be analysed by a working party in assignment of the Commission. The analysis gives input for further improvement of the regulation.
- § Member States should be stimulated to report their experiences with enforcement of three-day prior notification. The (revised) Regulation 259/93 should foresee in this obligation.
- § IMPEL/IMPEL-TFS should work on an extensive internet website with relevant information on waste shipments regulation & enforcement, with full contact information, waste catalogues/reference books, etc.;

- § Competent authorities and/or enforcement authorities should assign one central coordination point on national level, moreover in those circumstances where responsibilities for (enforcement of) the notification procedure are laid down at regional levels. These coordination points should have sufficient mandate to make agreements on inspections to be carried out for verification purposes. Also Competent - and enforcement authorities should work on improved access on three day prior notification data systems, to enable accurate "verification inspections";
- § The project management proposes to enlarge the established cooperation with more EU countries, to extend the project focus with green listed wastes and non-notified wastes, and to focus on inspections at crossing points of borders on a strategic level (with participation of more than one enforcement authority).

The recommendations are worked out in more detail in chapter 4.

CHAPTER

1

Project background and –aims

1.1

BACKGROUND

It is estimated that about 10% of all wastes generated in the OECD and EU area are shipped across international borders, because of lack of appropriate waste facilities, cost savings or are earmarked as raw materials with high economic value (trade purposes). These 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. A short outline of relevant waste shipment regulations is presented in annex 2.

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. Besides, according the Article 30 of the Regulation, Member States have to take the necessary initiatives to check the provisions of this piece of environmental legislation (see below).

ARTICLE 30 OF THE REGULATION

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.

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. Collaboration between these authorities involved is essential to enforce relevant legislation adequately and to protect the environment.

A proposal for an enforcement project which focuses on monitoring of those shipments from 'cradle to the grave' was discussed at the IMPEL-TFS conference in Prague (Czech Republic) on 23, 24 and 25 June 2003.

1.2 PARTICIPATING COUNTRIES

During the IMPEL-TFS conference in Prague, nine EU countries showed interest for participation in this project. Finally, Austria, Belgium, Czech Republic, Ireland, Finland, Malta and The Netherlands participated in the project. Within these countries the cooperation is focussed on specific areas and/or specific enforcement authorities; this because of the various tasks and competencies that are laid down on a national scale.

All countries involved missed active participation of Germany. Nevertheless, some practical oriented cooperation with enforcement authorities from Germany (Nordrhein-Westphalia) has been established during the project, and is found to be a good basis for further cooperation.

More information about the way the management and enforcement of waste shipment regulations in general, and specifically with regard to the three day prior notification, is organised, is presented in annex 2.

1.3 PROJECT AIMS

The aims of the project are to:

- § Establish an enforcement network and to improve the communication and collaboration between the national authorities responsible for the enforcement of waste shipment regulations in general, and with regard to the verification of waste destinations in particular;
- § To develop a method for the verification of waste destinations, based upon existing methods and experiences. This 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. Specific waste lots will be followed from the moment of dispatch until arrival, storage and treatment in the intended facility. The inspections will focus on waste streams for which a permit is given (red or amber listed wastes);
- § 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.

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, 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 project was carried out under the umbrella of the IMPEL-TFS network (European Union Network for the Implementation and Enforcement of Environmental law, with TFS as an abbreviation of TransFrontier Shipment). The project management was in hands of The Netherlands' VROM Inspectorate, supported by consultants of ARCADIS.

An overview of enforcement authorities and contact persons participating in this project is given in annex 1.

1.4 RELATION WITH THE 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 IMPEL-TFS network was set up in 1992 in order to harmonise the enforcement of EU Regulation 259/93 (replacing EC Directive 84/631) on Transfrontier Shipments of Waste with regard to the supervision and control of waste shipments into, out of and through the European Union.

1.5 TARGET GROUPS OF THIS REPORT

This project report is addressed to:

- § The European Commission;
- § IMPEL-TFS project participants and their own organisations;
- § IMPEL;
- § IMPEL-TFS members;
- § Organisations involved in and responsible for enforcement of waste shipment regulations in general.

1.6 SET UP OF THIS REPORT

Chapter 2 of the project report gives a brief overview of the aims and set up of the project. The project results are described in more detail in chapter 3. This summarised information is based upon the national overviews of enforcement structures as highlighted in annex 3 and the actual enforcement results of the operational phase as described more extensively in annex 4. The conclusions and recommendations are given in chapter 4.

The enforcement authorities and contact persons participating in this project are presented in annex 1. A short outline of the EU Regulation 259/93 is described in annex 2. Annex 3 gives an overview of the enforcement structures within the participating countries. Annex 4 presents the actual inspection results. A summary of the developed working method is given in annex 5.

CHAPTER

2

Project set up and – focus

2.1

PROJECT SET UP

The project has been carried out between October 2003 and November 2004, amongst three main phases:

§ Preparation phase (October – December 2003).

Preparatory actions were carried out between the interested countries, a proposal for a working method (manual) was developed and a meeting was organised in The Netherlands (15 and 16 December 2003). At this meeting the total framework of the project was discussed and agreed upon, as well as specific actions to be taken during the operational phase of the project.

§ Operational phase (January – September 2004).

Participating countries carried out a number of coordinated enforcement actions and reported their results. Inspections have been done at waste disposing and waste processing companies. Also some traffic inspections were carried out. Interim results have been presented during the IMPEL TFS conference in Malta June 2004.

§ Reporting phase (October – November 2004).

During this last phase the report of the project was compiled.

2.2

PROJECT FOCUS, -PRINCIPLES AND -APPROACH

2.2.1

PROJECT FOCUS AND PRINCIPLES

During the preparation phase the project focus was defined in more detail. The most important topics and main principles in project execution were:

- § The three-day prior notification will be used as a starting point of inspections. Transport of notified waste shipments (amber and red listed wastes, and wastes which are not mentioned) have (after permission) to be notified to the authorities concerned three days before the actual transport takes place. The most important reason for this three-day prior notification is to monitor the movement of these waste shipments physically;
- § Inspections will be done at companies ('on site'). In practice this means that inspections will be carried out at companies where wastes are being dispatched and/or at waste processing facilities. But also traffic inspections can be a relevant point in the waste chain;
- § The country where waste departures, steers the inspection to be done in the country where the waste is being processed. Information on these waste shipments (quantity and quality) will be compared and will be exchanged between enforcement authorities involved;
- § Information will be exchanged via Viadesk, an Internet project website which is only accessible for project participants via a user name and password. The website contains

information about the project, all participating countries and their results. Viadesk can also be used as virtual archive.

2.2.2 MAIN PROJECT APPROACH

Pre-selection of waste shipments to be checked

During the project meeting in Noordwijk (The Netherlands, 15 and 16 December 2004) waste shipments that could be checked were selected. The selection was based upon proposals from individual countries, based on criteria as:

- § Doubts about final destinations of waste shipments;
- § Absence of certificates of disposal (that waste has been processed);
- § Tips and tricks from other (enforcement) networks.

Individual preferences were discussed and agreed by countries involved. An overview will be given further on in this report. The primary purpose of the selection was not to gain quantitative aims on inspections to be carried out: it was meant to gain experiences on the developed method.



Photo 2.1: cable waste

Working method in general

During the meeting in Noordwijk a general working procedure was discussed and agreed.

The method is generally as follow:

- § The inspection schedule will – as mentioned before - be based on the three-day prior notification. The enforcement agency in the receiving country of the inspection will be informed (by e-mail or by fax);
- § Based on the three-day notification, the enforcement agency will know the day and place of departure and arrival of the waste shipment. Shortly before the shipment departs (or arrives), the enforcement agency can ask the company by telephone when the shipment is

expected to depart (or arrive). This will allow the inspection to be scheduled for the right moment (with little loss of time). The enforcement agency can then notify the company that the shipment is not allowed to depart until it has been inspected. When the waste arrives, the company will be asked not to unload it;

- § The nature and composition of the waste substance will be checked on departure. Besides sampling and analyses, there will be an opportunity to perform indicative analyses of the waste substance on the spot. The enforcement agency will fax or e-mail the results to the enforcement agency at the place of destination of the waste substance;
- § The inspection conducted at the final processing company will be largely of an administrative nature because it will probably be impossible to locate the specific batch as a separate physical quantity (in the case of storage) or to track it as a separate batch during processing. The administrative records will be examined to determine how the waste substance will be processed or, as the case may be, how earlier shipments were processed. A check will be made to find out whether the company is allowed to receive the waste substance concerned (permit under the Environmental Protection Act, acceptance criteria and processing capacity). If this is found not to be the case, the competent authority will be informed accordingly;
- § On arrival there will be checks on the composition of the waste substance, whether the shipment arrives and the way the waste substance will be processed. If possible, there will be an on-the-spot examination of how the waste substance will be processed. The records will be consulted to find out how earlier batches were processed. For the sake of completeness, there will be a check to see whether the company is allowed to receive the waste substance under the permit granted under the Environmental Protection Act (processing license);
- § The administrative documents will be examined at the time of departure and time of arrival of the waste shipment.

A summary of the working method is presented in annex 5.

CHAPTER

3 Project results

3.1 INTRODUCTION

This chapter presents the main project results. The project results are structured amongst the aims of the project as highlighted in chapter 1.

3.2 IMPROVED COLLABORATION/NETWORK BUILDING

The network of important enforcement authorities in participating countries was already based upon existing cooperation, but has been further improved by this project. Besides, 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 3.

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 3. 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, like in Belgium, enforcement of waste shipment regulations is laid down on a regional or local level, while in other countries, like The Netherlands, enforcement is a primary concern of one national oriented enforcement authority. Enforcement in Austria is also a primary concern of one national enforcement authority;
- § 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;
- § Difficulties in enforcement of relevant TFS regulations occur in all countries. In most of the participating countries lacks of knowledge, means and human capacity are identified as serious bottlenecks to enforce waste regulations adequately;
- § The certificate of disposal, which has to be submitted by the notifier within 180 days after receipt of the waste, has found to be difficult to enforce. It is mostly impossible to locate the specific batch as a separate physical quantity (in the case of storage) or to track it as a separate batch during processing. Furthermore this obligation is not always punishable from a legislative point of view;
- § The way the implementation on the three-day prior notification is implemented into national organisations, varies enormously. This notification is commonly addressed to the/a Competent Authority (notification unit), which is not always automatically the authority that is responsible for the enforcement of the three-day prior notification.

Moreover, enforcement authorities do not have automatically access to the information/notification systems used by the Competent Authorities.

3.3 WORKING METHOD HAS BEEN DEVELOPED

A manual/working method for the enforcement of waste shipments on the verification of waste destinations has been developed and has been used in practice. This manual contained four important elements:

- § A general introduction with main topics and points of attention;
- § A working method for the inspection and checking of waste shipments at waste disposing companies;
- § A working method for the inspection and checking of waste shipments at waste processing facilities; and
- § Report forms for both working methods.

An interim evaluation of the manual showed that the manual was found to be adequate and was shown effective for its purpose. In some cases the method is used in 'daily' working practise. By some countries the method and the developed report forms have been applied to countries not participating in this project. Promotion of the manual could be a point of attention.

3.4 A NUMBER OF WASTE DESTINATIONS HAVE BEEN VERIFIED

Number of inspections planned and carried out

During the starting conference of the project it was agreed to perform a number of inspections. The intended and performed inspections are presented in the table below. The results of the preformed inspections are presented in more detail in annex 4.

Countries	Number of inspections			
	Intended		Performed	
	Country of dispatch	Country of arrival	Country of dispatch	Country of arrival
Austria	2	7	0	3
Belgium	3	8	1 ¹	4
Czech Republic	1	0	1	0
Germany ²	0	3	0	3
Malta	0	0	0	0
Netherlands	11	7	8 ³	1
Finland	3	0	0	0
Ireland	5	0	1	0
Total inspections	25		11	

In total 25 inspections have been planned and 11 inspections were actually performed. Only inspections for which a "double check" (inspection at country of dispatch and county of arrival) has been performed are defined as 'performed inspections'.

¹ Includes 1 practical experience in cooperation with Germany

² Germany is not an official participant in the project, but has cooperated in 3 cases;

³ Includes 2 practical experiences in cooperation with Germany.

INTERMEZZO: PLANNED AND PERFORMED INSPECTIONS PUT INTO PERSPECTIVE

More than half of the planned inspections have not been carried out. A number of reasons are presented below; these reasons also relate to some bottlenecks in enforcement of the (three day prior-) notifications of Regulation 259/93.

Some notifications have not been 'in use'

For some notifications no transports have been taken place; a number of granted notifications have not been 'used'. An administrative check shows that 7 of the 22 notifications of the intended waste transports (to, from or through The Netherlands) have not been used at all. 3 of the 22 are being used scarcely (<3 times a year). This means that 10 of 22 notifications are not, or scarcely being used in practise.

Based upon existing experiences it is expected that some companies have applied for a notification in cases where waste processing facilities are out of order (e.g. because of process disturbances) in order to gain flexibility in waste disposing capacity. In those cases, waste shipments have to be moved in a short time frame to other facilities.

Notifications are not extended

In some cases, notifications are extended with a new time period. Some notifications, which have been selected during the project start, have not been extended during the operational phase of the project. Consequently, waste shipments haven't taken place for these notifications.

An administrative check shows that 2 of 22 notifications of the intended waste transports (to, from or through The Netherlands) have not been used and will not be extended.

Enforcement of three-day prior notification has found to be difficult

Consequently, the enforcement of the three-day prior notification has found to be very difficult, mostly because of reasons as:

- § these notifications are not automatically submitted to the enforcement authority, but to the Competent Authority (not automatically the enforcement authority). Mostly these CA's are regionally organised, like in Belgium, Germany and Ireland;
- § Arranging capacity on short term by the country of destination, to inspect a shipment within three days after the notification has taken place.

Results of performed inspections

Infractions/illegal movements

Within three of the ten inspections carried out, irregularities have been found:

- § In one case (transport check by three countries) the notification was withdrawn by the responsible enforcement authority of Belgium, because the load did not comply with the given permit (notification);
- § In another case it was detected that more waste was transported than deposited. Moreover the transport started from a different location than the permit has been granted for. The notifier has been given a warning;
- § In another case, during an inspection in the Czech Republic, follow up actions were taken as a result of waste that was imported from the Netherlands. In the Czech Republic the local authorities do not define ink cartridges as a waste material. Consequently, the Czech competent authority was not allowed to grant a permit for the export of this waste in conformity with the Regulation. After a judicial proceeding, the local permit was changed in a permit for waste processing.

The cases are explained more extensively in the paragraphs below. A detailed description of these cases is included in annex 4.

Results inspection out of the EU

After a tip-off the police and customs of Antwerp harbour examined the documents of the containers containing cable waste. This investigation led to the conclusion that the containers on the barge were stuffed by a Belgium company. This company wasn't situated near water. The waste originated from The Netherlands. Belgian authorities contacted the Netherlands' VROM Inspectorate immediately. It appeared that the waste was exported to China without a permit (illicit trade).

After further investigation it appeared that forgery was committed with the transport documents. The Belgian company was used as a cover (as end destination) without their knowledge. A charge against the exporter was made in Belgium (forgery of the documentation) and in The Netherlands (illicit trade of cable waste). Research concluded that this waste stream was used extensively using the Belgian company as a cover to export to non-OECD countries. After this inspection the illegal transport was stopped. During the investigation the methodology of the Verification project proved to be successful.



Photo 3.1: illegal transport of cable waste out of the EU

Transport check carried out by three countries

Within the framework of the project, an international transport control was carried out in July 2004 by enforcement authorities from Belgium, Germany and The Netherlands.

Although Germany was not actively participating in this project, enforcement authorities of Nordrhein-Westphalia participated in this transport inspection.

48 lorries with waste from Belgium and The Netherlands, destined for Germany, were checked. Ten of these shipments contained building/demolishing waste, and waste from industry. In two cases, the waste shipments were not in accordance with the notification. One shipment was sent back to the country of origin (Belgium). The other waste shipment did not follow the route obliged by the notification. Legal reports were submitted for these

shipments. One shipment of building and construction waste clearly showed that the composition of the waste did not comply with the notification. This shipment has been send back to the country of origin. In addition three freights of building and construction waste have been poured out and analysed. The composition of one of these freights did not comply with the notification. This shipment has been send back to the country of origin. In both cases a report of the offence has been made.

During the action a number of transports also have been followed to the intended destination in Germany. The German authorities checked the trucks again, in order to examine if the transports really arrive at the destination for which the permit has been granted, and if the waste is being processed in accordance with the local (environmental) permit. No irregularities have been identified. Besides, it was mentioned by police authorities that a number of transports appeared to move to other highways because of this transport check. Some of these cargoes are still under investigation by the relevant authorities.

Inspections within the Joint Inspection Programme Czech Republic – The Netherlands
One inspection focussed on checking the waste shipment notification with a permit granted for the waste processing facility in Czech Republic. The company concerned in the Czech Republic is a subsidiary of a company in the Netherlands. It refills several types of ink cartridges. Under the rules of the Ministry of Housing, Spatial Planning and Environment of the Netherlands, the export of empty cartridges must be declared. In the Czech Republic however, the material is not defined (by the local authorities) as a waste material. After a judicial proceeding, the permit was changed in a permit for waste processing.

3.5 ENFORCEMENT OF WASTE SHIPMENT REGULATIONS ON VERIFICATION HAS BEEN IMPROVED

By applying the developed working method as highlighted above, a first start has been made with European 'chain enforcement': waste shipments have been checked from 'cradle to the grave' in accordance with EU Regulation 259/93. These kind of inspections have found to be the only way to check the administrative provisions of the Regulation, related to the three-day prior notification.

3.6 PRACTICAL EXPERIENCES AND INFORMATION HAVE BEEN EXCHANGED

Moreover, practical experiences and information on general enforcement issues have been exchanged between enforcement authorities involved. Special attention was given to:

- § The way enforcement of the Regulation in general, and the three day prior notification in particular, is organised within the countries participating in this project;
- § National bottlenecks in the enforcement of waste shipments.

3.7 OTHER PROJECT RESULTS

The project gained also some other results:

- § The exchange of information with the Viadesk website was found to be valuable. As the ins and outs of the Viadesk website were not discussed at the start of the project, some participants had a 'threshold' in using this website. Nevertheless, the website was found to be effective and efficient as 'project archive';
- § The national and supranational benefits from the project are a closer insight to waste treating plants (national) and the improved contacts to foreign competent authorities.

CHAPTER

4

Conclusions and recommendations

4.1

CONCLUSIONS

A number of conclusions can be drawn, based on the results of the inspections and the experiences gained from this project. The conclusions below are presented in random order.

1. Cooperation between enforcement authorities has been specified
The cooperation between authorities responsible for the enforcement of EU Regulation 259/93 has been specified, particularly with regard to enforcement authorities responsible for the supervision of important waste disposing companies and waste processing facilities. Austria, Belgium, Czech Republic, Ireland, Finland, Malta and The Netherlands participated. During the operational phase of the project a few Competent Authorities within Nordrhein-Westphalia carried out some inspections 'on site' in close co-operation with inspectors from Belgium and The Netherlands. Within participating countries the cooperation is focussed on specific areas and/or specific enforcement authorities; this because of the various tasks and competencies that are laid down on national scale. Active participation of other countries (like France, Germany, Italy, United Kingdom and some other EU countries) is strongly missed; there is no "waterproof" enforcement network on European scale for this issue. In order to gain European wide cooperation and enforcement in this field, participation of more countries is essential.
2. A method for verification of waste destinations has been developed
A method for the verification of waste destinations has been developed, based upon existing experiences and methods from participating countries. This 'manual' is particularly focussing on the enforcement of the three-day prior notification and focussed on practical cooperation between authorities responsible for enforcement of notifications of EU Regulation 259/93. In some occasions, the manual was used as part of daily activities or in communication with other countries not participating in this project. Nevertheless, the method could be promoted on a larger scale.
3. First basis for European 'waste chain enforcement'
With the improved and specified cooperation in this project and the developed verification method a first stone has been laid for enforcement of waste shipments 'from the cradle to the grave'; shipments are being checked from its origin in the country of dispatch, up till their final destination in the country where waste is being processed.

4. EU Regulation 259/93 has been enforced

The countries participating in this project have enforced EU Regulation in general, and in particular the three-day prior notification. The waste shipments have been monitored from 'cradle to the grave'; in three cases irregularities have been found. In one case a shipment was prevented from being exported to a non-OECD country.

Also an international coordinated transport inspection has been carried out between enforcement authorities of Belgium, Germany and The Netherlands. 48 shipments were inspected at the border (during transport), and were inspected again at the waste processing facility in Germany. Some shipments were illegal (1 out of 11) and/or irregularities were detected (1 out of 3). One notification has been withdrawn and some shipments have been returned to the company of dispatch. More information is presented in annex 4 of this report.

Generally speaking it can be said that enforcement of the Regulation is absolutely needed to protect the environment, and to prevent that wastes are disposed off illegally or are not processed in an environmentally sound manner. The fact that notifications have been granted does not mean that shipments take place in accordance with these notifications. The inspections were announced to be sure of an encounter with the shipment. It is unknown what would be the enforcement results if the inspections would not have been announced.

5. Enforcement of the three-day prior notification is difficult

The three-day prior notification of EU Regulation 259/93 is difficult to enforce, because of:

- § The notification is submitted to the competent authority, which is not automatically the authority that is responsible for the enforcement of the regulations. Besides, some countries have more than one Competent Authority; in some countries (like Belgium, Germany and Ireland) Competent Authorities are in these cases organised on regional level. Enforcement authorities do not have automatically access into information systems of the Competent authority, where notifications are being administrated. In some cases the three-day prior notification is not available in time; the waste has already been shipped at that time. These aspects makes international cooperation in the enforcement of the three-day notification difficult;
- § Planning enforcement capacity. If a three-day prior notification is being done, an inspection at the country of dispatch is being carried out, and a request is being done for an inspection at the country of arrival. Planning of capacity (within a couple of days) for this inspection has found to be difficult in some cases;
- § For not all notifications that have been granted, transports have taken place. Some notifications are being requested because of strategic reasons, e.g. in circumstances where industries want to have flexibility in waste processing capacity.

Also the three-day prior notification leads to administrative burdens of authorities and industry. The current system is fully paper based, time consuming and fault sensitive. This could lead to the question if the aim of the three-day prior notification of the Regulation is in balance with its (dis-)advantages. Possibilities and points of attention for electronic data exchange on notifications has already been investigated within the EUDIN project. The EUDIN project aims at the realization of structured electronic data interchange on waste shipments (European Data Interchange for Waste Notification-System, see also www.eudin.org). First releases of the application and pilot operations have already been started.

4.2

RECOMMENDATIONS

Main statement is that enforcement of waste shipment regulations is absolutely needed to protect the environment and to prevent that waste shipments are disposed illegally or are not being processed in an environmentally sound manner. Regulations can be a 'paper tiger' without adequate enforcement.

Based on the results of the project and the conclusions as written above, the following recommendations can be given. These recommendations are assigned to the target groups as mentioned in chapter 1.

4.2.1

EUROPEAN COMMISSION

1. Reconsider the obligations on the three-day prior notification

The implementation of the three-day prior notification should be reconsidered after the revision of EU Regulation 259/93. This notification procedure should be regulated in such a way that responsible authorities can enforce it adequately, e.g. by stimulating electronic data exchange. The benefit of enforcement has to be in proportion to the obligation of the administrative inconvenience for industry. An extra effort for the implementation into the Member states has to be made.

Further development of electronic forms of notifications and data exchange, like EUDIN, is strongly recommended. The Commission is advised to stimulate the Member States in using electronic data exchange. This will contribute to an effective and efficient enforcement of EU regulation 259/93.

2. Annual reports with enforcement proceedings and results have to be an obligation

A clause should be included into the (revised) Regulation 259/93 that obligates Member States to give an annual report about the proceedings of their enforcement actions and the results. This annual report should refer to an adequate performance and enforcement level, derived from a general compliance strategy. An example can be given at the IMPEL-TFS management conference in March 2005.

A working party under supervision the European Commission should analyse these annual reports and make propositions to the Commission in order to improve the Regulation. The purpose is to bring the performance and enforcement of Regulation 259/93 to a higher level. And to be able to get an equivalent level playing field within the EU.

3. Experiences with enforcement of three-day prior notification should be reported by Member States

Member States should report their experiences with the enforcement of the three-day prior notification to the European Commission. This obligation should be included in the (revised) Regulation 259/93. These experiences should be based on an agreed adequate enforcement level (e.g. the amount of inspections per notification, waste streams selected, etc.), derived from a general compliance strategy.

4.2.2

IMPEL/IMPEL-TFS NETWORK

4. Develop an IMPEL-TFS website with extensive information

It was found to be a disadvantage that the current IMPEL-TFS Internet site does not contain all information needed for enforcement of TFS regulations. A more extensive IMPEL-TFS website should therefore be developed, with functionalities as a database with

organisations/contact persons, an alert system of illegal or suspected waste shipments, and a digital reference book on wastes (chemical compositions, photo's, industrial processes, et cetera). IMPEL-TFS should take the lead in this⁴. The Netherlands' VROM Inspectorate will bring this forward during the IMPEL-TFS management meeting in March 2005.

4.2.3

COMPETENT AUTHORITIES/NATIONAL ENFORCEMENT ORGANISATIONS

5. Assign one central coordination point and stimulate 'internal' information exchange/-access

The availability of one central coordination point was missed in some cases; mostly in those circumstances where the responsibility for (enforcement of) the notification procedure is laid down at regional levels. Establishing practical cooperation, needed to enforce the notifications of waste shipments from 'cradle to the grave', is very difficult. One central coordination point on national level should be established in these cases: they should have sufficient mandate to make agreements on inspections for that European country in total. Furthermore, information exchange between the Competent Authorities (primary responsible for the notification procedure) and authorities responsible for the enforcement of the Regulations should be stimulated. Time lags can appear, because these organisations are not always organised in one authority with one administrative system for (three-day prior) notifications. These kinds of bottlenecks are important issues that interfere with sufficient enforcement of this kind of legislation.

4.2.4

PROJECT MANAGEMENT

6. Upscale the project with more countries and extend the focus with other waste streams

Most countries participating in this project supported the idea to upscale the project with more countries and to focus not only on notified (amber and red listed wastes, and wastes not mentioned) but also on green listed wastes and non-notified wastes.

The follow up project will focus on coordinated transport inspections at crossing points of borders at a strategic level, in which enforcement authorities of more than one country will participate. Information from these transport inspections will be used as a starting point for gathering additional information "upstream" (to the origin of the waste) and "downstream" (final destination). The intention to give follow up on this project was already presented and agreed at the IMPEL-TFS conference in Malta (7 – 9 June 2004).

⁴ This recommendation was also given by the IMPEL-TFS Seaport project (Project report, June 2003 – May 2004, June 2004)

ANNEX 1

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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 as mentioned 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) and 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.

Special regulations on the three-day prior notification

In general, the notifier sends the notification to the competent authority of dispatch, by means of a consignment note, with copies to the other competent authorities concerned, and to the consignee. The consignment note is issued by the competent authority of dispatch. Once the notifier has received authorisation for the transport, he completes the consignment note and sends copies to the competent authorities concerned three (working) days before each single shipment is made. A copy of this notification must accompany each shipment.

ANNEX 3 Enforcement structures participating countries

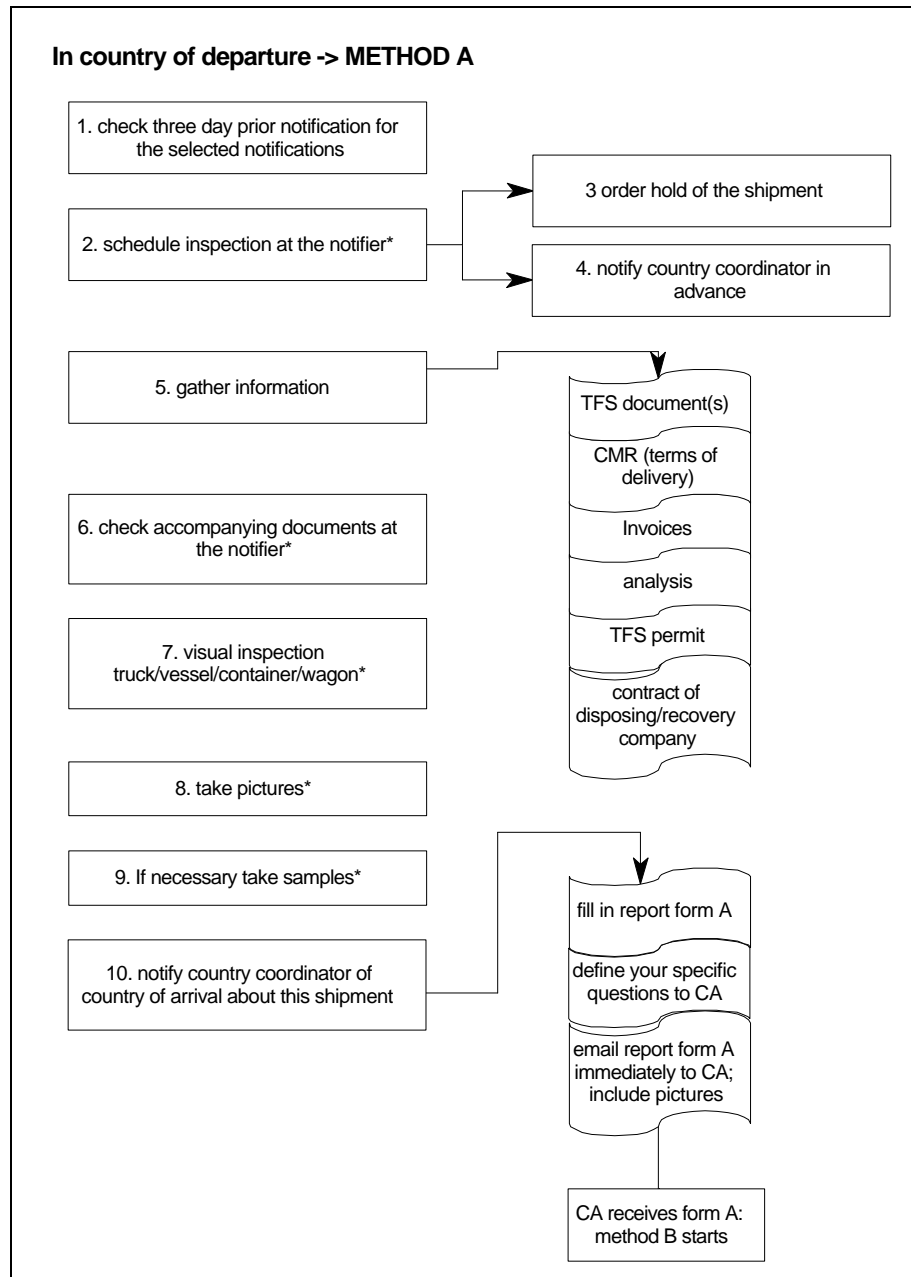
ANNEX 4 Results of inspections

ANNEX 5

Explanation of the working method

The working method for the inspections is presented in the tables below.

The inspection method for the country of departure (method A) is as follows:



An explanation of the inspection method to be carried out in the country of arrival (method B):

The country in which the inspection is carried out		
Steps	Definition	Explanation
I. PREPARATION		
1	Receipt of an inspection request of one of the participating countries (by email or fax).	Receipt form A from the country from departure and read the questionnaire. Preparation has to be taken very fast!!
2	Obtain information and notifications about the receiving company	Check notification and including export permits (if available)
3	Ask receiving company at what time the shipment of notified waste is expected at the company. Block unloading of the shipment until the field inspector is arrived.	Inspection in the evening or at night might be necessary.
II. INSPECTION of the company and the shipment		
4	Inspection of the consignee	Use report form B as a guidance during the inspection and try to answer all questions.
4a	Check transport documents and compare the shipped waste with the waste description of the notification, with the underlying export permit and with the company permit actual waste	Deviations are possible and are mostly not allowed. Describe the deviations extensive. Take pictures when necessary
4b	Check if this company receives other waste streams from other foreign producers in addition to the notified one.	The inspection of the selected TFS documents between the country of departure and the country of receipt at the company of receipt, should also include inspection of other documents that gives possible insight into other companies involved in the country of origin. In those cases, the country coordinator of the country of departure has to be informed about the outcomes. This action needs also to check the possibility of illegal waste movements.
4c	Take a look at the waste	Visual inspection at the truck/vessel
4d	If necessary take samples	Sampling at the country of receipt should only be carried out in those cases were there are any doubts. Analysing at the allowed components needs to be done.
4e	Make sure the shipment is being unloaded at the company during your visit.	
4f	Make overall pictures and specific pictures of the waste	
4g	Gain an insight into the recycling of the imported waste	Waste processing must be done within 180 days after acceptance of the waste (EG 259/93). This period is proceeding over the operational phase of this TFS-project. Furthermore it is not prohibited to mix waste. Insight into recycling is difficult. Describe the

		way of waste processing in the report form. It is worth trying to gain a perception of foreign customers (out of EU) and list them at the report form B.
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III FOLLOW UP and AFTER CARE		
5	Fill in the report form B and sent it to the project secretary and the requesting country	
6	If necessary take further action or ask competent authorities to do so.	Public or criminal legislation

COLOPHON

CLIENT:

VROM Inspectorate, The Netherlands

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ANNEX 3: NATIONAL ENFORCEMENT
STRUCTURES

IMPEL-TFS PROJECT ON VERIFICATION OF
WASTE DESTINATIONS

PROJECT REPORT, OCTOBER 2003 - NOVEMBER 2004

November 2004
110643/CE4/1J0/000352

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CHAPTER 1 Austria

1.1 INVOLVED ORGANISATIONS AND RESPONSIBILITIES

The table below presents a short description of the administrative structure, way of working and legal responsibilities of organisations involved in:

- § Notification and permitting of transfrontier waste shipments, also regarding the three day pre-notification;
- § Enforcement of waste shipment regulations.

Organisation	Level	Grant permission	Enforcement Authority	Number employees involved EC Regulation
BMFLUW	National	Yes	Yes *	15 of about 1000

* Waste transport inspections on a spot check basis, inspections of companies in case of TFS

In Austria the Federal Ministry of Agriculture, Forestry, Environment and Water Management – BMFLUW - is the only Competent Authority for granting permits for transfrontier shipments of wastes. Furthermore the BMFLUW is responsible for waste inspections of companies regarding to TFS. In cases of waste shipment-inspections on a spot check basis the BMLFUW co-operates with customs and the police/gendarmerie based on national legal provisions. In general the performance of regular waste transport-inspections has been assigned to the customs.

The representatives of the Ministry give advice, support and training-courses for customs and police and co-ordinate waste inspections on a spot check basis.

In total the BMFLUW has over 1000 employees. 15 employees are entrusted with granting permits for transfrontier shipment of wastes, management and enforcement of the Regulation 259/93.

The BMLFUW registers beside the permits of waste notifications also the three-day prior notification in a computer system. It is planned to give customs and police access to this system.

1.2 CURRENT COOPERATION

The BMLFUW cooperates with customs, environmental specialists at police, the Federal Agency for Testing Motor Vehicles of the ministry of Traffic and the Federal Environmental Agency. The cooperating organizations exchange information on a structural and on case-by-case bases. Most of these people are trained for the enforcement of Regulation 259/93. Part of this training is given by the BMLFUW. Furthermore in close co-operation with the

Federal Agency for Testing Motor Vehicles workshops on waste control and control of dangerous goods are organized for experts of the Provinces and the local authorities.

The cooperation with customs is based upon national law and brought in practice via joined inspections. Difficult cases are supported by the BMLFUW. Police takes care of criminal transactions. Administrative enforcement actions are taken by customs in general or by the BMLFUW.

1.3

LEGAL POWERS

The BMLFUW is actively carrying out transport inspections on a spot check basis (3-5 times/year, duration 2-5 days) and company inspections (about 25/year). The reason for inspection is mostly originating upon information of others and also resulting from enforcement priorities.

In preparation of the inspections BMLFUW relies on consulting documents, elaborating inspection-plan while having contact with other competent authorities (customs, police). The inspections are performed by representatives from BMLFUW, customs and police together, who do administrative and physical checks, sometimes followed by sampling and analyses of waste.

If the given situation is not in accordance with the legislation in general or the given notification, administrative measures and in case of criminal relevance a prosecution follow. Sanctions are the return of shipment, administrative fees, penalties or administrative sanctions. The BMLFUW can withdraw given permissions and in case of the second conviction the involved company loses the claim for further notifications for 5 years.

The BMLFUW has personnel for executing their competences in enforcement tasks. The table indicates the available competences.

Qualifications	Remarks
Stop a vehicle for inspection	Actual together with customs, police
Open containers or shipments	
Carry out inspections (waste shipments)	Actual together with customs, police
Carry out inspections (at site) in case of TFS	
Checking documents	
Sampling and analysing	Actual with experts from the Federal Environment Agency
Detain shipments for closer investigation	
Block shipments	Actual together with customs

1.4

CURRENT DIFFICULTIES IN ENFORCEMENT

The BMLFUW experiences the following difficulties in the enforcement of EU Regulation 259/93:

- § The handling of the three days prior notification is regularly too late due to personnel lack. Therefore the planning of inspections based on these notifications is hindered;
- § Unclear national and international definitions/classification of waste-streams.

CHAPTER 2 Belgium

2.1 INVOLVED ORGANISATIONS AND RESPONSIBILITIES

The table below presents a short description of the administrative structure, way of working and legal responsibilities of organisations involved in:

- § Notification and permitting of transfrontier waste shipments, also regarding the three day pre-notification;
- § Enforcement of waste shipment regulations.

Organisation	Level	Grant permission	Enforcement Authority	Number employees involved EC Regulation
Federal Environmental Inspection (FLI)	Federal (Belgium)	Yes	Yes	unknown
Flemish Public Waste Agency (OVAM)	Regional (Flanders)	Yes	Yes	40
Brussels Institute for Environmental Management (BIM)	Regional (Brussels)	Yes	Yes	unknown
Walloon Waste Office (OWD)	Regional (Walloon region)	Yes	No	unknown
Department of Environmental Police (DPE)	Regional (Walloon region)	No	Yes	unknown

Distribution of responsibilities regarding TFS is:

- § FLI: transit through Belgium;
- § OVAM: import/export in or out of Flanders;
- § BIM: import/export in or out of Brussels;
- § OWD and DPE: import/export in or out of Walloon region.

Relationship between granting permission and enforcement are:

- § FLI: granting permission as well as transit administration (three day prior notification), no distinct inspectors at their disposal;

- § OVAM and BIM: administration of import/export out of their respective region (three day prior notification), granting permission, no distinct inspection service. Inspections are carried out by the same persons who grant permissions;
- § OWD and DPE: separation between granting permission and EWC administration (OWD) and inspection (DPE);
- § Ex-customs-agents: 11 FTE, competent inspectors for inspection of all types of international waste transports in, out and through Belgium. They carry out inspections by order of all authorities listed above.

2.2 CURRENT COOPERATION

Co-operation between OVAM and police

Joined transport inspections on road transport (together with mostly federal traffic police) and container export (together with maritime police). Most transport inspections are carried out on a regular basis, but depending on the initiative of police services. This systematic way of working is especially through for harbour inspections.

Case by case co-operation during inspection of waste facilities, mostly together with local and/or forensic police. OVAM inspectors act as technical advisors.

Some police corpses (especially maritime police) have received training on the basics of EWC, training organised by both OVAM and the environmental department of federal police. The total number of policemen dealing with environmental issues (contact persons within their corps) is approximately 300 in Flanders. These persons will receive training on national and international waste regulation in 2004-2005.

A formal agreement between OVAM and police has been initiated but still awaits realisation. Most co-operation passes via the environmental department of federal police (information exchange, protocols, larger inspection projects, training, etc.).

Exchange of information happens in a structured way (using ECO-reports for suspect waste transports that are inspected by police), and upon case-by-case information requests.

OVAM competency is limited to registration of infractions, while police is allowed to carry out further investigations.

Co-operation between OVAM and customs

Customs services are the third competent authority on enforcement of EWC (after OVAM and police), but they don't make it a priority. Co-operation is rather case-by-case, and essentially passes via police services or ex-customs inspectors (now working for OVAM a/o.). There is a small network of customs agents dealing with EWC in the port of Antwerp. They have received a training from OVAM and they are followed-up by a customs co-ordinator. They act as contact persons for their colleagues and for OVAM/maritime police.

Co-operation between OVAM and other competent authorities

There is rare co-operation with local authorities (municipalities, provinces) on issues of transfrontier waste shipments, only case-by-case inspections on smaller waste facilities

There are some joined transport inspections carried out in cooperation with the Ministry of Traffic, but these are estimated (less than 20 per year).

2.3 LEGAL POWERS

Legal powers of OVAM involve:

- § Administrative checks of documents;
- § Opening of containers/shipments for inspection;
- § Sampling;

- § Analyses;
- § Detain shipments for closer investigation;
- § Blocking shipments
- § Legal and/or administrative sanctions.

Basis for inspections by OVAM-inspectors

The basis for inspections by OVAM inspectors involve:

- § Random transport inspections (usually): about 100 per year;
- § Transport road inspections targeted on specific types of waste (rarely), based upon rumours, tips, former infractions, but also when a notification is suitable for abuse;
- § Port inspections: selections of containers depend on inspection of documents (suspect companies, suspect waste streams, deviant customs declarations);
- § Company inspections: on a regular basis for take-back legislation, and case by case for infractions/problems that are reported by police, local government or citizens.

Legal measures in case of infractions:

Legal measures in case of infractions involve:

- § Report (PV), but further investigation only if requested by public prosecutor;
- § Administrative measures: return shipments, withdrawal of permissions;
- § Fines: not possible for OVAM, only public servants (local government) can fine somebody for smaller infringements (e.g. dumping rubbish).

Qualifications	Extent of usage
Stop a vehicle for inspection	Always
Open containers or shipments	Always
Carry out inspections (shipments and at site)	Always
Inspect documents	Always
Sampling and analyse	Sometimes – usually executed by private lab
Detain shipments for closer investigation	Always
Block shipments	Sometimes
Legal proceeding	Sometimes

2.4

CURRENT DIFFICULTIES IN ENFORCEMENT

The OVAM experiences the following difficulties in the enforcement of EU Regulation 259/93:

- § Three-day prior notification: administration has been improved, and today it is largely up to date. It remains to be seen whether companies always communicate the correct date of transport;
- § Unclear legislation, especially at national level;
- § Fragmentation of competencies in Belgium;
- § Co-operation with customs (and sometimes police) depends on individual dedication. Although enforcement of waste legislation is still a priority to police, they suffer from a general lack of capacity;
- § Cumbersome administrative settlement of infractions (e.g. return transports).

CHAPTER 3 Czech Republic

3.1 INVOLVED ORGANISATIONS AND RESPONSIBILITIES

The table below presents a short description of the administrative structure, way of working and legal responsibilities of organisations involved in:

- § Notification and permitting of transfrontier waste shipments, also regarding the three day pre-notification;
- § Enforcement of waste shipment regulations.

Organisation	Level	Grant permission	Enforcement Authority	Number employees involved EC Regulation
Ministry of the Environment	National	Yes	No	5 of 500
CEI	Regional	No	Yes	80 of 800
Custom offices	Regional	No	Yes	
Region offices	Regional	No	Yes	
CEHO	National	No	No	

Ministry of the Environment is only one institution obliged to grant permits for transfrontier shipment of waste.

The Czech environmental inspectorate (CEI) is an independent budgetary organization subordinate to the Ministry of the Environment of the Czech Republic. In total the CEI has over 600 employees. About 60 employees, divided over the 10 regions, are entrusted with the management and enforcement of the waste management regulations. There are no specialist on the enforcement of Regulation 259/93.

Center for waste management (CEHO) summarizes data from waste records of individual waste producers and waste shipment notes.

3.2 CURRENT COOPERATION

The CEI has just started the cooperation with environmental specialists at police and with customs (with help and in the framework of running Phare Twinning Project CZ03/IB/EN/01 Integrated and Planned Enforcement of Environmental Law). The cooperation with police is on case-by-case bases, with customs common training and joined inspections have just started.

3.3

LEGAL POWERS

Inspection of local companies/enterprises (environmental permitting);

- § Administrative checks of documents;
- § Opening of containers/shipments for inspection;
- § Sampling;
- § Analyses;
- § Detain shipments for closer investigation;
- § Blocking shipments
- § Legal and/or administrative sanctions.

The CEI is carrying out mostly company inspections. CEI has not competence to stop cars so the traffic inspections are being prepared together with the customs. Inspection of individual facilities focused on TFS procedures are mostly based upon request of Ministry of the Environment. Few inspections were carried out due to complaints or in case of returning back of the shipment from state of departure.

The actual inspections are done by mainly administrative and sometimes physical checks, if it is necessary followed by sampling and analyses of waste.

If the given situation is not in compliance with the legislation in general or the given notification, the enforcement measures follow. Sanctions that are given when operation in conflict with the legislation are return of shipments (imposed by the ministry) or penalty (imposed by CEI). CEI can suggest the withdrawing of granted permit, this procedure is executed by the Ministry. The results of inspections are registered in the national CEI database.

The CEI has personnel for executing their competences in enforcement tasks. The table indicates the available competences and how often they are used.

Qualifications	Extent of usage
Open containers or shipments	Always
Carry out inspections (shipments and at site)	Always
Inspect documents	Always
Sampling and analyse	Sometimes; executed by other organisations
Legal proceeding	Always

3.4

CURRENT DIFFICULTIES IN ENFORCEMENT

The CEI experiences difficulties in the enforcement of EU Regulation 259/93, like:

- § The handling of the three days prior notification is regularly too late. Therefore the planning of inspections based on these notifications are hindered. Fining too late notified shipments is by that reason almost impossible. In relation to the administrative costs of the three day prior notification
- § Unclear legislation (especially marking waste or not waste in case-situations) and unclear definitions / misinterpretations of concepts.
- § Little by little withdrawal from customs and police in cooperation due to other enforcement priorities.
- § Lack of national/international exchange of knowledge.

CHAPTER

4 Finland

An overview could not be provided.

CHAPTER 5 Ireland

5.1 INVOLVED ORGANISATIONS AND RESPONSIBILITIES

The table below presents a short description of the administrative structure, way of working and legal responsibilities of organisations involved in:

- § Notification and permitting of transfrontier waste shipments, also regarding the three day pre-notification;
- § Enforcement of waste shipment regulations.

Organisation	Level	Grant permission	Enforcement Authority	Number employees involved EC Regulation 259/93.
Department of the Environment, Heritage and Local Government	National	No	No	Unknown. Contact Pat Fenton, national coordinator
Environmental Protection Agency	National	Yes for incoming waste	Yes	2
34 Individual Authorities	Local	Yes, outgoing waste	Yes	0 – 4 depending on the authority. Cork has 3 people involved on an ongoing basis, but enforcement of waste generally means that up to eight others may become involved occasionally

I attach herewith text from the Irish Regulation that sets out the local implementation of the regulation. (See Appendix 1).

5.2 CURRENT COOPERATION

Local Authorities are the main waste enforcement bodies in Ireland. They are entitled to request the support of the police force for any duties associated with this. In the main we call on the police for roadblocks and stopping vehicles. We also cooperate with the police on a number of their multi-agency roadblocks and inspections. We are looking at

developing closer links to customs, but their main area of responsibility is the financial aspects of movement of goods. The Environmental Protection Agency office of environmental enforcement has recently begun the process of developing networks so that all agencies will cooperate more productively in the future.

- § Local authorities, responsible for local companies/enterprises (environmental permitting);
 - Enterprises must get permission for development and construction of facilities from local authorities and these generally set environmental conditions. Discharges to air and water must be licensed by local authorities, except in the case of scheduled industry, where IPPC licensing by the Environmental Protection Agency applies.
 - Local authorities are the main enforcement agencies in respect of waste movement. They carry out all monitoring and recording of waste movement and most of the waste handling facilities, other than large scale sites. All waste carriers/collectors must hold a permit for the carriage of waste. Ten out of the 34 local authorities have been nominated to carry out this permitting. A waste carrier must have a permit for each region in which he collects waste.
- § Eventual other organisations.

5.3

LEGAL POWERS

The Irish Waste Management Act provides for the appointment of Authorised persons. These can be appointed by a local authority or by central government. At present the Local Authority personnel perform most enforcement duties aided by police for stopping vehicles and safety. The authorised person may stop a vehicle although it is generally only the police that actually do so. Appendix 2 includes the sections of that act that are regularly used in respect of waste activities.

Qualifications	Extent of usage
Stop a vehicle for inspection	Frequently
Open containers or shipments	Occasionally. Risk of health and environmental issues.
Carry out inspections (shipments and at site)	Increasing frequency. Not often used in the past.
Inspect documents	Always
Sampling and analyse	Seldom. Difficult to get samples to labs in three day timescale
Detain shipments for closer investigation	Always, storage locations can be a problem
Block shipments	Sometimes
Legal proceedings	Increasing frequency.

5.4

CURRENT DIFFICULTIES IN ENFORCEMENT

Which difficulties are encountered in the enforcement of waste shipment regulations, especially in the enforcement of the three-day prior notification?

Cork County Council Notes the following difficulties:

- § Language problems: Contracts often in language other than English.
- § The handling of the three days prior notification is irregular. Waste producers and brokers notify many possible movements depending on the final characteristics of the waste. Pharmachem waste often has variations in properties that may determine whether it goes to one waste facility or another. Companies will notify both possibilities and only decide which to use at the last moment. Producers do not like to hold the waste on site and so the most suitable notification is then used. . Therefore the planning of inspections based on these notifications is hindered.
- § Difficulty in sampling and testing of wastes. Risk from opening containers and responsibility for consequential damage.
- § Unclear legislation (especially determining waste or non-waste and green vs amber) .
- § Lack of development of links with police and customs. Customs main role is to check incoming goods for financial reasons of duties and taxes. Police role in waste management is new to them and they have little training in environmental issues.
- § Lack of national / international exchange of knowledge. Third Country waste facility authorisations are not always readily available.
- § Lack of information regarding third country acceptance of waste. Need for central database of Annex 5 prohibition.
- § Low penalties following legal action. Courts do not grasp full implications of waste and will not apply maximum fines provided for in law.
- § Difficulties with cross border movement where the movement only becomes illegal after it exits the Irish State and thus enforcement officers in Ireland may not follow it.

CHAPTER

6 Malta

6.1 INVOLVED ORGANISATIONS AND RESPONSIBILITIES

The table below presents a short description of the administrative structure, way of working and legal responsibilities of organisations involved in:

- § Notification and permitting of transfrontier waste shipments, also regarding the three day pre-notification;
- § Enforcement of waste shipment regulations.

Organisation	Level	Grant permission	Enforcement Authority	Number employees involved EC Regulation
Malta Environment & Planning Authority (MEPA)	National	Yes	Yes	5 of 450 grant permissions 10 of 450 perform inspections & enforcement

The Malta Environment and Planning Authority (MEPA) was recently formed some 2 years ago and falls within the Ministry of Rural Affairs and the Environment. It currently employs 450, the majority of which work on planning issues. About 75 employees within the Environment Protection Directorate work on environment issues, with recruitment ongoing.

Currently the Waste Management Team formally grants permits for shipments whereas the Pollution Prevention and Control Inspectorate perform the inspections and enforcements functions related to Regulation 259/93

Systems and databases are being built in regards to the registration of the 3-day prior notification. The Inspectorate are currently building their enforcement capabilities in this sector

6.2 CURRENT COOPERATION

MEPA is the competent authority in regards to regulation 259/93 but acknowledges the need for cooperation with other enforcement authorities including:

- § The Malta Police Department;
- § The Malta Customs Authority;
- § The Malta Maritime Authority;
- § The ADT – The Malta Transport Authority.

MEPA and its predecessors – The Planning Authority & Environment Protection Department – have always benefited with close cooperation with the Malta Police Department, which has its own environmental police unit, which historical dealt more with hunting and poaching issues. Closer ties are being built with the Police Traffic Unit as well. MEPA is currently working with several other authorities listed above to form Memoranda of Understanding with them in order to reach close collaboration on this matter. Several meetings and seminars have been hosted by MEPA.

6.3

LEGAL POWERS

The Inspectorate is still in its capacity building phase but is drawing up technical advice obtained from the EU Twinning Project and from the IMPEL network for the preparation of TFS inspections.

The powers of the Inspectorate is set in the Environment Protection Act of 2001 Article 25, which gives the inspectors the powers of entry, boarding of vehicles and vessels, sampling, picture taking, document analysis, issuing stop orders and blocking permits, and the powers of prosecution and assisting police.

MEPA recognises the need of sharing of resources and generally seeks the assistance of other authorities to pool resources and reduce overlap. Therefore, traffic inspections may be performed in conjunction with the traffic police in order to stop and inspect a vehicle.

6.4

CURRENT DIFFICULTIES IN ENFORCEMENT

One must appreciate the fact that enforcing regulation 259/93 is very new to the Inspectorate, having the regulation coming into force on May 1st 2004. Both the permitting officers and the Inspectorate are still at the capacity building stage and there is not enough inspectors to cover all waste management types of enforcement. Key cooperation with the other authorities is still being worked upon.

Once a mutual understanding is achieved between authorities, MEPA must provide the other authorities training on basic waste management issues.

Much groundwork must still be covered with both local companies as well as the ports in Malta. Malta serves as a hub for the Mediterranean region and experiences much traffic with an ever-growing economy at the Malta Freeport.

CHAPTER 7 The Netherlands

7.1 INVOLVED ORGANISATIONS AND RESPONSIBILITIES

The table below presents a short description of the administrative structure, way of working and legal responsibilities of organisations involved in:

- § Notification and permitting of transfrontier waste shipments, also regarding the three day pre-notification;
- § Enforcement of waste shipment regulations.

Organisation	Level	Grant permission	Enforcement Authority	Number employees involved EC Regulation
VROM Inspectorate South	National	No	Yes	5
VROM Inspectorate East		No	Yes	3
VROM Inspectorate North West		No	Yes	5
VROM Inspectorate North		No	Yes	2
VROM Inspectorate South West		No	Yes	8
VROM Inspectorate Head Office (Emergency Room)	National	No	Yes	4
VROM Inspectorate				27 of total 750
SAS/IMA	National	Yes	No	6

The VROM Inspectorate is part of the Ministry of Housing, Spatial Planning and Environment (VROM). In total the VROM-Inspectorate has over 750 employees. About 40 employees, divided over the 5 regions, are entrusted with the management and enforcement of the Regulation 259/93.

The IMA (international report point for waste materials) works in assignment of the policy department SAS of the Ministry of VROM. SAS is the authority that formally grants permissions for shipments in the framework of the appropriate EU Regulation.

The IMA registers the three-day prior notification in a computer system (IER). The Inspectorate has access to this system and is able to plan inspections based on the prior notification.

7.2

CURRENT COOPERATION

The VROM Inspectorate cooperates with environmental specialists at customs, police and the Traffic Inspectorate of the ministry of Traffic and Waterworks. The cooperating organizations exchange information on a structural and on case-by-case bases. Most of these people are trained for the enforcement of Regulation 259/93. Part of this training is given by the VROM Inspectorate. The total of number of specialist in The Netherlands is about 150. Those specialists function as contact person for the VROM-Inspectorate for their organisation. The tasks of these specialists with regard to enforcement of the Regulation 259/93 are:

- § Train and support their colleagues;
- § Make a first selection of shipments;
- § Carry out a first physical inspection or second opinion together with his or her colleague.

The cooperation is formalised in an agreement (with customs) and brought in practice via joined inspections. Difficult cases are handled over to the VROM Inspectorate. The criminal transaction is mostly taken by customs or police. Administrative enforcement actions can only be taken by the VROM-Inspectorate.

Less developed is profound cooperation with the local authorities (mostly provinces) who are responsible for the environmental permitting waste treatment companies or sites. The VROM Inspectorate tries to carry out joined inspections with the provincial inspectors or exchanges information about the environmental permits (acceptation of waste requirements and waste treatment capacity).

7.3

LEGAL POWERS

The VROM Inspectorate is actively carrying out transport inspections and company inspections. The reason for inspection is mostly originating upon signals of others and also resulting from enforcement priorities. The inspection does also operate on selection of organizations and transport (preventive operation).

In preparation of the inspections the VROM Inspectorate relies on consulting documents and having contact with other competent authorities (mostly provinces). The actual inspections are done by administrative and physical checks, sometimes followed by sampling and analyses of waste.

If the given situation is not in accordance with the legislation in general or the given notification, criminal prosecution and administrative measures follow. Sanctions that are given when operation in conflict with the legislation are return of shipments, legal penalties or administrative sanctions. The Inspectorate can withdraw given permissions, but this sanction is not often used. The results of inspections also the signals of the enforcement web are registered in the national VROM Inspectorate database.

The VROM-Inspectorate has personnel for executing their competences in enforcement tasks. The table indicates the available competences and how often they are used.

Qualifications	Extent of usage
Stop a vehicle for inspection	Sometimes
Open containers or shipments	Always
Carry out inspections (shipments and at site)	Always
Inspect documents	Always
Sampling and analyse	Sometimes; executing by RIVM
Detain shipments for closer investigation	Always
Block shipments	Sometimes
Legal proceeding	Always via enforcement-guidance

7.4

CURRENT DIFFICULTIES IN ENFORCEMENT

The VROM Inspectorate experiences the following difficulties in the enforcement of EU Regulation 259/93:

- § The handling of the three days prior notification by the IMA is regularly too late. Therefore the planning of inspections based on these notifications is hindered. Fining too late notified shipments is by that reason almost impossible. In relation to the administrative costs of the three day prior notification;
- § Unclear legislation (especially marking waste or not waste in case-situations) and unclear definitions / misinterpretations of concepts;
- § Little by little withdrawal from customs and police in cooperation due to other enforcement priorities;
- § Lack of national/international exchange of knowledge.

Appendix 1 Irish enabling legislation

S.I. No. 149 of 1998.

S.I. No. 149/1998: WASTE MANAGEMENT (TRANSFRONTIER SHIPMENT OF WASTE) REGULATIONS, 1998

In exercise of the powers conferred on the Minister for the Environment and Local Government by sections 7 of the Waste Management Act, 1996 (No. 10 of 1996), which said powers are delegated to me by the Environment and Local Government (Delegation of Ministerial Functions) (No. 2) Order, 1997 (S.I. No. 428 of 1997), I, Dan Wallace, Minister of State at the Department of the Environment and Local Government, hereby make the following Regulations:-

[zcsi149y1998a1]1. (1) These Regulations may be cited as the Waste Management (Transfrontier Shipment of Waste) Regulations, 1998.

(2) These Regulations shall come into operation on the 20th day of May, 1998.

[zcsi149y1998a2]2. The purposes for which these Regulations are made include the purpose of giving effect to provisions of Council Regulation (EEC) No. 259/93 of 1 February, 1993 on the supervision and control of shipments of waste within, into and out of the European Community (1), as amended (in these Regulations referred to as "the Council Regulation").

(1) O.J. No. L 30/1, 6 February, 1993.

[zcsi149y1998a3]3. (1) Expressions used in these Regulations shall, save where the context otherwise requires, have the same meaning as in the Council Regulation.

(2) In these Regulations, any reference to an article or sub-article which is not otherwise identified is a reference to, respectively, an article of these Regulations or to a sub-article of the provision in which the reference occurs.

(3) In these Regulations, "shipment" in respect of waste means the consignment of such waste whether by air, land or water.

[zcsi149y1998a4]4. (1) For the purposes of the application of the Council Regulation within the State -

(a) the "competent authority of destination" and "competent authority of transit" in respect of the import of waste into, or passage of waste in transit through, the State, shall be the Agency,

(b) the "competent authority of dispatch", in respect of the export of waste from the State, shall be the local authority in whose functional area the waste is held immediately prior to export,

(c) the Agency and a local authority shall have the powers, functions and duties assigned by the Council Regulation to a competent authority of dispatch, destination or transit, as the case may be, and shall perform such functions and duties and may exercise such powers.

[zcsi149y1998a5]5. A person who is a notifier or consignee in relation to a shipment of waste shall comply with the requirements of the Council Regulation and these Regulations and with any requirements, obligations or conditions imposed in relation to such waste by a competent authority of dispatch or the competent authority of destination or transit under the Council Regulation or these Regulations.

[zcsi149y1998a6]6. (1) A person shall not engage in, or facilitate by consent, connivance or neglect, illegal traffic in waste, within the meaning of article 26(1) of the Council Regulation.

(2) A person shall not import, or attempt to import, or facilitate by consent, connivance or neglect the importation of, or an attempt to import, waste in contravention of a prohibition under article 9.

(3) A person shall not furnish information which is false or misleading to a material extent in any notification or other document used for the purposes of the Council Regulation or these Regulations.

[zlsi149y1998a7]7. (1) For the purposes of article 34(1) of the Council Regulation, or for the purpose of compliance by a competent authority of dispatch with the requirements of articles 25(1) or 26(2) of the Council Regulation, the said authority may give such direction in writing to the notifier of a shipment of waste, or to the producer or producers of the said waste, or both, as such authority considers reasonable and appropriate, and such notifier, producer or producers shall comply with any such directions.

(2) For the purpose of compliance by the Agency, as competent authority of destination, with the requirements of article 26(3) of the Council Regulation, the Agency may give such direction in writing to the consignee of a shipment of waste as the Agency considers reasonable and appropriate, and such consignee shall comply with any such directions.

(3) A direction under this article may require a person to return, or to arrange for the return, of all or part of a shipment of waste to its place of origin or to such other place as may be specified in the direction and to undertake, or arrange for, the recovery or disposal, as the case may be, of the waste such manner and at such facility as may be so specified.

(4) Where a notifier or producer fails to comply with a direction under sub-article (1), or where a consignee fails to comply with a direction under sub-article (2), the relevant competent authority shall itself take such steps, including the seizure or taking in charge, recovery or disposal of the waste in question, as it considers necessary to ensure that the said waste is recovered or disposed of in an environmentally sound manner.

(5) A competent authority of dispatch or the competent authority of destination or transit may require a notifier, producer or consignee, as the case may be, to defray any costs incurred by the competent authority for the purposes of this article and, without prejudice to article 8, may recover the costs incurred from the notifier, producer or consignee, as the case may be, as a simple contract debt in any court of competent jurisdiction.

[zlsi149y1998a8]8. (1) A shipment of waste shall not enter or leave the State unless there is in force in relation to the shipment a certificate issued under this article.

(2) An application for a certificate in relation to a shipment of waste shall be made to the competent authority of dispatch or the competent authority of destination or transit in Ireland, as the case may be.

(3) A competent authority which receives an application under sub-article (2) shall issue the certificate requested if it is satisfied that there is in force in respect of the shipment, or will be in force at the time the shipment enters or leaves the State, as the case may be, a financial guarantee or other equivalent security satisfying the requirements of article 27 of the Council Regulation, and such certificate shall certify that the competent authority is so satisfied.

[zlsi149y1998a9]9. (1) For the purposes of article 4(3) of the Council Regulation, the Agency may prohibit the import of any shipment of waste, or of a class or classes of waste, or of any shipment, class or classes of waste intended for any specified purpose, either generally or for such periods as may be specified.

(2) The Agency may prohibit the import of shipments of waste, or of a specified class or classes of waste, other than at a specified place or places within the State, and a person shall comply with any such prohibition.

(3) The Agency may revoke or modify any prohibition made under this article, or any prohibition so modified.

(4) Notice of any prohibition under this article, or of any revocation or modification of such prohibition, shall be published in the *Iris Oifigiúil* and in one or more national daily

newspapers not less than fourteen days before such prohibition, revocation or modification shall take effect.

[zsi149y1998a10]10. (1) The Agency or a local authority may, by notice in writing, require a notifier or consignee of a shipment of waste, as the case may be, to defray or contribute towards any costs incurred by the Agency or local authority, as the case may be, in the performance of its functions under the Council Regulation and these Regulations in respect of the said shipment of waste, including the cost of any inspection or investigations carried out or caused to be carried out by the Agency or local authority, and the taking and analysis of any sample of waste.

(2) The amount of any payment required under sub-article (1) shall not exceed the reasonable costs incurred by the Agency or local authority, as the case may be, in the performance of its functions in respect of the relevant shipment of waste.

(3) A person on whom a notice is served under sub-article (1) shall comply with the requirements of the notice within such period, being a period of not less than three weeks, as may be specified in the notice, and in default of such payment, the amount concerned may be recovered by the Agency or local authority, as the case may be, as a simple contract debt in any court of competent jurisdiction.

[zsi149y1998a11]11. A local authority shall, not later than the 28th day of February in each year, furnish to the Agency information, of such nature and in such form as shall be specified by the Agency, in relation to shipments of waste in the preceding calendar year, in respect of which the said local authority was the competent authority of dispatch.

Dated this 12th day of May, 1998

DAN WALLACE

Minister of State at the Department of the Environment and Local Government

EXPLANATORY NOTE

These Regulations are for the purposes of giving effect to Council Regulation (EEC) No. 259/93 of 1 February, 1993 on the supervision and control of shipments of waste within, into and out of the European Community, as amended. While this Council Regulation is directly applicable in Member States of the European Union, it is necessary to provide for certain administrative details, in particular those relating to enforcement.

The Regulations inter alia provide for the designation of competent authorities for the purpose of controlling waste transshipments, powers of competent authorities, the imposition of certain requirements in relation to the shipment of waste into or out of the State, and the prohibition of waste imports by the Environmental Protection Agency.

These Regulations will replace existing Regulations made under the European Communities Act, 1972, which will be revoked with effect from 20 May, 1998 by virtue of section 6 of the Waste Management Act, 1996.

Appendix 2 Common provisions of the Waste Management Acts, 1996 and 2001

Section	Text
10	<p>Penalties.</p> <p>.—(1) A person guilty of an offence under this Act (other than an offence referred to in subsection (2)) shall be liable—</p> <p style="padding-left: 40px;">(a) on summary conviction, to a fine not exceeding €3000¹ or to imprisonment for a term not exceeding 12 months, or to both such fine and such imprisonment, or</p> <p style="padding-left: 40px;">(b) on conviction on indictment, to a fine not exceeding €15,000,000² or to imprisonment for a term not exceeding 10 years, or to both such fine and such imprisonment.</p> <p>(2) A person guilty of an offence under section 16 (5), 32 (6) (where the offence consists of a contravention of regulations under subsection (4) of that section), 33 (8), 38 (7) or 40 (13) shall be liable on summary conviction to a fine not exceeding €3000³ or to imprisonment for a term not exceeding 12 months, or to both such fine and such imprisonment.</p> <p>(3) If the contravention in respect of which a person is convicted of an offence under this Act is continued after the conviction, the person shall be guilty of a further offence on every day on which the contravention continues and for each such offence the person shall be liable, on summary conviction, to a fine not exceeding €1,000⁴ or (in the case of an offence to which subsection (1) applies) on conviction on indictment, to a fine not exceeding €130,000⁵.</p> <p>(4) In imposing any penalty under subsection (1), the court shall, in particular, have regard to the risk or extent of environmental pollution and any remediation required⁶ arising from the act or omission constituting the offence.</p>
14	<p>Powers of authorised person.</p> <p>.—(1) An authorised person may, for any purpose connected with this Act—</p>

¹ POE Act S22

² POE Act S22

³ POE Act S22

⁴ POE Act S22

⁵ POE Act S22

⁶ POE Act S22

(a) at all reasonable times, or at any time if he or she has reasonable grounds for believing that there may be a risk of environmental pollution arising from the carrying on of an activity at the premises or that such pollution is occurring, enter any premises and bring thereon such other persons (including members of the Garda Síochána) or equipment as he or she may consider necessary for the purpose, and

(b) at any time halt and board any vehicle and require the driver of the vehicle to take it to a place designated by the authorised person, and such a vehicle may be detained at that place by the authorised person for such period as he or she may consider necessary for the purpose.

(2) Subject to subsection (7), an authorised person shall not, other than with the consent of the occupier, enter into a private dwelling under this section unless he or she has given to the occupier of the dwelling not less than 24 hours notice in writing of his or her intended entry.

(3) Every authorised person shall be furnished with a certificate of his or her appointment and when exercising any power conferred on him or her by or under this Act, the authorised person shall, if requested by any person affected, produce the certificate to that person.

(4) Whenever an authorised person enters any premises or boards any vehicle, pursuant to this section, the authorised person may therein, as appropriate—

(a) make such plans, take such photographs and carry out such inspections,

(b) make such tests and take such samples,

(c) carry out such surveys, take such levels, make such excavations and carry out such examinations of depth and nature of subsoil,

(d) require that the premises or vehicle or any part of the premises or anything in the premises or vehicle shall be left undisturbed for such period,

(e) require from an occupier of the premises or any occupant of the vehicle or any person employed on the premises or any other person on the premises, such information,

(f) require the production of and inspect such records and documents, and take copies of or extracts from, or take away if considered necessary for the purposes of inspection or examination, any such records or documents,

as the authorised person, having regard to all the circumstances, considers necessary for the purposes of exercising any power conferred on him or her by or under this Act.

(5) (a) An authorised person who, having entered any premises or boarded any vehicle, pursuant to this section, considers that

waste thereon or therein is such, or is being handled or transported in such manner, as to constitute a risk of environmental pollution, may direct the holder of such waste to take such measures as are considered by that authorised person to be necessary to remove that risk, including, the disposal of the waste, in such manner and place and within such period as the authorised person may specify.

(b) If a holder of waste fails to comply with a direction of an authorised person under this subsection, the authorised person may do all things as are necessary to ensure that the direction is carried out and the costs incurred by him or her in doing any such thing shall be recoverable from the holder of the waste by him or her, or the person by whom he or she was appointed, as a simple contract debt in any court of competent jurisdiction.

(6) Any person who—

(a) refuses to allow an authorised person to enter any premises or board any vehicle or to take any person or equipment with him or her in the exercise of his or her powers under this section,

(b) obstructs or impedes an authorised person in the exercise of any of his or her powers under this section,

(c) gives either to an authorised person, a relevant local authority or the Agency, information which to his or her knowledge is false or misleading in a material respect, or

(d) fails or refuses to comply with any requirement of this section or of an authorised person,

shall be guilty of an offence.

(7) (a) Where an authorised person in the exercise of his or her powers under this section is prevented from entering any premises or if an authorised person has reason to believe that evidence related to a suspected offence under this Act may be present in any premises and that the evidence may be removed therefrom or destroyed, the authorised person or the person by whom he or she was appointed may apply to a judge of the District Court for a warrant under this subsection authorising the entry by the authorised person into the premises.

(b) If on application being made to him or her under this subsection, a judge of the District Court is satisfied, on the sworn information of the applicant, that the authorised person concerned has been prevented from entering a premises as aforesaid or that the authorised person has reasonable grounds for believing the other matters aforesaid, the judge may issue a warrant under his or her hand authorising that person, accompanied, if the judge deems it appropriate so to provide, by such number of members of the Garda Síochána as may be specified in the warrant, at any time or times within 1 month from the date of the issue of the warrant, on production if so requested of the warrant, to enter, if need be by force, the premises concerned and exercise the powers referred to in subsection (4) or (5).

	<p>(8) An authorised person may, in the exercise of any power conferred on him or her by this Act involving the bringing of any vehicle to any place, or where he or she anticipates any obstruction in the exercise of any other power conferred on him or her by or under this Act, request a member of the Garda Síochána to assist him or her in the exercise of such a power and any member of the Garda Síochána of whom he or she makes such a request shall comply therewith.</p> <p>(9) An authorised person may enter on land for the purpose of assessing the suitability of the land for waste disposal; such an entry shall be subject to the relevant provisions of section 83 (other than subsection (6)) of the Act of 1963 as if it were an entry made under that section.</p> <p>(10) The Minister may make regulations for the purposes of this section.</p> <p>(11) Without prejudice to the generality of subsection (10), regulations under this section may provide for all or any of the following matters—</p> <p style="padding-left: 40px;">(a) the taking of samples and the carrying out of tests, examinations and analyses,</p> <p style="padding-left: 40px;">(b) the specification of the classes of persons to be responsible for taking such samples and for the carrying out of such tests, examinations and analyses, or</p> <p style="padding-left: 40px;">(c) the specification of the certificate or other evidence to be given of the result of any such test, examination or analysis and the class or classes of person by whom such certificate or evidence is to be given.</p> <p>(12) Any certificate or other evidence given or to be given in respect of any prescribed test, examination or analysis of any sample shall in relation to that sample be evidence, without further proof, of the result of the test, examination or analysis unless the contrary is shown.</p>
18	<p>Information.</p> <p>.—(1) The Minister, a local authority or the Agency may, for any purpose relating to his or her or its functions under this Act, by the service of a notice in writing on the person, require—</p>
	<p>55 Power of local authority to require measures to be taken in relation to the holding, recovery or disposal of waste.</p> <p>55.—(1) (a) Where it appears to a local authority, as respects its functional area, that it is necessary so to do in order to prevent or limit environmental pollution caused, or likely to be caused, by the holding, recovery or disposal of waste, the local authority may serve a notice under this section on a person who is or was holding, recovering or disposing of</p>

the waste, as the case may be.

(b) Paragraph (a) shall not apply in respect of the recovery or disposal of waste carried on in accordance with a waste licence, or a licence or revised licence granted under Part IV of the Act of 1992.

(2) A notice under this section may require—

(a) the taking of specified measures which the local authority considers necessary in order to prevent or limit the environmental pollution concerned or prevent a recurrence thereof,

(b) the cesser of the holding, recovery or disposal concerned,

(c) the mitigation or remedying of any effects of any activity aforesaid in a specified manner,

within a specified period (not being less than 14 days commencing on the date of the service of the notice).

(3) A notice under this section—

(a) may be served whether or not there has been a prosecution for an offence under this Act in relation to the activity concerned;

(b) shall not prejudice the initiation of a prosecution for an offence under this Act in relation to the activity concerned.

(4) A person on whom a notice under this section has been served may, within such period as may be specified in the notice for the purpose, make representations in writing to the local authority concerned regarding the terms of the notice, and the local authority, having considered any such representations, may amend the terms of the notice or confirm or revoke the notice, and shall inform the person of such amendment, confirmation or revocation.

(5) A person on whom a notice under this section has been served shall, within the period specified in the notice, comply with the terms thereof.

(6) If a person on whom a notice under this section has been served does not, within the period specified in the notice, comply with the terms thereof, the local authority concerned may take such steps as it considers reasonable and necessary to secure compliance with the notice, and may recover any expense thereby incurred from the said person as a simple contract debt in any court of competent jurisdiction.

(7) Without prejudice to the generality of subsection (2), a notice under this section may require—

(a) the removal of waste to any location or locations,

(b) the disposal of waste in a specified manner or at a specified facility,

(c) the taking of measures to prevent the continuance of the activity to which the notice relates,

(d) the treatment of affected lands or waters so as to mitigate or remedy the effects of the activity concerned,

(e) the taking of such other action as may be necessary to counteract any risk of environmental pollution arising from the activity concerned.

(8) A person who fails to comply with a notice under this section shall be guilty of an offence.

(9) Save where the context does not admit such a construction, references in this section to a notice thereunder shall, if the notice has been amended under subsection (4), be construed as references to the notice as so amended.

56 Powers of local authority to take measures to prevent or limit environmental pollution caused by waste.

56.—(1) Where it appears to a local authority that measures are required to be taken in order to prevent or limit environmental pollution in its functional area caused, or likely to be caused, by the holding, recovery or disposal of waste, the local authority may take such steps, carry out such operations, recover or dispose of, or arrange for the recovery or disposal of, such waste or give such assistance as it considers necessary to prevent or limit such pollution or to mitigate or remedy the effects on the environment of any such activity.

(2) Where a local authority takes steps, carries out operations, recovers or disposes of, or arranges for the recovery or disposal of, waste or gives assistance under this section, the local authority may recover the costs of such steps, operations, recovery, disposal or assistance as a simple contract debt in a court of competent jurisdiction from such person as the local authority satisfies the court is a person whose act or omission necessitated such steps, operations, recovery, disposal or assistance.

(3) Nothing in this Act or an instrument made thereunder or any other enactment shall prejudice the taking of necessary action by a local authority in pursuance of the powers under this section.

57 Power of High Court in relation to the holding, recovery or disposal of waste.

57.—(1)⁷ Where, on application by any person to the High Court, that Court is satisfied that waste is being held, recovered or disposed of in a

⁷ From the protection of the environment act, 2003
section 57 of Act of 1996.

Section 57(1) of the Act of 1996 is amended—

(a) by inserting after “cause environmental pollution”, “”,

	<p>manner that causes or is likely to cause environmental pollution or section 34 or 39(1) to be contravened, it may by order—</p> <p>(a) require the person holding, recovering or disposing of such waste to carry out specified measures to prevent or limit, or prevent a recurrence of, such pollution or contravention, within a specified period,</p> <p>(b) require the person holding, recovering or disposing of such waste to do, refrain from or cease doing any specified act, or to refrain from or cease making any specified omission,</p> <p>(c) make such other provision, including provision in relation to the payment of costs including costs incurred by the Agency in relation to the carrying out of relevant inspections or surveys and the taking of relevant samples and the analysis of the results of any such activities,”., as the Court considers appropriate.</p> <p>(2) An application for an order under this section shall be by motion, and the High Court when considering the matter may make such interim or interlocutory order as it considers appropriate.</p> <p>(3) An application for an order under this section may be made whether or not there has been a prosecution for an offence under this Act in relation to the activity concerned and shall not prejudice the initiation of a prosecution for an offence under this Act in relation to the activity concerned.</p> <p>(4) Without prejudice to the powers of the High Court to enforce an order under this section, a person who fails to comply with an order under this section shall be guilty of an offence.</p> <p>58 Remedies for unauthorised holding, recovery or disposal of waste.</p> <p>58.—(1) (a) Where, on application by any person to the appropriate court, that court is satisfied that another person is holding, recovering or disposing of, or has held, recovered or disposed of, waste, in a manner that is causing, or has caused, environmental pollution, or section 34 or 39(1) to be contravened⁸, that court may make an order requiring that other person to do one or more of the following, that is to say:</p> <p>(i) to discontinue the said holding, recovery or disposal of waste within a specified period, or</p> <p>(ii) to mitigate or remedy any effects of the said holding, recovery or disposal of waste in a specified manner and within a specified period.</p>
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(b) by inserting in paragraph (a), after “such pollution”, “or contravention”, and (c) by inserting in paragraph (c), after “costs”, “, including costs incurred by the Agency in relation to the carrying out of relevant inspections or surveys and the taking of relevant samples and the analysis of the results of any such activities,”.

⁸ POE Act 2003, Section 49.

(b) In this subsection, "appropriate court", in relation to an application under paragraph (a) means—

(i) in case the estimated cost of complying with the order to which the application relates does not exceed £5,000, the District Court,

(ii) in case the estimated cost aforesaid does not exceed £30,000, the Circuit Court, and

(iii) in any case, the High Court.

(c) (i) If, in relation to an application under this section to the District Court, that court becomes of opinion during the hearing of the application that the estimated cost aforesaid will exceed £5,000, it may, if it so thinks fit, transfer the application to the Circuit Court or the High Court, whichever it considers appropriate having regard to the estimated cost aforesaid.

(ii) If, in relation to an application under this section to the Circuit Court, that court becomes of opinion during the hearing of the application that the estimated cost aforesaid will exceed £30,000, it may, if it so thinks fit, transfer the application to the High Court.

(iii) This paragraph is without prejudice to the jurisdiction of a court (being either the District Court or the Circuit Court) to determine an application under this section in relation to which it was, at the time of the making of the application, the appropriate court.

(2) (a) An application for an order under this section shall be brought in a summary manner and the court when considering the matter may make such interim or interlocutory order as it considers appropriate.

(b) Where an application is transferred under paragraph (c) of subsection (1), the court to which it was transferred shall be deemed to have made any order made under this subsection by the court from which it is so transferred in the proceedings in relation to the application.

(3) (a) An order shall not be made by a court under this section unless the person named in the order has been given an opportunity of being heard by the court in the proceedings relating to the application for the order.

(b) The court concerned may make such order as to the costs of the parties to or persons heard by the court in proceedings relating to an application for an order under this section as it considers appropriate.

(4) (a) Where a person does not comply with an order under subsection (1), a local authority, as respects its functional area, or the Agency, may take any steps specified in the order to mitigate or

remedy any effects of the activity concerned.

(b) The amount of any expenditure incurred by a local authority or the Agency in relation to steps taken by it under paragraph (a) shall be a simple contract debt owed by the person in respect of whom the order under subsection (1) was made to the authority or the Agency, as the case may be, and may be recovered by it from the person as a simple contract debt in any court of competent jurisdiction.

(5) (a) An application under subsection (1) to the District Court shall be made to the judge of the District Court for the District Court district in which the activity concerned takes place.

(b) An application under subsection (1) to the Circuit Court shall be made to the judge of the Circuit Court for the circuit in which the activity concerned takes place.

(6) An application under subsection (1) may be made whether or not there has been a prosecution for an offence under this Act in relation to the activity concerned and shall not prejudice the initiation of a prosecution for an offence under this Act in relation to the activity concerned.

(7) Without prejudice to any powers of the court concerned to enforce an order under subsection (1), a person who fails to comply with an order under that subsection shall be guilty of an offence.

ANNEX 4: ENFORCEMENT RESULTS
OPERATIONAL PHASE

IMPEL-TFS PROJECT ON VERIFICATION OF
WASTE DESTINATIONS

PROJECT REPORT, OCTOBER 2003 - NOVEMBER 2004

November 2004
110643/CE4/1J1/000352

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CHAPTER

1

Overview of planned and performed inspections

The table below presents an overview of all planned and performed inspections. It also horizontally shows the country of dispatch (setting up an A-form) and vertically shows the country that receives the goods (setting up a B-form).

On the crossings of the horizontal and vertical axes the cell shows what the country has performed, for instance: The Czech Republic planned to perform 1 inspection for a transport to Austria. Austria cooperated and 1 inspection has been performed.

In total 25 inspections have been planned and 11 inspections were actually performed. Only inspections for which a “double check” (inspection at country of dispatch and county of arrival) has been performed are defined as ‘performed inspections’.

Countries	Number of inspections			
	Intended		Performed	
	Country of dispatch	Country of arrival	Country of dispatch	Country of arrival
Austria	2	7	0	3
Belgium	3	8	1 ¹	4
Czech Republic	1	0	1	0
Germany ²	0	3	0	3
Malta	0	0	0	0
Netherlands	11	7	8 ³	1
Finland	3	0	0	0
Ireland	5	0	1	0

The results of these inspections are presented in chapter two of this annex.

¹ Includes 1 practical experience in cooperation with Germany

² Germany is not an official participant in the project, but has cooperated in 3 cases;

³ Includes 2 practical experiences in cooperation with Germany.

CHAPTER 2 Results of inspections carried out

2.1

CZECH REPUBLIC

From Czech Republic to Austria

TFS decision number	Waste stream	Kind of company	Validity of permit	Number of inspections carried out
CZ 007306	Ashes /residues containing metals	Recovering site	01-09-03 till 31-03-04	1
Reason for inspection:				

The allowed way of treatment is:

§ Separating of ferrous- and non-ferrous metals from other materials by means of shredding and flotation.

The next step of the waste after treatment at this company is disposal and sold as a product for industry. About 70% of the waste in question is non-metallic and will be incinerated in a waste incineration plant. About 30% of the wastes are metals, which are separated to "pure" metals e.g. copper, zinc, aluminium, brass, Cr-Ni-steel. These metals are sold to divers melting-plants.

The company is allowed to receive and treat the waste as presented according to the environmental permit. There were no discrepancies between the TFS documents, contract, weighting slips and the invoices. The waste shipment is permitted. No irregularities have been detected.

2.2

IRELAND

From Ireland to The Netherlands

TFS decision number	Waste stream	Kind of company	Validity of permit	Number of inspections carried out
IE 04 1380	Organic halogenated solvents	Disposing site	01-11-2003 – 01-11-2004	1
Reason for inspection:		-		

The allowed way of treatment is:

- § Sampling the tank container;
- § Wait for the analyses;
- § Check if the analyses compares with the parameters of the incinerator;
- § Discharging the contents of the tank container in a Land tank;
- § Transport of the waste from the tank to the incinerator.

The next step of the waste after treatment at this company is disposal (D10 incineration on land).

The company is allowed to receive and treat the waste as presented according to the environmental permit. There were no discrepancies between the TFS documents, contract, weighting slips and the invoices. The waste shipment is permitted. No irregularities have been detected.

2.3

THE NETHERLANDS

From The Netherlands to Austria

TFS decision number	Waste stream	Kind of company	Validity of permit	Validity of permit
NL 105733	Lead waste	Recovering site	15-05-03 till 14-05-04	1
Reason for inspection:		We like to know something about the handling of this waste		

The company is allowed to receive and treat the waste as presented according to the environmental permit. There were no discrepancies between the TFS documents, contract, weighting slips and the invoices. The waste shipment is permitted. No irregularities have been detected.

From The Netherlands to Austria

TFS decision number	Waste stream	Kind of company	Validity of permit	Validity of permit
NL 99335 no4	Ashes and residues of Vanadium	Recovering site	01-10-2003 – 01-10-2004	1
Reason for inspection:				

The company is allowed to receive and treat the waste as presented according to the environmental permit. There were no discrepancies between the TFS documents, contract, weighting slips and the invoices. The waste shipment is permitted.

No irregularities have been detected.

From The Netherlands to Belgium

TFS decision number	Waste stream	Kind of company	Validity of permit	Number of inspections carried out
NL 107441	Organic waste	Recovering site	01-01-04 till 31-12-04	1
Reason for inspection:		Risk for export out of the EU		

The allowed way of treatment is recuperation of spent acid. The next step of the waste after treatment is usage as raw material. The company is allowed to receive and treat the waste as presented according to the environmental permit. There were no discrepancies between the TFS documents, contract, weighting slips and the invoices. The waste shipment is permitted. Additional remarks are:

1. The company doesn't carry out complete analyses on every incoming load. E.g. Cl- content is not determined at the beginning of the process. In theory the company H2SO4 - installation is able to handle whatever Cl- content. The quench liquid (containing all Cl-) is used in the H3PO4 production process. This H3PO4-production puts a limit on the total amount of Cl-. Therefore the company could accept any solution disregarding the Cl- content, as long as the total amount of Cl- going to the H3PO4 won't be too much. In theory the company could accept a load of spent acid from a supplier with a higher Cl- content then allowed in the notification, as long as H3PO4 -production is not endangered.
2. Chances are small that any other waste would be mixed with this spent acid on the way from one company to another.

From The Netherlands to Belgium

TFS decision number	Waste stream	Kind of company	Validity of permit	Number of inspections carried out
NL 96636	Cable waste	Recovering site	01-10-03 till 30-09-04	1
Reason for inspection:		Risk for export out of the EU		

The next step of the waste after treatment is sales of the waste. The notifier had put a security of 10 ton of waste. In practice each shipment transported 20 ton of waste. Moreover the transports departed from a different branch than noted.

The company is allowed to receive and treat the waste as presented according to the environmental permit.

There were no discrepancies between the TFS documents, contract, weighting slips and the invoices. The waste shipment is permitted One irregularity has been detected. The declaration of the final processing is signed immediately after arrival at the companies' gate, although the cable waste will stay in immediate storage for some weeks-months.

From The Netherlands to Belgium

TFS decision number	Waste stream	Kind of company	Validity of permit	Number of inspections carried out
NL 106271 + NL 106285/57	Acid battery	Recovering site	01-05-2003 till 30-04-2004	1
Reason for inspection:		We know nothing about the handling of this waste		

The next step of the waste after treatment is further recovery and sales of the waste. The company is allowed to receive and treat the waste as presented according to the environmental permit. There were no discrepancies between the TFS documents, contract, weighting slips and the invoices. The waste shipment is permitted.

Irregularities have been detected:

- § Declaration of the final processing is signed immediately after arrival at the companies' gate, although the cable waste will stay in immediate storage for some weeks-months;
- § The company sends copies of completed consignment notes only once every 1-2 months (instead of within 3 days).

A warning letter will be send.

From The Netherlands to Belgium

TFS decision number	Waste stream	Kind of company	Validity of permit	Number of inspections carried out
NL 105525/35	Solid paint waste in drums	Recovering site	28-08-2003 till 27-08-2004	1
Reason for inspection:		We know nothing about the handling of this waste. Normally this waste is going to the incineration		

The next step of the waste after treatment is further recovery of the waste.

The company is allowed to receive and treat the waste as presented according to the environmental permit. There were no discrepancies between the TFS documents, contract, weighting slips and the invoices. The waste shipment is permitted. No irregularities have been found.

CHAPTER

3 Practical experiences

3.1

CASE 1: TRAFFIC INSPECTION ON DEMOLITION- AND INDUSTRIAL WASTE

Demolition waste and industrial waste is the largest waste stream from The Netherlands to Germany. The same kind of waste is also transported from Belgium to Germany. These transports cross The Netherlands. It is very important to get insight of the composition and processing of this waste stream.

Goals

The inspection had the following goals:

- § Checking if the waste is pre-sorted as mentioned in the notification;
- § Checking if the different compounds compare with the notification;
- § Checking if the shipment route compares with the notification and if the waste is shipped to the right destination;
- § Checking if the waste will be processed as notified;
- § Publicity to the construction and industrial waste inspections and the TFS-project.

Participants

- § VROM-Inspectorate, The Netherlands;
- § OVAM, Belgium;
- § Bezirksregierung Arnsberg;
- § Bezirksregierung Münster;
- § Regional Police of Limburg, The Netherlands;
- § Customs, The Netherlands.

Proceedings

In the Netherlands, near Venlo, trucks were selected on the road by police and customs. The selected trucks were checked by inspectors of VROM-Inspectorate and OVAM. Trucks with destination Bezirk Arnsberg or Münster were also inspected at the destination in Germany by German- and Belgium- or Dutch inspectors. Trucks with other destinations in Germany had to unload the waste in order to check the compounds.

Location Venlo, The Netherlands

On Friday 16th of July 2004 the 3-day prior notification documents were checked at the Dutch-German borders near Venlo. There were 78 waste transports notified by the three-day prior notification, 24 consisted demolition and industrial waste from the Netherlands, Belgium and Ireland. The files of these notifications were copied for the inspections. The three-day prior notifications were checked the day after the inspection, finally 50 transports with construction waste and industrial waste were reported.

The customs reported that one company took another route to get to the border. They couldn't catch the truck on time. Later this company stopped transporting on that day. VROM-Inspectorate will further investigate this company.

Results

Totally 48 trucks were checked, 45 were loaded with waste. Ten of these trucks were loaded with demolition and industrial waste. These ten waste streams were notified.

- § Two of the trucks with construction and industrial waste had destinations in Bezirk Arnsberg (Germany). These transports were checked again by German and Dutch inspectors at the destinations a few minutes after the trucks arrived. The inspectors concluded that these transports went to the right destinations. Although one of the installations was out of order at the moment of inspection, they had no doubt about the recycling of the waste.
- § One truck with wood waste and two trucks with industrial waste had a destination in Bezirk Münster (Germany). The German and Belgium inspectors checked the transport with wood again at the destination. They also did administrative investigation to the notifications for construction and industrial waste. They concluded that more than 1,5% of the constructions and industrial waste is not recycled at this company but disposed. According the notification it is allowed to dispose only 1,5%.
- § Three trucks with Dutch construction and industrial waste had to unload to investigate the compounds. One load didn't compare with the notification. According the notification it contained 30% wood. The inspectors saw less than 5%. A protocol has been made up. The inspectors had doubts about two other Dutch transports, but further investigation is necessary.
- § One Belgium transport also consisted of other compounds then notified. The Belgium authorities withdrew the notification.
- § One transport with calcium fluoride waste didn't follow the shipment route of the notification. The Dutch Inspectorate has made up a protocol.

The local press published an article about this inspection at the front page of the daily newspaper. A company, which had read the article, gave the VROM-Inspectorate some very important information about illegal transports from Belgium to Germany.

Conclusion

- § Some important violations have been discovered and shipments have been stopped;
- § Also a lot of information has been collected for further investigation. The companies were very surprised that authorities of different countries worked together;
- § Finally the authorities learned a lot of each other, which will improve the enforcement in all the countries.

3.2

CASE 2: RESULTS INSPECTION OUT OF THE EU

After a tip-off the police and customs of Antwerp harbour examined the documents of the containers containing cable waste. This investigation led to the conclusion that the containers on the barge were stuffed by a Belgium company. This company wasn't situated near water. The waste originated from The Netherlands. Belgian authorities contacted the Netherlands VROM inspectorate immediately. It appeared that the waste was exported to China without a permit (illicit trade).

After further investigation it appeared that forgery was committed with the transport documents. The Belgian company was used as a cover (as end destination) without their

knowledge. A charge against the exporter was made in Belgium (forgery of the documentation) and in The Netherlands (illicit trade of cable waste).

Research concluded that this waste stream was used extensively using the Belgian company as a cover to export to non-OECD countries. After this inspection the illegal transport was stopped. During the investigation the methodology of the Verification project proved to be successful.

3.3

CASE 3: INK CARTRIDGES

This company refills several types of ink cartridges. Under the rules of the Ministry of Housing, Spatial Planning and the Environment of The Netherlands, the export of empty cartridges must be declared. In the Czech Republic, however, the material is not defined (by the local authorities) as a waste material.

As a result, the plant did not have a permit under the Environmental Management Act to process waste materials and this was why the Czech Environment Ministry refused to allow import. This problem was discussed at some length during the visit to the company and arrangements were made to put things on a legal footing. A meeting was held with the operational manager, who specially travelled over from the Netherlands for the visit.

An inspection report was composed on the spot and signed by all the inspectors and the representatives of the company, included recommendations were fulfilled which resulted in a granted permit within a period of two months. Because of this permit the export of waste was legalised.