
IMPEL-TFS SEAPORT PROJECT: EUROPEAN ENFORCEMENT INITIATIVE TO DETECT ILLEGAL WASTE SHIPMENTS

ISARIN, NANCY

Adjunct Inspector, Inspectorate of Housing, Spatial Planning and the Environment, 723, Weena, P.O. Box 29036, 3001 GA Rotterdam, The Netherlands, nancy.isarin@minvrom.nl

SUMMARY

Most transfrontier shipments of waste from or through Europe to overseas areas take place via main seaports. To improve the enforcement of European waste shipment regulations and stimulate national and international cooperation, a Seaport project was initiated. This enforcement project was carried out under the umbrella of the Implementation and Enforcement of Environmental Law – Transfrontier Shipment network (IMPEL-TFS)¹ and was focused on inspections of waste shipments through European seaports to non-OECD countries. Many violations of the waste shipment regulation were discovered during the inspections and about 20% of the inspected waste shipments were illegal. The project also showed the need for a follow up and an expansion of the project and recommended a European enforcement strategy. This paper describes the Seaport project and the necessity for enforcement and more international cooperation on transfrontier shipments of waste in order to prevent shipments of environmentally harmful waste take place to countries that do not have the provisions to cope with these wastes.

1 BACKGROUND

In 1994 the Council Regulation on the supervision and control of shipments of waste within, into and out of the European Community (hereafter referred to as the waste shipment regulation 259/93), came into force. One of the main purposes of the waste shipment regulation 259/93 is to prevent shipments of environmentally harmful waste to countries that do not have the proper facilities to handle these wastes. Examples are shipments of hazardous electronic scrap to Asian countries and shipments of dangerous chemical waste to Africa. Even if they fully comply with existing regulations, the companies that are involved in these shipments have proven to be very sensitive to enforcement activities. For example if the enforcement pressure in one port increases, companies quickly move their export activities to an adjacent

port in another European country (also called port shopping). Differences in enforcement structures and enforcement between member states will not lead to a European level playing field. So, if a real influence of enforcement on the destinations of these waste streams is desired, enforcement authorities in the European seaports have to cooperate in order to align their enforcement activities. During the IMPEL-TFS conference in Vienna in June 2002, a proposal was accepted for a joint enforcement project in large seaports. In March 2003 this first Seaport project started and ended in June 2004. Belgium, Germany, United Kingdom, Poland, Latvia, and the Netherlands participated in this project.

2 GOAL OF THE SEAPORT PROJECT

Main goal of the project was to improve the (joint) enforcement of the

Council Regulation 259/93 in the participating ports by aligning the enforcement activities. To reach this goal the enforcement structures in concerned ports needed to be described, cooperation between national and international involved authorities was necessary and (joint) inspections had to be carried out in participating seaports. Ultimately, the project aims to create a more level playing field within the EU.

3 PROJECT SET-UP

After a short preparation phase, where countries were invited to join the project, a start meeting for the international project team was organized in June 2003. During this meeting, representatives of 6 countries made concrete agreements concerning the project planning, inspection methods, number of inspections, priorities for inspections, enforcement structures, reporting the results and communication.

Important for this kind of executive enforcement projects is the involvement of actual inspectors in the project team instead of managers. Experience and knowledge of carrying out inspections, controls and the use of legal powers in case of non-compliances, is essential for the quality of the enforcement project. Especially with international projects, is it difficult to get the right persons on involved. Of course the support of the managers is needed to arrange the required resources.

4 RESULTS

The results of the project are included in a final project report,² which was published in June 2004. The results are structured amongst the main goals of the project and will be discussed separately in this paragraph.

4.1 Enforcement structures

Despite that fact that the waste shipment regulation is directly applicable in all EU member states, every state itself is responsible for the enforcement. Because the member states have regulated the

enforcement under their own national laws, the enforcement structures vary enormously. Within the scope of the project, a survey was held to describe the enforcement structures in participating seaports. The results showed many differences in legal powers, capacity, knowledge, available means, cooperation with other authorities, prosecution, and amount of fines or punishments between countries. This does not lead to a uniform enforcement within the EU. Also it creates undesired possibilities for companies to choose the line of least resistance for waste streams to be disposed.

4.2 Inspections

Participating countries agreed to focus the inspections on waste shipments with non-OECD countries (mainly Africa and Asia) destination and special attention would be paid to non-declared or green listed waste.³ For example waste streams such as refrigerators or wrecked cars, which are declared as second hand goods or household waste is declared as the green listed waste (paper waste), but in fact is amber listed waste.

Further to harmonize and standardize the way of inspecting and reporting the results, a manual was developed. This manual describes the phases and types of inspections and provides standard forms to report the inspection results. Every inspection exists of three phases:

- Preparation phase. During this phase agreements are made concerning date and location of the inspection, necessary cooperation with other authorities (such as customs or police), responsibilities during the inspection, safety measures, sampling facilities, required means, selection criteria for the shipments and communication.
- Operational phase. In this phase the actual inspection is performed. An inspection exists of an administrative check and a physical check. The main aim is to determine if the waste shipment is permitted or not. The administrative check is to see if all the

required documents are accompanying the waste shipment. The physical check is necessary to verify the actual load and the composition of the waste with the information given on the documents.

- Reporting phase. During this phase the results of the actual inspection are reported and if necessary follow up actions are taken such as sending back the illegal shipment or making a final report against the violator in case of non-compliance.

The three types of inspections as described in the manual are:

- Inspection of custom documents. Custom documents (for example the declarations) can be a starting point to investigate containers that may contain waste. Cooperation with customs is indispensable for this kind of inspection.
- Inspection of storage locations and warehouses. On a port site, many lots and goods are stored, waiting for further shipments. This implies that waste can also be stored in these kinds of storage locations, awaiting further transfrontier shipping.
- Traffic inspections. Inspections of vehicles near roads that lead to port terminals enlarge the chance of hitting waste shipments.

Note that more inspection types are possible. Using a combination of inspection types increases the chance of finding illegal waste shipments.

4.3 Enforcement Results

In total, 47 inspections in 6 sea-ports (Hamburg, Antwerp, Riga, Gdansk, Felixstowe and Rotterdam) were performed during the operational phase of the project. During these inspections 1230 shipments were checked, of which 508 were carrying waste. After investigation, 103 shipments turned out to be illegal (approximately 20%) and in 47 cases infractions were determined.

Examples of illegal shipments are exports of:

- cable waste from The Netherlands, via Belgium to China;
- car wrecks and electronic waste from Belgium to West-Africa;
- household waste, declared as paper waste, from the United Kingdom to India;
- used 'single-use' cameras from Germany to Hong Kong;
- computer waste and monitors from the United Kingdom to Pakistan.

Each of the above mentioned illegal shipments took place without the required notification to and permission of the involved competent authorities. In some cases the export BAN applied. The export BAN means that the export of hazardous waste streams to specific countries is always prohibited.

4.4 Cooperation and Exchange of Knowledge

Because of the international character of the waste shipments, cooperation between countries is essential for a good enforcement. Also, the involvement of other national authorities, such as police and customs, is necessary to carry out inspections. In most cases the involved environmental authorities are facing a lack of capacity and legal powers. Officers from other authorities can therefore act as the eyes and ears in the field. The survey of the enforcement structures showed that each country may have many organizations and authorities that play a role in the execution and enforcement of the regulation.

To stimulate the national and international cooperation and exchange of information, the project management provided:

- a protected project website, where project participants can exchange information and signals about cases;
- the exchange of inspectors during the actual inspections;
- project meetings;
- examples of how to arrange cooperation with other involved authorities with

Memorandums of Understanding.

5 GENERAL CONCLUSION AND RECOMMENDATIONS

The outcomes of the project emphasized that cooperation in enforcement of international waste shipments regulations is needed to protect the environment. Many illegal waste shipments were detected; controls of this kind of legislation are therefore absolutely essential.

Based on the results and the conclusions of the project, the following recommendations were given. The first is to develop a European enforcement strategy for the waste shipment regulation, if possible combined with a multi-annual program. This strategy should contain items like the minimum principles for adequate enforcement, capacity and means, priorities, projects and training and exchange programs. The second recommendation is to create a website which contains extensive information about the waste shipment regulation, contact persons, a digital reference book of waste streams and the classification of wastes, and an alert system of illegal or suspected waste shipments. Thirdly enforcement organizations on national level should take the lead in intensifying and formalizing cooperation with other authorities, provide training for their inspectors and give more priority to the enforcement of the international waste shipments regulations. Finally, it was recommended to continue and expand the Seaport project with more countries and seaports.

6 SECOND PHASE SEAPORT PROJECT

Because of the surplus value and the good results of this joint international enforcement project, a follow-up project has already started. During a start meeting

in September 2004 in Riga (Latvia), 12 EU member states agreed to joint inspections of the waste shipment regulation from October 2004 to February 2006. The final report will be published in June 2006.

7 JOINING THE PROJECT

To improve the quality and efficiency of the seaport project, involvement of countries outside the European Union is desirable. For example, countries where much waste is transported to could verify the final destination of the waste or exchange information and signals about illegal waste shipments. Countries or organizations which are interested in joining the Seaport project, can contact the INECE secretariat or the project manager of the seaport project.

8 REFERENCES

- ¹ The Implementation and Enforcement of Environmental Law network: <http://europa.eu.int/comm/environment/impel>
- ² IMPEL-TFS Seaport project report, 'Illegal waste shipments to developing countries, common practice' http://europa.eu.int/comm/environment/impel/pdf/impel_tfs_seaportprojectjune2004.pdf
- ³ The Regulation 259/93 contains three lists of waste streams mentioned for recovery (green list annex II, amber list annex III and red list annex IV). The shipment of amber and red listed waste (hazardous waste) always requires a prior notification. The shipment of green listed waste (non-hazardous waste) within the European Union is free of notification. Shipment of green listed out of or through the EU is or free of notification or needs a prior notification depending on the destination.