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ENVIRONMENTAL, SOCIAL AND
ECONOMIC IMPACT ASSESSMENT OF
POSSIBLE REQUIREMENTS AND
CRITERIA FOR WASTE SHIPMENT
INSPECTIONS, CONTROLS AND ONTHE-SPOT CHECKS

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1. CONTEXT OF THE STUDY

The EC 2008 Study on Inspection Requirements for Waste Shipment Inspections¹ (further referred to as 'Study on Inspection Requirements for WS Inspections'), provided a list of 174 proposed criteria to strengthen the inspections, controls and onthe-spot checks of waste shipments. Of the 174 proposed criteria, 95 were shortlisted by the Commission and are assessed in the present study in order to inform the European Commission (EC) about their possible direct and indirect environmental, social and economic impacts, inside as well as outside the European Union (EU).

The study follows the guidelines of the Commission in regards to Impact Assessments and aims to serve as a building block for a full impact assessment, which would include, among others, a stakeholder consultation.

The study is divided into five parts:

- Problem definition, providing a brief explanation of the current situation and presenting identified issues
- Objectives of the impact assessment, detailing the main, specific and operational objectives
- Policy options, describing the options that were selected for the impact assessment
- Analysis of the impacts (environmental, social and economic) of the different options defined
- Comparison of the options, drawing on an impact matrix to compare the options as objectively as possible

ec.europa.eu/environment/waste/shipments/pdf/report august09.pdf

¹ IEEP, Bio and Ecologic (2008) Study on Inspection Requirements for Waste Shipment Inspections, study available on the Commission's website at:



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2. PROBLEM DEFINITION

2.1. CURRENT SITUATION

Hazardous waste

'Hazardous waste' refers to waste which displays one or more of the hazardous properties listed in Annex III of the Waste Framework Directive² (i.e. for instance: Explosive, oxidising, highly flammable, irritant, harmful etc.)

Inadequately disposed hazardous waste may cause serious environmental and health problems for populations surrounding the disposal area. Leaks from the discarded waste also harm soils and water streams, and produce air pollution.

The Probo Koala case is an illustrative example of harm that may be caused by the inappropriate discharge of toxic waste. In September 2006, the above-named ship discharged toxic waste on the coast of the Ivory Coast. Estimations of the health impacts caused locally vary, but some newspapers indicated that it caused the death of 17 persons, while intoxicating thousands³. One of the difficulties linked to this affair is that of ascertaining the responsibilities, especially as the ship is owned by a Greek company, which is registered in Panama, chartered by a Swiss-Dutch company, has its headquarters in London, and is operated by a Russian ship crew. The final trial is currently taking place, with relatively low compensations regarding the health and environmental harm caused. Annex A further describes the issues linked to the Probo Koala case and how the shipment was allowed to leave Europe and discharge its load in the Ivory Coast.

Other categories of waste

Further specific waste streams that are not classified as 'green-listed waste' in Regulation 1013/2006/EC on shipments of waste (Waste Shipment Regulation or WSR, see below) are suspected of being subject to significant amounts of illegal exports and creating serious implications in third countries due to their unsafe and environmentally unsound handling. Some of these waste streams are mentioned in this report: waste electrical and electronic equipment (WEEE), end-of-life vehicles (ELVs) and plastic

² Article 3 of Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives, available at: eur-

lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:312:0003:0030:EN:PDF

³ Le Monde (2009) L'affréteur du Probo Koala aurait proposé un accord aux victimes ivoiriennes, 16/09/2009, available at : http://www.lemonde.fr/afrique/article/2009/09/16/l-affreteur-du-probo-koala-aurait-propose-un-accord-aux-victimes-ivoiriennes_1241483_3212.html



waste.⁴ In addition, a report from IMPEL-TFS actions shows that significant illegal exports also occur concerning 'green-listed waste' due to non-compliance with information requirements in Article 18 and Annex VII of the WSR.⁵

Legal framework

The Basel convention, at the international level, and the Organisation for Economic Cooperation and Development (OECD) Council Recommendation of 2004⁶ on Environmentally Sound Management of Waste, were designed to address such hazards. In the EU, Regulation 1013/2006/EC on shipments of waste (Waste Shipment Regulation or WSR)⁷, applicable since 12 July 2007, seeks to prevent and control environmental and health hazards in relation to shipments of waste within the EU and between the EU and third countries.

The WSR prohibits all exports of hazardous waste to countries outside the OECD and all waste for disposal outside the EU/European Free Trade Association (EFTA). Annex V lists the waste subject to the export prohibition. In order to ensure that hazardous waste is not exported through illegal channels and in particular by falsely declaring hazardous waste as other (authorised) types of waste, inspections of waste shipments are performed by the authorities in each Member State (MS). Article 50 of the WSR requires that Member States provide for inspections of establishments and undertakings (in accordance with Article 13 of the Directive on Waste (2006/12/EC)) and for spot checks on shipments of waste or on the related recovery or disposal. The checks on shipments shall include the inspection of documents, the confirmation of identity and, where appropriate, physical checking of the waste. However, there is clear evidence of illegal shipments of waste directly contravening this regulation, in particular through hazardous waste exports and exports of waste for disposal to developing countries. Problems relating to illegal waste shipments have also arisen between Member States.

Currently, a Recommendation⁸ providing for minimum criteria for environmental inspections (RMCEI) guides the inspections and provides minimum criteria applicable to all types of environmental inspections. However, RMCEI does not contain specific criteria for waste shipment inspections. In 2007 the European Commission published a review of the implementation of the RMCEI, where it stated that the RMCEI 'does not,

⁴ See also report of a study for German authorities carried out this year on www.umweltbundesamt.de/uba-info-presse-e/2010/pe10-

⁵ See Section 2.2 concerning the IMPEL-TFS actions and e.g. violations of Article 18 and Annex VII of WSR, final report on the Commission's Europa web-site: ec.europa.eu/environment/waste/studies/index.htm.

⁶ Recommendation C(2004)100 on Environmentally Sound Management of Waste

⁷ Regulation 1013/2006/EC of the European Parliament and of the Council of 14 June 2006 on shipments of waste

⁸ Recommendation 2001/331/EC of the European Parliament and of the Council of 4 April 2001 providing for minimum criteria for environmental inspections in the Member States



however, lay down criteria for inspections of waste shipments'. 9 In discussions about criteria at the Commission¹⁰ it was said that sectoral criteria may be more effective, as criteria 'can be adapted to the specific nature and risks of the installations or activities covered and can be more precise and better targeted than general criteria'. Such a sectoral approach is already set out in the Seveso II Directive¹¹ (Article 18) and the IPPC Recast Proposal, where criteria are proposed. The Waste Electrical and Electronic Equipment (WEEE) Directive Recast Proposal also includes criteria relative to the monitoring requirements for shipments of WEEE (Annex I). In the discussions at the Commission mentioned earlier, legally binding requirements for inspection were said to be 'necessary to ensure that a higher political priority is given to inspections and that environmental legislation is better enforced throughout the Community'. The review of the RMCEI stated that the Commission is 'considering proposing specific legally binding rules for inspections of waste shipments'. The WSR lacks any specific criteria related to how inspections should be organised or undertaken to help guide their effectiveness.

Implementing minimum standards also addresses the division of powers between the Commission and MS. Indeed, higher standards can always be set by MS (respecting the free movement of people, goods, services and capital inside the EU single market) and the common standards ensure a common level of implementation.

The European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL) is an association which aims to better enforce European regulations in the environmental field. A specific network is dealing with issues of Transfrontier Shipments of Waste, IMPEL-TFS¹². This network is very active in organising joint enforcement actions between MS and providing guidance and documents to improve the enforcement and implementation of the WSR. However, the network has no powers to make compulsory any guidance or participation in enforcement actions and the participation of MS in the programmes organised by IMPEL-TFS is voluntary. At international level, INECE (International Network for Environmental Compliance and Enforcement) is also active on enforcement of environmental conventions, including combating illegal waste shipments.

Problems requiring action

The 'Study on inspection requirements for WS Inspections' and other literature on waste highlight the fact that illegal waste shipments may have several causes.

European Commission – DG ENV

⁹ Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on the review of Recommendation 2001/331/EC

providing for minimum criteria for environmental inspections in the Member States, COM(2007) 707, p.4.
¹⁰ See 'Study on Inspection Requirements for WS Inspections' p.48: the Communication COM(2007)707 sets out the Commission's views on further development of the recommendation, based, inter alia, on the reports that the Member States have submitted on their implementation of the recommendation. See also ENDS Europe (2007) Binding EU rules on green inspections mooted, 19 November 2007.

¹¹ Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances.

¹² ec.europa.eu/environment/impel/impel tfs.htm



The first main reason for illegal waste shipment relates to administrative matters. For example, required documents are frequently lacking. According to the Enforcement I Project put in place by the IMPEL-TFS network, the major types of administrative violations in 2007 and 2008 were due to 'Green list information incomplete, incorrect or missing', 'Amber list information incomplete, incorrect or missing', 'Non-authorised transporter' or 'Other reasons'¹³. This type of illegal shipments does not necessarily lead to harm human health or the environment, even if in the procedures the notification of shipments and accompanying documents are important to ensure each shipment respects international rules.

The second main reason for illegal waste shipment is the classification of waste as second-hand goods. This often occurs when electronic and electric equipment devices (EEE) such as televisions, fridges, etc. are sent theoretically for reuse in third countries, when in reality, they are no longer in operation. Second-hand EEE shipments are legal, thus classifying WEEE as second-hand material makes the shipment legal under the Basel Convention and the WSR if they are declared. Testing the devices while performing an inspection is a way to ensure the devices are functioning second-hand goods. In the same vein, End-of-Life Vehicles (ELV) and vehicle parts that should normally be classified as waste are frequently traded as products. It can be hard to determine whether they can be repaired or reused since the parameters that have to be taken in account include the age of the car and its general state, the fact that essential pieces are missing, the situation of the chassis etc., which leaves room for personal appraisal and requires technical knowledge. ELV from which all hazardous components have been removed (oil, gasoline, windscreen fluid, brake lining containing asbestos, etc.) are 'green-listed waste', but if the shipment contains any of these materials, it should be classified as hazardous waste. Ensuring all hazardous materials have been removed requires specific technical knowledge.¹⁴

The third main reason for illegal waste shipment is the classification of waste under a wrong label. For instance, WEEE can be classified as 'green-listed waste' in order to avoid inspections. If the containers are not opened, the fact that the content is not the same as the accompanying document claims will not be detected. Furthermore, plastics or paper can be sent as 'green-listed waste', but if the waste is not sorted it can include papers/plastics contaminated by hazardous substances. ELV from which all hazardous materials have been excluded (oil, break fluid, airbag, etc.) is 'green-listed waste'. Ensuring these materials have been removed needs a physical check.

A different type of illegal activity is the hiding of drugs, weapons or protected species (species for which trading is illegal under the CITES convention for instance) in waste. Again, inspections may help reduce such illegal transports.

¹³ IMPEL-TFS, (May 2008) Enforcement Actions I, Draft Final Report, available at: ec.europa.eu/environment/impel/pdf/eea 1 final report.pdf

¹⁴ www.inece.org/seaport/accra/panel1_post.pdf



Illegal waste shipments are mainly composed of 15:

- WEEE
- Plastic waste
- Metal waste
- Paper and cardboard waste
- ELV

As waste amounts produced in the EU are expected to continue to increase in the next years, illegal shipments are also expected to continue, with a probability of higher amounts of waste shipped illegally. Estimated trends are presented in the next section.

Drivers of the problem

Several drivers of illegal waste shipments are identified in the literature and by the authorities. The following main drivers have been identified:

- Differences in prices for treatment and disposal are of course an important economic driver for illegal shipping¹⁶. Precious metals such as gold, silver, platinum, palladium or rhodium for instance can be recovered from WEEE at lower prices in third countries.
- Lower prices in other countries are mainly driven by less stringent regulations.
 The lessening of environmental and health standards leads to less costly treatments. Thus many of such transports are exports of waste to countries that have WSR-restrictions, but offer favourable commercial conditions, such as high prices and low environmental or health specifications.
- Implementation-related problems are driven by a lack of clear, agreed inspection programmes and criteria. A lack of precision in the WSR is contributing to this.
- Waste is a complex concept (notably due to the difficulties in deciding whether
 certain products fall within the scope of Annex V Exports prohibition and
 distinguishing second-hand material, reusable material and waste), which
 needs specific training by inspectors to ensure the category that the waste is
 listed in is relevant.
- Enforcement-related problems reflect disparities in MS' approaches and the political priorities, resources and organisation of inspections, as well as

¹⁵ IMPEL, Albert Klingenberg (2009) Transfrontier shipments of waste – An enforcement challenge, Presentation for the Institute fir European Studies at Vrije Universiteit Brussel and the Institute for European Environmental Policy, 13 February 2009 and ESWI Consortium (2009) IMPEL-TFS Enforcement Actions II Enforcement of EU Waste Shipment Regulation "Learning by doing", Interim Project Report, 12 October 2009

 $^{^{16}}$ European Environment Agency (2009) Transboundary Shipment of Waste - Waste without borders in the EU?, report $n^{\circ}1/2009$



differing needs. For instance all MS do not have the same shipments volumes leaving or transiting in their countries.

- Coherence-related problems arise from disparities in the inspections performed by different MS, such as differences in classification, i.e. whether the inspected containers contain second-hand material or waste. Additionally, usually it is for the holder to prove that the equipments at issue are not waste, but in certain MS, the burden of proof lies with the authority that the equipment at issue is waste, for instance for WEEE.¹⁷
- Disparities in enforcement in the different MS also lead to 'port shopping', effectively choosing the countries where enforcement is lower in order to continue shipping illegal waste abroad. In order for inspections to be enforced EU-wide, the implementation of the regulation must be equivalent in all MS. In the case of shipments, it is even more strongly the case as evidence shows that if the enforcement pressure in one port increases, companies move their export activities quickly to an adjacent port in another European country¹⁸.

Who is affected and how?

Better enforcement of the WSR affects several actors:

- Member State authorities, who undertake the inspections at national level and put in place strategies, plans and programmes, organise training activities and joint inspection programmes
- Legal waste traders and shippers, who already have a quite high administrative burden for declaring their waste shipments
- Illegal waste shippers and other criminals, who are using the implementation gaps of the WSR at the expense of health and environmental issues and who will be punished and/or deterred by a better implementation of the WSR
- Treatment operators, who treat waste and contribute to the information flow by monitoring the amounts of waste entering and leaving the treatment facilities
- Recyclers and recovery operators who collect and monitor the amounts of waste collected for recycling and recovery
- EU citizens, for whom the impacts of waste in third countries is a concern but who may bear the costs of more resource allocation to inspection activities

¹⁷ Revised Correspondents' Guidelines No 1 on shipments of waste electrical and electronic equipment (WEEE) - to apply under the new Regulation No 1013/2006 from 12 July 2007

¹⁸ N. Isarin (date unknown) IMPEL-TFS Seaport Project European Enforcement initiative to detect illegal waste shipments, Adjunct Inspector, Inspectorate of Housing, Spatial Planning and the Environment, The Netherlands



• Citizens and traders in third countries who either currently suffer health effects from treatment of illegal WEEE or profit from the illegal trade

2.2. EXPECTED EVOLUTION OF WASTE SHIPPING

According to IMPEL-TFS¹⁹, within the EU as many as 15% of all transport movements involve waste. This shows the importance of the traffic and the difficulty to inspect waste containers in order to check their legality. However, evidence shows that inspections could significantly help to reduce the illegal shipments: the Seaport Project, which IMPEL-TFS ran, revealed 564 illegal waste shipments and 473 other infractions related to the Waste Shipment Regulation, out of a total number of 1103 shipments.¹⁹ These impressive numbers underline both the great proportions of illegal shipments but also the potential of inspections in detecting infractions. Another piece of information from IMPEL-TFS underlines the fact that the busiest European ports seem to be hub ports for waste movement within the EU and beyond. During the IMPEL Enforcement Action II project²⁰, 19% of the waste shipments were in violation, of which:

- 37% were illegal transports, mostly ELVs and WEEE to Africa and contaminated/poorly sorted paper-cardboard and plastics to Asia
- 46% were classified as administrative violation due to missing/incomplete article 18 information
- 17% were other violations such as missing registration (in national register) as waste transporter/broker, lack of pre-notification of competent authorities or use of a wrong format

Finally, the IMPEL-TFS calls for minimum criteria for inspections of waste shipments. It also says that the RMCEI, which is only a recommendation, could be strengthened in order to ensure better implementation of the WSR.

The 2009 study by the European Environment Agency (EEA) on waste²¹ reported that in 2005 (latest available data), the EU generated 66 million tonnes of hazardous waste. In that year, the shipped amount of notified waste from EU countries to other EU countries and non-EU countries accounted for about 13% of the total hazardous waste generation, compared to 5% in 1997, as illustrated in Figure 1. This increase in proportions shows that hazardous waste is increasingly shipped away from the country

 $^{^{19}}$ IMPEL-TFS (date unknown) The Enforcement of Transfrontier Shipments of Waste

²⁰ ESWI Consortium (2009) IMPEL-TFS Enforcement Actions II Enforcement of EU Waste Shipment Regulation "Learning by doing", Interim Project Report, 12 October 2009

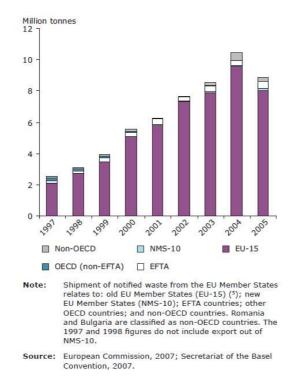
²¹ European Environment Agency (2009) Transboundary Shipment of Waste - Waste without borders in the EU?, report n° 1/2009



of origin, whereas the Waste Directive²² requires EU MS to be self-sufficient for treating their waste.

Furthermore, the EEA study²¹ also shows that the total amounts of shipped non-hazardous waste have increased in the EU in the period from 1995 to 2007. For instance, waste paper amounts exported to Asia have increased tenfold, a factor of eleven for plastic and a factor of five for metal. This can be seen as positive if these items are reused, but it also means that the possibility to label hazardous waste wrongly as paper or plastic waste is increasing, leading to a more difficult detection of illegal transfers.

Figure 1: Shipments of notified waste from EU MS to other EU and non-EU countries, 1997-2005²³



WEEE is the first type of waste illegally shipped and it does not appear that this trend will decrease in the near future. Indeed, the Baseline scenario for WEEE, according to the WEEE Directive (recast) Impact Assessment (IA)²⁴, estimates the total quantity of electronical and electronic equipment put on the market at 15.1 million tonnes by 2020. As a comparison, WEEE produced in the EU in 2005 amounted to 8.3 to 9.1 million tonnes. 45% of this total is expected to remain unaccounted for, with 35% (4.3

²² Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives

²³ Source: EEA 2009 study, see footnote 21

²⁴ Commission Staff Working Paper accompanying the Proposal for a Directive of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE) (recast) - Impact Assessment {COM(2008) 810 final} {SEC(2008) 2934}



million tonnes) not treated in accordance with the Directive, be it in the EU or outside the EU.

The IA estimates that 25 000 tonnes of WEEE is legally shipped out of the Community, based on trade data, which is significantly lower than the assumed total export. No estimation of illegally shipped amounts is made in the IA. The evidence and working assumptions made in the study would account for 58% of the WEEE arising²⁵, leaving 42% unaccounted for.

In the total exported amounts, the IA expects that waste is mostly treated in substandard ways, as it saves significant costs: complex and costly processes are needed to recover material values using sound environmental treatment standards, especially for cooling and freezing equipments. Other machines, such as dishwashers and washing machines, do not require such complex treatments.

It is commonly accepted that there are well-established 'grey markets' for WEEE items which have a value, such as large household appliances (which contain mainly metals), desktop computers, TVs and mobile telephones. Thus it is commonly admitted that substantial leakages are occurring. Amounts of business to business (B2B) WEEE reported as collected and treated also do not reflect the expected amounts of B2B WEEE produced. This may again be a source of malpractice and illegal exports to non-OECD countries.

Further, substantial anecdotal evidence and research suggest that often treatment is not conducted in line with the Directive. The treatment methods focus on the recovery of specific materials with value while minimising costs, to the detriment of environmental and health precautions.

The WEEE Directive IA also suggests that according to various pieces of evidence, very large volumes of WEEE are shipped out of the EU illegally for sub-standard treatment in the developing world. These are often disguised as export of used equipments. Several investigations were able to detect such illegal shipments; however, due to the illegal nature of such shipments no data is available on overall volumes. Also, a UNU study mentions reports about shipments of WEEE disguised as goods from the port of Hamburg²⁶ and findings that 28% of businesses (collectors and exporters) were found to be exporting WEEE illegally from the Netherlands²⁷. A study in the United Kingdom showed that about 10% of WEEE transports were shipped illegally to non-OECD countries.

Based on 2005 data and the United Nations University (UNU) study, the WEEE Directive IA estimates that the WEEE arising (taken at the lower end of the estimations from the

 $^{^{25}}$ 58% represents 33% reported, 2% reused, 10% probably treated in line with the Directive and an unsorted fraction of 13%

²⁶ Deutsche Umwelthilfe (2007) Hamburg – Gate to the world for illegal waste exports? Part 1, How Hanseatic City of Hamburg tries to get rid of its liability

²⁷ J.Vanhouten, VROM Netherland Environmental Inspectorate (2007) Let's join our forces to stop waste dumping!



UNU) is 8.3 million tonnes. The study states that it is not possible to estimate the amounts of WEEE illegally shipped out of the EU, but in a worst-case scenario, WEEE separately collected, improperly treated in or out of the EU could be assumed to represent around 41% of the WEEE arising or 3.4 million tonnes.

The WEEE Directive IA expects positive impacts on reducing the amounts of illegal WEEE shipments due to a better enforcement of the WSR. However, it specifies that incentives for illegal shipments will remain, either to avoid certain costs or to benefit from highly demanded resources. Additionally, the WEEE Directive recast provides in Annex I minimum monitoring requirements for shipments of WEEE, which are very specific. Their implementation could also play a role in the better enforcement of the WSR.

Regarding ELV, a report by the European Parliament, which studies the implementation of the ELV Directive in Europe²⁸, gives insights into the illegal exports of old cars. The report says that the export of second-hand cars before they reach their end of life is an important (and possibly growing) feature of the European car market. Additionally, the legitimate second-hand trade masks some illegal activities, such as the export of wrecked or stolen cars. The study analyses several EU countries. Details about illegal exports are mentioned for Belgium for instance. Belgium has a significant export market for second-hand vehicles. The major destinations for these exports are West Africa, the Middle East and the former Eastern bloc countries. However, many of these exports are illegal, as many scrapped cars (wrecks) are exported under the guise of second-hand cars. The report says that although it is difficult to provide firm evidence of such activities, it has been reported that the legitimate second-hand trade masks some illegal activities, such as the export of wrecked cars for recycling outside Europe. This practice is illegal, as end-of-life vehicles should be classified as hazardous waste and handled accordingly. It is also suggested that many stolen cars are moved across national frontiers and replated, in order to better avoid detection.

Illegal waste shipments

The EEA study shows that reported annual illegal shipments vary between 6 000 and 47 000 tonnes with an average of about 22 000 tonnes. This would be equivalent to 0.2% of the notified waste (Figure 2). It is estimated that these are minimum figures, as many of the reports do not contain information on the amounts shipped. Furthermore, the report says the number of reported illegal shipments has increased during the period 2001 to 2005. It is expected that reported cases represent a fraction of the actual number and that the number of illegal shipments is considerable.

²⁸ ELV Directive, An assessment of the current state of implementation by Member States (European Parliament (2006) IP/A/ENVI/FWC/2006-172/Lot 1/C1/SC2)



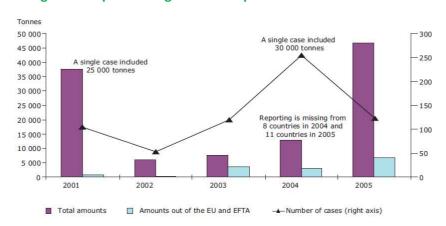


Figure 2: Reported illegal waste shipments in the EU from 2001 to 2005²⁹

2.3. IMPROVING THE IMPLEMENTATION OF THE WSR

While the WSR was regulated at EU level in order to control shipments of waste throughout the EU, it is the responsibility of each MS to implement its requirements. The lack of precise instructions regarding inspections gives way to interpretation and to an uneven implementation in the different MS. This situation leads to the problems outlined above, which could be tackled by a better implementation of the WSR.

Better implementation and enforcement is currently one of the priorities of the European Commission, which is shifting from law-making to implementation and enforcement.³⁰ The WSR for the reasons detailed above is one of the pieces of legislation which would clearly benefit from better implementation and enforcement.³¹

Issues faced during waste shipment inspections

Resources and enforcement staff devoted by MS governments to waste shipment inspectorates are generally too limited to allow inspections to be run properly³², as ensuring high quality waste inspections is not a political priority for most of the EU-27 governments. In addition, certain MS are more involved in tackling the issue of waste shipments than others, due to geographical location, size and number of ports, specific waste streams, waste routes (i.e. whether the waste originates in the country or if the country is the last stop in the EU before being shipped away) and political agendas. This results in an inconsistent enforcement of WSR throughout the EU.

Additionally, certain complex waste shipment types pose difficulties regarding their classification as waste, second hand material, by-products or other. This is the case for

²⁹ Source: EEA 2009 study, see footnote 21

³⁰ ENDS Europe (2009) EU focus 'shifting from law-making to enforcement', 30 September 2009

³¹ The 'Study on the feasibility of the establishment of a Waste Implementation Agency' reports that the waste shipments are 'one of the most important areas of waste legislation where greater enforcement is needed'.

³² Milieu Ltd, AmbienDura and FFact (2009) Study on the feasibility of the establishment of a Waste Implementation Agency, Revised Final Report, page 43



used EEE vs. WEEE and used cars vs. ELVs for instance. This problem is emphasised by the fact that inspectors involved in verifying shipments are not always experts in waste or inspections of waste. In Belgium for instance inspectors working at the regional level do not perform inspections exclusively in the waste field but also in other areas of environmental inspections.

Moreover, the implementation of WSR lies within many authorities i.e. usually environmental inspectorate, customs and police, which makes their cooperation crucial to ensure that inspections are performed efficiently. Nevertheless, currently the cooperation between different authorities is not sufficient in most MS.

The efficiency of waste shipment inspections depends also on the strategy set up by national authorities. The lack of a common definition and framework for the inspection strategy results in important differences of interpretation and therefore entails variations in the way MS undertake inspections in practice.

Difficulties arising relative to waste shipment inspections are also linked to waste shipments' multi-national aspect. Indeed, shipments originating in certain countries are transferred through other countries before reaching their final destination. A common level of implementation of the WSR is therefore needed to avoid an uneven distribution of risks and costs. Indeed, if controls are not well-performed at an early stage, it creates a burden to be borne by countries performing inspections at a later stage, i.e. during the transit or at the destination point.

Proposed option: implementing criteria for waste inspections

The 'Study on inspection requirements for WS Inspections', but also the IMPEL Threat Assessment report³³ underlined the fact that overwhelmingly, MS want more support for enforcement at an EU level, including training and standardisation in the interpretation of legislation.

One approach to improve the current situation is to identify criteria for effective inspection regimes under the WSR that are to be established at EU level. The 'Study on inspection requirements for WS Inspections' addressed this issue and proposed a set of criteria for strengthening waste shipment inspections. ³⁴ The present study carries out an impact assessment of the proposed criteria in order to analyse their possible inclusion in a legislative instrument at EU level, either as a Directive or as a Regulation.

2.4. THE EU RIGHT TO ACT

The criteria proposed would be implemented at EU level through a legally-binding instrument. The European Commission (EC) can propose such a tool according to

³³ Environment Agency England and Wales, Jill Dando Institute of Crime Science, University College London (2006) IMPEL-TFS Threat Assessment Project: The illegal shipment of waste among IMPEL Member States

^{34 &#}x27;Study on Inspection Requirements for WS Inspections'



Article 5 of the EC Treaty, which outlines the EU Right to act by means of a Regulation or a Directive. Accordingly, in areas which do not fall within its exclusive competence, the Community shall act, in accordance with the principle of subsidiarity, only if the objectives of the proposed action cannot be sufficiently achieved by the Member States but can be better achieved at Union level. Additionally, under the principle of proportionality, the content and form of Union action shall not exceed what is necessary to achieve the objectives of the Treaties³⁵.

The European Commission stated that one of the main priorities of its environmental policy is the correct implementation of EU environmental legislation, including the WSR. Article 50 of WSR sets out certain obligations of the Member States, aiming to ensure that effective inspection systems are put in place. However, several studies (such as the 'Study on inspection requirements for WS Inspections', IMPEL information, the ESWI report, ³⁶ etc.) have shown that enforcement of the WSR is patchy and significant levels of different types of illegal waste are continuing to be exported from the EU. A major problem seems to be that the WSR currently lacks specific criteria related to the frequency or quality of inspections.

The IMPEL network identified important disparities between Member States in terms of enforcement of WSR provisions, but has a limited supporting capacity and is not entitled to set up rules to improve WSR enforcement. At the same time, waste shipments are by nature international and require the implementation and enforcement of regulations in the same way by all Member States to ensure a level playing field and limit unlawful shipments of waste which hamper EU and international trade and create a danger for human health and the environment. Therefore an EU Action appears necessary.

Inspection requirements are not detailed in the current legislation, leading to uneven implementation and enforcement throughout the EU. As underlined in the 'Study on inspection requirements for WS Inspections', MS have a strong interest in the effective enforcement of the WSR in other MS. Indeed, waste shipped to third countries is often initially moved within the EU. Thus poor enforcement in certain MS leads to further work by inspection authorities in other MS. Furthermore, companies trying to avoid MS where the WSR is well implemented may transport waste to MS where the WSR is less implemented, reducing their chances of being caught. In order to address these problems, action at the EU level is essential, as the EU as a whole needs to reduce the impacts of its waste in third countries but its action is limited by the weakest link in the inspection chain. Therefore harmonised inspection procedures appear necessary in the EU-27.

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³⁵ Consolidated versions of the Treaty on European Union and the Treaty on the functioning of the European Union (OJ C115, 9.5.2008), available at: www.consilium.europa.eu/uedocs/cmsUpload/st06655-re01.fr08.pdf

³⁶ ESWI Consortium (2009) IMPEL-TFS Enforcement Actions II Enforcement of EU Waste Shipment Regulation "Learning by doing", Interim Project Report, 12 October 2009



Each criterion is meant to tackle a concrete gap identified at national level, while taking into account the different issues faced by the 27 MS in terms of inspections. The proposed criteria are also flexible enough to be adapted to each national situation. The necessity principle is therefore respected since the criteria set up do not go beyond the objective of enforcing the WSR correctly, considering current issues faced by MS.

Additionally, requirements listed as criteria enable to report on their implementation, thus allowing the Commission to better assess the needs and status of shipment inspections in each MS. Implementing criteria at EU level may also act as a driver to push this as a priority at MS level.

2.5. PROPOSED INSPECTION CRITERIA

Table 1 lists the specific requirements and criteria for waste shipment inspections, controls and on-the-spot checks that were selected by the European Commission for this impact assessment, based on the propositions in the 'Study on inspection requirements for WS Inspections'. The specific criteria have been grouped by main theme, according to the Terms of Reference. The present study analyses the criteria for their environmental, social, and economic impacts.

The Table in Annex B lists the criteria already fulfilled by certain Member States, in order to evaluate better which criteria will be an additional burden and which will not. It will also serve the purpose of assessing the localisation of impacts.

The table includes the 7 options proposed (the 'no action' option is left blank, as it would not change the current state of implementation of the WSR). The criteria are further refined to provide specific information in the cells.



Table 1: Specific requirements and criteria for waste shipment inspections, controls and on-the-spot checks

Main heading of criteria	Specific criteria
A. Effective capacity of competent authorities for waste	 MSs shall ensure that competent authorities have sufficient capacity (staff and resources) to ensure effective enforcement of the WSR. MSs shall state explicitly the basis upon which the capacity of the competent authorities is determined. MSs shall determine the number of inspectors and other staff required based on a formalised risk analysis of illegal waste
shipment enforcement	shipment activity within the MS. (4) Coastal MSs shall ensure that the capacity of the competent authorities is proportionate to the number of major ports in the country.
B. Effective control strategy	 (5) MSs shall ensure that they have an effective Control Strategy to address illegal waste movements addressing all relevant issues and institutions in the MS. (6) MSs shall ensure that the Control Strategy contains specific assessments of the nature of the illegal waste problem. (7) MSs shall ensure that the Control Strategy is supported by sufficient information gathered and analysed. (8) MSs shall ensure that the Control Strategy identifies the key regulatory control functions and how these are used to address illegal waste movement. (9) MSs shall ensure that the Control Strategy identifies the necessary changes that are required to improve implementation of the WSR. (10) MSs shall ensure that the Control Strategy is monitored and reviewed. (11) MSs shall ensure that the conclusions of the Control Strategy are used in inspection planning.
C. Effective understanding of illegal waste activity	(12) The Inspectorate shall have robust systems for the recording, analysis and presentation of waste data, including waste movement and shipment data.
D. Risk profiling and risk assessment	(13) MSs shall ensure that risk profiles and risk assessments are undertaken for each waste stream that poses a potential risk for failure to comply with the WSR.(14) MSs shall ensure that authorities take account of the results of risk assessments in the development of Control Strategies, inspection planning and development of inspection programmes.



Main heading of criteria	Specific criteria
	(15) The risk profile shall include an in depth assessment of the risks arising from waste shipment activity and the strengths and weaknesses of the control system.
	(16) The risk profile shall include an assessment of the likelihood of illegal waste shipment and its consequences.
	(17) The risk profile shall include a prioritisation of risks – helping to determine where control activity should be targeted.
E. Assessment of	(18) MSs shall assess how far organised criminal activity is contributing to illegal waste shipment.
criminal activity contributing to	(19) Inspectorates shall adopt close working relationships with the police to ensure the fullest gathering of information and the ability to link illegal waste shipment activity with other forms of criminal activity.
illegal waste	(20) MSs shall ensure that information concerning criminal activity is used in the development of Control Strategies, inspection
shipment	planning and development of inspection programmes.
	 (21) MSs shall ensure that the authorities for waste shipment inspection shall have an annual plan or plans for inspections, established at national, regional or local levels, covering all the territory of the MS and all the relevant aspects of waste shipment control. (22) MSs shall ensure that inspections are carried out in the way envisaged by the inspection plan. (23) MSs shall ensure that the plans, once adopted, are notified to the European Commission. (24) The inspection plan shall cover a defined geographical area and outline the context in which the inspecting authority performs its inspections.
F. Waste shipment inspection planning	(25) The inspection plan shall describe the priorities that have been assigned on the basis of the waste shipment risk profile and other criteria for waste shipment control that the inspecting authority is competent to perform.
	(26) The inspection plan shall describe the coordination between the different inspecting authorities and other authorities making use of inspection outcomes, where relevant.
	(27) The inspection plan shall be available to the public according to Directive 2003/4/EC.
	(28) The inspecting authority shall ensure the proper and timely execution of the inspection plan and determine as appropriate the frequency of waste shipment inspections.
	(29) The inspecting authority shall ensure that the execution of the inspection plan is monitored and the plan is reviewed, and revised as necessary.
G. Review of waste	(30) MSs shall ensure that the inspection plan(s) is reviewed following completion of its implementation.



Main heading of criteria	Specific criteria
shipment inspection plans	 (31) MSs shall undertake a preliminary review three months before the end of period of an inspection plan to inform development of the subsequent plan. (32) MSs shall ensure a full review of the inspection plan(s) is undertaken within three months of the end of the plan period. (33) MSs shall ensure that the review identifies how far each element of the plan has been implemented and how far each goal has been achieved or not. (34) MSs shall ensure that the review identifies the strengths and weaknesses in the enforcement activity of the inspection authority. (35) MSs shall ensure that the review addresses changes in the risks of illegal waste shipment and changes in the legal and institutional context. (36) MSs shall ensure that the review includes recommendations to address gaps in the implementation of the plan and
H. Waste shipment inspection programme	recommendations on how to address any changed external circumstances. (37) Member States shall ensure that they adopt inspection programmes. These may be set for different operational areas and timescales and must form an effective tool to direct inspection activity. (38) Inspection programmes shall address the following elements: • Specifications for different types of inspection. • The role of different types of surveillance/intelligence gathering operations. • Accurate estimation of the average time that is needed for one inspection (preparation – inspection itself – follow up) • Risk analysis, taking into account the experiences (risk indicators) of the past. • Information requirements for inspection. • The budget available for executing these inspections. • The expected number of joint inspections with other Member States. • Human resources i.e. availability of inspectors and prioritisation according to information provided by customs as well as regarding previous annual reports. • Assessment of the number of expected inspections. • Assessment of changes in legislation, available capacity of handling waste, the supply of waste, developments in recycling



Main heading of	Specific criteria
criteria	
	markets and prices.
	 Procedures for effective cooperation with other competent authorities (see associated criteria).
	 Assessments on the frequency of waste shipments, and the amount and characteristics of waste shipped.
	The expected time, place and type of inspections from the information available.
	 Procedures for direct collaboration with transport carrier organisations.
	The previous year inspections results to be used in the planning for the next years inspections.
	 Expected output of the inspection work (reports, preparation of follow-up activities);
	Equipment available for the inspections.
	 Training objectives of staff, exchanging of experience between different inspection authorities (see separate criteria).
	(39) The key inspector(s) (and other staff) to be involved in the inspection shall be clearly identified.
I. Preparation for a	(40) The inspector(s) shall be clear about the location, time, etc., of the inspection.
waste shipment	(41) Any special equipment requirements shall be identified and it will be checked that the equipment is available.
inspection	(42) There shall be clear identification of the needs for interaction with other competent authorities and how this shall be taken
	forward – before, during or after the inspection.
	(43) MSs shall ensure that procedures for undertaking waste shipment inspection are adopted.
	(44) MSs shall ensure that inspections are undertaken at the time and place most suitable to deliver effective enforcement results consistent with the Control Strategy and inspection plan.
	(45) Inspectors shall ensure that they record their actions during inspection, such as through paper or electronic means.
	(46) Inspectors shall ensure that they have sufficient supporting documentation and reference material (e.g. procedural
J. Undertaking a waste	handbooks, guides to waste streams, etc.) with them or available in order to make effective decisions during inspection.
shipment inspection	(47) Inspectors shall examine all documentation available relating to the waste shipment being inspected and that that
	documentation is of the correct type and has been properly completed.
	(48) Documents relating to the shipment of used EEE, its re-use and demonstrating its functionality shall be inspected according to
	the requirements in Annex I of the WEEE Recast Proposal.
	(49) Inspectors shall undertake a physical examination of the contents of the container/transport, etc. and determine whether it
	matches the description in the documentation.



Main heading of	Specific criteria
criteria	
	(50) Functionality testing of used EEE subject to shipment shall be undertaken following the requirements set out in Annex I of the WEEE Recast Proposal.
	(51) Inspectors shall ensure that the container/transport is thoroughly examined, ensuring that illegal waste is not hidden behind, below, etc., items that are otherwise acceptable. Examination may be by physical examination or other means such as scanning.
	(52) Inspectors shall ensure that the waste or items declared as not being waste are checked with regard to its properties, including functionality.
	(53) Inspectors shall check the functionality of items declared as not being waste to determine whether they are waste.
	(54) Inspectors shall undertake sampling of waste, where further investigation is required, proportional to the amount of waste transported.
	(55) The Inspectors shall ensure that, where necessary, waste samples are analysed.
	(56) Analysis of waste should be undertaken according to international standardised procedures where these are available.
	(57) In all documentation checks and physical examination inspectors shall ensure that their actions, and recording of those
	actions, are rigorous and follow the necessary standards for collection of evidence for subsequent enforcement action.
	(58) Inspectors shall produce a clear, complete report of the inspection (and on subsequent work) and hand it to all individuals concerned.
	(59) For EEE/WEEE a record of the functionality testing should be fixed to the consignment containing the information set out in Annex I to the WEEE Recast Proposal.
K. Preparation for a	(60) Inspectorates shall ensure that inspection staff is fully trained in the preparation and presentation of evidence from inspections so as to support administrative and criminal enforcement action.
follow-up to a waste shipment inspection	(61) Inspectorates shall either have within their staff, or they shall have access to, legal expertise to support any follow-up enforcement activity.
	(62) A system of penalties shall be in place depending on the severity of the illegal activity.
	(63) The findings of inspection activity shall be put into a database (e.g. for evaluation, trends in compliance and the update of risk profiles and for inter-institutional sharing of information).
	(64) The results of inspection activity shall be collated and used to inform the development of future inspection plans and



Main heading of criteria	Specific criteria
	programmes.
L. Sampling plan	 (65) MSs shall ensure that a sampling plan is adopted for the taking of samples during waste shipment inspections. (66) The sampling plan shall include: Sampling tools, equipment and processes. The safety requirements for staff taking samples. Protocols to ensure the representativeness of samples. Procedures for recording/documentation of samples and the evidence that samples were taken. Procedures to ensure sampling is consistent with subsequent analytical requirements.
M. Quality of laboratory facilities	(67) MSs shall ensure that there are sufficient laboratory facilities available to support waste shipment inspection actions.(68) MSs shall ensure that laboratories operate with high quality equipment and to high quality procedures, meeting international standards. This includes effective quality assurance, accreditation and certification.
N. Transparency of waste shipment inspection	(69) MSs shall ensure that inspection reports are made available to relevant stakeholders, including the public.
O. Effective inspectorate	(70) The tasks and duties of individual staff relating to waste shipment inspection shall be clearly defined.
P. Competence of inspectorate staff	(71) MSs shall ensure that inspectorates responsible for enforcing the WSR shall have staff with sufficient competence to allow for the effective implementation of the enforcement functions.(72) MSs shall ensure that there is sufficient competence in the institutions responsible for enforcing the WSR.
Q. Training of staff	 (73) Each competent authority responsible for waste shipment enforcement shall undertake a training needs assessment and shall develop a training plan. These shall include: A statement of the skills necessary fully to implement the WSR (taking account of control strategies, etc.). A statement of the range of skills necessary in each of the responsible institutions. An audit of current skills. An assessment of how changes in the future will need to be addressed.



Main heading of criteria	Specific criteria
Circeila	A training plan to address skills gaps and an ongoing training plan for future changes.
	(74) The subjects that shall be considered for inclusion in the training plan shall include:
	Legal training in the WSR, related waste legislation and other related legislation affecting transboundary activity.
	Understanding waste generation, transport and its environmental impacts.
	The documentation necessary for waste shipment and other customs declaration.
	The information systems for tracking waste generation and movement.
	The administrative procedures for undertaking an inspection.
	The processes for opening, checking and assessment of waste shipments.
	The procedures for taking samples, transporting and processing them.
	Compiling reports on inspections.
	The procedures for compiling evidence necessary for prosecution, etc.
	Court procedures, role of an expert witness, etc.
	Health and safety procedures.
	(75) Training shall include practical case examples of good and poor practice in waste shipment enforcement.
	(76) Training shall include practical experience of real inspection and other enforcement activities.
	(77) Training shall include practical experience of working with other competent authorities responsible for waste shipment enforcement and other staff responsible for other regulatory regimes (particular concerning waste management) so as to gain a wider understanding of working practices.
	(78) The length of training and shall be determined based on the training needs assessment.
	(79) New staff shall receive sufficient training on technical, legal and operational skills to enable them to work effectively.
	(80) Competent Authorities in a Member State responsible for waste shipment regulation shall review the potential for joint
	training and mutual training by staff from one authority in another.
	(81) Training on new developments, including further intelligence on waste shipment issues, shall be undertaken on an annual basis.
	(82) Authorities shall ensure that relevant staff takes part in EU level actions to enhance their skills and knowledge (see separate



Main heading of criteria	Specific criteria
	criteria).
R. Quality of waste inspection activity	(83) MSs shall ensure that the procedures and planning processes of the competent authorities for implementation of the WSR meet recognised quality management standards, such as ISO 9000.
S. Cooperation between competent authorities	 (84) Competent authorities within a MS responsible for enforcement of the WSR shall agree a formal MoU (or similar) which includes the following: The purpose of the MoU. Who is agreeing the MoU and overseeing its implementation (e.g. Chief Executives of the institutions). The goals of each institution in relation to waste shipment controls. The legal powers and duties available to each institution. A statement of how each institution will exercise those powers and duties with regard to waste shipment controls. Agreed joint working relationships (see below). Information exchange procedures (see below). Points of contact. Process for review of the MoU, including regular review meetings at a high level. Period of validity. (85) The MoU shall set out the joint working relationships and practices. (86) The MoU shall include a commitment to strategic approaches (e.g. joint planning) and operational interaction (e.g. joint inspection). (87) Competent authorities within a MS responsible for enforcement of the WSR shall adopt joint planning processes. (88) Competent authorities within a MS responsible for enforcement of the WSR shall undertake joint investigations and inspections related to waste shipment enforcement. (89) Competent authorities within a MS responsible for enforcement of the WSR shall ensure that there is sufficient sharing of data and information to enable each authority to undertake its work on waste shipment enforcement effectively. (90) MSs shall create a hazardous waste task force that may be composed of representatives from Customs (agents, inspectors, trade information specialists), environmental agencies, police agencies at national, regional and local levels, persons with



Main heading of	Specific criteria
criteria	
	hazardous waste regulatory and prosecution backgrounds, and others with relevant information on or authority over waste shipments. (91) MSs shall ensure that each competent authority reviews the joint working practices with other competent authorities to assess how joint procedures and actions are being taken forward and staff attitudes to co-operation. Any problems relating to co-operation shall be identified and recommendations made to address these.
T. Promote waste shipment enforcement actions	 (92) MSs shall adopt a communications and promotions strategy to promote waste shipment control actions. (93) The communications and promotions strategy shall address the following: Assessment of how far illegal waste shipment is due to lack of information or understanding by operators. Identification of the most effective potential mechanisms for dissemination of information. A media strategy to promote successful enforcement actions. Identification of resources, including any skilled communications staff, necessary to take forward the strategy.
U. Participation in EU	(94) MSs shall identify which authorities should participate in EU level actions on waste shipment inspections.
level actions	(95) At least one authority from each Member State shall participate in at least two EU level actions each year.



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3. OBJECTIVES OF THE IMPACT ASSESSMENT

3.1. MAIN OBJECTIVES

The main objectives of the implementation of criteria concerning waste shipments are to achieve the following goals:

- The most important goal is the protection of human health and the environment by reducing illegal waste shipments.
- A second goal is ensuring a level playing field across the EU for dealing with waste.
- A third goal is improving the implementation and enforcement of EU environmental legislation.

3.2. SPECIFIC OBJECTIVES

More specifically the goals that the criteria are meant to achieve are to:

- Ensure the adequate application of the Basel Convention, OECD Council Recommendation and EU WSR.
- Strengthen and improve the efficiency of waste shipment inspections.
- Harmonise the criteria used in different MS for inspections.

3.3. OPERATIONAL OBJECTIVES

The study assesses whether implementing the proposed criteria will:

- Apply relevant implementation criteria to guide the inspections.
- Improve the frequency and quality of the inspections.
- Harmonise the inspections between MS.
- Allow MS to adapt the criteria to the risks in their own country regarding illegal waste shipments.
- Promote interagency cooperation for more efficient action.
- Promote inter-MS cooperation.
- Tackle the difficulties linked with waste such as the identification of illegal waste shipments, e.g. through guidance on determining whether the materials are re-usable.



- Ensure the illegal shipments detected are given evidence, followed-up and prosecuted when relevant.
- Provide for effective deterrent actions to reduce future illegal shipments.
- Reduce criminal activities which sometimes include illegal waste shipments.

All these objectives are advocated in the literature to improve the enforcement of the WSR regulations. Experience gained for instance through the IMPEL network should also be taken into account in order to improve the implementation and enforcement of the WSR.

On the other hand, the criteria should:

- Be proportionate to the goals sought.
- Ensure the administrative and financial burdens on the EU, MS authorities and enterprises are not too high.
- Balance the costs and administrative burdens between the EU, the MS and the enterprises, as well as across the EU-27.
- Take into account impacts outside the EU.



4. POLICY OPTIONS

In order to assess the economic, social, and environmental impacts of the suggested inspection criteria, the main categories are grouped according to the type of criteria and the level of implementation. A no-action option and an option to implement the criteria in a legally-binding instrument (Directive or Regulation) are suggested, while the second option includes 6 sub-options, which are detailed separately in order to inform more specifically on which aspects are tackled by each sub-option.

Before describing the options, it is important to stress that, during discussions with MS representatives for the 'Study on inspection requirements for WS Inspections', many recognised the value of developing criteria. The development of criteria is seen as an effective way to achieve effective enforcement of the WSR.³⁷ Some inspection criteria have already been integrated in legally binding requirements in EU legislation, such as, outside the area of waste shipments, in article 18 of the Seveso II Directive, the IPPC Recast Proposal, or proposed in the area of waste shipments, namely in the WEEE Recast proposal. In each of these documents, the requirements set out for the inspections are less detailed than the criteria proposed here. The Seveso II requirements include 3 criteria for the inspection systems and 4 conditions to be fulfilled during the examination of the systems. The IPPC Recast Proposal requires that inspections systems with on-site inspections are in place, as well as inspection plans including 7 subparagraphs about inspections. It also addresses the objectives of the inspection, number of visits, routine and non-routine inspections, drafting of an inspection report, publicly available information and follow-up. Annex I of the WEEE Recast Directive proposes 4 paragraphs detailing the documents and information to be obtained relative to WEEE shipments. A binding legislative instrument including all the criteria proposed in Table 1 would need to be applicable to all the different inspection systems currently existing in the MS, including all best-practices detailed in the 'Study on inspection requirements for WS Inspections'.

As regards the EU waste acquis outside the area of waste shipments, there are also a number of general legally binding requirements in EU legislation, addressing inspections. The new EU waste framework directive will become applicable on 12 December 2010 and contains provisions on inspections in Articles 34.1 to 34.3). In connection with the inspections an important role is played by the directive's permitting requirements (Articles 23-25), the contents and detail of permits issued and

 $^{^{}m 37}$ 'Study on Inspection Requirements for WS Inspections', p. 138.

³⁸ Directive 2008/98 of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain directives, OJ L 312, 22.11.2008.



the classification of waste according to the European list of wastes (Commission decision 2000/532/EC).³⁹

The EU landfill directive and the decision on waste acceptance criteria⁴⁰ impose strict requirements on, *inter alia*, the design, construction, operation, acceptance of specific types of waste and after-care of designated landfills. The directive and the decision include specific provisions (Articles 8, 11 and 13 of the directive and Articles 2 and 3 and the Annex to the decision), concerning inspections and monitoring (including waste acceptance criteria and procedures) of designated landfills in order to ensure their compliance with EU requirements.

The WEEE directive⁴¹ contains a provision on inspection and monitoring in Article 6(2), and in Article 16. Article 6(2) stipulates conditions for derogations from permit requirements, including 3 criteria for inspections. Article 16 of this directive provides that Member States shall ensure that inspection and monitoring enable the proper implementation of the directive to be verified, without detailing criteria. Inspections, monitoring and enforcement are also important in order to verify compliance with the RoHs Directive, but no article details inspection requirements.⁴²

The previous paragraphs clearly show that inspections are at the heart of many of the waste legislative instruments. However, the implementation of specific criteria through a legally-binding tool is a relatively new process, as only few criteria have been implemented in the Seveso II Directive or proposed in the IPPC and WEEE Recast Proposals. Implementing criteria could ensure inspections fulfil their important role. During the course of the study, the IMPEL-TFS Steering committee and some MS rejected the idea of implementing the criteria as a binding legislative instrument. However, other MS underlined the positive impact that efforts from all MS would have on harmonising the burden on all MS and the 'desirable effect' of a legally-binding tool. Additionally, the WEEE Recast proposal is currently undergoing a legislative process for its adoption: the proposal is awaiting European Parliament decision, first reading. The report introducing amendments to the proposal is expected to be adopted in committee the 3 June 2010 and the vote in Plenary sitting is expected for the 6 July. The Council held a policy debate in October 2010 during which the criteria introduced Annex A were *a priori* not the main focus of ministers and have not raised any

³⁹ Commission Decision of 3 May 2000 replacing Decision 94/3/EC establishing a list of wastes pursuant to Article 1(a) of Council Directive 75/442/EEC on waste and Council Decision 94/904/EC establishing a list of hazardous waste pursuant to Article 1(4) of Council Directive 91/689/EEC on hazardous (2000/532/EC). A study on the review of this list has been performed by Ökopol GmbH and ARGUS GmbH, and the Commission is currently further discussing the technical issues so as to prepare a decision on the necessary amendments to the List of Waste.

⁴⁰ Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste, OJ L 182, 16.7.1999, p. 1, Council decision of 19 December 2002 establishing criteria and procedures for the acceptance of waste at landfills pursuant to Article 16 of and Annex II to Directive 1999/31/EC

⁴¹ Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment (WEEE), OJ L 37, 13.2.2003, p. 24.

Directive 2002/95/EC of the European Parliament and of the Council of 27 January 2003 on the restriction of the use of certain hazardous substances in electrical and electronic equipment, OJ L 37, 13.2.2003, p.19.



particular discussion. Provided that the WEEE Recast proposal is adopted as it is currently drafted, it can be expected that a legally-binding instrument introducing the proposed criteria would follow a similar process.

Option 1: No action - making no changes to the WSR

The WSR already provides the legal framework for waste shipments and Article 50 mentions the need to implement inspections. MS are responsible for the good implementation of the WSR. The first policy option proposed is thus to make no changes to the WSR.

Option 2: Implementing the criteria in a legally-binding instrument

The criteria could be implemented through a legally binding instrument such as a European Directive or Regulation.

A Directive requires MS to achieve a particular result without defining the means of achieving that result. MS are responsible for implementation in national legislation through transposition and/or implementation measures. If the criteria presented in this study were implemented through a Directive, it would leave a margin of interpretation to the national authorities to adapt the criteria to their national context. However in this case, issues of interpretation between the 27 MS could arise and the uniformity of application of the criteria could be hampered. On the other hand, the use of a Directive would provide MS with a delay (from 6 month to 2 years depending on the complexity of the transposition) allowing them to prepare for the implementation of the criteria.

The criteria could also be set by means of a European Regulation. Contrary to a Directive, the provisions of a Regulation are self-executing and do not require any transposition although implementation measures are generally necessary. If this solution was preferred, it should be ensured that the criteria are robust enough and self-standing in order to be applied directly by MS authorities.

In both cases, including the criteria in a legally binding instrument implies that they are robust, specific and clear enough to be implemented by all MS, as objectives (in a Directive) or as rules (in a Regulation).

The following sub-options are assessed separately for their impacts in order to make the assessment clearer and to identify the aspects that each group of criteria covers. The possibility to implement only certain sub-options or combination of sub-options will be discussed where relevant.

Sub-option 2.1: Improve capacity of competent authorities for waste shipment enforcement

This option concerns specific criteria in groups A and M of Table 1. This option looks at improving the capacity and means of the competent authorities in order to ensure effective enforcement of the WSR. The specific criteria suggest basing capacity



calculation on more detailed rules in order to have a clearer basis for defining needs. A risk analysis and the number of major ports in the country would thus be taken into account. Also, the laboratories which are needed when samples are taken are a needed capacity for ensuring effective controls.

Sub-option 2.2: Improve control strategies, risk profiling, and assessment of criminal activity to reduce illegal waste activity

Option 2.2 concerns specific criteria in groups B, C, D and E of Table 1. Illegal waste shipments are often linked to other illegal activities. This option provides upstream steps -such as risk assessment and risk profiling, data gathering and monitoring- to be complied with in order to build efficient Control Strategy, Inspection Planning and Inspection Programme. Furthermore, some criteria contained in this option aim at improving the relationship between the waste shipment inspectorate and the police to assess to what extent illegal waste shipments are linked to wider criminal activities.

Sub-option 2.3: Improve waste inspection planning and programmes

This option concerns specific criteria in groups F, G, and H of Table 1. It aims at ensuring that Member States improve waste inspection planning by adopting a broad-scope publicly available inspection plan (or various plans) covering all the territory as well as more strategic documents framing inspections in their practical dimension, in the form of waste inspection programmes. The proposed criteria address the requirements, contents and the need for a formal regular review, which are necessary for these documents to be effective. These documents also highlight the importance given to inspections.

Sub-option 2.4: Improve preparation, undertaking, quality, and follow-up of a waste shipment inspection

This option concerns specific criteria in groups I, J, K, L, N, and R of Table 1. This option turns to the actual inspections of waste shipments. This involves their preparation, including the identification of the inspector in charge, the locations and time of the inspections and the coherence with the inspection plans and programmes; the undertaking and quality of the inspection; and the follow-up of the inspection, to ensure its results are registered and that any further action needed is taken. Also, the need for interaction with other competent authorities is addressed here.

Sub-option 2.5: Improve inspectorates through effective training and clarifying competence of inspectorate staff

Specific criteria in groups O, P, and Q of Table 1 are addressed in this option. Training is quite important to ensure the inspectors are up-to-date to the regulations, but especially for waste issues, since, as mentioned earlier, waste is a complex issue and determining for instance WEEE from used EEE may be complex. Clarifying the competences of inspectorate staff is also important to ensure an effective control of activities. Additionally, this option emphasises the need for inspectors to be sufficiently trained, both at the time of their appointment and throughout their career.



Sub-option 2.6: Promote enforcement actions, cooperation between competent authorities, and participation in EU level actions

This option concerns specific criteria in groups S, T, and U of Table 1. This option addresses cooperation, as it is seen as a very good way of ensuring an equivalent level of implementation in all MS. In order to organise cooperation, specific criteria such as the agreement and contents of a formal Memorandum of Understanding (MoU) (or similar) and joint inspection and planning processes if relevant, creation of a hazardous waste task force, the adoption of a communications and promotions strategy to promote waste shipment control actions, and the designation of one authority from each Member State to participate in at least two EU level actions each year, are addressed.

Table 2 synthesises how the criteria are grouped in the groups of criteria (see also Table 1) and in the sub-options.

Table 2: Organisation of criteria in the sub-options

Sub-options	Groups	Criteria
Sub-option 2.1	А	1, 2, 3, 4
	M	67, 68
Sub-option 2.2	В	5, 6, 7, 8, 9, 10, 11
	С	12
	D	13, 14, 15, 16, 17
	E	18, 19, 20
Sub-option 2.3	F	21, 22, 23, 24, 25, 26, 27, 28, 29
	G	30, 31, 32, 33, 34, 35, 36
	Н	37, 38
Sub-option 2.4	I	39, 40, 41, 42
	J	43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57
	К	58, 59, 60, 61, 62, 63, 64
	L	65, 66
	N	69
	R	83
Sub-option 2.5	0	70
	Р	71, 72
	Q	73, 74, 75, 76, 77, 78, 79, 80, 81, 82



Sub-options	Groups	Criteria
Sub-option 2.6	S	84, 85, 86, 87, 88, 89, 90, 91
	Т	92, 93
	U	94, 95



5. ANALYSIS OF IMPACTS

The criteria selected should ensure both that the WSR is better enforced, and that the economic, social, and environmental impacts of implementing such criteria are acceptable.

Other policy areas and EU goals should also be taken into account in the impact assessment. For instance, Directive 2008/98/EC on waste foresees that each MS should be responsible for its own waste. DG ENTR is promoting an action programme to reduce administrative burdens regarding environmental issues. The WSR falls in the scope of this action programme.⁴³

The pros and cons of each of the proposed options are pre-evaluated separately and qualitatively. A specific part assesses the link between the assessed option and other options. For each criteria or group of criteria, the state of implementation is illustrated by the situation in certain MS. Annex B provides a table summarising the information about the current situation in 15 MS.

5.1. OPTION 1: NO ACTION - MAKING NO CHANGES TO THE WSR

Operational implementation:

No changes in the current implementation

Rationales

The current WSR already includes provisions concerning the undertaking of waste shipment inspections. The situations in the different MS and the waste streams to be addressed can be argued to be too different to allow for criteria applicable to all MS and all waste stream types.

Options for implementation

This option relies on the existing waste shipment legal framework and therefore depicts the impact of the continuation of the current policy without any change, i.e. without any new or additional EU intervention in a mid-term horizon.

As presented under section 2, issues related to shipments of waste are framed at the international and at the European Union level by binding and non-binding legal instruments. The problems identified in section 2 - Problem definition, may be addressed to a certain extent by these legal frameworks but many specifications are

⁴³ DG ENTR action programme : <u>ec.europa.eu/enterprise/policies/better-regulation/administrative-burdens/priority-areas/environment/index_en.htm</u>



left open and the level of enforcement of the regulations by MS is not sufficient to tackle the illegal waste shipment issue and its consequences correctly.

As presented under subsection 2.2, legal waste shipping of hazardous and non-hazardous waste is expected to increase in the next years as a continuation of the strong increase witnessed between 1997 and 2005, as showed in Figure 1. In the same vein, if nothing is done to prevent it, illegal waste shipping is expected to grow simultaneously. Increases in the illegal shipment of WEEE and ELVs are foreseen even if there are no precise statistics available due to the illegality of such shipments.

The problem is serious since illegal waste shipping can lead to health and environment disasters as showed through the Probo Koala case (see Annex A). However, this case is only the visible tip of the iceberg, as statistics reveal that the number of reported illegal shipments has increased between 2001 and 2005, taking into account that reported cases represent a fraction of the real number of illegal shipments. 44 Illegal waste shipments can cause serious impacts on human health and on the environment. Health problems such as intoxications, cardiac diseases, respiratory troubles, kidney damages, etc. frequently occur, pursuant to the treatment of WEEE without appropriate protection, due to the exposure to e.g. lead, cadmium, mercury; or the inhalation of carcinogenic fumes emanating from incinerated material, for instance dioxins from certain burned plastics⁴⁵. From an environmental point of view, pollution by waste has significant impacts on ecosystems. Furthermore, the subsequent clean-up of polluted areas is an economic burden and facilities to treat contaminated soils or water are not always available. Even when illegal shipments of waste are detected at arrival in the destination country, if the shipment is not sent back, facilities to manage the waste are often inadequate.

In the EU, the lack of enforcement of the WSR has various detrimental consequences such as the fact that certain MS suffer the consequences of the lack of inspections in other countries. Besides, inside and outside the EU, illegal shipments of waste have an adverse effect on trade and competition, putting law-abiding businesses at an economic disadvantage.

If a better enforcement of the legislative framework is not sought, waste shipments are expected to continue to affect -and to some extent kill- people in third countries, at the same time causing harm and potentially irreversible effects on ecosystems. For certain streams as WEEE, some information is available about the effects that harmful components have on health and on the environment. As the amounts of WEEE illegally shipped is still expected to be growing, further negative impacts from this traffic is awaited. However, it is impossible to foresee the outcome of continued illegal

⁴⁴ European Environment Agency (2009) Transboundary Shipment of Waste - Waste without borders in the EU?, report n° 1/2009

⁴⁵ International Institute for Sustainable Development (2008) Sustainable Electronics and Electrical Equipment For China and the World, a commodity chain sustainability analysis of key Chinese EEE product chains, p. 26 section 4.1.6 "The impact and significance of illegally imported e-waste", available at: www.iisd.org/pdf/2008/china_sd_eproducts.pdf



shipments happening as there are multiple types of hazardous waste which can produce visible effects on the short-term as well as invisible effects on the long-term.

The no action option is the easiest to implement as it entails no changes. Furthermore, several initiatives as the programmes by IMPEL-TFS and the enforcement actions in MS are already beginning to improve the situation. This option would not increase the burden borne by any of the actors of the waste shipment activities, but would not improve the situation either, thus leaving unequal burdens to MS performing many inspections vs. MS which do not give a priority to the enforcement of the WSR and to enterprises legally exporting their waste and treating their waste legally vs. enterprises shipping their waste illegally to third countries.

Additionally, the no action option leaves MS free to implement the WSR to address each specific national situation.

On the other hand, the 'no action' option does not address a number of issues outlined in section 2. Several MS are transiting countries for waste, thus they are very much dependant on inspections performed by MS from which the waste was produced or through which the waste first transited for ensuring these shipments are legal or not. If inspections were not performed efficiently initially, this adds a burden to these MS as more illegal shipments are expected to go through the MS.

Another important aspect is to ensure a level playing field for all enterprises dealing with waste in the EU. Harmonised enforcement and implementation of the WSR is important. As waste is treated at lower costs in third countries and will probably continue to do so, economic incentives to get round the regulation are strong. Even if the legislative framework already exists through the WSR, a number of questions regarding inspections especially are left open and could be specified.

The waste treatment activity in the EU could also benefit from reduced illegal shipments, as the waste exiting by these means should be treated in authorised facilities. The activity of the waste treatment sector could thus be raised, although estimating the amounts to which this will be the case is difficult and depends on the timeframe analysed. Indeed, more inspections are likely to lead to more detection of illegal waste shipments. This is expected to have two consequences. On the shortterm, detected illegal shipments will have to send their waste to ad hoc treatment facilities within the EU, thus raising the activity of the waste sector. On the mediumterm, it is expected that inspections will have a deterrent effect and will result in less waste being illegally shipped. As a high part of illegal waste shipments result from badly sorted waste, it can be expected that waste will be better sorted, leading to continued shipments of a large part of the waste (legally) outside the EU and treatment of the remaining part within the EU. Thus the activity of the waste sector could become more specialised in the EU towards sorting and/or treating specific types of waste. The effect on the sector will depend on the waste quantities being treated within the EU. This may lead to an increase in the number of jobs, both for unqualified workers and qualified workers, as the techniques for treating hazardous waste are quite technical.



Furthermore, inadequate disposal of waste causes harm to both the health of the local people and to the environment. An indirect impact of letting this happen is that products grown in these third countries may be contaminated by the pollution induced by waste and imported in the EU.

Lastly, illegal shipments that are not detected in the EU can be detected by inspections in the destination country. In these cases, shipments may be sent back, thus inducing high financial burdens on enterprises but also on MS which can be responsible in cases as set out by Articles 22 to 25 of the WSR. Additionally, as third countries are strengthening their enforcement regimes, illegal shipments are expected to be discovered more often. Consequently, commercial relations could be hampered by letting many shipments leave the EU illegally. Furthermore in the long-term the country may develop recovery/recycling options for its own waste and will be less dependent on resources contained in EU waste in the longer term. This may reduce the drivers for illegal shipments on the long-term, but is applicable to certain countries only.

Pros:

- No legal or administrative changes
- MS remain free to choose the operational implementation of the WSR

Cons:

- Illegal shipments are occurring under the current regulation
- Illegal shipments entail the risk of inappropriate waste treatment at the destination, leading to negative impacts on human health and the environment, potentially both outside and inside the EU
- The amounts of waste produced in the EU are expected to continue to rise, as well as illegal waste shipments
- Economic incentives are expected to persist as valuable material is contained in WEEE especially
- Interpretation and enforcement of EU waste requirements is different in different MS, so that illegal shippers may switch from port to port to stay uncaught (port shopping)
- Uneven enforcement and implementation of the WSR leads to differentiated burdens for companies involved directly or indirectly in the management and transport of waste
- As the WSR is differently implemented and enforced among MS, more inspection work has to be performed in MS where big ports are located since waste often transits in their ports



- Implementing the WSR better could increase jobs in the EU as more waste is expected to need treatment if not shipped abroad illegally
- Illegal shipments caught in third countries have to be shipped back, inducing a high financial burden
- Requirements on imported shipments in third countries ports are also rising, leading to more ships being returned. Commercial relationships could be negatively impacted by inadequate controls of shipments leaving the EU

5.2. OPTION 2: IMPLEMENTING THE CRITERIA IN A LEGALLY-BINDING INSTRUMENT

Operational implementation:

- The legally-binding instrument can take the form of a Directive or a Regulation
- The chosen instrument leads to differing implementation in the MS (through transposition or direct application)
- Implementation measures are likely to be required irrespective of the choice of the instrument

Rationales

The fact that implementation of EU waste legislation is considered a low priority, leading to insufficient implementation, was recently underlined again in the 'Study on the feasibility of the establishment of a Waste Implementation Agency'. ⁴⁶ Implementing the criteria in a legally-binding instrument would highlight the importance that this topic needs to obtain. The subsequent options list more precisely the impacts that each category of criteria are expected to have.

Requiring criteria to be met for better implementation and enforcement of the WSR acts as a strong driver of change, since the proposed criteria can be monitored, reported on and thus the state of implementation and the needs to be addressed can better be identified.

The conclusion of the 2009 IMPEL Enforcement Action II project⁴⁷ is that the situation is improving as regards implementing guidelines for inspections, exchanges of experts, and training, but that these are still very much needed.

⁴⁶ Milieu, Ambiendura and FFact (2009) Study on the feasibility of the establishment of a Waste Implementation Agency', Revised final report, 7 December 2009, p.1.

⁴⁷ ESWI Consortium (2009) IMPEL-TFS Enforcement Actions II Enforcement of EU Waste Shipment Regulation "Learning by doing", Interim Project Report, 12 October 2009



Options for implementation

It is worth noting that the legislative process required for the adoption of a legally binding instrument such as a Directive or a Regulation can last from a few months to several years if the European Parliament or the Council (in the co-decision process) disagree with the initial Commission proposal. The adoption procedure is often shorter when it comes to non-binding instruments like recommendations emitted by the Commission or the European Council. However, irrespective of the choice of a Regulation or a Directive, several dispositions would need to be applied but not necessarily transposed into national law. Indeed, certain criteria such as criterion (23) that states that 'MS shall ensure that the plans, once adopted are notified to the European Commission' does not as such require an introduction into national law as it will be applied directly by the MS. Many of the criteria could include a similar requirement to report to the Commission on how the criteria are met. More generally, implementing the proposed list of criteria requires the Member States to ensure that the inspections are well performed using the set of criteria, but does not as such necessarily require the transposition of the criteria into national law. However, in order to ensure the criteria are implemented, it can be expected that several of the requirements contained in the criteria will need to be transposed into national legislation, so that the national authorities may implement the plans and programmes required in the criteria. As the criteria are cumulative, the adoption of all criteria would create a relatively high burden for MS, if they were to implement measures to apply all criteria at national level.

Implementing the criteria in a Directive will be followed for several of the criteria by a transposition in national legislation for each MS, after a delay of 6 months to 2 years or even more, since late transpositions are quite frequent. A Directive entails an obligation of results but not of means. The advantage of implementing the criteria in a Directive is therefore that transposition enables to adapt to national conditions and precise the criteria or methods used to implement the inspections if necessary. On the other hand, it leaves a broader place to interpretation, which can possibly lead to further seizures of the European Court of Justice for interpretation through the mechanism of references for a preliminary ruling.

Implementing the criteria in a Regulation would make its provisions directly and immediately applicable in each MS, although implementation measures are often needed. It is the current instrument used for addressing waste shipment issues as the WSR is a Regulation.

As underlined in the Commission's Communication setting up a 'A strategy for the simplification of the regulatory environment', 48 but also the recent EC communication

⁴⁸ Communication of the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 25 October 2005 "Implementing the Community Lisbon programme: A strategy for the simplification of the regulatory environment" [COM(2005) 535, available at:

eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2005:0535:FIN:EN:PDF



about the Choice of regulatory instrument.⁴⁹ Regulations should be preferred to Directives since they 'guarantee that all actors are subject to the same rules at the same time, and focus attention on the concrete enforcement of EU rules',⁵⁰ as well as being immediately applicable and ensure a better harmonisation of community law.

Whatever instrument is used for implementation, the criteria to be included in a legally-binding instrument should be robust enough and leaving few possibilities to interpretation, in order to be effective. Furthermore, they should be applicable to all MS and all waste streams and ensure the continuation of current existing best-practices.

Pros:

- The listed criteria would be legally-binding for all MS, ensuring an even level of enforcement of the WSR in all MS
- A legally-binding instrument would ensure the enforcement of the WSR becomes a priority for all MS
- Inspections of waste will be implemented at an early stage, ensuring that MS which are transit countries for waste streams are faced with less illegal waste coming from other MS

Cons:

- A legally-binding instrument needs to entail robust criteria, applicable to all MS and leaving few interpretation possible
- Different situations in the MS and types of waste streams need a balanced approach to proposing criteria applicable to all
- Approaches from different MS, including best-practices approaches are very different among MS. Current best-practices should be promoted and conserved

⁴⁹ ec.europa.eu/governance/better_regulation/instruments_en.htm

⁵⁰ European Commission (2006) Better regulation – simply explained



5.3. SUB-OPTION 2.1: IMPROVE THE CAPACITY OF THE COMPETENT AUTHORITIES FOR WASTE SHIPMENT ENFORCEMENT

Operational implementation:

- Ensure sufficient capacity (staff and resources) of the competent authorities
- Explicitly state the basis for capacity determination
- Carry out a risk analysis of illegal waste shipment activity within the MS
- Base the capacity assessment on the number of major ports in the country
- Ensure sufficient laboratories, of high-quality are available to perform analysis

Rationales

The lack of sufficient capacities is often underlined, for instance in the 'Study on Inspection Requirements for WS Inspections' and in the recent 'Study on the feasibility of the establishment of a Waste Implementation Agency'.⁵¹ In this context, it seems very appropriate to include criteria related to capacities in a list of minimum criteria for inspection of waste shipments. However, care must be taken in the determination of needs, in order to address the variability of situations in different MS, especially if the criteria are included in a legally-binding instrument.

Options for implementation

A. Effective capacity of competent authorities for waste shipment enforcement

Capacities were addressed in the project questionnaire of the 'Study on Inspection Requirements for WS Inspections'. The study recognised that identifying appropriate staff numbers is very difficult and thus asked MS whether they considered their authority to have sufficient capacity to perform the inspection obligations of the WSR. Most countries considered that they did not have sufficient capacity, especially in terms of human resources. The Netherlands and the UK in contrast answered they had sufficient capacities.

The first proposed criteria (1) relates to a sufficient capacity, without precision. This criterion is relatively vague but highlights the importance given to capacities, expressed in terms of staff and resources. When implementing the criteria, this criterion may lead to a reporting requirement, informing the Commission on the existing capacities in the country.

⁵¹ Milieu, Ambiendura and FFact (2009) Study on the feasibility of the establishment of a Waste Implementation Agency', Revised final report, 7 December 2009, p.1.



The impacts of this option include the need to hire new inspectors if the capacities are found to be insufficient. The costs of hiring new inspectors is estimated by the Netherlands at about EUR 100 000 a year. Thus additional budget may be needed.

Criteria (2), (3) and (4) relate to the basis upon which capacity should be calculated requiring to: (2) explicitly explain the basis, (3) base the determination on a formalised risk analysis of illegal waste shipment activity within the MS and, (4) for coastal MS, base it on the number of major ports in the country.

The advantage of the proposed criteria is to provide for a transparent basis for the determination of capacity needs. This is expected to improve the adequacy between needs and real capacities. Furthermore, it ensures that each MS has sufficient flexibility to adapt to its own conditions, as each MS does not deal with the same waste streams.

The necessity to undertake a risk analysis will be an additional burden for certain MS, but risk analyses are often performed by customs or informally by experienced inspectors. The implementation of this criterion therefore would need cooperation between authorities to share the risk analysis where relevant. In Germany and Belgium, a risk assessment is performed by the customs. In the Netherlands, a risk based approach is followed, carrying out a market analysis, threat assessment, and setting priorities, then defining objectives and strategies, planning and project plans, in a continuous process. It was mentioned that the difficulty is to start the process as a database has to be set up, agree with other authorities to use information, define indicators etc. In the Czech Republic the risk analysis is based on the experience of inspectors and professional knowledge. The formal risk analysis is left for the MS to be undertaken, without defining a method, which leaves open the risk of heterogeneous implementation. MS will also have the burden to define the methodology of the risk analysis and as mentioned by the Netherlands, implement the tools to carry out the risk analysis. Costs for a database are further detailed in criterion (12) and agreements with authorities are detailed in group S. Additionally, the notion of 'major ports' has to be defined, for instance based on a threshold of capacity in container transportation (TEU).

The risk of port shopping may also arise if the risk analyses are not updated often enough. Indeed, an illegal waste shipper who is deterred from shipping his waste from a port where the risk analysis targets his type of waste may be drawn to choose another port. Random checks are thus also needed to identify this type of behaviour. The risk of port shopping is also arising in criterion (4): if the number of inspectors depends on the number of major ports in the country, illegal waste shippers will turn to smaller ports to send their shipments.

These three criteria are easy to report on. The Commission could ask MS to justify the capacity calculations and obtain the risk analysis, as well as a table detailing the number of inspectors for each major port.

However, these criteria are not precise, as no set number of inspectors is determined. The advantage of specifying the number of inspectors is that it allows no



interpretation. The cost of hiring an additional inspector in a port is estimated by the Netherlands at about EUR 100 000 a year. The amount depends on the MS and experience of the inspector. In France, the salary of an inspector is between EUR 18 000 and 36 000 a year.

Determining a set number of inspectors entails several difficulties. Coastal MS with important ports are facing very different issues compared to land-locked MS. A certain number of inspectors could be required only for coastal MS, or in all MS. Additionally, the definition of an inspector is complicated as various authorities undertake the inspections, including customs, the police and environmental inspectors. The number of inspectors should take into account this specificity of waste shipment inspections and include the inspections performed by these authorities in the total available workforce. Also, different needs arise in the UK, where most of the waste shipped is produced in the country and in the Netherlands, where the amount of transiting waste shipments are enormous.

M. Quality of laboratory facilities

Capacity can also refer to laboratory facilities. Criteria (67) and (68) refer to the availability of sufficient laboratory facilities to support waste shipment inspection actions and to the quality of the equipments available and procedures followed, including quality assurance, accreditation and certification.

Accreditation standards are a costly process and need time for setting up. Additional costs may be entailed by the need to buy further material for the accreditation of the laboratory or for certain specific analyses.

These criteria were often said to be unimportant for ensuring that waste shipment inspection activities are improved, probably since only few samples of waste are generally taken.

Pros:

- Capacity is calculated on a common basis for all MS, which ensures that the staff and resources allocated are proportionate to relevant parameters
- Capacity is proportionate to the risks and traffic in each MS
- Sufficient capacity ensures that inspections may be undertaken with adequate time and material, as well as quality laboratory analysis
- Several MS already perform formal risk analysis (e.g. Belgium, the Netherlands, the UK and France), whereas Poland and Czech Republic already perform informal risk analysis.

Cons:

Capacity calculation is not explicitly stated, nor is the risk analysis method,



which leaves open the risk of heterogeneous implementation. MS will have to define their own methods of calculation and of risk analysis which will entail additional administrative burden

- To base capacity on the number of major ports in the country leaves open the risk of port shopping, as shippers may use smaller ports for illegal operations
- Land-locked countries are not concerned by criteria (4). In these countries road inspections are performed and will be based on the risk analysis only
- Increasing capacity often increases budget amounts
- Capacity does not ensure checks of waste are performed to detect wrongly labelled waste shipments for instance

Synergies with and impacts on other options:

- Feedback mechanism inside this option: the risk analysis ensures the capacity is sufficient and sufficient capacity allows for the realisation of a relevant risk analysis
- Sufficient capacity enables to have different expertise in the team, thus allowing for a more effective control strategy

5.4. SUB-OPTION 2.2: IMPROVE CONTROL STRATEGIES, RISK PROFILING, AND ASSESSMENT OF CRIMINAL ACTIVITY TO REDUCE ILLEGAL WASTE ACTIVITY

Operational implementation

- The specific criteria detail a number of aspects the Control Strategy shall include, such as specific assessments of the nature of the illegal waste problem and the fact that the Strategy has to be supported by sufficient information.
- Systems for recording, analysing and presenting data have to be set up, enabling to follow waste movements efficiently, and to develop a detailed understanding of illegal activities through risk profiling, risk assessment and assessment of criminal activity contributing to illegal shipments.

Rationales

The lack of accurate strategies addressing illegal movements of waste is one of the main drivers for illegal waste shipments. Indeed, control strategies are not systematically based on risk assessments and data analysis, and at the same time the extent to which criminal activities contribute to illegal shipments is not always investigated. New Member States often lack specific knowledge, infrastructure, specially educated staff, and money to organise and operate inspections in their



countries. The IMPEL Enforcement Action II project⁵² showed the big difference in performance of the inspection actions in several MS. The explanation given is that atrandom inspections are performed in some MS, in particular in MS that have just started to carry out inspections and lack data which could inform the selection of shipments for inspection, whereas in other MS very selective inspections are performed. The report underlines that at-random inspections have very variable rates of detected violations. On the one side, few illegal shipments are detected since the inspections are not targeted. On the other, the shippers do not expect a control to be performed and therefore a large number of violations may be detected. The same occurs with targeted inspections. Indeed, targeting inspections both enables to inspect the routes, times or kind of trucks that are most frequently involved with illegal shipping, which often allows for higher detection rates, but as the shippers or transport companies have been often inspected before, they stopped shipping waste illegally or changed routes, thus detection may also be low. Another possibility is that environmental inspections are performed when the police or customs have suspicions of illegal shipments, and in this case the detection rate may be very high. Such ad-hoc inspections are performed for instance in the Netherlands, Switzerland and Norway.

Furthermore, the relevance of subsequent inspection planning implies for each MS to adopt a strategic approach at a higher level than the activities of one institution. Consequently, control strategies, risk profiling, and assessment of criminal activity appear necessary to improve the implementation of the Waste Shipment Regulation.

The importance of a control strategy based on a risk analysis and further used to build an accurate inspection planning is stressed in the 'Study on Inspection Requirements for WS Inspections'. Control strategies can improve the targeting of inspections in order to make these more efficient. Risk profiling is a key element of a control strategy, underlined in the report by MS as Poland, UK, the Netherlands and Germany.

Options for implementation

B. Effective Control Strategy

The seven criteria (5) to (11) included in this heading aim at putting in place an effective Control Strategy. Efficiency of the Control Strategy means that it addresses the issues linked to waste shipments (Criteria (5) and (6)) and that it is based on sound data (Criterion (7)). This implies an upstream work from the authorities who should systematically keep records of the inspections to analyse their outcomes on the middle and long term (See also option 2.4). Criteria (8) to (10) ensure the efficiency of inspections' structural organisation. Indeed, key regulatory control functions must be identified amongst the different authorities involved in inspections; while improvement of the Strategy is ascertained through the identification of necessary changes and a frequent monitoring and review of its content. To make sure that each

⁵² ESWI Consortium (2009) IMPEL-TFS Enforcement Actions II Enforcement of EU Waste Shipment Regulation "Learning by doing", Interim Project Report, 12 October 2009



authority's task and role is clearly defined highlights the need for an increased cooperation between authorities through a Memorandum of Understanding (MoU) for instance. MoUs are often difficult to reach and are time-consuming as the negotiation of the terms of such agreements requires to set up meetings and to prepare numerous drafts (See option 2.5 on MoUs). At the same time, the monitoring and reviewing of the Control Strategy will also bring about administrative costs since inspectors will bear a heavier workload. They will have to make sure that the data supporting the strategy are properly analysed and that they are not outdated as regards the evolution of the type and amounts of waste shipped. It involves therefore the necessity to analyse the inspection reports and/or to frequently consult the database centralising data on waste shipments when that kind of tool is in place. However, criterion (10) lacks a precision on how often the review should take place and about the fact that the strategy should be assessed. The criteria could be re-drafted to ensure an annual review: 'MSs shall ensure that the Control Strategy is monitored and annually reviewed and assessed'.

Finally, criterion (11) aims at ensuring that the conclusions of the Control Strategy form the basis of inspection planning (see also option 2.3). Linking the Control Strategy to inspection planning is necessary to base planning on sound information and on broader vision of the national situation.

More generally, a question was brought up, whether the phrasing should use 'Control Strategy' or 'Enforcement Strategy'. As the goal is enforcement, the phrasing 'Enforcement Strategy' could be used.

C. Effective understanding of illegal waste activity

According to criterion (12), MS should have a robust system for the recording, analysis and presentation of waste data, including waste movement and shipment data, in order to be able to determine the amount of illegally transported waste, both in quantities and number of movements. The easiest ways to collect and analyse the information seem to be the creation of an electronic database; and the sharing of pre-existing databases among the different authorities involved in waste shipment inspections. The latest measure is not always implemented throughout the 27 MS, as exemplified by Poland where the customs' database is not opened to environmental inspectors. Additionally, the Netherlands highlighted that the difficulties lie in the launching of the planning process i.e. creating a database, gathering information etc. Regarding the financial burden of creating a database, the UK Explanatory Memorandum to the Transfrontier Shipment of Waste Regulation published in 2007 provides indicative costs for setting up and operating 'green list' recording and a reporting system for a simple and unsophisticated reporting Access database and ongoing data entry costs. These costs have been estimated at £20 000-£25 000 a year⁵³

European Commission – DG ENV

⁵³ Explanatory Memorandum Transfrontier Shipment of Waste Regulation (2007) 2007 No. 1711, available at: http://www.opsi.gov.uk/si/si2007/em/uksiem_20071711_en.pdf



(i.e. EUR 28 000 to 35 000⁵⁴). To set up a database implies that data should be gathered and possibly converted to an electronic format (if they were only in a paper version). The database must be frequently reviewed and updated and its access must be framed. It is worth noting that the types of data included can vary widely, depending on which periods of the waste stream's lifecycle MS want to focus on, and whether a common database is established for each authority or whether each authority completes its own database, also using data stemming from other authorities' databases. The functioning and organisation of the database should be framed precisely in order to avoid unnecessary workloads. The need to implement a database on waste shipments applies for several of the criteria proposed, including criteria (19), (27), (63), (69) and (89). When not yet implemented or enabling only certain authorities to access the data, or if only certain data are accessible, implementing a database or opening access seems necessary to ensure a good implementation of the WSR.

D. Risk Profiling and Risk assessment

Criterion (13) thus ensures that all waste streams are covered if they pose a threat, ensuring that all waste streams are covered by the criteria. The criterion is addressing the waste streams 'that pose a potential risk for failure to comply with the WSR'; Alternatively, the criterion could address the waste streams 'that pose a significant risk to the environment if the waste is not managed properly', as the broader goal of the criteria is to ensure no significant hazard to health or the environment occurs. However, as the WSR's goal is to address this goal, the initial phrasing seems more adequate.

Criterion (14) supports criterion (7) since it provides that - as well as being supported by sufficient information - , Control strategies and further planning documents must be based on the results of risk assessments undertaken for each waste stream posing potential risks (criterion (13)). Therefore, to implement criteria (13) and (14) Member States will have to control that risk assessments are led and that they are used in practice to develop subsequent strategic documents. This control might take the form of a comparative review of strategies, plans and programmes, as the documents might be developed by different authorities at various levels. The review should ensure that updated and consistent data are used for the different documents.

Criteria (15), (16) and (17) describe the content of a risk profile. It shall identify the risks generated by waste shipments activities and assess the strengths and weaknesses of the control system in order to be able to evaluate the likelihood of illegal waste shipments activities and to anticipate its consequences. To be efficient the risk profile must target priority risks.

Implementation costs are not substantially increased by this option if data are already gathered by MS and if the countries already base their Control strategy and inspections

⁵⁴Exchange rate at the period of publication of the document (chosen date 30th November 2007), available at: www.exchangerate.com



planning on risk assessments and risk analysis, like in France and the Netherlands for instance. For countries which do not follow this procedure, implementation costs will be higher due to the necessity of organising waste shipment monitoring and preparation of the assessment and analysis. The MS will also have to produce numerous administrative documents, such as the methodology for the risk assessment, the identification of risky waste streams, the formalised risk assessment and several risk profile documents for each of the waste streams identified as posing risks. Risk assessment documents might have to be refined and adapted to specific contexts to be used in operational programmes for example. Poland bases its inspection strategy and planning on sound data and experience but does not establish risk profiling and risk analysis as such (this task is performed by customs). The same functioning is found in the Czech Republic. In these countries, it is expected that the risk profiling and risk analysis would not lead to a significant additional burden, as authorities would need to formalise a current practice rather than prepare a whole new methodology and implement it. Improved cooperation (see also option 2.6) could also lead to more exchanges of information about risks in waste shipments and diffuse best practices as regards risk assessment and risk profile methodologies.

Another difficulty is that risk analyses are often implemented by the customs and not always accessible to waste shipment inspectors. This difficulty is addressed by the criteria on cooperation in sub-option 2.6.

E. Assessment of criminal activity contributing to illegal waste shipment

This group of criteria implies a strong cooperation with the Police to be able to understand how far wider criminal activities are contributing to illegal waste shipments. This cooperation involves intelligence gathering and sharing between authorities through the use of a database for instance. However, it is worth noting that some authorities may regard the existence of a database that they do not control exclusively as a possible threat, which is the reason why in certain countries there is no link between information concerning criminals and administrative records. Besides, for the Police to share sensitive information might entail important costs to ensure the safety of information and managing its safety by using for instance specific protective software, passwords etc. Another possibility might entail the disclosure to environmental authorities of a listing of specific enterprises only, based on the assessment by the police. If further information is needed or a suspicious shipment detected by environmental authorities or the customs, further information about a certain enterprise could be asked. Thus the full database would not be open to environmental authorities, but some information would be available.

The importance of this intelligence-led approach, i.e. trying to have a "big picture" of illegal shipments at national level and basing the national approach on increased communication and exchanges of information, has been highlighted by the UK

⁵⁵ www.inece.org/conference/8/proceedings/55_Isarin.pdf



authorities. Situations occurred in the UK where several authorities were undertaking parallel investigations at different locations of the country without being aware of the other ongoing investigations.

Cooperation with the Police might also entail training costs, if their inspectors are invited to training sessions in cooperation with the environmental authorities or need specific training on waste shipments.

However, the criteria included in this group concern the police more than the environmental authorities. This part could specifically refer to the fact that the police should undertake these assessments, while cooperating with environmental authorities. The criteria would thus read: 'MS shall endeavour to ensure that the Police is performing assessments of how organised criminal activity is contributing to illegal waste shipments. The police and the Competent authorities shall ensure they cooperate in order to link these activities and integrate the information in the Control Strategies, Inspection planning and development of inspection programmes.'

Pros:

- A Control Strategy frames the implementation of the regulation. The specific criteria detail a number of aspects the Control Strategy shall include
- A strategic approach is needed to have a broader view on issues in the whole country and on inspection forces
- Specific criteria are provided for a harmonisation of control strategies in all MS
- Waste movements are followed and shipment data gathered to ensure a
 detailed analysis of the specific aspects of illegal waste activity in each MS and
 therefore a more accurate legislative and operational response
- Risk profiling and risk assessments allow MS to adapt their control strategy and the inspections planning, programmes and plans. It provides a transparent and sound basis for the subsequent development of strategy and planning documents.
- Illegal waste shipments are often linked to other criminal networks, thus assessing risks and obtaining data about criminal activities would strengthen the identification of potential criminals
- Collaboration between environmental inspectors and the police or customs is organised
- Assessing the extent of criminal activities in waste shipments allows effective prosecution to be systematically launched to ensure that offenders do not remain unpunished



Cons:

- Such criteria do not ensure improvements in the number or the quality of random checks on waste, e.g. to identify wrongly labelled waste shipments
- The criteria increase the administrative burden as they imply increasing the number of verifications and data gathered and the level of monitoring of such data
- Cooperation with the police requires time and organisation, thus increasing the administrative burden
- Additional costs will result from the increase in the number of exchanges/training sessions between inspectors and the police

Synergies with and impacts on other options:

- Risk analysis is also performed in Option 1
- This option implies working with the police and/or customs, a collaboration which is implemented in Option 7
- The control strategy guides the inspections, especially in the case of an intelligence led approach

5.5. SUB-OPTION 2.3: IMPROVE WASTE INSPECTION PLANNING AND PROGRAMMES

Operational implementation:

- Drawing up of a detailed inspection plan, respecting the specific criteria that are outlined and ensuring the plan is regularly reviewed
- Adoption of inspection programmes

Rationales

The drafting of planning, plans and programmes implement the control strategy that is outlined in Option 2.2 for its direct application by the inspectors.

This option is also closely linked to Option 2.1, as the drafting of such documents depends on staff availability which in turn depends on the capacities of the competent authorities. Lack of technical capacity for the preparation of waste management plans and programmes is for instance underlined in the 'Study on the feasibility of the establishment of a Waste Implementation Agency'.⁵⁶

⁵⁶ Milieu, Ambiendura and FFact (2009) Study on the feasibility of the establishment of a Waste Implementation Agency', Revised final report, 7 December 2009, p.1.



One of the main elements of the RMCEI is the requirement for inspection plans, setting out what needs to be controlled and how this is to be undertaken. However, while many Member States undertake inspection planning of one type or another, there are still problems relating to their practical implementation. According to the IMPEL Enforcement Action II project⁵⁷, concrete written national TFS inspection plans seem not to be established in the majority of MS. For example, Hungary has only developed its first inspection plan (not limited to WSR inspections) in 2009 and Sweden undertakes inspection planning for controlled installations and yearly planning in harbours, but as this requires agreement with the Customs, Police and Coast Guard, the process is reported as 'complicated' and therefore difficult 'to plan on a long term basis'. In the Czech Republic, more than 3000 inspections are undertaken every year, of which around 40% are planned.

Moreover, the lack of technical capacity for the preparation of waste management plans and programmes is also underlined in the 'Study on the feasibility of the establishment of a Waste Implementation Agency'⁵⁸ and the Study on Inspection Requirements for WS Inspections.⁵⁹ Hence, the need for concrete steps and harmonisation within the 27 MS justifies the definition of criteria listed under subcategories F, G, and H. The impacts of these criteria are further detailed below.

Options for implementation

F. Waste shipment inspection planning

According to the IMPEL Enforcement Action II project⁶⁰, concrete written national TFS inspection plans seem not to be established in the majority of MS. Planning is more frequently performed at a regional level. Germany and Poland for instance both plan and organise inspections at regional level.

Criteria (21), (24) and (26) set the basic requirements to be respected when drawing up an inspection plan. All the MS' territory must be covered either by a plan established at the national level or by several plans established at the regional or local levels. An alternative phrasing of criterion (21) could read 'at the appropriate levels'. A plan must correspond to a specific geographical area and take into account its specific context. For instance in Germany, each federal region (Land) is in charge of establishing its own inspection plan. Furthermore, all the relevant aspects of shipment controls must be covered and the tasks assigned to each authority involved must be clearly defined. Putting in place a criterion for inspection planning, even if it does add an administrative

⁵⁷ ESWI Consortium (2009) Services to support the IMPEL network in connection with joint enforcement actions on waste shipment inspections and to coordinate such actions, No ENV.G.4/FRA/2007/0066, Final Report, 15 July 2009

Milieu, Ambiendura and FFact (2009) Study on the feasibility of the establishment of a Waste Implementation Agency', Revised final report, 7 December 2009, p.1.

 $^{^{\}rm 59}$ 'Study on Inspection Requirements for WS Inspections', p 98.

⁶¹ ESWI Consortium (2009) IMPEL-TFS Enforcement Actions II Enforcement of EU Waste Shipment Regulation "Learning by doing", Interim Project Report, 12 October 2009



burden to MS, is relatively easy to implement, as an IMPEL tool already exists to establish inspection plans⁶¹. An additional burden will be borne by the national authorities to draft the plan. Furthermore, the lack of technical capacity for the preparation of waste management plans and programmes is underlined in the 'Study on the feasibility of the establishment of a Waste Implementation Agency'. 62 Thus the drafting of plans and programmes may increase the need for more capacities (see also option 2.1). However, a harmonised format for national inspections plans was put in place during the IMPEL Enforcement Action II project. Although inspection planning criteria do create extra administrative work for the MS, who will be required to draft the documents, they are relatively easy to implement, since an IMPEL tool already exists for establishing inspection plans.

Criteria (22) and (25) aim at ensuring the continuity of the inspection chain i.e. ensuring that the plan will actually be used to perform inspections and that it will take into account the risk assessment and risk profiling findings to prioritise the controls. These criteria are important conditions to ensure that the strategic documents that are produced upstream to improve the inspection process are made best use of. Criterion (25) could additionally include a reference to 'other relevant criteria' instead of simply 'other criteria'.

Criteria (23) and (27) address the communication obligations linked with the setting up of a plan. Criterion (23) requires the plan to be notified to the European Commission. This would ensure verification that the plan has been drafted. However, it could also impair the efficiency of the Commission, as 27 plans in different languages would not allow for a simple verification and would add a burden on the EC. To make the plan available to the public requires only its publication on the Internet, on the Ministry of the Environment's website for instance. It is worth noting that the Aarhus Convention⁶³ already states that documents on strategies, policies, programmes and action plans relating to the environment should be made available to the public through electronic databases⁶⁴. Ireland commented that the availability of the plan to the public could hamper police authority. However, as the inspection plan covers a broad range, it will probably not be precise enough to hamper such authority.

Criteria (28) and (29) outline the authorities' duties regarding the plan. Inspectorate management and control duties are unlikely to represent an outstanding burden for MS if each stage of the inspection is properly undertaken and recorded (see option 2.4). Again, the period for review of the inspection plan could be specified, possibly on

European Commission – DG ENV

ESWI Consortium (2009) IMPEL-TFS Enforcement Actions II Enforcement of EU Waste Shipment Regulation "Learning by doing", Interim Project Report, 12 October 2009

⁶³ INECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice on Environmental Matters, 25 June 1998, available at:

www.unece.org/env/pp/documents/cep43e.pdf

⁶³ INECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice on Environmental Matters, 25 June 1998, available at: www.unece.org/env/pp/documents/cep43e.pdf

⁶⁴ Article 5 of the Aarhus Convention.



an annual basis, thus reading 'The inspection authority [...] and revised on an annual basis'.

G. Review of waste shipment inspection plans

According to criteria (30) to (36), MS shall guarantee that the plans are efficiently reviewed, which involves an in depth assessment at different stages: *in itinere* and *expost*, in order to define precisely how far elements of the plan have been implemented and therefore what its strengths and weaknesses are. The rationale is that plans be flexible and quickly adapted to any change of context. Such assessment and the consequent updates of the plans might entail an additional administrative burden and is quite time-consuming considering the frequency of analysis having to be carried out.

Criteria (31) and (32) refer to a preliminary review followed by a full review. A single criterion could be proposed to encompass both reviews. The criterion could thus read: 'MSs shall undertake a review of the inspection plan(s) within three months after the end of the plan period, based on the findings and identification of shortages of the precedent plan'.

H. Waste shipment inspection programme

The waste shipment inspection programme is a more strategic document than the plan and is not meant to be disclosed publicly as it frames inspections in details. The 2 criteria listed under this headline require the adoption of inspection programmes set for different operational areas and timescales. A comprehensive list of elements to be addressed in the programme is provided. The choice is left to the Member States to decide how to prioritise the plans and the programmes, in order to adapt them to the specific administrative structure of each country. This flexibility is necessary; nevertheless a criterion could be added to ensure the consistency of both documents and be more specific regarding their respective geographical and time scales. It is important that each document be efficient at its own level/scale to avoid unnecessary administrative expenses for strategic documents not used in practice or overlapping. Additionally it would help to ensure a better planning harmonisation in the EU-27.

Pros:

- Specific criteria are provided for a harmonisation of inspection plans and programmes in all MS and their review
- Programmes allow for an operational, short-term and adaptive approach to inspections, taking into account specific needs
- The specific criteria provide details on the content and review of the inspection plan
- Inspections are planned, with a programme to be respected



- Waste inspection plans and programmes are already available, for instance annual plans are in place in France and Sweden
- Planning allows the MS to have a better overview in terms of allocated means, funds, frequency of controls, effectiveness etc.

Cons:

- Planning does not ensure the inspections are indeed performed
- Planning increases slightly administrative burden as more documents have to be produced

Synergies with and impacts on other options:

- Inspections plans and programmes are parts of the implementation of control strategies (option 3)
- Inspections plans and programmes are also linked to the estimation of capacity needed to perform the inspections planned, in terms of staff, material and laboratories (option 2)
- Inspections plans and programmes improve the organisation and coordination of the preparation, undertaking etc. of waste shipment inspections (option 5)

5.6. SUB-OPTION 2.4: IMPROVE PREPARATION, UNDERTAKING, QUALITY, AND FOLLOW-UP OF A WASTE SHIPMENT INSPECTION

Operational implementation:

- Clear identification of steps and requirements before, during and after the inspection
- Contact with other competent authorities when relevant
- Implementation of a database to record information from inspections

Rationales

This option addresses the actual implementation of the inspections. The criteria included here provide guidelines for undertaking each step of the inspection and ensure no step is forgotten or partly addressed. Additionally, the harmonisation of inspections in all MS, by ensuring the same steps are taken, is improved by the criteria proposed in this option.



Options for implementation

I. Preparation for a waste shipment inspection

The four criteria included in this heading (criteria (39) to (42)) improve the preparation of the inspection in terms of responsibilities, involved inspectors, time, location, equipment need for cooperation, etc. of the inspection. As such, these will be time-consuming but are not expected to have administrative or cost impacts. However, the requirement to ensure the equipment is available may trigger the need to buy further equipments, such as laptops, digital cameras to record information, sampling kits, etc. Some of the joint activities will also necessitate some administrative organisation before the inspection takes place. Criterion (41) also protects the health of inspectors as adequate equipment will for instance prevent inspectors from inhaling hazardous substances contained in certain containers.

J. Undertaking a waste shipment inspection

Criteria (43) to (57) refer to the undertaking of inspections.

Criterion (43) ensures the adoption of procedures for waste shipment inspections. Such procedures are necessary to guide the inspection and provide guidelines for inspectors. Adoption of procedures ensures no step of the inspection is forgotten in the course of the inspection. Furthermore the implementation of inspections can detect other illegal traffics as drugs, weapons or protected species can also be hidden in waste, thus inspection of waste may contribute indirectly to reducing other types of illegal traffics.

The Netherlands for instance already has procedures for waste inspections. Administrative costs for drafting the procedures will be necessary in MS where no guidelines exist yet. However, IMPEL-TFS provides several tools to help MS in their inspections, including an inspection manual with information about how to prepare, perform and report on inspections and a manual for the return of illegal shipments of waste. These guidelines were mentioned to be very useful and in certain cases used for national inspections by Belgium, Poland, Germany, the Czech Republic, and the Netherlands. These guidelines could be further adapted in each MS, reducing the administrative burden that drafting new procedures would entail. Inspection procedures could also be reported on if the Commission wishes to ensure their adoption.

Criterion (44) ensures the application of the Control Strategy and Inspection plan (see options 2.2 and 2.3) as regards the time and place of the inspection in particular. No specific further impacts from this criterion are expected.

Criterion (45) ensures the recording of inspection actions, which will ensure that relevant follow-up can be undertaken when relevant. The main impact of recording actions is the time needed to record actions. In order to record their actions, the inspectors need to ensure at the preparation stage that the material for recording is available and may trigger the need for buying further material. This might include



paper and pen, notebooks, digital cameras, sampling kits, phone (especially if a hotline/call centre is in place) etc. Paper means are easy to implement, but if electronic means are used, the availability of a notebook could be needed, involving in certain cases the need for supplementary equipment to be bought. Electronic means are often preferred in order to access the information more easily by persons other than the inspector undertaking the inspection (other authorities, legal prosecutors, etc.).

Criterion (46) ensures the availability of supporting information and reference material. The workload to gather, organise and synthesise the information needed is initially high, but will provide sound information which can also be reused for training, including self-training. Gathering and organising information is needed whichever support is chosen to base the information on. Regular updates of the information are also needed.

The information and material can be available in a paper-based handbook. This option is less costly but requires a regular update, is heavy and not very practical for accessing information rapidly. Another option is to provide the information on a USB key as in the Netherlands. This solution needs the accessibility of an electronic notebook to read the information (see criterion (45)) and the regular update of the information contained on the USB key. Another possibility is the use of a hotline/call centre, which has access to the information. Again, in order to be efficient, the hotline/call centre needs to have access to structured and updated information, which must be organised in the first place. The implementation of a hotline/call centre requires the hiring of operators, which would add a financial burden to the MS choosing this option. In Germany, the Umweltbundesamt provides a helpdesk service within its normal business hours to support inspectors. Additionally, such a hotline could also be used by enterprises involved in the import and export of waste, to improve the enterprises' knowledge of the requirements of the WSR. Better information of enterprises is also needed to reduce illegal shipments (see criteria (92) and (93)).

Criteria (47) and (48) relate to the inspection of documents. Verifying the correct type of documents are used and properly completed is important to ensure the legality of the waste shipment, including whether the shipment is of a type accepted by the destination country, whether the shipment has been notified where relevant, etc. Furthermore, many illegal shipments are illegal for administrative reasons, thus the verification of the documents is essential. The examination is time-consuming but is not expected to entail specific burdens or costs, as it is part of the inspection procedures. Criterion (48) relates specifically to WEEE and refers to the WEEE Recast Proposal, in order to ensure this specific type of waste is well inspected. A criterion on ELV or other specific types of waste could be envisaged to underline any specific requirements for other waste streams. However, the need to ensure all documents are examined (criterion (47)) ensures all types of waste streams are covered.

Criteria (49) to (53) relate to the physical inspection of waste and the different requirements when inspecting waste physically. Numerous illegal shipments are



accompanied by documents that are wrong, e.g. cases where the shipment contains WEEE or mixed plastic and WEEE, whereas the document specifies that it contains plastic waste. Criterion (49) could be slightly redrafted to read 'Inspectors shall undertake a physical examination of the contents of the container/transport/etc. to determine [...]'.

Criterion (49) therefore relates to matching the description in the documentation and the waste. Several difficulties are included in this determination, for instance moderately contaminated plastics can be seen as green or amber listed-waste depending on the degree of contamination. The physical inspection therefore requires skills and experience by the inspectors, addressed by criteria (71) and (72).

More specific requirements when undertaking the inspection are detailed in criteria (50), specifically relating to used EEE and in reference to the WEEE Directive Recast Proposal; (51) ensuring a thorough examination, including the possibility to scan the containers; (52) and (53) ensuring that the items declared as not being waste are not waste and the functionality of such items. These criteria ensure the adequate undertaking of inspections. They are time-consuming but are not expected to incur specific burdens or costs.

When available, the use of scanners is mentioned. Scanners are not available in all ports, but are a good means of determining, both safely and time-effectively, whether the waste in the container matches the description and to detect anomalies. The criteria do not require that scanning is performed in all cases, leaving the MS free to use scanners when available.

The MS stated during our study that a waste shipment inspection requires between a quarter of an hour, for a road inspection where nothing illegal is detected, and 5-10 days. The mean time needed is generally 3 to 5 days to inspect containers. The time needed also depends on whether a good inspection system is in place and how long the inspectors take to react, which in turn depends partly on capacities of the inspectorate.

Regarding the reference to the WEEE Recast Proposal, the reference will have to be updated to refer to the adopted piece of legislation and amended if the proposal is not adopted with the current terms. Additionally, in certain MS it remains for the state authorities to prove that the equipment at issue is WEEE.⁶⁵ In these MS, ensuring the status of the items may take more time, as written in Annex I of the WEEE Recast Proposal. Lastly, the reference to the WEEE Recast Proposal is made in several criteria. A criterion linking the waste shipment inspection criteria to the WEEE Recast Proposal criteria could simply be made. A possible drafting for such criteria would be: 'Criteria relative to inspections of WEEE and used EEE included in the WEEE Recast Proposal shall be reviewed during waste shipment inspections.' Furthermore, reference could be

⁶⁵ Revised Correspondents' Guidelines No 1 on shipments of waste electrical and electronic equipment (WEEE) - to apply under the new Regulation No 1013/2006 from 12 July 2007.



made to the Waste Correspondents Guidelines relevant for WEEE and/or other types of waste streams where relevant.

Criteria (47) to (53) could however be seen as more appropriate for inclusion in a guideline for inspections than in a legally-binding instrument. The possibility to include them in practical inspection guidelines could be envisaged. The guidelines could then be enriched and updated regularly through the feedback of inspectors (further depicting the situations likely to occur, etc.) rather than included as such in a legally-binding text. In this case, the legally-binding obligation could be the drafting and availability of practical inspection guidelines in each MS. This would allow for a more flexible instrument than a legally-binding tool and could take into account any evolution in inspections in a shorter term. On the other hand, the criteria are relatively close to the criteria included in Annex I of the WEEE Recast Proposal, which is apparently in the process of being adopted, and are quite detailed, which should allow MS to apply the criteria easily.

The WSR includes a provision about the administrative costs linked to waste shipment inspections. It states in Article 29 – Administrative costs that 'Appropriate and proportionate administrative costs of implementing the notification and supervision procedures and usual costs of appropriate analyses and inspections may be charged to the notifier.' The costs when analysing and inspecting waste shipments thus falls on the notifier of the shipment. The price for keeping a container in the port depends very much on the country and port, but would be for instance around EUR 200/day in the Netherlands. If the inspection lasts for 5 days, the financial burden quickly increases.

One of the issues faced by authorities in certain cases is the lack of notifier or contact information. Thus when detaining the shipments for inspection, costs of storage and treatment of waste may arise, which are then borne by the MS. In Belgium, a law will come into force soon, according to which the authorities will bear the costs of the first sampling and first analysis. This will reduce the burden on legal shippers and notifiers.

Criteria (54) and (55) relate to the sampling of waste, ensuring the samples are analysed and the implementation of a sampling plan. Sample taking enables to identify the composition of waste including the detection of any hazardous substances, to detect which components are contaminating paper or plastics, or to ensure the waste types mixed are allowed mixtures. According to our Belgian and German interlocutors, samples are rarely taken during an inspection and more frequently take place at the waste destination. When samples are taken, the analysis can be relatively time-consuming and costly: sample results can be available 2 days or up to 2 weeks later and cost in a range of EUR 1 000 to 10 000 in the Netherlands. In the Netherlands, sample analyses cost about EUR 100 000 a year. Germany reported that samples take too long for a decision to be taken in an acceptable timeframe. Ensuring the proportionality of the sample ensures the relevance of the results. It may however imply that relatively large quantities are sampled for the analysis. These two criteria also imply that a laboratory is available for performing the analyses and has the means to carry out the



analysis (see group M in Option 2.1). A criteria ensuring the results are sent back to the inspectorate could be added to ensure a consistent information flow between the inspectorate and the laboratory.

Criterion (56) ensures that the analysis is undertaken according to international standardised procedures when available. This criterion relates partly to criterion (68) ensuring the quality of the laboratories undertaking analyses. Standardised procedures may need a certification procedure, which is costly and administratively heavy, but ensures the quality of the analyses (see also the cost of implementing ISO 9000 certification detailed in group R).

Criterion (57) ensures that actions and recording of actions are rigorous to allow for subsequent enforcement action. This means the inspectors need to be aware of these standards, e.g. through training to ensure they have knowledge of and know how to follow the standards for collection of evidence (see option 2.5).

The criteria do not specify that the tests have to be random or targeted, as controls cannot be undertaken for each item or container. A criterion might be added in this group reading 'Inspections shall include both targeted and at-random controls of the containers and items included in the container.'

K. Preparation for a follow-up to a waste shipment inspection

Criterion (58) refers to the production of an inspection report (and on subsequent work), which shall be handed to all individuals concerned. This criterion may be timeconsuming for the inspectors, but ensures a clear report is produced and can be used for follow-up and to provide examples for other inspectors. The criterion does not detail in which form the report should be produced, but it can be expected that the document will be saved in electronic form for further reuse by other inspectors if needed. The criterion also requires the identification of the individuals concerned so the document can be handed to them, either as a printed copy or electronically. As ensuring all individuals concerned have been handed the report is both timeconsuming and difficult (contacts may be difficult to obtain), the criterion could be drafted to ensure that both the containers' shipper and the waste shipment notifier, where relevant, were handed the report and that any other concerned individuals who ask for the report are answered. The criterion would thus read 'Inspectors shall produce a clear, complete report of the inspection (and on subsequent work) and hand it to the waste shipper and the waste shipment notifier (where relevant) as well as all other concerned individuals asking for it'. As criterion (69) asks for the transparency of all inspection reports, this availability should also be ensured by MS directly.

Criterion (59) especially relates to EEE/WEEE functionality test record, as proposed in the WEEE Recast Proposal and following the request to test the items of criterion (50). As the properties and/or functionality testing of items declared as not being waste are also required in criterion (52), the record of these tests could also be included in the criterion. The criterion would thus read: "A record of the properties or functionality of the items declared as not being waste should be fixed to the consignment." For



EEE/WEEE, the information should contain the requirement set out in Annex I to the WEEE Recast Proposal. Again, the reference to the WEEE Recast Proposal will have to be updated to refer to the final text adopted. Alternatively a unique criterion could cover all criteria from the WEEE Recast Proposal.

Criterion (60) relates to the training of inspection staff to prepare and present evidence so as to ensure enforcement action is adequately supported. Training is addressed in Option 2.5. The criterion adds an area for training but its implementation is not expected to have other specific impacts than outlined in that option. The drafting of the criteria currently refers to the 'full' training of inspection staff. A proposition could be to refer to its 'adequate' training.

Criterion (61) refers to the legal expertise needed for the follow-up of the inspections. MS are left free to choose whether the legal expertise should be in the team or readily accessible. Ensuring the legal expertise is inside the inspector's team links back to the team capacity and hiring of inspectors with complementary expertise. As detailed in Option 2.1, the hiring of a further inspector in MS where this competence is not yet included, costs around EUR 100 000 per year. The possibility to have access to legal expertise could lead to the hiring of a legal expert in MS where no such expert is available. The legal expert would need specific knowledge of the WSR and related regulations, with a similar hiring cost. If illegal shipments are increasingly prosecuted, the work of tribunals is expected to rise also. After a first increase period, less illegal shippings are expected to take place because of the deterrent effect that the initial prosecutions are expected to have, leading to a decline in the overall number of prosecutions. In Poland, the Prosecutor has to be informed about illegal shipment cases. Our interlocutor reported that Prosecutors used to close the proceedings claiming that the actions were harmless or that social impacts were low. However, pursuant to awareness raising events, the interruption of proceedings has become rare and illegal waste shipping is now effectively prosecuted.

A system of penalties is ensured by criterion (62). Article 50.1 of the WSR already ensures that rules are laid down and implemented. The penalties must be effective, proportionate and dissuasive, according to that article. Penalties can have a strong deterrent effect as long as enforcement takes place and responsibilities can be determined. It also brings financial benefits to MS. In order to ensure the penalties are perceived, standard gathering of information and follow-up is needed, requiring experience from the inspectors and training.

Criteria (63) and (64) relate to the development of a database and the use of inspection results to inform future inspection plans and programmes. Follow-up is crucial for gathering intelligence on waste shipments and guiding future inspections. Gathering the information in a database implies the creation and management of this database. Implementing a database can be time-consuming and may be costly if internal resources cannot set it up (see estimated costs of a database in criterion (12)). However, once the database is in place, it can be used for evaluating the inspection



results and trends in inspections, legal and illegal activities, etc. It can also be used for recording information as required in criterion (58) and to support follow-up. It ensures availability and easy access if it has to be made available to a stakeholder or to the public as required in criteria (58) and (69). Furthermore, it is useful to inform future plans and planning as the information can be analysed easily. Lastly, if inspection results are uploaded in a database, several authorities may use the information for their inspection programmes and improve their cooperation.

Apart from the implementation of the database, criteria (63) and (64) are not expected to lead to specific further impacts.

L. Sampling Plan

Criteria (65) and (66) relate to the adoption of a sampling plan. This implies an administrative burden for drafting the plan, but ensures the samples taken are relevant and may be used for prosecution if the case arises. The specific aspects listed in the criteria refer to the tools, equipment and processes, safety requirement, protocols and procedures to follow. As detailed earlier, samples are rarely taken in several MS. The aspects listed require that tools and equipment be available, and thus in certain cases buying further tools and equipment, for sampling as well as for safety measures. Recording requirements have the same impacts as recording reports as described in criterion (57).

These criteria could be grouped with criteria (54) and (55) which also refer to sample taking.

N. Transparency of waste shipment inspection

Criterion (69) refers to the availability of inspection reports to relevant stakeholders, including the public. This requires someone to be in charge of answering requests by stakeholders and the general public and ensuring all reports are stored and can be accessed easily, for instance in electronic form. Using a database as detailed in criteria (12) and (63) would be very useful for this requirement. However, the public availability of environmental documents is already covered by the Aarhus convention. This criterion could thus be seen as redundant to other pieces of legislation that already apply.

R. Quality of waste inspection activity

Criterion (83) ensures the quality of the inspections. Quality is crucial especially as the results may be used for prosecution. Thus the proposed criterion ensures the procedures and planning processes meet recognised quality management standards, such as ISO 9000. This drafting enables MS to choose a relevant standard.

Quality management standards aim to ensure a systematic approach to manage the organisation's processes so that they consistently meet the goals set (customer's satisfaction for private enterprises, regulatory requirements, etc.) and to improve the organisation's performance continuously. To achieve the standard, a quality



management system needs to be put in place. Taking the example of ISO 9000, the standard consists of several standards and guidelines relating to quality management systems, including ISO 9001:2008 which is the best-known and the standard for which a certification is possible⁶⁶. It is based on four elements: management responsibility, resource management, product realisation (which here would correspond to the carrying out of inspections), measurement, analysis and improvement. It is adaptable to any organisation or company as it lays down requirements that must be met, but without specifying how. The standard requires that procedures are written and followed and ensure that records are kept at each step. For inspections, this means that procedures are written, that each inspector knows his responsibilities and tasks, that records of steps taken during the inspection are kept, that information is saved in an appropriate way (for instance in a database) to enable verification and further use, etc. Implementing such standards is time-consuming and requires the drafting of documents, the recording of procedures and paperwork, to check the effectiveness of the system, etc. The ISO 9000 certification, for instance, takes around a year to obtain in general. However, the requirements of a quality management standard are well covered by the other criteria included in the list. For such a standard, reviews of the procedures and of the work are also required. This can be done by the organisation itself or by external quality inspectors. In order to ensure transparent assessments, an external audit is often preferred. The costs to put in place a quality management system depend very much on the organisation. For ISO 9000, depending on the organisation, the costs are between EUR 8 000 and 35 000⁶⁷. Following this, an audit is performed each year to ensure that the certificate is still valid. This audit costs between EUR 1500 and 20000 annually. For the criteria proposed here, the Commission could be auditing the national systems. This would necessitate additional staff. If the 27 MS had to be audited at least once a year, for instance, and considering that an audit lasts several days, at least 90 days would be necessary for one person, which is almost half a year of work. If the proposed Waste Agency is implemented, the auditing of waste shipment inspections could be performed by its personnel. A peerreview approach is currently implemented for instance by an office of the Commission, DG SANCO's Food and Veterinary Office (FVO), which undertakes reviews of Member States' systems to control food safety and animal and plant health. The same type of system could be implemented for reviewing MS waste shipment inspection systems. Alternatively, national inspectors could be exchanged to review the systems in other MS. The implementation of joint actions would deliver interesting feedbacks and exchange of experiences to improve the systems in place, even if corrective actions would not necessarily be taken if joint actions only are implemented.

⁶⁶ See the ISO's website about ISO 9000:

www.iso.org/iso/iso catalogue/management standards/iso 9000 iso 14000/iso 9000 essentials.htm

67 FAQ on the ISO 9000 certification from a certification enterprise in Canada, information available at:
www.bdc.ca/fr/business tools/ask professionnal/archives/rep200309.htm?cookie%5Ftest=1



Pros:

- Specific criteria detail quite precisely and rigorously the requirements for a quality inspection, ensuring for each step of the inspection (preparation, undertaking, follow-up) that quality inspections are undertaken
- The inspections follow the same criteria in all MS
- Details are provided about cooperation between authorities during the inspections
- Follow-up of actions ensure prosecution of illegal shippers/notifiers and better enforcement in future inspection actions
- Requirements identify all issues to be considered and ensure none are missed
- Requirements ensure accurate results of inspections and samplings
- Methods for potentially bringing an illegal shipper to Court are provided to ensure the procedures are followed and proof will be receivable
- An indirect impact of inspecting waste shipments is that it may also detect other illegal traffics, such as drugs, weapons or protected species hidden in the containers
- Guidelines or procedures are for instance already available in Germany and in the Netherlands
- A database may be set up or further used for several aspects, such as followup activities, analyses, feeding the control strategy, informing the public, etc.

Cons:

- Detailed inspection criteria may be irrelevant to certain types of inspections
- The undertaking of sample analysis for instance entails a financial burden
- A certain amount of time must to be devoted to the inspections to ensure proper implementation
- The criteria add an administrative burden as more documents have to be produced (e.g. follow-up report)
- Databases are costly and ensuring their update is time-consuming

Synergies with and impacts on other options:

- The criteria implement the plans and programmes in Option 4
- Capacity needs arise from the implementation of the criteria and the improved inspections are made possible through sufficient means (Option 1)
- As they may detect other illegal activities, waste inspections provide information on illegal traffic, addressed in Option 3



5.7. SUB-OPTION 2.5: IMPROVE INSPECTORATES THROUGH EFFECTIVE TRAINING AND CLARIFYING COMPETENCE OF INSPECTORATE STAFF

Operational implementation:

- Clear identification and definition of roles and responsibilities
- Hiring of inspectorate staff with adequate competencies
- Formalisation of training needs and of a training plan
- Organisation of joint inspections and training programmes
- Effective training sessions, including the issues addressed in the specific criteria
- Participation in EU level actions

Rationales

This option relates to the definition of tasks and duties, the competences of the staff undertaking inspections and the training of staff.

Assessing the responsibilities during the inspections is very important to ensure the inspections are properly carried out. The competences of the staff are also crucial since knowledge of the waste streams and differentiating between waste and used products requires technical skills, but also a thorough knowledge of the legislation applying to waste shipments (especially as certain countries ban certain waste stream imports allowed in other countries). The training of inspectors is needed to ensure these technical and judicial skills are enhanced and regularly updated. The RMCEI addresses training issues and the IMPEL Threat Assessment report calls for the development of international minimum training standards for all enforcement staff. Knowledge of what is illegal or not, authorities' powers and maximum penalties are frequently unclear to the inspectors.⁶⁸

Options for implementation

O. Effective inspectorate

The definition of tasks and duties in criterion (70) allows for an effective inspection, especially since the environmental inspectorates in most MS not only address waste shipment issues but often also include the inspection of Seveso facilities for instance. Furthermore, when joint actions are undertaken between several authorities, the responsibilities of each member of the team have to be defined.

⁶⁸ Environment Agency England and Wales, Jill Dando Institute of Crime Science, University College London (2006) IMPEL-TFS Threat Assessment Project: The illegal shipment of waste among IMPEL Member States, n.9



Ensuring that the tasks and duties are well defined requires a formalisation of these aspects in the definition of the position, which could strengthen the training needs assessment (see criterion (73)). Such a definition also needs to be inserted in the inspections programmes and clarified before the inspection (see criteria (37) to (39)). This criterion is not expected to entail any additional costs except indirectly through the need for training.

P. Competence of inspectorate staff

Criteria (71) and (72) refer to the competences of the inspectorate's and institutions' staff to enforce the WSR. Ensuring the competence of the staff is an important requirement, as waste shipment inspections require technical and judicial skills. The vast range of different waste streams that are transiting also requires multiple competences of inspectors to identify illegal waste streams.

Hiring competent staff may be difficult, as experienced inspectors will be more difficult to find and will have higher salaries. On the other hand, less initial training will be needed by the senior inspector (see following section). In most MS, inspectors are graduates that are hired after a test of their competences, or whose competences are tested after a year (this occurs for instance in the Czech Republic).

Ensuring a diverse range of competences is also important to address the different types of waste inspected. Chemists will be more relevant for detecting soiled papers, dealing with waste oils or taking samples of substances; Engineers on the other hand may have better knowledge of WEEE or ELV. Lawyers will ensure the procedures are followed when inspecting waste in order to enable effective follow-up and prosecutions when relevant. This diversity of competences may be difficult to bring together and may require the hiring of additional staff. As described in Option 2.1 above, the hiring of an additional inspector costs about EUR 100 000 a year, depending on MS and level of experience.

However, these two criteria are relatively repetitive and could be synthesised in a single criteria, reading 'MSs shall ensure that inspectorates and institutions responsible for enforcing the WSR have staff with sufficient competence to allow for the effective implementation of the enforcement functions'.

Q. Training of staff

Training is a good means to ensure that the distinction between legal and illegal waste is well made, especially distinguishing second-hand material, by-products and waste, but also ensuring that the types of waste are listed correctly. Some types of waste may be listed differently depending on the country of destination and some waste streams be banned for import in some countries only. Detailed knowledge of the legislation is thus crucial when inspecting waste and checking waste documentation. Such knowledge can be gained through training and can be complemented during inspections by other means, such as implementing a hotline or providing inspectors



with documents (for instance in electronic version) summarising the legislation effectively (see criterion (46)).

Training can also raise awareness of the tools that have already developed i.e. by IMPEL-TFS, such as an inspection manual with information about how to prepare, perform and report on inspections; a waste watch to classify waste streams; a manual for the return of illegal shipments of waste; a format of a draft MoU to organise collaboration at a national level and guidelines (together with the European Commission and the Waste Correspondents Group).

The first training criterion proposed (73) relates to the undertaking of a training needs assessment and the development of a training plan. These two tasks will create an additional administrative burden and will need new documents for certain MS. However they are effective methods to ensure that the training needs are identified and addressed. Furthermore this criterion can be reported on by the MS to the Commission to ensure training needs are tackled.

Criteria (74) to (82) relate to the subjects that must be tackled during training, the length of the training and the staff to be trained. The subjects to be tackled will need to be reviewed in order to ensure that the training sessions implemented in each MS include them, leading to the possible need for additional training to be organised and additional content to be drafted and implemented. The need to tackle new developments is essential for the updating of inspectors' knowledge and requires some work for updating the training programmes.

Training activities are taking place in several MS. For instance Belgium regularly trains its inspectors each year, with training lasting for a total of 10 days; Germany implements training sessions; inspectors in the Netherlands are trained each year on different topics, including: changes in legislation systems, English, taking samples, the WSR, administrative controls, safety measures, etc.; the Czech Republic implements training twice a year (lasting 2 to 4 days) on several topics around waste in; France has a special 3 days training session focusing on transboundary shipments of waste, attended on a voluntary basis in 2009, which will continue in 2010 with 2 sessions of 3 days each on the same topic, targeting inspectors and other authorities such as police and customs; Poland organises two training sessions per year with 70 inspectors and representatives from other authorities, lasting for 2 days each.

Poland reported that they estimate the 2 day sessions for around 70 people to cost about EUR 10 000.

The requirement for practical experience (76), joint practical experience (77) and joint training (80) between authorities will need consequent organisation, involving time to organise the training, intelligence with other authorities and material to perform the practical inspections. The need to train new recruits (criterion 79) will depend highly on the skills of new staff. As described earlier, if staff with high competency is hired, initial training will be less needed.



The criteria relative to training particularly address the difficulty highlighted in section 2 to differentiate waste from used items and ensure that the procedures for gathering information are followed. It also addressed the need to keep up-to-date with legislative changes and to cover the complexity of dealing with legislation from several third countries.

Criterion (82) relates to the participation in EU level actions (see also Sub-option 2.6). This criterion requires that EU level actions take place and underline the synergy between EU level actions and training, as EU level actions provide for the sharing of experience and often involve on-the-ground training through joint inspections. Participation in EU level actions and related impacts are addressed in group U. This requirement can be perceived as redundant if all criteria are implemented as cooperation is already required in criteria (94) and (95).

Implementing training sessions can take diverse forms: direct training, train the trainer, coordination and facilitation of MS programmes, and self-training sessions. In the first two forms of training, inspectors are trained at EU level, in the third form of training, MS are responsible for the training but the EU coordinates and facilitates these training sessions. In self-training, coordination at EU level can be envisaged or the implementation can be left to MS.

Direct training involves the training of inspectors at EU level, organised for instance by DG ENV. This possibility entails the advantage of ensuring that all inspectors have the same level of training and will implement the WSR based on a common level of information. Such training would need a strong interaction with MS to use the best practices from already existing training sessions. Another positive aspect is that inspectors would meet, which improves the coordination and joint work that combating waste shipment needs by gaining trust in other inspectors. However, such training would be a very high burden for the EU as the training of inspectors for the 27 MS would be very time-consuming and costly. A three day session involving 30 to 40 inspectors at a time would be costly and would need to be run several times to cover all staff involved in waste inspections. Also, the issue of language would arise. Organisation of the training and drafting training documents would require time, even if the training programmes could be based on best-practices from MS training programmes.

Train-the-trainer programmes would entail similar advantages as the basis of the knowledge would be equal for all trained inspectors, but would include a restrained basis of commonly trained inspectors. In this case only one or two inspector(s) from each MS would be trained at the EU level and this person would then be in charge of training the inspectors at MS level. Such a programme would be less costly for the EU and would balance costs between MS and the EU. Furthermore, it would be easier to implement a pyramidal train-the-trainer programme (EU-level to national level to regional/local level) which could reach regional and local authorities which are often directly involved in waste inspection issues. This would also enable the training to take



place at EU-level in a common language and at MS level in the national language; National implementation would ensure a better comprehension and adaptation of the training to national issues. However the quality of the training at national and regional/local level could vary depending on the trainer and less harmonisation of training would occur.

The coordination and facilitation of the training programmes at MS level by the EU would entail less organisational issues and fewer costs for the EU. This possibility also builds on the current programmes implemented in the MS. However, it allows less control by the EU of the training programmes in the different MS and the quality in different MS may vary. The harmonisation of training would also be lowered. The diffusion of best practices will also be slower if this type of training is implemented, as it would make use of best practices in all MS less directly.

Self-training sessions can also be implemented, especially for regulatory aspects but also through photos for identifying visually unsorted waste or other potentially illegal waste streams. This type of training needs an initial investment for the implementation of the tutorial, but is less costly on the longer-term as no trainer or training room is needed and each trainee can follow the training at his or her own rhythm.

If training sessions are implemented by senior inspectors, the cost to MS is only the time spent by the inspector for preparing and implementing the training. If an external trainer is hired, Belgium estimated the cost to approximately EUR 50 per person and per half-day of training.

Pros:

- Quality inspections are ensured through competent staff
- Best practices and practical cases/experience increase the inspection quality
- Training ensures new regulatory developments are known by the inspectorate staff
- Difficulties in determining whether the items shipped are used material or waste are reduced by training
- Involving staff with differing expertise allows for many aspects of illegal shipments to be tackled

Cons:

- Training increases budget
- Ensuring adequate competences of inspectorate staff increases staff numbers and thus budget
- Training involves time, during which inspections are not performed

Synergies with and impacts on other options:



- Clear roles and responsibilities as well as competent staff clarify the staff capacity needs addressed in Option 2
- Training ensures better cooperation and smoother exchange of best practices when implementing joint inspections with other authorities or other MS authorities

5.8. SUB-OPTION 2.6: PROMOTE ENFORCEMENT ACTIONS, COOPERATION BETWEEN COMPETENT AUTHORITIES, AND PARTICIPATION IN EU LEVEL ACTIONS

Operational implementation:

- Agreement of an MoU (or similar)
- Sharing of data
- Creation of a hazardous waste task force
- Communication and promotion strategy
- Participation in EU level actions

Rationales

The criteria included in this option address 3 different kinds of aspects: cooperation between the authorities in the country, promotion of enforcement actions and participation in EU level actions.

Poor coordination between authorities is underlined in the 'Study on inspection requirements for WS Inspections' as well as in the 'Study on the feasibility of the establishment of a Waste Implementation Agency'.⁶⁹ The IMPEL Enforcement Action II project⁷⁰ underlines as a good practice the agreement on written MoU with customs, road inspectors and police.

The studies also underline the many intermediates in the waste chain. In order to ensure that information circulates well, in particular when the intermediates are located in different MS, cooperation has to be well organised.

Furthermore, as described earlier, part of the illegal activities are due to a lack of knowledge from the actors involved in the import and export of hazardous waste. A key aspect is thus prevention, through information and enforcement actions. These actions may also have a deterrent effect on illegal shippers.

⁶⁹ Milieu, Ambiendura and FFact (2009) Study on the feasibility of the establishment of a Waste Implementation Agency', Revised final report, 7 December 2009, p.1.

⁷⁰ ESWI Consortium (2009) IMPEL-TFS Enforcement Actions II Enforcement of EU Waste Shipment Regulation "Learning by doing", Interim Project Report, 12 October 2009



Options for implementation

S. Cooperation between competent authorities

Criteria (84) to (89) apply to the agreement of a MoU and the specifications that should be included in it. The agreement of a MoU makes a legislative change, as it is legally-binding for the participating authorities. It is an additional administrative burden as it needs to be drafted and negotiated between the authorities. Even if the need for a MoU is usually quite well recognised, the negotiation of precise terms may take some time.

MoU have positive impacts on ensuring the cooperation of authorities. Indirect impacts include the exchange of good practices as well as growing confidence in the other inspecting authorities. Criteria (85) to (89) provide specifications which ensure the implementation of the MoU. These criteria impose supplementary administrative burden as the joint inspections, strategic approaches and sharing of data need to be implemented. The sharing of data may require specific access to databases or implementation of new communication channels. If new databases need to be created or access to existing databases has to be implemented, costs will be incurred (see criterion (12)).

As MoU are usually supported by technical guidelines or manuals on procedures, including annexed standard forms for information transfer from inspectors, police and/or customs to environmental experts in case of suspicion, and can include provisions for training the cooperating enforcement authorities, they have a direct effect on the formalisation of inspection documents and on ensuring that training is provided for the inspectors of the participating authorities.

MoU are already implemented for instance in the Netherlands, Belgium, Poland, Portugal, Germany, and the Czech Republic. The Slovenian legislation states that authorities have to collaborate. In certain countries it is unlikely that a MoU is implemented, as for instance in the UK the customs are not involved in waste shipment inspections.

Criterion (90) involves the creation of a Hazardous Waste Task Force. The creation of a Task Force is not expected to entail administrative costs, but requires time and a meeting room for the participants to meet and exchange about the issues relative to hazardous waste. In Poland authorities meet at least twice a year in a group named "G5 group". The group is composed of representatives of the headquarters of police, customs, border guards and road transport each inspectorate and of highly ranking representatives of each authority and is exclusively dedicated to waste shipments.

T. Promote waste shipment enforcement actions

Criteria (92) and (93) relate to the implementation of a communications and promotions strategy, including a number of aspects. The drafting of such a strategy is expected to bear an administrative burden. Furthermore, implementing the strategy will entail costs for advertisements, publications, etc. The hiring of a person specialised



in communication would entail further costs, if a person is needed to take care of this strategy and its implementation.

Such a strategy would have positive effects on the information of waste shippers. Poland mentioned that the shippers do not apply the procedures correctly, which leads to illegal waste shipments. This kind of administrative infringement is not really considered as harmful and is partly due to the transitional period that several other "new" MS are also in. Prevention in order to ensure that those involved in the import and export of waste are well-informed and implement the requirements of the WSR correctly will lead to less infringements for such reasons and leave more time to authorities to concentrate on more serious infringements.

U. Participation in EU level actions

Criteria (94) and (95) refer to the participation by MS in EU level actions. Currently the IMPEL-TFS network implements joint programmes which led to very good results. However, as these are optional, some MS never participate in these programmes. The two proposed criteria would be a possibility to ensure the cooperation takes place between all MS.

Positive impacts of implementing joint actions are that the interpretation of the WSR is shared and can ensure a more harmonised enforcement of the regulation. Furthermore, more experienced MS would train less experienced MS and exchanges between inspectors in similar situations or facing similar issues (e.g. main seaports or illegal transports to Africa) would take place. Joint programmes include an educational aspect and establish international contacts which would ensure better mutual information in the future. Cooperation can also ensure that potential criminal networks known at national level in a country may be identified by authorities in another country and targeted for inspection actions.

Benefits for the participating authorities as reported during the IMPEL Enforcement Action II project include:

- Triggering and accelerating the development of the cooperation of different authorities at national level,
- Building capacity, learning from each country's practices, establishing personal
 contacts and getting an objective picture of the import, export and transit of
 waste and goods between the two countries
- Developing best practices using mutual experience
- Improving mutual understanding, building confidence and overcoming prejudice and suspicion between MS
- Answering practical questions, including questions on inspection organisation, planning, reporting etc., linked to other criteria proposed above

Joint inspections can also be taken as a model to implement inspection programmes and to provide background material for training at national level.



Another indicator of the positive impacts that are experienced by promoting cooperation is the increased participation of custom and police officers both in joint activities and exchange programmes in this second project. Additionally, there was a high rate of cooperation of the different enforcement bodies also in individual country activities, leading to an increased effectiveness and efficiency of controls.

However, implementation of joint programmes and participation in such programmes entails significant costs. Joint programmes implemented by IMPEL-TFS usually last for 3 days. Depending on MS, 0 to 10 inspectors are exchanged each year or take part in a joint inspection programme in another MS. Belgium for instance in 2009 sent 2 inspectors to Croatia, 2 to Portugal and one inspector from Germany came to Belgium, for three days. The cooperation work is very practical, on port or road controls. Two inspectors from the Czech Republic took part in the IMPEL Enforcement Action II project. Costs are borne by the organising country, or by IMPEL-TFS and the EU (through LIFE+ for instance) and by the inspector's country of origin for subsistence and travel costs. Estimations for hotel costs are about EUR 125-150 a day without meals and transport costs up to EUR 500 per person. Furthermore, a daily allowance is perceived by the inspector, which is variable in each MS. The Netherlands, who are quite experienced in exchanges, estimate 2-3 days of preparation are needed when implementing an exchange programme, some more time can thus be expected to be needed by less experienced countries.

Furthermore, the Netherlands also have cooperation activities with other countries like China, India and Ghana. About 4 staff members are involved in this kind of work and for 2010 the budget for these actions amounts to about EUR 125 000, including exchanges, consultants etc.

Criterion (95) is very precise and requires that at least one authority from each MS takes part in at least two EU level actions each year. Implementing this criterion first requires the organisation of such events twice a year by the EU, the availability of the inspectors, etc. Thus the implementation of this criterion seems difficult. A possible modification of the drafting of the criteria could thus be 'At least one authority from each MS shall participate in at least one EU level action per year when such actions are organised'.

Pros:

- Cooperation between authorities and between MS ensures a stronger enforcement of the WSR
- Cooperation reinforces common bases for enforcement of the WSR, thus reducing the opportunities for port shopping
- The joint programme organised by IMPEL-TFS led to very good results, detecting high numbers of illegal traffic



- An MoU allows for a strategic approach to cooperation
- Cooperation gives good practice examples, enables the sharing of information and is a form of training while helping to diffuse best practices
- Meeting colleagues from other MS during joint programmes allows for a better communication concerning shipments in the future

Cons:

- Budget costs
- Organising joint inspections, drafting programmes and setting up a communications and promotions strategy add administrative burdens
- Time have to be devoted to such programmes

Synergies with and impacts on other options:

- MoU may include provisions for training the cooperating authorities, training is addressed in Option 2.5
- Cooperation is a form of training, addressed in Option 2.5



6. COMPARING THE OPTIONS

6.1. GENERAL ISSUES

6.1.1. LEGISLATIVE CHANGES

Legislative changes must be understood as the introduction of new legal text or the modification of existing texts in national legislation. This is required whenever the criteria introduce a new legal requirement that should be transposed into the national legal order, in order to achieve the objectives set up by the Directive, or when implementation measures are needed to ensure the criteria are met. Legislative changes are more or less difficult to put in place depending on whether the criterion creates a clear obligation containing a precise objective or if the criterion is broad, needs interpretation, or introduces a legal concept that is difficult to introduce into the national legal order (no difficult concepts are however included in the proposed criteria).

Option 1

No legislative changes are entailed in this option, as it makes no changes to the current situation.

Option 2

If the criteria were implemented by means of a Directive, this would entail legislative changes since MS would generally have to transpose the text into their national legislation. Difficulties could arise for instance regarding the nature of national legislative tools to be chosen, the role of different ministries involved, modifications to be made in national codes when relevant, and transposition planning or interpretation issues. However it is worth noting that if most of the legal provisions contained in a Directive would have to be applied by MS, they would not all require a transposition. For instance, provisions which create obligations to be respected by MS do not need to be transposed. Indeed, criterion (23) obliges the MS to 'ensure that the plans, once adopted, are notified to the European Commission': this requirement will have to be applied but does not necessarily require new national legislation to be introduced. However, the plans will need to be implemented in national legislation and thus require legislative changes.

If the criteria were implemented through a Regulation, legislative changes directly linked to the implementation of the criteria would be reduced since the text would be directly applicable in MS. The implementation measures however would be similar.

In both cases, adopting all the criteria would lead to a relatively high burden, as most of the criteria would require some changes in the national legal orders. The criteria



which are expected to lead to national implementation measures are further described in the following paragraphs.

Another aspect is that legal difficulties could arise considering that certain criteria seem quite broad to create clear and precise legal obligations which are required to ensure a common implementation. For instance criterion (1), stating that 'MS shall ensure that competent authorities have sufficient capacity (staff and resources) to ensure effective enforcement of the WSR' leaves room for interpretation as regards the way MS shall assess the capacity of authorities.

■ Sub-option 2.1

Few legislative changes are entailed by this sub-option. The criteria presented here imply that competent authorities report on their calculations in terms of capacity, in order to allow MS to ensure that capacity is sufficient and to report on to the European Commission. Legislative changes brought by the criteria are therefore minor, even if it is possible that the calculation method is introduced into national law to provide clear instructions for authorities.

Sub-option 2.2

This option entails some legislative changes, as the requirements needed to prepare an effective Control strategy (i.e. assessment of the nature of the problem, based on data and sound information, identification of the improvements needed, etc.) will usually be included in legal texts together with the risk profiling and risk assessment and possibly their method of implementation. Regulatory provisions are often necessary to ensure that the roles and responsibilities are well defined for each of the different national authorities.

Criteria regarding the setting up of an effective Control Strategy, risk profiles and risk assessments suppose that an obligation for competent authorities to detail and justify their choices is put in place; in order to allow MS to control their accuracy and relevance. Such an obligation will have to be introduced into national law.

Regarding the assessment of criminal activity, inspectorates will have to cooperate with the Police. This cooperation could be formalised, included in a legal text and broken down into operational programmes and information transmission obligations which could result in an important legislative burden. This could however be addressed in the MoU between authorities (see criteria in group S).

Sub-option 2.3

This option does not lead to major legislative changes for countries that already have inspection plans and programmes, such as France, Sweden and the Netherlands. For those which do not currently have such a planning system or need to improve their current systems, legislative changes can be slightly increased by the need to include these documents in the legal texts related to inspection controls. Criteria (21) to (29) will need to be introduced into national legislation but are not expected to convey



important legislative changes. However, irrespective of the current planning strategy of MS, if a plan is drafted and reported to the European Commission (as required by criterion (23)) but not implemented in the national legislation, inspections will unlikely be carried out 'in the way envisaged by the inspection plan', as criterion (22) states. Thus implementation measures will be required irrespective of the need to transpose certain criteria.

Criteria (30) to (36) are addressed to Member States and oblige them to introduce duties to be fulfilled by inspectorates. This group of criteria would have to be transposed into the national pieces of legislation related to inspection planning as they apply to inspectors.

Finally, criteria (37) and (38) entail the legal obligation to set up inspection programmes containing a list of elements, again needing a transposition.

Sub-option 2.4

The preparation of waste shipment inspections will entail few legislatives changes in itself, as criteria are straightforward. However, for an efficient update of the inspection requirements, a guidance manual may be the best instrument in which to include the more precise criteria and not a legal text. The option to ensure only a reference to such a manual in the legally-binding tool would entail few legislative changes.

Some concrete requirements necessitating an introduction into national law are induced by the criteria listed under this sub-option. Criteria (39) to (42) suppose for planned inspections to be outlined in a document setting up the location, time, key inspectors to be involved etc. This obligation might be introduced into national legislation.

Criterion (43) frames subsequent criteria which impose practical obligations to competent authorities, since it plans for MS to 'ensure that procedures for undertaking waste shipment inspections are adopted'. According to criterion (43), national authorities will have to draft documents outlining the way in which inspections shall be performed in practice and this obligation will have to be introduced in national law.

Certain criteria directly concerning the work of inspectors, such as criteria (45) to (64), are very specific and detailed and could therefore be transposed quite simply as no interpretation or implementation measures are expected to be needed but may be fitter for inclusion in an inspection manual.

Criterion (65) concerning sampling plans provides that competent authorities keep records of control operations where samples are taken and act according to a predetermined strategy. This obligation will have to be introduced in national law in order to allow MS to control the accuracy and relevance of these sampling plans, together with criterion (66) outlining a number of aspects the sampling plan must respect.

Finally criteria (69) and (83) create obligations for Member States to ensure that the inspection reports are made available publicly and to ensure that inspection activities



meet international quality management standards such as ISO 9000. These requirements could be directly applied in national legislation.

Sub-option 2.5

Several Member States such as Belgium, the Netherlands, France, Poland and the Czech Republic already organise training sessions on a regular basis. Therefore, no major legislative changes are foreseen pursuant to the implementation of this option for these MS. In MS where training is not yet implemented, changes will be necessary. If trainings are organised with other authorities, the agreement might take the form of a binding agreement, entailing some changes.

Sub-option 2.6

This option sets a number of binding requirements that existed previously on a voluntary basis, especially as regards a new obligation for MS to participate in inspections at EU level (MS participation in IMPEL actions is voluntary). As this option concerns various authorities, legislative changes will be needed in several legal texts, to include Customs and Police for instance and to add the requirement that a certain authority (at least) has to participate in an EU level action.

Implementing a MoU requires authorities to negotiate an agreement and results in a legal text. Thus this part of the criteria will require legislative changes (Criteria (84) to (91)).

Cooperation with other MS may require bilateral agreements in certain cases, especially to ensure confidentiality of certain shared information, which may entail legislative changes. Criterion (95) will also have to be transposed in national legislation.

6.1.2. Addressing the issue

Option 1

Option 1 does not address the issue since it does not ensure a better implementation of the WSR.

Option 2

The implementation of criteria through a legally-binding instrument -either a Directive or a Regulation- will improve the enforcement of the WSR by requiring harmonised inspections and answering certain questions left open by the articles of the WSR. Reporting obligations may also be included to the implementation of criteria to enable a follow-up of implementation in the different MS.



Additionally, the WEEE Directive Impact Assessment⁷¹ indicates that the impacts of setting minimum standards for inspection of WEEE and used EEE containers would depend on the minimum standards set and concludes that legally binding guidelines will help to carry out efficient enforcement operations. This conclusion also applies to waste shipment inspections criteria.

However, negotiating the exact drafting of criteria will require time. Especially if the criteria are implemented through a Directive, time will be needed for MS to transpose it, although some criteria will not need transposition to be applied directly by MS.

Lastly, the enforcement actions need to be large in order to provide sufficient counter-incentives for illegal shipments, addressing the drivers exposed in section 2.2.

Sub-option 2.1

Lack of effective enforcement of the WSR is partially addressed by this sub-option. Capacity is indeed one of the issues underlined in the 'Study on Inspection Requirements for WS Inspections' by participating inspectors. Increasing the number of inspectors will increase the number and frequency of inspections in the Member States and especially those lacking staff; but if implemented alone, the competence of staff, organisation of inspections etc. is not necessarily ensured.

Regarding the criteria listed under M, on quality of laboratory facilities, it has been qualified by stakeholders such as the IMPEL-TFS steering committee as 'not important'. As few samples are taken during inspections currently, strong criteria for ensuring the quality of laboratories are therefore not the priority.

Sub-option 2.2

The criteria of this sub-option aim at ensuring that the control strategy, inspections planning and programme are drafted and rely on sound information and data, target the priority risks and the priority waste streams. Criterion (12) refers specifically to the fact that robust systems for recording, analysis and presentation of waste data are available to this end. These criteria thus address the problem of targeting waste inspections and prioritising the work in order to make inspections as effective as possible.

However, if these documents are not implemented in inspection plans by qualified staff with relevant tools, the inspections are likely to be unsuccessful.

Sub-option 2.3

This sub-option provides requirements for the setting up of Plans and their review; and describes the type of information that should be outlined in the Programmes. The information provided by criteria regarding the setting up of Plans relate to strategy and

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⁷¹ Commission Staff Working Paper accompanying the Proposal for a Directive of the European Parliament and of the Council on waste electronical and electronic equipment (WEEE) (recast) Impact Assessment {COM(2008) 810 final} {SEC(2008) 2934}



methodology (Evaluation *ex-ante*, *in-itinere*, *ex-post* etc.), while Programmes are directly addressing the issue since they constitute a concrete operational tool for MS. Therefore, the combined use of both planning documents contributes to the reduction of illegal waste shipments by ensuring that national authorities of each level of competence are involved and that every aspects of the issue are covered.

Sub-option 2.4

The criteria included in this sub-option provide very concrete guidelines/requirements to MS and are directly addressing the objective of decreasing illegal waste shipments, by focusing on improving the practical inspections performed and harmonising the criteria. However criterion (4) may leave open the risk of port shopping as it refers to major ports.

Criterion (62) which refers to the system of penalties addresses specifically the economic driver of illegal waste shipments. Indeed, strengthened inspection and monitoring activities would increase the likelihood of financial penalties for illegal shipments, reducing the financial attractiveness of this treatment route.

Sub-option 2.5

This option addresses the issue since criteria ensure that inspectors hired are competent, allows the inspectors to improve their skills by training throughout their career and provides new developments for them to follow. This should improve the identification of illegal shipments and ensure standard procedures are followed to allow for effective prosecutions when relevant. In particular, the issue of distinguishing second-hand material, by-products and waste is expected to be well addressed by these criteria, especially through practical case examples where an experienced inspector will guide less experienced inspectors.

Sub-option 2.6

The joint inspection programmes implemented by IMPEL have proven their effectiveness in both Seaport projects by the detection of high numbers of illegal shipments as well as by the involvement of more countries in the second period of the programme, underlining the interest that MS have in such initiatives.

Implementing cooperation as a legal requirement would ensure that all MS take part in joint activities and learn from their neighbours. Cooperation is addressing the issue by on-the-job training, through practical examples of inspections by learning on the job, by cooperation between authorities from different MS thus improving the communication and trust, ensuring harmonisation of the understanding of the WSR, etc.



6.2. ECONOMIC IMPACTS INDICATORS

6.2.1. IMPLEMENTATION COSTS

Option 1

Option 1 does not entail implementation costs.

Option 2

Implementation costs might be more important if the criteria are implemented in a Directive rather than in a Regulation since transposition is generally necessary. Transposition can be a long process requiring cooperation between national Ministries and the setting up of various meeting during several months or years. However it is worth noting that few of the proposed criteria would entail the introduction of major legal changes in the national legal orders, which would lower the burden expected by the transposition of a Directive. Furthermore, integration of certain requirements in the national legislation may be needed whether a Directive or a Regulation is used.

Whichever criteria are implemented as legally-binding however, the costs of inspections are expected to rise, especially in MS where current enforcement is low.

Sub-option 2.1

Implementation costs of ensuring that capacities are met might be high, due to the need to formalise risk analysis and to hire new inspectors if necessary. Also, the implementation of risk analysis and profiling requires time and the help of experts in certain cases.

If the option to define set numbers of inspectors having to be present at each major port is chosen, implementation costs will depend on the number of inspectors to add according to the current situation, but may be relatively high in certain MS.

The hiring of a further inspector is estimated by the Netherlands to amount to EUR 100 000 a year as described in section 5.3.

Sub-option 2.2

For countries which do not currently use formalised risk analysis, such as Poland and Czech Republic, implementation costs will be higher due to the necessity of producing various comprehensive documents respectively describing the control strategy and containing a risk assessment and risk profiling. However, as these countries already perform informal risk assessments, the workload is mainly on formalising the current practices.

Besides, the cooperation with police staff will certainly entail implementation costs regarding both the physical cooperation (joint controls) and the transmission of information through the setting up of a common database for instance or sharing existing databases. Setting up a database may entail important costs ranging between EUR 28 000 and 35 000 per year as stated under section 5.4.



Sub-option 2.3

The implementation of plans further declined in operational programmes will lead to implementation costs for countries which do not yet have such documents or need to improve them. The gathering of data to implement these documents can be costly and need the implementation of a database. For countries already using inspection plans and programmes such as for instance France, Sweden, and the Netherlands or even Hungary, which developed its first inspection plan (not limited to WSR inspections) in 2009, implementation costs of these criteria will remain quite low.

■ Sub-option 2.4

The criteria provide steps to follow, grouped under successive stages: Preparation for a waste shipment inspection, undertaking an inspection, setting up a sampling plan and preparation of the follow-up to a waste shipment inspection. Pursuant to these steps material costs will be triggered (see description under section 6.2.4 below) and administrative costs are foreseen due to the necessity to draft procedures.

Sub-option 2.5

Most of the countries already set up training sessions and joint training sessions on a regular basis. This is the case of France, Germany and Italy. For these MS, implementation costs will be relatively low – if there are nevertheless aspects to improve, such as for instance, providing a better/stronger/sounder training to new inspectors; increasing mutual or joint training; or setting up training sessions on new technical and legal developments more regularly.

Implementation costs will be higher in countries where inspectors significantly lack knowledge at their entrance in the inspectorate; or when training sessions are not ensured throughout their career to allow them to adapt to new developments.

Costs will also very much depend on how training is implemented: 'train the trainer' type of training will entail fewer costs than training all inspectors together, and splits costs between the EU and the MS; training many inspectors at EU level ensures a better harmonisation but entails very high costs for the EU; coordinating the training at EU level entails less costs for the EU but higher costs for MS.

Sub-option 2.6

The implementation of joint inspections and exchange programmes has high implementation costs, for the organising country and for the inspectors' countries of origin. The travel and subsistence costs during the time of the programme (often 3 days) are usually supported by the inspectors' country of origin. In joint implementation programmes the country hosting the programme has to organise the inspections, which can lead to significant amounts of time devoted to organisation and planning, ensuring that meeting rooms and material are available, which may entail costs, etc. IMPEL pointed out that the current programmes are very often hosted by the Netherlands currently, imposing a high burden to this MS in terms of



implementation. Implementing these programmes as a requirement in criteria set up by the EU could help balancing the organisation of such programmes and thus implementation costs among MS.

6.2.2. ADMINISTRATIVE COSTS

Option 1

Option 1 is expected to entail administrative costs as the costs to ship waste back are expected to rise following the increase in exported waste. Administrative costs will also remain unevenly distributed among MS if each MS continues to apply the WSR without further guidelines.

Option 2

Administrative costs are foreseen in the case of the adoption of the criteria in a Directive as well as in a Regulation, since a Directive generally needs a transposition and a Regulation can require implementation measures. Administrative costs however might be slightly more important if a Directive is used as its transposition requires coordination and inclusion into the national legislation through different legal tools, even though legislatives changes may in fact be minor as detailed in section 6.1.1.

Sub-option 2.1

Administrative costs are increased by this option. Indeed in the Netherlands, to add one inspector costs about EUR 100 000 per year. However this cost will vary depending of the current situation of each State, on the number of inspectors they already have, on the annual inspector's wage and other parameters such as the inspector's level of education and/or training at the time of hiring, etc.

Sub-option 2.2

This option will entail administrative costs as inspectors will have to bear a heavier workload resulting from data processing and analysing and preparation of additional documents. These costs will also depend on the current situation of each MS. The costs will be higher if they need to put in place a complete monitoring system and database and if they do not have data and statistics of the illegal shipment activities in their countries. In most countries it seems that informal risk assessments are based on data and experience of inspectors.

Administrative costs will also be entailed when cooperating with the police, following the need to set up a database or to share an existing database. Working in close relationship will also imply joint actions with administrative costs.

Sub-option 2.3

Administrative costs are slightly increased by this option because it plans for the development of various documents (plans and programmes). Nevertheless as an



indirect effect it will also help reduce administrative expenses, formerly resulting from less effective controls, as the objective of the criteria are to strengthen inspections.

Sub-option 2.4

No major administrative costs shall occur pursuant to the implementation of this option except, perhaps, costs related to the hiring of inspectors with a legal background, and that are able to support follow-up enforcement activities. These costs are however minor and can be minimised by targeted training sessions. Costs are also triggered by the certification procedure and pursuant audits, as described under section 5.6. During our study, the Netherlands' official expressed the opinion that if a country applies the main criteria proposed, it will almost be at the level of ISO 9000. This statement can be explained by the fact that ISO 9000 is a certification that essentially relates to the quality of procedures (in this case of inspection procedures), including reporting requirement, formalisation of methodologies, etc. The comprehensive list of criteria ensures inspections of a high level of quality, which are expected to reach similar requirements than the ISO 9000 certification.

Sub-option 2.5

Administrative costs related to training are relatively high as it requires time from all trained inspectors and preparation by inspectors managing the training. The need for a room and material for projection of training information for instance also arise. These costs will depend on the need of each country for further training.

Sub-option 2.6

The administrative costs will be supported by authorities in each MS. Administrative costs may be entailed by the organisation of the programmes, producing background documents and providing inspectors that are ready to lead joint inspections, as well as providing material and access to resources (computers etc.) for all participants. Important administrative costs can be also triggered by the need to set up meetings and to produce documents to ensure an efficient communication (through for instance the creation of a task force), as well as the organisation of joint inspections between different authorities in charge of waste shipments controls.

6.2.3. Training costs

Option 1

This option does not entail additional training costs.

Option 2

Training costs are not impacted by the type of legislative tool chosen.

Sub-option 2.1

If the number of inspectors currently inspecting waste shipments is insufficient in certain countries and additional staff must be hired, training costs will increase in



proportion in order to ensure all inspectors are trained. Furthermore, new inspectors are often required to follow initial training sessions, thus increasing the training needs and costs.

Sub-option 2.2

Training costs will not be significantly increased as this option supposes for the inspectors to process more information and to develop strategies which do not require specific operational knowledge. Training may however be needed to use databases.

Sub-option 2.3

Training costs will not be raised by the improvement of waste inspection planning and programmes.

Sub-option 2.4

Many steps are outlined in the criteria of option 5. The identification of further training needs is foreseeable during inspections underlining particular knowledge gaps of inspectors such as functionality testing of WEEE (since this waste stream is complex and relatively new), legal aspects (preparation and presentation of evidence, support of enforcement procedures) etc. The implementation of this option is expected to trigger the acknowledgement for certain training needs, but does not raise as such training costs.

Sub-option 2.5

Implementing training evidently induces training costs. The costs include drafting background documents, hiring a trainer, making a room available, organising the training, etc. Poland reported that a session of approximately 70 persons on the topic of waste shipment, including inspectors and representatives from other authorities, for 2 days, costs around EUR 10 000.

Training costs, as detailed in section 6.2.1. , also depend on the way the training is implemented.

Sub-option 2.6

The implementation of joint activities does not incur training costs as such, even if exchange and joint inspection programmes are often seen as 'on-the-spot' training, since inspectors learn from each other's experiences and implement inspection techniques together.

Memoranda of Understanding however often include provisions about training of the cooperating authorities, thus directly involving training costs to implement the MoU.

6.2.4. MATERIAL COSTS (SCANNER, LABORATORIES, ETC.)

Option 1

Option 1 does not entail additional material costs.



Option 2

The implementation of the criteria in a legally-binding instrument does not entail any material costs as such.

Sub-option 2.1

The option requires effective quality assurance, accreditation and certification of laboratories, which involves administrative procedures. However, according to our interlocutors, few samples are currently taken during inspections, thus it is not expected that new laboratories will be created. Material costs within laboratories implied by the purchase of modern equipments could arise following the demand of accreditation or certification.

Sub-option 2.2

The criteria listed under this option are not expected to trigger material costs, since they relate to the development of a strategy and mostly to the transmission and processing of information which does not require the purchase of equipment. Some costs linked to the creation of databases like the purchase of software and of additional computers could however be induced.

Sub-option 2.3

No significant material costs are expected to be generated by this option.

Sub-options 2.4, 2.5 and 2.6

The requirement to ensure that the equipment is available before the inspection may trigger the need to buy further equipments, such as laptops, digital cameras to record information, sampling kits, protective gears, etc. Training and cooperation activities may include the same type of need to undertake joint inspections in good conditions.

6.2.5. Transport costs for repatriation

Option 1

Transport costs for repatriation are expected to rise, as illegal shipments are expected to follow this trend. This rise will occur in particular if third countries also raise their inspection standards, as expected.

Option 2

Implementing the criteria through a legally-binding instrument contributes to a better implementation of the WSR and each of them addresses a specific aspect of the issue as described in section 6.1.2. Therefore the amount of waste illegally shipped is expected to decrease as inspections will be more efficient and detect illegal waste more frequently. The direct consequence of this will be that fewer shipments will have to be taken back, hence decreasing the transport costs borne by shippers and/or MS (depending on the allocation of responsibilities).



6.2.6. STORAGE COSTS OF WASTE REPATRIATED

Option 1

Storage costs of waste repatriated are expected to rise if option 1 is chosen as repatriation of waste is expected to rise. Again, depending on how responsibilities are allocated, these costs will be borne by the illegal shippers or by MS.

Option 2

Implementing the criteria through a legally-binding instrument is expected to reduce the number of illegal shipments. This should lead to a decrease of repatriation operations and therefore of repatriated waste's storage costs. The storage cost for a container in the Netherlands was estimated to about EUR 200 /day.

6.2.7. ACTIVITY OF WASTE TREATMENT ENTERPRISES IN THE EU

Option 1

The activity of waste treatment enterprises in the EU is not expected to change if no action is taken, as it can be expected that the production of waste in the EU will rise as well as the shipments (see the 2009 EEA report on waste), with the activity following current trends.

Option 2

Better implementation of the WSR is expected to lead to the decrease of illegal shipments of waste. The illegal shipments are mostly composed of WEEE, ELV and plastics, which can be treated inside the EU but are sent abroad to be treated at lesser costs. If the WSR is better enforced, waste will have to be treated locally and the activity of waste treatment enterprises will slightly increase.

6.2.8. Competitiveness of EU enterprises

The competitiveness of EU enterprises is not directly impacted by the proposed criteria. As an indirect effect however it could be underlined that if larger amounts of waste are treated within the EU, this will help EU enterprises to become more competitive. The European recycling industry currently suffers from a lack of available material to treat and recycle and an increase in the amount of waste to be treated nationally would help EU enterprises to compete with for instance Chinese and Indian companies which treat significant amounts of waste. However, it requires that substantial amounts of waste are not shipped abroad anymore following the better implementation of the WSR. Quantifying the amounts of waste that will be treated in the EU if better inspections are undertaken is difficult. In the case of illegal shipments where plastics are unsorted, for instance, it can be expected that better inspections would lead to better sorting of the plastics, thus the majority of the plastics shipped would be clean (i.e. the shipping would be legal), while only a small quantity would



stay in the EU for treatment. This may lead to advantages for very specialised enterprises only.

6.2.9. IMPACT ON SMES

There is no direct impact of any of the options on Small and Medium Enterprises specifically. The benefits of a potential increase of the amount of waste treated within the EU would impact all the companies of the waste recycling and treatment sector and not only SMEs. Besides, for now these impacts cannot be quantified as it is difficult to clearly foresee the effects of the list of criteria on a reduction of illegally shipped amounts of waste. Some SME specialised in treating specific types of wastes could benefit from a decrease of illegally shipped waste. Some waste is both difficult and costly to treat and may thus be often shipped illegally. This may be impacted specifically by improved inspections.

6.2.10. Innovations

Option 1

Innovations will not be impacted by option 1.

Options 2, sub-options 2.1, 2.2 and 2.3

An improvement of the capacity of the competent authorities for waste shipment inspections will not have specific impacts on innovation. There is no evidence that the potential additional amount of waste diverted from illegal exportation and remaining in the EU would play a specific role in the increase or decrease of innovation. However, as a general impact, the criteria will create a level playing field across MS, which is expected to promote innovation as it provides a competitive advantage against other enterprises.

Sub-option 2.4

This option may lead to innovations, particularly concerning the tools and equipments used to identify waste streams. If the criteria were properly applied, they could lead to an increase in the use of modern technologies by contributing to the spread of best practice throughout the EU. Scanners allowing for the detection of illegal waste streams could be an example.

■ Sub-option 2.6

The criteria listed under option 2.6 could lead to innovation, as cooperation between authorities and exchange of inspectors ensure the transmission of knowledge and good practices and a constructive exchange of ideas.



6.3. SOCIAL IMPACT INDICATORS

6.3.1. JOBS IN THE EU (ADMINISTRATION)

Option 1

Jobs in the EU will not be impacted by option 1.

Option 2

The implementation of the criteria in a legally binding instrument will not directly impact jobs in the EU.

Sub-option 2.1

In countries where the number of inspectors does not currently correspond to the number of ports and to the existing risks, this option will allow for the creation of jobs. Currently, the answers of MS indicate that the UK and the Netherlands consider that they have sufficient staff for performing inspections but many of the other MS consider they lack staff. If the option to require a set number of inspectors in MS or in ports was chosen, staff would also be hired in several MS.

■ Sub-option 2.2

This option is expected to increase the workload for current inspectors and could possibly lead to the hiring of additional inspectors if the current capacity of authorities is not sufficient to establish a robust system for the recording, analysis and presentation of waste data and to complete risk analysis and risk assessments.

Sub-option 2.3

The workload of administrative agents will be increased – at a different level depending on whether they will have to build up new plans and programmes, to build them upon existing planning documents needing improvement, or if MS already use documents corresponding to the standards presented within this option. This increased workload could trigger the need for further human resources.

Sub-option 2.4

This option does not require directly hiring additional inspectors. If a helpdesk/hotline is implemented however in this option, additional jobs may be created.

Sub-option 2.5

Pursuant to the rising number of training sessions implied by this option, trainer positions could be created or additional means needed to train and coordinate the training sessions.



Sub-option 2.6

This option will not lead to the creation of new jobs in the EU-27 national administrations, unless a person is hired to coordinate joint work between authorities or between MS.

6.3.2. JOBS IN THE EU (ENTERPRISES)

Option 1

Jobs in the EU will not be impacted by option 1.

Option 2

The implementation of the criteria in a legally binding instrument will not directly impact jobs in the EU.

The criteria listed under these options can allow the creation of jobs within laboratories if the existing resources do not allow to process the totality of samples received or if someone in charge of the certification process needs to be hired. The activity of certification enterprises in the EU might also increase slightly. However, the creation of jobs in laboratories is likely to remain very low, as inspections generally do not lead to tacking samples for waste analysis.

At the same time these sub-options could lead to the creation of jobs in enterprises treating waste, through the increase of the quantities of waste having to be treated in the EU. These jobs would include positions for both unqualified workers and qualified workers as the techniques for treating hazardous waste are quite technical.

Sub-option 2.4 and 2.5

If a helpdesk/hotline is created to support inspectors and this position is externalised, some jobs could be created.

Pursuant to the rising number of training sessions implied by this option, trainer positions could be created, possibly in EU enterprises if the training is externalised.

6.3.3. JOBS IN THIRD COUNTRIES (ADMINISTRATION)

The options are not expected to impact jobs in the administration in third countries. Indeed, even if waste shipments are better inspected in the EU, inspectors at destination ports will not reduce their activity, in order to ensure the detection of illegal shipments. Significant volumes of waste also come from other countries than EU countries, thus requiring continued inspections by destination countries.



6.3.4. JOBS IN THIRD COUNTRIES (ENTERPRISES)

Option 1

If no action is taken, the risk is that illegal shipments will continue, thus people in third countries will continue to be offered jobs consisting in the treatment and recovery of materials from waste in substandard conditions, including possibly children's work. Illegal traders will also continue to operate.

Option 2

Implementing the criteria may have an impact on decreasing certain substandard illegal (children's) jobs in third countries and slightly shifting jobs from hidden employment to official employment.

6.3.5. HEALTH CONDITIONS IN THIRD COUNTRIES

Option 1

Health hazards in third countries will continue and could even increase in the future as the amount of waste illegally shipped is expected to continue to grow in the next years.

Option 2

All the criteria will contribute to reduce health hazards in third countries as the improved performance of inspections enabled by the criteria should contribute to significantly reduce illegal shipments of waste.

6.4. ENVIRONMENTAL IMPACT INDICATORS

6.4.1. POLLUTION OF SOIL, AIR, WATER

Option 1

Pollution of soil, air and water will continue if no action is taken and could even increase in the future as the amount of illegally shipped waste is expected to continue to grow in the next years.

Option 2

This option will restrain the pollution of soil, air or water since less illegal waste shipments are expected to be shipped pursuant to an increase and improvement of inspections.



6.4.2. CO₂ EMITTED BY TRANSPORTS

Option 1

CO₂ emitted by transports will continue if no action is taken and could even increase in the future as the amount of waste illegally shipped is expected to continue to grow in the next years and shipments may be caught at destination countries and sent back, thus doubling the CO₂ emitted in this return transport.

Option 2

For all of these options, CO₂ emissions are expected to be lowered as the number of shipments' repatriation is expected to decrease.

6.5. OTHER CRITERIA

6.5.1. Practicability of implementation

Option 1

Option 1 does not require any implementation measures.

Option 2

Implementation of criteria in a Directive or a Regulation entails a negotiation process which makes it necessary for MS to agree on the precise terms of the final text to be adopted. However, the WSR is already in force and provides a strong legal basis. Furthermore, MS seek to harmonise inspection criteria, even if the form of this harmonisation will need to be debated.

Criteria 47 to 53 might be better suited for implementation in a flexible tool and not in a legally-binding instrument as they would benefit from being updated and illustrated regularly (see section 4, 'Policy Options').

If criteria are implemented by means of a Directive, a margin of interpretation will be given to the Member States that could reduce harmonisation, but leaves room for them to adapt the objectives set up by the Directive to their specific context.

If the implementation is made by mean of a Regulation, implementation measures might be needed. Therefore the implementation will not necessarily be much more practicable if a Regulation is used rather than a Directive.

Annex B provides tables with the information that could be gathered regarding the documents and procedures already in place in several MS in order to illustrate the needs that arise through the implementation of the criteria.

Sub-option 2.1

The implementation of this option is adaptable to each MS as they will have to calculate their own needs. The difficulties will lie in the definition of methodologies for



the risk assessment and risk analysis, as well as determining capacity needs. If the option to require a set number of inspectors is chosen, the criterion will be more easily applicable but will need a practical definition of an inspector and negotiations on how the number is being set.

Sub-option 2.2

The development of control strategies, risk profiling, and assessment of criminal activities is practicable especially as many of these documents are already available in several MS and some informal assessments are already implemented, merely needing a formalisation. However, practicability of the implementation of the database which would be needed and could be reused for applying several of the following criteria is time-consuming. Negotiation between authorities will also be needed to ensure access to certain data.

Sub-option 2.3

For countries already using inspection plans and programmes such as for instance France, Sweden, and the Netherlands, implementation will be easy. On the other hand, for countries which do not currently have such a planning system or need to improve their existing systems, it will be necessary to produce the documents and to organise their review.

Sub-option 2.4

Implementation of this option needs the formalisation of inspection guidelines and inspectors will possibly need to learn to take new actions during inspections, thus necessitating a period of adaptation/training. However, implementation generally appears practicable.

Sub-option 2.5

Implementing this option does not seem to raise major obstacles, as the competences of inspectors are already tested in most countries and training sessions are also in place. Improvements of existing systems are however often necessary, in particular since waste streams evolve technically as well as the legal framework of waste shipments.

The practicability of training sessions will also depend upon the type of training chosen: at EU level training coordination will entail the least difficulties, whereas direct training at EU level will be long to implement; at MS level, training coordinated by the EU but implemented by MS will be a heavier burden.

Sub-option 2.6

The implementation of MoU is already in place for instance in the UK, Germany, France, the Czech Republic, the Netherlands, etc. and cooperation is a legal requirement in Slovakia. In these cases, the practicability of implementing such a legislative tool is easy. In countries where MoUs will be set up, negotiations may be time-consuming for authorities involved in the process.



Organisation of joint activities is also a difficult process, which necessitates time. This option will be easier to implement in countries which already participated in cooperation actions, such as the Netherlands. In this country it is estimated that the preparation of the programme takes about three days, for three day programmes. In countries where the programmes are implemented for the first time, this is expected to require more time.

6.5.2. Consistency with other EU policies

Option 1

Option 1 is not consistent with the European Commission's will to enforce the existing EU regulations. It is however consistent with DG ENTR programme to reduce the administrative burdens of enterprises, including regarding waste shipments.

Option 2

Option 2 is consistent with the EU policies since implementing criteria within a Directive or a Regulation would result in the better implementation of an existing Regulation.

The implementation of a waste agency could improve the inspections by providing also for a supervision of the waste inspections performed and coordinating joint inspection programmes for MS, as for instance the Food and Veterinary Office does.

Sub-option 2.4

Criterion (69) providing for the transparency of waste shipment inspections is consistent with the Aarhus convention. Several criteria in particular refer directly to the WEEE recast proposal, thus providing consistent requirements. Reference could however be added to the Waste Correspondents Guidelines relevant for WEEE and/or other types of waste streams where relevant.

6.5.3. CLARIFICATION OF WASTE CLASSIFICATION

As stated earlier, one of the difficulties in inspecting waste shipments is to determine whether the items are classified as waste, used items, second-hand items or other. To improve the tackling of such difficulty, the options tackle different aspects.

Option 1

No clarification of waste classification is allowed by option 1.

Option 2

Implementing the criteria will have both direct and indirect impacts on the clarification of the waste classification.



Sub-option 2.1

Raising capacities is expected to raise the number of expertises available within the team, thus indirectly ensuring whether the items are waste is easier because specialised inspectors may intervene.

Sub-options 2.2 and 2.3

The implementation of a strategy, plans and programmes for inspections is not expected to have specific impacts on waste classification.

Sub-option 2.4

Some criteria included in this sub-option are expected to help inspectors in the differentiation between waste and used products such as criterion (46) which ensures inspectors have access to supporting documentation when undertaking the inspections. For instance an inspection manual can provide practical examples of how to determine waste from other items. Specific requirements of inspections such as functionality testing and samples are also directly involved in ensuring whether items should be classified as waste.

Sub-option 2.5

Ensuring competence from inspectors and providing training sessions including practical examples have a direct positive impact in diffusing practical and useful methods to identify and decide whether items are waste during an inspection.

Sub-option 2.6

Cooperation between authorities and between MS will provide for clarifications and exchanges of best practices for inspections. Joint inspections will provide for practical examples of how to determine and recognise waste from used items.

6.5.4. HARMONISATION OF INSPECTIONS BETWEEN MS

Option 1

Option 1 does not ensure the harmonisation of criteria between Member States as no further guidelines will be provided compared to the existing situation.

Option 2

The implementation of the criteria through a Regulation would ensure a harmonised application of the WSR.

Sub-option 2.1

The harmonisation of criteria is partly ensured by this option since it does ask for a transparent calculation and basis for the determination of capacity. However it only sets up a ratio i.e. to ensure a capacity consistent with risks and traffic, but does not define any calculation, method or minimum set number.



Sub-option 2.2

This option provides several steps to be complied with but leaves room for MS to define them in further detail. This is consistent with the need to leave room for the MS to adapt the inspection strategies to their own needs.

■ Sub-option 2.3

This option ensures a harmonised method of inspection planning, the core principle of which is a hierarchy between middle-term plans providing an overview of the strategic objectives of inspection controls and short-terms programmes proving an operational organisation of controls.

Sub-option 2.4

This option would harmonise the method regarding the successive stages necessary to perform an inspection, with a better description of the steps to be taken. Coordination with other authorities will also be covered, ensuring the authorities cooperate in all countries.

Sub-option 2.5

This option provides for the setting up of efficient training sessions, resulting in competent inspectorate. Depending on how the training sessions are implemented, training can ensure further improvements in the harmonisation of inspections. Training sessions in the form of 'train the trainer' which could be implemented at EU level would indeed benefit from harmonised information. Further, the trainer can adapt the training in the MS or at the local level to local conditions. Criterion (82) which provides for cooperation between MS also helps harmonisation.

Sub-option 2.6

This option probably contributes the most to the harmonisation of criteria between MS. Criterion (82) covering cooperation between MS ensures that national inspectors will have the opportunity to exchange their experiences and tend to know about best-practice approaches and working methods.

6.5.5. AMOUNTS OF WASTE ILLEGALLY SHIPPED

Option 1

The amounts of waste illegally shipped will not be reduced if no action is taken. As described in section 2.2, waste shipments are expected to continue to increase, including illegal shipments.

Option 2

The enforcement of these options will contribute to a reduction of the amounts of waste illegally shipped, firstly because illegal containers will not be shipped pursuant to



a better enforcement of the WSR and secondly because of the deterrent effect produced by effective legal actions taken against illegal shippers.

6.5.6. IMPROVEMENT OF COOPERATION BETWEEN AUTHORITIES

Option 1

The no-action option entails no changes in the cooperation between authorities.

Option 2

Several criteria refer directly to the cooperation between authorities and to joint actions to be undertaken.

Sub-option 2.1

Improving the capacities of authorities is not expected to lead to impacts on cooperation between authorities.

Sub-option 2.2

The Control Strategy addresses 'all relevant issues and institutions', thus providing details about cooperation. The need for accessing relevant data to perform risk assessments and analyses will also lead to further joint work between authorities.

Sub-option 2.3

Planning shall describe the cooperation between authorities (criterion (26)). Other criteria included in this option do not specifically address the issue.

■ Sub-option 2.4

Joint actions are not mentioned in the criteria tackling the performance of inspections.

Sub-option 2.5

Joint training sessions are expected to be implemented through criteria (77) and (80), thus improving the relationships between authorities.

Sub-option 2.6

As sub-option 2.6 directly addresses cooperation work, most of the criteria proposed are directly linked to this issue and contribute to the improvement of cooperation work.

6.5.7. Prioritisation of risks

Option 1

The no-action option entails no changes in the prioritisation of risks.



Option 2

Several criteria include risk assessments and analyses, or refer to specific types of waste such as WEEE. These criteria aim at improving the prioritisation of risks, leading to enhanced inspections.

Sub-option 2.1

Capacities do not impact the prioritisation of risks.

Sub-option 2.2

The risk analysis and risk profiles will lead to the determination of priorities for waste inspections and directly contributing to address the issue. The Control Strategy will build on these analyses to identify strategic priorities.

Sub-option 2.3

The inspection planning, as it is implementing the strategy, will also be based on risk prioritisation, but is not expected to have big impacts on this issue.

Sub-option 2.4

The inspections themselves will not lead to specific prioritisation. However, the results of the inspections will be very important inputs into the database to inform future action and future priorities (see especially criterion 64).

Sub-option 2.5

Training will not directly lead to prioritisation of risks.

Sub-option 2.6

Cooperation will ensure access to certain data by other authorities and joint programmes with other MS may induce transfer of methods to identify and prioritise risks, but will not lead specifically to tackling the issue.

6.5.8. Prosecution of illegal cases

Option 1

The no-action option entails no changes in the prosecution of illegal waste shipments.

Option 2

Several criteria refer to the procedures to be followed in order to ensure effective prosecution can follow the identification of an illegal shipment.

Sub-option 2.1

Capacities do not ensure specifically that illegal cases will be prosecuted.



Sub-option 2.2

This sub-option does not specifically address the issue, other than criterion (12) which ensure the data are saved in a system/database ensuring they can be used for subsequent action when needed.

Sub-option 2.3

Inspection planning and programmes do not directly tackle this issue.

Sub-option 2.4

Criteria (57), (58), (60) and criteria about sample taking ((65) and (66)) specifically ensure that inspections are performed following procedures and ensuring records of the findings are kept in order for prosecution to take place. Criterion (61) ensures access to legal expertise for follow-up actions. Criterion (62) also ensures penalties are in place, in order for the prosecution to have effective deterrent effects.

Sub-option 2.5

Training ensures that regulatory procedures are known and that procedures are followed.

Sub-option 2.6

Cooperation ensures that authorities communicate and are aware of investigations performed by other authorities. It is however not expected to have big impacts on the issue of prosecution as such.

6.5.9. IMPACTS ON SPECIFIC TYPES OF WASTE SHIPPED

Option 1

Option 1 will not impact the types of waste illegally shipped.

Option 2

Most of the criteria do not have any specific impacts on the types of waste shipped.

However, the criteria contained in sub-option 2.2 aim to target waste streams (through risk assessments and risk profiling) that are considered more risky as this type of waste is often shipped illegally. The implementation of this option could decrease more specifically the amounts of WEEE, ELV and plastics illegally shipped.

Sub-option 2.4 might also reduce the amounts of certain specific types of waste shipped, as for instance WEEE and ELVs, i.e. the waste streams posing greatest problems to inspectorate authorities, specifically because of identification issues.

Lastly, sub-option 2.5 could reduce specific waste streams shipped, especially complex waste stream requiring technical skills and competences to be identified (brought inter alia by training).



6.6. KEY IMPACTING ELEMENTS

Impact indicators	Key impacting elements
General issues	
Legislative changes	 Implementation as a legally-binding instrument and sum of implementation measures for each criterion for option 2 Impact on national legislations through implementation MoU – specific regulatory agreement
Addressing the issue	Increased capacitiesPractical experience (practical training and joint inspections)
Economic impact indicators	
Implementation costs	Staff costs, equipment and organisation of training and joint activities
Administrative costs	Continued illegal shippings to repatriateImplementation of criteria
Training costs	Training of new staff and in MoU provisions, training criteria
Material costs (scanner, laboratories, etc.)	Equipments (protective gear, sampling kits, digital cameras, laptops) and equipments linked to database
Transport costs for repatriation	Number of illegal shipments repatriated
Storage costs of waste repatriated	Number of illegal shipments repatriated
Activity of waste treatment enterprises in the EU	Quantity and type of waste treated in the EU
Competitiveness of EU enterprises	Level playing field for EU enterprises
Impact on SMEs	Level playing field for EU enterprises
Innovations	Level playing field for EU enterprises
Social impact indicators	



Impact indicators	Key impacting elements
Jobs in the EU (administration)	Increased capacities
Jobs in the EU (enterprises)	Externalised helpdesk/training
Jobs in third countries (administration)	No changes
Jobs in third countries (enterprises)	Treatment firms in third countries
Health conditions in third countries	Number of illegal shipments
Environmental impact indicators	
Pollution of soil, air, water	Number of illegal shipments
CO ₂ emitted by transports	Number of illegal shipments
Other criteria	
Practicability of implementation	Existence of measures in most MS
Consistency with other FIL religion	Enforcement of EU law in the environmental field
Consistency with other EU policies	Few further administrative burdens for enterprises
Clarification of waste classification	Training
Clarification of Waste diagsification	Practical experience (practical training and joint inspections)
Harmonisation of inspections between MS	Common criteria
That monisation of inspections between wis	Prioritisation of waste shipment inspections
Amounts of waste illegally shipped	Quality of inspections
	Joint inspections
Improvement of cooperation between authorities	Joint trainings
	Risk assessment
Prioritisation of risks	Training
	Cooperation between authorities
Prosecution of illegal cases	Quality inspections and records keeping
Impacts on specific types of waste shipped	WEEE and samplable waste



6.7. SUMMARY TABLE OF COMPARISON

Impact indicators	Option 1	Option 2	Sub-option 2.1	Sub-option 2.2	Sub-option 2.3	Sub-option 2.4	Sub-option 2.5	Sub-option 2.6
General issues								
Legislative changes	0	+++	+	+	+	+	+	++
Addressing the issue ¹	0	+++	++	+	+	+++	+++	+++
Economic impact indicators								
Implementation costs ²	0	+	++	+	+	+	++	++
Administrative costs	++	+	+	+	+	+	+	+
Training costs	0	+	++	+	+	+	+++	++
Material costs (scanner, laboratories, etc.)	0	+	0	0	0	++	+	+
Transport costs for repatriation	+	1						
Storage costs of waste repatriated	+	1						
Activity of waste treatment enterprises in the EU	~	>						
Competitiveness of EU enterprises	0	+						
Impact on SMEs	0	+						
Innovations	0	+						
Social impact indicators								
Jobs in the EU (administration)	0	+	++	+	+	+	+	+
Jobs in the EU (enterprises)	0	+				+	+	
Jobs in third countries (administration)	0	0						
Jobs in third countries (enterprises)	+	0						
Health conditions in third countries	<	>						



Impact indicators	Option 1	Option 2	Sub-option 2.1	Sub-option 2.2	Sub-option 2.3	Sub-option 2.4	Sub-option 2.5	Sub-option 2.6
Environmental impact indicators								
Pollution of soil, air, water	>	<						
CO ₂ emitted by transports	>	<						
Other criteria								
Practicability of implementation ³	0	++	+	++	++	++	+	+
Consistency with other EU policies	-	++						
Clarification of waste classification	0	+	0	0	0	+++	+++	+++
Harmonisation of inspections between MS ⁴	0	+++	+	++	++	++	++	+++
Amounts of waste illegally shipped	>	<						
Improvement of cooperation between authorities ⁵	0	+++	0	+	+	++	++	+++
Prioritisation of risks	0	++	++	++	+	+	++	++
Prosecution of illegal cases	0	++	+	+	+	++	++	++
Impacts on specific types of waste shipped	0	0	0	0	0	+	+	+

'+++': very beneficial effect; '++': substantial beneficial effect; '-': negative effect, '--': substantial negative effect; '---': very negative effect; '0' no effect; '>': increase; '<': decrease

- 1: Strategies and programmes are important but provide a framework that is not always followed ('+'). Capacities are a key issue in most MS but not all and the criteria may leave a relatively broad margin of manoeuvre for deciding what is adequate ('++'), while specific inspection criteria, training and joint inspections can provide a detailed framework for ensuring effective inspections and promote effectively the exchange of best-practices.
- 2: All criteria will entail some administrative costs ('+'), but recruiting staff, training and joint inspections are expected to lead to higher costs ('++').
- 3: Most criteria are relatively easy to implement, '+' are more difficult than '++' since more organisation is required by organising recruitment, training, joint inspections, etc.
- 4: The criteria in sub-option 2.1 are less effective for harmonization since calculation methods are left for MS to decide ('+'), while joint inspections are most effective as practical methods will be exchanged and implementation of criteria shown in practice ('+++').
- 5: Control strategies, planning and programmes include a reference to other authorities involved in waste shipment inspections and thus have a positive impact on improving cooperation ('+'). However, practical cooperation during inspections and training will be even more efficient ('++') and sub-option 2.6 involved criteria about cooperation between authorities, addressing directly the issue ('+++').



6.8. DETAILED TABLE OF COMPARISON

The table of comparison does not include the indirect impacts that are expected from the fact that more effective inspections will be undertaken thanks to the implementation of the proposed criteria, such as health and environmental impacts.

	Sub-option 2.1						Sub-option 2.2															
		Gro	ир А		Group M				(Group	В			Group C	C Group D				Group E			
Impact indicators	1	2	3	4	67	68	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
General issues																						
Legislative changes	0	0	+	0	C	0		+ through Control Strategy							+	+	+ +			0	0	0
Addressing the issue	+++	++	+++	0	+	ŀ	++ through Control Strategy							++	++	++ ++ ++			+	+	+	
Economic impact indicators																						
Implementation costs	++	0	++	++	+	ŀ	+	++	++	+	++	+	+	++	++	0		0		+	+	+
Administrative costs	++	0	++	++	C)	+	+	+	+	+	+	+	+	+	+		+		+	+	+
Training costs	++	0	++	++	0		0	+	+	0	0	0	0	+	+	0		0		0	0	0
Material costs (scanner, laboratories, etc.)	0	0	0	0	+	ŀ	0	+	+	0	0	0	0	+	+	0		0		0	0	0
Social impact indicators																						
Jobs in the EU (administration)	++	0	++	++	0		+ if capacities needed to draft Strategy						+	+	0	0 0			0	0	0	
Jobs in the EU (enterprises)	0	0	0	0	0	+	0	0	0	0	0	0	0	0	0	0		0		0	0	0
Environmental impact indicators																						
Other criteria																						
Practicability of implementation	+	+++	+	+++	-	-	++	+	+	+	+	+	++	+	+	++		+		+	+	++
Clarification of waste classification	+	0	+	+	+	ŀ	0	0	0	0	0	0	0	0	0	0		0		0	0	0
Harmonisation of inspections between MS	0	0	0	0	C)		+ through i		ms in Co	ntrol Stra	trol Strategy		0	0	0		0		0	0	0
Improvement of cooperation between authorities	0	0	0	0	C)	++	0	0	+	0	0	0	++	0	0	0	0	0	0	+++	0
Prioritisation of risks	0	0	0	0	0		+ through Control Strategy				+++	+++	++	++	++	+++	+	++	++			
Prosecution of illegal cases	0	0	0	0	+	ŀ	0	0	0	0	0	0	0	++	0	0	0	0	0	0	0	0
Impacts on specific types of waste shipped	+	0	++	+	Samp was		0	+	+	0	0	0	0	0	++	+		+		+	+	+

Impacts linked to the use of a database (costs of setting up, training needs, etc.)



								9	Sub-op	tion 2.	3							
				(Group I	F			·			(Group (G			Gro	ир Н
Impact indicators	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38
General issues																		
Legislative changes					+								+					+
Addressing the issue					++								+				+	++
Economic impact indicators																		
Implementation costs	+	+	+	+	+	+	+	+	+				+					+
Administrative costs	+	+	+	+	+	+	+	+	+				+					+
Training costs	0	0	0	0	0	0	0	0	0				0					0
Material costs (scanner, laboratories, etc.)	0	0	0	0	0	0	0	0	0				0					0
Social impact indicators																		
Jobs in the EU (administration)			+ if c	apacities	needed	to draft	Plans						0					0
Jobs in the EU (enterprises)	0	0	0	0	0	0	0	0	0				0					0
Environmental impact indicators																		
Other criteria																		
Practicability of implementation	++	++	-	++	++	++	++	++	++				++				+	++
Clarification of waste classification	0	0	0	0	0	0	0	0	0				0					0
Harmonisation of inspections between MS	0	0	0	0	0	0	0	0	0				0					0
Improvement of cooperation between authorities	0	0	0	0	0	+++	0	0	0				0					+
Prioritisation of risks	0	0	0	0	+++	0	0	0	0				0					+
Prosecution of illegal cases	0	0	0	0	0	0	0	0	0				0					0
Impacts on specific types of waste shipped	0	0	0	0	0	0	0	0	0				0					0



										Sub-or	otion 2	.4							
		Gro	up I									Gro	up J						
Impact indicators	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57
General issues																			
Legislative changes			0										0						
Addressing the issue		+	-+		++														
Economic impact indicators																			
Implementation costs			0		0	0	+	0	0	0	0	0	0	0	0	0	0	0	0
Administrative costs	0	0	+	+									0						
Training costs			0										+						
Material costs (scanner, laboratories, etc.)	0	0	++	0	0	0	+	+	0	0	0	+	0	+	0	+	+	0	+
Social impact indicators																			
Jobs in the EU (administration)			0		0	0	0	+	0	0	0	0	0	0	0	0	0	0	0
Jobs in the EU (enterprises)			0		0	0	0	+	0	0	0	0	0	0	0	0	+	0	0
Environmental impact indicators																			
Other criteria																			
Practicability of implementation	++	++	+	+	++	++	+	+	+	+	+	+	+	+	+	+	+	+	+
Clarification of waste classification			0		0	0	0	++	0	0	0	+	0	+	+	0	0	0	0
Harmonisation of inspections between MS		+	-+									+	+ +						
Improvement of cooperation between authorities	0	0	0	++									0						
Prioritisation of risks			0										0						
Prosecution of illegal cases			0		0	0	+	+	0	0	0	0	0	0	0	0	0	0	++
Impacts on specific types of waste shipped			0		O	0	0	0	0	WEEE	0	WEEE	0	0	Waste from functional items	Samplable waste	Samplable waste	0	0



											ı												
						ub-op	tion 2.4		_					1		Sub-c	ption						
				Group							Group O							Gro					
Impact indicators	58	59	60	61	62	63	64	65 66	69	83	70	71	72	73	74	75	76	77	78	79	80	81	82
General issues		,	1		•	,	,						,										
Legislative changes	0	0	0	0	++	0	0	+	0	0	0	0	0					()				
Addressing the issue		++			+	+	+	+	+	+					+-	++							
Economic impact indicators																							
Implementation costs	0	0	+	+	0	++	0	+	+	++	0	++	+	0	0	++	++	++	0	++	0	++	++
Administrative costs	+	+	+	+	+	+	+	0	+	++	0	++	+	+	+	+	+	+	+	+	+	+	+
Training costs	0	0	++	0	0	+	0	0	0	+	0	+	+	0	0	+++	+++	+++	0	+++	0	+++	+++
Material costs (scanner, laboratories, etc.)	0	0	+	0	0	+	0	+	0	0	0	0	0	0	0	+	+	+	0	+	0	+	+
Social impact indicators																							
Jobs in the EU (administration)	0	0	+	0	0	0	0	+	+	0	0	+	+			0 i	if traininį	g implem	ented by	y inspect	ors		
Jobs in the EU (enterprises)				0				+	+	+	0	0	0				+ if	training	external	ised			
Environmental impact indicators																							
Other criteria																							
Practicability of implementation	+	+	+	+	+	+	+	+	++	+	++	+	+					-	ŀ				
Clarification of waste classification	0	+	0	0	0	0	0	+	0	0	0	0	0	0	+	++	+++	++	0	+	0	+	+
Harmonisation of inspections between MS				++				+	0	0	0	0	0			+++ esp	peciallyi	ftraining	at EU le	vel is put	in place		
Improvement of cooperation between authorities				0				0	0	0	0	0	0	0	0	0	0	+++	0	0	+++	0	+++
Prioritisation of risks	0	0	0	0	0	0	++	0	0	0	0	0	0	0	+	0	0	0	0	0	0	0	0
Prosecution of illegal cases	++	0	++	++	+	0	0	+	+	0	0	+	+	0	+	0	0	+	0	0	0	0	0
Impacts on specific types of waste shipped	0	WEEE	0	0	0	0	0	Samplable waste	0	0	0	0	0					-	+				



				Gro	up S				Gro	ир Т	Gro	up U
Impact indicators	84	85	86	87	88	89	90	91	92	93	94	95
General issues												
Legislative changes		+++		0	0	0	0	0	-	-	0	+
Addressing the issue		++		++	++	++	++	++	-	ŀ	0	+++
Economic impact indicators												
Implementation costs		+		+	+	+	+	+	-	ŀ	0	+++
Administrative costs		+		+	+	+	+	+	-	ŀ	0	+++
Training costs		0		0	0	0	0	0	()	0	0
Material costs (scanner, laboratories, etc.)	0	+	+	0	0	0	0	0	-	ŀ	0	+
Social impact indicators												
Jobs in the EU (administration)		0		0	0	0	0	0	-	ŀ	0	+
Jobs in the EU (enterprises)		0		0	0	0	0	0	-	ŀ	0	0
Environmental impact indicators												
Other criteria												
Practicability of implementation		+		+	+	+	+	+	-	ŀ	+++	+
Clarification of waste classification		0		0	0	0	0	0	()	0	0
Harmonisation of inspections between MS		0		0	0	0	0	0	()	0	+++
Improvement of cooperation between authorities		+++		+++	+++	+++	+++	+++	()	0	+++
Prioritisation of risks		0		0	0	++	0	0	()	0	0
Prosecution of illegal cases		0		0	0	0	0	0	()	0	0
Impacts on specific types of waste shipped		0		0	+	0	+	+	(0	0	+



7. CONCLUSIONS

This report has assessed the impacts of a number of criteria and requirements for inspections, controls and on-the-spot-checks of waste shipments to be contained in future EU legislation. The implementation of the proposed criteria through a legally-binding instrument is the favoured option compared to not taking any action. The study underlines that implementing the criteria will ensure that improved inspections are undertaken, reducing the illegal shipments through both increased detection and prosecution and the deterrent effect that increased prosecution is expected to have on illegal shippers.

The choice of a legally-binding instrument seems adequate for many of the proposed criteria, as such a tool will ensure that all countries have to abide by the same rules and will implement the criteria in a harmonised way. This will ensure that the burden is better shared between MS, reducing the workload of MS in which large amounts of waste are transiting by ensuring that inspections are performed upstream.

Furthermore, better cooperation between authorities in charge of waste inspections and between MS is expected through both the direct requirements of the criteria and the indirect effects of other criteria (such as joint training programmes enhancing trust and improving common work).

The option to implement the criteria through a Regulation could be appropriate as it ensures a better harmonisation of criteria by each MS. This harmonisation is one of the main objectives of strengthening the implementation of the WSR. However, in this case the criteria should be self-standing and precise enough to avoid different applications throughout the EU. If the application of criteria differs from one country to another, the benefit of a legally-binding tool that is directly applicable to national legal orders would be reduced. In this respect, it is worth noting that certain criteria currently leave space for interpretation in order to be adapted to the situation in each MS, which does not lead to very precise legal obligations that would ensure a harmonised implementation.

On the other hand, implementing the criteria through a Directive would enable to adapt the criteria to national situations, since it seems that the use of this instrument would not create any important burden on Member States as the legislative changes brought about by the majority of criteria are relatively minor. Most of them will probably only require transposition by means of decrees or legal texts of the same level and not by the introduction of major laws. The use of a Directive offers the opportunity for MS to achieve the objectives defined by the criteria through means corresponding to each of their national situations. This flexibility could be regarded as an advantage, considering the differences between the 27 MS in terms of the number of waste shipments and the tonnage of waste shipped through their territories: waste



in certain MS is shipped through have large, modern ports, in others the waste is shipped through medium/small ports and waste in landlocked countries is transported by road. As described through this impact assessment, MS are also giving a different level of priority to waste shipment inspections. Harmonisation is likely to be ensured to a more limited extent through a Directive. However, the effectiveness of criteria will be respected, provided that the transposition is correct and implements the obligations set up by the criteria properly.

Issues tackled by the proposed criteria

Section 2.3. includes a subsection on the issues faced during waste shipment inspections. The proposed criteria do tackle many of the issues outlined in that section.

The fact that limited resources are devoted by MS to waste shipment inspections is addressed through sub-option 2.1, where capacities are brought to the fore and criteria for determining whether capacities are sufficient are proposed.

The unequal burden borne by MS where waste shipments often transit compared to land-locked countries is addressed by implementing the criteria through a legally-binding instrument. This will improve the harmonisation of the WSR enforcement in all MS, as more precise rules will be set.

The difficulties in ensuring that waste is rightly classified are also tackled by several of the criteria as discussed in section 6.5.3. Training, including practical inspections as well as exchange of experiences during inspections and joint inspections is very effective to tackle this issue and is addressed in the criteria.

As described above (section 2.1.), the fact that many authorities are involved in waste shipments (environmental authorities, police, customs) leads to a strong need to ensure cooperation. The proposed criteria address cooperation specifically in suboption 2.6 and additional criteria included in other sub-options also ensure authorities cooperate, as detailed in sub-section 6.5.6.

Lastly, the issues outlined described the need for a strategic framework to be implemented to enhance inspections. This aspect is tackled in sub-option 2.2, implementing a Control Strategy, further refined in plans and programmes in sub-option 2.3.

Consequently, the difficulties faced by inspectors during inspections of waste shipments are addressed adequately by the combination of criteria proposed. Furthermore, the criteria are proportionate since they are not expected to lead to very high burdens. MS in which databases, training sessions and formal documents framing the inspections will bear a heavier burden but tools are in place and cooperation work with other MS can strongly help by diffusing best practices rapidly.



Reducing the drivers of the problem

Section 2.1. discusses the drivers which lead to illegal waste shipments. Certain drivers cannot be tackled by inspections and/or by the EU alone, but the criteria are expected to reduce the drivers that can be identified through inspections.

Two drivers of the problem are of course lower prices and less stringent regulations for waste treatment in third countries. These drivers cannot be tackled by inspections or by the EU alone, especially as prices are very much driven by the fact that standards are lower.

The lack of precision of the WSR is tackled by the criteria as they specify a number of requirements regarding inspections, which are kept quite vague in the WSR. The criteria are thus expected to ensure that MS are better guided in their understanding of the WSR.

The fact that waste is a complex problem is also addressed by the criteria as a number of specific waste streams are tackled through specific criteria, as described in section 6.5.9.

The harmonisation induced by the criteria also addresses the fact that MS have different approaches to the WSR. As different situations arise in the different MS, a single approach cannot be the right answer to the issues of the WSR. Indeed, transit countries and countries with big ports do not face the same issues as land-locked countries or countries with small ports. However, inspections upstream are very important for transit countries for example to reduce their burden. A harmonised interpretation of the WSR is thus needed and addressed by the criteria, while leaving space to adapt the approach to each individual country's situation.

Cooperation in particular can enhance the diffusion of best practices and another of the highlighted issues, that of coherence between MS in the classification of waste. In some difficult cases, MS can have different opinions as to the legality of the waste shipment, which complicates matter. More cooperation could help harmonise this aspect.

Lastly, the harmonisation is expected to reduce the port shopping issue, i.e. for an illegal shipper to choose the port where enforcement is lower to reduce the risk of being identified. The criteria, as shown in section 6.5.4. harmonise the enforcement of the WSR, reducing the risk of port shopping.

Difficulties linked to implementing the proposed criteria

The main difficulties outlined in this report are the fact that implementing the criteria is quite time-consuming, for a broad majority of criteria.

Costs are linked to the fact that capacities may have to be raised in certain MS and to the implementation of a database, as well as certification, training and cooperation programmes costs.



More human capacities induce the cost of hiring the inspectors, but also of training them, ensuring enough material such as computers, sampling kits, protective equipment is available, etc. On the other hand, more human capacities ensure the needed documents can be drafted, such as reports to follow-up inspections and ensure illegal cases can be prosecuted.

Some legislative changes will also be needed to implement the criteria at national level. In the case of a Directive being implemented, transposition will be needed, but the criteria themselves also induce changes such as the introduction of strategies and plans in regulatory instruments such as a decree or the agreement of a MoU between authorities.

Implementation of certain sub-options

As regards the implementation of the sub-options separately, the best option is to implement the options together, as all sub-options are linked and address separate weaknesses of the WSR. For several groups of criteria, implementing a certain sub-option would impact the other criteria, entering a virtuous circle by improving the implementation of the WSR even further.

If priorities have to be set, the following criteria would be preferred for rapid implementation:

- Improving capacities as ensured by sub-option 2.1 is considered a priority by various Member States, as capacities are considered to be lacking in several MS. The proposed criteria are proportionate as they respect the differences existing in different MS regarding waste shipments.
- Training of staff, along with cooperation between competent authorities and
 participation in EU level actions are seen as the other important criteria to
 implement (groups Q, S and U). These groups address the difficulties faced by
 inspectors during inspections directly, and ensure in the relatively short-term
 that inspections are improved, as well as a better knowledge of regulations,
 which is also crucial to ensure better inspections.
- Implementing a database to support the requirements of several of the criteria and especially criteria in sub-option 2.2 can also be seen as an important tool to improve inspections and cooperation through the use of robust and updated data.

On the contrary, criteria relative to the transparency and communication about waste shipment enforcement actions are seen as less important, in particular as the Aarhus convention already requires transparency.

Criteria relative to the actual inspections (especially criteria (47) to (53)) could be seen as too specific to be integrated in a legally-binding instrument. The possibility to refer to the need for guidelines or an inspection manual in the legally-binding instrument should be envisaged.



Possibility to rephrase certain criteria

Furthermore, some comments were made during this study on the phrasing of the criteria, and the re-drafting of certain criteria has been proposed in section 5. A synthesis is provided below:

- The phrasing of several criteria includes 'MS shall ensure'. It could be argued that as MS cannot ensure, they should be asked to 'endeavour to ensure' or 'aim to ensure'.
- The criteria about capacities could be redrafted to ensure a set number of inspectors are required
- Criterion (10) could be rephrased to 'MSs shall ensure that the Control Strategy is monitored and annually reviewed and assessed' and the terminology 'Control Strategy' could be changed by 'Enforcement Strategy'.
- Group E could be synthesised in a single criterion, which would read: 'MS shall
 endeavour to ensure that the Police is performing assessments of how
 organised criminal activity is contributing to illegal waste shipments. The police
 and the Competent authorities shall ensure they cooperate in order to link
 these activities and integrate the information in the Control Strategies,
 Inspection planning and development of inspection programmes.'
- Criterion (21) could refer to 'the appropriate levels' instead of 'national, regional or local level'.
- Criterion (25) could include additionally a reference to 'other relevant criteria' instead of simply 'other criteria'.
- Criterion (49) could be slightly redrafted to read 'Inspectors shall undertake a
 physical examination of the contents of the container/transport/etc. to
 determine [...]'.
- The criteria referring to the WEEE Recast Proposal could be synthesised and made more broad-based by the following criterion: 'Criteria relative to inspections of WEEE and used EEE included in the WEEE Recast Proposal shall be reviewed during waste shipment inspections.' A reference could also be made where relevant to the Waste Correspondents Guidelines.
- Group J could include a reference to how inspections should be performed, such as 'Inspections shall include both targeted and at-random controls of the containers and items included in the container.'
- Criterion (58) could be simplified to read 'Inspectors shall produce a clear, complete report of the inspection (and on subsequent work) and hand it to the waste shipper and the waste shipment notifier (where relevant) as well as all other concerned individuals asking for it'.



- Criterion (60) refers to the 'full' training of inspection staff. A proposition could be to refer to its 'adequate' training.
- Criteria (71) and (72) could be merged into 'MSs shall ensure that inspectorates and institutions responsible for enforcing the WSR have staff with sufficient competence to allow for the effective implementation of the enforcement functions'.

Timeframe to implement the sub-options

The criteria included in groups C and D are expected to be applicable in the short-term, as they relate to the effective understanding of waste shipment activity and to risk profiling and risk assessment. As explained above, risk assessments and risk profiling are already implemented in most MS, whether on a formal or informal basis. Requiring a formal assessment and profiling should thus be quite easily applicable.

Groups I, J, K, L and P in sub-option 2.4 on the other hand are expected to take a little longer to be implemented as they require changes in the organisation of inspections to ensure best-practices are implemented by all inspectors.

However, the agreement of a legally-binding tool can include a provision to make the tool binding after a certain timeframe, which can be used to ensure sufficient time is given to MS to adapt to the new requirements.



8. ABBREVIATIONS USED

B2B Business to business

EC European Commission

EEA European Environment Agency

EEE Electrical and Electronic Equipment

EFTA European Free Trade Association

ELV End of life vehicles

EU European Union

IA Impact assessment

IMPEL European Union Network for the Implementation and Enforcement

of Environmental Law

IMPEL-TFS IMPEL Transfrontier Shipments of Waste

INECE International Network for Environmental Compliance and

Enforcement

MoU Memorandum of Understanding

MS Member States

OECD Organisation for Economic Co-operation and Development

RMCEI Recommendation providing for minimum criteria for

environmental inspections

UNU United Nations University

WEEE Waste Electrical and Electronic Equipment

WSR Waste Shipment Regulation











9. AN EXAMPLE OF ILLEGAL SHIPMENTS: THE PROBO KOALA CASE

In July 2006, the Probo Koala docked at the Amsterdam Harbour with a toxic shipment on board, containing sulphur and hydrogen sulphide, a lethal gas with a characteristic smell of rotten eggs. These chemical substances had accumulated through various tank washing and refining operations using low quality petroleum, performed on the high seas. The latest operation was later denied by Probo Koala's charter company Trafigura. The shipment was therefore declared by the company as 'slops' i.e. waste water resulting from normal tank washing operations⁷².

After having taken samples, the company operating in the Amsterdam's harbour, Amsterdam Port Services (APS), asked for EUR 1000 per cubic meter for the treatment of 554 cubic meter of toxic sludge⁷³. Moreover the treatment by APS would have entailed several additional costs – USD 35 000 for the ship's downtime USD 250 000 for one day of rental⁷⁴.

Trafigura refused the proposition, considered too expensive, and reloaded back its toxic shipment. It is worth noting that following the provisions of Directive 2000/59/EC⁷⁵, 'if there are good reasons to believe that adequate facilities are not available at the intended port of delivery, or if this port is unknown, [...] the Member State shall take all necessary measures to prevent marine pollution, if necessary by requiring the ship to deliver its waste before departure from the port'⁷⁶. The re-load of the highly hazardous shipment was the consequence of a first malfunctioning of the inspection system⁷⁷.

After a port of call in Estonia in mid-July, the Probo Koala docked at the Harbour of Abidjan in August 2006, where a company named 'Tommy', recently authorised, was in charge of ensuring the shipment's landing. The price of USD 35 per cubic meter proposed by Tommy was about 20 times lower than the price proposed in Amsterdam. 528 cubic meters (i.e. 500 tonnes) of the toxic substances were then discarded in several sites around Abidjan without any prior quality control.

⁷² The Guardian (2009) "The boat that reeked – toxic voyage of the Probo Koala" (13/05/2009), available at: www.guardian.co.uk/world/2009/may/13/trafigura-ivory-coast-waste

⁷³ Rapport de la Commission internationale d'enquête sur les déchets toxiques déversés dans le district d'Abidjan, (19/ 02/ 2007), available at: www.robindesbois.org/dossiers/probo koala/CIEDT-resume.pdf

⁷⁴ L'encyclopédie de l'Environnement, "L'affaire du Probo Koala", available at:

lagrandepoubelle.com/wikibis/environnement/affaire_du_probo_koala.php

75 Directive 2000/59/EC of the European Parliament and of the Council of 27 November 2000 on port reception facilities for ship-generated waste and cargo residues, available at : eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0059:EN:HTML

⁷⁶ Directive 2000/59/EC of the European Parliament and of the Council of 27 November 2000 on port reception facilities for ship-generated waste and cargo residues - Article 7

⁷⁷ www.robindesbois.org/dossiers/conference_probo_koala.pdf



Estimations of the health impacts caused locally vary, but some newspapers indicated that it caused the death of 17 persons, while intoxicating thousands⁷⁸. Additionally, long-term detrimental effects on health and the environment are expected. In September 2006, EC Commissioner Stavros Dimas expressed his support to the investigations launched by Estonia right after the facts to bring the affair in light⁷⁹. In his speech, he underlined the fact that what happened was unethical and criminal. He also pledged to 'reinforce the existing waste shipment regulation and its implementation'80.

One of the difficulties linked to this affair was to ascertain the responsibilities, especially as the ship was owned by a Greek company, which was registered in Panama, chartered by a Swiss-Dutch company, had its headquarters in London, and was operated by a Russian ship crew. The Assizes Court of Abidjan delivered its verdict in October 2008. Two persons only were convicted, Salomon Ugborugbo, head of Tommy and a local middleman⁸¹. Trafigura was absent of the trial pursuant to an agreement made with the Ivory Coast government for a fee of EUR 152 million.

In the UK, an out-of-court settlement was reached through which Trafigura compensated victims in exchange for the charges to be dropped⁸². In the course of 2010 a sum of EUR 33 million initially blocked by a decision of the Supreme Court of Ivory Coast should finally be allocated to an association representing the victims⁸³. The charter company still faces prosecution in Amsterdam - together with APS, the Probo Koala's captain and the city of Amsterdam - for illegally exporting toxic waste⁸⁴. Moreover, Greenpeace recently lodged a complaint before The Hague Court, requiring the Public Prosecutor to extend the prosecution against Trafigura to the facts committed in Abidjan⁸⁵.

Place	Quantity to treat	Price of treatment	Other costs
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⁷⁸ Le Monde (2009) « L'affréteur du Probo Koala aurait proposé un accord aux victimes ivoiriennes », aurait-propose-un-accord-aux-victimes-ivoiriennes 1241483 3212.html

European Commission press release (2006) "Illegal Waste Shipment: European Environment Commissioner Stavros Dimas travels to Estonia on 28th of September to support the investigation of an illegal waste shipment to the Ivory Coast by the Probo Koala." (28/09/2006), available at: europa.eu/rapid/pressReleasesAction.do?reference=IP/06/1272&format=HTML&aged=1&language=EN&g

uiLanguage=fr
80 Stavros Dimas, Member of the European Commission, Responsible for Environment (2006) Estonia: Illegal Waste Shipment: Statement by Commissioner Dimas, 28 September 2006, available at: europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/06/543&format=HTML&aged=0&language=E N&guiLanguage=en

Radio France International (2008) "Procès du Probo Koala : 7 acquittements, 2 condamnations"

^{(23/10/2008),} available at: www.rfi.fr/actufr/articles/106/article_73858.asp
France 24 (2009) "Trafigura échappe de nouveau à son procès" (20/09/2009), available at : www.france24.com/fr/20090920-trafigura-1000-euros-victimes-boues-toxiques-probo-koala-cote-ivoire

⁸³ Le JDD.fr (2010) "Probo Koala : L'indemnisaion ordonnée" (22/01/2010), available at :

www.lejdd.fr/International/Afrique/Depeches/Probo-Koala-L-indemnisation-ordonnee-166851/ Libération (2009) "Déchets: Trafigura s'achète une innocence" (22/12/2009), available at:

www.liberation.fr/economie/0109609970-dechets-trafigura-s-achete-une-innocence

Complaint lodged by Greenpeace Nederland concerning failure to prosecute for an offence (16/09/2009), available at: www.greenpeace.org/international/assets/binaries/trafigura-complaint-toxic



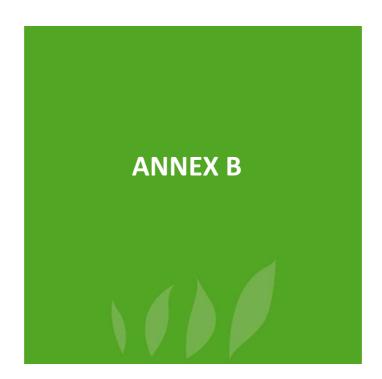
Amsterdam (NL)	554 cubic meters	750-1000€/m³	285000\$
Estonia			
Abidjan (Ivory Coast)	528 cubic meters	35\$/m ³	None

If it had paid the price in Amsterdam, the Probo Koala would have paid around USD 800 000 and no harm would have occurred to the health of thousands of people or to the environment.

The Probo Koala is a case where the shipment was illegally allowed to continue its route. It is illustrative of the damages that may occur following the discharge of waste in inadequate manner and of the fact that cost of waste treatment is a very strong driver of illegal shipments. However in this case, inspection criteria would probably not have been helpful since the load was known and had been analysed by APS. Other malfunctionings of the authorisation procedure are responsible for this occurrence.











10. CURRENT IMPLEMENTATION OF THE PROPOSED REQUIREMENTS IN THE MS

This annex presents a synthesis of the current situation in 15 MS. The information is based on the criteria proposed when enough information was available and explicitly refers to the group of criteria A to U. When little information only could be accessed, the table was slightly simplified.

10.1. AUSTRIA

Type of information	Austria
Competent authorities	The Austrian Ministry for Environment is the central and only authority having discretion over waste shipment. Thus, Austria has a centralised waste shipment management system. Together with the Umweltbundesamt GmbH (UBA) waste shipment controls are co-ordinated and directed by the Federal Ministry of the Environment in cooperation with other ministries
Nature and number of inspectors	There are 180 customs officers and 350 police officers dealing with road controls. If they discover a suspicious cargo, they inform the waste shipment authorities and the police
Number of ports	Austria is a land-locked country
Criminal activity investigated	In Austria there are no hints that there is a sort of 'mafia' dealing 'professionally' with waste shipment next to drug smuggling, etc. Rather there are enterprises that carry out illegal waste shipments in addition to legal transports.
Use of the information in further planning documents	The police in Austria play a central role in waste shipment controls. Waste being moved is predominantly by road across open borders. Therefore, intelligence is gathered on particular vehicles and waste risks to direct the police to stop vehicles. Particularly risk routes are also identified to direct the control activity. Where potential infringements of the WSR are identified, environmental inspectors may be called in.
Existence of plans	Yearly plan of waste shipment inspection and control.
Characteristics of the Plan	The yearly plan is the basis of the controls that are carried out, but it is flexible to take account of events to influence the plan in practice and lead to modification.
Access to supporting documentation	The Police have not produced guidance on how to undertake an inspection regarding the WSR. However, this is currently under development.
Joint & mutual training	There has been training for the police and the customs service on waste control. The training was directed at raising of awareness of the waste shipment problems. The Police assist the preparation of criminal procedures against businesses that have breached the Waste Shipment Regulation.



Type of information	Austria
Existence of MoUs	The cooperation has been institutionalised by creating a joint investigatory group of the Federal Ministry of Agriculture, Forestry, Environment and Water Management and the Federal Ministry of the Interior.
Joint planning processes Joint investigations and inspections	One type of inspection approach is the so-called co-ordinated controls that are specifically targeted at detection of illegal waste shipments. They are planned in detail by the Federal Ministry of Environment (Lebensministerium, LM) and the Federal Criminal Office (Bundeskriminalamt, BKA). The LM and BKA meet several times a year in order to lay down the focus of the upcoming controls, the concrete organization (number of inspectors, equipment) is then co-ordinated with the local authorities.
Participation in EU level actions	Participation in IMPEL TFS actions
Sources	IEEP, BIO, Ecologic (2009) Study on inspection requirements for waste shipments, Annexes to final report, p. 87 – 259

10.2. BELGIUM

Group of criteria	Type of information	Belgium
Α.	Competent authorities	Federal level: the Federal Environmental Inspection (FLI). Enforcement of the FLI activities is only carried out in relation to transit of waste through Belgium. Flanders: Flemish Public Waste Agency (OVAM); Walloon: Division of Environmental Police (DPE), and the Walloon Office for Waste (OWD); Brussels region: Brussels Institute for Environmental Management (BIM) Problems of liability between the federal and regional levels. Regions are competent for imports and exports.
	Nature and number of inspectors	FLI: 15 inspectors, Flanders: 5 inspectors not only working on waste shipments, Walloon: 16 inspectors working in other domains related to waste as well, Brussels: 2 inspectors.
	Competences of authorities involved Number of ports	Customs enforce waste transports passing through seaports and Belgian frontiers. Customs can operate independently but rely on OVAM, BIM or OWD for technical advice.
	Number of ports	4 Seaports and 6 inland ports. The Port of Antwerp handles more than 160 million tonnes of cargo per year (55% incoming and 45% outgoing traffic). This volume makes Antwerp the second largest port in Europe and the fourth largest in the world.
В.	Existence of a Control Strategy	No information available
C.	System for recording data	No information available



Type of information	
Type of information	Belgium
Existence of risk assessment and risk profiling	Development of Risk profiles in the framework of the Waste project of federal police. Customs agents can scan the containers and establish risks profiles since last year (2009), following a proposal of the environmental inspectorate. The check of the administrative documents includes a risk assessment using information on the description of the product, the waste stream (e.g. ashes, residues, scrap, used, second hand), the harmonised custom codes (e.g. 39.15 plastic waste, 74.04 copper waste, 26.20 ashes and residues), the delivery conditions, the value of goods, information about the producer and/or exporter and the destination of the transport.
Prioritisation of risks	Studies and evaluations about the most threatening waste streams and routes of transports were under elaboration in 2007.
Criminal activity investigated	A waste project of the Federal Police was undertaken establishing a network and information transfer between all involved authorities. This enables the authorities to gain insight into the relevant waste streams and to detect high-risk groups and offensive/criminal behaviour in the field of waste disposal in Belgium.
Cooperation with Police incl. transfer of information	Enforcement actions are carried out by OVAM inspectors in main ports and companies, and along traffic routes in Flanders. These enforcement actions are always carried out in collaboration with federal (and local) police forces. OVAM, BIM and FLI are not qualified to stop someone or perform arrests; cooperation with police is needed in these circumstances. Information is gathered by means of joint controls of waste transports with the competent environmental administrations and by means of punctual checks on suspicious waste transports during routine patrols.
Existence of plans	E.g. Walloon Plan for Waste, available on the "Portail de l'environnement de Wallonie" (Plan wallon des déchets)
Characteristics of the Plan	Quite detailed. Sets up a list of objectives to be achieved by 2010.
Availability to the public	Available to the public
Plan reviewed after implementation	No information available
Existence of inspection programmes	No information available
Description of the preparation stage	In preparation of the inspections the OVAM primary relies on the consultation of documents and signals of others (police, other authorities, competitors, etc.).
	Prioritisation of risks Criminal activity investigated Cooperation with Police incl. transfer of information Existence of plans Characteristics of the Plan Availability to the public Plan reviewed after implementation Existence of inspection programmes



Group of criteria	Type of information	Belgium
J.	Recording of inspections	Lack of legislative rules and clarity in classification of waste/product.
	Access to supporting documentation	OVAM has prepared information material for all involved authorities and for industry in form of a handbook (one list) covering all waste codes from relevant legislation with a short description and the corresponding classification.
	Physical check/Functionality of items checked	OVAM : The inspections are physical inspections, eventually followed by sampling of waste and analyses In contrast to OVAM. BIM carries out inspections that are mainly administrative and physical. Enforcement of the FLI activities is only carried out in relation to transit of waste through Belgium
	Sampling and analysis	Sampling can cost up to 1500 Euros. Authorities generally try to avoid having to take samples. They do so only if they are obliged. Until now, the costs of taking samples and analysing it were borne by the notifier/shipper but some legislative changes are foreseen to oblige MS to bear the costs of the first analysis.
	Equipment available	Scanning, X-ray For security reasons, inspections involve protective clothing, alarm lights on dock and the use of chains.
К.	Reports of inspections	The follow-up procedure of a control includes the sealing and blocking of the concerned container, preparation of a report of observation necessary for a prosecution procedure and for imposing fines, request for more information at the producer and exporter, the starting of legal procedures and impose administrative fines. For documentation of inspection results a standardised form (Eco-form) is used Guidance and information pools are provided or are currently developed
	Penalties	Typology of offences and sanctions is available on the following website: environnement.wallonie.be/dpe/infractions.pdf Existent penalties are considered insufficient / Current lack of financial guarantees in case of illegal shipments induce important storing/disposal costs for administration in transit countries as Belgium
	Database dedicated to gather inspection findings	A waste project of the Federal Police was undertaken establishing a network and information transfer between all involved authorities and using ECO forms for development of risk profiles and targeted detection of offenders.
L.	Sampling plan	A decree of the 19/07/2009 frames the taking and use of samples
М.	Sufficient number of laboratory facilities	No information available
N.	Inspection reports available to the public	No information available
0.	Task and duties sufficiently defined	No information available
P.	Sufficient competence of inspectorate staff	No information available



		≈ 1 € Service
Group of criteria	Type of information	Belgium
Q.	Training need assessment	Training of customs and police services.
		Training course for environmental authorities for enforcement officers to ensure ability to identify suspicious waste loads.
	Description of Training sessions	The 15 federal inspectors are trained on a regular basis. Training can take place on technical issues (how to use the equipment to measure radioactivity or gas for instance) or on general issues (i.e. English courses). Trainings last 10 days full time per year.
	Costs	If trainings are ensured by an external trainer, it costs up to 50 Euro per person per 1/2 day of training.
	Training on new developments	Meetings are set up once a month to inform inspectors of the most recent evolutions (e.g. legislative changes)
	EU level traning sessions	In 2009, 2 inspectors from Belgium have been sent to Croatia; 2 others have been sent to Portugal and 1 inspector from Germany was received in Belgium in the framework of the IMPEL TFS project. These sessions last 3 days and focus on practical issues. For 2010, Belgium is willing to organise exchanges with France and Ireland.
R.	Inspection activities compliant with ISO 9000	ISO 9001: 2000
S.	Existence of MoUs Sharing of data	The co-operation between regions (OVAM, BIM, OWD), federal government (FLI) and customs on enforcement actions is laid down in a covenant which came into force in 1994. This covenant describes the division of powers of the concerned authorities. Regular meetings of all involved authorities on the basis of an agreement between ministries. Structures for cooperation between authorities responsible for notification and for detection and detention of illegal shipments (inspectorates, customs, and police) are set in place and information is communicated from one to the other especially to enable targeted controls and enlarge the pool of information for future suspicions. Participation of custom services could be improved. They tend to focus on transports with higher financial impacts. Structures for cooperation between national and regional authorities and amongst regional authorities are set in place and regular meetings are conducted at both levels to exchange information on new developments and cases and to harmonize procedures.
	-	Interlinked electronically notification system to facilitate surveillance (EUDIN)
Т.	Promotion of waste shipment inspections	No information available
U.	Participation in EU level actions	Participation in IMPEL TFS actions.
Sources		IEEP, BIO, Ecologic (2009) Study on inspection requirements for waste shipments, Annexes to final report, p. 87 - 259 environnement.wallonie.be/dpe/infractions.pdf IMPEL TFS (2009) Enforcement actions, Up 2 date, 6 May 2009 environnement.wallonie.be/ ETC RWM (2008) Transboundary shipments of waste in the EU Developments 1995-2005 and possible drivers, Technical report 2008/1 Bipro (2007) Organisation of awareness-raising events concerning the application and enforcement of Community legislation on shipment of waste, Final report, 30 may 2007 Bipro (2007) Organisation of awareness-raising events concerning the application and enforcement of Community legislation on shipment of waste, Minutes Belgium, 30 May 2007



Group of criteria	Type of information	Belgium
		Interview of the IMPEL TFS national coordinator
Data on Illegal waste shipments		IMPEL TFS (2009) Enforcement actions, Up 2 date, 6 May 2009

10.3. CZECH REPUBLIC

Group of criteria	Type of information	Czech Republic
Α.	Competent authorities	The Ministry of Environment (MoE) is the central body for enforcement and the only competent authority for all notifications of shipments of waste in the Czech Republic.
	Nature and number of inspectors	
	Authorities involved	The Czech Environmental Inspection (CEI) exercises control functions to ensure compliance with legislation and following the decision of the Ministry of the Environment and other government departments it can impose fines. About 80 inspectors of the Waste management department perform more than 3000 inspections every year. The CEI is subdivided into 5 specialized components (Air Pollution Control, Water Protection, Waste Management, Nature and Landscape Conservation, Forest Protection), a service component (Economics and Personnel Section, Technical & Organization Service Department, Informatics & Information Technologies Department), and secretarial services (Secretariat of the Director or of chief inspectors, respectively). By territories, the Czech Environmental Inspectorate is subdivided into the Headquarters based in Prague and 10 regional inspectorates: Prague, České Budějovice, Plzeň, Ústí nad Labem, Liberec, Hradec Králové, Havlíčkův Brod, Brno, Olomouc and Ostrava.
		Since the accession of the Czech Republic to the EU the customs control is organised by means of 'Mobile Supervision Units' based on a model developed in Finland in 2006. Customs play the major role in mobile inspections and detection of illegal transports including the authority to take samples and perform analysis.
В.	Existence of a control strategy	Customs and Police have developed strategies to quickly identify suspicious trucks (type of truck, carriers identification, location) and to react rigorously;
	Information collection & analysis	The CEI Headquarters ensures co-ordination activities of regional inspectorates, methodological guidance of the Inspectorate specialized components, data collection, processing and analysis as well as technical and economic assurance of inspecting work. The Centre for waste management (CEHO) summarizes data from waste records of individual waste producers and waste shipment notes.



		Service
Group of	Type of information	Czech Republic
criteria		
C.	System for recording data	No information available
D.	Existence of risk assessment and risk profiling	No risk assessments as such. Planning and scheduling the inspections is based on professional knowledge of regional problems and the experience of inspectors.
	Prioritisation of risks	Waste stream evaluations have been performed.
E.	Criminal activity investigated	Customs focus on infringements of the Shipment Regulation; Police have a focus on crime and monitoring of adherence to the waste management law. Customs and Police regularly collaborate with the MoE and the relevant Regional Inspectorate. There has been a slow reduction in the co-operative enforcement work of the customs and police due to other enforcement priorities (2008)
	Cooperation with Police incl. transfer of information	The Czech Police, to perform its control functions, may require professional help in the inspection. In such cases, e.g. where the Police have uncertainties about whether something being transport is, or is not, waste, they contact the CEI Regional Office to provide the expert assistance
F.	Existence of plans	The handling of the three days prior notification is usually too late. Therefore the planning of inspections based on these notifications is hindered. About 40% inspections is planned (nominally), the rest of inspections performed is based on received motions.
G.	Plan reviewed after implementation	No information available
н.	Existence of inspection programmes	No information available
l.	Description of the preparation stage	No information available
J.	Recording of inspections	The results of inspections are registered in the national CEI database.
	Physical check/Functionality of items checked	Few inspections are carried out due to complaints or in the case of returning back of the shipment from the state of departure. The actual inspections are done by mainly administrative and sometimes physical checks and, if it is necessary, followed by sampling and analyses of waste. When the customs officers control the cargos, they proceed according to a special guideline on procedures and measurement for controls of dangerous goods and some of the customs officers are trained in the taking of samples from these kinds of cargos. Where some special precautions are needed (because of hazardous waste), the customs officers cooperate with the Czech Environmental Inspectorate, which can ordain a preliminary precaution accorded by law
К.	Penalties/Prosecution	Sanctions that are given when operation is in conflict with the legislation are return of shipments (imposed by the ministry) or a penalty (imposed by CEI). CEI can suggest the withdrawing of a granted permit. The legal framework for administrative fines and criminal prosecutions is in place and well established. Fines have recently been increased and may now be imposed to a maximum of 50 Million CZK
	Database dedicated to gather inspection findings	The results of inspections are registered in the national CEI database.
L.	Sampling plan	No information available
M.	Sufficient number of laboratory facilities	No information available
N.	Inspection reports available to the	No information available



Group of criteria	Type of information	Czech Republic
	public	
0.	Task and duties sufficiently defined	No information available
P.	Sufficient competence of inspectorate staff	No information available
Q.	Description of Training sessions	CEI Headquarters organise training 2 times per year (2-4 days) for inspectors of the Waste management department. Experts of other competent authorities are often involved (ministry of environment, customs, police, regional authorities) The system of education and training of customs officers falls within the General Directorate of Customs. There are two main courses – The Basic Customs Course and The Special Customs Course, which have to be passed by every customs officer. The environmental education is involved in the Basic Customs Course and the lessons are focused on the basic terms, the environmental policy, the system of administration in the framework of the environmental protection, questions of the technical protection of environment, etc.
	Training of new staff	There are only common requirements in CZ: university education and a new inspector is obligated to pass a special exam focused on administrative law, administrative procedure leading and EU and national legislation concerning waste knowledge
	Joint & mutual training	The CEI cooperates with local authorities, customs authorities, Police of the Czech Republic, other administrations, regions and municipalities, providing them with training and other forms of assistance.
	Training on new developments	Lack of national/international exchange of knowledge.
R.	Inspection activities compliant with ISO 9000	No information available
S.	Existence of MoUs	There are MoUs between MoE, CEI and General directorate of Customs
		Customs and Police regularly collaborate with the MoE and the relevant Regional Inspectorate. There are Written agreement on Cooperation.)
	Joint investigations and inspections	The customs authorities, to perform their control functions, may require professional help in the inspection. In such cases, e.g. where they have uncertainties about whether something being transport is, or is not, waste, they contact the CEI Regional Office to provide the expert assistance
	Sharing of data	Data and information sharing systems are in place; (transfer of customs proceedings to MoE; information transfer to customs and inspectorates on all permitted notifications)
т.	Promotion of waste shipment inspections	Public awareness in the Czech Republic is high due to information campaigns launched mainly by public authorities (media campaigns through public authorities but also leaflets distributed at the frontiers) in 2005/2006
U.	Participation in EU level actions	Participation in IMPEL TFS actions; 2 inspectors were exchanged in the framework of the Enforcement Actions II project.
Sources		IEEP, BIO, Ecologic (2009) Study on inspection requirements for waste shipments, Annexes to final report, p. 87 - 259 Interview of the IMPEL TFS coordinator
Data on Illegal waste shipments		An estimated 30,000 tons of wastes has been illegally imported to the Czech Territory, the majority of it originating from North-Eastern Germany. (2008)



10.4. FRANCE

Group of criteria	Type of information	France
Α.	Competent authorities	MEEDDM (Ministry of the environment, ex MEEDAAT) is competent for transit, Prefectures and DRIRE (Regional Directions of Industry, Research and the Environment) for imports and exports.
	Nature and number of inspectors	DRIRE, customs, military police forces, OCLAESP (The Central Office for Fight against Attacks on the Environment and Public Health is attached to the National police) As of 31/21/2007, there were 1 489 inspectors in France (of which 1,150 are full time employees). Environmental Inspectors are all State officials who have taken an oath for inspection of classified installations. These inspectors also are involved in inspecting transboundary waste shipments as they work under the DRIRE who are responsible for imports and exports of waste.
	Competences of authorities involved	Customs - 205 civil service units responsible for commercial operations including control of documents and spot checks in harbours and in 280 uniformed surveillance brigades responsible for control and enforcement throughout the territory.
	Number of ports	7 state-owned autonomous ports in Metropolitan France (Dunkerque, Le Havre, Rouen, Paris, Nantes-Saint Nazaire, Bordeaux, and Marseille). These ports manage 80 % of maritime freight. Marseille is France's biggest port and largest on the Mediterranean, handling 95 million tonnes of freight a year.
В.	Existence of a Control Strategy	MEEDDM Action Plan for Waste 2009-2012 (Plan d'action déchets)
C.	System for recording data	No information available
D.	Existence of risk assessment and risk profiling	Planning is informed by the development of Risk profiles established on these criteria: field of economic activities (whether they are trading/dealing with waste), countries of destination, low costs, etc.
E.	Cooperation with Police incl. transfer of information	The Action Plan for waste 2009-2012" foresees that f the coordination between MEEDDM and OCLAESP will be reinforced.
F.	Existence of plans	Strategic programme for the inspection of classified installation 2008-2012 (Programme stratégique 2008-2012 de l'Inspection des installations classées)
	Availability to the public	Available to the public
G.	Plan reviewed after implementation	No information available
Н.	Existence of inspection programmes	No information available
I.	Description of the preparation stage	No information available



Group of criteria	Type of information	France
J.	Recording of inspections	If there is a concern that there is violation of the waste shipment regulation, photographs are taken and documents are copied to be transmitted to the DRIRE for evaluation. A guide to undertaking inspections was under preparation in 2008.
	Equipment available	The high tech equipment used by French Customs could be considered as a risk-based approach to targeting and carrying out inspections. The detection equipment includes particle detectors, mobile scanning vehicles, density meters, X-ray machines for containers and customs/safety inspections of hold luggage, and radioactivity detectors. In addition, there are dog-handler teams assigned to drug and explosive detection, motorcycle officers, pilots and flight engineers, and seamen that work for the French Customs authority.
K.	Penalties/Prosecution	Administrative and criminal sanctions. A government bill which could be adopted in 2010 increases the sanctions for infringements of the WS Regulation
L.	Sampling plan	No information available
M.	Sufficient number of laboratory facilities	No information available
N.	Inspection reports available to the public	A charter has been adopted by the Inspection of classified installations to ensure transparency of the control activities.
0.	Task and duties sufficiently defined	No information available
P.	Sufficient competence of inspectorate staff	DRIRE inspectors are permanent civil servants recruited by the State and employed for the Ministry for Ecology and Sustainable Development, and subsequently deployed to the Regional DRIREs. They may be engineers or technicians. Engineers occupy more senior positions and the majority are recruited by way of competitive examination from four Ecoles des Mines, in Douai, Ales, Albi and Nantes. Entry to these institutions is very competitive and the resulting qualifications are highly regarded.
Q.	Training need assessment Training of new staff	Most training is provided centrally by the MEEDDM. Some training, however, is organised locally by DRIREs, using both internal and external trainers, as required. New entrants to the DRIRE, and those transferring or returning to the Environment Division from other Divisions, are given a Foundation Training Course before being allowed to carry out regulatory activities on their own authority. This comprises two separate weeks of training with an interval of three months between them, during which time practical, field training is given under the supervision of an experienced inspector. The first week comprises training on legal, governmental and administrative aspects together with instruction on the major principles of inspection and associated matters. The second week addresses the specific environmental issues, such waste management and control.
	Joint & mutual training	Most training is provided centrally by the MEEDDM and is open to inspectors from DRIRE, DDSV (Direction of veterinary services at the Departmental level), STIIC (Inspection of classified installations at the Departmental level), and the Ministry of Defense.
	Training on new developments	In 2009 new training sessions have been put in place for environmental inspectors regarding specifically transboundary shipments of waste. It was opened to customs, police, Prefectures and inspectors of classified installations. In 2010 similar trainings will be organised twice due to the success of these sessions.
	EU level training sessions	Yes



Group of criteria	Type of information	France
R.	Inspection activities compliant with ISO 9000	No information available
S.	Existence of MoUs	The French Ministry of Environment wishes to develop and build upon the cooperation between the three key governmental bodies (customs, national police, and the inspectorate for classified installations): training is currently being established for this objective, as well as eventual joint control and inspection operations.
т.	Promotion of waste shipment inspections	No information available
U.	Participation in EU level actions	Participation in IMPEL TFS actions
Sources		IEEP, BIO, Ecologic (2009) Study on inspection requirements for waste shipments, Annexes to final report, p. 87 - 259 MEEDAT (2008) Programme stratégique 2008-2012 de l'inspection des installations classées, available at: installationsclassees.ecologie.gouv.fr/IMG/pdf/PS_IIC_2008_2010.pdf and installationsclassees.ecologie.gouv.fr MEEDDM (2009) Plan d'action déchets 2009-2012, available at: www.developpement-durable.gouv.fr/IMG/le-plan-d-actions-dechets-2009-2012.pdf MEEDDM, Charte de l'inspection des installations classées, available at: installationsclassees.ecologie.gouv.fr/IMG/pdf/charteinspection.pdf (2001) Waste shipments - Factsheet France Interview of the IMPEL TFS national coordinator
Data on Illegal waste shipments		No information available



Group of criteria	Type of information	Germany
A.	Competent authorities	In Germany the Bundesländer (autonomous regions) have discretion over the execution of Waste Shipment Regulation. The Federal Environmental Agency is the body which represents Germany in this matter internationally. However, the federal level does not have any executive power with regard to execution.
	Nature and number of inspectors	According to the Federal Office of Goods Transport (BAG), There should not be too many inspectors at the checkpoint as this raises conspicuousness. In order to keep the controls effective, there should be inspections on changing checkpoints carried out by no more than 10-15 inspectors.
	Authorities involved	The waste shipment authorities (Länder authorities) are assisted by other Federal or Länderauthorities in carrying out the controls. With regard to road-based controls the Federal Office of Goods Transport (BAG), Customs and the police of the respective Land are the relevant authorities. The BAG has discretion over the control of goods transport regarding transport safety rules, compliance with social standards and environment (dangerous goods, waste shipments).
	Number of ports	Hamburg is the 2nd largest European port (8th worldwide) with 8,1MIn TEU (capacity in container transportation)
В.	Existence of a control strategy	No information available
C.	System for recording data	No information available
D.	Existence of risk assessment and risk profiling	A risk analysis is performed by the German Customs
	Prioritisation of risks	Studies and evaluations about the most threatening waste streams and routes of transports are currently under elaboration (2007).
E.	Cooperation with Police incl. transfer of information	In the region of Hamburg the police service is allowed to use the custom data base including information on ongoing transports and loads.
F.	Existence of plans	There are inspection plans in the Länder and in the BAG
	Characteristics of the Plan	The BAG has said that the most important factors of effective inspection planning is the attribution of responsibilities to inspectors, the identification of appropriate checkpoints and suitable equipment. In improving the effectiveness of planning, more inspections at night time should be planned as it is the experience of the BAG is that more illegal waste shipment is done at night time. In night inspections, additional equipment (lamps, etc.) is needed and the requirements for the checkpoint are more demanding.
G.	Plan reviewed after implementation	No information available
Н.	Existence of inspection programmes	No information available
I.	Description of the preparation stage	No information available



		Service
Group of criteria	Type of information	Germany
J.	Access to supporting documentation	Guidelines for inspection have been developed through the joint co-operation of the Federal States. (20 février 2008) Guidelines for the Execution of the Waste Shipment Regulation regarding Art. 50
K.	Penalties/Prosecution	Prosecutions are often inhibited by the question "waste or non-waste". There are up to 20 court decisions per year due to illegal waste shipment. There is also administrative punishment with fines. 15 cases of repatriation of waste were commanded and 163 fines were ruled − the highest number of fines since 2001. The total amount of 10,000 tonnes of waste was repatriated with a total sum of fines of 41,000 €
	Database dedicated to gather inspection findings	A database is established at the Federal Environmental Protection Agency (UBA)
L.	Sampling plan	No information available
M.	Sufficient number of laboratory facilities	No information available
N.	Inspection reports available to the public	No information available
0.	Task and duties sufficiently defined	No information available
P.	Sufficient competence of inspectorate staff	No information available
Q.	Description of Training sessions	Training of customs and police services. Training is provided under the umbrella of the Ministry of Finance to the custom service staff. The inspectors from BAG shall have basic physical-chemical training so that they can make the first decision if the waste shipment authorities have to be contacted and whether the transport has to be stalled
R.	Inspection activities compliant with ISO 9000	No information available
S.	Existence of MoUs	Structures for cooperation between national and regional authorities and amongst regional authorities are set in place and regular meetings are conducted at both levels to exchange information on new developments and cases and to harmonise procedures. Structures for cooperation between authorities responsible for notification and for detection and detention of illegal shipments (inspectorates, customs, and police) are set in place and information is communicated from one to the other especially to enable targeted controls and enlarge the pool of information for future suspicions.
	Joint investigations and inspections	In general, the BAG carries out the spot street controls alone or together with the police and Customs.
T.	Promotion of waste shipment inspections	No information available
U.	Participation in EU level actions	Participation in IMPEL TFS actions



Group of	Type of information	Germany
criteria		
Sources		ETC RWM (2008) Transboundary shipments of waste in the EU Developments 1995-2005 and possible drivers, Technical report 2008/1
		IMPEL TFS (2009) Enforcement actions, Up 2 date, 6 May 2009
		Bipro (2007) Organisation of awareness-raising events concerning the application and enforcement of Community legislation on shipment of waste, Final report, 30
		may 2007
		IEEP, BIO, Ecologic (2009) Study on inspection requirements for waste shipments, Annexes to final report, p. 87 - 259
		Interview of the IMPEL TFS national coordinator
Data on		IMPEL TFS (2009) Enforcement actions, Up 2 date, 6 May 2009
Illegal		
waste		
shipments		

10.6. HUNGARY

Type of information	Hungary
Competent authorities	National Inspectorate and 10 regional inspectorates
	Customs inspectorate and regional customs / Police.
	The customs offices are located at the border-crossing points but there are also mobile units.
Risk profiling and planning	No information available
Inspections	The customs service has established a 24 hour service call centre and a 24 hour hotline providing professional help within the shipment of waste
Cooperation	Inspectorate and customs have concluded a written bilateral cooperation agreement covering issues such as information flow, training, and mutual availability.
	Besides the attendance on training programmes the customs service also organises training programmes for an enhancement of more joint actions in order to avoid illegal shipment of waste.
Participation in EU level actions	Participation in IMPEL TFS Actions
Sources	Varga. P. (2008) Waste Shipment Regulation: Implementation and enforcement in Hungary, Workshop
	IEEP, BIO, Ecologic (2009) Study on inspection requirements for waste shipments, Annexes to final report, p. 87 - 259



10.7. IRELAND

Group of criteria	Type of information	Ireland
A.	Competent authorities	From 2007, Dublin City Council (DCC) is designated as the National Competent Authority for the export, import and transit of waste shipments. The Government provided around €500,000 to DCC to assist them in setting up a National TFS Office to implement and enforce the WSR. After becoming the Competent Authority for the country as a whole, established a presence in the key ports, such as Cork.
	Nature and number of inspectors	The dedicated Waste Enforcement TFS team authorised for all of the Republic of Ireland has the following powers: Supervise and monitor, Conduct inspections, Ports, Control of waste, Direction to Return Waste, Prohibit.
	Number of ports	Dublin is the major port for sea shipment, as it is for most types of cargo.
В.	Existence of a control strategy	No information available
C.	System for recording data	No information available
D.	Existence of risk assessment and risk profiling	No information available
E.	Criminal activity investigated	No information available
F.	Plan's execution verified by the authorities & review of the plan	EPA Audits were undertaken of 15 local authorities in 2007 looking at the implementation of their inspection plans and statutory responsibility and the National Environmental Complaints (EMI Audits). Some of these plans were not finalised until well into 2007 and their coverage and quality was variable.
G.	Plan reviewed after implementation	No information available
н.	Existence of inspection programmes	No information available
I.	Description of the preparation stage	No information available
J.	Access to supporting documentation	Ireland has adopted 'Guidelines for Exporting Waste from, and Importing Waste to, the Republic of Ireland'.
K.	Reports of inspections	An Office for Environmental Enforcement has been set in place to oversee the local environmental authorities and to investigate past illegal shipment cases
	Penalties/Prosecution	The Enforcement Policy in respect of Unauthorised Waste Activities should set out an appropriate mix of civil and criminal law remedies. These include, but may not be limited to, administrative measures, civil remedies and criminal sanctions. The Environmental Enforcement Network (EEN) was created in 2004 to provide a vehicle for public bodies involved in environmental protection and regulation to work together to achieve more consistent and effective enforcement of environmental legislation.
L.	Sampling plan	No information available
M.	Sufficient number of laboratory facilities	No information available



Group of	Type of information	Ireland
criteria		
N.	Inspection reports available to the public	No information available
О.	Task and duties sufficiently defined	No information available
P.	Sufficient competence of inspectorate staff	No information available
Q.	Training need assessment	A database maintains training records for each member of staff, with appropriate reminders of dates for refreshment of skills
	Description of Training sessions	Each EPA inspector has an annual appraisal, with mid-year review, by his or her line manager. This includes identification of any training needs including nil returns, which are then entered into personal training plans and into the overall requirement for training provision within EPA.
	Costs	Training courses may be provided externally, internally with external trainers, and internally with internal staff. The practical limits on access to training are availability of inspector time and the corporate budget allocation for the training function.
	Training of new staff	For the most junior inspectors, the only requirement is for an appropriate scientific or technical degree together with two years of relevant experience, which may include time spent on gaining a Masters degree or a Doctorate. New recruits generally undergo "on-the-job" training by an EPA colleague, acting as a mentor.
R.	Inspection activities compliant with ISO 9000	No information available
S.	Existence of MoUs	The Environmental Enforcement Network (EEN) was created in 2004 The Office for Environmental Enforcement is coordinating a regular network meeting.
	Joint planning processes	In the Republic of Ireland, an Office for Environmental Enforcement has been set in place to oversee the local environmental authorities and to investigate past illegal shipment cases. The Office for Environmental Enforcement is as well coordinating a regular network meeting (every 6 weeks) for local authorities dealing with cases of fly tipping, backyard burning activities, waste transports and C&D waste for exchange information. The collaboration is a useful element within the 'cradle to grave' approach to gather information and intelligence (intelligence sharing agreement between Republic of Ireland and Northern Ireland) about the whole life chain of the transported waste.
	Joint investigations and inspections	A working group under the Environmental Enforcement Network was set up to deal with illegal waste movements out of the Republic of Ireland. This working group uses the combined skills of the local authorities, the EPA, government departments, An Garda Síochána, the National Bureau of Criminal Investigations, and the Environment and Heritage Service in Northern Ireland to identify the issues that need to be tackled in relation to TFS and to work together towards better enforcement. On basis on the Road Map joint actions between the Republic of Ireland and Northern Ireland to detect and repatriate illegally disposed of waste were
		realised in 2006.
т.	Promotion of waste shipment inspections	Publicity of enforcement of waste shipment legislation on TV, through press releases and the internet is useful to spread information on the importance of regulation, and increase acceptance.
U.	Participation in EU level actions	Participation in IMPEL TFS actions



Group of criteria	Type of information	Ireland
Sources		IEEP, BIO, Ecologic (2009) Study on inspection requirements for waste shipments, Annexes to final report, p. 87 - 259 Bipro (2007) Organisation of awareness-raising events concerning the application and enforcement of Community legislation on shipment of waste, Minutes United Kingdom, 30 May 2007 www.epa.ie Interview of the national IMPEL TFS coordinator
Data on Illegal waste shipments		No information available

10.8. ITALY

Type of information	Italy
Competent authorities	The Italian MoE is the competent authority for waste transit issues, but responsibility for export and imports is at the level of regions and provinces. In total this involves up to 67 different competent authorities and this presents a challenge for co-operation and co-ordination
	The NOE, the environmental police department currently is the major control instance for all illegal activities with environmental impacts. The NOE is a nationwide centralised organisation with 29 "nuclei" distributed all over the country.
Risk profiling and planning	NOE Inspections are based on risk assessments of sources and as far as possible work shall be preventive
Inspections	For waste shipments NOE performs inspections in order to check the authorisation of transports, or carriers, composition of wastes (including chemical analysis), destinations, contracts, transport routes.
Cooperation	The NOE has an official cooperation agreement with environmental agencies (ARPA) and participates in an international exchange network with colleagues from other Member States and third countries via EUROPOL and INTERPOL.
	Customs and NOE in 2005 signed an accord on monitoring of transboundary transports of waste. This includes the exchange of risk profiles and intelligence
	Customs services receive training on waste issues organised from the customs headquarters in Rome
Participation in EU level actions	Low participation in IMPEL TFS actions
Sources	IEEP, BIO, Ecologic (2009) Study on inspection requirements for waste shipments, Annexes to final report, p. 87 – 259



Type of information	Malta
Competent authorities	Environment Agency/ Police
	Police/Land Traffic
	Customs
Risk profiling and planning	Malta is planning national initiatives to improve its enforcement capacity.
Inspections	In excess of 20 000 tonnes of waste transits Malta, it has the third largest merchant shipping fleet and 30% of the worlds shipping passes through Malta Freeport
Cooperation	Malta has experienced problems arising from the sea boundaries it shares with other EU states. Sometimes coastguards from other EU states find illegal waste shipments passing through the waters that border themselves and Malta. These ships may then send to Malta for them to deal with the illegal shipment, resulting in further pressure on Malta.
Participation in EU level actions	Participation in IMPEL TFS actions
Sources	Jill Dando Institute of Crime Science, University College London, Environment Agency England and Wale (2005) The illegal shipment of waste among IMPEL Member States

10.10. POLAND

Group of criteria	Type of information	Poland
A.	Competent authorities	The legal framework was revised in 2007. The National Chief Inspectorate for Environmental Protection is the competent authority for notification.
	Nature and number of inspectors	50 inspectors in Poland work exclusively in the area of waste shipments
	Authorities involved	The Voivodeship Inspectorates perform inspections in cooperation with Border Guards, Road Transport Inspection, Customs and Police.
В.	Existence of a control strategy	No information available
C.	System for recording data	No information available
D.	Existence of risk assessment and risk profiling	Use of risk profiles for targeted inspections Use of intelligence information for establishment of risk profiles and targeted inspections Risk assessment are done in practice but are not formalised
E.	Criminal activity investigated	Start of corresponding cooperation with police, in order to assure effective prosecution of offenders (2007).



		Service
Group of	Type of information	Poland
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F.	Existence of plans	The regional authorities undertake annual inspection planning, while the national Chief Inspectorate can lay down certain priorities. This yearly planning is updated
		monthly according to current needs and events.
		monthly decording to earlier needs and events.
	Characteristics of the Plan	Studies and evaluations about the most threatening waste streams and routes of transports are currently under elaboration (2007)
	Characteristics of the Flan	
G.	Plan reviewed after implementation	No information available
н.	Existence of inspection programmes	Specific programme for customs inspections for illegal shipment of waste
I.	Description of the preparation stage	No information available
J.	Access to supporting documentation	Guidance and information pools are provided or are currently developed (2007)
	Equipment available	Use of scanners as screening tool for further focus visual inspections in case of suspicious papers
K.	Penalties/Prosecution	Reports of environmental inspectors cannot be used in case of prosecution; Inspectors are called to court as witnesses (2007)
L.	Sampling plan	No information available
M.	Sufficient number of laboratory facilities	No information available
N.	Inspection reports available to the public	No information available
О.	Task and duties sufficiently defined	No information available
P.	Sufficient competence of inspectorate	No information available
	staff	
Q.	Description of Training sessions	There are two training sessions per year hosting each time approx. 70 persons which include 50-55 inspectors from all the regional inspectorates, staff of waste
		shipments unit in Chief Environmental Protection Inspectorate and representatives of headquarters of police, customs, border guards and road transport. The
		sessions are organised in training centres and last 2 days. In 2010 additional training sessions will be put in place for customs, border guards and the Police.
	Training need assessment	Efforts in information and education of enforcement authorities
	Joint & mutual training	Joint training has been identified as a good practice undertaken by Poland
R.	Inspection activities compliant with ISO	No information available
	9000	
S.	Existence of MoUs	Signed agreement for better cooperation between road inspectorate, customs, border guards and environmental inspectors in terms of mutual support,
-		information exchange, joint training
	Difficulty to reach MoUs	Well established cooperation at central and regional level
	,	
T.	Promotion of waste shipment inspections	No information available



Group of criteria	Type of information	Poland
Critcria		
U.	Participation in EU level actions	Participation in IMPEL TFS actions, in 2009, 6 inspectors were sent from Poland to Belgium, Lithuania and The Netherlands
Sources		Bipro (2007) Organisation of awareness-raising events concerning the application and enforcement of Community legislation on shipment of waste, Final report, 30 may 200 Interview of the IMPEL TFS national coordinator
Data on Illegal waste shipments		As regards transports of mixed household waste, a major involvement of organised crime is assumed. In 2006 officers of Polish Border Guard returned approx. 1,928 vehicles transporting waste with violation of provisions of Waste Shipment Regulation. The majority of transports i.e. 1,227 was returned on Polish-German border.

10.11. PORTUGAL

Type of information	Portugal
Competent authorities	Relevant authorities include the Ministry of Environment, the Portuguese Environmental Agency (APA), the Environmental Inspectorate (IGAOT), the Customs and the Environment Police (National Republican Guards).
Nature and number of inspectors	The APA responsible department is the technical department of waste management operations with human resources of 5-6 experts.
Competences of authorities involved	Enforcement authorities are the Environmental Inspectorate (IGAOT), the Environment Police—National Republican Guards (GNR/SEPNA) and the customs services (DGAIEC). The IGAOT comprises 6 inspection departments with the transport inspections being one of them. The Customs are responsible for harbour controls.
Information collection & analysis	Notification data are stored and processed in an electronic data base.
Sampling and analysis	IGAOT plays the major role in mobile inspections and detection of illegal transports including the authority to take samples, make analysis and impose administrative fines.
Joint investigations and inspections	Both Customs and Police regularly collaborate with the Environmental Inspectorate and APA. Customs controls are organised in all harbours whereas controls at the border with Spain are in the responsibility of the National Republican Guards and the IGAOT. The collaboration between all involved authorities seems is well established and joint inspections are regularly performed.
Promotion of waste shipment inspections	No information available
Participation in EU level actions	Participation in IMPEL TFS actions
Sources	IEEP, BIO, Ecologic (2009) Study on inspection requirements for waste shipments, Annexes to final report, p. 87 – 259



10.12. SPAIN

Type of information	Spain
Competent authorities	The national Ministry of the Environment is responsible for the authorisation and inspection of waste shipments from Spain to third countries not belonging to the EU. The autonomous communities have to cooperate with the central government, and where necessary apply the sanctioning system. The MoE is also competent for the control of waste shipments in transit through Spain, where it again has to be supported by the authorities from the autonomous communities affected.
	The authorisation, control, inspection and sanction of shipments between Spain and other EU countries are in the responsibility of the corresponding autonomous community.
Risk profiling and planning	Controls and inspections at the ports and on transport routes are basically not carried out on a regular basis. Fixation of routing and actual date of shipment in movement documents is not conform to needs of practical transport (maritime transports change routes commonly; terrestrial transport needs flexibility in routing due to varying traffic conditions) (2007)
Inspections	Pilot software for notification process including automatic translation tool and a lists of authorised treatment installations at destinies is under development (2007)
Cooperation	Lack of structures for cooperation between national and regional authorities and amongst regional authorities / Guidance documents for a harmonised procedure within the country and information about threatening material are missing Cooperation of permit authorities, customs and police services and environmental inspectorates is not well established
Participation in EU level actions	Participation in IMPEL TFS actions but not in the Enforcement II Project Cooperation with other member states and third countries is occasionally difficult. Deficits in information transfer, addressing of the wrong contact persons / authorities, significant delays in information exchange (Bipro, 2007)
Sources	Bipro (2007) Organisation of awareness-raising events concerning the application and enforcement of Community legislation on shipment of waste, Final report, 30 may 2007



Group of criteria	Type of information	Sweden
A.	Competent authorities	Enforcement: Ministry of Environment, the Swedish Environmental Protection Agency (SEPA), 21 county administrative boards (CAB) and 290 municipalities. The SEPA is the competent authority for shipment of waste (notifications, international contacts, networking and cooperation at national level and guidance/education of regional and local enforcement authorities).
	Nature and number of inspectors	Within SEPA 3 experts are working on shipment of waste, but practical enforcement is shared between county administrative boards (21) and municipalities (290)
	Competences of authorities involved	Responsibility for regional environmental issues rests with the Environmental Protection Departments and the Environmental Licensing Delegations (ELD) of the CABs. CAB can visit installations, have direct contacts with notifiers and have the administrative powers to set specific requirements or to set up prohibitions. Consequently they can start prosecution proceedings in case of offences detected and can inform the SEPA about any deficits in adherence to the regulation observed. Coast guards have administrative power to randomly open and search containers in harbours. Customs comprise 2 000 employees responsible for customs clearance (taxes), law enforcement (smuggling) and other tasks. Waste however, is not included in the list. Law enforcement and trade managing units receive notifications from SEPA. The municipalities are responsible for carrying out inspections and enforcement to protect the environment and public health. In addition, they deal with chemical products and waste within the municipality, except for those Environmental Hazardous Activities that require a permit according to the Environmental Code.
	Number of ports	The harbour of Stockholm is the third in size in Sweden (behind Gothenburg and Helsingborg) with an annual activity of 27 000 TEU.
В.	Assessment of the nature of the problem	A lot of effort has been spent trying to give a concrete form to the problems involved, to discuss the definition of waste and to give examples of areas of specific concern in waste. Interviews with companies involved were carried out (2008)
C.	System for recording data	In 2007 almost 98% of all customs declarations were made electronically. The numbers of the permits have to be in the declaration. Copies of the permits from SEPA are sent to the Customs. They are scanned into a computer system and all Customs Officers working at the Clearance offices have access to the permits.
D.	Existence of risk assessment and risk profiling	Swedish customs conduct a national threat assessment every two years, for the use of customs management and customs officers. The results of the assessment are used for making decisions about the direction of customs activities and prioritisation of current problems.
E.	Criminal activity investigated Cooperation with Police incl. transfer of information	Informal network including police, regional and local authorities, legal enforcement officials and customs representatives. The National Criminal Investigation Department is responsible for the supervision and protection of sensitive transports. The County Administrative Boards are responsible for co-operation between local authorities, regional prosecutor and the police. Transport controls of police currently are directed exclusively by the dangerous goods legislation and are focusing on safety issues (protection drivers, workers). The police legal code does not contain any legal powers that would support preventive environmental issues. However, a Working group on good practice in the field of environmental crime is established at EUROPOL. The police forensic service is equipped to sample and monitor environmental media, and gathers evidence to support the police in prosecutions for environmental crimes.



		Service
Group of criteria	Type of information	Sweden
F.	Existence of plans	Environmental inspection and enforcement on installations and other activities in Sweden are planned and carried out at regional and local level by the 21 CABs and the 290 municipal Environment and Public Health Committees. They prepare an annual plan setting out the inspection priorities and estimated inspection requirements for the coming year. This plan is based on regional and local environmental objectives that reflect national objectives.
	Characteristics of the Plan	It was recognised that this is a robust arrangement for planning work activities but that it might be improved by early implementation of the proposed, systematic, risk-based approach to inspection planning.
G.	Plan reviewed after implementation	The inspection and enforcement authorities regularly follow up and evaluate their activity planning, and subsequent implementation, in order to improve inspection efficiency. The results of this follow-up and evaluation are used as input for new inspection plans.
	Review of the plan 3 month before the end of the plan period & within 3 month after	In the CABs, the annual planning of activities, budget, and staffing addresses allocation of employee time to their various duties, including inspection, in a way that can be reviewed and compared with other CABs. Plans are made at both unit and individual level, and are reviewed every four months.
н.	Existence of inspection programmes	Environmental inspection and enforcement on installations and other activities in Sweden are planned and carried out at regional and local level by the 21 CABs and the 290 municipal Environment and Public Health Committees.
l.	Description of the preparation stage	No information available
J.	Recording of inspections	The authorities in charge of inspection and enforcement must keep records of all activities and operations for whose inspection they are responsible.
	Access to supporting documentation	Currently (July 2009) SEPA has produced drafts of guidance intended for the County Administrative Boards and municipalities. These are a checklist for cross border transport of waste and a guidance for the use of the checklist for cross border transport of waste
	Physical check/Functionality of items checked	Physical control of the cargo is currently only performed by coast guards which check containers for safety risks under the dangerous goods regulation
	Equipment available	A scanner is not available at the Stockholm harbour and sealed containers will not be weighted for control (2008).
К.	Reports of inspections	After the inspection the inspector always ought to complete an inspection report.
	Penalties	Higher priority has been attributed to environmental crime since 2000. From 800 prosecutors in Sweden 22 are working with environmental crime. However, according to the environmental prosecutor Jörgen Lindberg, the current situation is such that those transporting waste illegally have nothing to fear. Indeed under current legislation (2008) only completed smuggling can be fined as a crime whereas the attempt to commit an offence (illegal shipment) is explicitly excluded from penalties. Consequently in case of an illegal waste exports detected on Swedish territory the responsible person/institution can only be made liable for take back but cannot be fined in addition for committing the action itself. There is no penalty sanction in the existing environmental code. A separate ordinance specifies the infringements for which inspection authorities can impose environmental penalty charges, as well as the respective levels of charge.
L.	Sampling plan	No information available
M.	Sufficient number of laboratory facilities	No information available
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Group of criteria	Type of information	Sweden
N.	Inspection reports available to the public	No information available
0.	Task and duties sufficiently defined	No information available
P.	Sufficient competence of inspectorate staff	In the municipalities, for the purposes of inspection and enforcement, new recruits are required to have a university degree. At the CABs, the requirements for recruits to the inspection and enforcement functions are similar to those in the municipality, although there is a greater preference for graduates with qualifications in engineering, chemistry and geology. In recruiting personnel, the authorities consider the actual tasks the inspector will have to undertake, and what competences the relevant team already possesses.
Q.	Description of Training sessions	The Enforcement and Regulation Council has listed special courses for inspectors. There are courses ranging from five days (e.g. for further inspector training) to 4 years duration (e.g. for a Masters qualification as Environmental and Health Inspector) that are available at eight universities. Some of the courses provided by these universities can be completed by 'distance learning'.
	Training of new staff	At the CAB, new staffs are supervised for at least six months, by an experienced mentor, to ensure they have sufficient practical experience before being given the authority to sign official, regulatory documents. In respect of the readiness of a new recruit to conduct inspections, inspectors work in pairs, allowing for a new recruit to be paired with an experienced colleague. A CAB has a training plan in place for new members of staff that includes: Several training courses, including an obligatory five-day course on the Administrative Code; Mentorship; Weekly staff meetings on new developments.
	Training on new developments	Weekly staff meetings on new developments for new staff. Additionally several courses and workshops are organised by SEPA for CAB and municipality inspectors, e.g. on new developments, including EU developments
R.	Inspection activities compliant with ISO 9000	No information available
S.	Existence of MoUs	SEPA has established an informal network including police, regional and local authorities, legal enforcement officials and customs representatives meeting 2-3 times a year. Only representatives of the municipalities and regions of Gothenburg and Stockholm are participating in these meetings. Only representatives of the municipalities and regions of Gothenburg and Stockholm are participating in these meetings. Consequently there is a real lack of expertise in all the other regions/municipalities.
T.	Promotion of waste shipment inspections	No information available
U.	Participation in EU level actions	Participation in IMPEL TFS actions
Sources		IEEP, BIO, Ecologic (2009) Study on inspection requirements for waste shipments, Annexes to final report, p.87 - 259 ETC RWM (2008) Transboundary shipments of waste in the EU Developments 1995-2005 and possible drivers, Technical report 2008/1 Waste Shipment - Factsheet Sweden



Group of criteria	Type of information	Sweden
Data on Illegal waste shipments		A recent report (SwedWatch, 2009) analysed national statistics for shipments of electronics that have been declared as actual products and not waste and the figures indicate (price per item etc.) that parts of the exported electronic goods are likely to be waste or second-hand products with unknown additional life-time. Africa and the Middle East seem to be the most important recipients. In the framework of the IMPEL TFS Sea-port II project 1 100 physical checks of cargo have been performed in the ports of Gothenburg and Stockholm, of which >50% turned up to be illegal for various reasons. Material detected were PCB containing compressors, cable waste, CFC containing WEEEs stuffed in second hand cars and even a stolen car. (IMPEL, 2006)

10.14. THE NETHERLANDS

Group of	Type of information	The Netherlands
criteria		
A.	Competent authorities	The Minister of Housing, Spatial Planning and the Environment (VROM) is the competent authority and is authorised to take enforcement action
	Nature and number of inspectors	The VROM Inspectorate is organised in five regional offices: Northern region (Groningen, Friesland and Drenthe), Eastern region (Overijssel and Gelderland), Northwestern region (Utrecht, North Holland and Flevoland), South-western region (South Holland and Zeeland) and Southern region (North Brabant and Limburg), as well as an Inspectorate-General and a Support Unit in The Hague. Overall VROM has about 30 staff focused on implementing the WSR
	Authorities involved	Example in Rotterdam: 8 inspectors of customs, Police: 2, Harbour Police: 3, Railroad Police: 2, Traffic inspectorate: 2 Customs operate at the ports. It was recognised at an early stage that the role of the Customs is critical in achieving the objectives of the WSR. As a result, in Rotterdam VROM has developed very close working relationships with customs. The National Police Services Agency carries out independent controls. The controls of the National Police Services Agency are aimed at shipment streams by road, water and rail.
	Number of ports	Rotterdam = 1st largest port in Europe (7th worldwide) with 9,3 Million TEU
В.	Existence of a control strategy	In order to be able to use the available manpower efficiently, the Inspectorate for Housing, Spatial Planning and the Environment has developed a compliance strategy. The compliance strategy sets out a number of basic principles for the Inspectorate, including the compliance deficit, the reasons for non-compliance, opportunities to cooperate on enforcement, and prioritisation. These priorities essentially only apply to the Inspectorate, but they are also sent to the enforcement partners in the form of a 'letter of priorities'.
	Information collection & analysis	Employees of the VROM Inspectorate and its network partners are responsible for supervising compliance with and investigating infringements of the WSR. Each organisation has its own registration system for recording shipment information for enforcement purposes.
C.	System for recording data	No information available



Group of	Type of information	The Netherlands
criteria		
D.	Existence of risk assessment and risk profiling	A risk-based approach
	Risk assessment used in further planning documents	The Inspectorate sets its enforcement priorities each year on the basis of this classification.
	Prioritisation of risks	A risk-based approach to assessment of the likelihood of non-compliance with all environmental legislation is undertaken for various types of waste activities. The National Waste Plan examined about 80 waste streams, checking each against a series of risk factors. This has to be done every year, taking account, for example, of changing markets in China, demand for raw materials, etc.
E.	Cooperation with Police incl. transfer of information	VROM co-operates closely with the police.
F.	Existence of plans	National Waste Plan
		For waste arising in the Netherlands, control under the WSR is part of a larger control planning strategy for waste management.
G.	Plan reviewed after implementation	No information available
Н.	Existence of inspection programmes	No information available
l.	Description of the preparation stage	Road controls involve mobile controls and static controls.
J.	Recording of inspections	The inspector notes the registration number and operator of the vehicle, together with the type of waste being transported, on a report form. This enables waste transport flows to be monitored over time and any trends to be identified.
	Access to supporting documentation	For the purposes of enforcing the WSR, a simple guide on how to act when an infringement is detected, has been in use for some time now (2008). This Werkmap EVOA, which is also available in digital form, consists of a collection of policies and regulations relating to the WSR. During an inspection, an enforcer can consult his or her own organisation's registration system and the LMIP for additional information If the enforcers or VROM Inspectorate employees have any questions about a situation they have observed, they contact the LMIP. When a member of the network approaches the LMIP, the LMIP will first attempt to deal with the case by telephone by providing information and advice on how to handle it. The LMIP checks whether the company is known in the VROM Inspectorate's Holmes database. If the case is extremely complex or if administrative action needs to be taken, an LMIP employee will forward the case to an employee in the relevant Inspectorate regional office for further processing. When inspecting, inspectors are all supplied with a USB stick which contains all of the necessary documentation to support their activities
	Physical checking/Functionality of items checked	Road controls: Wherever possible, the load is physically inspected. The description of the waste in the documents is compared to the actual load. Samples may be taken for further analysis.
	Equipment available	A container scanner is available
К.	Penalties/Prosecution	Serious infringements are always subject to an official report as a matter of principle, minor /medium infringements are not subject to criminal-law action Criminal-law enforcement is the responsibility of the Public Prosecution Service. The competent authority may recover the costs of taking the enforcement action from the infringer.



		Service
Group of	Type of information	The Netherlands
criteria		
L.	Sampling plan	Taking samples for testing is not common.
		100 000 Euros each year are allocated to sampling.
M.	Sufficient number of laboratory facilities	No information available
N.	Inspection reports available to the public	No information available
0.	Task and duties sufficiently defined	No information available
P.	Sufficient competence of inspectorate	No information available
	staff	
Q.	Training need assessment	Annually, the team leader and the team member will meet to discuss the working programme for the next year and skills and competencies needed to carry it out in a proper way. This programme will set out specific details of the tasks the team member will undertake to meet his or her contribution to the team work program,
		also in accordance with the budgets available.
		also in accordance with the budgets available.
	Description of Training sessions	New VROM staff responsible for WSR undergoes three days training. This is undertaken at the Police Academy. VROM did train Customs officers, but now they are in
		a position to train themselves, with VROM supplying information for courses as necessary.
		Training courses topics include changes in legislation working systems, English; how to take samples; a long course on the WSR; administrative controls; safety
		measures; etc
	Training of new staff	
		New staff are recruited by advertisement. Their applications are assessed for the level of knowledge (education), experience (including competencies), behaviour
		(team player, communication skills) and flexibility. New recruits will normally have a Bachelor level in Environmental Science or Management or a Technical
		Direction. The probationary period for new recruits is one year during which they have to prove that they can operate as fully-skilled civil servants in this field of
		work or at least have the potential to become so soon. Each new recruit will have an experienced inspector as a mentor.
	Joint & mutual training	Contains the fiber base full state and in MCD instruction and are undertained. His contains a selection and a contains and a contains a selection and a selecti
		5 Customs staff have been fully trained in WSR inspection and can undertake all inspection roles (training courses began in the early 1990s). They can call in VROM when particular advice is needed and there are, therefore, dedicated contact personnel.
	Training on new developments	when particular advice is needed and there are, therefore, dedicated contact personner.
	maning on new developments	Yes
	EU level training sessions	
	_	Participation in IMPEL exchange programmes
R.	Inspection activities compliant with ISO	No information available
	9000	
S.	Existence of MoUs	The VROM Inspectorate has entered into cooperation agreements with the KLPD and the Tax and Customs Administration, declarations of intent with the IVW and
		cooperation agreements with two regional police forces. MoU between VROM inspectorate and customs and between VROM and the Police
		A formal MoU has been agreed with the England and Wales Environment Agency
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	Difficulty to reach MoUs	No major difficulty
T.	Promotion of waste shipment	Information-driven enforcement will be a spearhead. There will be cooperation with other authorities in order to strengthen the joint information position and to
	inspections	promote an equal level of compliance in the EU (2008)



Group of	Type of information	The Netherlands
criteria		
U.	Participation in EU level actions	Participation in IMPEL TFS actions
		In relation to the IMPEL project Enforcement Action II they exchange about between 6-10 persons a year. These exchanges last about three days.
Sources		ETC RWM (2008) Transboundary shipments of waste inthe EU Developments 1995-2005 and possible drivers, Technical report 2008/1 IMPEL TFS (2009) Enforcement actions, Up 2 date, 6 May 2009 Roelofs J., Road Transport inspections Vernieuwing Toezicht (2009) Water Transport Supervision Plan 2009 IEEP, BIO, Ecologic (2009) Study on inspection requirements for waste shipments, Annexes to final report, p. 87 - 259 Van Houten J., Let's join forces to stop waste dumping, VROM Interview of the IMPEL TFS national coordinator
Data on Illegal waste shipments		Shipments of notified waste out of the Netherlands increased significantly from 400 000 tonnes in 1997 to 3 800 000 tonnes in 2003

10.15. UK

Group of	Type of information	UK
criteria		
A.	Competent authorities	The competent UK authorities of destination and dispatch of waste shipments are: the Environment Agency (for England and Wales), the Scottish Environment Protection Agency (for Scotland) and the Department of the Environment (for Northern Ireland). The Secretary of State is the competent authority for the marine area (except in relation to waste vessels in the area landward of the baselines submerged at mean high water springs) and for shipments transiting the UK.
	Competence of authorities involved	Under the Transfrontier Shipment of Waste Regulations 2007 (implementing the WS Regulation 1013/2006 EC), there is provision for enforcement to be by the competent authorities, which are given powers to serve enforcement and prohibition notices and to seize wastes. There are also powers to competent authorities to enable them to carry out their take-back functions under the Community Regulations as well as powers to officers of HM Revenue and Customs to detain waste for up to five days where requested to do so by a competent authority.
B.	Existence of a control strategy	The Waste Strategy for England, published in May 2007, along with its Annexes and the Planning Policy Statement 10 Planning for Sustainable Waste Management (PPS10) is part of the implementation for England of the requirements within the Framework Directive on Waste, and associated Directives, to produce waste management plans. UK Plan for Shipments of waste. The Plan is legally binding and provides the means to implement the Government's long-standing policy of self-sufficiency in waste disposal. Whilst preserving legitimate trade in wastes moving for recovery, the Plan contains guidance to combat "sham recovery". The Plan also incorporates technical guidance to assist UK competent authorities in taking decisions on proposed shipments notified under the WSR.
	Assessment of the nature of the problem	Additionally, the Securing Compliant Waste Export project seeks to identify what is currently happening in terms of illegal waste shipments and creating a 'control strategy' to address the problem.
	Information collection & analysis	Extracts of the strategy document:"With local authorities, the Agency will tackle illegal waste practices, develop better data gathering on the scale and nature of illegal waste activity and fly-tipping and implement the new powers contained in the Clean Neighbourhoods and Environment Act 2005."



		₩ Service
Group of	Type of information	UK
criteria		
C.	System for recording data	No information available
D.	Existence of risk assessment and risk profiling	Threat Assessments have been carried out to identify problematic waste streams and to better understand the waste chain.
	Prioritisation of risks	Studies and evaluations about the most threatening waste streams and routes of transports are currently under elaboration (2007)
E.	Criminal activity investigated	Communication and cooperation between environmental crime teams in the different Environment Agency regions and areas is reported to be not optimal.
	Cooperation with Police incl. transfer of information	The Environment Agency has an excellent working relationship with the police.
F.	Existence of plans	At regional level there are Regional Spatial Strategies (RSSs)
G.	Plan reviewed after implementation	No information available
н.	Existence of inspection programmes	At local level there are development plan documents.
I.	Description of the preparation stage	No information available
J.	Access to supporting documentation	The Environment Agency does not have specific guidance related to the undertaking of waste shipment inspections. However, various procedures and guidance are applicable. For example, guidance on opening freight containers is given by the UK Health and Safety Executive The Environment Agency has produced a standard form to provide to transporters/exporters of EEE/WEEE to address the issue of helping to identify whether the cargo is waste.
K.	Penalties/Prosecution	The UK conducted 18 repatriation procedures within the last year and prosecuted 8 cases. Lack of appropriate sanctions available to the Environment Agency to punish organisations involved in illegal shipments of waste. For example, there is no real sanction for misdescription of waste on the paperwork accompanying a waste shipment, other than a warning not to do it again. In 2009 the Environmental Agency issued guidance for its enforcement and prosecution policy, including responses to specific failures to comply with waste shipment regulations.
L.	Sampling plan	No information available
M.	Sufficient number of laboratory facilities	No information available
N.	Inspection reports available to the public	No information available
0.	Task and duties sufficiently defined	No information available
P.	Sufficient competence of inspectorate staff	No information available



Group of criteria	Type of information	UK
Q.	Joint & mutual training	Training of customs and police services
	EU level training sessions	Yes
R.	Inspection activities compliant with ISO 9000	No information available
S.	Existence of MoUs	The collaboration with other authorities (Customs, Maritime and Coastguard Agency, Police) follows a pragmatic approach on a case by case basis.
	Joint planning processes	Controls and inspections are carried out on a regular basis from the custom services, the police, the police, and the competent authority or as joint actions especially at large container ports but as well throughout transport routes and in waste generation and treatment facilities.
	Joint investigations and inspections	Structures for cooperation between authorities responsible for notification and for detection and detention of illegal shipments (inspectorates, customs, and police) are set in place and information is communicated from one to the other especially to enable targeted controls and enlarge the pool of information for future suspicions.
		Structures for cooperation between national and regional authorities and amongst regional authorities are set in place and regular meetings are conducted at both levels to exchange information on new developments and cases and to harmonize procedures.
	Sharing of data	The Environment Agency has an excellent working relationship with the police, but relations with other relevant bodies, such as customs and immigration, need to be developed. One example of where this could be beneficial is the Customs Handling of Import and Export Freight (CHIEF) system, which records the movement of goods by land, air and sea into and out of the UK. The CHIEF system does not currently alert customs officers to illegal shipments of waste (as such shipments are a low priority for customs officials), even if paperwork for the shipment has been filled out incorrectly. If the Environment Agency could gain access to the CHIEF system, this could be extremely useful for identifying and tracking illegal waste shipments. Customs have, however, agreed to enter some 'ghost profile' waste shipments into the CHIEF system to test how efficient it might be for identifying illegal shipments.
т.	Promotion of waste shipment inspections	Good practice identified in the UK: Publicity of enforcement of waste shipment legislation on TV, through press releases and the internet is useful to spread information on the importance of regulation, and increase acceptance
U.	Participation in EU level actions	Participation in IMPEL TFS actions
Sources		Bipro (2007) Organisation of awareness-raising events concerning the application and enforcement of Community legislation on shipment of waste, Minutes United Kingdom, 30 May 2007 Bipro (2007) Organisation of awareness-raising events concerning the application and enforcement of Community legislation on shipment of waste, Final report, 30 may 2007 IEEP, BIO, Ecologic (2009) Study on inspection requirements for waste shipments, Annexes to final report, p. 87 - 259 ETC RWM (2008) Transboundary shipments of waste in the EU Developments 1995-2005 and possible drivers, Technical report 2008/1
Data on Illegal waste shipments		Problems include "waste tourism" and the fact that most of the waste exports are not wastes classified as hazardous, but as green listed waste.