
THE ENFORCEMENT PROJECT ON TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTE WITHIN EUROPE

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SUMMARY

In this paper general impressions are given of the findings of an enforcement project concerning the transboundary movements of hazardous waste within Europe. Background information on E.C - legislation as well as the set-up and results of the project are provided. The project has been carried out by five European countries in order to optimize the enforcement of environmental legislation.

1 INTRODUCTION

1.1 European legislation

As a result of problems caused by dioxin-containing waste after an explosion in a factory located in Seveso, Italy, 1984, the European Community (E.C.) drew up Directives in order to control the processing and transboundary shipments of hazardous waste. The hazardous waste of Seveso disappeared and was accidentally found in a shed in the North of France.

These Directives imply, among other things, that the concerned authorities should approve transboundary shipment of hazardous waste before actual transport has taken place. These transports should be notified (notification of disposal and notification of receipt) and should be accompanied by special documents, containing specific data for that particular transport.

Each member state is bound to accommodate national legislation implementing these Directives.

1.2 BASEL: Treaty and OECD recommendations

In Basel, early in 1989, agreements were reached about the transboundary shipments of hazardous waste. A treaty, that was to be called the 'Basel-Convention', was signed by several countries, who all agreed to incorporate the provisions of the Basel Convention in the already existing national legislation.

Apart from the European Directives and the Basel Convention, the OECD, the Organisation for Economic Cooperation and Development, has also addressed the question of hazardous waste shipments. The Waste Management Policy Group, created in 1974 by the OECD Environment Commission to contribute to sustainable development, is primarily concerned with conceiving, developing and promulgating international policy instruments to promote appropriate waste management.

Since 1980 the Group has concentrated on hazardous waste with special emphasis on the control of its transboundary movement. Their work has led to the OECD Council's adopting eight recommendations.

These efforts laid the foundation for the Basel Convention on Transboundary Movements of Hazardous Wastes and Their Disposal, which came into force on 5 May 1992 for those countries which had ratified this Convention.

1.3 Implementation of E.C.: Legislation in The Netherlands

During the years 1988 to 1989 several European countries were confronted with ships loaded with hazardous waste coming from different European as well as African countries, where this waste had illegally been dumped previously because no country would accept this waste for treatment. These ships roamed the seas attempting to get rid of their waste. Both The Netherlands and other European countries were confronted with efforts to have ships like these destroyed.

Dutch legislation in 1988 did not regulate the import of hazardous wastes adequately. In October 1988 the E.C. - Directive on transboundary shipments of hazardous waste was implemented in the Dutch Chemical Waste Act and the "Regulation on import, export and transit of hazardous waste" came into force.

Dutch politicians emphasized from the start that this Regulation should not be a 'paper tiger'. Implementation should be effective both with regard to the testing of the notification for the intended transports and the check on compliance with the Regulation.

In the Netherlands, an executive organization consisting of three departments was set up:

- A 'Notification Bureau' responsible for registration and administration of all notifications and for the procedures required by the Regulation in order to judge applications.
- A Policy Department on Waste Products responsible for the decisions whether to allow a transfrontier shipment of hazardous waste.
- A Department called 'Inspection Waste Matters', responsible for the enforcement of the Regulation (1).

1.4 Enforcement experiences

By the end of 1989 the Inspection Waste Matters had made a start with the enforcement of the Regulation. At this moment there are about 25 staff members, all experts who work together with Customs, the Police and the Public Prosecutor. Meanwhile, their cooperation has gradually become more systematic.

In five years the Department has gained a great deal of practical enforcement experience. A summary of enforcement activities over the years 1992 - 1993 is given in Table 1. (2)

Table 1. Enforcement Activities, 1992 to 1993

Reports	Samples	Transports Blocked	Protocols	Warning Letters
2785	220	352	80	120

Explanation of the figures:

During the years 1992 and 1993, 1800 reports on 1300 different cases were received from our network. This network includes the following organizations: the police, customs, the transport inspectorate, provinces, municipalities etc. Most of these reports were received by telephone or fax. Customs was most active in this respect, although the percentage of reports from other members of the network is increasing. The total number of reports, received from the staff of the Inspection Waste Matters amounts to 985. 619 reports provided information on companies, 74 of them concern foreign companies. The remainder of the reports concern visits by the enforcement network. During company visits and transport inspections, 220 samples of hazardous waste were taken. As a result of these enforcement activities 352 transports were blocked for a certain period of time so as to carry out

further investigation. Following violations of the legislation, 80 protocols were taken down and more than 120 'warning-letters' were sent to the companies involved.

These incidents have revealed that the enforcement of regulations and the checking of transboundary shipments of hazardous waste is not implemented equally stringently by all EC countries. There are differences in approach among the countries and information exchange could be improved. Better cooperation is essential, given the environmental effects that may result from illegal transboundary shipments, especially in view of the disappearance of the internal European borders and the risk of organised crime getting involved in waste management in general.

1.5 Figures of transboundary movements of waste

In Table 2 a survey of the amounts of hazardous waste exchanged among European countries is presented from the point of view of The Netherlands(3).

Table 2. A Survey of Hazardous Waste Exchanged Between European Countries (in tons)

Period	Import	Export	Transit
1991	100.000	189.000	30.700
1992	250.000	172.000	15.000

In 1992, 228 decisions on the import of hazardous waste in The Netherlands were made by the Waste Policy Department. This number is twice as high as in 1991. In 1991 the amount of hazardous waste imported into The Netherlands was approximately 100,000 tons. In 1992, for example, the total amount was 250,000 tons. One of the contributing factors for the difference between 1991 and 1992 is the variation in import of polluted soil for treatment. Most of the imported waste came from Germany and Belgium.

In 1992, 421 decisions on the export of hazardous waste from The Netherlands were made. The total amount of exported hazardous waste has decreased. In 1991 the amount was 189,000 tons, as compared to 172,000 tons in 1992.

Some reasons for the decrease in exported waste are:

- Waste reduction by some companies.
- A new controlled landfill.
- The technical means for recycling more wastes.

The transit of hazardous waste via The Netherlands has also decreased. In 1992 15,000 tons were transported via The Netherlands. The reason for the decrease is a waste stream from Germany to Norway which was no longer notified in The Netherlands. Most of the waste which was transported via The Netherlands came from Germany, Austria and Italy. Half the amount was bound for the United Kingdom. Nevertheless, a large amount of hazardous waste has been moved across the borders.

In order to optimize enforcement of the transboundary movements of hazardous waste, the Dutch Inspectorate for the Environment has created a 'network' of colleagues in other European countries, involved with the enforcement of the regulations for transboundary movements of waste. This network is of great importance, especially in case an illegal shipment has to be sent back to the country of origin. It is obvious that such an enforcement activity needs adequate coordination. Therefore, a pilot project for cooperative enforcement was developed at the initiative of The Netherlands.

2 MOTIVE FOR THE ENFORCEMENT PROJECT

2.1 Initiative

In 1992 the Dutch Inspectorate for the Environment took the initiative to organize an international enforcement project in order to monitor the transboundary movements of a particular hazardous waste stream between a number of European countries. The idea was to set up a pilot project in which during a period of six months a specific wastestream would be followed from the cradle to the grave. The underlying idea was that a project of this kind - working from the bottom up in an executive way - could provide a basis for closer European cooperation and could ultimately lead to a common enforcement policy on the transboundary shipments of hazardous waste within the European Union (E.U.).

Especially the cooperation among the enforcement organizations in Europe is of great importance in the near future. On 6 May 1994 a new European legislation will come into force concerning the monitoring of compliance on the transboundary movements of waste in Europe, The European Regulation nr. 259/93 (4). The consequence of the new Regulation is that all kinds of wastes, not only hazardous wastes, will come under the responsibility of the Regulation, that the export of wastes will be minimized and in comparison with existing legislation, more procedures will be developed for the transboundary movements of waste. The pilot project can be seen as a preparation for the enforcement of the coming Regulation.

2.2 E.C. enforcement network

In order to have an optimal cooperation between the European countries in the enforcement of environmental legislation, a network was set up of enforcement organizations in Europe.

The initiative for the pilot project was put forward at the first EC - 'enforcement network' meeting in Chester in the United Kingdom in November 1992. The proposal was received positively and was taken on by an ad hoc working group on transboundary shipments of waste. During this conference in Chester it turned out that besides the Netherlands, the United Kingdom, Belgium, Luxembourg and Germany showed interest. This corresponded with the idea to start from the bottom up, in other words, not immediately involving all EC countries in what would be an experimental project in order to reach general conclusions and recommendations in mutual cooperation.

3 PROJECT OUTLINE

3.1 Start of the project

In January 1993 the project started with the exchange of ideas between the partner countries. Talks have been held with a number of people engaged in enforcement policy about the details of the pilot project. In most of the European countries the competence for the enforcement of the regulations for the transboundary movements of waste rests with the Regional authorities. Therefore, in Germany, Belgium and the United Kingdom the project was confined to a few major regions.

3.2 Definition of the project

In April 1993 a workshop was held in The Netherlands for the purpose of defining the project set-up and reaching agreements about the execution of the project. The ensuing result was that there were three distinct phases in the project:

- Desk study phase.
- Company/transport inspection phase.

- Final report phase.

The participants selected paint waste and solvents as the hazardous wastes to be monitored for a number of reasons:

- The frequency of transboundary movements of these wastes.
- The large amount of these wastes that has been produced during the last few years.
- Problems encountered with these wastes.

To provide a better insight into the project, a description is given of the different project phases.

3.3 Desk study

The project started off with a desk study phase. This phase aimed at obtaining the most complete possible insight into the waste stream on the basis of the documentation and data files available. The essence of this phase was to compare the available notification data in the separate partner countries, to state the differences and to see which companies and waste streams did not correspond.

After the desk-study phase there was a joint meeting in Manchester in The United Kingdom at which the results of the desk study were discussed. Further agreements were made on the next project phase (the company visit and transport inspection). During this meeting general criteria were formulated for selecting the companies which had to be visited.

3.4 Company visit and transport inspection

In this phase companies were visited including those operating as producers, disposers, treaters and brokers of transboundary shipments of hazardous waste. The essence of these company visits was to gather the necessary information for acquiring an overall picture of the selected waste stream. The company visit also included a check to see whether the data given in the documents corresponded with the actual transported quantities and qualities of the waste. In addition to the company visits, transport inspections took place. The aim of transport inspections is similar to that of company visits; acquiring a total picture of the selected waste stream by checking the documents. Sampling and physical inspections of the waste were also included.

4 PROJECT CONCLUSIONS AND RECOMMENDATIONS

4.1 Results and discussion

During the desk study phase all participants gained a lot of information concerning the transboundary movements of the selected waste streams between the participating countries. On the basis of this information a number of specific waste streams within the group 'paint waste and solvents' were selected for monitoring and a number of companies were to be visited.

Action plans were developed for the enforcement activities, that is to say, company visit, transport inspection and sampling and safety procedures in relation to hazardous waste. These action plans will be compiled in a manual which can be used for regular enforcement activities.

After the desk study, company visits and transport inspections took place. An overview of the results of the company visits is given in Table 3. The results of the transport inspections are given in Table 4.

4.2 Results of company visits

Table 3. Results of company visits

	Visited Companies	Good Impression	Irregularities	Follow-up
Belgium	6	5	2	2
Germany	8	8	4	4
Luxembourg	5	2	3	3
The Netherlands	7	6	3	1
The United Kingdom	3	3	4	1
Totals	29	24	16	11

Explanation of the figures:

The companies which have been visited include producers as well as disposers of the waste. If a company has been acknowledged to be operating satisfactorily, this means that, in general, the company is operating in compliance with the legislation, although some irregularities may be found. Irregularities in the framework of this overview signify defects or violations of the legislation. Meanwhile a number of follow-ups have been started. These follow-ups mostly include a number of irregularities.

In particular, three enforcement activities resulting from the pilot project may be mentioned:

- The export of one shipment of hazardous waste was refused because a permit for the transboundary movement of the waste had not been granted.
- One shipment was sent back to the country of origin because the description of the waste of the accompanying document was not in accordance with the physical composition of the waste.
- Major soil pollution has been found during a company visit within the framework of the pilot project.

4.3 Results of transport inspections

Transport inspections have been held in Germany, Luxembourg and The Netherlands. It was not possible to have transport inspections in all participating countries due to capacity problems in the enforcement organizations.

Table 4. Results of transport inspections

	Checked Transports	Waste Transports	Irregularities	Follow-up
Germany	26	9	2	2
The Netherlands	140	9	2	2
Totals	166	18	4	4

Some remarkable results of these transport inspections are:

- The export of one transport of old batteries was refused because of the absence of proper documents.
- One transport of hospital waste was sent back to the country of its producer because there was no permit for the transboundary movement.

4.4 General results

Apart from the enforcement effects, results were also achieved in the communication field. Before the pilot project was started there had actually been very few contacts among the participants. During the pilot project the partners have held weekly contact. While these contacts expanded steadily, they were not always limited to the pilot project, but also concerned regular enforcement activities. The four workshops held during the project, in particular, contributed to intensifying the contacts.

4.5 Final report

With the rounding off of both phases the operational project activities came to an end. A draft final report was made and discussed with the partners. In this report recommendations have been made and the report will be presented during the next meeting of the EC - enforcement network in June 1994.

5 CONCLUSIONS

In order to optimize the enforcement activities in Europe, The Netherlands took the initiative in organizing a pilot project on the transboundary movements of hazardous waste. One of the main reasons for starting the project is a change in European legislation in May 1994. This new Regulation concerns not only hazardous waste, but all kinds of waste. The provisions demand an adequate enforcement of the Regulation in Europe. The pilot project was a first exercise to come to a common enforcement strategy and to exchange experiences between the participating countries.

An important conclusion has been that this kind of project should be continued in order to improve enforcement within the European Union. This conclusion has been adopted by the European network for enforcement of Environmental legislation and put down as a recommendation in the final report of the pilot project. The final result of the project has been that communication has improved between the participating countries, which will ultimately lead to a better enforcement strategy. Moreover, a manual for enforcement activities has been developed and will be available for other enforcement organisations in- or outside Europe.

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