

HOW TO OPTIMISE THE CONTROL OF WORLD-WIDE MOVEMENTS OF WASTE

De Krom, Ruud M A

Adjunct Inspector, Inspectorate of Housing, Spatial Planning and the Environment 8, Rijnstraat, P.O. Box 30945, 2500 GX The Hague, The Netherlands

SUMMARY

Transfrontier movements of waste have increased enormously over the last few decades. Major incidents took place and regulations to control and monitor transfrontier waste shipments came into force. Environmental authorities become aware of the need for co-operation to make monitoring compliance with and enforcing the relevant regulations much more effective. This paper describes ways and examples of good cooperation between enforcement authorities.

1 INTRODUCTION

1.1 Legal Framework

In general the worldwide, trans-frontier shipment of waste is regulated by the Basel Convention. The main issues to control under this convention are transportation of hazardous waste and household waste. The secretariat of this Basel Convention is located in Geneva, Switzerland and is responsible for the implementation and execution of this convention. In Europe the Basel Convention is implemented into Regulation EEC 259/93 on the supervision and control of waste shipments into through and out of the European Union, called the "Waste Shipments Regulation". Along with the Basel Convention, this European Regulation also implemented the OECD Decision C 92/39 which regulates the recovery of waste and the Lomé Treaty, which protects certain areas such as the African, Caribbean and Pacific States, the so called "ACP States" from illegal waste dumping. The enforcement however is, except for general principles, mostly regulated by the individual States under their national laws.

FIGURES

Table 1 illustrates transfrontier shipments of waste in The Netherlands¹

Table 1

The Netherlands Year 2000	(x 1000 metric tons)
Waste import	469
Waste export	883
Waste transit	166
Total	1618

2 ENFORCEMENT

2.1 Enforcement Measures

The enforcement measures for transfrontier shipments of waste are mainly carried out during transportation of the wastes or at the premises of producers, and waste recovery or disposal facilities. The waste movements could, for example, also be controlled at container terminals in the ports. The following activities could be distinguished:

1. Preventive activities: efforts to inform

companies about how applicable laws, notification procedures, legal requirements, and consequences of violating illegal trade restrictions;

2. Monitoring compliance with the regulations: administrative and physical inspections of certain waste streams, including waste sampling and analysis, designed not to uncover violations so much as to initiate "regular" checks on target operations;.
3. Coercive measures: applied where serious suspicions or violations are found, where facilities or documents may be seized, where legal actions can be taken, and where the police, public prosecutor and the judge can become involved. These actions are aimed at stopping the violations, achieving compliance, and punishing those responsible for breaking the law.

2.2 Examples Of Joint Enforcement Initiatives

As said before, the enforcement of the applicable legislation is covered mainly by national law. This results in different approaches and a lack of transparency in the way enforcement is set up in different countries. Some companies misuse this situation and attempt play authorities against each other. In order to overcome such undesirable situations, a number of initiatives to enhance and fine-tune the enforcement, carried out by enforcement authorities in the different countries have been launched. In Europe the IMPEL-network² is, among others, responsible for harmonizing environmental law enforcement.

One of its activities is the so called "IMPEL/TFS-network" (Transfrontier Shipments of Waste). This network was established in 1992 to enhance monitoring, compliance and the enforcement of the Waste Shipments Regulation. This network consists of enforcement organizations of European countries, holds annual conferences in order to define its working program, discusses enforcement and compliance issues and initiates and reports on projects. On the basis of the annual con-

ferences, joint enforcement and other initiatives are conducted to harmonize enforcement. This TFS-network was adopted in 1992 as a cluster of the IMPEL-network. The activities and their results are presented to the plenary meetings of IMPEL twice a year and it is at this time approvals for new activities are requested.

Recently the secretariat of the Basel Convention took the initiative of starting a pilot enforcement project to encourage cooperation between enforcement authorities in Asia. This project is modelled on the IMPEL/TFS-network and aims to enhance enforcement and stimulate cooperation between enforcement authorities where possible. A start up conference was held in December 2000 in Hong Kong. The project itself will start in 2002 with a desk study phase where information about pre-selected waste streams will be gathered and analysed. On the basis of this information, physical inspections will be held where possible and the results of these inspections will be exchanged.

There will be a "mid-term workshop" to evaluate the results and working methods, followed by a second round of controls. The project will be finalized after about one year and a report, which will describe the results, conclusions and recommendations for a uniform approach, will be issued. The report will take also be used to generate manuals for inspectors to use in investigating waste shipments. This project is still in a starting phase and the following countries have indicated an interest: China, Malaysia, Hong Kong, Singapore, Sri Lanka and Japan. The Netherlands will also take part actively because of the number of waste materials that go from Europe, through the port of Rotterdam in The Netherlands, to Asia and because of the experience and involvement with the IMPEL/TFS-project. The movements of specific waste streams will be monitored between the participating countries and information will be exchanged that should contribute to long term and broader knowledge of both enforcement hurdles and solutions.

In the mean time, both the enforce-

ment authorities in Hong Kong and The Netherlands decided to intensify the co-operation and to inform each other in case a suspicious waste shipment is detected. A very effective method uses the internet and e-mail to send images and information on inspected waste streams between the two countries. Based on the rapid exchange of data, the enforcement authorities in the country of destination are in a position to decide whether a suspect shipment may arrive or not. In quite a few cases where waste shipments were bound for Hong Kong, a decision by the authority there was made fast enough that the waste shipment could be stopped in Rotterdam before it left the port. This is a very cost effective method in comparison to being confronted with the costs of having to take back and dispose of the waste after it was found to have been illegally shipped to another State.

The secretariat of the Basel Convention intends to start a similar project in Eastern Europe that will have the same goals as the project in Asia. Strong co-operation with the AC-IMPEL-network (The IMPEL-network for the accession countries to the European Union) is desired and fine-tuning will take place between both organizations, IMPEL and secretariat of the Basel Convention.

The initiatives of both IMPEL/TFS and the secretariat of the Basel Convention are mainly focused on the monitoring of compliance with the regulations. Another item that is very much related to the compliance monitoring and enforcement is the combating of international environmental crime. Especially where Interpol and national and local enforcement authorities and police organizations are involved. Training programs for police organizations

have been organised and information exchange between the 179 Member States of Interpol has taken place. Discussions are going on to see whether the role of Interpol with regard to environmental issues could be intensified. This idea, so far called "Green Interpol," is also mentioned in the draft UNEP guidelines on compliance with and enforcement of multilateral environmental agreements.³ These guidelines are planned to be approved at the next Governing Council of UNEP in February of 2002. Besides Interpol, the World Customs Organization and others are also in a position to play an important role.

3 CONCLUSIONS AND REMARKS

The need for a harmonized enforcement of the transfrontier shipments of waste regulations is great. While there are many initiatives going on that may provide the experience and resources required to meet this need, an overall view of enforcement initiatives and projects is still missing. A good, worldwide, cooperation and communication network connecting enforcement authorities is desired. Networks such as INECE and IMPEL could play an important role in stimulating a better communication and cooperation regime.

4 ENDNOTES

- ¹ The International Notification Bureau (IMA) in The Netherlands.
- ² The Implementation and Enforcement of Environmental Law-network (IMPEL): <http://europa.eu.int/comm/environment/impel/>.
- ³ UNEP-guidelines: <http://www.unep.org/depi/compliancand-enforcement/>.

