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Assessment and guidance for the implementation of EU waste legislation in Member States

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**REPORT ON ANALYSIS OF THE IMPLEMENTATION/ENFORCEMENT OF ANNEX VII AND ARTICLE 18
AND 49-50 OF THE WASTE SHIPMENT REGULATION IN ALL MEMBER STATES, INCLUDING A
SUMMARY REPORT OF NATIONAL PROVISIONS**

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Abbreviations

CA	Competent Authority
DE-BE	Berlin (Berlin)
DE-BR	Bremen (Bremen)
DE-HH	Hamburg (Hamburg)
DE-MV	Mecklenburg-Vorpommern (Mecklenburg-West Pommern)
DE-NS	Niedersachsen (Lower Saxony)
DE-NW	Nordrhein-Westfalen (North Rhine-Westfalia)
DE-SL	Saarland (Saarland)
DE-SN	Sachsen (Saxony)
DE-ST	Sachsen-Anhalt (Saxony-Anhalt)
ES-AND	Andalucía
ES-AR	Aragon
ES-AS	Asturias
ES-B	Basque Country
ES-CAN	Cantabria
ES-CAT	Catalonia
ES-G	Galicia
ESM	Environmentally sound management
ES-MAD	Madrid
ES-NV	Navarra
ES-V	Valencia
IT-AL	Alessandria
IT-AV	Valle d'Aosta
IT-G	Genova
IT-L	Livorno
IT-P	Parma
IT-PDT	Torino
IT-V	Verbania
LAGA	Länder Arbeitsgemeinschaft Abfall (Federal Government/Federal States Working Group on Waste)
MS	Member State
UBA	Umweltbundesamt (German Federal Environmental Agency)
UK-SC	Scotland
UK-NI	Northern Ireland

1 Background, objectives and methodology

1.1 Background

The amounts of green listed wastes (e.g. paper, plastics, metals) shipped to third countries namely in Asia has significantly increased over the last years resulting in part in recovery operations severely endangering environment and human health. Thus, the EU Shipment Regulation contains detailed requirements (Annex VII document) to ensure traceability also for these types of waste.

After almost two years of being in force of Regulation (EC) No 10013/2006 (hereinafter referred to as Waste Shipment regulation WSR), there are strong discussions about the practical application of the Article 18, Annex VII requirement. On the one hand, requests for a further strengthening and clarification of the practical implementation and on the other hand severe criticism against the detail of information required in Annex VII. These concerns in particular relate to issues such as confidentiality requirements for brokers and dealers and container shipments of waste.

In addition, there are repeated complaints about continuous illegal shipments, lack of level playing fields and major difficulties as regards practical enforcement of the requirements on waste shipment controls set out in Articles 50 and 49 of the WSR.

1.2 Objectives

Based on this background the major objectives of project work, is to provide an analysis of the current state of implementation and enforcement of certain provisions of the WSR in all Member States.

The provisions of concern are:

- The implementation and enforcement of Article 18 and Annex VII
- The implementation and enforcement of Articles 49-50

As concerns Article 18 and Annex VII, that means that evaluation will include questions such as type of document requested as accompanying document (national form or directly Annex VII), mandatory information of national authorities prior or after effected transport, request of a copy of the contract, means for assuring or provisions related to confidentiality issues.

The investigation as concerns Article 49 and 50, includes aspects such as national legislation relating to prevention and detection of illegal shipments and penalties for waste shipments, and enforcement measures for ensuring inspections of establishments and undertakings in accordance with Article 13 of Directive 2006/12/EC, and for spot checks on shipments. Another focus of the analysis are measures to enable bilateral or multilateral cooperation and measures taken to ensure environmentally sound management (ESM) in third countries.

1.3 Methodology

The analysis of implementation and enforcement of the above mentioned provisions of the EU Waste Shipment regulation EC (No) 1013/2006 was based on answers from competent Member States authorities and industrial stakeholders to a questionnaire on implementation/enforcement of annex VII, article 18 and art. 49-50, on an evaluation of information reported by Member States to the European Commission pursuant to article 51 (Copy of Basel report and Annex IX) and on an evaluation of information where relevant (no more recent information available) compiled in the reports from awareness raising events performed during the past years.

The questionnaire was disseminated to the competent authorities in all 27 Member States. Apart from the national level, all competent regional authorities have been contacted directly in Spain, France, Germany and Italy with a questionnaire translated into the national language.

Furthermore, a wide range of industrial stakeholders has been contacted via European Associations, or via direct contact in particular cases (direct requests addressed to EC, participation in WSR events).

The feedback from Member States was very good and constructive. In total 21 Member States (AT, BE, CY, CZ, DE, DK, EE, ES, FI, FR, GR, HU, IE, LU, NL, PL, PT, RO, SE, SI, SK) returned filled in questionnaires.

At regional level answers were provided from two regional authorities in the UK (Scotland and Northern Ireland), twelve German Länder (DE-HB, DE-BY, DE-HH, DE-HE, DE-SL, DE-MV, DE-NS, DE-NW, DE-SA, DE-TH) nine Spanish Regions (ES-AND, ES-CAT, ES-AS, ES-AR, ES-B, ES-G, ES-MAD, ES-NV, ES-V) and seven Italian provinces (IT-PDT, IT-AV, IT-AL, IT-G, IT-L, IT-P, IT-V). France provided one summary answer for the Ministry of Environment and the 26 competent regional authorities (DRIRE), so that details on differences in enforcement practice cannot be assessed.

LV, LT, MT, BG, DK, the national authority of IT, the majority of Italian Provinces (60) and several Spanish regions (8) did not provide information. In addition, the competent authority from the Walloon region in Belgium did not provide any information. Answers to the questionnaire are restricted to Flanders and the federal authority responsible for transit of waste.

Responses from industrial stakeholders were limited. In total industry responses were received from the European association of Chemical industry (CEFIC), National Members and or Member companies of European associations like FEAD (8), BIR (1 association), EUROMETAUX (2 associations), ECSA (European Community Shipowners' Associations, one national Member association), and five individual companies active in either hazardous waste management or recycling of waste materials.

2 Summary analysis of the implementation/enforcement of Annex VII and Article 18 in EU Member States

The analysis of implementation and enforcement of the above-mentioned provisions of the EU Waste Shipment Regulation EC (No) 1013/2006 was based on several information sources. Firstly, on a questionnaire on implementation and enforcement of Annex VII, Article 18 and Articles 49-50 sent to all competent Member State authorities as primary information source. Secondly, on an evaluation of information reported by Member States to the European Commission and on thirdly an evaluation of information compiled in the reports from awareness raising events performed during the past years.

2.1 Implementation/enforcement of Article 18

Answers received from a fast majority of competent authorities in EU 27 show that the wording Article 18 is duly implemented and enforced by competent authorities, and that deficits in enforcement in terms of a breach to the set provisions cannot be observed in general. An important number of challenges for effective and harmonised enforcement throughout the European Union however, stemming from the Article 18 itself have been identified. In addition, competent authorities experience problems and deficits as regards enforceability of legal provisions, classification, and compliance of economic parties with the Annex VII related obligations. On the other hand, industry reports problems with the obligations of Article 18 and the divergent enforcement by competent authorities. (For more information, see “Report on identified problems and solutions for implementation & enforcement of Annex VII, and Articles 18, 40 and 50”)

2.1.1 The legal background

In the light of free trade and a globalised recovery market Article 18 of the Waste Shipment Regulation (see box below) contains a number of provisions directly addressing the economic parties involved in the trading and transport of waste with secondary raw material characteristics, whereas it does not foresee an involvement of competent authorities in general.

General information requirements

Article 18

Waste to be accompanied by certain information

1. Waste as referred to in Article 3(2) and (4) that is intended to be shipped shall be subject to the following procedural requirements:

(a) In order to assist the tracking of shipments of such waste, **the person under the jurisdiction of the country of dispatch who arranges the shipment shall ensure that the waste is accompanied by the document contained in Annex VII.**

(b) The document contained in Annex VII **shall be signed by the person who arranges the shipment before the shipment takes place and shall be signed by the recovery facility or the laboratory and the consignee when the waste in question is received.**

2. The **contract** referred to in Annex VII, between the person who arranges the shipment and the consignee for recovery of the waste **shall be effective when the shipment starts and shall include an obligation**, where the shipment of waste or its recovery cannot be completed as intended or where it has been effected as an illegal shipment, on the person who arranges the shipment or, when that person is not in a position to complete the shipment of waste or its recovery (for example, is insolvent), on the consignee, to:

- (a) take the waste back or ensure its recovery in an alternative way; and
- (b) provide, if necessary, for its storage in the meantime.

The person who arranges the shipment or the consignee **shall provide a copy of the contract upon request** by the competent authority concerned.

3. For inspection, enforcement, planning and statistical purposes, **Member States may** in accordance with national legislation **require information** as referred to in paragraph 1 on shipments covered by this Article.

4. The information referred to in paragraph 1 (Annex VII document) shall be treated as confidential where this is required by Community and national legislation.

Exports to non-OECD Decision countries

Article 37

Procedures when exporting waste listed in Annex III or IIIA to third countries

3. If a country indicates in its reply (EC Reg. 1418/2007) that certain shipments of **waste are not subject to any control, Article 18 shall apply** mutatis mutandis to such shipments.

4. Where waste is exported, it shall be destined for recovery operations within a facility which, under applicable national law, is operating or is authorised to operate in the country of destination.

Exports to OECD-Decision countries

Article 38

Exports of waste listed in Annexes III, IIIA, IIIB, IV and IVA

1. Article 18 for Annex III and IIIA with limitations below:

- (a) IIIA: notification if any **subsequent interim or non-interim recovery** or disposal operation is to take place **in a country to which the OECD Decision does not apply**;

Art 2(35g)

Illegal shipment (in relation to shipments of waste as referred to in Article 3(2) and (4))

- (i) the waste being discovered not to be listed in Annexes III, IIIA or IIIB, or
- (ii) non-compliance with Article 3(4) – laboratory analysis,
- (iii) the shipment being effected in a way which is not specified materially in the Annex VII document.

The wording of the Article in many aspects is very general.

The only mandatory provisions set for the involved economic parties are as follows:

1. For any waste listed in Annex III, IIIA (classified mixtures of Annex III wastes) or IIIB, the person who arranges the shipment has to assure that the waste is accompanied by an Annex VII

document.

2. Annex VII has to be signed by the person who arranges the shipment before the shipment starts, if the amount of waste shipped exceeds 20 kg.
3. The Annex VII document shall be signed by the recovery facility (or the laboratory) and the consignee when the waste in question is received.
4. The contract (referred to in Annex VII) [...] shall be effective when the shipment starts and shall include an obligation, [...].
5. Article 18(1)(a) implies that the person who arranges the shipment shall be under the jurisdiction of the country of dispatch, although this is not fully specified.

The involvement of authorities and their possibilities for action are restricted to the following facultative provisions:

6. Member States may in accordance with national legislation require Annex VII information for inspection, enforcement, planning and statistical purposes.
7. The person who arranges the shipment or the consignee shall provide a copy of the contract to the authorities concerned upon request.
8. Annex VII information shall be kept confidential if required by (Community or) national law.

2.1.2 Information of competent authorities pursuant to Article 18(3)

The answer whether the competent authority requests to be informed about shipment of green listed waste according to Article 18(3) varies, although a majority of Member States still does not request to be informed.

Eleven Member States (AT, BE, CZ, EE, FR, LU, NL, PL, PT, SE, SI), and nine of the German Länder, three Spanish Regions, and three Italian Provinces answered the question with 'no'.

Seven Member States (CY, DK, FI, GR, HU, IE, PT), three German Länder, five Spanish Regions, two Italian Provinces and the authorities from Scotland and Northern Ireland answered the question with 'yes'. According to information from an awareness raising event also LV requests information.

No answers on this question were provided by Spanish and Italian central authorities, Romania and Slovak Republic.

From industry the majority (12) of the responding stakeholders including metal industry and European waste management association negated the obligation to inform the competent authorities in case of green list waste shipments.

Only four stakeholders responded the question with 'yes', with restriction of the obligation to exports to China and India in one case.

2.1.3 Timing of information transfer

For the seven Member States (CY, FI, GR, HU, IE, PT, RO), three German Länder, four Spanish Regions, two Italian Provinces and the authorities from Scotland and Northern Ireland answering the question related to Article 18(3) with 'yes', the timing of the information is as follows:

Information of authorities prior to shipment

One German authority, three Spanish Regions (ES-AND, ES-AR, ES-V), one Italian Province (IT-L), IE, PT, RO and UK authorities indicated that the information is given to the authority **prior to the shipment**.

- DE-ST: According to § 13 AbfVerbrG, ordinances (for facilitated control) have been issued for selected treatment plants. In this context, the regional authority is to be informed before exports and prior to import of green listed waste.
- ES-AND: The CA receives information via e-mail and it would be checked if the facility of destination would be accordingly licensed (applicable for import only).
- Mecklenburg-Vorpommern: In individual cases (e.g. in cases of suspected illegal activities or of enterprises that attracted attention because of repeated violations of waste shipment law) documents are requested prior to shipment. The measure is not implemented as routine however, due to the high associated administrative effort (lack of staff).
- Ireland: The National TFS Office has introduced a general pre-notification system for the export and import of green listed waste out of and into Ireland in 2008. The person who arranges green waste shipments, whether a broker or dealer involved in the export and import of waste, is required to provide information to the National TFS Office by email on a monthly basis regarding any shipments proposed for the next business month. (prior)
- Romania: According to Government Decision No.856/2002 - regarding the evidence of waste management and approved list of waste including hazardous waste - the economic agents must report to the Local Environmental Protection Agency information about the evidence of waste management.
- One German Land reported that up to now, green listed waste shipments were notified in advance to the competent authorities, which informed the authority of destination about the envisaged shipment and asked for information on and confirmation of a duly recovery process.
- UK authorities pointed to the fact that all Annex VII forms have to be forwarded to the office of the competent authority prior to shipment.

Information of authorities after the shipment

Cyprus, Hessen, Denmark, Finland and Hungary indicated that the information is given to the authority after the shipment. In this context the following specifications were provided:

- Hessen: Information of the CA is requested only for import to waste treatment facilities (waste combustion plant, MBT plants, landfills) in Hessen. The regional authorities would require the presentation of accompanying documents for waste not subject to notification, but recovered in these plants and report for the first time on 31 March 2010 on the plant-specific recovered amounts per calendar year. The basis for this is an enactment of HMUENV from 04 February 2009.
- The municipalities inform EPA annually.
- Finland: CA is informed on an annual basis in the context of annual reporting from waste producers and treatment facilities to SYKE.
- Hungary: There are different procedures for import and export. The information needs to be provided not later than 5 working days after import that means after the receipt by the consignee. In case of export the deadline would be set at max. 30 days, after the quarter of the year in which the shipment took place.

Information of authorities prior to or after the shipment

One German authority (DE-ST), two Spanish Regions (ES-CAT, ES-G) and one Italian Province (IT-Q PDT) indicated that either **prior to or after the shipment** the information would be delivered to the authorities. Further details on scope and procedures are as follows:

- ES-CAT: For shipments within the European Union the information is provided to authorities after shipment. In case the shipment goes to third countries, the information is received prior to shipment as it is needed for the customs.
- ES-G stated that the information is transferred in advance of the shipment, when the ES-G is the 'region' of destination and after the shipment when the waste is shipped out of the region ES-G.
- IT-PDT indicated that the authority is not informed about all shipments (although requested) due to lack of specific sanctions.
- Ireland: pre-notification: monthly, reconciliation report: quarterly

Industry responses

From the industry only few responses were received.

- The Chamber of Shipping highlights that any notification/information requirement would necessarily fall upon the "person who arranges the shipment" (i.e. the shipper), not on the person who physically carries the goods (i.e. haulier or the shipping line).
- On the other hand one stakeholder pleases for strict administration and reporting requirements as this would be the best way to guarantee that professional waste organisations are involved and the risk of free riders would be minimised.

- Three stakeholders answered to provide information depending on the specific ruling of the countries/regions. In one case the answer however, was restricted to exports to China and India related to their national rules.

In this context, it was stressed that Chinese control is majorly focusing on elimination of wood transport packaging. India has adapted and extended EU rules. The enforcement is often abandoned in part due to huge practical problems which were not anticipated when legislation was drafted.

2.1.4 Type of information/document requested

Besides the eight Member States (CY, DK, FI, GR, HU, IE, PT, RO), three German Länder, four Spanish Regions, two Italian Provinces and the authorities from Scotland and Northern Ireland answered the question related to Article 18(3) with 'yes', two further Spanish Regions answered to this issue.

In the majority of cases a copy of the accompanying documents including the contract is requested. In single cases only one of the two documents (contract or Annex VII) is requested. Additional documents (e.g. itinerary, evidence of origin, chemical analysis and facility permit) may be requested in case of suspicion.

In addition the following specific rules are set:

MS	
DK	The municipalities are asked to collect a copy of Annex VII and send this to the EPA (BEK nr 799 af 28/06/2007, § 11, stk 1-3).
ES-G	Prior to shipments a prior half-year forecast of envisaged shipments, and afterwards an annual overview of all realised shipments.
GR	An application form, in which copies of the following are attached: (a) contract (or Proform Invoice) between the person who arranges the shipment and the importer / recovery facility, (b) prefilled Annex VII document, in as many blocks (mainly block 1, 2, 3, 5, 10) as possible. After the check of all the aforementioned data our service issues an approval of the shipment. After the shipment has been carried out, the person who arranged the shipment must submit to our service the document of Annex VII filled / signed by the recovery facility in block 14.
HU	Copy of the Annex VII document with completed block 13 (signature of receipt).
PT	Send copies of Annex VII and contract minimum five days before the shipment to APA according to national legislation Decree No 45/2008 of 08 March.
FI	Waste category, LoW-code, weight, origin, type, management by R-D-codes, consignee and the country. During site inspections contracts and Annex VII documents might be asked to be checked. Syke would have also asked to see the documents if needed related to the annual reports.
RO	Type, code and quantity of waste. The Romanian EPA would also require information on the operation and the "economic agent".
UK	A copy of the Annex VII form. A copy of the contract may be requested, e.g. where there is a new route, end user, waste type, etc. Under the producer responsibility regimes, copies of site permits where applicable, or statements from the competent authority are requested. Random checks of contracts are made.

The following specific procedures are implemented by Ireland:

Pre-notification: complete the form by providing forecast details in respect of the next business month under the following headings: the person who arranges the shipment; the estimated quantity of the waste; the waste description; the waste identification codes, including Basel, OECD, EC, where applicable; the port/s of export/s, and transit and destination countries; month of shipment. The completed form is e-mailed at the end of each month to NTFSO.

Reconciliation Report (quarterly for calculation of fees and statistical purposes): a quarterly summary report which reconciles the actual details of shipments made and completed in the previous 3 months with the information forecast furnished in the pre-notifications. Details would be required under the following headings: the person who arranges the shipment; the month of shipment; the actual quantity of the waste; the waste description; the waste identification codes; the port/s of export/s, and transit and destination countries.

The person arranging the shipment would be issued with an invoice every quarter based on the details contained in the summary Reconciliation Report. The fee calculation would be based on total tonnages recorded for completed shipments made in the previous 3 months.

Only three industrial stakeholders (one national association, one company from metal industry, a Maltese recycling company) have responded to this question. According to these answers authorities request:

- Italy: analysis of the waste quality, a copy of the contract, custom clearances, load registries to be compiled by collection plants and an annual declaration on the quantities handled (MUD).
- Export to China and India: Pre-Shipment Inspection Report and sometimes additional forms depending on national regulation.
- Malta: accompanying document and an information notice.

2.1.5 Data collection for statistical purposes

Based on the reported information, the overall level of knowledge on exports of green listed waste in the European Union can be expected to be limited and divergent.

A slight majority of fourteen Member States (BE, CY, DK, EE, FI, FR, GR, HU, IE, LU, PT, RO, SI, UK) and two regional authorities, Hessen and Catalonia, reported to collect information on green list waste shipments for statistical purpose.

On the other hand eight Member States (AT, CZ, DE, NL, PL, SE, SK, PT), all Italian provinces and almost all German Länder and Spanish regions do not collect data on green listed waste.

From industrial stakeholders providing information to the questionnaire, one half of the CAs reported to collect data, whereas the other half responded to not collect data on green list waste shipments.

Data sources and data management

The major sources of information are Annex VII documents or annual waste reports, and information in most cases is stored in a database accessible exclusively for competent authorities. The six responses obtained from industry confirm the annual reporting to competent authorities in a number of Member States. In one case, export documents as well as data collected by the local authority were mentioned as information source.

Details on sources of information, quantity of information stored and tools for information storage are compiled in Table 2-1.

Table 2-1: Overview on sources of information, storage and accessibility of information to CAs in Member States

MS	Description of measure
BE Flanders	<p>Some companies have to fill in an annual survey (the annual integral environmental report). This information would be stored in the database. Some companies have to indicate how much waste they produced the past year, the type of waste, the destination and the treatment.</p> <p>These data are extrapolated by sector and dimension (size of the company by number of employees) to get an image of the waste production in Flanders. Also an extrapolation to the place of treatment could be done (Flanders, Brussels, Wallonia or abroad). In this way data on the exported amounts would be made available.</p> <p>Besides this waste producers are asked to fill in the next step in the treatment chain and note the subsequent and final destinations. This leads to the fact that at least part of the wastes that are exported are reported with the harbour as destination and not the final destination abroad.</p> <p>In another part of the integral environmental year report all waste treatment installations in Flanders have to report how much waste they import from Wallonia and Brussels (hazardous and non-hazardous) and from abroad (non hazardous). Here the problem is the incomplete responses of the companies.</p> <p>Checks of waste transports – realised by the police or certain environmental authorities (FLI) – is reported by a standardised form (ECO-form). Since 1996 this information is stored in a database and forwarded to the competent authority. The database is run by the central service for Environmental Crime of the Belgian Federal Police.</p>
BE – Federal authority	The competent authority for waste transit (federal level) uses a detailed excel database for internal use. The collected information is not shared with other competent authorities.
DE-HE	<p>At least in the jurisdiction of the Regional Council of Darmstadt it has been agreed with the Customs Department that all Annex VII documents are sent to the competent environmental authority.</p> <p>The same applies to the Regional Council of Kassel although transmission is not yet fully implemented. Documents are classified into the categories “domestic” waste producers and treatment facilities, and provided to competent authorities for potential company controls.</p>
CY	An electronic database has been created to save all data given on Annex VII documents.
DK	The municipalities reports to the competent authorities (the Danish EPA) once a year. This arrangement is changed from September 1, 2010. From this date the companies (and no longer the municipalities) have to use an electronic system for reporting data on waste.

MS	Description of measure
EE	Annual waste report including exported and imported quantities of green listed waste.
ES-CAT	Annual report on industrial waste declarations.
FI	Compliance Monitoring Data System (VAHTI) hosted/managed by Statistics Finland http://www.ymparisto.fi/default.asp?contentid=142451&lan=en . There was a Finnish pilot project for compiling the data of green listed waste in 2002.
FR	Establishment of a register of emissions considering the final destination of the waste and the treatment.
HU	Received copies of accompanying documents are stored in the registry system of the Hungarian competent authority. Selected data of the Annex VII documents are entered into a database available only for the Hungarian competent authority.
IE	Information obtained from brokers and dealers as well as from the enforcement unit records and registers in the NTFSO. Information could only be requested through official requests to the competent authority.
IT-PDT	Information provided via fax by the carriers and entered into a data information system.
LU	Data collected through annual reports provided by the collectors/carriers, traders/brokers and producers of waste.
SI	Annual reports. However, the basis for reporting is EWCs and not codes from Annex III or VI to the WSR. The data would only provide information if something would be treated abroad (in EU or outside EU), but not exactly where and how.
RO	According to Government Decision No.856/2002 on the evidence of waste management and approved list of waste including hazardous waste, the economic agents have to report to the Local Environmental Protection Agency (LEPA) about the evidence of waste management.
SK	Applications for TFS consent (notification forms), due to the fact that any waste (including green listed waste) shipped into Slovakia has to be notified until end of 2011. The data are evaluated by Slovak Agency of the Environment.
UK	Annex VII data and other relevant information. The information would only be shared with other institutions for control purpose if agreements exist.

Type of information collected

In general, either all Annex VII entries or basic data such as type of waste, codes, quantities and destination are compiled and stored. Apart from this basic approach, practice can differ slightly between Member States with certain priorities on sender, recipient and route, or information related to waste shipment inspections (see BE, IE, UK). Details on data collection are indicated in

Table 2-2.

Table 2-2: Overview of data collected on green listed waste as reported by CAs in EU Member States

MS	Description of measure
BE	From the Environmental year report: Export: quantity, type of waste (list of waste), treatment, destination; Import: quantity, type of waste (list of waste), treatment, region or country of origin. Police: every data concerning the waste transport: date, place, concerned firms, type of waste,... CA for transit: database of the federal environmental inspection: date, place, transport identification, type of waste, quantities, codes (eural, customs, R/D, countries of dispatch and of destination), notifier, producer, importer/consignee, recycling company, notification/Annex VII, inspection results, taken measures, type of infraction/ article, export-ban, action in cooperation with, contact person.
CY	Type and quantities of waste, country of destination, notifier and consignee, waste codes (EWC, Basel), date of export, etc
DE-BY	Note: data for Environmental Statistics Act, no direct connection with the day's work.
EE	Type of waste, quantities, destination, undertakings
FI	Waste category, ECW code, weight, origin, type, management by R-D-codes, consignee and the country.
GR	Shipment data such as EWC code, Basel code, quantity of waste, destination, etc. are collected.
HU	The person who arranges the shipment, waste generator, recovery facility, quantity and type of waste, recovery operation, state of dispatch/destination
IE	Date of the inspection, the person who arranges the shipment; waste generator, final destination, the quantity of the waste; the waste description; the waste identification codes, including Basel, OECD, EC, where applicable; the port/s of export/s, and transit etc.
IT-PDT	Type and quantity of sent and received waste, type and address of treatment plant, type of recovery operation
IT-L	Annex VII entries
LU	Type of waste, quantity, destination (consignee, recovery plant?), transporter, trader, producer
PT	Annual report for public consultation and internal control contains information about the waste shipped; (see http://www.apambiente.pt/politicambiente/Residuos/mtr/Paginas/default.aspx)
RO	Type of waste, code, quantity, recovery operation and exporter
SI	Transit, import, export, shipments within the community- basis for reporting are EWC codes.
UK	Type of waste, sites, destination and companies involved, container numbers and brokers used, quantities, route taken.

The six responses from industry confirm the information provided above. Information compiled comprise e.g.:

- Amount of aluminium scrap exported from each EU Member State to destinations outside the EU (foreign trade statistics)
- Waste type, code, quantities, origin, R/D code, recovery facility (FI)

- WSR code, waste quantity and recovery facility (DE)
- Information as requested by waste management law on national level “Nachweisverordnung”

Use of statistical data for inspection planning

According to information received from ten Member States (BE, CY, EE, FI, FR, HU, PT, RO, SI, SK) and six regional authorities in UK, Germany, Spain and Italy (UK-SC, UK-NI, DE-HE, ES-CAT, IT-Q PDT, IT-L), collected data are used for inspection planning and risk profiling by the majority of authorities using such information, but the level of sophistication and intelligence used, seems to differ.

In addition only part of the Member State authorities (6) report to use information for transport control planning. Environmental authorities in other countries (7) apparently do restrict predominantly to company controls on suspicion.

Table 2-3: Overview on reported use of collected data on green listed waste for control activities

MS	Response given by MS authorities, derived from MS reporting to EC and awareness raising
BE	From the Environmental year report: these data aren't used for the planning of inspections. Police: data is used both for tactical and strategic analysis. (30.000 data files since 1996). CA for transit of waste: the statistical data are used for the annual inspection plan (number of actions, planned number of inspected unities) as well as for prioritising (type of waste streams/participation in specific actions focusing on waste).
CY	Company inspections in order to clarify how these wastes are produced and packed. In case somebody is not permitted for waste management we contact him and ask him to apply for a waste management permit.
DE-HE	Company inspections to waste producers and treatment facilities.
ES-CAT	If data are suspicious random controls at transporters are performed.
FI	Possible site inspection on the grounds of reported wastes.
FR	Annual inspection programme and selection procedures (risk profiling).
GR	Regarding inspections on shipments of "green listed wastes", emphasis has been put on the cases where the notification procedure has to be followed. For example, according to Article 63 of WSR, until 31 December 2014, all shipments to Bulgaria of waste for recovery listed in Annex III (green listed waste) shall be subject to the procedure of prior written notification and consent. In this framework, inspections have been carried out at the Greek-Bulgarian borders. During the inspections all the shipments are checked.
HU	Targeted transport inspections; in case of any kind of infringement of the WSR an administrative procedure is launched with or without inspection on the site.
IT-PDT	Targeted company controls.
IT-L	Checks and inspections.
PT	APA sends to Inspectorate for the Environment and Spatial Planning (IGAOT) data with the shipment that will take place the week chosen for the inspections and enforcement.
RO	The statistical data are used for thematic inspections regarding the production and transport of waste.

SI	Normally they are not used for inspections. Just occasionally, but also in this case, inspections are not focused only on green listed waste. The experts for environmental permits occasionally check the reports and in case of irregularities contact the inspectorate.
UK	Information from these sources, together with intelligence from other sources, is to be used to inform our threat assessments or problem profiles (on specific waste streams). These will be used by the team to devise an inspection plan. We are creating a statistical tool whereby codes denoting the shipment of wastes to non-OECD countries that have not elected to receive those. Particular waste streams are flagged up.

2.1.6 Information of competent authorities of destination in the case of export of green listed waste

Based on the answers received from almost all authorities it can be clearly stated that authorities on countries of destination are generally not informed in case of green list waste exports, which is due to lack of corresponding provisions in Article 18 of the WSR.

Some of the authorities however highlight, that information can be requested at any moment from the involved parties in case of suspicion. In such cases, in case of transport controls revealing illegalities or in case of verification requests from other authorities, corresponding information will be transmitted.

Potential transmission of specific information in case of export to third countries due to national provisions in third countries (e.g. CCIC) was shortly mentioned but is not in the focus of this question.

One German Land reported that up to now, green listed waste shipments were notified in advance to the competent authorities, which informed the authority of destination about the envisaged shipment and asked for information on and confirmation of a duly recovery process.

Ireland has adopted an information practice towards industry, which might be worthwhile to be further considered by other Member States as well.

Irish CA advises all Green List Customers to consult with the Competent Authority of Destination regarding any further importation controls and to check Regulation EC (No) 1418/2007 (and amendments) prior to export.

Opinion of industrial stakeholder on this issue varies. About half of the answers indicated a transmission of information, whereas the other half negated such transfer. Responses show, that information however, is not related to Annex VII. In case of “yes” the following details were provided:

- At least some exporters do identify their immediate customer and would ask their customer to certify that the waste would be recovered in an environmentally sound manner. This would not be the same as identifying the reprocessor.

- Shipping lines provide for all shipments (whether comprising waste or any other commodity) all the documentation required to provide by the competent authorities in the country of destination.
- CCIC document to Chinese competent authorities, PSI to Indian authorities, import documents (not specified) to Indonesia and Bangladesh.

2.1.7 Reloading activities within a territory such as that of a transit country

Except of Greece all Member State authorities that had responded to the questionnaire answered to the question on potential problems with reloading activities in a transit country.

A considerable number of competent authorities (DE, ES, EE, LU, NL, SK, UK, five German Länder, five Spanish regions and three Italian provinces) stated not to have had problems with such activities.

- A major argument brought forward in this context in particular by German, Spanish and Italian authorities was the fact, that the WSR does not request information of competent authorities.
- Another argument supported also by the Netherlands is the fact that Article 18 does not request the description of the whole itinerary as foreseen in case of notification.

“Annex VII shipments do not have prescribed routes, so you can never speak of detours. The only requirement is that the countries involved are filled in before departure. If it is necessarily to reload waste that is shipped with an Annex VII form in a transit country it should be no problem”.

- One German authority in addition stressed the fact, that Annex VII documents commonly are only checked during controls, and that it is not possible at these occasions to verify the information in the document.

Several German Länder, one Spanish region, Czech Republic, Hungary, Portugal and Austria stated not having experience with such aspect so far. This in part is explained by the fact that regions or countries are normally not in the position of transit country/region. This argument has namely been raised by Spanish Regions and Portugal.

Cyprus indicated not to allow any reloading to happen during transit.

BE, FI, FR, RO, SI and PL see certain problems with reloading activities, even if these might not always coincident completely with the original intention of the question and proposed solutions to overcome the problem. In most detail, the problem is raised and addressed by Belgian authorities. (See report on problems and deficits).

2.2 Implementation/enforcement of Annex VII

2.2.1 Specific provisions related to confidentiality issues in relation to information in the Annex VII document

Art 18(4): The information referred to in paragraph 1 shall be treated as confidential where this is required by Community and national legislation.

Almost none of the responding Member States apply any confidentiality agreement as concerns the filling of Annex VII. Whereas the majority of CAs did not further justify why such provisions are not applied, some (see below) provided arguments or other comments.

The major and striking argument is traceability of waste transports.

Other comments relate to observed deficits or describe other confidentiality aspects respected.

Table 2-4: Overview on MS arguments for not accepting confidentiality clauses in Annex VII

MS	Response given by MS authorities, derived from MS reporting to EC and awareness raising
BE	No. The complaints of the companies are known. But traceability of the waste is very important for enforcement.
DE-BR	No. There are no provisions in Article 18(4), which information should be classified as confidential. Following experience, the persons arranging shipments use to choose a wide interpretation of confidentiality. There is no uniform opinion on this issue throughout CAs.
DE-NS	The COM has not yet replied to that question. The requirements should apply to all MS and not only Germany.
DE-HE	No. Often the data of the waste producer (box 6) or the recovery facility (box 7) is not provided because trade secrets were no longer protected in case shipment is arranged by traders and brokers.
DE-BY	No. Specific provisions in ordinances/administrative instructions (Verwaltungsvorschriften) regulating management of business secrets and/or secret information in dossiers.
ES-CAT	No specific procedures. We stick to the law on environmental protection.

On the other hand six competent authorities reported to apply confidentiality procedures. Whereas no further details were provided by Hamburg, the other authorities provided information on their interpretation and applied procedures.

In the majority of cases “confidentiality” pursuant to Article 18(4) is interpreted as compliant with data protection law requirements throughout data management by CAs.

Ireland is the only Member State which interprets the legislation in a way that “persons who arrange the shipment” (box 1) may omit the information on consignee and recovery facility by referring to the exporter. Box 2 and 7 in this case will be filled with “Confidential - please refer to box 1”.

Table 2-5: Overview on MS interpretation about “application of confidentiality” as regards Annex VII

MS	Response given by MS authorities, derived from MS reporting to EC and awareness raising
DE-HH	Yes.
DE-ST	Yes (according to data protection requirements). The information exchange only takes place between authorities. (internally)
ES-AND	The information is treated confidential in conformity with the Law 15/1999 and it is not deemed necessary to install specific procedures for data protection.
HU	Yes. Publicity of data are limited by the Act LXIII of 1992 on the protection of personal data and the disclosure of data of public interest; documents can be looked over only by persons who are qualified as client.
IE	Yes. "Confidential - please refer to box 1", is sometimes placed in box 2 (importer/consignee) and 7 (recovery facility). On this basis we request the information from the person who arranges the shipment in order to determine the final destination of the waste.
UK	Yes. The Data Protection Act applies. The information we record from the Annex VII sheets we receive is held securely on our server. We would not divulge information that would identify an exporter or receiving site, where we receive a request for information under the Freedom of Information Act provisions.

Opinion of industry about necessity on inappropriateness of any arrangements related to omission of information in Annex VII is controversial. Whereas as slight majority of companies/associations does not apply or even reject any confidentiality arguments in the light of transparency, and EM standards, some others either use certain ways to keep confidential certain information or would ask for such possibility. One company even highlights that any arrangement would be in offense to existing law. This is used in part by competitors to put pressure on authorities.

Table 2-6: Overview on industry responses about “application of confidentiality” as regards Annex VII

Industry	Responses given by industry
UK	Yes, exporters deal with brokers and traders who will not reveal the end processor. However, the regulations prohibit this trade unless the processor can be identified and certified to be in possession of an appropriate license.
DE	Yes; no further information.
FI	Yes; Finnish authorities do not have a separate database for our confidential reports, which can be accessed by any authority at any time. The possibility that authorities provide the confidential data to the third parties exists. It is uncertain, whether the exporter could claim damages of authorities in case of possible information leakage.
DE	Yes; all involved partners have to obey to discretion towards third parties
FR	Yes. Trading has become very difficult with this provision. Confidentiality is not respected at all.

2.2.2 Specific procedures for filling/signing of the Annex VII document

Procedures and requirements for filling Annex VII documents vary between competent authorities in the EU.

Ten competent authorities stated to accept (general or under certain circumstances) copies of the Annex VII document during transport or company controls. Such information may be limited by readability (clear signatures etc.), or is restricted to certain types of transport e.g. train and maritime traffic. Poland on the other hand explicitly requests that the waste transport to be accompanied by the original of the Annex VII.

- Some authorities report on the procedures established for information of competent authorities. In these cases in general copies of the document (sent by fax or email) are accepted. In the UK electronic signature is possible.
- Only single authorities request to have contracts accessible.
- Three authorities address the aspect whether the “person who arranges the shipment” has to be under jurisdiction of the CA of dispatch or not, and how this shall be interpreted.
- Portugal has established a national Annex VII form, including a registration number for documentation and tracing purpose.
- Slovenia declares that it can also accept if there are two Annex VII documents for the same shipment. In the first could be the data about the producer and in the second the data about recovery, so that you can get all required data. (confidentiality)

For more details see Table 2-7.

Table 2-7: Exemplary details for filling and acceptance of Annex VII documents as reported by MS authorities

MS	Response given by MS authorities, derived from MS reporting to EC and awareness raising
AT	Copies will be accepted, all sections must be filled, form must be signed
BE	The document must be in the Annex VII form (same lay-out/same format) and the form must be duly completed → all actors with complete name and address, good description of the waste, departure date and there must be a B-code and R-code mentioned in the appropriate block. The form must be signed. We accept copies, as long as everything stays clear and readable (clear signatures etc.).
CY	Original signature and stamp of the company presented at the Customs. Then a copy of this is sent to us.
DE-BR	See § 5 Abs 1 AbfVerbrG which lays down that the person who arranges the shipment must fill the document as far as possible; that additional actors must fill the information if applicable and that any person receiving the transport must carefully check the document In case of train and sea transport copies will be accepted.
DE-HH	Filled in as far as possible according to Annex IC WSR In case of maritime transport copies will be accepted due to feasibility aspects
DE-HE	Complete filling out and signing of the documents. In the case of imports a copy of a subsequently issued document is also accepted.
DE-ST	In case of justified reasons and based on the circumstances copies of the Annex VII are accepted.
DE- SN	Fully completed; typed if possible.

MS	Response given by MS authorities, derived from MS reporting to EC and awareness raising
DE-MV	<p>Shipments of green listed waste for recycling (paper, glass, etc.) are usually handled through dealers. This means that the "person arranging the shipment" is commonly not located (under jurisdiction) of the CA of dispatch (in a federal state). In addition, actual transport routes are often set at very short notice. Transmission of Annex VII document by fax is therefore common and accepted by CA. Not accepting fax according to our opinion would not be proportionate and would not correspond to the intention of the WSR.</p> <p>In contrast to the notification procedure Annex VII is not intended to serve as a control of the fate of the concerned wastes with legally binding effect ("rechtssichere Verbleibskontrolle"). The required information only serves to enable the controlling authorities to monitor the shipments and detect illegal shipments if any occur.</p> <p>More important is that the Annex VII document is completed (or the corresponding information is available to the controlling authority in some other way). When information like the actual treatment facility is missing, the Annex VII document no longer fulfils its purpose and cannot be accepted as compliant.</p>
DE-NS	The requirements acc. § 5 AbfVerbrG. The Annex VII document must be completed where possible by the exporter. The document can also be carried along as a copy.
DE-NW	Annex VII has to be filled completely and signed ; the contract has to be accessible on request.
DE-TH	Copies are accepted.
DE	Annex VII is not transmitted to authorities.
EE	All boxes should be filled. Copies are accepted.
ES-AND	Exporters transmit originals of Annex VII and we accept copies of the accompanying documentation for waste shipments.
ES-CAT	In general we always accept copies because the originals accompany the waste.
ES-AS	Accept copies of contracts with the destination facility, and authorisations of agents and contractors.
ES-MAD	We consider a sufficient transfer via fax of the Annex VII document, fully completed and signed by the "person who arranges the shipment" (normally the producer) prior to the transport.
FI	We accept copies of the Annex VII.
FR	No specific procedure because Annex VII is not transmitted to authorities.
HU	<p>Import: copy of the Annex VII document filled in and signed in blocks 1-13 shall be sent by the consignee to the Hungarian competent authority not later than 5 working days following the receipt of the shipment.</p> <p>Export: copy of the Annex VII document filled in and signed in blocks 1-13 shall be sent to the Hungarian competent authority by the person who arranges the shipment not later than 30 days following the quarter of the year in which the shipment took place.</p>
GR	<p>Application form, to which copies of the following are attached:</p> <p>(a) contract (or Proforma Invoice) between the person who arranges the shipment and the importer / recovery facility,</p> <p>(b) prefilled Annex VII document, in as many blocks (mainly block 1, 2, 3, 5, 10) as possible.</p> <p>After the check of all the aforementioned data our service issues an approval of the shipment. After the shipment has been carried out, the person who arranged the shipment must submit to our service the document of Annex VII filled / signed by the recovery facility in block 14. For the approval of the shipment and the statistical data elaboration.</p>
IE	Annex VII: must be signed and fully completed except of signature of receiving facilities prior to export.

MS	Response given by MS authorities, derived from MS reporting to EC and awareness raising
IT-PDT	Copy of the movement document filled in to the extent possible prior to shipment and copy of completed document after arrival at destination.
IT-AV	The Annex VII document will be released in an original copy, where a notification number will be inserted, and authorised copies - signed by the competent expert in the authority - will be issued for the number of envisaged transport (seems to relate to notification).
IT-AL	We receive copies, because the original documents will accompany the transport.
IT-L	Annex completely filled; we accept copies of the contract.
NL	If something is investigated the VROM Inspectorate will visit the companies involved and ask them for their administration regarding the specific shipments (contract and Annex VII forms).
PL	Transport of waste shall be accompanied by original of Annex VII.
PT	According to national law the Annex VII corresponds to the Portuguese model 1918 with sequential number. Annex VII and the contract is sent by fax, which are analysed and the information is entered in a database. The paper is stored.
RO	A copy of Annex VII completed and signed by all legal and natural persons involved in shipment procedure must be send (by mail, fax) to the competent environmental authority.
SE	The person who arranges the shipment has to be under the jurisdiction of the country of dispatch. We interpret this to have a business address in the country of dispatch.
SI	Annex VII document should be properly filled in (according to Annex IC to 1013/2006), that means also the name of producer and recovery facility. The person who organises the shipment must be from the country of dispatch - under jurisdiction of that country. We can also accept if there are two Annex VII documents for the same shipment. In the first could be the data about the producer and in the second the data about recovery, so that you can get all required data.
UK-SC	Annex VII forms are either emailed or faxed to CA once they have been completed by the person arranging the shipment. Some sites send copies of forms after the first carrier has signed them (immediately before the doors of the containers are sealed with the original documents placed inside) but we would not insist on this.
UK - NI	Annex VII forms are either emailed or faxed to us once they have been completed by the person arranging the shipment. Due to confidentiality issues some companies have detailed confidential across some of the boxes in the Annex VII form to prevent the producer identifying the actual receiving site but the notifier sends us additional information which does provide these details. Electronic signatures are accepted.

2.2.3 Criteria and requirements for classification of Annex VII as incomplete

Classification of Annex VII as complete or incomplete is closely related to the procedures and specific requirements set by the different competent authorities. (See chapter 2.2.2).

The considerable number of competent authorities requests a completely filled Annex VII document, filled in all boxes except the signatures of consignee and treatment facility in boxes 13 and 14, even if this is not expressed to the same level of detail.

- NL in addition requests the contract and compliance of the contract with Art. 18 requirements

- IT-PDT precises that information could also be contained in an accompanying document (in particular waste identification form)
- Slovenia adds the discrepancy of Annex VII information and the waste (physical inspection).

Another group of CAs in its answers is less precise, reporting to request important/essential information, with the potential to omit/accept lack of certain details, such as:

- Some contact details (provided that at least one right contact information is indicated)
- Box 4: current date is missing, box 8: method is given, but further classification is not correspondent, box 10: using the old but suitable key code

,or even explicitly limits requested information. For more details in these cases, see Table 2-8.

Table 2-8: Overview on enforcement practice as regards Annex VII limiting requirements for completeness of the form

MS	Response given by MS authorities, derived from MS reporting to EC and awareness raising
CZ	When any important information/signature is missing (blocks 1,2,3,4,5,6,7,8,10,11,12) - in fact complete information has to be filled in, except for some contact details (provided that at least one right contact information is indicated).
DE-BE	If any information is missing that is needed to get a coherent picture of the entire process.
DE-BY	In principle, when one or more fields are empty; exemption can be made for: box 4: current date is missing, box 8: method is given, but further classification is not correspondent, box 10: using the old but suitable key code.
DE-HH	If not filled in accordance with WSR requirements as far as possible.
DE-HE	If important information and signatures are missing; in case of export any field left blank; in case of import (copy of ad post filled document accepted).
DE-ST	All sections requested; if possible or requested information is missing.
DE-MV	If essential information is missing, so that the Annex VII document no longer fulfils its control purpose (for example indicating the producer or the treatment facility). In this case, the Annex VII document is classified as missing (illegal shipment).
DE-NS	All sections requested; when data for monitoring purposes may not be available or presented.
DE-NW	All sections requested; if important information related to sender, consignee, waste, waste quantity and contract are missing.
DK	The blanks 1-12 in Annex VII must be filled in.
DE-SN	If important information in the document is missing or obviously false.
ES-AND	If sender (1), origin (6), maximum quantity (3), destination (2), EWC code (10) is missing.
ES-MAD	If data for producer (6), transport (5), data and codes for the waste (9, 10) or treatment operations (8) are missing or the document is not signed.
FI	Lack of information in line with Commissions viewpoints, correspondents 10-11 April, 2008: that means in case that more than (box 6) is left blank in the document that accompanies the shipment;
FR	If the contract is not valid any more.

MS	Response given by MS authorities, derived from MS reporting to EC and awareness raising
IT-AV	If essential information on the transport and the involved parties is missing.
RO	If any of the boxes 1, 2,6 or 7 are not completely filled in.
SI	If it is not filled in completely according to Annex IC; if the data do not match the waste (physical inspection).
UK	We do not require that boxes 2 (consignee) and 7 (treatment facility) are filled in the document accompany the waste; however, we would expect this information to be sent to us when a copy of the 'completed' form is submitted.

3 Summary analysis of the implementation/enforcement of Article 50 in Member States

Requirements for competent authorities according to Regulation 1013/2006 are as follows:

Article 50

Enforcement in Member States

1. **Member States shall lay down the rules on penalties** applicable for infringement of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.

Member States shall notify the Commission of their national legislation relating to prevention and detection of illegal shipments and penalties for such shipments.

2. **Member States shall, by way of measures for the enforcement of this Regulation, provide, inter alia, for inspections of establishments and undertakings** in accordance with Article 13 of Directive 2006/12/EC, and for **spot checks on shipments** of waste or on the related recovery or disposal.

3. Checks on shipments may take place in particular:

- (a) at the point of origin, carried out with the producer, holder or notifier;
- (b) at the destination, carried out with the consignee or the facility;
- (c) at the frontiers of the Community; and/or
- (d) during the shipment within the Community.

4. Checks on shipments shall include the inspection of documents, the confirmation of identity and, **where appropriate, physical checking of the waste.**

5. Member States shall cooperate, bilaterally or multilaterally, with one another in order to facilitate the prevention and detection of illegal shipments.

6. Member States shall identify those members of their permanent staff responsible for the cooperation referred to in paragraph 5 and identify the focal point(s) for the physical checks referred to in paragraph 4. The information shall be sent to the Commission which shall distribute a compiled list to the correspondents referred to in Article 54.

7. **At the request** of another Member State, a Member State may take enforcement action against persons suspected of being engaged in the illegal shipment of waste who are present in that Member State.

3.1 The legal framework on national/regional level

This chapter provides a summary description of national legislation established for implementation and enforcement of the requirements of Article 50 of the new WSR.

3.1.1 National legislation relating to prevention and detection of illegal shipments established for implementation/enforcement of WSR

Regulation (EC) No 1013/2006 is directly applicable in Member States in general, however further provisions and detail are needed to be established at national/regional scale in order to ensure appropriate prevention and detection of illegal shipments.

According to the information provided by the 23 Member State authorities and ten regional authorities responding to the questionnaire, specific provisions and requirements of the WSR are incorporated into the national waste management laws in seven Member States. In further seven Member States (FR, HU, IE, IT, RO, SE, SI) decrees, decisions, ordinances or statutory instructions have been elaborated to ensure the appropriate measures for enforcement of the WSR. In BE, DE, LU, PL, PT and the UK specific legislation on waste shipments has been established. No information was provided by BG, LT, LV and MT.

As expected, most legislations or amendments of existing legislation entered into force between 2006 and 2009.

Table 3-1: Overview of the national legislation established for implementation of the new WSR

MS	Legislation
AT	Waste Management Act 2002, entry into force 10th July 2007.
BE	Referral to WSR introduced into legislation of the three regions CA for transit of waste: - Law of the 9th of July 1984, concerning the importation, exportation and transit of waste (in modification).
CY	Solid and Hazardous Waste Law 215(I)/ 2002 and regulation derived from this law.
CZ	"Waste Act" N° 185/2001 latest amendment February 2008 (N° 34/2008).
DE	AbfVerbrG (waste shipment law) of 19 July 2007, entry into force: 22.07.2007.
DK	Bekendtgørelse om overførsel af affald (BEK nr 799 af 28/06/2007)
EE	Waste Act
ES	Law 10/1998 on Waste and Law 26/2007 on environmental responsibility.
FI	The Finnish Waste Act (1072/93, latest amendment 1583/2009) Waste Decree (1390/93, latest amendment 1815/2009) Environmental Protection Act (86/2000) and Decree (169/2000)
FR	Circulaire 2007 for enforcement of the WSR Environmental code (articles L 541-44 ff ; modified by the ordinance from 24 July 2009)
GR	Joint Ministerial Decision 13588/725/2006 (OJJ 383 B) - management of hazardous waste Joint Ministerial Decision 50910/2727/2003 (OJJ 1909 B) - management of non - hazardous waste (regulate the collection and transport including the transfrontier shipment).

MS	Legislation
HU	Governmental Decree No. 180/2007. (VII.3.) on transboundary shipment of waste (entry into force: 12.07.2007).
IE	Statutory Instruments No. 419 of 2007 Waste Management (Shipments of Waste) Regulations.
IT	According to information from provinces no legislation specifying enforcement procedures is established, except of the ministerial decree 370/1998 on the calculation of the financial guarantee and Articles 194, 259 and 260 of the legislative decree (decreto legislativo) on environmental norms, n. 152 from 3 April 2006, and its amendments.
LU	Grand-ducal regulation of 7 December 2007 regarding certain application modalities of Regulation (EC) 1013/2006 Grand-ducal regulation of 7 December 2007 regarding the procedural requirements of the WSR on national level
NL	Like the former WSR the new WSR is implemented in the Environment Law and the Law on Economic offenses (entry into force 2007).
PL	Act of 29.06.2007 on waste shipments (OJ of 2007 no 124 item859).
PT	Decree-law No 45/2008
RO	The Government Decision no. 788/2007 regarding the setting up of some measures for the implementation of the WSR, modified by Government Decision no. 1453/2008
SE	The Swedish Ordinance on Transboundary Movements of Waste (SFS 2007:383) The Swedish Ordinance (1998:900) on Inspection and Enforcement - according to the Environmental Code
SI	Decree on the implementation of the Regulation (EC) No. 1013/2006 on shipments of waste (OJ RS no. 71/2007); entry into force 2007
SK	Act No. 223/2001 Coll. on waste
UK	Transfrontier Shipment of Waste Regulations 2007, as amended

Not all of the responding Member States provided information on the major topics addressed in national law.

Based on the feedback of 15 Member States, the focus of national legislation in general is on details of notification procedures, allocation of responsibilities and control. According to the information provided the level of detail of provisions varies. Specifications on administrative powers, obligations related to national and international cooperation or obligations of notifiers and persons who arrange shipments towards the national administration are addressed in single cases. A comprehensive analysis of national legislation was outside the scope of this project.

Table 3-2: Details on major provisions of the national legislation:

MS	Legislation
AT	Calculation of financial guarantee, required information/attachments for notification procedure, tacit consent in case of transit, participation and responsibilities of police (fines, prosecution, stopping of transports).
CZ	Details on obligations of inspection authorities (Czech Environmental Inspectorate, Custom Service, Police) including co-operation (WM Act No. 185/2001)

MS	Legislation
	Additional documents requested for notification (Annex II, Part of WSR); Decree No. 374/2008
DE	Details on administrative competences and procedural rules, additional obligations for different actors in the field of waste shipments, complementary provisions on control and supervision
DK	The municipalities and the EPA conduct the authorisation, enforcement and control
EE	The law does not specify enforcement.
FI	(Restrictions concerning exports to and from Finland, reference to Waste Act Sections 46, 47 and 48 http://www.finlex.fi/fi/laki/kaannokset/1993/en19931072.pdf) Right to inspections (Environmental Protection Act (86/2000) , Decree (169/2000))
FR	Details on administrative competences and procedural rules, notably on financial guarantee
GR	Notification procedure at a national level, inspection schemes, penalties in case of illegal shipments.
HU	<ul style="list-style-type: none"> - the Hungarian competent authority (National Inspectorate for Environment, Nature and Water = Chief Inspectorate); - official languages of the administrative procedure (Hungarian and English); - special additional requirements to a notification (e.g. submission of calculation method applied for the financial guarantee or equivalent insurance, declaration that the Hungarian consignee or the notifier has not previously been convicted of illegal shipment or some other illegal act in relation to waste management, impairment of the environment/nature or does not have any remediation obligation in accordance with Act LIII of 1995 on the general rules of the environmental protection) - the beneficiary of the financial guarantee or equivalent insurance (Chief Inspectorate); - information of authorities on shipments of green listed waste - points of entry and exit; - the organisations responsible for inspections: <ul style="list-style-type: none"> - Chief Inspectorate with the help of the 10 regional inspectorates, - Hungarian Customs and Finance Guard, - Hungarian Police, - National Transport Authority, - National Directorate of Disaster Management (in case of hazardous wastes); -national/international cooperation - administrative powers (Chief Inspectorate with the help of the customs) <ul style="list-style-type: none"> - to stop waste shipments, to take samples for laboratory analysis, - to hold up the shipment until further necessary administrative measures (e.g. identification of waste, clarification of missing data etc.) have been carried out; - administrative powers of Hungarian Customs and Finance Guard: <ul style="list-style-type: none"> - to stop and check waste shipments alone, - to hold up the shipment in case of suspicious circumstances and inform the Chief Inspectorate about any kind of violation revealed.
IE	<p>Regulation 7: General Provisions and duties on notifiers, consignees and other persons</p> <p>Regulation 5: Powers of the competent authority to implement the TFS Regulation and S.I.</p> <p>Regulation 6: Competent authority duties e.g. the CA shall be responsible for State input to IMPEL projects carried out in respect of TFS Regulation.</p>

MS	Legislation
LU	Notification procedures, inspections, cooperations.
NL	No information available
PL	No information available
PT	Notification procedures - See Article 3 Inspections and cooperation – See Article 8
RO	The competent authorities for the application of the Regulation 1013/2006 The notification procedures Inspection and supervision authorities.
SE	Control responsibilities. Obligation for annual plan for enforcement for all of their enforcement activities (1998:900) Cooperation on national level (SFS 2007:383)
SI	Administrative competencies, procedural rules (e.g. language, administrative costs), provisions on penalties

3.1.2 Legal provisions laying down the rules on penalties applicable for infringement of the provisions of the WSR

Information on legislation establishing penalties for infraction of the WSR was provided by 20 Member States (AT, BE, CY, CZ, DE, DK, ES, FI, FR, GR, HU, IE, LU, NL, PL, PT, RO, SI, SE, UK). Information from reports was available for DK, EE, IT and NL.

In seven Member States (CY, CZ, GR, IE, PL, SI and UK) all penalties are included into the national waste management or waste shipment regulation containing also all other related requirements (see above; legislation not mentioned below). In other Member States penalties are allocated to different legislation with administrative sanctions in the corresponding waste law (see above) and criminal penalties in the corresponding criminal codes.

The Spanish central authority reported not to have established corresponding legislation whereas a regional Spanish authority refers to a national law.

RO and SE reported to be currently developing provisions laying down the rules on penalties.

Table 3-3: Overview of the legal documents laying down penalties for infringement of the WSR (if divergent from basic WSR legislation as indicated in chapter 3.1.1)

MS	Legislation
BE	Flanders: Decree concerning general provisions relating to environmental policy. CA for transit: Art. 10-11-12 of the Law of 9th of July 1984.
DE	§ 18 AbfVerbrG and AbfVerbrBußV which entered into force 28 November 2009 § 326(2) of the penal code.

DK	Bekendtgørelse af lov om miljøbeskyttelse (Miljøbeskyttelsesloven) (LBK nr 1757 af 22/12/2006), § 110, nr. 12.
EE	§ 367 of the penal code or offences against environment (Violation of Requirements for Handling Dangerous Chemicals or Waste). § 392 of the penal code for tax fraud (Illicit Import and Export of Prohibited Goods or Goods Requiring a Special Permit).
ES	Royal Decree 952/1997 (amends regulation for the implementation of Law 20/1986, the basic legal rules approved by Royal Decree 833/1988).
FI	Waste Act (Section 60, amendment 277/2008), The Criminal Code of Finland (39/1889, amended up to 940/2008).
FR	Environmental code, Articles L 541-44 ff. Ordinance n° 2009-894 on police measures and on sanctions applicable to transboundary waste shipments.
HU	Governmental Decree No. 271/2001. (XII.21.) on waste management fine
IT	D. Lgs. 152/2006, Art. 259 and 260
LU	Entry into force 19 December 2008.
LV	Article 99 of Criminal Law: provision on violations of regulations on disposal of hazardous waste. Administrative Penalties Code, Article 75: provision on breaching of waste management regulations.
NL	Waste Act and Criminal Code in addition to environmental legislation and legislation on economic offenses.
PT	Decree-law No 45/2008, 11 of March Law No 50/2006 of 29 of August amended by Law No 89/2009 of 31 of August
SE	No penalties set; A proposal for new provisions is handled by the Swedish Parliament (Riksdagen) at the moment.

Details on penalties for illegal shipments have been provided or are available from other sources for 22 Member States. Whereas differentiations in administrative fine and criminal penalty is established in the majority of countries, the details and the height of applicable fines and penalties varies considerably among Member States, as indicated in the table below. A proposal to be discussed in the parliament is already available for Sweden.

Table 3-4: Overview on administrative fines and penalties established in EU Member States in case of infraction of the WSR:

MS	Details on penalties
AT	Illegal shipment of waste is an administrative offense, criminal penalty only in case of heavy environmental damage. Administrative fines: 1,800 to 7,270 €, It is envisaged to increase the amount of the next amendment to € 36340.
BE	Intentional infraction: 1month to 5 years of prison and a fine of 100 - 500,000€.

Flanders	Non-intentional infraction: 1 month to 3 years of prison and a fine of 100 - 350,000€. http://navigator.emis.vito.be/milnav-consult/consultatieLink?wettekstId=308&appLang=en&wettekstLang=en
CY	3 years of prison and/or €34,000; in case of major pollution administrative fine up to €3.4 million.
CZ	Infraction of WSR or Czech WM Act: up to 50 000 000 CZK (approx. 2 000 000 EUR); penalty depends on concrete circumstances and extent of the violation; penalties are imposed by Czech Environmental Inspectorate in administrative proceedings.
DE	Sect 18 AbfallVerbrG introduces graded approach of administrative sanctions, with fines up to 100,000 € possible. Penalty (§ 326 (5) criminal law): up to 3 years, up to 10 years if serious damage).
DK	Imprisonment for up to 2 years if the violation is committed intentionally or through gross negligence, and if the infringement 1) caused damage to the environment or risk thereof, or 2) achieved or intended economic advantage for himself or to others, including savings. Paragraph. 3. There can be imposed on companies' expenses etc. (legal persons) criminal liability under the rules of criminal law 5th Chapter.
EE	Administrative fines (Waste Act § 123): of up to 300 fine units (€1,150 = 18 000 kroons); if committed by a legal person up to 50 000 kroons (€ 3,196). Penalty: The maximum penalty is €1,667 but it can be applied several times. Penal Code: Carriage of prohibited goods, or radioactive substances, explosive substances, narcotic drugs or psychotropic substances, precursors for narcotic drugs or psychotropic substances, non-narcotic medicinal products, dangerous chemicals or waste, strategic goods, firearms or ammunition without a mandatory document or without an entry in the state register across the frontier of the Community customs territory or a state border is punishable by a pecuniary punishment or up to 5 years' imprisonment. Waste Act: Transboundary movement of hazardous waste or other waste subject to international control without the corresponding permit or in violation of the requirements of the permit is punishable by a fine of up to 300 fine units (1 unit = 3,8 EUR). Comments (Link): http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&dok=X70053K2&keel=en&pg=1&ptyyp=RT&tyyp=X&query=j%E4%E4tmeseadus http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&dok=X30068K8&keel=en&pg=1&ptyyp=RT&tyyp=X&query=karistus
ES	Law 10/1998: €600 - €1,200,000 for minor, medium and serious offenses
FI	Fines: according to Waste Act Section 60 http://www.finlex.fi/fi/laki/kaannokset/1993/en19931072.pdf or from fine to imprisonment according the criminal code Chapter 48, Sections 1 – 4 http://www.finlex.fi/fi/laki/kaannokset/1889/en18890039.pdf .
FR	Graded administrative instruments: from obligation to provide information to security guarantees, with taking-back and treatment of waste at expenses of the notifier in case of no reaction. Absence of financial guarantee although requested: forfeit graded penal sanctions: €135 to 2 years of prison and € 75, 000 fine in case of illegal transport and additional sanction such as prohibition to act as notifier in future. Administrative power to determine the conditions for temporary storage.
GR	Penalty in case of illegal shipment: three or even five years of prison. Fines may rise to 8,000 €/t hazardous waste and 4,000 €/t non-hazardous waste (also in case of

	lack of information).
HU	Penalty in case of illegal shipments: - non-hazardous waste: up to 200 000 HUF/ton - hazardous waste: up to 1 000 000 HUF/ton In case of administrative failure: up to 200 000 HUF/case.
IE	S.I. No. 419/2007 — Waste Management (Shipments of Waste) Regulations 2007, Regulation 11: prosecutions and penalties, with a maximum fine of €500 000 and a maximum imprisonment of three years. http://www.dublincity.ie/WaterWasteEnvironment/Waste/WasteCollectors/National_TFS_Office/Pages/NationalTFSSOffice.aspx
IT	Articles 259 and 260 specify the sanctions to be applied for illegal shipment of waste and activities of organised crime. Administrative fine in case of illegal transport: €1,550 - €26,000 or up to two years of prison Penalty in case of organised activity: 3 to 8 years
LU	8 days to 6 months of prison and/or administrative fine of €62 to €123,947
LV	Criminal law: importation of hazardous waste into the territory of Latvia or the transporting thereof through the territory of Latvia in violation of provisions, if substantial harm is caused, is imprisonment up to 6 years or fine up to 120 minimal salaries (up to € 30,000); if the violation has been performed by organised group, sanctions may rise to imprisonment from 3 to 7 years, with confiscation of property and police control up to 3 years. Administrative penalty: a fine of € 30-700 for physical in breaching of regulations; and for legal persons, a fine of € 150 to 1500 with or without confiscation of vehicles used. Problem: instruments widely not used by Courts.
NL	The penalty depends of the kind of violation. In case of an illegal shipment (e.g. export without notification) a penalty of € 450/ton is quite usual.
PL	Administrative fines: 20,000 PLN to 300,000 PLN (chapter 9) Penalties for illegal shipment (chapter 8): 3-5 years of prison (non-hazardous waste), 6 months – 8 years (hazardous waste)
PT	The import, export, transit and acquisition of waste within the EC without notification or movement documents are considered to be penalties. Administrative fines: 6000-12000 Euro. Art 9 – DL 45/2008
SI	See Art.17: 40€ - 1200€ for individuals, 1500€ - 4000€ for responsible persons of entity, 4500 - 40000€ for entities.
UK	A fixed penalty (mainly for administrative offences) of £300. Penalties: - on summary conviction: a fine not exceeding the statutory maximum (£10,000) or imprisonment not exceeding three months or both; - on conviction on indictment: a fine or imprisonment for a term not exceeding two years or to both.

3.2 Measures for the enforcement of the WSR

This chapter compiles information on the measures taken by EU Member States to enforce Article 50, including planning, guidance and inspections of establishments and undertakings and spot checks on

shipments of waste or on the related recovery or disposal.

In this context, it is important to note, that the wording of Article 50 is vague as regards measures to take and checks on shipments to make.

In particular, it is not specified:

- Where the inspections take place
- Whether inspection include physical checking of waste
- Which is an appropriate number of inspections
- Which measures are necessary to achieve effective inspections.

3.2.1 National or regional inspection plans for the control of transboundary movements of waste

Based on feedback received to the questionnaire, 16 Member States (AT, CY, DK, UK, SI, RO, PT, NL, IE, HU, FR, FI, EE, DE, CZ, BE) and one Italian province stated having inspections plans for transboundary waste shipments in place. Four Member States (PL, SK, ES, GR) and various regional authorities (UK-NI, all Spanish regions, most of the German Länder and all Italian regions) did respond to not having plans in place. No information is available for the remaining eight Member States.

Details on the number of planned spot checks and on organisational issues

For almost half (6) of the 15 Member States reporting on inspection plans, inspection periods strongly relate to the joint IMPEL TFS enforcement actions. Additional national monitoring in these cases is not foreseen.

Some of the Member States responded for 2009 whereas the majority provided planning for 2010. Slovak authorities reported to not having a fix plan but will react on priorities identified. Scotland provided detailed information on extended number of unannounced, intelligence led inspections both for transport (road and port) and companies. (As information is confidential details cannot be presented in this report). France reports about the plan of a systematic control of waste management chain for hazardous waste of which minimum 20 % shall relate to export in support of police and customs without providing more details on timing. Focus is on administrative control of requested documents at companies involved in the waste chain, whereas transport controls are not foreseen. IT-Q AV refers to a tri-annual regional plan of environmental inspections, comprising one inspection per notification, but no company controls. It is worthwhile to note that in Belgium the CA for transit of waste has established annual plans for control of transboundary movements of waste since 2006.

Planning is either focussing on number of vehicles/plants inspected or more organised in inspections days/months.

With respect to transport inspection in terms of inspection days, the level of activities ranges from one action week to almost 20 actions throughout the year. Most common according to current experience are roughly two activities per year. Expressed in terms of vehicles, transport inspections range from 10-20 to 5000 (in a MS with 16 million inhabitants).

The number and frequency of company inspections seems to vary accordingly. While there is no

planning at all for a number of authorities, others envisage up to 150 inspections a year. In this context it is important to highlight that inspections in part seem to restrict to treatment facilities whereas waste producers/collectors etc. are not addressed. For more details see Table 3-5.

Table 3-5: Details on the number of planned spot checks and on organisational issues

MS	Time period of plan	Transport controls	Facility controls
AT	One year	1000 controls of vehicles/year	15
BE	Whole year	Flemish Environmental Inspection: 20 CA for transit of waste: 22 500	None
CY	2009	5-10	3
CZ	Annual plan	10 inspection days (performed on regional level) and 5 inspection days on international level (one joint road inspections with each of neighbouring states)	Approx. 5 inspections/year facilities are mostly checked ad hoc or in the framework of EU projects (EAIL)
DE-ST	Monthly inspection plans (BAG), annual control plans (police)	8	Waste treatment plants at least twice a year, in the context of inspections performed in the framework of waste and immission legislation. Additional inspections can be carried out (on demand/as circumstances require)
DE-SL	--	2 inspection days	--
DK	2010	21 inspection days	Under responsibility of municipalities
EE	17-23 April 2010	1 inspection week	---
FI	Annual	---	Regional authorities inspect the sites regularly under MoE instruction by results.
FR	Annual (?)	None	2009: administrative control of 400 movements of hazardous waste at producers, sorting, transit and repackaging facilities
HU	2010	4 inspection days	3
IE	Impel weeks	Refer to our response to the Enforcement Actions Projects	Refer to our response to the Enforcement Actions Projects

MS	Time period of plan	Transport controls	Facility controls
IT-AV	Tri-annual regional plan of environmental inspections	One for each notification	We do not have treatment plants
NL	Annual plan	3000-5000 vehicles	100-150 plants
PT	March / June / October 2010	3 inspection days (in several borders with Spain and Ports)	To be defined
RO	March, June 2009	20	60
SI	March, April, June, October (2010)	ca. 500 - 600 trucks checked	Ca. 25 - 30
UK-NI	Envisaged April 2010	No data	No data

Envisaged date of elaboration for authorities which did not yet elaborate an inspection plan

As regards envisaged date for elaboration of an inspection plan answers would be expected from: Greece, Poland, Sweden, Luxembourg, Northern Ireland, Slovak Republic, Sweden, Spain and regional authorities in Germany, Italy and Spain.

Greece stated that there is not a national annual inspection plan. However, it has already been organised to conduct a common check with the competent authorities of Bulgaria at the Greek-Bulgarian borders during 2010. Responsible for conducting and planning inspections is the Environmental Inspectorate that elaborates inspection plans on a monthly basis.

Poland reported to not having any schedule for elaboration of an inspection plan.

The Slovak Republic reported on an annual plan (see above) without specifying any targets.

Regional authorities according to reported information in general did not yet set a date for elaboration of inspection plans.

As concerns German authorities, only DE-SA mentioned the intention to develop regional plans, without any time schedule for this set so far. Italian provinces referred to the central authority for corresponding information and do not have own plans and planning.

For Spain six of the autonomous regions reported to not having and planning so far.

ES-B and UK-NI intend to have their plans ready by mid or end of 2010, whilst Sweden envisages the elaboration of a national plan during 2011-2012.

Alternative opinions and solutions with respect to waste shipment inspections have been reported as follows:

- DE-TH: flexible agreements between competent authority, BAG and police in accordance with monthly planning of BAG
- ES-CAT: the inspections are integrated in the overall waste management policy in Catalonia and the input and output of our community
- ES-MAD: since the transport authorities are already involved in the control, an inspection plan is considered unnecessary. Control is exerted on notifiers, producers and managers of destination facilities.

No information on plans was provided by Luxembourg, the Slovak Republic, the Spanish and the Italian Ministry of Environment.

3.2.2 Use of electronic data interchange as tool to facilitate enforcement

Art 26(3): The documents to accompany each transport in accordance with Article 16(c) and Article 18 may be in an electronic form with digital signatures if they can be made readable at any time during the transport and if this is acceptable to the competent authorities concerned.

Art 26(4): Subject to the agreement of the competent authorities concerned and of the notifier, the information and documents listed in paragraph 1 may be submitted and exchanged by means of electronic data interchange with electronic signature or electronic authentication in accordance with Directive 1999/93/EC.

Member State responses

The vast majority of the MS/regional authorities which responded to the questionnaire does not yet apply electronic notification (Art. 26(4)) nor electronic information transfer in relation to movement documents or Annex VII documents (Art. 26(3)).

However, some authorities reported to make use of this technology or asked for a coordinated development of such.

- Belgium indicated that this initiative should be started on a European level to establish one system for the entire EU. (if every country would have its own system, compatibility would be lost). This would solve more problems than just administrative burden. Statistics would be registered, environmental inspection would have access to all data and confidentiality would not be an issue anymore.
- Cyprus stated that despite using the electronic data interchange the authority still asks for the hard copy in the case of prior notification. The electronic data interchange is especially used for green-listed waste.
- DE stated that the "certificate of treatment" from German facilities could be delivered in electronic or paper version. For the treatment of hazardous waste, the electronic version is obligatory from April 2010.
- DE-HAM stated to use electronic data transfer in case of notification, but not in case of green listed waste shipments.

- DE-NRW reported that from 01 April 2010 an electronic data transfer system is established for waste transports within Germany, whereas for transboundary shipments there is no solution so far.
- ES-G stated that there would have been an attempt for such electronic submission. However, it would have been impossible because of the incompatibility of the applications that are used by the different competent authorities.
- Spanish central authorities use e-mail without digital signature followed by post (Art. 26(2)(d)) for notification procedures.
- France reported to currently develop an electronic system for waste management including transfrontier waste shipment. The tool which is currently tested in some regions shall be operational in 2011. This software would be designed to meet both Article 26 and reduce the administrative burden. Further it shall ensure a harmonised notification procedure, improve data collection and statistical tracking of waste shipments. In this context it is planned to include also Article 18 waste shipments, and in this context to request mandatory information of authorities.
- IE reported to work on a new database system, in which Article 26(4) should be reviewed. However, all requests for further information, objections, consents, etc. are sent via email and post.
- In Italy, the Lombardy region has developed an online system for waste shipments subject to notification.
- LU is currently working on an electronic information system.
- PT reported that APA would begin a project for electronic exchange data in 2010, regarding Annex VII to which APA, IGAOT, customs and police will have access.

3.2.3 Measures to ensure that shipments accompanied by Annex VII end up in the country and facility of destination, as indicated

Member State responses

The vast majority of competent authorities indicate to not undertake specific measures nor to have any administrative possibility to control that waste shipments subject to Article 18 end up in the country or facility of destination.

This is justified by the fact that Article 18 does not foresee involvement of authorities and that responsibility to comply with the requirements is on the exporter and the authority of destination.

In limited cases where provision of Annex VII information is requested by competent authorities prior to shipments, return of signed Annex VII is partly requested.

In detail, the following additional comments and proposals have been raised:

Table 3-6: Overview of measures to control destination in case of waste shipments subject to Article 18

MS	Description of measure
AT	Each MS can only act within its territory.
BE	Flemish environmental inspection: we could request to the inspection services in the country of import to verify the arrival of the waste. We only do this in very rare occasions. It is a common practice to check - before departure - with the competent authorities of arrival whether the company in box 7 is licensed and capable to accept and to recycle such waste. CA for transit of waste: none; in case of doubt consulting the internet to obtain information about the activities of the mentioned recovery facility. If needed: contact the facility itself to ensure that they received the shipment and signed for reception.
CY	Customs ask for the Export Manifest proving that waste was loaded on a specific ship with certain destination; as regards verification of facilities any measures for the moment.
DE-BR	The obligation is exclusively to the exporter. During harbour controls information on Annex VII documents is compared to customs papers.
DE-BY	Control is only possible during potential facility inspection according to Article 50 WSR.
DE-HH	As exported waste in general is material with positive market value (metal, plastics, paper etc.), there are no problems in this respect. In case of suspicious transports detected during controls, the plausibility of the treatment method will be verified by means of contacts with the competent authorities of destination.
DE	The treatment facilities are obliged to maintain a register (waste generator, transporter, facility operator) to report to the authority on request and to allow visits to the facility.
DE-ST	By partially advising the waste producer to require a copy of the Annex VII document from the receiving facility (even though this is not legally foreseen). Control is partly possible for waste imports in the context of company inspections.
EE	Customs officers are informed about requirements.
ES-AND	Information on quantities will be provided by the exporter
ES-CAT	There are no specific procedures but as the competency of the regional authority is limited to the EU, we consider the transports well controlled.
ES-AS	We should require the document "Annex VII" signed by the addressee, the recovery facility or laboratory.
ES-V	Receipt of copies of the Annex VII documents signed by the recovery facility on box 13 and 14.
FI	Annual report, checking of documents during the site inspections. Verification is planned to be improved.
FR	The competent authorities during company inspections request from the exporter Annex VII documents signed by the recovery facility in box 14. In practice the operators are rarely in the position to provide the document because it has not been sent to them. It seems difficult to enact binding measures when the legislation has rightly opted that such waste can be exported / imported relatively "free". There are plans to make compulsory an electronic export declaration of Annex VII (see answer to question 13), which would ensure traceability and allow targeted controls.

MS	Description of measure
GR	(b) prefilled Annex VII document, in as many blocks (mainly block 1, 2, 3, 5, 10) as possible. After the check of all the aforementioned data our service issues an approval of the shipment. After the shipment has been carried out, the person who arranged the shipment must submit to our service the document of Annex VII filled / signed by the recovery facility in block 14.
HU	In case of export: the person who arranges the shipment has to submit the copy of the Annex VII document with the completed block 13. In case of import: the consignee has to submit the copy of the Annex VII document with the completed block 13. In case of administrative procedures launched due to infringement of the WSR we oblige the Hungarian consignee or the person who arranged the shipment to submit the copy of the Annex VII document with the completed block 14. In other cases we carry out random inspections by comparing reported data of the Hungarian recovery facilities with the ones kept in our national waste management information system (it consists data that are reported by waste treatment facilities to the regional environmental inspectorates).
IE	Verification requests (case by case basis) are sent to the competent authorities of destination to identify if the waste type/company name is authorised to recover in an environmental sound management. However, the checking of the final destination, whether the waste shipment has been received is difficult, as the recovery facility is not obliged to send back a completed form on receiving the waste.
IT	The national legislation foresees that the waste producer is obliged to inform the competent authority if the waste did not arrive at the destination (returned documents signed in box 13) within six months from the transmission of the waste to the transporter. Arrival of the waste at the treatment has to be proven by the return of the duly signed and stamped movement documents.
IT-AL	At the moment we are not able to get news on the fate of waste after their departure. (see the response of the box 3) The only effective controls are carried out on waste imported by persons resident on our territory. Given lack of resources effective enforcement is limited to movements of waste subject to notification. Sometimes we receive a copy of Annex VII already stamped by the recipient, but this is the documentation received by the person who sent the waste.
NL	In cases the VROM-Inspectorate questions the destination, we contact the competent authority in the country of destination to verify whether the shipment has or will arrive on the foreseen destination.
PL	Any such measures may be undertaken only on basis of customs regulations (if shipment outside EU).
PT	APA and IGAOT provide training to customs and police as well cooperate with Spanish authorities in order to ensure that shipments accompanied by Annex VII end up in the country of destination. With other countries like China it is more difficult to ensure that.
RO	The producer of waste report to the Local Environmental Protection Agency according to GD No.856/2002. The receiver reports every shipment to the National Environment Protection Agency.
SK	Via inspections executed by Slovak Inspectorate of the Environment.
UK-SC	We routinely ask for the contract of a shipment when we receive an Annex VII form for a new route/destination or waste type from a supplier. Where information, such as the country of destination, is missing from the Annex VII form, we will request this from the exporter. We undertaken Annex VII checks at green list inspections, and may look at invoices and payment details and bills of lading.

MS	Description of measure
	Furthermore, checks made as part of producer responsibility audits will also review shipping. Information at points of loading and at brokers issuing evidence. We would check documents during audits demonstrating that materials have been received by the overseas site, e.g. confirmation of receipt of materials and/or payments.

Industry responses

Besides information about non existing specific measures (6) and copies of signed documents the following measures to assure correct destination have been reported by industry:

- Transport with own trucks, request of weighing bills, invoicing based on IBAN (which allows exact identification).
- Shipping lines have well established procedures to ensure that all shipments (whether comprising waste or any other commodity) are always delivered to the person/address stipulated in the contract of carriage, as evidenced in the Bill of Lading (or equivalent transport document) - indeed, their business depends on it. The person who arranges the shipment (i.e. the shipper or the exporter) is responsible for ensuring that the destination he stipulates for the contract of carriage is the same as the destination specified in the Annex VII document.
- As a recycling company, we are interested that this shipment (Green List Waste) ends up in the planned destination - it has positive value.
- Custom clearances.
- In general sales contracts are including transport paid by the seller.
- Shipped goods can only be taken over by the legitimate receiver (Bill of Lading).
- Traceability is assured by the fact that goods/waste is largely transported with own means of transport (trucks). When involving agents the authority over the drivers is assured through renting the truck.
- Export to Far-East: shipments are looked after by our purchasers. We ascertain however, that the destination of the vessel corresponds with the country of destination.
- Europe: we organise transport ourselves and deliver the material to the country or mill of destination ourselves.
- Long-term contacts with transporters; confidentiality.
- Signed documents and all photos.
- The receiving facility would pay for the shipment and therefore would be clearly interested that the waste shipment arrives at the facility.
- Payment of the invoice

Apart from these assuring statements the following critical comments were received:

“Exporters are required to get written confirmation from the eventual recovery facility that the material has been received and reprocessed in an environmentally sound manner. We believe that this does not generally happen”.

3.3 Checks on waste shipments including physical checks

3.3.1 Transport inspections

In response to the questionnaire a specific number of transport controls has been given by 16 Member States (AT, BE, CY, CZ, EE, FI, FR, GR, HU, LU, NL, PT, PL, RO, SI, SK), seven German Länder, three Italian provinces and by UK-NI. In many cases the number of indicated controls is consistent with the planning reported in chapter 3.2.1. Some Member States differentiate between national controls and joint activities with neighbouring states.

Some competent authorities reported about differentiation between general transport controls (waste shipment aspects included were appropriate) and specific transboundary shipment controls.

In general Annex VII and notifications are controlled simultaneously due to practical reasons; in part however, it was reported that the focus is on hazardous waste shipments.

Italian provinces reported to not perform transport inspections at all or to do this only in case of alert for illegal shipment. In Italy and in Spain transport controls seem to be in the almost exclusive responsibility of environmental police, which apart from other aspects is also dealing with illegal waste shipment and disposal (namely organised activities) based on intelligence.

UK authorities pointed to the fact that they undertake inspections of green listed waste on the basis of information received through Annex VII forms. The focus of inspection is on assuring high quality (material that could genuinely be listed as green list), as it would be less likely that this material would be subject to sham recovery abroad. In case of doubts about a waste stream or recovery process the competent authority would contact the authority of destination for further information.

In assessing inspection activities, it is important to highlight that the number of inspections given by Member States in part relate to inspected vehicles and in part refer to inspection days. This shows the importance of a clear indication on the correct calculation method to be applied in this context by all competent authorities and Member States in their reporting towards the EC.

Table 3-7: Overview on the number of transport inspections in EU Member States

MS	Annual number of transport controls
AT	<p>The regular control actions include 2 extensive control actions per year, realising simultaneous controls at different border crossings in different federal states and 5 to 10 controls (1 to 2 days) at different border crossings additional actions at regional level.</p> <p>The Ministry of Environment (BMLFUW) organises annually two comprehensive controls (4 to 5 days) executed jointly by the police, customs and UBA; in addition there are three joint day actions with three neighbouring states. At regional level the State of Vorarlberg organises monthly transport controls by police and customs.</p> <p>IMPEL-TFS: 1 road transport inspection event, 50 inspections (of which 50 administratively, 30 physically), 3 transfrontier waste shipments, no violations discovered.</p>

MS	Annual number of transport controls
BE	<p>Flemish Environmental Inspection: in the harbour: 20 general controls / 350 shipments; on the road: 20 general controls / 20 transboundary shipments;</p> <p>Police: Controlled waste transports: +/- 2500/year and increasing (both national and international transport). Approximately 50 to 60% concerns Annex VII.</p> <p>The transport controls are effectuated during small, ad hoc control moments or during large-scale control actions. These are executed either with or without the help of the competent authorities.</p> <p>CA for transit of waste: in 2009:</p> <p>* road controls: 24200 trucks of which 3091 waste (of which 1140 with annex VII) and of which 835 transit of waste (of which 210 with annex VII and 625 with notification).</p> <p>* port controls: 1453 controlled units (containers and trailers) of which 754 transit waste containers/trailers/ELV/second hand goods (about 90% Annex VII).</p> <p>IMPEL-TFS: 7 transport inspection events, 5 other inspection events (seaport/containers), 2 combinations of inspections; 568 inspections (of which 526 administratively, 568 physically), 111 transfrontier waste shipments, 52 violations discovered.</p>
CY	5-10
CZ	<p>On average about 10 planned transport control actions are performed on regional level (CEI, customs, police) + 5 on international level with assistance of Ministry of Environment (CA).</p> <p>During international action between 20 to 300 trucks are stopped and inspected, depending on location and transport situation, there are in average 2 - 3 waste shipments per one control action detected.</p> <p>Transport controls are performed primarily by customs' mobile road patrols.</p> <p>In 2008 2561 vehicles checked, in 2009 1539 vehicles checked.</p> <p>Annex VII documents are mostly checked during joint national or international road inspections, approx. 20 to 30 Annex VII documents checked a year.</p> <p>IMPEL-TFS: 7 transport inspection events, 712 inspections (administratively and physically), 11 transfrontier waste shipments, 3 violations discovered.</p>
DE	<p>- Ca. 2,000 vehicles from Federal State Authorities for waste shipments;</p> <p>- 20,000 vehicles from the Federal Office for Goods and Transport (BAG) general transport controls including transboundary shipments of waste. Exact number for waste shipments could not be identified.</p> <p>IMPEL-TFS: 11 transport inspection events, 1,808 inspections (of which 1,783 administratively, 1,808 physically), 279 transfrontier waste shipments, 27 violations discovered.</p>
DE-BR	WSR control activities in the framework of IMPEL TFS twice per year
DE-BW	1-2 transport controls in cooperation with police, 1 transport control in cooperation with BAG, 1 multilateral control in the framework of AG II; every two years an extensive control along the Swiss border. Within these transport controls, waste is checked which is subject according to the terms of general information as well as waste, which is mandatory for notification.
DE-BY	WSR controls are performed in the framework of general traffic controls; Currently, about 14 focus controls on waste shipments per year.
DE-HE	<p>Minimum 2 inspection days per year.</p> <p>IMPEL-TFS: 1 ad-hoc inspection event (routine BAG road control in Hessen) with 134 inspections (of which 95 national traffic, 39 transfrontier shipments), 2 waste shipments, 2 violations discovered.</p>
DE-ST	8
DE-SL	6

MS	Annual number of transport controls
DE-TH	Joint focus controls of the regional government authority and the German transport control authority (BAG); in addition regular BAG controls, where regional government is involved on demand.
DE	See latest Basel country report.
DK	IMPEL-TFS: 4 transport inspection events, 119 inspections (of which 99 administratively, 119 physically), 39 transfrontier waste shipments, 17 violations discovered.
EE	10 inspection days per year. IMPEL-TFS: 3 transport inspection events, 53 inspections (of which 23 administratively, 53 physically), 2 transfrontier waste shipments, 1 violation discovered.
ES-MAD	The environmental authority does not perform inspections. These are carried out by the traffic authorities, which in their daily inspection and control tasks, include verification of waste shipments, both national and transboundary.
FI	Regular inspections of waste shipments are performed by Customs Service as a part of their normal border control actions. Police is responsible of criminal investigations and also takes road traffic control actions. 4 - 5 inspection days in context with harbour inspections. IMPEL-TFS: 3 transport inspection events, 195 inspections (of which 195 administratively, 165 physically), 10 transfrontier waste shipments, 7 violations discovered.
FR	Systematic controls with joint support of the gendarmerie and customs. 2009: in the context of the control of the hazardous waste treatment chains (from place of production to final disposal), control of 400 movements of hazardous wastes (including companies, broker, dealer) with at least 20% being exported. - A first control phase focussing on waste generators and facilities for sorting, transit and repackaging of hazardous wastes (administrative control): -> Result: The major part of France's exports goes to other European countries. We note that several waste exports, mainly to Belgium and Germany, have been carried out with forms deviating from those required by EU regulation. Beyond formalism, the gap indicates a lack of control of regulation by industry players and room for significant progress for the producers of waste involved in control of their suppliers. 2nd phase: control by foreign authorities on the effectiveness of waste management facilities mentioned in the traceability documents established in France should be enhanced.
GR	In 2009 two inspections, regarding green listed waste, were carried out at the Greek-Bulgarian borders to check a) compliance with ANNEX VII in case of import to Greece from Bulgaria and b) compliance with the notification procedure in case of exports from Greece to Bulgaria.
HU	4 inspection days. IMPEL-TFS: 3 transport inspection events, 313 inspections (of which 313 administratively, 94 physically), 6 transfrontier waste shipments, 4 violations discovered.
IE	Confidential. IMPEL-TFS: 3 transport inspection events, 1 other inspection event (seaport/containers), 2 combinations of inspections; 532 inspections (of which 99 administratively, 433 physically), 370 transfrontier waste shipments, 96 violations discovered.
IT-AV	Considering the small number of regional notifications, the official control body officer (Forest Rangers in the Aosta Valley) generally performs at least one control for each notification.
IT-AL	3, and only in case of information on illegal transports due to poor human resources.

MS	Annual number of transport controls
IT-L	3
LT	IMPEL-TFS: 2 transport inspection events, 180 inspections (administratively and physically), 1 transfrontier waste shipment, 1 violation discovered.
LU	14 transport controls/year; 9 road checks in 2008.
LV	Transport controls are performed by the transport inspectorate. The main focus is on the enforcement of the transport regulation (ADR). No environmental unit and no environmental expertise are in place with the transport inspectorate. In 2008 or 2009, not one waste carrier has been stopped by transport inspectorate resulting in further investigation. On roads, no targeted controls are made due to lacking information exchange and cooperation between the competent authority (State Environmental Service) and the road transport inspectorate; At the frontiers, Customs are not performing regular controls of waste shipments. For example, in the seaport of Riga, in 2009 so far not a single waste shipment control has been realised.
NL	4,000 – 5,000 transport controls. IMPEL-TFS: 25 transport inspection events (mainly road and seaports), 1 combination of inspections; 576 inspections (of which 453 administratively, 517 physically), 228 transfrontier waste shipments, 32 violations discovered; additional ad-hoc inspection events with 64 inspections of transfrontier waste shipments, 39 violations discovered.
PT	3 joint inspection days together with IGAOT, APA, Police and customs. Regular transport controls by the Police (GNR/SEPNA) and customs; 120 IGAOT reports on specific waste movement controls. Of those, about 70 were international waste transfers (WSR). IMPEL-TFS: 3 transport inspection events, 1,774 inspections (of which 788 administratively, 1,479 physically), 95 transfrontier waste shipments, 33 violations discovered.
PL	TFS inspections are planned and organised on regional level and included in general environmental inspection. The national enforcement authority has set the general target to include as many inspections as possible as well as the obligation to cover all regions. In addition it organises training and gives recommendations and advice Approximately 2,400 based on 2009 statistics. IMPEL-TFS: 4 transport inspection events (road and train), 1 other inspection event (joint action); 2,764 inspections (of which 2,764 administratively, 1,891 physically), 140 transfrontier waste shipments, 3 violations discovered.
RO	Approx. 20 waste transport controls annually. IMPEL-TFS: 1 transport inspection event, inspection results included in the figures of Hungary (joint inspection at the border).
SE	Unknown; 20 checks in total 2008. IMPEL-TFS: 5 transport inspection events, 36 inspections (of which 4 administratively, 36 physically), 6 transfrontier waste shipments, 4 violations discovered; additional ad-hoc inspection events with 6 inspections of transfrontier waste shipments, 6 violations discovered.
SI	500 - 600 vehicles checked. IMPEL-TFS: 4 transport inspection events, 591 inspections (of which 591 administratively, 121 physically), 15 transfrontier waste shipments, 4 violations discovered.
SK	125 vehicles

MS	Annual number of transport controls
UK	Figures have not yet been finalised for 2009. Our checks are also broken down into different categories, rather than 'transport controls' and 'company controls', as our enforcement approach involves a significant level of intelligence gathering.
UK	1137 containers checked in 2009.
UK-England and Wales	IMPEL-TFS: 1 transport inspection event, 24 inspections (of which 24 administratively, 19 physically), 24 transfrontier waste shipments, 22 violations discovered; additional ad-hoc inspection events (routine inspections of environmental authorities) with 18 announced and 130 unannounced checks, 101 days of port checks, 505 transport checks, 43 information notices served, 44 stops of transport.
UK-NI	IMPEL-TFS: 6 transport inspection events, 1 other inspection event (port terminal records); 551 inspections (of which 531 administratively, 148 physically), 272 transfrontier waste shipments, 17 violations discovered.

3.3.2 Company controls

14 MS (AT, BE, CZ, CY, FI, FR, HU, LV, NL, PT, PL, RO, SI, SK), three German Länder, three Italian provinces and UK-NI provided a specific number of controls conducted. GR, DE-SA, three Spanish regions (ES-AR, ES-G, ES-V) and IT-G reported not to execute any company controls. Four MS (DK, IE, EE, SE), four Länder (DE-BR, DE-BY, DE-HE, DE-NRW), ES-B and UK-SC explained not to have data available or did not specify the number of controls.

Based on the answers to the questionnaire the number of company controls in relation to transboundary waste shipments ranges from three to several hundred. In this context is important to highlight that the number of controls is dependent on the size of the country and the economic structure (potential producers, treatment facilities), and hence cannot be compared as such.

Within the IMPEL-TFS Enforcement Actions II project, to a lesser extent also company inspections took place, in some cases initiated as follow-up inspections based on the findings of previous transport inspections. Information on company inspections performed in 2009 within IMPEL-TFS Enforcement Actions II is also included in Table 3-8 for complement.

Table 3-8: Overview on the number of WSR related company inspections in the MS

MS	Annual number of company controls
AT	In case of suspicion, inspections of facilities (producer, treatment facility) are carried out under the management of BMLFUW. Annually, 15-20 company inspections in relation to the WSR are organised. Additional controls are organised at regional level is necessary. 2 company inspections reported within IMPEL-TFS Enforcement Actions II.
BE	Flemish Environmental Inspection: provision for 175 company checks related to shipments of waste (including transboundary);
CZ	Company controls are performed by Czech Environmental Inspectorate; approx. 5 inspections are planned, more often are the inspections performed on demand (from CA, police, customs). 10 company inspections reported within IMPEL-TFS Enforcement Actions II.

MS	Annual number of company controls
CY	3
DE	Roughly 600 controls with focus on waste shipments registered by Federal State Authorities throughout Germany.
DE-BR	Company controls are performed in the framework of routine controls under waste and IPPC law. Waste legislation foresees a permanent general supervision by Länder authorities and supervision by waste producer himself (through designees with special powers), a special supervision system for the entire fate of hazardous wastes and a register obligation for treatment installations; the IPPC legislation foresees a permanent general supervision by Länder authorities. The exact frequency, density and extent of controls being left to the discretion of the Länder with the exception of cases, which are described by legislation.
DE-BY	On demand/request only.
DE-HE	Regular monitoring of waste producers and disposers.
DE-ST	Waste treatment plants twice annually at minimum.
DE-SL	20
DE-NW	On demand/request only.
DE-ST	At the moment no regular controls.
DE-TH	Roughly 6
DK	For 2009, no company inspections have been reported within IMPEL-TFS Enforcement Actions II.
EE	Not specified.
ES-AR	Zero
ES-B	No data
ES-G	Zero
ES-V	Zero
FI	About ten inspections per year; SYKE appr. 2 Regional supervisory authorities do inspections according to the guideline of the MoE and instructions by results. 1 company inspection reported within IMPEL-TFS Enforcement Actions II.

MS	Annual number of company controls
FR	<p>Plan: 1/ Systematic controls with joint support of the gendarmerie and customs 2009: in the context of the control of the hazardous waste transport/treatment chain (from place of production to final disposal), control of 400 movements of hazardous wastes (including companies, broker, dealer) with at least 20% being exported.</p> <p>Controls in a first control phase focus on waste generators and facilities for sorting, transit and repackaging of hazardous wastes (administrative control).</p> <p>In second phase cooperation with authorities in other Member States.</p> <p>-> Result: The major part of France's exports goes to other European countries. We note that several waste exports, mainly to Belgium and Germany, have been carried out with forms deviating from those required by EU regulation. Beyond formalism, the gap indicates a lack of control of regulation by industry players and room for significant progress for the producers of waste involved in control of their suppliers.</p> <p>2nd phase: control by foreign authorities on the effectiveness of waste management facilities mentioned in the traceability documents established in France should be enhanced.</p>
GR	<p>Since our Service checks all the relevant to the shipment data, including Annex VII, and issues an approval of each shipment under Article 18, it can be considered that this is a kind of company control.</p> <p>Moreover, the compliance systems, which are responsible for the alternative management of special waste streams and they are authorised by the Minister of Environment, Energy and Climate Change also control companies to check that the relevant waste (i.e. packaging) have been transported according to the provisions of WSR.</p>
HU	<p>3</p> <p>1 company inspection reported within IMPEL-TFS Enforcement Actions II.</p>
IE	<p>Confidential</p> <p>1 company inspection reported within IMPEL-TFS Enforcement Actions II.</p>
IT-PDT	5
IT-AL	3, and only in case of information on illegal transports due to poor human resources.
IT-G	None
IT-L	3
LV	<p>In 2008, in total 10 controls were executed at the point of origin and/or destination.</p> <p>2 company inspections reported within IMPEL-TFS Enforcement Actions II.</p>
NL	150
PT	In 2009 198 inspection reports concerned waste management facilities.
PL	<p>Approximately 166 (based on 2009 statistics).</p> <p>Obligation to control of WEEE collection/treatment facilities and ELV dismantlers. In addition company inspections are prioritised and scheduled on the basis of a risk assessment as specified in the guidance book for planning of environmental inspections "Doing the right things II".</p>
RO	Approx. 60 company controls related to waste shipments annually.
SE	<p>Unknown.</p> <p>2 company inspections reported within IMPEL-TFS Enforcement Actions II.</p>

MS	Annual number of company controls
SI	25-30
SK	11
UK-EW	22 company inspections reported within IMPEL-TFS Enforcement Actions II.
UK-NI	169 announced and unannounced visits to waste facilities conducted in 2009. 5 company inspections reported within IMPEL-TFS Enforcement Actions II.

3.3.3 Illegal shipments detected

In response to the questionnaire, all 22 Member States, 11 German Länder, 8 Spanish regions and the 7 Italian provinces provided information on illegal shipments. In this context, considerable difference in numbers of illegal shipments detected can be observed.

Low annual figures are reported by almost all Spanish and Italian regions and by the Spanish central authority. Cyprus, several German Länder, Finland, Greece, Romania and Slovenia also report relative low figures. High numbers on the other hand are reported by AT (87), BE (>450), HU, LU (78), NL (88), PL (130 including a huge share of ELV), PT, Bremen, Hessen and Bavaria. Germany (as a whole) reported an annual number of 500 in the reporting to the EC pursuant to Annex IX.

No data at all are available for France. Data for Ireland are confidential and recent data for the UK are only to be determined according to the information received. According to information from Northern Ireland, roughly 7% of investigated transports are in breach of the law.

The share of green list waste to the total number of infringements detected varies between 25% to almost 100%. For more details, see Table 3-9.

Table 3-9: Overview on illegal shipments detected in MS in 2009 according to information provided to questionnaire

MS	Total illegal shipments (2009)	Illegal shipments regarding Annex VII	Comment
AT	87 cases announced to the BMLFUW	49	Information on the number of illegal shipments detected in the context of routine controls carried out by police and customs are not yet available.
BE	CA for transit of waste (2009) - road: 139 - port: 281 (misuse of Annex VII or lack of notification) Flemish Environmental Inspection: total 39 illegal shipments (2009)	Flemish Environmental Inspection: 7 (2009) Police: difficult to say. Transit authority: road: 120, port:??	Company in box 7 is non-existing or not licensed. Police: In general, approximately 12 to 15% of the controlled waste transports are dealing with infringements (going from administrative short comings up to total illegal shipments).
CY	1	1	Hazardous waste was sent as "green" listed waste, absence of Annex VII; absence of several EWC or Basel Codes, absence of recovery code, absence of contract according to Art. 18(2).

MS	Total illegal shipments (2009)	Illegal shipments regarding Annex VII	Comment
CZ	Recently 10 - 15 illegal shipments / year.	About 70% of detected illegal shipments.	
DE	Roughly 500 counting all cases with further processing through the administrative or the law enforcement authority.		
DE-BE	7	2	The focus of the competent authority is on notified waste shipments. Other controls are made on demand (notifications by BAG and customs).
DE-BR	42 in 2008 and 21 in 2009.	No data	
DE-BY	47	21	Not each administrative offence reported by customs and BAG is an illegal shipments "(see Article 2 No. 35 VVA). Finding suitable and near storage space is problematic. Execution of chemical analysis problematic and acceptance of analysis made at court very poor. Strong suspicion when notification by BAG, but retrospective prove of offence/illegality is usually not possible.
DE-HE	17	5	In most cases waste is classified as green-listed or declared as non-waste (e.g. WEEE) but is actually hazardous.
DE-ST	2	30 have been notified to us	
DE-SL	2	Zero	
DE-NW	See report to Annex IX	Few	
DE-SN	5 to 10	Zero	
DE-TH	2009: none (12 cases of suspicion)	2009: none (9 cases of suspicion)	
EE	8 (2009)	3	5 cases green list waste to Latvia without IA and IB.

MS	Total illegal shipments (2009)	Illegal shipments regarding Annex VII	Comment
ES-AND	One illegal transit of hazardous waste detected by Ministry of Environment (fridge with CFC-R12)		
ES-CAN	Zero		
ES-CAT	1		
ES-AS	None	None detected	Being generally non-hazardous waste and lacking specific regional or national regulations for them, if we are not notified about transboundary movements, we do not find that they exist and consequently cannot control if they are performed correctly or not, except sporadically and/or casual as a result of other types of inspections.
ES-AR	Zero	Zero	
ES-B	4		The detected transport corresponds to controls performed by customs. In the majority of cases they relate to a lack of differentiation between product and waste.
ES-MAD	No data	None detected	Illegal exports to third countries of ELV with certificate of destruction and low end, but had not been adequately decontaminated. While several items have been detected prior to export and have returned to the manager (sanctioning and ensuring the proper decontamination and management), certain items have been exported.
ES-V	10 in 2009	10 en 2009	Exporters did not know that they had to fill in an Annex VII form.
ES	3 in 2009	None	
FI	6-8 (wastes classified in both Annexes III and IV in WSR) In 2009 harbour inspections 7 transports without Annex VII	Occasional (one case in 2007 and in 2009)	Detected in Rotterdam harbour: rubber waste on its way to Vietnam and disagreement in classification of metal scrap including minor impurities of wood and plastics.
FR	No data	No data	186 transfrontiers actions of hazardous waste controlled. (companies)

MS	Total illegal shipments (2009)	Illegal shipments regarding Annex VII	Comment
GR	4 illegal shipments detected in 2009 during the inspections at the Greek-Bulgarian borders.	1 illegal shipment related to the absence of Annex VII. It was a case of import to Greece from Bulgaria of metal scrap.	3 concerned the notification procedure that should be followed for shipments to Bulgaria even for non-hazardous wastes. 1 case of illegal shipment of hazardous wastes (accumulators) and 2 illegal shipments "green listed waste" (glass packaging, plastic packaging).
HU	ca. 30	ca. 28	Many violators do not know the provisions of the WSR.
IE	Confidential	Confidential	Confidential
IT-PDT	Zero		Time for completion of inspections and investigations of possible illegal shipments excessively long (average 1 year).
IT-AV	None	None	
IT-AL	3	1	Shipments to non-OECD countries for which no response was provided to the commission.
IT-G	None	None (but we do not have information about shipments with Annex VII)	
IT-L	Zero	Zero	
IT-P	None of which we are aware, the courts would need to be asked		
IT-V	Zero	Zero	
LU	78	21	No document or incompletely filled in, or not signed.
NL	88	20	
PL	28 cases excluding illegal shipments of ELVs;	99 cases regarding ELVs which covered 710 vehicles (2009)	The majority of illegal shipments is deemed illegal due to lack of notification and other required documents.
PT	23 in year 2009	17 without Annex VII / INCM 1918 form, 14 without Art. 18 ^o contract	Problems when brokers are involved. Some of those shipments didn't have Annex VII neither Art.18 contract.
RO	5	5	The actions carried out under IMPEL TFS cluster helped a lot in better

MS	Total illegal shipments (2009)	Illegal shipments regarding Annex VII	Comment
			implementation of Regulation 1013/2006
SE	11 (2009)	-	Most of the detected shipments are infringements of the export prohibition of sending hazardous waste to third countries.
SI	5	2	
SK	9	0	
UK			The UK conducted 18 repatriation procedures within the last year and prosecuted 8 cases
UK-SC	Figures will not be finalised until mid-April.		The figure on the number of illegal shipments relating to Annex VII is not available for 2008, due to the reporting structure used; this has now been amended.
UK-NI	7% illegal shipments ascertained during checks.	Not yet calculated.	

Hamburg did not provide data but highlighted the importance to differentiate between (suspicion about) illegality as observed by competent authorities and illegality proofed by court ruling. In addition Hamburg stressed the importance to differentiate between material offense (export of hazardous waste without notification) and a formal offense (e.g. missing Annex VII), both included in the category illegal shipment.

IMPEL TFS Enforcement actions II

In addition to the information provided in response to the questionnaire, information from the IMPEL TFS Enforcement Action II project can be used as source for information. During seven inspection periods from October 2008 to November 2010 within the project running time, 833 violations have been discovered by planned IMPEL-TFS inspection activities and reported (ad-hoc inspections not included in this figure). Based on the 657 discovered violations, where details on type of violation were reported accurately, three main types of violations have been identified:

- Administrative violations (Art. 18/16) 340 cases (52%)

- Illegal shipments due to EU legislation: 225 cases (34%)
- Others (especially violation of national and regional legislation): 92 cases (14%).

Most shipments in the second group were to be classified as illegal export due to a ban or a notification obligation. This is typically detectable with transports from the EU to non-OECD countries in Africa or Asia. Another reason is deficits in notification documents (e.g. waste does not correspond to declaration, lacking permits). Problems with the prior information about the actual start of the shipment or an unauthorised change in transport route have been reported as reason for illegality in single cases. A considerable number of interceptions were due to inconsistency with specific national requirements related to shipment of waste such as prior notification to authorities of green listed waste transports, use of specific national forms etc.

Table 3-10 shows the violations reported by each Member State within the IMPEL-TFS activities. Since in the beginning of IMPEL-TFS Enforcement Actions II not all of the violations have been specified and described completely, some violations are reported as exemplary cases and refer to more than one cargo unit. The Violation of Annex VII requirements shown in Table 3-10 represent a subset of illegal shipments for which details of violations were provided. The actual number of illegal shipments regarding Annex VII may be somewhat higher. Calculation is based on irregularities observed by control authorities.

Table 3-10: Overview on illegal shipments detected in MS from October 2008 to November 2010 by IMPEL-TFS Enforcement Actions II

MS	Total illegal shipments (2009)	Illegal shipments with details of violations provided	Violation of Annex VII requirements	Comment
AT	33	33	30	Four further violations reported were discovered by Czech Republic (3) and Hungary (1) in joint inspections at the border and forwarded to the Austrian police, therefore these cases have only been counted for Czech Republic respectively Hungary.
BE	112	111	58	
BG	11 + 3	11 + 0	0 + 0	Planned inspections + ad-hoc inspections in between the inspection periods; two further two cases have been reported as pending (uncertainty whether material has to be classified as waste)

MS	Total illegal shipments (2009)	Illegal shipments with details of violations provided	Violation of Annex VII requirements	Comment
CY	7	7	5	
CZ	9	9	2	
DE	103 + 3	78 + 3	39 + 2	Planned inspections (including 3 violations reported from a joint border inspection with Switzerland) + ad-hoc inspections in Hessen
DK	31	25	12	Including violations from inspections performed in months between the official inspection periods.
EE	4	2	2	
ES	*)	*)	*)	*) Joint inspections of authorities of Galicia with Portugal, jointly reported and included in the results of Portugal
FI	7	7	6	
FR	13	13	8	
HU	9	9	4	Including violations jointly reported from inspections at the border to Romania (both directions).
IE	175	47	34	
LT	1	1	1	
NL	91 + 52	89 + 49	41 + 1	Planned inspections + ad-hoc inspections.
PL	29	29	19	
PT	46	46	27	Including violations jointly reported from inspections at the border to Spain (both directions).
RO	**))	**))	**))	**) Joint inspections with Hungary, jointly reported and included in the results of Hungary.

MS	Total illegal shipments (2009)	Illegal shipments with details of violations provided	Violation of Annex VII requirements	Comment
SE	11 + 29	11 + 29	4 + 1	Planned inspections + ad-hoc inspections in September, November and December 2009 and over the year 2010; these ad-hoc inspections are not included in the project report. In addition Swedish customs participated in a series of inspections at the border reported by Norway with 51 violations discovered (not included).
SI	9	9	51	
SK	2	1	0	
UK-EN	22	19	3	Planned inspections only; the reporting of additional ad-hoc inspections (routine inspections of environmental authorities) does not display the amount and types of violations.
UK-NI	33	33	11	
UK-SC	1	1	0	

3.3.4 Cases of applying the take-back procedures in the case of shipments of 'green' listed wastes

Based on the feedback received take back actions related to green listed waste were experienced by more than 50% of the competent authorities (AT, BE-CAT, CY, CZ, DK, DE (9 Länder), EE, ES (2 regions), FI, HU, IE, IT-AL, NL, SE, PL, PT, and UK).

On the other hand, five German Länder, the vast majority of Spanish regions, all Italian regions except of AL, and Member States such as CY, FR, LU, RO, SI, and SK, reported to not having ever been confronted with such a request. One of the authorities in this group did not understand the meaning of the question.

A noteworthy aspect is the argument raised by Hamburg that in general, take-back actions related to amber and non listed wastes declared a green listed waste. This observation is supported by UK, where the responding authorities were confronted with take-back only in case of notifiable or prohibited waste listed as 'green-listed' or non-waste.

The NL report that most of these cases considered transit shipments that were held up by customs. These blocked shipments were taken back by the person responsible for the shipment with an Annex VII form or with a simplified notification procedure.

Noteworthy is also the information provided by the Belgian authority of transit, which only in 2009 had initiated 109 take-back procedures on green listed waste.

A specific situation occurs for the new Member States, which according to Art. 36 have a transitional period requesting a notification procedure for each transport. Reported take-backs for green listed waste (BG, CZ, DE, GR, PL) commonly related to this specific situation. According to information provided take-back in these cases was organised on a voluntary basis by the notifier de jure.

For details on specific take back cases, see Table 3-11.

Table 3-11: Overview of exemplary take back cases related to "green listed" waste transports

MS	Response given by MS authorities, derived from MS reporting to EC and awareness raising
AT	Take back in 2009 was performed on plastic and rubber waste and a "decontaminated" ELV. In addition, there were some cases of waste falsely declared as green listed.
CZ	Genuine green listed wastes without consent to PL - administrative violation. Two cases of genuine green listed waste to third country - banned/written consent required according to Reg. 1418 - detected in NL.
DE-BR	24 tonnes of waste "plastic packaging", WSR code 15 01 02, OECD Code GH 011, in July 2007 from Bremen to Latvia; (first partial delivery of a notification of 4,000 tonnes). The notification was approved by decision of 05.07.2007. Under the transitional provisions under Article 62 WSR shipments therefore was subject to the provisions of Regulation (EEC) No 259/93. The receiving installation refused to accept the load on the grounds that the waste in addition to the mixed industrial films, which had been notified, also contained household waste. The waste was then returned to Bremen. An examination showed that the proportion foreign material was <5%.

MS	Response given by MS authorities, derived from MS reporting to EC and awareness raising
DE-BY	Transport of waste falsely declared as “green listed”; otherwise Article 24 usually cannot be applied. As outcome of court rulings, in general the tax payer had to bear the costs.
DE-ST	Green listed waste, which was classified as notifiable by authorities in CZ.
DK	3 cases
FI	Two cases, return from Rotterdam harbour, rubber waste on its way to Vietnam in 2007 and disagreement in classification of metal scrap including impurities (over 10 %) of wood and plastics in 2009 going to China.
GR	Glass packaging, plastic packaging without notification at the Greek-Bulgarian borders.

From industry respondents none except one (two take-backs to Finland) has been confronted with a take back request for green listed waste shipments throughout the last three years.

3.4 Cooperation between involved authorities

3.4.1 Cooperation on national level

Information on cooperation at national scale was available for almost all Member States from information exchange events, and was provided by a fast majority of the responding authorities.

The majority of Member States reports about permanent cooperation (working groups, meetings) between environmental authorities and customs and/or police, including joint inspection activities, but the intensity and formalisation of cooperation vary.

- Formal cooperation agreements between environmental authorities, customs and police are reported as concluded by Hungary, Czech Republic, the Netherlands, Slovenia, and Slovak Republic. Romania reports about protocols for cooperation.
- Formal agreements between environmental authorities and customs are reported by Estonia. Formal agreements with police are established in other countries e.g. UK.
- National working groups consisting of environmental authorities, customs and police are reported by FR, and PL. A national working group of involved authorities (without further specification) is reported by Sweden.
- Portugal has established a national TFS enforcement network consisting of all involved authorities. Multiagency group meeting monthly to discuss areas of mutual interest and arrange monthly joint road checks. The group members include Driver and Vehicle Licensing Agency (DVLA), UK Borders Agency, Harbour Police, HMRC (Customs), Police Service of Northern Ireland.

- A joint investigatory group of Ministry of Environment and Ministry of Interior, and online access for customs and police to the waste database of the Ministry of Environment is established in Austria.
- Belgium reports about a draft collaboration agreement between competent environmental authorities, police, and customs, including also public officer and justice as other important involved party.
- Germany has formalised the collaboration of regional and national level of environmental authorities by means of a Federal-Länder working group on waste management (LAGA) and has specified cooperation in an enforcement manual (LAGA 25) and by means of a guideline for cooperation with customs services. Several Länder report on cooperation agreements with BAG and police and/or training/meetings, joint controls.
- Ireland has established a national TFS enforcement unit within the competent environmental authority coordinating cooperation and joint activities with police.

For Spain and Italy, the competent central authorities provided no information on cooperation at national level.

Single regional authorities reported occasional working group meetings between environmental authorities at regional and national level, whereas other denied the existence of cooperation on national level. In Spain, regional authorities report to transfer information on transboundary shipments of waste within the European Union to the central authorities. Catalonia reports about cooperation on national/regional level within the project ETER. Luxembourg reported that cooperation is not necessary, as there is only one competent authority in the country. Further details on cooperation provided by competent authorities are listed in Table 3-12.

Table 3-12: Overview on cooperation on national/regional level in EU Member States

MS	Details on cooperation at national scale
AT	<p>Joint investigatory group of the BMLFUW and the Federal Ministry of the Interior. Online access to the notification database of the BMLFUW is established for customs and police; access for regional environmental authorities will be developed.</p> <p>Cooperation between customs and police, Federal Environment Agency (analysis), annual meetings for planning controls in the particular year.</p> <p>A Federal-State Working Group (counties and MoE) is discussing participation of countries in transport controls and verification procedures.</p>
BE	<p>Draft collaboration agreement between competent authorities, police, customs, public officer and Justice (2009, to be signed in 2010) on the policy and enforcement of transboundary movements of waste.</p> <p>Cooperation agreement of 1994 between federal and regional environmental inspectorates, internal affairs (police) and customs (in modification).</p> <p>Working group "Waste fraud" in the port of Antwerp.</p> <p>Federal Action Plan of 2001 for the control on vehicle transport (1 à 2 actions/province/month)</p> <p>Specific international actions focusing on waste transport control in cooperation with local and federal police and customs.</p>

MS	Details on cooperation at national scale
CY	Information of customs on intended hazardous waste shipments three days in advance. Customs check Annex VII and Contract (Art.18(2)) and inform environmental authorities in case of irregularities. Customs use certain keywords provided by environmental authorities in order to identify illegal movements, etc.
CZ	Memorandum of Understanding between Ministry of Environment, General Directorate of Customs and the Czech Environmental Inspectorate (CEI); MoU between CEI and Police on general cooperation. Meetings of working group composed of Ministry of Environment, CEI, General Directorate of Customs and Police.
DE	Official working group of Länder and Federal authority (Bund-/Länder-Arbeitsgemeinschaft Abfall (LAGA)); annual meetings. Obligation for co-operation is introduced by § 11(2) AbfVerbrG. Standardised information exchange between customs/police/BAG and environmental authorities via notification templates (LAGA 25, Annex III) in case of suspicion or detection of irregularities. Guideline for cooperation with customs authorities, available at http://www.laga-online.de/images/stories/pdfdoc/veroeffentlichungen/Handlungsanleitung%20Zoll_02_2008.pdf This document is not legally binding.
DE-BR	Meetings of regional authorities (customs, police, environment) 1-2 times per year.
DE-BY	Cooperation agreement with BAG and police in Bavaria; training of BAG, customs and police in waste issues.
DE-HE	Joint meetings, training sessions, usually non-routine cooperation.
DE-NW	Regular cooperation with BAG; transmission of monthly action plans; joint controls of district governments and BAG (in part with customs). Quarterly meetings of all competent district authorities.
DE-SN	In addition, ad hoc cooperation with the responsible authorities of other states. Participation in "Focus control" on IMPEL-TFS or UBA at the border, together with BAG, customs and eventually foreign authorities.
DE-TH	Joint controls with BAG and police; information exchange with BAG, customs and police
EE	Environmental Inspectorate has to check all waste permit owners once a year. Then they check also documents concerning transboundary movements. The Customs checks also wastes while they are in customs territory destined for export or import. The Harmonised System on customs control of the World Customs Organisation is used for Custom controls. Official agreements between Tax and Custom board. Joint inspections, joint training.
ES-AND	Multilateral meetings with the Ministry of environment, authorities of Gibraltar to improve and facilitate cooperation and WSR control.
ES-CAT	Direct collaboration and project ETER.
ES-AS	Occasional meetings of representatives of the CCAA (working group) in the Ministry of Environment.
ES-G	No activities in this context.
ES-MAD	Regional authorities provide to the MoE data on transboundary waste shipments within the EU (exporter, quantities, movements, codes, etc.).
FI	Inspections at different harbours. Training occasions.

MS	Details on cooperation at national scale
FR	<p>Permanent collaboration between regional and central level on waste chain enforcement (expertise du ministère).</p> <p>Control actions by customs and police.</p> <p>Presentation of control actions to different actors, meetings for preparation and selection of cargo with presence of inspectors and telephone assistance from central level.</p> <p>Permanent collaboration/and regular meetings on central level of the different administrations concerned (environnement/customs/OCLAESP-gendarmerie).</p> <p>Establishment of specific education on chain enforcement for inspectors, customs and police officers.</p> <p>Elaboration of a guidance document on waste chain enforcement in cooperation with OCAESP.</p>
GR	Between Greek competent authorities that are involved in inspections there was a working group and official correspondence for the organisation of inspections.
HU	The Hungarian CA concluded formal cooperation agreements with the police and the customs; regular training for the police and the customs.
IE	The National TFS Enforcement Unit co-ordinate combined inspections with regional enforcement officers, Police and with the Northern Ireland Environmental Agency (NIEA) during IMPEL enforcement actions.
LV	There is no cooperation established between environmental authorities, police and transport police.
NL	Official agreements with customs and police, yearly WSR training/workshop day with partners, facilitate WSR-course for WSR-experts working in custom and police organisation, periodical meetings with customs / police on management and executive level.
PL	Working group established on national level comprising environmental protection inspection, customs, border guard, police, road transport inspection and railway supervision office, agreements on cooperation signed with customs, border police, and inspection of road transport.
PT	National Network for TFS enforcement. Enforcement authorities: IGAOT, GNR/SEPNA (road controls), DGAIEC/Customs (Port controls); APA and IGAOT provide training to customs and police and meet together frequently. The exchange of information and experiences are doing regularly.
RO	Protocols for cooperation with other concerned authorities and common inspection plans.
SE	National working group of involved authorities meeting two times/year. In some regions (Stockholm, Gothenburg) regional cooperation between authorities for enforcement activities in harbours; Police and customs are realising controls at the borders in cooperation.
SI	Periodic meetings between representatives of Inspectorate, Agency, Customs administration and Police, official cooperation agreement between Inspectorate, Custom and Police.
SK	Official cooperation agreement.
UK	MoU with association of Chief Police Officers Scotland on environmental and organised crime. Close cooperation and arrangements are set and shall be further extended with a large range of other institutions for collection of intelligence on waste shipments (further details are confidential).
UK-NI	Multiagency group meeting monthly to discuss areas of mutual interest and arrange monthly joint road checks. The group members include Driver and Vehicle Licensing Agency (DVLA), UK Borders Agency, Harbour Police, HMRC (Customs), Police Service of Northern Ireland. Close cooperation with the Maritime Coastguard Agency conducting joint port inspections on a regular basis.

3.4.2 Guidance to standardise waste shipment controls and facilitate work for other involved authorities

A majority of 13 Member States (AT, BE, CY, DE, DK, ES-CAT, ES-G, ES-ZR, FI, FR, IE, IT, NL, PT, RO) reported to have established guidance for waste shipment inspections. On regional level existence of guidance was reported by six German Länder (BE, BR, BY, ST, MV, TH) and two Spanish regions.

Ten of the reporting Member States (CZ, EE, GR, HU, LU, PL, SE, SK, SI, UK), five German Länder (HE, SL, NS, NW, ST), seven of the Spanish regions and all Italian provinces reported to not having established national respectively regional guidance so far.

In the majority of cases guidance addresses customs and/or police services. Some other authorities refer to information for economic parties published on authorities' websites. Authorities which did not yet establish guidance are either in the process of development or use other means (e.g. workshops, databases) to provide the relevant information to control bodies.

Justified comments further specifying the existence or non-existence of guidance are compiled in Table 3-13 and Table 3-14.

Table 3-13: Exemplary overview of guidance activities related to waste shipment control taken by MS

MS	Further specification of existing guidance on waste shipment inspections
BE	Cooperation agreement between the 4 environmental authorities, Environmental Inspection, Police, Customs and Justice department. In this way coordinated inspections can take place in Belgium. Police: handbooks concerning control of national and international waste transport.
CY	Several seminars and WSR inspection guidance for Customs. Customs put in an electronic system (THISEAS) certain keywords in order to be informed for spot checks they have to do.
DE-BE	The German-Polish Border Commission uses in its practical work experience of the Berlin notifying authority.
DE-BR	Customs guide to action.
DE-ST	A) "Gem RdErl des MLU und MI" (circular decree of MLU and MI) of 24.07 2009 regarding the execution of KrW-/AbfG as well as the "AbfVerbrG" (waste shipment law) during the monitoring of waste shipments (MBI.LSA S.677). B) "Gem RdErl of MLU, MLV and MW" of 24.02.2009 regarding the execution of the law during the monitoring of waste disposal (Mbl LSA p. 232). C) "Gem RdErl of MI, MJ, MS, MW, MLU and MBV" of 29.04.2003 regarding cooperation between the administrative authorities, police and prosecutors to protect the environment and health (MBI.LAS p. 379).
DE-MV	In addition to the guidelines at federal level "recommendations to police and waste authorities in the monitoring of waste shipments" exist, particularly within the scope of transboundary shipments of waste (Dec. 2009).
DE-TH	Instructions for BAG and customs; Comments on § 11 (controls) in LAGA 25.

MS	Further specification of existing guidance on waste shipment inspections
DK	A guidance document on green listed waste (with examples, elaboration and illustrations) (in preparation). We are planning to develop a guidance document for the tax authorities and the police.
ES-CAT	An information circular on transboundary shipment of waste.
ES-G	Via the website (http://sirga.medioambiente.xunta.es) instructions on administrative procedures are given.
IE	Memorandum of Understanding with Customs 2009. On our webpage we have guidance documents for brokers & dealers, green list waste registration and regulations. Also guidelines for the export and import of waste from Ireland. Website: www.dublincity.ie and click onto "read about the National TFS Office" or our direct link: http://www.dublincity.ie/WaterWasteEnvironment/Waste/WasteCollectors/National_TFS_Office/Pages/NationalTFSOffice.aspx
IT-G	Circular on the functions of national customs police

Table 3-14: Exemplary justification and state of the play for non existence of guidance in MS and regions

MS	Justification for non existence of guidance documents
CZ	No guidance elaborated by the CA. Internal rules exist in Custom service.
DE-HE	There has been a workshop with all authorities (RP instead, police, BAG, customs, StAnw.) with the aim to create a guide for controls. The guide has so far not been finalised. Meanwhile, Hessen has a virtual waste database (http://www.hlug.de/medien/abfall/abfall_client/index.html) in which the inspections staff can check the regularity of their controls. The database should be amended so that after entering the shipment direction (export / import) and the receiving countries (EU / OECD / non-OECD / Basel State / EFTA / other) the entire procedure (Art.18/Notification/prohibition/control procedure UBA) appears.
DE-SL	In progress.
DE-NS	In Lower Saxony an annual meeting of the supervisory authorities takes place to discuss cooperation and joint controls.
DE-SN	Regional cooperation with other authorities / institutions (lower waste authorities, police, BAG, customs) occurs mainly as circumstances require, and result-oriented and does not require additional rules.
IT-PDT	It would be very important to develop guidelines at national level.
LU	Controls are executed in direct collaboration with customs agents.
PL	Frequent trainings for all enforcers organized by Environmental Protection Inspection.

Details on the major provisions

Responses to the questionnaire or other sources (e.g. awareness raising events) provide more details on the type of the guidance developed and major topics contained are available for nine Member States and three German Länder, as compiled in Table 3-15:

Table 3-15: Details on WSR guidance developed in EU Member States

MS	Major provisions of Guidance		
AT	A very good website under the umbrella of the Federal Waste Management Plan has been implemented included many information on shipment of waste including the download of all relevant material (e.g. check lists, templates for notification contract, information on waste lists, etc.). Also a manual illustrating examples of Green listed waste in opposite to amber listed waste has been published and distributed amongst the involved authorities in order to simplify the classification of waste. • Access of customs and police to waste data base in order to receive quick information about ongoing shipments (used directly at control actions). Access for regional authorities is envisaged • National guideline for classification of ELV.		
AT-Q	Ordinance/Guideline of Ministry of Finance for the execution of WSR control by customs services, specifying legal background, tasks, obligations and procedural, details for daily practice.	WSR Manual for the police with guidelines for the stopping of vehicles, notification of competent environmental authorities with respect to administrative or criminal procedure, detention of vehicles etc.	
BE	Flemish Environmental Inspection: internal instruction on port inspections (legal background, model documents, practical instructions for setting up an inspection and for collaboration and communication with other inspection services).	Flemish Environmental Inspection: internal instruction on the practical application of Article 24 (take back) - details: see Guidance A.	Flemish Environmental Inspection: internal note on the inspection of export of WEEE (details: see guidance A).
DE	National guidance LAGA 25: Fact-finding, documentation, participation procedure.		
DE-ST	Ordinance on monitoring of waste disposal. Description of responsibilities, monitoring principles, monitoring preparation, implementation, post-processing, enforcement measures in case of suspicion of illegal actions, prosecution and fining.	Ordinance on cooperation for protection of health and environment. Details on monitoring of waste treatment plants according to § 52 BImSchG and § 40 KrW-/AbfG (Wastelaw)/§ 12 (3) AbfVerbrG; other priority topics as for the other ordinance.	
ES	Guidance documents on transboundary transport of ELV and WEEE.		
FI	Customs handbook (in finish) on restrictions for customs inspectors. http://www.tulli.fi/fi/suomen_tulli/julkaisut_ja_esitteet/kasikirjat/rajoituskasikirja/liitetiedostot/jatteiden_siirrot.pdf		Joint harbour inspections (IMPEL-TFS actions II)

MS	Major provisions of Guidance	
FR	<p>Elaboration of guidance document on waste chain enforcement in cooperation with OCLAESP (gendarmerie).</p> <p>Objective: practical and educational tool, readily available for waste chain inspections on national territory mainly for police.</p> <p>1 sheet per waste with characteristics of waste codes, Basel convention, OECD, customs code, photo;</p> <p>reminder of the main procedures</p> <p>Some focus on (WEEE waste exports of green listed to non-OECD countries, etc.).</p>	
NL	<p>VROM-Inspectorate Procedure.</p> <p>This guidance contains a description in what way each kind of violation of the WSR should be dealt with (warning, criminal prosecution or/and administrative law).</p>	Guidance how to execute a transport control and a facility control (preparation, inspection and completion).
PT	Guidance, which includes transport inspection form, inspection result form, main illegalities, risk analysis and other relevant information such as procedures for take-back of illegal transports, for ELV, spare parts, and EEE/WEEE.	
RO	Procedure regarding the control of the documents related to transfrontier shipment of waste (notification procedure, transport documents, necessary documents for each case of waste.	Inspection procedure in accordance with RMCEI.

3.4.3 Distribution of responsibilities in inspection activities

In response to the questionnaire, information on allocation of responsibilities was received from 14 Member States (AT, BE, CZ, CY, DK, EE, FI, FR, IE, NL, PT, RO, SI, SK), Scotland and one German regional authority (Saxony-Anhalt). In Germany distribution of responsibilities is clearly regulated in the guidance (LAGA 25) to the national legislation. Information on other Member States could be derived from awareness raising events.

Received answer show that practice is different in Member States although cooperation of environmental authorities with either police or customs is common.

In most cases transport controls are in the responsibility of police (with expert support from environmental authorities if needed) and customs. In this context police is focussing on road transport and terrestrial intra-European borders, whereas customs focus on the external borders of the EC. In the Czech Republic mobile customs units remain the competent authority even after accession to the Schengen Treaty.

Company inspections are exclusively performed by environmental inspectors. In Denmark they are under exclusive responsibility of municipalities.

A specific unit “National Producer Compliance and Waste Shipment Unit” has been established in the UK. More details on information provided are compiled in Table 3-16.

Table 3-16: Overview on distribution of responsibilities for inspections in EU Member States

MS	Distribution of responsibilities, cooperation
AT	Police, customs authorities and representatives of the Austrian Federal Environment Agency take part in the controls mentioned in the answer to question 3 (implementation of sampling and analysis in the laboratory of the UBA).
BE	Every year, most of the large scale inspection initiatives of the Police are discussed with the competent authorities. This in order to see if collaboration is possible. The CA provides furthermore technical assistance to police.
CZ	Responsibilities and the cooperation obligation are stipulated in the WM Act No. 185/2001; CEI is expert body and the main inspection authority; Custom Service is authorised to carry out transport inspections, Police is a cooperating body only; cooperation based also on MoU (see below).
CY	Cooperation with Customs.
DE-ST	Transport inspections are mainly performed by BAG and police with participation of environmental authorities in certain activities and on request. Company controls performed by environmental authorities.
DE-SL	Police, BAG, customs.
DK	the EPA, the National Commission of the Danish police, the tax authorities for transport controls; Municipalities company controls.

MS	Distribution of responsibilities, cooperation
EE	Temporary border controls and border surveillance of Estonia, organised by the NATO Foreign Ministers meeting in time.
FI	The need to begin a more effective cooperation has appeared. SYKE needs to be initiative to activate the regional supervisors to pay attention in particular to green listed wastes during the site inspections and to more frequently participate in inspections performed at regional level. Cooperation with Customs. Training occasions.
FR	Police and customs as primarily responsible bodies; DRIRE as supporting bodies; Foreign authorities shall be asked for more verifications at receiving waste treatment facilities, coordination with other inspectors in IMPEL-TFS.
HU	Cooperation with customs, police and regional environmental inspectorates.
NL	Most transport controls will be executed by the customs and the police. The facility controls will be executed by the VROM-Inspectorate.
PT	Enforcement authorities: IGAOT, GNR/SEPNA (road controls), DGAIEC/Customs (Port controls); Competent Authority: APA; Cooperation being improved mainly with Spanish and African Authorities.
RO	Based on the data bases of NEPA (with the notifications, transport documents or Annex VII) the Romanian National Environmental Guards (NEG) carry out inspections at the companies which requested/submitted the above mentioned documents. In some cases the inspections are extended also to other companies. At the borders, at the request of customs authorities or border police, NEG performs common inspections.
SI	Inspectorate, Agency, Customs administration and Police for transport controls, Inspectorate (and in some cases Police) for facility controls.
SK	Cooperation with police and Customs offices.
UK	The national Producer Compliance and Waste Shipment Unit will undertake the majority of the inspections envisaged. Specialised support will be provided by our Enforcement Support Team. Roadside checks are generally undertaken with the Police and VOSA. Co-operation on joint inspections is also planned with Northern Ireland, Eire, Norway and Sweden. Joint investigations are also underway with VROM and the Environment Agency of England and Wales.

3.4.4 Cooperation at European and international scale

With respect to international cooperation, participation on IMPEL TFS is the type of cooperation most often reported. 19 Member States and some regional authorities in Germany and Spain explicitly stated this type of cooperation, although real figures should be even higher.

Bilateral cooperation with neighbouring Member States was mentioned by several Member States (e.g. AT, CZ, HU, IE, NL, UK) certain Länder in Germany (NRW, SA, BY) and one Italian province (PDT). Further transboundary bilateral cooperation is known to take place within or outside IMPEL activities between PT-ES (regional level), HU-RO, HU-SI, SI-HR, PL-DE, PL-LT and BG-GR (within a twinning project; not regular).

Multilateral activities are reported to take place in the Lorraine region between FR, LU and DE (Grenz AG II), and the Benelux-countries including France (Benefralux actions) or between Austria and Italian regions (Interreg project). Joint activities of Nordic countries were reported by Sweden and Finland. Further multilateral activities take place in Baltic countries (including Finland).

Police and customs services are collaborating on international/European level in the context of AUGIAS and DEMETER, as particularly mentioned by Ireland and Poland.

Cooperation with third countries (Asia, Africa) according to reporting so far is only initiated by the Netherlands and Portugal. The Basel Network is explicitly only mentioned by Denmark.

Details on reported information are compiled in Table 3-17.

Table 3-17: Overview on cooperation in WSR inspections at European and international scale

MS	Cooperation on an international scale
AT	Bilateral agreements with Bavaria, Hungary, Czech Republic, Slovenia and Slovakia, planned Interreg project with Friuli and Veneto from mid-2010, participation in IMPEL activities.
BE	Participation in several IMPEL TFS projects (with exchange of waste inspectors, e.g. VROM inspection); Benefralux actions (4 actions/province/year); Other specific actions focusing on waste transport control (GROS action, Benelux action) in cooperation with local and federal police and customs.
CY	Participation in IMPEL TFS activities (bilateral joint controls, working groups, exchange programmes, etc.).
CZ	Joint control actions with neighbouring countries in the border areas; participation in IMPEL/TFS EA II Project.
DE-BE	Based on current operations, the contact person acts promptly via telephone, mail and emails in close consultation.
DE-BR	Active participation in IMPEL TFS enforcement actions 1-2 times per year.
DE-BY	Bilateral agreements with CZ and A.
DE-HH	Partial participation in IMPEL activities.
DE-HE	Cooperation in the framework of the cluster of the IMPEL TFS network.
DE-SR	Joint actions with Luxembourg and France.
DE-NW	Regional cross-border cooperation; Participation in IMPEL TFS activities to the extent possible.
DE-SN	Non-routine, usually in writing, cooperation with the competent authorities of other states.
EE	IMPEL-TFS network.
ES-CAT	Participation in IMPEL TFS activities.
ES	Assistance to IMPEL TFS network.
FI	Participation in IMPEL – TFS; Participation in Nordic cooperation network. On the regular meeting, issues concerning shipments of waste such as proper notification, pre-consented facilities, border-area agreement are discussed. We share the information of the Norwegian colleagues:

MS	Cooperation on an international scale
	http://www.klif.no/publikasjoner/2516/ta2516.pdf
FR	International cooperation in border regions such as the GRENZ AGII with Luxembourg and Germany of the Lorraine Region; Participation in IMPEL TFS.
GR	Co-operation between Greek and Bulgarian competent authorities established in the framework of the twinning project "Waste Control" that exists in Bulgaria. In this framework during a TAIEX workshop held in Sofia it was agreed to organise common checks at the borders.
HU	Joint bilateral inspections with neighbouring countries; informal cooperation via e-mail.
IE	Regular joint inspection with Northern-Ireland; Operation Demeter with Customs here in Ireland.
IT-PDT	Working groups and bilateral joint controls.
LU	1. Grenz AG II, 2. IMPEL-TFS
LV	A deepened cooperation is in place with other the Baltic States (Estonia, Lithuania). Regular meetings on environmental issues with representatives of authorities are held twice a year. Shipments of waste are always on the agenda but appears regularly.
NL	Participation in IMPEL-TFS activities, structural collaboration and information exchange with neighbouring countries (UK, Belgium and Germany); collaboration with some non-OECD-countries (China, Ghana).
PL	Very active in IMPEL TFS, PL joined project Demeter and Augias.
PT	We have cooperation under TFS network and perform bilateral controls with Spanish Regions (Galicia and Castilla y Leon, until now). IGAOT is also working in establishing a network with African Countries (Angola, São Tomé and Príncipe and Cape Verde).
RO	IMPEL TFS activities
SE	Sweden is participation in IMPEL-TFS work. We hosted the IMPEL-TFS conference in 2009. We are also participating in the NCP project. Participating in the IMPEL-TFS WEEE-project and the Enforcement Action II Project.
SI	NCPs, IMPEL TFS Cluster, Enforcement Action project, international exchanges
SK	IMPEL - TFS Activities and bilateral cooperation.
UK	Agreements on Cooperation between authorities in England & Wales, Northern Ireland, Scotland and The Netherlands (certain joint inspections on an annual basis). Involved in the IMPEL-TFS Enforcement Action II project and the WEEE project. Under the Road Map for Northern Ireland and Republic of Ireland regular Concerted Enforcement Actions which include joint inspections, exchange of officers and cradle to grave operations.

3.5 Identification of staff

Staff is nominated and information disseminated to country correspondents. Information is publicly available for IMPEL TFS enforcement action participants, but kept confidential for others.

3.6 Enforcement actions against persons suspected to have committed violation

See cooperation und penalties

4 Summary analysis of the implementation/enforcement of Article 49 in Member States

Article 49 of Regulation (EC) No 1013/2006 defines the obligations and enforcement measures to take in order to ensure waste transports and treatment in line with environmental protection targets (see box below). For assessment of the achieved level of implementation and enforcement, it is important to take into consideration the focus the restrictions and limitations of the wording of the legislative text.

Article 49

Protection of the environment

1. The producer, the notifier and other undertakings involved in a shipment of waste and/or its recovery or disposal shall take the necessary steps to ensure that any waste they ship is managed without endangering human health and in an environmentally sound manner [...].

2. In the case of exports from the Community, the **competent authority of dispatch** in the Community shall:

(a) **require and endeavour to secure** that any waste exported is managed in an environmentally sound manner throughout the period of shipment, including recovery as referred to in Articles 36 (**Exports of waste for recovery to non-OECD countries**) and 38 (**Exports of waste for recovery to OECD countries- green and amber listed**) or disposal as referred to in Article 34 (**Exports of waste for disposal prohibited except to EFTA**), in the third country of destination;

(b) **prohibit an export** of waste to third countries if it has reason to believe that the waste will not be managed in accordance with the requirements of point (a).

Environmentally sound management may, *inter alia*, be assumed as regards the waste recovery or disposal operation concerned, **if the notifier or the competent authority in the country of destination can demonstrate** that the facility which receives the waste will be operated in accordance with human health and environmental protection standards that are broadly equivalent to standards established in Community legislation. [...] **For the purposes of seeking guidance on environmentally sound management, the guidelines listed in Annex VIII may be considered.**

3. In the case of imports into the Community, the competent authority of destination in the Community shall: require and take the necessary steps to ensure that any waste shipped into its area of jurisdiction is managed without endangering human health and without using processes or methods which could harm the environment, [...]

In this context, it shall be highlighted that:

- The obligation to ensure that any waste they ship is managed without endangering human health and in an environmentally sound manner (Article 49 (1)) is primarily addressed to market players and not to authorities.
- According to Art. 49(2), competent authorities of dispatch in the Community however, are obliged to (a) require and endeavour to secure ESM notwithstanding whether export is for disposal or recovery, and to (b) prohibit an export [...] if it has reason to believe that the waste will not be managed in accordance with the requirements of point (a).

- The same obligation for authorities (CA of destination) applies in case of import into the community)

Of major interest in this context is the question, which measures need to be taken to assure ESM.

In this context, the information in Art. 49 (2) is limited to a possibility:

ESM may, *inter alia*, be assumed [...] **if the notifier or the competent authority in the country of destination can demonstrate** that the facility, which receives the waste, will be operated in accordance with human health and environmental protection standards that are broadly equivalent to standards established in Community legislation. [...],

and to a referral to Annex VIII (Guidelines for environmentally sound management).

There is no specification about:

- broadly equivalent to standards established in Community legislation
- other means to assume ESM.

(For further obligations in the context of ESM see discussion on Article 37 below).

The procedural provisions for the exports mentioned in Article 49(2) (a) show that competent authorities have to require and endeavour to secure ESM for notified waste and waste shipped under Article 18 procedures.

Exports to non-OECD Decision countries (*Article 37; procedures for waste listed in Annex III or IIIA*)

1. If a country indicates in its reply (EC Reg. 1418/2007) that certain shipments of **waste are not subject to any control, Article 18 shall apply** *mutatis mutandis* to such shipments.

3. In the case of a shipment of waste not classified under one single entry in Annex III or a shipment of mixtures of wastes not classified under one single entry in Annex III or IIIA or a shipment of waste classified in Annex IIIB, and provided that the export is not prohibited. [a notification procedure shall apply]

Exports to OECD-Decision countries (*Article 38, procedures for waste listed in Annexes III, IIIA, IIIB, IV and IVA*)

1. [...], the provisions of Title II [Article 18 or Notification] shall apply *mutatis mutandis*, [...].

2. The following adaptations shall apply:

(a) mixtures of wastes listed in Annex IIIA destined **for an interim operation** shall be **subject to the procedure of prior written notification and consent** if any subsequent interim or non-interim recovery or disposal operation is to take place in a country to which the OECD Decision does not apply;

(b) **waste listed in Annex IIIB** shall be subject to the procedure of prior written **notification** and consent;

An additional obligation for involved actors (authorities and industrial parties) is the necessity to ensure - in case of exports for recovery to non-OECD countries (Art. 37 (2)) – that the treatment facility is operating (authorised to operate) under applicable national law.

Art. 37(2). Where waste is exported, it shall be destined for recovery operations within a facility, which, **under applicable national law, is operating or is authorised to operate** in the country of destination.

These details of provisions set in Article 49, entail questions on how competent authorities in the EU manage to verify ESM in third countries and/or within the EU, including potential criteria used to assume equivalent treatment standards.

Verification of ESM is requested by the WSR both for import into the European Union and for export to third countries. In this context, it has to be noted that ESM in case of import into the European Union does not consist a problem and is well assured by binding legislation (namely permit requirements and definition of treatment standards within BREF) for waste treatment facilities subject to the IPPC Directive. This includes permit and control obligations for competent authorities, which are fulfilled within the scope of their responsibility. Further provisions ensuring environmentally sound management also within treatment facilities not subject to IPPC are set in the (new) Waste Framework Directive.

The Environmental Sound Management as referred to in Article 49 is itself defined in Article 2(8):

‘environmentally sound management’ means taking all practicable steps to ensure that waste is managed in a manner that will protect human health and the environment against adverse effects which may result from such waste.

This broad wording leaves space for different interpretations, with correlates to problems defining benchmarks for authorities when supervising and controlling compliance.

As a minimum, it can be assumed that this term is to be understood at EU level as if comprising the applicable EU environmental aquis standards for the treatment of waste. Member States’ institutions and authorities, which are to supervise and control the enforcement of EU environmental legislation, have to consider these requirements, if applicable, in the context of Article 49.

As regards ESM at OECD level, it has to be taken in mind that uniform standards are not to be found in all OECD Member Countries and that the scope and level of ESM varies greatly from one Member country to another. The OECD has repeatedly undertaken to clarify the requirements for its Member Countries, namely with releasing documents in this field such as the Recommendation on the Environmentally Sound Management of Waste C(2004)100 and the Guidance Manual related to this recommendation which is addressed to governments and facility managers (published November 2007).

4.1 Insurance of ESM in third countries

With respect to information on treatment standards in third countries, the information provided by 17 Member States, 12 German Länder, six Spanish regions and one Italian province reveals that in general, competent authorities within the European Union see the responsibility for assuring ESM on the side of the exporter and the competent authority of destination in the third country.

In addition, it becomes obvious that major differences exist as regards the appreciation/rating of duties and responsibilities for competent authorities within the EU, depending on whether the waste in question is subject to article 18 or to notification procedures.

Knowledge deficits and problems with enforcement in part are reported to exist.

The national treatment permit received is regarded as major indicator for ESM. In line with the legislative wording authorities, tend to assume that the recovery facility is working in an environmentally sound way according to Article 49, if licensed or certified according to national legislation. One German Land stressed the fact that there are theoretical means to verify comparability of the treatment standards, but that costs and efforts would in general be outside proportionality.

UK authorities state that certain non-OECD countries only have import licences rather than site permits, and that as a consequence questions about ESM/'broadly equivalent' cannot be answered.

Industry responses

15 responses were received from industry on this issue.

Besides the existence of contracts mentioned in some cases to assure ESM, the exclusive collaboration with audited and DIN/ISO certified companies, or request of documents proving respect of EN 643-norms, are appropriate means to assure equivalent treatment standards.

Internal assessment and evaluation of treatment standards including potential regularly site visits (self-control), are brought forward as other (even more reliable) approach to assure ESM. A major waste management association reported that information on facilities within Europe is already assessed and evaluated according to internal standards. This would be envisaged also for recovery facilities, e.g. located in Asia for the future. Today for third countries (not located within Europe) the association would rely on certificates provided by TÜV or other institutions. If the shipment is realised in cooperation with traders or through agents, the information on the technical standards would be required by FEAD.

On the other hand, an association of secondary metal industry stated not to perform specific checks as the waste would be non-hazardous (ferrous and non-ferrous) and therefore no adverse effects of the treatment of this type of waste would be expected. Some other companies stated that this should be the task of the destination country, or that this is not ensured.

4.1.1 Waste subject to prior notification and consent procedures

Authorisation of the plant, confirmation of ESM by authorities in the recipient country, evidence or a copy of the plant permit and/or inclusion of expert knowledge of the competent authorities for permitting and monitoring seems to be the most frequently used procedure applied in case of waste streams subject to notification procedures. Estonia reported to trust on companies. Romania stresses the adherence with Art. 1 of Regulation (EC) no. 1418/2007.

More individual information requirements are reported by Hungary, Ireland, Austria and Poland:

- In the case of incineration plants additional request to submit emission measurement data
- Verification requests sent to the Competent Authority: official letter stamped & signed. Copies of shipping documents, details of waste description, waste codes, recovery codes, import

licences, photographs of the waste and shipping container etc. Is the waste type (codes and description & photos) permitted or prohibited for import? The facility/company name in question: we would request if it is authorised under the country of destinations national environmental legislation, to recover this waste in an environmentally sound manner (reference to the recovery code & treatment). If yes, we would request copies of their equivalent waste licence from the CAD and also copies of any importing requirement for this waste stream.

- Declaration of the treatment facility and the CA of the destination.
- Results from inspections carried out by third countries.
- Individual approval of sites on the basis of information on treatment process provided by exporter.

An important concern about the general ability or better impossibility to ensure ESM in third countries was raised by Belgium, stating that:

- Art. 49.2.a) is a good "moral" support to enforcement authorities when they want to investigate thoroughly a specific shipment, and ask all the administrative and other details from the companies involved. It is too vague to enforce however.
- Art. 49.2.b) can only be applied in case the competent authority has identified and examined a specific waste stream, and has made its judgement (export prohibition) clearly known to the branch of companies that is involved in this export. This article can't be applied on an ad hoc basis, for a specific shipment, by an environmental inspector - and therefore this article is not used for enforcement by the inspection authorities.

Table 4-1: Overview of information requirements of competent authorities in EU used for verification of ESM in case of waste exports to third countries

MS	Means of information collection on treatment standards
AT	Permit for treatment plants. In the case of incineration plants additional request to submit emission measurement data.
BE	No verification of ESM: see remarks above.
CZ	No experience.
DE-BE	Through contact with the competent licensing authorities.
DE-BR	Plant permit in case of notification procedures.
DE-BY	Article 49 (1) WSR does not concern authorities but market players. Article 49 (2) WSR is to be seen in connection with the objection grounds under Article 11 and 12 VVA. In case of exports to third countries, information on treatment methods is generally restricted to the translation of the permit. The main responsibility consequently is on the side of the notifying authorities in the importing country.

MS	Means of information collection on treatment standards
DE-HH	In case of notified waste shipments within the EU and OECD countries, control and verification is performed by CA in country of destination. In case of green listed wastes subject to notification (e.g. Art. 37), it is important to note that wastes in question are non-hazardous and subject to recovery. Description of the treatment method, contracts, permits are requested and will eventually be confirmed by CA in country of destination.
DE-HE	Installation permits, applied technologies, process descriptions. Sources of information are also internet, monitoring authorities abroad, information from authorities who had already dealt with these treatment plants. In some cases translated documents (permits, analysis, monitoring protocols) are required.
DE-ST	Partially through information about the disposal facility provided by the competent authority in country of destination.
DE-SL	On-site controls in the treatment plants (applicable only for import).
DE-MV	Confirmation by authorities of destination, copies of permits, etc.
DE-NS	By means of the submitted permit and in coordination with the competent licensing and notifying authorities. When deemed to be necessary an expert is called.
DE-NW	By means of IPPC or other permit and description of the treatment process. In part by additional controls of the plants
DE-SN	Plant-specific technical and procedural documents. Existing permits or certificates (e.g. EMAS, Environmental Alliance, EfbV) under waste and IPPC permitting schemes. Plant-checks.
DE-TH	By cooperation with the responsible authorisation and monitoring authorities.
EE	Based on trust of companies.
ES-AND	Recipient facilities must be waste management facilities authorized by the competent environmental authority.
ES-CAT	Our jurisdiction is limited to the Autonomous Community of Catalonia, wherein we ensure that the treatment is appropriate.
ES-AS	It requires the submission of authorisations.
ES-B	Within EU and OECD, proof of a valid authorisation/permit for the activity and explanation of the treatment process within the reception facility. In special cases of shipments of green list is requested the same type of documentation.
ES-G	National and regional legislation in place.
ES-MAD	Export will be accepted only to authorised treatment facilities which are controlled by their competent authorities. (refer only to transport within EU)
ES	Email exchange with competent authority of destination whether waste will be treated ESM.
FI	For notified shipments, description of the process and the environmental permit of the local authorities. Requests to the companies on the grounds of annual waste reports. Considering of contact to local authorities of destination.
FR	The notification dossier is the information source, but there is limited possibility for verification; there is necessity of certified translations.

MS	Means of information collection on treatment standards
GR	In case of shipping waste under the notification procedure, the permit of the disposal / recovery facility is required, before the notification is submitted to our service. In case of shipping green listed waste, the person who arranges the shipment, after the shipment has been carried out, must submit to our service the document of Annex VII filled / signed by the recovery facility in block 14. In this way it is assumed that the recovery facility operates properly;
HU	Control of the content of the permit of the waste treatment facilities, declaration of the treatment facility and the CA of the destination.
IE	Verification requests sent to the Competent Authority: official letter stamped & signed. Copies of shipping documents, details of waste description, waste codes, recovery codes, import licences, photographs of the waste and shipping container etc. Is the waste type (codes and description & photos) permitted or prohibited for import? The facility/company name in question: we would request if it is authorised under the country of destinations national environmental legislation, to recover this waste in an environmentally sound manner (reference to the recovery code & treatment). If yes, we would request copies of their equivalent waste licence from the CAD and also copies of any importing requirement for this waste stream.
IT-PDT	Copy of authorisation of recovery facilities, provided by the notifier/exporter and possibly check with the support of the authority of destination.
NL	None
PL	Information provided by the notifier or competent authority in third country: - facility permit issued by third countries, - inspections carried out by third countries, - description of technology process submitted with the notification.
PT	We don't have information regarding Article 18. Regarding notification APA verify the permit conditions.
RO	According to Regulation (EC) no. 1418/2007, Art. 1
SE	We normally ask the competent authority in the country of destination. e.g. The EPA in China.
SI	E-mails, contact with competent authorities
UK	Individual approval of sites based on information on treatment process provided by exporter.

Industry did rarely answer to this question. The few answers received confirm the relevance of license and information from the authority in the country of destination and add quality assurance (QA) / quality management (QM) / environmental management, certification and the shipment contract as additional parameter to ensure ESM.

4.1.2 Waste shipments subject to Article 18 procedures

In case of green listed waste shipments subject to Article 18 procedures (Annex VII), the majority of competent authorities, due to the legal framework in place, in general do not have any information at all about treatment standards applied in third countries, and do not consider this their duty and responsibility.

Almost all of the Member States provided feedback to this question. On regional level answers were provided from 13 German Länder, seven Spanish Regions, five Italian Provinces, Scotland and Northern Ireland.

The general opinion on this aspect is lack of knowledge, trust in competent authorities in country of destination and see responsibility on authorities in third countries and on the exporter. A majority of MS does not see a legal background to control and enforce such a requirement for green listed waste.

“Requested assurance can only be ensured by the country of destination and not enforceable prior to lack of notification to the competent authorities”.

Several Member States indicated that the requirements only could be ensured within their competency (regional, national due to requested authorisation and monitoring of facilities) and for import into the EU.

One authority highlighted that ESM and equivalent treatment standards could be only ensured if the responsible person would provide the national competent authority prior to shipment with the Annex VII document including information on the recovery process, a description of the process and an indication of the technology used.

The presentation of a duly filled in Annex VII and a valid contract in case of controls, is reported by many authorities as decisive tool. Trust in and reliance on industrial exporters is another answer received, namely in case a green listed waste shipment is investigated during a control procedure and a potential illegality is investigated. In single cases the waste producer may be asked to provide the authorisation documents of the facility in the country of destination.

4.2 Verification of equivalency of treatment standards

Within the EU and OECD competent authorities in general assume equivalency of standards. In non-OECD countries such information in general is hard to receive.

Particularly in case of waste shipments subject to Article 18, where a verification request in general can only be made during control, it was stated that it would be very difficult to have information on the facility of destination in a short time. The competent authority would depend on the cooperation of the person initiating the shipment and on own research activities. Especially for non-OECD countries it would be difficult to know if the specified information would be correct. And even in case the competent authorities of third countries are contacted often no answer would be received or only arrive several days afterwards.

4.2.1 Equivalency criteria

Major parameters used by competent authorities to verify equivalency are:

- treatment license,
- approval by competent authority of destination,
- compliance with BAT.

CZ, BE and RO highlight the difficulty to ensure equivalency, due to limited human resources, the non-cooperation of authorities of destination and lack of information of authorities involved.

Not all answers seem to relate to exports to third countries but refer to standards within the EU.

In detail, the following major criteria are reported:

- German Länder (BR, HH, MV, TH) in part refer to the national Guidance LAGA 25 and/or the BREF documents related to the IPPC Directive.
- Other (e.g. BE, CY) regard the acceptance by the competent authority of destination as criterion for equivalency, or refer to national emission/immission legislation (e.g. HE, SA).
- Austria refers to a relative compliance with state of the art and EU standards as far as available. In other cases, processes will be compared to national standards. Slight deviations allowed are e.g. 1% exceedance of single parameters in case of emission measurements.
- Hungary requests input and/or output limit values shall be equivalent or lower than in the EU and in Hungary.
- IE, DE-BE, DE-ST request the confirmation of the CAD that the waste can be treated in an environmentally sound manner.
- Finland stresses the evaluation of the described process and the environmental permit of the local authorities.
- SI and PT regard the permit for treatment of waste/license in the country of destination as valid criterion.
- ES-AS: If not indicated in the permit, information on operation conditions of the facilities.
- GR: The permits shall describe: (a) recovery / disposal operations by using D or R codes and (b) the waste accepted and disposed or recovered by using EWC, Basel codes. In this way it is assumed that the international / European standards, regarding the waste management, are taken into consideration.
- NL states that a case-by-case decision is needed.
- EE reports of not having set criteria by now.
- IT-Q PDT refers to Annex VIII of the WSR for verification of equivalency.

Although the number of answers received by industry is quite limited, some interesting aspects are brought forward therein. Comments range over:

- It is our customers who provides the information
- None (IT)
- International Conventions (Basel, OECD), national requirements, cooperation with private national organisations in selection of the recovery plants, unannounced controls by inspectors
- Information on recovery procedures, evtl. including process descriptions and mass flows. Apart from this coordination/cooperation with competent authorities.
- The recovery plant has to report on the treatment of delivered wastes. Once annually, the waste producer visits the plants for verification of the standards

One industrial stakeholder reported to not having established equivalency criteria, and another one asked to ideally look for evidence that permitted emission limits are similar to those that would be required in Europe, (which is very rare that they are).