

Paper on

the relationship between

the Correspondents designated
under the Waste Shipment Regulation

and

the IMPEL TFS National Contact Points

and

a work programme for the meetings of the
Correspondents

agreed by the correspondents at a meeting on 14/15 December 2006
organised pursuant to Article 57 of Regulation (EC) No 1013/2006

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Annex (to be completed):

List of national designations for:

- a. Basel Convention focal points,
- b. Correspondents and
- c. IMPEL TFS National Contact Points

Note: All Articles referred to in this paper are Articles of Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste, OJ No L 190/1 of 12.7.2006.

1. Background

The revised Waste Shipment Regulation (Regulation (EC) No 1013/2006 on shipments of waste) is due to be applied from 12 July 2007. There is a need to better clarify the working relationship and the lines of demarcation in particular between the Correspondents designated under the Regulation and the IMPEL TFS National Contact Points - as defined by the IMPEL TFS cluster-, as well as to establish a work programme for the meetings of the Correspondents so that the potential for duplication of activities is avoided and so as to optimize the efficiency of co-operation and thereby contribute to a smoother implementation of the Regulation. Correspondents meetings are for the representatives of the Member States whereas IMPEL TFS meetings are for competent authority representatives.

In addition, the roles of the Technical Adaptation Committee, the members of permanent staff responsible for cooperation on illegal shipments and, the focal points for physical checks to be identified by the Member States under the revised Regulation, as well as the Basel Convention focal points are relevant in this regard.

Under the revised Waste Shipment Regulation, there will be different designations/groups with differing but yet potentially overlapping roles:

- 1) Correspondents designated according to Art. 54 who are responsible for informing or advising persons or undertakings making enquiries and who periodically meet according to Art. 57 to examine questions relating to the implementation of the Regulation;
- 2) The "Technical Adaptation Committee" (TAC), which is responsible for the amendment of Annexes, inter alia, to take account of scientific and technical progress according to Art. 58 and for the decisions concerning additional measures related to the implementation of the Regulation according to Art. 59;
- 3) Members of permanent staff responsible for the cooperation in order to facilitate the prevention and detection of illegal shipments according to Art. 50(6); and
- 4) Focal points for the physical checks of the waste according to Art. 50(6).

Furthermore, there are Basel Convention focal points who, according to Art. 5 of the Convention should facilitate the implementation of the Convention. In addition, the IMPEL TFS cluster has set up National Contact Points whose primary function is to facilitate information exchange on certain specified tasks such as waste interpretations.

This paper attempts to sketch out a demarcation of lines of responsibility between these designations/groups in the interests of efficiency.

2. The meetings of the Correspondents - the legal background

Member States and the Commission are obliged, under Art. 54, to each designate one or more Correspondents who are

“... responsible for informing or advising persons or undertakings making enquiries”.

The Commission Correspondent is obliged, under Art. 54, to

“... forward to the correspondents of the Member States any questions put to him/her which concern the latter, and vice versa”.

According to Art. 56(5), the Commission is obliged to publish on its web site a list of correspondents.

According to Art. 57, the Commission is obliged, if requested by Member States or if otherwise appropriate, to periodically hold meetings of the correspondents to examine the questions raised by the implementation of the Regulation. Relevant stakeholders shall be invited to such meetings, or parts of meetings, where all Member States and the Commission are in agreement that this is appropriate.

3. IMPEL TFS National Contact Points

3.1 Background

At the TFS Management Conference in Prague on 16 and 17 March 2005 it was agreed that a paper be prepared which would aim to formalize the network of National Contact Points and to define their role/tasks and thereby maximize the usefulness of such contact points. Sections 3.2 and 3.3 stem from the agreed final paper following discussion at the IMPEL/TFS Conference at Mechelen, Belgium 13-15 June 2005.

3.2 Definitions of the Role and Competencies

- The National Contact Point is a representative(s) of the competent authority (ies) for the enforcement of the Waste Shipment Regulation in respect of TFS contacts.
- The National Contact Point should have good insight into and have regular contacts with the internal enforcement and policy organizations for TFS in that Member State in order to refer information and persons effectively and efficiently.

- Given the differing internal structures in Member States -with at times Federal/National/Agency type structures- it is felt that up to two persons per IMPEL-TFS Member State could be nominated as National Contact Point- it can be one or two as circumstances dictate but the preference is for one.
- The particular background should ideally be a mixture of both technical and administrative but, in all cases, the persons concerned should be at the operational end of TFS.
- The persons nominated will be the contact points for the environmental competent authorities in the Member States concerned.
- The names and contact details will be included in the IMPEL TFS Web-site.

3.3 Tasks and Responsibilities

The National Contact Point should primarily be facilitators in terms of:

- Communicating generally with other National Contact Points about TFS issues;
- Dealing with issues referred for consideration by the Correspondents Group or the Focal Points;
- Transmission of information such as documents of interest (Training manuals for example);
- Acting as a help desk or interface for other National Contact Points in communicating answers to problems or steering persons in the right direction (for example, being sources of advice and expertise);
- Informing other National Contact Points, through the TFS Secretariat, about national interpretations on waste types - for example, how mixtures of waste are to be treated (what constitutes a *de minimis* amount of amber waste) - the National Contact Point (being closer to the operational end), could do this very directly in required circumstances;
- Liaising with the nationally designated correspondent(s) (under the Waste Shipment Regulation) in the country of the National Contact Point;
- Liaising with the Steering Committee and reacting to requests from the Steering Committee through the TFS Secretariat;
- Putting relevant National Information on the IMPEL TFS Web-site via the TFS Secretariat and adding information, from time to time, as requested by the TFS Secretariat;
- Collating information for reports;
- Liaising with Project coordinators for IMPEL TFS projects – with the aim of ensuring the necessary co-ordination to effectively carry out the project;
- Liaising with/updating the national IMPEL representative on TFS developments; and
- Arranging attendance by the Member State at the TFS annual conference.

4. Relationship between Correspondents and the IMPEL TFS National Contact Points

It is suggested that, inter alia, the following issues are left to the IMPEL TFS National Contact Points for consideration

- Discussion of enforcement and implementation issues (e.g. classification of specific wastes and interpretation) at an operational level;
- Issues where IMPEL TFS deems it useful to make a contribution to the work of the meeting of the correspondents or the TAC (IMPEL TFS National Contact Points should consult their Correspondent or their TAC delegate, respectively, before such contribution is sent to the Commission);
- Training aspects - and exchange of information on same; and
- Issues regarding take back-quick contacts and means to deal with problems.

5. Work programme for meetings of the Correspondents

The work programme for the meetings of the Correspondents is as follows (some issues are strategic, some are “standing items”, some are time bound):

A. General

- The meetings of the Correspondents are, under Art. 57, “to examine the questions raised by the implementation of this Regulation”; this comprises implementation and enforcement issues arising with the revised Waste Shipment Regulation, in particular strategic and policy issues¹.

B. Strategic issues

- Strategic issues concerning external relations on implementation issues (e.g. China), Basel Convention and OECD updates;
- Some strategic discussions on trouble-shooting topics - initial points of concern with the revised Waste Shipment Regulation, for example, preparing the ground for future discussions of the TAC on amending certain Annexes to the revised Waste Shipment Regulation and on particular additional measures listed in Art. 59

¹ IMPEL TFS are primarily concerned with practical cooperative enforcement issues.

C. Aspects for communication with IMPEL TFS National Contact Points

- Selecting topics to which IMPEL TFS or its National Contact Points may contribute;
- Informing IMPEL TFS National Contact Points on the outcome of its meetings and receiving information on the work of IMPEL TFS

D. Specific tasks for 2007- not ranked in order of importance

1) Completion of the Annexes

- Preparing the ground for completion of Annexes IC, IIIA and IIIB

2) Strategic issues

- Follow up on any strategic issues agreed, e.g. China

3) Correspondents' guidelines

- Revision of Correspondents' guidelines No 2 on shipments of WEEE inter alia to make them consistent with Regulation (EC) No 1013/2006 - to be done before the date of application of the new Regulation on 12 July 2007;
- Review and, if appropriate, revision of the existing information sheets 4, 9 and 12 based on the revised Waste Shipment Regulation - to be done before the date of application of the new Regulation on 12 July 2007, where necessary, and in accordance with priorities established by the Correspondents Group;
- Adoption of new Correspondents' guidelines for the revised Waste Shipment Regulation for the following issues adoption before the date of application of the new Regulation would be useful
 - Article 1(3)(g)
 - Article 15
 - Article 18(4)
 - Annex IV, Part 1, note (c)
 - dealers and brokers;
- Adoption of Correspondents' guidelines on certain additional measures related to the implementation of the revised Waste Shipment Regulation, as listed in Art. 59, if deemed useful;
- Discussion of implementation and enforcement issues (e.g. classification of specific wastes and interpretation) of interest for a number of correspondents, i.e. which may possibly lead to Correspondents' guidelines

4) Aspects for communication to IMPEL TFS National Contact Points

- Selecting topics to which IMPEL TFS or its National Contact Points may contribute

6. Technical Adaptation Committee

The Technical Adaptation Committee (TAC) is responsible for:

- The amendment of Annexes, inter alia, to take account of scientific and technical progress according to Art. 58 and
- The adoption of additional measures according to Art. 59.

It is noted that it is in the responsibility of the Member States to decide who will be participating in TAC meetings.

It seems that the role of the TAC is clearly defined and does not overlap with the other designations or groups.

However, the meeting of the correspondents could - as mentioned above - adopt Correspondents' guidelines on certain additional measures related to the implementation of the revised Waste Shipment Regulation, as listed in Art. 59 and prepare the ground for future discussions of the TAC on such measures.

In addition, relevant work of IMPEL TFS should be taken into account in the work of the TAC (e.g. the "Practical guidance for managing illegal shipments" may be relevant with regard to Art. 59(1)(e)).

7. Permanent staff responsible for cooperation on illegal shipments and focal points for physical checks

Art. 50 of the revised Waste Shipment Regulation deals with enforcement regarding in particular inspections and spot checks, including physical checks, in Member States to improve the prevention and detection of illegal shipments.

According to paragraph 5,

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

According to paragraph 6,

"Member States shall identify those members of their permanent staff responsible for the cooperation referred to in paragraph 5"

According to paragraph 4,

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

According to paragraph 6,

“Member States shall ... identify the focal point(s) for the physical checks referred to in paragraph 4.”

According to paragraph 6, the information on both these Member States responsibilities must be sent to the Commission, which is obliged to distribute a compiled list to the correspondents referred to in Article 54.

At this stage it seems too early to discuss the future role of the members of permanent staff responsible for cooperation on illegal shipments and focal points for physical checks – until they have been identified. Some initial thoughts:

- The members of permanent staff responsible for cooperation on illegal shipments would be named persons e.g. in competent authorities, in Ministries or other authorities, which are responsible for the prevention and detection of illegal shipments.
- The focal points for physical checks may be assigned to authorities, which can be contacted by others in questions of physical checking of waste.

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- Correspondents and
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