2017-2019 Inspection Plan in relation to the Transboundary Shipments of Waste

BRUSSELS CAPITAL REGION

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1 Introduction

The inspection plan for transboundary shipments of waste through, from and to the Brussels Capital Region is designed to promote compliance, within the characteristics of the urban environment, with Regulation (EC) No 1013/2006 on shipments of waste[1]. Besides the extensive administrative controls, there is also on site surveillance .

Pursuant to article 50.2bis of the regulation Member States are required, as of 2017, to establish an inspection plan for their entire geographical territory, to contain the following elements:

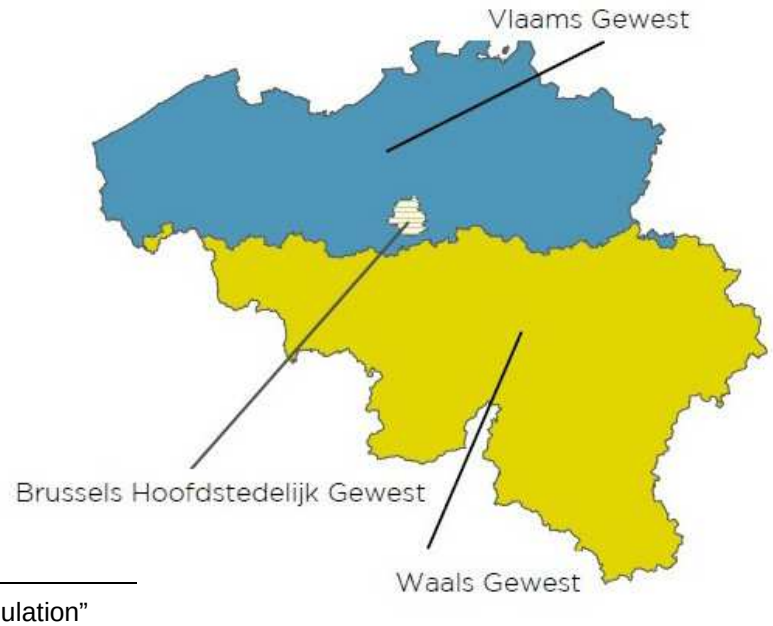
- the objectives and priorities of the inspections, including a description of how those priorities have been identified;
- the geographical area covered by that inspection plan;
- the tasks assigned to each authority involved in inspections;
- arrangements for cooperation between authorities involved in inspections;
- information on planned inspections, including on physical checks;
- information on the training of inspectors on matters relating to inspections;
- information on the human, financial and other resources for the implementation of that inspection plan.

The inspection plan will be reviewed at least every three years and, where appropriate, updated. The operational objectives are set annually in the department's inspection programme.

2 Geographical area and competent authority

2.1 Geographical area

This inspection plan relates solely to the Brussels Capital Region and is taken with the inspection plans for the Flemish and Walloon Regions to cover the entire geographical territory of Belgium.



[1] Hereinafter the “regulation”

The region is an urbanised area of 162 km² containing 1.2 million residents and having a limited industrial activity.

2.2 Competent authorities

The competent authority responsible for implementing Regulation (EC) no 1013/2006 on shipments of waste is the regional administration, Brussels Environment .

Monitoring the compliance with the provisions of this regulation is legally entrusted to[2] the supervisory personnel of Brussels Environment and to the region's 19 municipalities.

	Notifications	Inspection
Shipments from and to the region	Brussels Environment Havenlaan 86c/3000 1000 BRUSSEL wasteshipment@leefmilieu.brussels	Supervisory personnel of • Brussels Environment Havenlaan 86c/3000 1000 BRUSSEL wasteshipment@leefmilieu.brussels • Municipalities of the Brussels Capital Region
Transit through Belgium – under the custody of the 3 regions	Interregional Packaging Commission Gaucheretstraat 92-94 1030 BRUSSEL	

3 Cooperation between the authorities involved in inspections

3.1 Other authorities

The main partners in the regulation's enforcement are the inspection services of the other regions, and key roles are also played by the police services, customs services, harbour captain services and the public prosecution service.

3.1.1 Other regions

In Belgium the various competencies are shared among the federal and regional governments. This is not a hierarchical structure. Competence in matters relating to the environment is largely regional. The Brussels Capital Region, Flemish Region and Walloon Region are the three regional authorities with the competency to implement and enforce the regulation above.

More information on the inspection plans of the other regions is available from www.lne.be for the Flemish Region and www.wallonie.be for the Walloon Region.

[2] Article 5 of the Ordinance of 8 May 2014 amending the Ordinance of 25 March 1999 on the tracing, detection, prosecution and punishment of environmental offences and other environment legislation, and establishing a Code of inspection, prevention, detection and punishment of environmental offences, and environmental liability

3.1.2 The police services

The police services have general policing powers and are, therefore, also involved in the regulation's enforcement. Several police services take part in controlling transboundary shipments of waste, each at their own level. This can lead to cooperation between local, traffic and railway police and the “Environmental” investigation unit of the federal judicial police.

During planned inspections on public roads the regional environmental services provide the police services with support. Inspections are carried out regularly on the main traffic routes and along Belgium's geographical borders. The police also takes part in international campaigns, such as GRENZAG, AUGIAS, etc.

The federal police services are the national point of contact for EUROPOL/INTERPOL in the framework of international investigations. These services also support other police units in terms of training, information dissemination via the police network, etc.

The information gathered during physical checks is analysed to identify new waste streams and changes, if any, to the existing export routes.

3.1.3 The customs services

The customs services are authorised to inspect transboundary shipments of waste to the external borders of the EU (for import, export and transit).

The customs services have developed an elaborate selection application which is designed to improve the efficiency of inspections of notified shipments. The application uses parameters which serve as indicators of illegal exports, including tariff codes, country of origin, country of destination, value/quantity ratio, etc.. The risk profiles are set up in consultation with other inspection services, the regional inspection services included.

Inspections of selected shipments are carried out by customs services and/or the regional inspection services.

3.2 National cooperation between the various competent authorities and inspection services

Since 1994 there has been a “Cooperation Agreement between the Belgian State, the Flemish Region, the Walloon Region and the Brussels Capital Region as to policy coordination on the import, export and transit of waste”.

This is a cooperation agreement between the regional governments and the federal government. The federal government is involved at several levels: the police services, the administration of customs and excise, the board of public prosecutors and the ministry of justice.

As a result of several state reforms, the last of which was in 2014, an updated cooperation agreement has been put forward for political appraisal.

The updated agreement formally installs a coordination group, the “CoWSR”, made up of representatives from all actors at regional and federal level. This group meets on a regular basis (4 times a year) to coordinate general policy in the matter of transboundary shipments of waste, to discuss standpoints and issues and to organise joint inspections wherever appropriate.

4 Inspection plan for the BCR

4.1 Legal framework

This inspection programme is based in particular on the following legislation:

1. Regulation (EC) No 1013/2006 on shipments of waste
2. Regulation (EC) No 1418/2007 concerning the export for recovery of certain waste listed in Annex III or IIIA to Regulation (EC) No 1013/2006 to certain countries to which the OECD Decision on the control of transboundary movements of wastes does not apply
3. Ordinance of 12 June 2012 concerning waste and its implementing orders, namely the Brudalex - Order of 1 December 2016 on the management of waste
4. Inspection Code - Ordinance of 8 May 2014 amending the Ordinance of 25 March 1999 on the tracing, detection, prosecution and punishment of environmental offences and also other environmental legislation, and establishing a Code of inspection, prevention, detection and punishment of environmental offences, and environmental liability

4.2 Background

The extensive framework of environmental legislation around waste management is designed to prevent nuisance wherever possible and, in any case, reduce nuisance to a minimum at all stages, from the production of waste to the ultimate processing. And, where possible, to optimise the re-use, recycling and valorisation of waste and so contribute to a circular economy.

This inspection plan describes in detail Inspections of transboundary movements of waste as set out in the annual inspection programme[3] established for the Inspection and Polluted Soils Division.

The stipulations of this regulation are taken into account through integrated inspections of companies situated within the region and supervision of traceability throughout the waste supply chain.

Most of the focus here is on the transboundary shipments of waste to another Member State. Waste subject to the prior written notification requirement of the regulation is monitored closely. Movements of waste subject to the regulation's general information requirement are monitored by means of waste registers. This is because they are not subject to prior written permission from the authorities.

Shipments of waste following a regrouping of waste in another region fall within the jurisdiction of the region in question.

There is no large-scale industry in the Brussels Capital Region. As a result, it produces limited quantities of industrial waste. The processing plants in this geographical area are

[3] Established pursuant to article 5 §6 of the Ordinance of 8 May 2014 amending the Ordinance of 25 March 1999 on the tracing, detection, prosecution and punishment of environmental offences and other environment legislation, and establishing a Code of inspection, prevention, detection and punishment of environmental offences, and environmental liability

largely designed to process household and similar commercial and industrial waste. The region also has a small number of waste storage and sorting facilities. Direct shipments of waste from and to the region and from and to another country are therefore limited.

4.3 Fields of action

4.3.1 Notifications: Administrative assessment and physical check of shipments

Every year about 60 notification files are processed and monitored, mostly in relation to waste exports. These shipments accounted for about 190 000 tons of waste in 2016.

Every application file is thoroughly evaluated. On expiry of every notification's period a control is run to ensure that the conditions of articles 15 and 16 of the regulation have been satisfied prior to releasing the financial guarantee.

The inspection programme provides for annual physical checks of several waste streams, which are moved to another Member State with consent and notification, when loaded and unloaded from the means of transport.

Photograph 1: Preparation and loading of hazardous solvents for transboundary shipment.

4.3.2 Processing of illegal shipments detected by other authorities

As the Brussels Capital Region does not have any national borders it relies on reports from other authorities regarding direct inspections of illegal shipments at the country's borders. When the other authorities' regional inspection services, the customs services or the police services detect a potentially illegal shipment originating from the Brussels Capital Region, this information is passed to Brussels Environment for further investigation, inspection and processing.

To increase the impact of this cooperation, offenders are ordered to send the waste for processing at a licensed installation in Belgium at their own expense. In most cases a report of the offence is drawn up after evaluation of the case.

4.3.3 Supply chain supervision

The management of waste from the waste producer to final processing involves several steps and the intervention of several actors. Besides waste producers it involves collectors, dealers, brokers, transporters, regrouping companies, and ultimately the processing plants. Control of these steps comes under supervision of the waste supply chain.

On the one hand, supply chain supervision receives special attention in the form of integrated inspections at the large waste operators (regrouping companies and waste

processing companies). The inspection programme provides for annual checks of these operators. The waste registers are supervised by the various inspectors to a greater or lesser extent.

On the other hand, extensive checks are made by monitoring the waste registers. These registers must be submitted to Brussels Environment by all collectors, dealers and brokers, and by the regrouping and processing companies. Under this notification requirement the inspection programme provides for an annual detailed control of a number of waste registers.

4.4 Waste streams

With the knowledge and experience of inspectors who supervise the waste supply chain and the provisions of the regulation, as well as an analysis of the reports, a number of priority waste streams are identified, i.e. waste electrical and electronic equipment [WEEE], end-of-life vehicles and excavated soil.

A limited risk assessment is made for these streams based on the past record of offences and data from the waste register and notifications database.

Since the first Inspection Ordinance came into force in 1999 there have been 49 reports of offences related to transboundary movements of waste. The most common are in relation to waste electrical and electronic equipment, end-of-life vehicles and excavated soil.

4.4.1 Limited risk assessment

The following risk parameters are assessed to determine the waste streams in need of priority action.

	Low	Average	High
Hazard presented by waste	Not hazardous	Hazardous in some cases	Hazardous in all cases
Risk of contamination of the waste by other waste or pollutants	Unlikely that waste was contaminated	Likely risk of contamination by other waste or pollutants	Waste is frequently contaminated
Environmental impact in case of illegal management	Environmental impact is low	Possible risk of environmental impact	Environmental impact probable, considerable effects to be expected
Interaction of various environmental regulations	Mostly waste regulations	Not just waste regulations	Several regulations
Economic gain/cost	Correct processing in home country at reasonable price with little gained from illegal export	Correct processing in home country at average price equivalent to that for processing abroad	Correct processing in home country at a price higher than that for processing in countries with lower processing standards, movement is lucrative

History of record of offences	No offences recorded	Offences recorded	Many offences recorded
Risk of illegal shipments	Likelihood of illegal shipment is small	Likelihood of illegal shipment is average	Likelihood of illegal shipment is high and known

	WEEE	End of life vehicles	Excavated soil
Hazard presented by waste	Average	Average	Low
Risk of contamination of the waste by other waste or pollutants	Low	Low	Average
Environmental impact in case of illegal management	High	High	Average
Interaction of various environmental regulations	High	High	High
Economic gain/cost	High	High	High
History of record of offences	High	Average	Average
Risk of illegal shipments	High	High	Average

4.4.2 WEEE as a result of many past offences

One obvious and important indicator of the risk of WEEE offences is the number of past reports of offences. More than 60% of the total offences recorded (in relation to the transboundary movement of waste) are for WEEE separately or in combination with end-of-life vehicles or secondhand vehicles.

Not only that, but several aspects have always coincided in the WEEE waste stream, such as:

- extended producer responsibility for the quantitative objectives imposed by Brudalex, the Order of 1 December 2016 on the management of waste,
- compliance with the provisions of Regulation (EC) no 1005/2009 of the European Parliament and of the Council of 16 September 2009 on substances that deplete the ozone layer, in relation to the ban on the placing on the market of fluorinated greenhouse gasses,
- the provisions of Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment [WEEA], which impose strict

rules relating to the export of waste electrical and electronic equipment. These rules were transposed to Brudalex, the Order of 1 December 2016 on the management of waste.

Since Brudalex came into force on 23 January 2017 all used EEE are subject to rigorous controls in a company licensed to prepare them for reuse before they become eligible for export to countries in which the OECD decision does not apply. Untested, used EEE are WEEE and qualify as hazardous waste. Export to these countries are therefore forbidden. Export of WEEE to countries in which the OECD decision applies must be conform with the notification procedure.

The detailed transposition of Annex VI of Directive 2012/19/EU to Brudalex provides clear resources to increase inspection on the distinction between used EEE and WEEE in the region. Export of equipment which falls under the prohibitions of Regulation (EC) No 1005/2009, CRT devices, heavily damaged and/or non-functioning equipment is forbidden without distinction.

Guidelines will be established in the period 2017-2018. These guidelines will be available in the form of an auto-inspection document on the Brussels Environment website.

In 2018 a training package will be developed for professional waste managers. This training package will be modular. One of the modules will focus on preparation of used EEE for reuse and the dismantling of WEEE. The training package will be offered as an annual course. Brudalex obliges the professional waste manager to follow the training or to provide evidence of a similar level of knowledge on the subject matter.

In the Brussels Capital Region four WEEE dismantling centres (excluding screens, fridges and freezers) were licensed in the year 2017. Brussels Environment supervises these centres on a permanent basis.

Since January 2017 Brudalex has provided in the compulsory environmental report or license (based on capacity) for companies in which equipment is prepared for reuse. In 2018 the inspection programme provides for a full annual examination of several such companies for used EEE (companies preparing for reuse). These inspections focus on the tracing of “illegal” companies that sell and regroup equipment for export from the European Union without meeting the legal provisions.

Photo 2: Illegal shipment of WEEE intended for Africa

4.4.3 End-of-life vehicles, particularly the technical total loss

In addition to the risk of (secondhand/end of life) vehicles being used for illegal shipments of WEEE, there is an immediate risk of movement of end-of-life vehicles, including “Technical total loss” vehicles.

“Technical total loss” vehicles are end-of-life vehicles and are therefore a hazardous waste to be processed in accredited centres in an environmentally friendly way. The figures reveal that not all end-of-life vehicles find their way to these centres. In recent years it has been established that vehicles branded as a technical total loss by insurers are being auctioned to the highest bidder. These vehicles are often moved abroad without satisfying the provisions of the regulation. Written warnings to the insurance companies in 2016 raised awareness of the fact that these “technical total loss” vehicles can only be legally sold to accredited centres in Belgium or foreign operators subject to approved notification. The insurance companies amended their procedures accordingly to ensure that end-of-life vehicles are sold only to operators with the proper permits and consents. It is still necessary to check compliance with the amended procedures. On a regular basis Brussels Environment receives lists from the insurance companies of “technical total loss” vehicles along with information on their destination. In 2017 these lists contained sufficient data to detect illegal movements. On this basis any company which moves end-of-life vehicles without meeting the provisions of the regulation will face prosecution.

4.4.4 Construction and demolition waste, particularly excavated soil

Excavated soil represents on average 22 % of the total quantity of waste recorded in the waste register (based on data for the period 2014-2016). Direct reuse in the Brussels Capital Region is limited, and the waste stream usually terminates outside the region and more frequently outside Belgium. This is reflected in the increasing number of notifications for shipments to another Member State. In 2017 a good 30 % of the notification files related to excavated soils.

Moreover, the legislative framework is complicated by overlaps between soil regulations and waste regulations and interregional differences. Excavated soils are also difficult to assess visually.

Photograph 3: Shipment of soils by consent with notification.

Photograph 4: Preliminary check of heavily contaminated, excavated soils.

On the one hand, the shipment of these waste over water reduces land haulage over long distances. On the other, this logistic chain may cause an additional nuisance. Consider, for example, the potential for road traffic nuisance caused by a concentration of freight traffic to

the quays. The issue of dust nuisance should also be taken into account when loading and unloading trucks or ships.

This inspection plan will devote particular attention to the traceability of these waste, correct storage procedures and management of the dust issue.

5 Resources to implement the inspection plan

5.1 Human resources and training

Brussels Environment has two inspectors with in-depth knowledge of the regulation. They cover the subject through continual self-study. They use a variety of support including the correspondence guidelines, the « Waste(s)Watch » and the manuals produced by Impel-TFS. They also participate in interregional consultations. At these consultations the various inspection services exchange information on their practical approach to offences and on new trends.

These inspectors advise the division's other inspectors about certain aspects of this legislation in particular.

All inspectors at the Inspection and Polluted Soils Division receive training on waste legislation in general and on waste supply chain supervision (traceability). They are also assisted by a legal unit, which evaluates legal issues.

As we have stated earlier implementation of the regulation may also be supervised by the supervisory personnel of the municipalities. However, due to the specificities of this legislation reports of offences are general established by the personnel of Brussels Environment.

5.2 Financial and other resources

As the inspection plan is part of the general inspection programme, it has not been allocated a specific budget. For sample analyses the inspectors rely on the accredited laboratories contracted to the division.

Each inspector has a pack of personal protection equipment, such as safety shoes, antistatic vest, safety helmet… When carrying out their tasks the inspectors may use every means available to the Inspection and Polluted Soils Division, i.e. vehicles, bicycles, cameras, sampling equipment, sealing equipment, etc.