



## **IMPEL NETWORK**

European Union Network for the Implementation  
and Enforcement of Environmental Law

### **IMPEL REVIEW INITIATIVE (IRI)**

**(“A voluntary scheme for reporting and offering advice  
on inspectorates and inspections procedures”)**

#### **Phase 3: Testing of the Review Scheme**

**1<sup>st</sup> Review: Mannheim, Baden-Württemberg, Germany,  
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## 1. EXECUTIVE SUMMARY

This report describes the results of the first review of Phase 3 of the IMPEL Review Initiative (IRI) Project. The project is designed to develop and test “a voluntary scheme for reporting and offering advice on inspectorates and inspection procedures” in EU Member States. The scheme was proposed against a background of preparation of a European Parliament and Council Recommendation for providing Minimum Criteria for Environmental Inspections (MCEI) in the Member States, and in expectation of the need for arrangements to review its implementation. Terms of reference for the project were agreed at the Porto Plenary of IMPEL in May 2000. A Questionnaire and associated Guidance, for aiding consistency of such reviews, were developed in Phase 2 of the project and adopted at the Falun Plenary of IMPEL in June 2001.

This review was carried out in October 2001 by the kind co-operation of the Ministerium für Umwelt und Verkehr (UVM) (Ministry of Environment and Transport) of the Land of Baden-Württemberg in the Federal Republic of Germany and the Staatliches Gewerbeaufsichtsamt (GAA) (Trade and Factory Supervisory Office) of Mannheim, one of its nine GAAs. A pre-review meeting was held at the offices of the GAA two weeks before the actual review. The nature of the review was discussed and practical arrangements made for it. Experience confirmed the value and necessity for such a pre-review meeting.

The report includes a brief description of German environmental law and the constitutional arrangements for implementing it. The Review Team found the law to be rather complex, as a result of the Federal structure and the way in which relevant competencies fall to the Länder. It is also complicated somewhat by the historic difference in legal provisions for protection of water and of the air. Nevertheless, the Review Team concluded that provisions for implementation of IPPC were fully covered, and that the arrangements for environmental inspections were broadly in line with the MCEI Recommendation, except perhaps for some aspects of inspection planning and the availability of inspection reports.

The team also concluded that the arrangements for the operation of the GAA Mannheim, for the selection, training and guidance of its inspectors, and for the assessment and reporting of its activities provided a variety of examples of good practice. In addition, and on the basis of their own experience, they identified opportunities for possible development within the GAA Mannheim.

The findings of the test review are set out in terms of examples of good practice for other Member State Inspecting Authorities, and in terms of the opportunities for development by the host Inspecting Authority.

Further lessons for the review process were also noted and are recorded in the report.

## 2. INTRODUCTION

The Porto Plenary meeting of IMPEL, in May 2000, agreed Terms of Reference for a 2-year project designed to test “a voluntary scheme for reporting and offering advice on inspectorates and inspection procedures” (the “scheme”) that was first proposed at the previous Plenary in Helsinki, in November 1999. These Terms of Reference are attached at Appendix 1. They refer to a “Recommendation of the European Parliament and of the Council for Minimum Criteria for Environmental Inspections in the Member States” (MCEI). A copy of this is attached at Appendix 2.

The potential benefits foreseen from such a scheme were:

- Encouragement of capacity–building in EU Member State inspectorates.
- Encouragement of further collaboration between EU Member State inspectorates on common issues or problems, on exchange of experience and on development and dissemination of good practice in environmental regulation.
- Provision of advice to inspectorates (“candidate inspectorates”) who may be seeking an external view of their structure, operation or performance by trusted, knowledgeable and independent counterparts for the purpose of benchmarking and continuous improvement of their organisation.
- Spread of good practice leading to improved quality of inspectorates and inspections, and contributing to continuous improvement of quality and consistency of application of environmental law across the EU (“the level playing-field”).

The features considered necessary to deliver these benefits were seen as being:

- Well-defined scope of application.
- Practical and easily understood arrangements for scheduling, organising, funding, conducting and reporting on any review of a candidate inspectorate, and with minimal bureaucracy.
- Absence of any threat of self-incrimination or infraction proceedings arising specifically from application of the scheme.
- Control, by the candidate inspectorate, of dissemination of information arising from any review.
- Participation, by the candidate inspectorate, in selection of personnel to carry out any review.
- Effective follow-up arrangements for support of any candidate inspectorate seeking further advice or assistance on issues identified during review.

- Effective arrangements for dissemination across Member States of training or educational material on lessons learnt and good practice identified during any review.

The agreed Terms of Reference proposed that the Regulatory Scope of this scheme be limited initially to arrangements for implementation of the IPPC Directive. To reflect the interests and activities of IMPEL they also proposed that, by agreement with the candidate inspectorate, the Organisational Scope of the scheme should include any or all of the following:

- The legal and constitutional bases of the inspectorate, including interfaces with other bodies such as Planning Authorities, and its related powers and duties. (i.e. “political independence / dependence”)
- Structure and managerial organisation, including funding arrangements, staffing and lines of authority and responsibility for regulatory and policy functions.
- Workload and associated resources.
- Qualifications, skills and experience of regulatory staff.
- Procedures for assessment of training needs and provisions for training and maintaining current awareness.
- Procedures, criteria and guidance for drafting of permits, for planning inspections, for subsequent assessment of compliance (“inspection”) and for enforcement action in cases of non-compliance.
- Arrangements for internal assessment of the quality of regulatory performance and for improvement if appropriate.
- Arrangements for reporting on inspectorate activities.

This scope addresses all aspects of inspectorate organisation, management and operation as implied by the agreed terms of reference for the project. These refer to “inspection and inspection procedures.” The first, third, sixth and last items of the above list address, specifically, the issues covered by the European Parliament and Council Recommendation on Minimum Criteria for Environmental Inspections.

The Terms of Reference proposed a three-phase development of the project, the second phase of which involved drafting of a questionnaire as a basis for reviews. First drafts of the questionnaire and associated guidance were discussed and revised at a seminar in London in October 2000. These were assessed again and tested for practicality, in a limited trial of the review process, in Nykøbing, Denmark on 22/24 February 2001. The report of that assessment and test proposed another version of the questionnaire and associated guidance, revised on the basis of experience of that trial.



The report, (“IMPEL Review Initiative (IRI) Phase 2: Assessment and Test of Questionnaire and Guidance), was adopted during the IMPEL Meeting of 18-20 June 2001 in Falun, Sweden, and the Questionnaire and Guidance are shown at Appendix 3.

The third phase of the project is designed to test the review scheme by way of six reviews, over a period of two years, using the Questionnaire and Guidance developed in Phase 2. This report describes the result of the first of these reviews. It was undertaken by the kind co-operation of the Ministerium für Umwelt und Verkehr (UVM) (Ministry of Environment and Transport) of the Land of Baden-Württemberg in the Federal Republic of Germany and the Staatliches Gewerbeaufsichtsamt (GAA) (Trade and Factory Supervisory Office) of Mannheim, one of its nine GAAs. (The “Candidate Inspectorate”.) The terms of reference for the review are attached at Appendix 4.

This report was adopted at the IMPEL Meeting in Namur, Belgium, on 5-7 December 2001. It is the result of a project within the IMPEL network. The content does not necessarily represent the view of the national administrations nor of the Commission.

### 3. PRE-REVIEW MEETING

In arrangements for trial reviews, agreed at a project meeting in March 2001, it was recognised that appropriate preparation for IRI is of vital importance and that preparation should include the following elements to ensure its smooth running and greater efficiency:

- the objectives of IRI should be communicated directly to the host country well in advance of the review commencing.
- the review team-leader should visit the host country a few weeks in advance and brief the candidate inspectorate's senior management.
- the review team-leader would agree, with the candidate inspectorate, the scope and conduct of the review, the composition of the review team, the nature of documentation / briefing material to be supplied by the candidate body (bearing in mind the need for minimal bureaucracy) and would make arrangements with the candidate inspectorate for any necessary security clearances and/or access to sensitive sites or documentation.
- the candidate inspectorate should prepare and present the information required in an appropriate format and submit a copy to the review team-leader in advance of the IRI visit. If it is not possible to achieve this then the information required must be presented to the IRI team directly on their arrival to the host country.
- the review team-leader would be responsible for organising the review team, managing the review process (in the nature of a lead assessor for management systems) and for managing production of the review report.

The IRI Phase 2 Report had confirmed the importance of such preparation, and emphasised the need for advance information in order to allow the review to concentrate on areas of special interest. It had also emphasised the importance of clarifying issues or questions in the Questionnaire that may not be clear, or even relevant, to the candidate inspecting authority. Martin Murray, IRI Project Manager and team leader for the GAA Mannheim Review, arranged a pre-meeting by way of Ralf Pätzold of the UVM. The meeting took place in the Mannheim offices of the GAA on 27/28 of September 2001. In advance of the meeting Ralf Pätzold sent information on various aspects to the team leader. In addition to Martin Murray and Ralf Pätzold, the participants were Fred Dietzel, Head of the GAA Mannheim, Mr Markus Schnapper, Head of its Administrative Department and legal counsellor of the GAAs Mannheim and Karlsruhe and Allan Duncan, Project Consultant.

The objectives of the IRI Project were summarised with particular reference to Recommendation III (4) of the MCEI Recommendations:

“In order to promote best practice across the Community, Member States may, in cooperation with IMPEL, consider the establishment of a scheme, under which Member States, report and offer advice on inspectorates and inspection procedures in Member States, paying due regard to the different systems and contexts in which they operate, and report to the Member States concerned on their findings.”

He emphasised the importance of this voluntary scheme as an effective alternative to some more formal requirement.

The proposed composition of the Review Team was accepted by the GAA, and practical arrangements for the review were discussed and agreed.

The main business of the meeting was to review the Questionnaire and Guidance in order to clarify the nature of the responses expected and the information that would be useful for the Review Team to have in advance of the actual review. The team leader pointed out that the Questionnaire was a guide to discussion and that the real value of the review lay in having free discussion and exchange of ideas around the ten areas identified in the Questionnaire. One of the lessons of the Phase 2 test in Denmark was that freedom for such discussion was of benefit to the Candidate Inspectorate, to review team members and to the inspecting authorities they represented.

It was interesting that, even in the pre-review meeting, this mode of discussion emerged naturally, but took about a day to become established. An obvious advantage of such pre-review discussions is, therefore, the time saved by the advanced setting of a relaxed tone for the review, and by demonstration that there is no need for detailed preparation of answers to individual questions in the Questionnaire prior to the IRI Review.

The pre-review meeting was also a useful opportunity to discuss the practical problem of language becoming a barrier to full participation in discussion. It was noted that the proposed Review Team had at least two German speakers and that, where necessary, discussion and clarification of particular points could be carried out in the German language, with the relevant review team members translating the main points and conclusions for the record of the review.

The meeting concluded with agreement on scheduling of the review discussion. The following division of work was proposed:

Monday	Questions 1, 2 and 3.
Tuesday	Questions 4 and 5.
Wednesday	Questions 6, 7 and 8.
Thursday	Questions 9 and 10.
Friday	Finalising draft report.

Subsequently, and in advance of the review, Ralf Pätzold sent information on various aspects of the Questionnaire to all Review Team members.

In conclusion, the experience of this pre-review meeting confirmed the requirement foreseen in the arrangements for trial reviews and the meeting was judged to have met all its objectives.



## 4. REVIEW AND MAIN FINDINGS

This test was conducted in the offices of the GAA Mannheim, using the revised Questionnaire and Guidance shown in Annex 3. The list of participants is at Annex 5.

This report follows the structure of the revised Questionnaire, by sections, and summarises the main points of discussion in terms of:

- Information about the Inspectorate
- Examples of good practice
- Opportunities for development

Lessons for the review process are also identified and noted.

### 4.1 Constitutional Basis for Inspecting Authority.

Germany is a federal state with 16 constituent Länder (States). Government includes a two-chamber system consisting of the Federal Parliament and the Federal Council. The Länder are represented in the Federal Council, through which they participate in the legislative and administrative process of Federal Government and in European Union matters. The Federal Government and Länder have separate administrative competencies but there is a high level of cooperation and co-ordination between them.

Environmental protection is not specifically included in the portfolio of legislative competencies conferred on the Federal Government so there is no comprehensive federal competence for environmental legislation. However, the Federal Government does have specific competence for areas relevant to IPPC such as air pollution, noise, soil protection and waste disposal. It also has the competence for framework legislation in the areas of water and nature conservation, but this only becomes effective when supplemented by Länder regulations.

The Länder regulate the administrative implementation of Federal law. In general implementation of environmental law is not at the level of the Länder Ministries. It is normally delegated to the District Government level and to the County level, sometimes even to the bigger municipalities. In the case of Baden-Württemberg there are 4 District Governments with a total of 44 County Authorities (35 rural and 9 municipal). They have the competence for environmental permitting and for enforcement. These Authorities are supported by 9 GAAs (Trade and Factory Supervisory Offices), which carry out inspections and provide technical advice, but have no permitting or enforcement powers in the environmental field. The total staff is about 820 persons including 620 inspectors, the rest is mainly administrative staff. The GAAs are independently funded by, and report to, the UVM by way of the District Governments. The general structure is shown in Figure 1.

In Baden-Württemberg the GAAs are responsible for:

- Industrial Waste and Landfills.
- Environmental Pollution (Air, Noise, Electromagnetic Radiation, Light, Odour, Vibration, Water/Industrial effluents).
- Protection against Industrial Hazards (Seveso II).
- Occupational Health and Safety.
- Radiation Protection.
- Explosives.
- Technical Aspects of Consumer Protection (Product Safety).

It should be noted, for the purposes of putting the results of this IRI review in German and European perspectives, that the competencies of such administrative bodies as the GAAs vary from one German Land to another. In Lower Saxony, for example, GAAs have some permitting and enforcement powers in the field of environmental regulation, but do not have the regulatory competence for industrial effluents. Further more there is another approach in implementing the MCEI, an administrative instruction of the Ministry of Environment obliges the GAAs in Lower Saxony to set their inspection programmes in accordance with priorities set by the Ministry.

Unlike Baden-Württemberg, most of the other German Länder do not have the responsibilities for “Occupational Health and Safety” and “Environmental Protection” within a single authority.

As regards the establishment, communication and review of the tasks of the GAA, as recommended in the MCEI, the Federal Government of Germany does not have a major role. Federal legislation requires the competent Länder authorities to perform adequate inspections of industrial installations. There are however no specific or substantive Federal regulations on how to perform inspections. (One recent exception regards Major Accident Prevention under the Seveso II Directive.) This is left to Länder regulations and decisions.

Constitutionally, the GAA Mannheim is an independent Land-funded body. Consideration has recently been given to the integration of the GAA into the County Administrations, but this has been rejected by the government of the Land.

The inspection activities are financed by way of general taxation, through Baden-Württemberg and Federal taxation. Staff salary costs account for 3.2 million Euro and administrative costs including travel, subsistence and training budget account for a further 120, 000 Euro.

The costs of providing independent technical advice to GAAs, by way of consultancy contracts, is funded separately by the UVM from a limited budget serving all 9 GAAs. The information is shared between them.



Sampling and analysis costs, associated with inspection activities, are recovered from the operators of installations. This includes the use of specialist consultants for the assessment of safety reports in the field of Major Accident Prevention under the Seveso II Directive, and to recovery of associated costs from operators.

As regards the feedback of information about practical deficiencies in existing legislation, the GAA provides feedback through the District Government to the UVM. The feedback is then collated with other contributions and consideration given to its implementation at the Land level or, in the case of feedback on Federal legislation, to its transmission to the Federal Government. In the case of new legislation or regulations, the GAA is consulted. A four-week consultation period is normal, and the GAA submits any comments via the District Government. In addition to these formal arrangements there is a network of officials at Länder level, which includes members of the Federal administration through whom representations may be made.

The GAA is not responsible for transboundary environmental issues in respect of Article 17 of the IPPC directive. This responsibility lies with the relevant District Governments, which provide information directly to appointed authorities of the neighbouring states (France and Switzerland). This arrangement has been formalised by the new law of July 2001, which transposed the requirements of the IPPC Directive into German Law. This new law has been influenced by, and formalises, historical arrangements practised between Baden-Württemberg, Rheinland-Pfalz, Switzerland and France (Alsace). It includes the possibility for the translation of information into the language of the recipient country. The transboundary transfer of environmental information is also covered, separately, by way of the International Commission for the Protection of the Rhine, which deals with the potential for cross border pollution by way of water-borne releases.

The exchange of information between the GAA's inspectors and with other competent bodies within Baden-Württemberg is by way of a Land-wide Intranet and by direct exchange of experience in meetings etc. This offers opportunities to seek and exchange information on technical issues by way of an indexed register of competent individuals. There is also an Intranet-based electronic forum, which allows discussion of issues in the fields of Business Administration, Radiation Protection and Water Protection, but not yet on IPPC. At the Länder level, there is a series of standing working groups that help to provide consistency across all of Germany. In addition Baden-Württemberg inspectors are encouraged to participate in IMPEL activities. There exists no formal requirement for the exchange of information between Länder, but the GAA Mannheim has informal arrangements for the exchange of information with GAAs in the neighbouring Länder of Hessen, Rheinland-Pfalz and Bavaria.

The GAA Mannheim supports the District Government Karlsruhe and 4 Counties (2 municipal: Mannheim and Heidelberg and two rural Neckar-Odenwald-Kreis and Rhein-Neckar-Kreis).

The GAA Mannheim has an area of 2,440 km<sup>2</sup>, ca. 40,000 enterprises with around 530,000 employees. The staff consists of 84 persons including 63 inspectors.

At the present time the GAA Mannheim does not have a formally planned inspection programme, but the UVM is now starting a pilot inspection planning exercise with the GAAs of Mannheim and Heilbronn. The Mannheim pilot study will focus on the inspection of metal processing industries. The GAA Mannheim is responsible for inspecting 8000 metal processing installations, only, some of which are subject to regulation under IPPC. As already mentioned, in addition to environmental inspections, the GAA is responsible for permitting, inspection and enforcement under occupational health and safety legislation, as well as for aspects of other legislation on the sites under its control. This integrated responsibility makes it difficult to establish an overall working plan. This instrument has to cover prioritisations within different fields of responsibility including environmental inspection planning.

### **Examples of Good Practice.**

- Some aspects of the integration of environmental inspection with inspection of occupational health and safety and other regulation, (i.e. single point of contact), are judged to be efficient and popular with operators and internally within the GAA. This view was not universally accepted by the review team, but GAA Mannheim has valuable experience in this area that IMPEL colleagues may wish to explore.
- The recovery from operators of costs for discharge monitoring, sampling and analysis is a good example of the “Polluter Pays Principle” in operation.

### **Opportunities for Development.**

- The pilot exercise for the planning of inspections is a timely opportunity to develop a system consistent with the objectives of the MCEI recommendation
- Extension of the scope of the electronic forum to include IPPC would make a substantial contribution to building the capacity of the GAA in this area.

## **4.2 Legal Basis for Inspection Authority.**

German legislation comprises Parliamentary Acts, Statutory Orders and Prescriptive Administrative Guidelines. Legislation was introduced on 27 July 2001 for the transposition of the IPPC Directive into German Law. This Legislation amended a range of existing German legislation. The Parliamentary Acts relevant to IPPC include:

Federal Air Pollution Control and Noise Abatement Act, 1990.

Recycling and Waste Management Act, 1994.

Federal Nature Protection Act, 1998.

Federal Soil Protection Act, 1998.

Water Management Act, 1996.

These Acts and Statutory Orders are the legal basis for the issue of “environmental permits” and water permits. Together, these permits implement the requirements for permitting under the IPPC Directive. The law applies differently to environmental permits and to water permits. In the case of environmental permits, if an application meets all the relevant requirements, it must be granted. The permitting authority has no discretion to refuse it. In contrast, the permitting authority does have the discretion to refuse a water permit even if the application meets all the relevant requirements. The integrated “environmental permit” also implements requirements related to Major Accident Prevention.

The GAA Mannheim is appointed by the UVM to provide, amongst other things, independent technical advice on IPPC permit applications and to carry out inspections of IPPC Installations. Permitting and enforcement on these installations are matters for the District and County Administrations. The GAA may give orders in emergency situations.

The range of IPPC installations covered by GAA inspections includes all of the IPPC Directive Annex 1 Categories. The GAA does not inspect IPPC installations under military control. It does however inspect installations operated directly or indirectly by Government. The regulatory system recognises and avoids the difficulties associated with self-regulation by way of District Government control of developments at County level and by the creation of separate commercial entities for developments at District level.

Conflicts between the requirements of different laws are avoided because the system of issuing an environmental permit and a water permit together incorporates the requirements of all relevant laws. In this system, potential conflicts are resolved internally, and if necessary with the assistance of the Landesanstalt für Umweltschutz, a Land Environmental Protection Advisory Body (EPA) which can offer independent advice to permitting authorities.

Although the GAA itself does not issue environmental permits, it provides advice to the permitting authorities on conditions for inclusion in IPPC permits, including advice on the application of BAT. It advises on the basis of information drawn from an EPA BAT database and, if no relevant information is available, uses the TA Luft, the Technical Instructions Air on Emission Limit Values and only in some cases the EC BREFS. Some inspectors do not use them primarily because they are large documents, currently available only in English.

As regards the GAA inspection activities, it is possible to appeal against the actions of individual inspectors. There are formal disciplinary procedures available for cases of justifiable complaint, but these are, very rarely used. In practice any complaint would normally be dealt with less formally by way of the inspector’s immediate superior.

If the GAA considers a permit to be unsatisfactory in any respect, it can appeal informally to the UVM. This applies to permits issued both by the County and District administrations. The GAA only has an informal opportunity to see draft permits before issue.

Public involvement in the permitting of IPPC installations is by way of response to advertisement of the Permit Application. The public has full access to the application and associated documents. Public complaints or objections to the permit are collated by the permitting authority and are discussed in a public meeting led by a senior officer of the relevant permitting authority. The permits are then finalised and issued after taking the results of the public meeting into consideration. If a member of the public with a vested interest, or an operator, is still not satisfied following the grant of the permit, he/she may appeal against the decision via the Appeal Authority and then the Administrative Court.

In such cases, the appellant has a right to full disclosure of relevant information, including the content of GAA files. Otherwise the general public only has access to environmental information, under the Environmental Information Act. Because GAA inspection reports contain occupational health and safety information, as well as environmental information, they are not generally available to the public.

When non-compliance with permit conditions is discovered during GAA inspections breaches of numeric emission limits are reported to the relevant Permitting Authority. Other non-compliances are investigated by the inspector, with the operator, before formalising the breach in writing, setting out the nature of the breach and what needs to be done to correct it. If the operator fails to respond to the letter appropriately, the GAA writes to the Permitting Authority noting the non-compliance and proposing enforcement action to be taken.

The GAA Mannheim recognises the benefit of formal environmental management systems such as EMAS or ISO 14001, but does not accept them as a substitute for the regulatory duties of the GAA. They do not see EMS certifiers or verifiers as being equivalent to GAA inspectors, but they do accept that the systems and procedures required by such EMSs facilitate the work of inspector.

### **Opportunities for Development**

- In providing advice to permitting authorities on IPPC permit applications, the GAA may want to consider direct reference to EC BREFS when appropriate arrangements have been made for their translation from English.
- The GAA may want to ask permitting authorities to formalise arrangements for commenting on draft permits prior to issue.

### **4.3 Organisational Structure and Management**

The GAA Mannheim is organised on the basis of 6 Technical Departments and one Administrative Department with responsibility also for legal affairs, of the GAA Karlsruhe too. Staff in the technical departments, at an individual level, provide a single point of contact for operators of installations and they are expected to have sufficient competence across the whole range of GAA responsibilities. Advice on legal and technical issues is available to them from within the GAA. In addition, areas requiring special competence, e.g. radiation protection or pregnant women, are

covered by specialist groups. This organisational approach is prescribed in administrative guidelines from the UVM. The UVM prescribes some specialist posts, others are appointed at the discretion of the GAA.

The GAA Mannheim is required to have an IPPC specialist, who is supported by a deputy. The IPPC specialist develops and maintains his specialism by way of meetings with UVM officials, the EPA, and colleagues from other GAAs. The specialist is not subject to any particular training programme, but is recruited on the basis of having at least 3 years relevant industrial experience of a major process industry. He /she is required to provide training and advice to colleagues in the area of IPPC. As described above, there is no direct reference to EC BREFS in the permitting process but information from BREFS is analysed by a team of 5 specialists selected from the 9 GAAs in Baden-Württemberg. The GAA Mannheim does not have a representative on this team but the information is made available to GAA staff across Baden-Württemberg by way of the Land Intranet system.

The GAA inspection programme is based on objectives set centrally by the UVM but the GAA management has discretion on how to achieve them. The Head of the GAA communicates the objectives to his Department Managers who, together with their inspectors, have the responsibility for delivery. In this context 3,000 hours of staff effort, in addition to the requirement for routine duties, is available within the GAA Mannheim to carry out special campaigns on particular topics. These campaigns might include work on the introduction of new regulations for example. At present, one third of the effort is devoted to campaigns specified by the UVM and two thirds is spent on items selected from a prescribed list at the discretion of local management. In future, there will be more discretion available to the GAA, both in terms of the selection of campaigns and in the allocation of staff time. There has been some discussion of whether or not it is better to announce inspections in advance. At least one GAA (Hannover in Lower Saxony) follows this policy. The GAA Mannheim has not adopted this policy, but it is under consideration.

An annual report by the UVM describes work carried out by the GAAs on environmental and occupational health and safety matters. This covers both the routine work and special campaigns. This report does not include proposals or plans for the following year, but this is planned for the next report.

In regard to future plans, GAA Mannheim Heads meet to discuss priority issues for a three-year period. This discussion recognises politically sensitive issues (e.g. public complaints) as well as technical issues. The conclusions are communicated to the UVM and are considered for inclusion in the UVM annual plan for the GAAs.

The GAA Budget is structured between staff costs and administrative costs. Numbers of staff for the GAA are fixed by the UVM. Current constraints on regulatory activity are related to the reduced availability of staff, rather than to lack of money. Management is influenced by the need to react to priority issues as they arise and, in the current staff situation, only limited effort is available for pre-planned inspection programmes. The filling of vacancies by direct advancement of staff without appropriate academic qualifications, but with proven experience and technical skills, is not possible under the arrangements for appointment of Civil Servants.

A pilot exercise for development of a cost accountancy system is currently being carried out in a number of Land authorities in Baden Württemberg, one of which is a GAA. This will be introduced across the 9 GAAs in 2004. It will require the introduction, within GAA Mannheim, of a time recording and cost accountancy system for all of their activities, which they do not have at present.

### **Examples of Good Practice.**

- An organisational structure with specialist technical and legal support, and the provision of specialist groups with responsibility for particular issues.
- The central setting of objectives for the GAA inspection programme by the UVM, together with an objective-setting process which involves discussion with the 9 GAAs.

### **Opportunities for Development.**

- Development of the proposed time recording and cost accountancy system would assist in prioritisation and planning.

## **4.4 Workload.**

A list of the IPPC installations subject to inspection by GAA Mannheim is shown in Appendix 6.

GAA Mannheim is responsible for the full range of activities comprising “environmental inspections” defined in the MCEI, except for monitoring of the environment and assessment of environmental management systems. The GAA monitors releases from IPPC installations. A separate Land body, the Environment Protection Advisory Body (EPA) is responsible for monitoring achievement of environmental quality standards. Their results are communicated to the relevant GAA in case of any breach resulting from an identifiable installation, and otherwise to the UVM.

Of the 63 inspectors in the GAA Mannheim around ten are involved in the inspection of IPPC installations. Between 60% and 80% of their time is devoted to environmental regulation and Major Accident Prevention (Seveso II). In the absence of more detailed management information it has been estimated that between 6 and 8 full-time equivalent members of staff are devoted to the inspection of IPPC installations and to provision of advice to the permitting authorities. Of this effort, around 90% is office-based work and 10% is on-site work.

Generally, inspections take about one “inspector day”, but in some cases may be more. A team of inspectors may carry out inspections of larger installations. When an IPPC permit is being revised or reviewed, the inspection may include staff of the relevant permitting authority and supporting technical experts.



The GAA supports permitting authorities in the preparation of IPPC permits. The County Authorities need proportionately more assistance than the District Governments, but the complexity of the larger installations regulated by the District Governments means that more time is allocated to them.

The GAA does not recover its costs from IPPC installations, with the exception of direct recharge of monitoring, sampling and analysis costs, so it does not presently need to record time spent on specific work activities. However, the need for improved management information has been recognised. This is the subject of the pilot scheme, described in Section 4.3, due for implementation in 2004 across all 9 GAAs. The GAA also recognised, however, that a large proportion of the time spent on regulation of IPPC installations was spent on reactive, or unplanned, work (Permit applications, complaints, investigations etc).

Information on all requests for enforcement actions initiated by the 9 GAAs in Baden-Württemberg is recorded in the Annual Report of the UVM. Information on enforcement action initiated specifically by GAA Mannheim in connection with environmental and water permits is shown in Appendix 7. The relevant County and District permitting authorities are responsible for the enforcement action, but they may be supported by GAA inspectors appearing as expert witnesses. In the case of imminent risk of severe harm to human health or the environment, however, the GAA inspectors have a duty to take direct action to avert the danger. But this occurs rarely.

Enforcement actions available to the permitting authority include the issue of orders and prosecution in court. Sanctions may be implemented by means of administrative action including fines but the operator has a right of appeal to the Administrative Court. In the case of prosecutions in the Criminal Court the permitting authorities normally seek assistance from the police in the collation of evidence and the preparation of a case. Penalties range from fines through to imprisonment, dependent upon the offence.

As regards pre-application contact with operators, both the permitting authority and the GAA are normally involved. The GAA has no formal role in this context, but is prepared to provide advice as requested.

Planning and prioritisation of the inspectors' workloads, in order to optimise the use of resources, is left to individual inspectors on the grounds that they are well-qualified professionals and are best placed to make such judgements. Their plans are coordinated by the Department Heads.

### **Examples of Good Practice**

- Team inspections of large installations carried out in collaboration with other authorities.

### **Opportunities for Development**

- Consideration of collation and use of inspection statistics to assist in the planning and prioritisation of inspectors' workloads.

## 4.5 Qualifications, Skills and Experience

GAA staff involved in inspections of IPPC installations must have a degree or diploma in a relevant subject and, preferably, at least 3 years relevant industrial experience. They are appointed to a senior grade and must also be knowledgeable in a minimum of three areas inspected by the GAA (e.g. Water regulation, Air regulation and Occupational Health and Safety). New staff are selected by competitive interview against requirements for specific vacancies. Staff turnover is about 4 inspectors per year, on average, out of a total of 63 inspectors.

Once appointed, new inspectors are trained on the job by a mentor and, over a two-year period, are required to complete the equivalent of 7-8 weeks on courses covering basic regulation, and to attend a 5-week advanced course. The GAA training programme is overseen by a dedicated training manager, and a training record is maintained and documented for each trainee. It is signed off by the Head of the GAA on satisfactory completion of the 2-year programme. The inspector is then given the formal authority to sign off regulatory documents. This is recognised by issue of an official pass, authorised and signed by the Head of the GAA. This pass also provides the legal right of entry into industrial installations. At this point the inspector is regarded as being fully qualified and fit to work in all areas of the GAA's business.

A substantial amount of continuous training is provided by way of Land-run courses. These are cost free to the GAA. In addition, the GAA has a budget of 20,000DM for external courses. The UVM has a policy of requiring GAA inspectors to change areas of responsibility every 4-8 years. This policy is seen as desirable for preventing over-familiarity with operators or "issue blindness", and is implemented wherever practicable. The policy also covers the acceptance of, and declaration of, "gifts" from operators. It is a normal expectation that Civil Servants will declare any relevant personal interests that could be interpreted as a conflict of interest, e.g. share holdings in any company that they regulate.

Even though fully trained, and assigned as a single point of contact for a given installation, it is recognised that individual inspectors will not be expert in all areas within the remit of the GAA. In this situation it is expected that inspectors will draw on the expertise, experience and knowledge of suitably qualified colleagues.

### Examples of Good Practice

- The well-developed, two-year structured training programme for new staff, including on-the-job training under a mentor.
- The provision of a dedicated Training Manager, and maintenance of Training Records for the induction of new staff.
- The requirement for new inspectors to have relevant industrial experience.
- Arrangements for the internal rotation of inspectors within the GAA.

## Opportunities for Development

- The GAA may wish to consider the establishment of a register of inspectors' interests in order to avoid any suggestion of conflict of interest.

### 4.6 Training

A Training Manager, who is one of the team of inspectors but devotes around 10% of his time to the management of training, oversees the training of GAA Mannheim inspectors. He is not, himself, a trainer.

All new members of Baden-Württemberg GAA staff are trained according to a formal, structured programme, shown in Sections A, B, and C of the table in Appendix 8

As described in Section 4.5, this period of training generally takes about two years. There is no formal examination at the end of this period but new members of staff are assessed by their mentor and, if judged satisfactory, are recommended for accreditation and the issue of their official pass by the Head of the GAA.

In addition, existing staff are given continuing professional training and refreshment in technical and legal matters, and in personal development, by way of a centrally-resourced seminar programme. An example of this is shown in Section D of the table in Appendix 8.

These seminars are organised on a Land-wide basis, and accommodate between 20 and 30 inspectors at one time. Attendees at these seminars are expected to cascade information to colleagues in their own GAA. There is no compulsion to attend these seminars but it is generally accepted as being part of the inspector's duty to maintain professional awareness. The question of whether accreditation would be withdrawn for failure to maintain professional awareness does not appear to have arisen in the past.

The Land budget for such training is around 240,000 DM per year. In 2001 the scope was about 2000 man-days.

There is no formal assessment of the need for training of existing staff, or plans for personal development. In practice, senior managers do this on a day-to-day basis, making informal recommendations for training as appropriate. (These recommendations would be reinforced during the three yearly assessment of performance undertaken for those members of staff who are Civil Servants, as opposed to salaried staff). The success or effectiveness of training programmes is not formally assessed, but is judged informally by the performance of individual inspectors as discussed above.

In addition to formal training programmes, there are monthly internal seminars for all inspectors, at which information is cascaded on new technologies, amendments to legislation and information from the external seminar programme. These monthly seminars also offer a forum for exchange of information on matters of common interest arising from day-to-day work.

Individual Departments of the Mannheim GAA, e.g. Department 1 (Chemicals), hold additional seminars every two months to discuss issues of particular interest to their own Department. These sometimes include external speakers, from the EPA or industry for example.

Also in the context of training, GAA staff give lectures at general seminars for Industry and Trade Associations. This is seen as facilitating the interaction between inspectors and industry and facilitating the achievement of environmental objectives.

It was also noted that, in Germany, some categories of staff in industry are required by law to maintain a professional accreditation, and that the GAA inspectors support the related training courses.

#### **Examples of Good Practice.**

- The inspectors' duty to cascade information from external seminars to colleagues.
- .
- Provision for continuing training and refreshment of technical and legal skills, and the organisation of monthly internal seminars for all inspectors.
- The organisation of specialist Department-based technical seminars.
- The creation of opportunities, by way of seminars and lectures, for interaction and exchange of information with Industry.

#### **Opportunities for Development.**

- The GAA may wish to consider introducing and maintaining Development Plans for longer term personal and professional development of its staff. These might include maintenance of a record of training beyond the induction stage.

#### **4.7 Procedures.**

The GAA duties associated with implementation of IPPC cover elements of the permitting process, inspection and enforcement. The GAA is not the authority for permitting but it has a duty to assist the permitting authorities. This duty is covered by an Administrative Instruction from the UVM, which sets out the procedure for the complete environmental permitting process and the GAA's role within that. This is reflected within the GAA by a document, which lists GAA actions and acts as a "running order". This document accompanies the relevant file with completion dates recorded for each permit.

Planning of inspections in the Land of Baden-Württemberg is subject to high-level objectives developed by a feedback process between GAAs and the UVM. These are issued formally by the UVM, and individual GAAs develop detailed working-level plans for meeting these objectives. The GAAs then report annually to the UVM on their performance against these plans. The collated information is published by the UVM in an Annual Report, and it is available on the Internet. It is also planned to make the high-level objectives available to the public by way of the Internet, in a year or so. Detailed GAA plans will then be integrated into an overall UVM plan in due course, when overall working plans are introduced into the GAAs.

The UVM Administrative Instruction describes the duties of the GAAs in regulation of permits in sufficient detail so as to be used directly as working instructions. Generally, the duties involve informing the permitting authorities about breaches and non-compliances. In the case of imminent danger to the environment or human health, however, the GAA inspector must take direct action to avert the danger. There is no written procedure or standard form for such action. In practice the GAA depends on the Inspector's training and, where practicable, on the possibility for the inspector to refer to senior management for advice.

The provisions of the Federal Environmental Information Act cover the making of environmental information available to the public. The provisions of this Act are sufficiently detailed so as to be regarded as a procedure or work instruction. A possible complication may arise from the integrated responsibility of the GAA for environmental, occupational health and safety and other issues. This means that the provision of environmental information to the public, under the Act, requires its specific abstraction of that data from GAA files.

These findings reflect the structure of the German legal system which is prescriptive and whose implementation, therefore, does not require the support of detailed written procedures.

### **Examples of Good Practice.**

- The UVM Administrative Instruction setting out the roles and responsibilities of the different bodies involved in the environmental regulatory process.

### **Opportunities for Development.**

- The GAA may wish to intensify its work on how best to progress the development and publication of an inspection plan showing how detailed plans cascade from the objectives set by the UVM.
- The GAA may wish to consider the provision of written procedural advice for action to be taken by a site-inspector in the event of immediate harm to human health or the environment.

## 4.8 Standards and Guidance

The GAA does not make the actual decisions on permitting, but is required to give advice to the permitting authority. This advice is given, in the form of a statement, directly to the permitting authority from the relevant inspector. The structure of the statement is standardised, and based on the results of a project carried out jointly by the 9 GAAs in Baden Württemberg. This includes guidance or suggestions for conditions to be included in a permit, but there is no compulsion to use such standard conditions. Guidance on the technical details to be included in the statement is available on the Intranet and from Federal Technical Instructions, such as TA Luft. Responsibility for ensuring consistency between permits lies with the Permitting Authority.

Consistency of inspection practice is guided by a structured system developed for Seveso II installations, which is now being applied to IPPC Installations. The system is still being developed, but interesting approaches, such as tracking specific materials by administrative records and by mass-balance calculations across an installation, are being tested. Guidance on inspection practice now includes a legal instruction to invite a member of the Workers' Council to accompany the inspector on site and to inform both the operator's management and the Workers' Council about the outcome of an environmental inspection. This is an extension of existing practice in occupational health and safety inspection.

The GAA is responsible for responding to complaints from people living or working near installations (neighbours). This is a substantial part of the GAA's workload and is taken seriously, to the extent of having a duty inspector available 24 hours a day in the special case of the city of Mannheim (due to proximity of residential and industrial areas together with one of the largest chemical plants in Europe). There are no specific instructions or guidance given to such inspectors, apart from the standard procedure of contacting the operator first to see if there is any obvious cause for the complaint. In practice, it is found that most complaints are unjustified.

Information about technical guidance on BAT is gathered by a nominated GAA Inspector, in addition to his normal duties. He produces a monthly report summarising new information available from various sources, such as the EPA. This report indicates only the availability of the information, but full information on each topic is found on the Land Intranet.

If external advice on specific issues is needed by the GAA, it may be obtained free of charge from the Land EPA. Inspectors can also seek it from the Intranet or Internet. Information is also available from German Expert Bodies (TÜV) by way of informal contacts. Some TÜV's staff training has included periods with the GAA. Otherwise, the GAA may seek such information formally from the TÜV, or other expert bodies, at a cost.

### **Examples of Good Practice.**

- A standard template for the inspector's statement to the permitting authority.
- The provision of a structured system for conducting inspections developed from Seveso II inspection practice.
- Involvement of the Workers' Council in environmental inspections.
- The 24-hour response to complaints, as a good example of commitment to environmental protection.
- The use of an Intranet electronic forum, as a good example of the use of contemporary communication technology for assisting inspectors in their work.
- The ready availability of various sources of external independent advice.

### **Opportunities for Development.**

- In regard to improving efficiency of response to complaints, the GAA may wish to consider further how to filter out minor complaints and to deal with persistent complainants ("grumblers"). The Review Team note that this is being studied by the GAA Hanover, in Lower Saxony, and by GAAs in other Länder, including North-Rhine Westphalia. The GAA Mannheim may wish to draw on the results of these studies.
- The Review Team noted the good practice of giving immediate feedback to the operator and to the Workers' Council after an inspection, followed by the written communication of actions. The GAA may like to consider how they might extend this to implement the MCEI Recommendation (VI 2) that actual inspection reports be communicated to the operator and made available to the public.

## **4.9 Performance Assessment**

The GAA assesses its environmental performance, indirectly, by the effect of its regulatory activities on the environment. This is done by considering the trends in emissions to air, air quality and in the quality of water in rivers and lakes. The EPA compiles and publishes information about emissions to air from industry, on the basis of information received directly from industry and validated by the GAA, and about air quality. This work is done on behalf of the UVM. Similarly, the EPA compiles and publishes information about the quality of water in rivers and lakes, every 2 to 3 years. This system is being extended, for releases to water in order to meet the requirements for a Pollution Emissions Register.

The quality of service provided to the permitting authorities is investigated informally by the Head of the GAA, who seeks feedback from these authorities. He shares this information with Department Heads for the purpose of improving the service as

necessary. Another form of internal quality control, and examination of consistency, is carried out by Department Heads, who monitor the incoming mail on a routine basis, annotating it with instructions and guidance as appropriate. For one week every year they also monitor all outgoing mail.

In addition, there has been a special survey of the 9 GAAs in Baden-Württemberg. This survey was carried out by an independent University Group on behalf of the UVM and involved the questioning of operators about the regulatory activities of the GAAs. In general, the level of operator satisfaction was high. Areas identified as requiring improvement included means of communication and clarity of regulatory requirements. Improvements to telephone and e-mail access have already been implemented, and training now includes items concerned with the clarity of regulatory requirements. These improvements are also now being implemented in the GAA statements to the permitting authorities. Other items for implementation are the subject of a general improvement programme. A parallel, internal survey was carried out at the same time.

In the wider context of performance management and improvement, two GAAs, Stuttgart and Sigmaringen, are awaiting EMAS 2 registration. The significance of this is that their register of environmental effects includes not only their direct effects e.g. use of energy, recycled products etc, but also the indirect effects of their regulatory activities by way of the installations they regulate. This may be extended to other GAAs in the future.

### **Examples of Good Practice.**

- The internal and independent, external assessments of regulatory performance.
- The internal Quality Assurance System operated by Department Heads.

### **Opportunities for Development**

- The GAA may wish to seek extension of the special survey concept to include, in addition to operators, other GAA clients such as permitting authorities and the public.

## **4.10 Reporting**

The GAA regulatory activities, together with information about related enforcement actions, are described in an Annual Report published by the UVM. This report is available on the Internet.

Information about emissions to air, air quality, and water quality are published separately in reports by the EPA. The information in these reports is validated by the GAA before publication, as described in Section 4.7. The published information will be extended in due course to cover releases to water, in order fully to meet the requirements of a Pollution Emissions Register.





The GAA also reports directly, and monthly, to the UVM and the District Government with information about its activities. This information will be relevant for the purpose of reporting on the German experience of operation of the MCEI. (Recommendation VIII).

**Examples of Good Practice.**

- Publication of an Annual Report describing GAA regulatory activities and related enforcement action.

**Opportunities for Development.**

- The GAA may wish to consider compilation and analysis of complaint statistics, as these constitute a significant use of its resources. The Review Team noted that the data in the GAA Mannheim Intranet could be used for this purpose.

## 5. SUMMARY OF FINDINGS

Examples of good practice, and opportunities for development by the GAA Mannheim, are collected below. (The sub-section number, in brackets, identifies each source.)

### **Examples of Good Practice.**

- Some aspects of the integration of environmental inspection with inspection of occupational health and safety and other regulation, (i.e. single point of contact), are judged to be efficient and popular with operators and internally within the GAA. This view was not universally accepted by the review team, but GAA Mannheim has valuable experience in this area that IMPEL colleagues may wish to explore. (4.1)
- The recovery from operators of costs for discharge monitoring, sampling and analysis is a good example of the “Polluter Pays Principle” in operation. (4.1)
- An organisational structure with specialist technical and legal support, and the provision of specialist groups with responsibility for particular issues. (4.3)
- The central setting of objectives for the GAA inspection programme by the UVM, together with an objective-setting process which involves discussion with the 9 GAAs. (4.3)
- Team inspections of large installations carried out in collaboration with other authorities. (4.4)
- The well-developed, two-year structured training programme for new staff, including on-the-job training under a mentor. (4.5)
- The provision of a dedicated Training Manager, and maintenance of Training Records for the induction of new staff. (4.5)
- The requirement for new inspectors to have relevant industrial experience. (4.5)
- Arrangements for the internal rotation of inspectors within the GAA. (4.5)
- The inspectors’ duty to cascade information from external seminars to colleagues. (4.6)
- Provision for continuing training and refreshment of technical and legal skills, and the organisation of monthly internal seminars for all inspectors. (4.6)
- The organisation of specialist Department-based technical seminars. (4.6)
- The creation of opportunities, by way of seminars and lectures, for interaction and exchange of information with Industry. (4.6)

- The UVM Administrative Instruction setting out the roles and responsibilities of the different bodies involved in the environmental regulatory process. (4.7)
- A standard template for the inspector's statement to the permitting authority. (4.8)
- The provision of a structured system for conducting inspections developed from Seveso II inspection practice. (4.8)
- Involvement of the Workers' Council in environmental inspections (4.8).
- The 24-hour response to complaints, as a good example of commitment to environmental protection. (4.8)
- The use of an Intranet electronic forum, as a good example of the use of contemporary communication technology for assisting inspectors in their work. (4.8)
- The ready availability of various sources of external independent advice. (4.8)
- The internal and independent, external assessments of regulatory performance. (4.9)
- The internal Quality Assurance System operated by Department Heads. (4.9)
- Publication of an Annual Report describing GAA regulatory activities and related enforcement action. (4.10)

### **Opportunities for Development.**

- The pilot exercise for the planning of inspections is a timely opportunity to develop a system consistent with the objectives of the MCEI recommendation. (4.1)
- Extension of the scope of the electronic forum to include IPPC would make a substantial contribution to building the capacity of the GAA in this area. (4.1)
- In providing advice to permitting authorities on IPPC permit applications, the GAA may want to consider direct reference to EC BREFS when appropriate arrangements have been made for their translation from English. (4.2)
- The GAA may want to ask permitting authorities to formalise arrangements for commenting on draft permits prior to issue. (4.2)
- Development of the proposed time recording and cost accountancy system would assist in prioritisation and planning. (4.3)
- Consideration of collation and use of inspection statistics to assist in the planning and prioritisation of inspectors' workloads. (4.4)

- The GAA may wish to consider the establishment of a register of inspectors' interests in order to avoid any suggestion of conflict of interest. (4.5)
- The GAA may wish to consider introducing and maintaining Development Plans for longer term personal and professional development of its staff. These might include maintenance of a record of training beyond the induction stage. (4.6)
- The GAA may wish to intensify its work on how best to progress the development and publication of an inspection plan showing how detailed plans cascade from the objectives set by the UVM. (4.7)
- The GAA may wish to consider the provision of written procedural advice for action to be taken by a site-inspector in the event of immediate harm to human health or the environment. (4.7)
- In regard to improving efficiency of response to complaints, the GAA may wish to consider further how to filter out minor complaints and to deal with persistent complainants ("grumblers"). The Review Team note that this is being studied by the GAA Hanover, in Lower Saxony, and by GAAs in other Länder, including North-Rhine Westphalia. The GAA Mannheim may wish to draw on the results of these studies. (4.8)
- The Review Team noted the good practice of giving immediate feedback to the operator and to the Workers' Council after an inspection, followed by the written communication of actions. The GAA may like to consider how they might extend this to implement the MCEI Recommendation (VI 2) that actual inspection reports be communicated to the operator and made available to the public. (4.8)
- The GAA may wish to seek extension of the special survey concept to include, in addition to operators, other GAA clients such as permitting authorities and the public. (4.9)
- The GAA may wish to consider compilation and analysis of complaint statistics, as these constitute a significant use of its resources. The Review Team noted that the data in the GAA Mannheim Intranet could be used for this purpose. (4.10)

## 6. CONCLUSIONS

The Review Team found German environmental law to be rather complex, as a result of the Federal structure and the way in which relevant competencies fall to the Länder. It is also complicated somewhat by the historic difference in the legal provisions for the protection of water and of the air, but detailed study of the law was beyond the scope of this review.

Nevertheless, the Review Team concluded that provisions for implementation of IPPC were fully covered, and that the arrangements for environmental inspections were broadly in line with the MCEI Recommendation except, perhaps, for some aspects of inspection planning and the availability of inspection reports.

The team also concluded that the arrangements for operation of the GAA Mannheim, for selection, training and guidance of its inspectors, and for assessment and reporting of its activities provided a variety of examples of good practice.

These examples are described in detail, together with opportunities identified by the team members, on the basis of their own experience, for possible development within the GAA Mannheim.

## 7. ACKNOWLEDGEMENTS

The project management wishes to thank the representatives of the UVM Baden-Württemberg, the GAA Mannheim and the Review Team members from Denmark, Ireland, France, and Germany for their constructive participation in this test. It also wishes to thank their respective organisations and DG Environment of the European Commission for their support.

## 8. LESSONS FOR THE REVIEW PROCESS

- More time is required for effective Team briefing on Day 1 of the review.
- The load on the Team Leader, in conduct of the review, is too high and needs to be shared with other Team Members in future.
- The role of “Rapporteur / Team Secretary” needs to be considered for the longer term.
- The effort of concentration over 5 days is very high for Team Members whose first language is not English.
- The review confirmed the necessity for a pre-meeting and its value in establishing the right working relationship for constructive discussion.
- The review confirmed the value of having Team Members who speak the same language as the Candidate Inspectorate.
- A large amount of time is required for discussion of Constitutional and Legal arrangements. It is not clear how this can be reduced.
- In terms of “Capacity Building”, the review confirmed the value to Team Members as much as to the Candidate Inspectorate.
- There needs to be time during the review to get a closer feeling for the actual work of the inspectors and their products. (Not to be confused with the objectives of the IMPEL PEEP project.)
- There needs to be time at the end of each day for the Team to review what it has learnt, and to identify and record the examples of good practice and opportunities for development.



## Appendix 1

### TERMS OF REFERENCE FOR IRI PROJECTS

<b>No</b>	<b>Name of project</b>
	<i>IMPEL Review Group</i>
<i>Project Manager</i>	<i>Martin Murray, Environment Agency, United Kingdom.</i>

#### 1. Scope

##### 1.1. Background

*The Helsinki Plenary Meeting of IMPEL, in December 1999, requested that proposals be drawn up for “a voluntary scheme for reporting and offering advice on inspectorates and inspection procedures” (the “scheme”). This was against the background of preparation of a European Parliament and Council Recommendation on Providing Minimum Criteria for Environmental Inspections in the Member States and the expectation that further recommendations would follow on Minimum Criteria for Inspector Qualifications and for Inspector Training.*

*The Council of the European Union adopted its Common Position on the proposal for a recommendation on 20 March 2000 (5684:00). III(3) of the Common Position says:*

*“In order to promote best practice across the Community, Member States may, in cooperation with IMPEL, consider the establishment of a voluntary scheme, under which Member States report and offer advice on inspectorates and inspection procedures in Member States, paying due regard to the different systems and contexts in which they operate, and report to the Member States on their findings.”*

*IMPEL is willing to take this forward and too foresees the eventual need for arrangements to review implementation of such recommendations and proposes a voluntary scheme for the purpose.*

*The potential benefits of such a scheme might include:*

- Encouragement of capacity–building in EU Member State inspectorates.*
- Encouragement of further collaboration between EU Member State inspectorates on common issues or problems, on exchange of experience and on development and dissemination of good practice in environmental regulation.*

- *Provision of advice to inspectorates (“candidate inspectorates”) who may be seeking an external view of their structure, operation or performance by trusted, knowledgeable and independent counterparts for the purpose of benchmarking and continuous improvement of their organisation.*
- *The spread of good practice leading to improved quality of inspectorates and inspections, and contributing to continuous improvement of quality and consistency of application of environmental law across the EU (“the level playing-field”).*

*Necessary features of any scheme designed to deliver these benefits would include:*

- *a well-defined scope of application.*
- *Practical and easily understood arrangements for scheduling, organising, funding, conducting and reporting on any review of a candidate inspectorate, and with minimal bureaucracy.*
- *Absence of any threat of self-incrimination or infraction proceedings arising specifically from application of the scheme.*
- *Control, by the candidate inspectorate, of dissemination of information arising from any review.*
- *Participation, by the candidate inspectorate, in selection of personnel to carry out any review.*
- *Effective follow-up arrangements for support of any candidate inspectorate seeking further advice or assistance on issues identified during review.*

*Effective arrangements for dissemination across Member States of training or educational material on lessons learnt and good practice identified during any review.*



## 1.2. Definition

*The draft recommendation in the Common Position referred to above (5684/00) would apply to “all industrial and other enterprises and facilities, whose air emissions and/or water discharges and/or waste disposal or recovery activities are subject to authorisation, permit or licensing requirements under Community law, without prejudice to specific inspection provisions in existing Community legislation.”(Section II, 1a.). This scope would include all IPPC processes and other lesser processes which, in many Member States, are regulated by a variety of bodies at local level.*

*It was to exclude the complication of having so many bodies that the initial regulatory scope of the EC Network of Enforcement Agencies (the precursor of IMPEL) was limited to regulation of “major industrial processes”. For the same reason it is proposed that the Regulatory Scope of this scheme be limited initially to regulation of IPPC processes.*

*It is also proposed for the purposes of review of candidate inspectorates and to reflect the interests and activities of IMPEL that, by agreement with the candidate inspectorate, the Organisational Scope of the scheme should include any or all of the following:*

- *The legal and constitutional bases of the inspectorate, including interfaces with other bodies such as Health and Safety inspectorates, and its related powers and duties. (i.e. “political independence / dependence”)*
- *Structure and managerial organisation, including funding, staffing and lines of authority and responsibility for regulatory and policy functions.*
- *Workload, by number of IPPC processes and Annex1 category.*
- *Qualifications, skills and experience of regulatory staff.*
- *Procedures for assessment of training needs and provisions for training and maintaining current awareness.*
- *Procedures, criteria and guidance for drafting of permits, for scheduling inspections, for subsequent assessment of compliance (“inspection”) and for enforcement action in cases of non-compliance.*
- *Arrangements for internal assessment of the quality of regulatory performance and for improvement if appropriate.*
- *Arrangements for reporting on inspectorate activities.*

<p><b>1.3. Objective of project</b></p>	<p><i>To devise and test a voluntary scheme for reporting and offering advice on Member State inspectorates and inspection procedures that incorporates the features outlined in Section 1.1 and delivers the associated benefits.</i></p>
<p><b>1.4. Product(s)</b></p>	<p><i>In addition to the benefits listed in Section 1.1, tangible products will include,</i></p> <ul style="list-style-type: none"> <li>• <i>Written reports of reviews for candidate inspectorates,</i></li> <li>• <i>Relevant extracts from review reports, as agreed with candidate inspectorates, for dissemination to IMPEL members and the EC,</i></li> <li>• <i>Training and Educational material on “lessons learnt” and on examples of good practice for incorporation into training schemes of Member State inspectorates.</i></li> </ul>

## 2. Structure of the project

<b>2.1. Participants</b>	<i>All IMPEL Members who wish to participate.</i>
<b>2.2. Project team</b>	<i>It is proposed that the project team be composed of IMPEL Members who wish to participate, or their representatives, and that work is coordinated initially by Dr. Allan Duncan of the Environment Agency, Chairman of the original IMPEL Working Group 2.</i>
<b>2.3. Manager Executor</b>	<p><i>Mr. Martin Murray will be responsible for monitoring and supervision of the project on behalf of IMPEL.</i></p> <p><i>It is proposed to develop the project in three stages as follows,</i></p> <ul style="list-style-type: none"> <li>• <i>Design of arrangements for scheduling reviews, for selecting review teams, for managing and supporting reviews, for reporting results of reviews, lessons learnt, etc. and for allocating associated costs.</i></li> <li>• <i>Drafting of a questionnaire to be used as the basis for reviews. (It is assumed from experience of the Project on Environmental Enforcement Practices (PEEP) and of the Senior Labour Inspectors' Committee (SLIC) voluntary reviews that this will be essential for consistency between reviews.)</i></li> <li>• <i>Testing of the scheme by way of six reviews over a period of two years. (Continued operation of the scheme at the rate of three reviews per year would result in a repeat period of five years for review of any candidate inspectorate, assuming all 15 Member States participated in turn.)</i></li> </ul>
<b>2.4. Reporting arrangements</b>	<i>The results of the first two stages of the project will be reported directly to IMPEL, for approval. Arrangements for reporting on test reviews will depend on results of the first stage of the project, particularly in regard to any provision for control by the candidate inspectorate over dissemination of review details.</i>

### 3. Resources required

<b>3.1 Project costs</b>	<p><i>Each of the first two stages of the project will involve a maximum of two meetings of those IMPEL members who wish to participate, or their representatives. It is proposed that meetings are conducted in English, and no interpretation is required, the costs will be limited to travel and subsistence costs of participants.</i></p> <p><i>We estimate that the costs for the first two stages would be 60 000 Euro.</i></p> <p><i>The costs of the third, test stage would be estimated when arrangements for reviews are designed. This would include the production of a report describing the proposed system These costs would be put to IMPEL when the results of the first two stages are submitted for approval. It would be proposed to share the costs between the Commission and participants in the review scheme.</i></p>
<b>3.2. Fin. from Com.</b>	<p><i>Given that the project arises from a proposal for EU legislation. We are seeking the maximum 80% subsidy from the Commission. in the first two stages of the project, in the current financial year, plus the costs of six test reviews over a two year period.</i></p>
<b>3.3. Fin. from MS (and any other )</b>	<p><i>Costs of time plus a contribution towards the costs of travel and subsistence of personnel volunteered for the first two stages and for review teams in the third stage of the project, together with those external costs, such as consultancy, associated with any review of their own inspectorate.</i></p>
<b>3.4. Human from Com.</b>	<p><i>None</i></p>
<b>3.5. Human from MS</b>	<p><i>3 person-day per participant for each of the first two stages plus approximately 5 person-days for any review team participant in the third stage.</i></p>

#### 4. Quality review mechanisms

- *The quality and success of this project will be judged directly by IMPEL on the basis of reports to Plenary meetings by the Project Manager.*

#### 5. Legal base

<b>5.1. Directive/ Regulation/ Decision</b>	<i>In the short term, The European Parliament and Council Recommendation on Providing Minimum Criteria for Environmental Inspections in Member States and, in due course, those on Inspector Qualifications and Training.</i>
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#### 6. Project planning

<b>6.1. Approval</b>	<i>For consideration at IMPEL Plenary on 23 May 2000.</i>
<b>(6.2. Fin. Contributions)</b>	<i>As incurred.</i>
<b>6.3. Start</b>	<i>As soon as possible after approval.</i>



## **Appendix 2**

### **Recommendation on Minimum Criteria for Environmental Inspection**

## II

(Acts whose publication is not obligatory)

## EUROPEAN PARLIAMENT AND COUNCIL

### RECOMMENDATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 4 April 2001

providing for minimum criteria for environmental inspections in the Member States

(2001/331/EC)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the Economic and Social Committee <sup>(1)</sup>,

Having regard to the opinion of the Committee of the Regions <sup>(2)</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty <sup>(3)</sup>, and in the light of the joint text approved by the Conciliation Committee on 8 January 2001,

Whereas:

- (1) The resolution of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, of 1 February 1993 on a Community programme of policy and action in relation to the environment and sustainable development <sup>(4)</sup> and the Decision of the European Parliament and the Council on its review <sup>(5)</sup> emphasised the importance of implementation of Community environmental law through the concept of shared responsibility.
- (2) The Commission Communication of 5 November 1996 to the Council of the European Union and the European Parliament on implementing Community environmental law, in particular paragraph 29 thereof, proposed the

establishment of guidelines at Community level in order to assist Member States in carrying out inspection tasks, thereby reducing the currently-existing wide disparity among Member States' inspections.

- (3) The Council in its resolution of 7 October 1997 on the drafting, implementation and enforcement of Community environmental law <sup>(6)</sup> invited the Commission to propose, for further consideration by the Council, in particular on the basis of the work of the European Union network for the implementation and enforcement of environmental law (IMPEL), minimum criteria and/or guidelines for inspection tasks carried out at Member State level and the possible ways in which their application in practice could be monitored by Member States, in order to ensure an even practical application and enforcement of environmental legislation, and the Commission's proposal has taken into account a paper produced by IMPEL in November 1997 and entitled 'Minimum Criteria for Inspections'.
- (4) The European Parliament by its resolution of 14 May 1997 on the Commission's Communication called for Community legislation on environmental inspections, and the Economic and Social Committee and the Committee of the Regions gave favourable opinions on the Commission's Communication and stressed the importance of environmental inspections.
- (5) Different systems and practices of inspection already exist in Member States and should not be replaced by a system of inspection at Community level, as was considered in the Council resolution of 7 October 1997, and Member States should retain responsibility for environmental inspection tasks.

<sup>(1)</sup> OJ C 169, 16.6.1999, p. 12.

<sup>(2)</sup> OJ C 374, 23.12.1999, p. 48.

<sup>(3)</sup> Opinion of the European Parliament of 16 September 1999 (OJ C 54, 25.2.2000, p. 92), Council Common Position of 30 March 2000 (OJ C 137, 16.5.2000, p. 1) and Decision of the European Parliament of 6 July 2000 (not yet published in the Official Journal). Decision of the European Parliament of 1 February 2001 and Council Decision of 26 February 2001.

<sup>(4)</sup> OJ C 138, 17.5.1993, p. 1.

<sup>(5)</sup> OJ L 275, 10.10.1998, p. 1.

<sup>(6)</sup> OJ C 321, 22.10.1997, p. 1.

- (6) The European Environment Agency can advise the Member States on developing, setting up and extending their systems for monitoring environmental provisions and can assist the Commission and the Member States in monitoring environmental provisions by giving support in respect of the reporting process, so that reporting is coordinated.
- (7) The existence of inspection systems and the effective carrying out of inspections is a deterrent to environmental violations since it enables authorities to identify breaches and enforce environmental laws through sanctions or other means; thus inspections are an indispensable link in the regulatory chain and an efficient instrument to contribute to a more consistent implementation and enforcement of Community environmental legislation across the Community and to avoid distortions of competition.
- (8) There is currently a wide disparity in the inspection systems and mechanisms among Member States in terms not only of their capacities for carrying out inspection tasks but also of the scope and contents of the inspection tasks undertaken and even in the very existence of inspection tasks in a few Member States, and this is a situation which cannot be considered satisfactory with reference to the objective of an effective and more consistent implementation, practical application and enforcement of Community legislation on environmental protection.
- (9) It is necessary, therefore, to provide, at this stage, guidelines in the form of minimum criteria to be applied as a common basis for the performance of environmental inspection tasks within the Member States.
- (10) Community environmental legislation obliges Member States to apply requirements in relation to certain emissions, discharges and activities; minimum criteria on the organisation and carrying out of inspections should be met in the Member States, as a first stage, for all industrial installations and other enterprises and facilities whose air emissions and/or water discharges and/or waste disposal or recovery activities are subject to authorisation, permit or licensing requirements under Community law.
- (11) Inspections should take place taking into account the division of responsibilities in the Member States between authorisation and inspection services.
- (12) In order to make this system of inspections efficient, Member States should ensure that environmental inspections activities are planned in advance.
- (13) Site visits form an important part of environmental inspection activities.
- (14) The data and documentation provided by industrial operators registered under the Community eco-management and audit scheme could be a useful source of information in the context of environmental inspections.
- (15) In order to draw conclusions from site visits, regular reports should be established.
- (16) Reporting on inspection activities, and public access to information thereon, are important means to ensure through transparency the involvement of citizens, non-governmental organisations and other interested actors in the implementation of Community environmental legislation; access to such information should be in line with the provisions of Council Directive 90/313/EEC of 7 June 1990 on the freedom of access to information on the environment <sup>(1)</sup>.
- (17) Member States should assist each other administratively in operating this recommendation. The establishment by Member States in cooperation with IMPEL of reporting and advice schemes relating to inspectorates and inspection procedures would help to promote best practice across the Community.
- (18) Member States should report to the Council and the Commission on their experience in operating this recommendation and the Commission should regularly inform the European Parliament.
- (19) The Commission should keep the operation and effectiveness of this recommendation under review and report thereon to the European Parliament and the Council as soon as possible after the receipt of the Member States' reports.
- (20) Further work by IMPEL and Member States, in cooperation with the Commission, should be encouraged in respect of best practices concerning the qualifications and training of environmental inspectors.
- (21) In accordance with the principles of subsidiarity and proportionality as set out in Article 5 of the Treaty, and given the differences in inspection systems and mechanisms in the Member States, the objectives of the proposed action can best be achieved by guidance set out at Community level.
- (22) In the light of the experience gained in the operation of this recommendation and taking account of IMPEL's further work, as well as of the results of any schemes provided for in this recommendation, the Commission should, upon receipt of Member States' reports, give consideration to developing the minimum criteria in terms of their scope and substance and to making further proposals which might include a proposal for a directive, if appropriate,

<sup>(1)</sup> OJ L 158, 23.6.1990, p. 56.



HEREBY RECOMMEND:

I

**Purpose**

Environmental inspection tasks should be carried out in the Member States, according to minimum criteria to be applied in the organising, carrying out, following up and publicising of the results of such tasks, thereby strengthening compliance with, and contributing to a more consistent implementation and enforcement of Community environmental law in all Member States.

II

**Scope and definitions**

1. (a) This recommendation applies to environmental inspections of all industrial installations and other enterprises and facilities, whose air emissions and/or water discharges and/or waste disposal or recovery activities are subject to authorisation, permit or licensing requirements under Community law, without prejudice to specific inspection provisions in existing Community legislation.
- (b) For the purposes of this recommendation, all the installations and other enterprises and facilities referred to in point (a) are 'controlled installations'.
2. For the purposes of this recommendation, 'environmental inspection' is an activity which entails, as appropriate:
  - (a) checking and promoting the compliance of controlled installations with relevant environmental requirements set out in Community legislation as transposed into national legislation or applied in the national legal order (referred to hereinafter as 'EC legal requirements');
  - (b) monitoring the impact of controlled installations on the environment to determine whether further inspection or enforcement action (including issuing, modification or revocation of any authorisation, permit or licence) is required to secure compliance with EC legal requirements;
  - (c) the carrying out of activities for the above purposes including:
    - site visits,
    - monitoring achievement of environmental quality standards,
    - consideration of environmental audit reports and statements,
    - consideration and verification of any self monitoring carried out by or on behalf of operators of controlled installations,
    - assessing the activities and operations carried out at the controlled installation,

- checking the premises and the relevant equipment (including the adequacy with which it is maintained) and the adequacy of the environmental management at the site,
- checking the relevant records kept by the operators of controlled installations.

3. Environmental inspections, including site visits, may be:

- (a) routine, that is, carried out as part of a planned inspections programme; or
- (b) non-routine, that is, carried out in such cases in response to complaints, in connection with the issuing, renewal or modification of an authorisation, permit or licence, or in the investigation of accidents, incidents and occurrences of non-compliance.

4. (a) Environmental inspections may be carried out by any public authority at either national, regional or local level, which is established or designated by the Member State and responsible for the matters covered by this recommendation.

(b) The bodies referred to in point (a) may, in accordance with their national legislation, delegate the tasks provided for in this recommendation to be accomplished, under their authority and supervision, to any legal person whether governed by public or private law provided such person has no personal interest in the outcome of the inspections it undertakes.

(c) The bodies referred to in points (a) and (b) are defined as 'inspecting authorities'.

5. For the purposes of this recommendation, an 'operator of a controlled installation' is any natural or legal person who operates or controls the controlled installation or, where this is provided for in national legislation, to whom decisive economic power over the technical functioning of the controlled installation has been delegated.

III

**Organisation and carrying out of environmental inspections**

1. Member States should ensure that environmental inspections aim to achieve a high level of environmental protection and to this end should take the necessary measures to ensure that environmental inspections of controlled installations are organised and carried out in accordance with points IV to VIII of this recommendation.

2. Member States should assist each other administratively in carrying out the guidelines of this recommendation by the exchange of relevant information and, where appropriate, inspecting officials.

3. To prevent illegal cross-border environmental practices, Member States should encourage, in cooperation with IMPEL, the coordination of inspections with regard to installations and activities which might have significant transboundary impact.

4. In order to promote best practice across the Community, Member States may, in cooperation with IMPEL, consider the establishment of a scheme, under which Member States report and offer advice on inspectorates and inspection procedures in Member States, paying due regard to the different systems and contexts in which they operate, and report to the Member States concerned on their findings.

## IV

### Plans for environmental inspections

1. Member States should ensure that environmental inspection activities are planned in advance, by having at all times a plan or plans for environmental inspections providing coverage of all the territory of the Member State and of the controlled installations within it. Such a plan or plans should be available to the public according to Directive 90/313/EEC.

2. Such plan or plans may be established at national, regional or local levels, but Member States should ensure that the plan or plans apply to all environmental inspections of controlled installations within their territory and that the authorities mentioned in point II(4) are designated to carry out such inspections.

3. Plans for environmental inspections should be produced on the basis of the following:

- (a) the EC legal requirements to be complied with;
- (b) a register of controlled installations within the plan area;
- (c) a general assessment of major environmental issues within the plan area and a general appraisal of the state of compliance by the controlled installations with EC legal requirements;
- (d) data on and from previous inspection activities, if any.

4. Plans for environmental inspections should:

- (a) be appropriate to the inspection tasks of the relevant authorities, and should take account of the controlled installations concerned and the risks and environmental impacts of emissions and discharges from them;
- (b) take into account relevant available information in relation to specific sites or types of controlled installations, such as reports by operators of controlled installations made to the authorities, self monitoring data, environmental audit information and environmental statements, in particular those produced by controlled installations registered according to the Community eco-management and audit scheme (EMAS), results of previous inspections and reports of environmental quality monitoring.

5. Each plan for environmental inspections should as a minimum:

- (a) define the geographical area which it covers, which may be for all or part of the territory of a Member State;
- (b) cover a defined time period, for example one year;
- (c) include specific provisions for its revision;
- (d) identify the specific sites or types of controlled installations covered;
- (e) prescribe the programmes for routine environmental inspections, taking into account environmental risks; these programmes should include, where appropriate, the frequency of site visits for different types of or specified controlled installations;
- (f) provide for and outline the procedures for non-routine environmental inspections, in such cases in response to complaints, accidents, incidents and occurrences of non-compliance and for purposes of granting permission;
- (g) provide for coordination between the different inspecting authorities, where relevant.

## V

### Site visits

1. Member States should ensure that the following criteria are applied in respect of all site visits:

- (a) that an appropriate check is made of compliance with the EC legal requirements relevant to the particular inspection;
- (b) that if site visits are to be carried out by more than one environmental inspecting authority, they exchange information on each others' activities and, as far as possible, coordinate site visits and other environmental inspection work;
- (c) that the findings of site visits are contained in reports made in accordance with point VI and exchanged, as necessary, between relevant inspection, enforcement and other authorities, whether national, regional or local;
- (d) that inspectors or other officials entitled to carry out site visits have a legal right of access to sites and information, for the purposes of environmental inspection.

2. Member States should ensure that site visits are regularly carried out by inspecting authorities as part of their routine environmental inspections and that the following additional criteria are applied for such site visits:

- (a) that the full range of relevant environmental impacts is examined, in conformity with the applicable EC legal requirements, the environmental inspection programmes and the inspecting bodies' organisational arrangements;
- (b) that such site visits should aim to promote and reinforce operators' knowledge and understanding of relevant EC legal requirements and environmental sensitivities, and of the environmental impacts of their activities;

- (c) that the risks to and impact on the environment of the controlled installation are considered in order to evaluate the effectiveness of existing authorisation, permit or licensing requirements and to assess whether improvements or other changes to such requirements are necessary.
3. Member States should also ensure that non-routine site visits are carried out in the following circumstances:
- (a) in the investigation by the relevant inspecting authorities of serious environmental complaints, and as soon as possible after such complaints are received by the authorities;
- (b) in the investigation of serious environmental accidents, incidents and occurrences of non-compliance, and as soon as possible after these come to the notice of the relevant inspecting authorities;
- (c) where appropriate, as part of the determination as to whether and on what terms to issue a first authorisation, permit or licence for a process or activity at a controlled installation or the proposed site thereof or to ensure the compliance with the requirements of authorisation, permit or licence after it has been issued and before the start of activity;
- (d) where appropriate, before the reissue, renewal or modification of authorisations, permits or licences.

## VI

**Reports and conclusions following site visits**

1. Member States should ensure that after every site visit the inspecting authorities process or store, in identifiable form and in data files, the inspection data and their findings as to compliance with EC legal requirements, an evaluation thereof and a conclusion on whether any further action should follow, such as enforcement proceedings, including sanctions, the issuing of a new or revised authorisation, permit or licence or follow-up inspection activities, including further site visits. Reports should be finalised as soon as possible.
2. Member States should ensure that such reports are properly recorded in writing and maintained in a readily accessible database. The full reports, and wherever this is not practicable the conclusions of such reports, should be communicated to the operator of the controlled installation in question according to Directive 90/313/EEC; these reports should be publicly available within two months of the inspection taking place.

## VII

**Investigations of serious accidents, incidents and occurrences of non-compliance**

Member States should ensure that the investigation of serious accidents, incidents and occurrences of non-compliance with EC legislation, whether these come to the attention of the

authorities through a complaint or otherwise, is carried out by the relevant authority in order to:

- (a) clarify the causes of the event and its impact on the environment, and as appropriate, the responsibilities and possible liabilities for the event and its consequences, and to forward conclusions to the authority responsible for enforcement, if different from the inspecting authority;
- (b) mitigate and, where possible, remedy the environmental impacts of the event through a determination of the appropriate actions to be taken by the operator(s) and the authorities;
- (c) determine action to be taken to prevent further accidents, incidents and occurrences of non-compliance;
- (d) enable enforcement action or sanctions to proceed, if appropriate; and
- (e) ensure that the operator takes appropriate follow-up actions.

## VIII

**Reporting on environmental inspection activities in general**

1. Member States should report to the Commission on their experience of the operation of this recommendation two years after the date of its publication in the *Official Journal of the European Communities*, using, to the extent possible, any data available from regional and local inspecting authorities.
2. Such reports should be available to the public and should include in particular the following information:
- (a) data about the staffing and other resources of the inspecting authorities;
- (b) details of the inspecting authority's role and performance in the establishment and implementation of relevant plan(s) for inspections;
- (c) summary details of the environmental inspections carried out, including the number of site visits made, the proportion of controlled installations inspected (by type) and estimated length of time before all controlled installations of that type have been inspected;
- (d) brief data on the degree of compliance by controlled installations with EC legal requirements as appears from inspections carried out;
- (e) a summary, including numbers, of the actions taken as a result of serious complaints, accidents, incidents and occurrences of non-compliance;
- (f) an evaluation of the success or failure of the plans for inspections as applicable to the inspecting body, with any recommendations for future plans.

IX

**Review and development of the recommendation**

1. The Commission should review the operation and effectiveness of this recommendation, as soon as possible after receipt of the Member States' reports mentioned in point VIII above, with the intention of developing the minimum criteria further in terms of their scope in the light of the experience gained from their application, and taking into account any further contributions from interested parties, including IMPEL and the European Environment Agency. The Commission should then submit to the European Parliament and the Council a report accompanied, if appropriate, by a proposal for a directive. The European Parliament and the Council will consider such a proposal without delay.

2. The Commission is invited to draw up, as quickly as possible, in cooperation with IMPEL and other interested parties, minimum criteria concerning the qualifications of environmental inspectors who are authorised to carry out inspections for or under the authority or supervision of inspecting authorities.

3. Member States should, as quickly as possible, in cooperation with IMPEL, the Commission and other interested parties, develop training programmes in order to meet the demand for qualified environmental inspectors.

X

**Implementation**

Member States should inform the Commission of the implementation of this recommendation together with details of environmental inspection mechanisms already existing or foreseen not later than twelve months after its publication in the *Official Journal of the European Communities*.

Done at Luxembourg, 4 April 2001.

*For the European Parliament*

*The President*

N. FONTAINE

*For the Council*

*The President*

B. ROSENGREN

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## Appendix 3

### IMPEL IRI REVIEW QUESTIONNAIRE AND GUIDANCE

#### 1. Introduction

This questionnaire and its integral guidance is designed to help the volunteer inspecting authority (Candidate Inspectorate) to describe, in its own words, the systems and procedures in place for delivery of those parts of the IPPC Directive for which they are responsible. This is not an audit process but is intended to meet recital 17 European Parliament and Council Recommendation (2001/331/EC)

*(17) Member States should assist each other administratively in operating this recommendation. The establishment by Member States in cooperation with IMPEL of reporting and advice schemes relating to inspectorates and inspection procedures would help to promote best practice across the Community*

This questionnaire must be read in conjunction with the guidance. The completed questionnaire is intended to aid the Candidate Inspectorate and Review Team by the supply of core information in preparation for IRI Review. The response to the questionnaire will inform the review and should be seen in this light.

The guidance and questionnaire is also intended only as an aid for Review Teams in eliciting essential information and to provide an element of consistency between different reviews.

The questionnaire is structured in sections with open questions. The guidance assists by expanding on the goals the sections are intended to achieve.

#### 2. Purpose

The output from the questionnaire together with the Review process are intended to enable the Candidate Inspectorate and Review Team to explore their regulatory system. The review process is intended to identify areas of good practice for dissemination together with opportunities to develop existing practice within the Candidate Inspectorate and Member States.

The purpose of this voluntary scheme is to examine the arrangements within which the Candidate Inspectorate operates. The arrangements are explored using this guidance and the questionnaire, with the objective of delivering the following benefits, which were foreseen in the agreed Terms of Reference for the project with particular relevance to the Recommendation (2001/331/EC) and IPPC.  
:

- Encouragement of capacity–building in EU Member State inspectorates.
- Encouragement of further collaboration between EU Member State inspectorates on common issues or problems, on exchange of experience and on development and dissemination of good practice in environmental regulation.
- Provision of advice to inspectorates (“candidate inspectorates”) who may be seeking an external view of their structure, operation or performance by trusted, knowledgeable and independent counterparts for the purpose of benchmarking and continuous improvement of their organisation.
- Spread of good practice leading to improved quality of inspectorates and inspections, and contributing to continuous improvement of quality and consistency of application of environmental law across the EU (“the level playing-field”).

Against this background the Review Teams should be looking for evidence of a comprehensive and effective regulatory system for implementation of the relevant parts of the IPPC Directive.

### **3. How to use the Questionnaire**

This questionnaire should be read in conjunction with the guidance. The guidance supports the questionnaire by describing the objective of each section and includes some supporting information. The output from the questions together with the IRI Review process are intended to enable the Candidate Inspectorate and Review Team to explore the idealised regulatory system. The IRI Review Process is intended to identify areas of good practice for dissemination together with opportunities for improvement to existing practice within the Candidate Inspectorate and Member State.

The questionnaire is structured in sections with open questions. The guidance is intended to assist by expanding on the goals the sections are intended to achieve. The Reference to Article in the Related Article column refers to the Minimum Inspection Criteria Recommendation.

#### 4. Questionnaire

Question	Related Article
<p data-bbox="236 443 970 477"><u>1. CONSTITUTIONAL BASIS FOR INSPECTORATE</u></p> <p data-bbox="236 555 373 589"><b>Objective</b></p> <ul data-bbox="236 629 1197 994" style="list-style-type: none"> <li data-bbox="236 629 1197 734">• To establish how the Member State allocates responsibilities for technical policy, socio-economic policy and any related political issues associated with IPPC.</li> <li data-bbox="236 779 1197 846">• To understand how the Candidate Inspectorate is constituted within the Member State.</li> <li data-bbox="236 891 1197 994">• To understand the Candidate Inspectorates role in the interface between technical regulatory issues and related political or socio-economic issues in the Member State.</li> </ul> <p data-bbox="236 1070 373 1104"><b>Guidance</b></p> <p data-bbox="236 1149 1197 1216">The response to the questionnaire should enable the Review Team and Candidate Inspectorate to examine:</p> <ul data-bbox="236 1261 1197 1776" style="list-style-type: none"> <li data-bbox="236 1261 1197 1406">• The Member State system for specifying the remit of the Candidate Inspectorate, for reviewing its performance, and for ensuring that the Candidate Inspectorate is funded to provide effective service delivery that is stable year-on-year</li> <li data-bbox="236 1406 1197 1518">• Member State arrangements allowing the Candidate Inspectorate to comment upon relevant legislation and to suggest changes for improvement of the overall system for delivering the IPPC Directive.</li> <li data-bbox="236 1518 1197 1597">• The funding split between central taxation, local taxation and direct charging.</li> <li data-bbox="236 1630 1197 1776">• Arrangements for communicating with neighbouring Member States e.g. Article 17 of the IPPC Directive and notification and promoting exchange of information and staff between Inspectorates from the MCEI.</li> </ul> <p data-bbox="236 1854 373 1888"><b>Questions</b></p> <p data-bbox="236 1933 1197 2000">1.1 What is constitutional relationship between the Inspectorate and its Member State (MS)?</p>	<p data-bbox="1217 443 1297 477">III(1)</p>

<p>1.2 How does MS establish, communicate and review tasks and the delivery of the tasks to be achieved by the Inspectorate? (Including publication of the results of its work.)</p>	<p>IV, V, VII</p>
<p>1.3 How are the Inspectorate's regulatory activities financed?</p>	
<p>1.4 How does Inspectorate feedback information about shortcomings or deficiencies in legislation to the MS?</p>	
<p>1.5 Who, between MS and the Inspectorate, is responsible for relations with other MSs in respect of transboundary issues? (e.g. Article 17 of IPPC Directive.)</p>	<p>III(2)</p>
<p>1.6 Excluding transboundary issues outline any arrangements are in place for exchange of information and/or inspectors with other competent authorities within and external to the MS?</p>	



Question	Related Article
<p data-bbox="236 405 799 439"><u>2. LEGAL BASIS FOR INSPECTORATE.</u></p> <p data-bbox="236 479 373 512"><b>Objective</b></p> <ul data-bbox="236 555 1193 813" style="list-style-type: none"> <li>• To establish an understanding of the legal basis of the Candidate Inspectorate within its Member State.</li> <li>• To gain an understanding of those parts of IPPC for which the Candidate Inspectorate is the competent authority together with an explanation of the types of installations and operators covered.</li> <li>• To establish the roles of the candidate Inspectorate in enforcement of IPPC permit conditions and prosecution.</li> </ul> <p data-bbox="236 853 373 887"><b>Guidance</b></p> <p data-bbox="236 927 1193 1144">It is for the Member State to ensure that responsibilities for all requirements of the IPPC Directive are appropriately allocated within the Member State, e.g. as between the Candidate Inspectorate and other competent authorities. It would be helpful also to understand how those types of installations not covered by the Candidate Inspectorate are regulated and how the relevant bodies interact.</p> <p data-bbox="236 1184 1193 1402">The response to the questionnaire should enable the Review Team to establish a clear picture of where IPPC overlaps or interacts with other legislation. This should identify areas where there may be conflicting legislative requirements and how the relevant responsibilities are allocated and co-ordinated to ensure that IPPC requirements are not compromised by other considerations.</p> <p data-bbox="236 1442 632 1476">It should include a description</p> <ul data-bbox="236 1516 1193 1850" style="list-style-type: none"> <li>• of the powers, duties and sanctions available to the Inspectorate to secure compliance with all requirements of the relevant legislation, and to the necessary standards</li> <li>• of where, in the Member State, the ultimate authority for determining the content of permits lies,</li> <li>• of how the public is involved and what happens if an operator or the public appeals against a decision by the Candidate Inspectorate.</li> <li>• Systems used by the Candidate Inspectorate to resolve legislative conflict</li> </ul> <p data-bbox="236 1890 1193 1957">The Review team should be exploring transparency and clarity of arrangements.</p>	<p data-bbox="1217 405 1291 439">III(1)</p>

## Questions

2.1 What legislation does your Inspectorate apply to IPPC-related activities?

2.2 What is the scope of this legislation? (In terms of Installations/Sectors covered.)

III(2)

2.3 To whom does the legislation apply/not apply? (Industry, Government, Armed Forces, etc)

2.4 With what other main pieces of legislation does IPPC interact? (Planning, Health and Safety, Seveso II Directive, Freedom of Information etc)

2.5 How are responsibilities divided between bodies responsible for interacting legislation and how are differences resolved if they occur?

2.6 What powers and duties are given to the Inspectorate to set and apply permit conditions in relation to Emission Limit Values, EQS, BAT, etc.

2.7 Summarise appeal provisions within the Inspectorate

2.8 Are there provisions for appeal to higher authority, by operators or the public, against Inspectorate decisions?

2.9 How is the public involved in the regulatory process? (From application to grant of permit, through inspection to enforcement)

2.10 What administrative and legal sanctions are available to Inspectorate in cases of non-compliance with the IPPC permit?

Question	Related Article
<p data-bbox="236 405 1195 472"><u>3. ORGANISATION STRUCTURE AND MANAGEMENT OF INSPECTORATE</u></p> <p data-bbox="236 551 373 584"><b>Objective</b></p> <p data-bbox="236 624 1195 696">To establish how the Candidate Inspectorate is organised, staffed and managed.</p> <p data-bbox="236 775 373 808"><b>Guidance</b></p> <p data-bbox="236 848 1195 954">The response to the questionnaire should enable the Review Team and Candidate Inspectorate to explore how the Candidate Inspectorate secures the:</p> <ul data-bbox="236 994 1195 1178" style="list-style-type: none"> <li data-bbox="236 994 1195 1066">• Effective and consistent setting of high-level objectives, strategies and priorities and their internal and external communication</li> <li data-bbox="236 1106 1195 1178">• Effective and consistent delivery of all activities associated with implementation of the IPPC Directive</li> </ul> <p data-bbox="236 1218 1195 1402">And to allow the Review Team and Candidate Inspectorate to gain an understanding how and where, within the Inspectorate or Member State, final regulatory decisions are taken i.e. across the full spectrum of complexity of regulatory issues and installation, for example from individual permit conditions to the issue of complex permits.</p> <p data-bbox="236 1442 1195 1581">The information submitted should include information on and a description of any systems, if relevant, for calculating the costs of Candidate Inspectorate activities. This should take into account the “polluter pays principle”.</p>	

## Questions

3.1 Outline the Management System used by the Inspectorate and identify any use of formal and informal systems (e.g. ISO9001/2)

3.2 Using a chart/diagram describe the organisational structure of the Inspectorate, with associated staff numbers. Identify the resource e.g. person equivalent or the number of staff involved in IPPC by highlighting relevant parts of the chart/diagram

3.3 How are Inspectorate regulatory policies, objectives, strategies and priorities set and communicated (internally and externally)?

3.4 How are Inspectorate regulatory activities (policy-making, standard setting, research, permitting, inspection, enforcement, reporting and public consultation and guidance) organised and managed and how are resources allocated?

3.5 Where are regulatory decisions taken within the organisation? Is this responsibility delegated?

3.6 How are the costs of Inspectorate activities calculated, allocated reviewed and revised?

Question	Related Article
<p data-bbox="233 405 456 439"><u>4. WORKLOAD</u></p> <p data-bbox="233 517 368 551"><b>Objective</b></p> <p data-bbox="233 591 1197 658">To establish how the Candidate Inspectorate is organised, staffed and managed.</p> <p data-bbox="233 736 368 770"><b>Guidance</b></p> <p data-bbox="233 810 1197 911">The response to the questionnaire should enable the Review Team and Candidate Inspectorate to explore how the Candidate Inspectorate secures the:</p> <ul data-bbox="233 958 1197 1104" style="list-style-type: none"> <li>• Effective and consistent setting of high-level objectives, strategies and priorities and their internal and external communication</li> <li>• Effective and consistent delivery of all activities associated with implementation of the IPPC Directive</li> </ul> <p data-bbox="233 1149 1197 1323">The response should allow the Review Team and Candidate Inspectorate to gain an understanding of how and where, within the Inspectorate or Member State, final regulatory decisions are taken i.e. across the full spectrum of complexity of regulatory issues and installations, for example from individual permit conditions to the issue of complex permits.</p> <p data-bbox="233 1368 1197 1514">The information submitted should include information on and a description of any systems, if relevant, for calculating the costs of Candidate Inspectorate activities. This should take into account the “polluter pays principle”.</p>	<p data-bbox="1222 405 1299 439">IV, V</p>

## Questions

4.1 How many IPPC installations in each Annex 1 category are, or will be, regulated by the Inspectorate?

4.2 Which of the elements of “environmental inspection”, as defined in Article II, Section 2 of the European Parliament and Council Recommendation (2001/331/EC) on providing for minimum criteria for environmental inspections in the Member States (MCEI), are carried out by the Inspectorate?

4.3 How frequently are/will installations be inspected, by IPPC Annex 1 category?

4.4 What time is allocated for each such inspection?

4.5 How does the Inspectorate forecast the time required for:

- Producing a permit
- Maintaining a permit
- Undertaking enforcement action

4.6 Outline any charges levied by the Member State or Inspectorate:

- for a permit?
- to maintain a permit?
- For monitoring/sampling?

4.7 What determines the ratio of time spent on installations to time in the office on IPPC Regulation?

4.8 What determines the ratio of time spent on planned (routine) inspection to non-routine (unplanned) inspection? Unplanned inspections include reactive work e.g. complaints, incident investigation inspection.

4.9 How many enforcement actions and prosecutions are taken per year, by Annex 1 category, and what penalties (fines, imprisonment) are available and made?

4.10 What pre-application contact is made with operators to ensure they are informed and prepared to comply with IPPC and how is this reflected in the work required for issuing and granting permits?

4.11 How does the Inspectorate plan and prioritise its workload to make best use of the available resources?

Question	Related Article
<p data-bbox="231 405 874 439"><u>5. QUALIFICATIONS, SKILLS, EXPERIENCE</u></p> <p data-bbox="231 517 368 551"><b>Objective</b></p> <p data-bbox="231 589 1198 696">To understand the qualifications, skills and experience required by inspectors undertaking IPPC regulation within the Candidate Inspectorate; both on appointment and during their career.</p> <p data-bbox="231 775 368 808"><b>Guidance</b></p> <p data-bbox="231 846 1198 913">The response to the questionnaire should enable the Candidate Inspectorate and Review Team to explore and understand:</p> <ul data-bbox="231 958 1198 1249" style="list-style-type: none"> <li>• How Inspectors qualifications, skills and experience are reviewed and recorded e.g. in personal development plans</li> <li>• How senior management is assured that individual members of staff are appropriately qualified for the tasks to which they are assigned</li> <li>• The Candidate Inspectorate’s approach to regulatory ethics e.g. “the declaration of interests”, the problems of regulatory blindness through over-familiarity with installations and their operators, and possibility of corruption on the part of inspectors or those who issue permits.</li> </ul> <p data-bbox="231 1328 368 1361"><b>Questions</b></p> <p data-bbox="231 1400 1198 1467">5.1 What qualifications, skills and experience are required of new entrants to the Inspectorate and how are new entrants selected?</p> <p data-bbox="231 1512 1198 1579">5.2 What additional qualifications, skills, and experience are required before practise of permitting, inspection or enforcement?</p> <p data-bbox="231 1624 1198 1691">5.3 How are qualifications, skills and experience matched to regulatory duties and by whom?</p> <p data-bbox="231 1736 1198 1803">5.4 Are teams of inspectors or individual inspectors expected to cover all IPPC sectors or to specialise in some of them?</p> <p data-bbox="231 1848 1198 1870">5.5 Are inspectors warranted or accredited for their duties? If so how?</p> <p data-bbox="231 1915 1198 1982">5.6 How does the Inspectorate avoid “regulatory capture”, “undeclared interests” or “issue-blindness”?</p>	

Question	Related Article
<p><b><u>6. TRAINING FOR IPPC</u></b></p> <p><b>Objective</b></p> <p>To understand any systems the Candidate Inspectorate may use for identifying training requirements against the skills necessary for IPPC service delivery, for providing training and for checking that training has been successful.</p> <p><b>Guidance</b></p> <p>The response to the questionnaire should enable the Candidate Inspectorate and Review Team to explore and understand:</p> <ul style="list-style-type: none"> <li>• Systems used within the Candidate Inspectorate for maintaining awareness of technical, policy and regulatory developments and for ensuring that skills of experienced staff are kept up-to-date e.g. continuous professional development (CPD)</li> <li>• Systems used for the continued accreditation/warranting of inspectors and any linkages to participation in skill's assessment and any relevant training requirements e.g. continuous professional development.</li> <li>• Any use of internal or external secondment or exchange programmes to other inspectorates, industry, or accreditation bodies</li> <li>• The quality of the training arrangements</li> </ul> <p><b>Questions</b></p> <p>6.1 Are training requirements of individual inspectors assessed against necessary qualifications, skills and experience, If so how and by whom?</p> <p>6.2 Is training provided? If so how and by whom?</p> <p>6.3 Is the success, or otherwise, of training subsequently assessed?</p> <p>6.4 Is awareness of relevant technical, policy and regulatory developments maintained within the Inspectorate? If so how?</p> <p>6.5 Are the skills of experienced inspectors refreshed If so how?</p> <p>6.6 Is acceptance of regular assessment of qualifications, skills and experience and successful participation in any necessary training programme a condition of continuing to practice as a regulator?</p>	

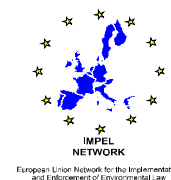


Question	Related Article
<p><u>7. PROCEDURES.</u></p> <p><b>Objective</b></p> <p>To understand the system of procedures including work instructions covering activities associated with implementation of the IPPC Directive.</p> <p><b>Guidance</b></p> <p>The response to the questionnaire should enable the Candidate Inspectorate and Review Team to explore the:</p> <ul style="list-style-type: none"> <li>• system of procedures are used by the Candidate Inspectorate</li> <li>• the coverage of the procedures linked to implementation of IPPC</li> <li>• extent to which procedures are used for tasks identified by the MCEI Recommendation</li> <li>• how the procedures recognise links to other legislative regimes e.g. Seveso II</li> </ul> <p><b>Questions</b></p> <p>7.1 Are procedures, systems or instructions are in place for:</p> <ul style="list-style-type: none"> <li>• Determining, issuing, reviewing and revoking permits?</li> <li>• Scheduling and planning inspections according to the MCEI?</li> <li>• Conducting routine inspections according to the MCEI?</li> <li>• Conducting non-routine inspections according to the MCEI? (Including those associated with accidents and emergencies.)</li> <li>• Taking enforcement action?</li> <li>• Making information available to the public?</li> <li>• Dealing with accidents on IPPC installations subject to the Seveso II Directive?</li> </ul>	<p>IV</p> <p>V(1,2)</p> <p>V(1,3), VII</p> <p>(VII)</p> <p>VI(1,2)</p>

Question	Related Article
<p><b><u>8. STANDARDS AND GUIDANCE.</u></b></p> <p><b>Objective</b></p> <p>To understand the criteria the candidate Inspectorate applies in making regulatory decisions and how these are communicated internally (to staff) and externally (to the public and industry and central government).</p> <p><b>Guidance</b></p> <p>The response to the questionnaire should enable the Candidate Inspectorate and Review Team to explore the Inspectorate's:</p> <ul style="list-style-type: none"> <li>• guidance to staff on criteria against which regulatory judgements are to be made</li> <li>• provision of technical guidance and how this is produced/agreed/reviewed/revised</li> <li>• provision of advice on BAT for IPPC installations</li> <li>• system for communicating both criteria and guidance to industry and the public</li> <li>• use and access to independent sources of advice e.g. Scientific Committees</li> </ul> <p><b>Questions</b></p> <p>8.1 How are standards and guidance for regulatory judgements in permitting, inspecting and enforcement established and communicated? (Both internally and externally.)</p> <p>8.2 What technical guidance, e.g. on BAT for IPPC processes, is available? (internally and externally)</p> <p>8.3 How is such guidance produced and how often is it reviewed/revised?</p> <p>8.4 Does the Inspectorate have access to any Advisory Body or any other external, independent source of advice?</p>	

Question	Related Article
<p data-bbox="236 405 735 439"><u>9. PERFORMANCE ASSESSMENT.</u></p> <p data-bbox="236 517 373 551"><b>Objective</b></p> <p data-bbox="236 591 1198 696">To understand how the Candidate Inspectorate assesses the quality, consistency of its performance as a regulator and the environmental impact of its activities.</p> <p data-bbox="236 775 373 808"><b>Guidance</b></p> <p data-bbox="236 848 1198 916">The response to the questionnaire should enable the Candidate Inspectorate and Review Team to explore the Inspectorate's:</p> <ul data-bbox="236 956 1198 1182" style="list-style-type: none"> <li>• system for assessment of the of the Candidate Inspectorate's performance,</li> <li>• arrangements for review of results by senior management</li> <li>• feed-back mechanisms for incorporating relevant lessons or actions into programmes for improved performance.</li> <li>• Approach to the review of permits</li> </ul> <p data-bbox="236 1261 373 1294"><b>Questions</b></p> <p data-bbox="236 1335 1198 1440">9.1 Does the Inspectorate have systems to assess the quality and consistency of its regulatory activities? If so how is it done and how often?</p> <p data-bbox="236 1480 1158 1514">9.2 How and by who are the results of any such assessments reviewed?</p> <p data-bbox="236 1554 1177 1588">9.3 How is the environmental impact of the regulatory process assessed?</p> <p data-bbox="236 1628 1198 1695">9.4 How are the results of any assessment incorporated into management action on procedures, training programs, guidance, work planning etc?</p>	

Question	Related Article
<p><u>10. REPORTING.</u></p> <p><b>Objective</b></p> <p>To understand how the Candidate Inspectorate:</p> <ul style="list-style-type: none"> <li>• Reports its activities to the public</li> <li>• Provides information to the Member State,</li> <li>• Supplies information to the European Commission e.g. for the Member State’s obligations to report progress on the implementation of the Recommendation on Minimum Criteria for Environmental Inspections.</li> </ul> <p><b>Guidance</b></p> <p>The response to the questionnaire should enable the candidate Inspectorate and Review Team to explore:</p> <p>The Inspectorate’s systems for, and relationship to the Member State and European Community’s systems and requirements for the provision of environmental information. The types of information made available, e.g. annual report, inspection reports, sampling data, enforcement and prosecution data</p> <p><b>Questions</b></p> <p>10.1 What systems are used to report the Inspectorate’s regulatory activities, to whom and how often?</p> <p>10.2 What information does the Inspectorate make available to the MS for the purpose of their “reporting on environmental inspection activities in general”?</p> <p>10.3 What information does the Inspectorate make available directly to the public and how is it organised, funded and managed? (e.g. Pollution Emissions Register.)</p>	<p>VI(1,2)</p> <p>VIII(1,2)</p>



## Appendix 4

### TOR FOR MANNHEIM REVIEW

#### IMPEL IRI REVIEW GROUP ARRANGEMENTS FOR TRIAL

#### TERMS OF REFERENCE FOR IMPEL PROJECTS

<b>No</b>	<b>Name of project</b>
	<i>CANDIDATE INSPECTING AUTHORITY IRI REVIEW</i>
<i>Project Manager</i>	<i>Mr. Fred Dietzel of Candidate Inspectorate in Germany</i>

### 1. Scope

<b>1.1. Background</b>	<p><i>The Helsinki Plenary Meeting of IMPEL, in December 1999, requested that proposals be drawn up for “a voluntary scheme for reporting and offering advice on inspectorates and inspection procedures” (the “scheme”). This was against the background of preparation of a European Parliament and Council Recommendation on Providing Minimum Criteria for Environmental Inspections in the Member States and the expectation that further recommendations would follow on Minimum Criteria for Inspector Qualifications and for Inspector Training.</i></p> <p>In March 2001 the IRI Working Group finalised a proposal for the voluntary scheme and sought candidate Inspectorates to undertake the review process.</p> <p><i>The Recommendation of the European Parliament and of the Council providing for minimum criteria for environmental inspections in the Member States (2001/331/EC) say in recommendation III (4).</i></p> <p>“In order to promote best practice across the Community, Member States may, in cooperation with IMPEL, consider the establishment of a scheme, under which Member States report and offer advice on inspectorates and inspection procedures in Member States, paying due regard to the different systems and contexts in which they operate, and report to the Member States concerned on their findings.”</p> <p><i>IMPEL is willing to take this forward and too foresees the eventual need for arrangements to review implementation of such recommendations and proposes a voluntary scheme for the purpose.</i></p>
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	<p><i>The potential benefits of such a scheme might include:</i></p> <ul style="list-style-type: none"> <li>• <i>Encouragement of capacity–building in EU Member State inspectorates.</i></li> <li>• <i>Encouragement of further collaboration between EU Member State inspectorates on common issues or problems, on exchange of experience and on development and dissemination of good practice in environmental regulation.</i></li> <li>• <i>provision of advice to inspectorates (“candidate inspectorates”) who may be seeking an external view of their structure, operation or performance by trusted, knowledgeable and independent counterparts for the purpose of benchmarking and continuous improvement of their organisation.</i></li> <li>• <i>the spread of good practice leading to improved quality of inspectorates and inspections, and contributing to continuous improvement of quality and consistency of application of environmental law across the EU (“the level playing-field”).</i></li> </ul> <p><i>Necessary features of any scheme designed to deliver these benefits would include:</i></p> <ul style="list-style-type: none"> <li>• <i>a well-defined scope of application.</i></li> <li>• <i>practical and easily understood arrangements for scheduling, organising, funding, conducting and reporting on any review of a candidate inspectorate, and with minimal bureaucracy.</i></li> <li>• <i>absence of any threat of self-incrimination or infraction proceedings arising specifically from application of the scheme.</i></li> <li>• <i>control, by the candidate inspectorate, of dissemination of information arising from any review.</i></li> <li>• <i>Participation, by the candidate inspectorate, in selection of personnel to carry out any review.</i></li> <li>• <i>effective follow-up arrangements for support of any candidate inspectorate seeking further advice or assistance on issues identified during review.</i></li> <li>• <i>effective arrangements for dissemination across Member States of training or educational material on lessons learnt and good practice identified during any review.</i></li> </ul>
<p><b>1.2. Definition</b></p>	<p><i>Recommendation 2001/331/EC applies to “all industrial and other enterprises and facilities, whose air emissions and/or water discharges and/or waste disposal or recovery activities are subject to authorisation, permit or licensing requirements under Community law, without prejudice to specific inspection provisions in existing Community legislation.” (Section II, 1a.). This scope would include all IPPC processes and other lesser processes which, in many Member States, are regulated by a variety of bodies at local level.</i></p>

	<p><i>It was to exclude the complication of having so many bodies that the initial regulatory scope of the EC Network of Enforcement Agencies (the precursor of IMPEL) was limited to regulation of “major industrial processes”. For the same reason it is proposed that the Regulatory Scope of this scheme be limited initially to regulation of IPPC processes.</i></p> <p><i>It is also proposed for the purposes of review of candidate inspectorates and to reflect the interests and activities of IMPEL that, by agreement with the candidate inspectorate, the Organisational Scope of the scheme should include any or all of the following:</i></p> <ul style="list-style-type: none"> <li>• <i>the legal and constitutional bases of the inspectorate, including interfaces with other bodies such as Health and Safety inspectorates, and its related powers and duties. (i.e. “political independence / dependence”)</i></li> <li>• <i>structure and managerial organisation, including funding, staffing and lines of authority and responsibility for regulatory and policy functions.</i></li> <li>• <i>workload, by number of IPPC processes and Annex I category.</i></li> <li>• <i>Qualifications, skills and experience of regulatory staff.</i></li> <li>• <i>Procedures for assessment of training needs and provisions for training and maintaining current awareness.</i></li> <li>• <i>Procedures, criteria and guidance for drafting of permits, for scheduling inspections, for subsequent assessment of compliance (“inspection”) and for enforcement action in cases of non-compliance.</i></li> <li>• <i>Arrangements for internal assessment of the quality of regulatory performance and for improvement if appropriate.</i></li> <li>• <i>arrangements for reporting on inspectorate activities.</i></li> </ul>
<p><b>1.3. Objective of project</b></p>	<p><i>To undertake an “IRI” review of Inspectorate Staatliches Gewerbeaufsichtsamt (GAA) Mannheim/Baden-Württemberg in Member State Germany in accordance with the principles in Section 1.1 and the “IRI Review Guidance and Questionnaire” approved at the IMPEL Meeting at Falun in June 2001.</i></p>
<p><b>1.4. Product(s)</b></p>	<p><i>In addition to the benefits listed in Section 1.1, tangible products will include,</i></p> <ul style="list-style-type: none"> <li>• <i>A written reports of the review for the candidate inspectorate, Relevant extracts from review reports, as agreed with candidate inspectorates, for dissemination to IMPEL members and the EC; this will include material which might be considered for incorporation in the Guidance, Education and Training Schemes of other Member States Inspectorates.</i></li> </ul>

## 2. Structure of the project

<b>2.1. Participants</b>	<i>A Review Team from Member State UK, DK, D, A (and one other) including one or more members of the IRI Review Working Group, and Candidate Inspectorate GAA Mannheim</i>
<b>2.2. Project team</b>	<i>It is proposed that the project team be composed of IMPEL Members who wish to participate, or their representatives, and that work is co-ordinated by an external contractor Dr. Allan Duncan, who assisted in the development of the process. Mr. Martin Murray through the IRI Review Working Group will be responsible for overall monitoring and supervision of the project on behalf of IMPEL.</i>
<b>2.3. Manager Executor</b>	<p><i>Mr Fred Dietzel of the Candidate Inspectorate GAA Mannheim will be responsible for monitoring and supervision of the project on behalf of IMPEL.</i></p> <p><i>It is proposed the project will take place between the 8<sup>th</sup> and the 19<sup>th</sup> of October, 2001, and that a report will be submitted to the IMPEL Plenary in December, 2001, in Namure. The report will be quality assured prior to the Impel Plenary by the IRI Review Working Group prior to the Plenary</i></p> <ul style="list-style-type: none"> <li>• <i>The Arrangement are</i></li> <li>• <i>Scope of the Review is;( in terms of the sections of the Questionnaire and Guidance to be applied)</i></li> <li>• <i>This is review 1 of six reviews over a period of two years for the trial of the IRI scheme</i></li> </ul>
<b>2.4. Reporting arrangements</b>	<p><i>The results of the Review will be reported by the project manager via the IRI working group to the IMPEL Plenary for approval.</i></p> <p><i>The Report will follow Template Structure shown in Appendix 1 attached and will include:</i></p> <ul style="list-style-type: none"> <li>• <i>A written report of the review background, participants and expenditure.</i></li> <li>• <i>Relevant extracts from review reports, as agreed with candidate inspectorates, for dissemination to IMPEL members and the EC,</i></li> <li>• <i>Training and Educational material on “lessons learnt” and on areas of good practice for dissemination to IMPEL Members</i></li> </ul>



### 3. Resources required

<p><b>3.1 Project costs</b></p>	<p><i>The project will involve a</i></p> <ul style="list-style-type: none"> <li>• <i>Pre-meeting of the Review Team Leader and the Lead Contractor with the Candidate Inspectorate to finalise the Scope and Timing of the Review.</i></li> <li>• <i>Preparation of summary information by the Candidate Inspectorate and Circulation to Review Team members.</i></li> <li>• <i>Review over a period of 5 Days and will normally comprise.</i></li> </ul> <p style="margin-left: 40px;">- <i>a team of (between 4 – 6) including secretarial support, each giving,</i></p> <p style="margin-left: 40px;">- <i>2.5 days for review and assessment</i></p> <p style="margin-left: 40px;">- <i>0.5 days for comparison and collation of team views</i></p> <p style="margin-left: 40px;">- <i>1 day for writing draft report, in a standard format</i></p> <p style="margin-left: 40px;">- <i>1 day for feedback, discussion and finalisation of report.</i></p> <p><i>i.e. a total of five person-weeks(maximum) over a period of one week</i></p> <p><i>It is proposed that the meetings are conducted in English, the report is produced in English and no interpretation is required. The costs will be limited to:</i></p> <ul style="list-style-type: none"> <li>• <i>travel and subsistence costs of participants and</i></li> <li>• <i>the costs of the contractor ( 6 man Days totalling 2500 Euro)</i></li> </ul> <p><i>We estimate that the total costs for review 1 would be 15000 Euro.</i></p> <p><i>It would be proposed to share the costs between the Commission and participants in the review scheme.</i></p> <p><i>If required the Candidate Inspectorate could include provision for interpretation.</i></p>
<p><b>3.2. Fin. from Com.</b></p>	<p><i>Given that the project arises from EU Legislation and that the preparation for the “IRI” Review will require a substantial commitment from the Candidate Inspectorate. We are seeking an 80% subsidy from the Commission This is consistent with Phase 1 and Phase 2 of the Project.</i></p>
<p><b>3.3. Fin. from MS (and any other )</b></p>	<p><i>Costs of time plus a contribution towards the costs of travel and subsistence of personnel volunteered for the first two stages and for review teams in the third stage of the project, together with those external costs, such as consultancy, associated with the review of the candidate inspectorate.</i></p>
<p><b>3.4. Human from Com.</b></p>	<p><i>None</i></p>

<b>3.5. Human from MS</b>	<i>5 days for each participant</i>
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#### **4. Quality review mechanisms**

- *The quality and success of this project will be judged by the Candidate Inspectorate IRI Working Group and directly by IMPEL on the basis of reports to Plenary meetings by the Project Manager and the Chairman of the IRI Review Working Group*

#### **5. Legal base**

<b>5.1. Directive/Regulation/ Decision</b>	<i>The European Parliament and Council Recommendation on Providing Minimum Criteria for Environmental Inspections in Member States(2001/331/EC) and, in due course, those on Inspector Qualifications and Training.</i>
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#### **6. Project planning**

<b>6.1. Approval</b>	<i>For consideration at IMPEL Plenary at Falun on 21 June 2001.</i>
<b>(6.2. Fin. Contributions)</b>	<i>As incurred.</i>
<b>6.3. Start</b>	<i>As soon as possible after approval.</i>

# **Appendix 1**

## **IMPEL IRI REVIEW**

### **DRAFT REPORT STRUCTURE**

- 1.0 Executive Summary**
- 2.0 Introduction**
  - 2.1 Background – From the TOR for the Review
  - 2.2 Objective – From the TOR
  - 2.3 Scope – From the TOR
  - 2.4 Structure – Dates of: Pre-meeting with Review Team Leader, Dates of Review
- 3.0 Regulatory Arrangements**
  - Summary description of Regulatory Structure in Member State and Role of Candidate Inspectorate
- 4.0 Main Findings**
  - 4.1 Legal and Constitutional Arrangements
  - 4.2 Structure and Management Of Inspectorate
  - 4.3 Workload
  - 4.4 Qualification and Training
  - 4.5 Procedures and Regulatory Decision Making
  - 4.6 Performance Assessment and Reporting
- 5.0 Summary of Findings**
- 6.0 Conclusions**
- 7.0 Appendices**
  - Appendix 1 - TOR
  - Appendix 2 - Summary of information submitted in advance of the Review
- 8.0 Participants**
- 9.0 References**

## Appendix 5

### LIST OF PARTICIPANTS IN REVIEW

Hans Erling Jensen	Storstroem County Industrial Environment Division, Denmark
Martin Murray	Environment Agency, England and Wales. (Project Manager)
Allan Duncan	Environmental Consultant, UK
Alby Schmitt	DRIRE Lorraine, France
Andreas Jungman	Bezirksregierung Arnsberg, Nordrhein-Westfalen
James Moriarty	Environmental Protection Agency, Ireland.
Ralf Pätzold	Ministerium für Umwelt und Verkehr, Baden-Württemberg
Fred Dietzel	GAA Mannheim
Marco Mantar	GAA Mannheim
Markus Schüller	GAA Mannheim
Jürgen Reuter	GAA Mannheim
Alexander Reusch	GAA Mannheim
Volker Schnapper	GAA Mannheim

## Appendix 6

### NUMBERS OF IPPC INSTALLATIONS REGULATED BY GAA MANNHEIM. (By annex 1 category).

Category		Number
1.1	Combustion Installations (> 50 MW):	10
2.4	Ferrous Metal Foundries	6
2.6	Surface Treatment of Metals and Plastics	7
3.1	Cement production:	1
3.3	Glass and glass fibre production:	1
3.4	Melting of mineral substances	1
3.5	Manufacture of Ceramic products:	5
4.1	Production of Organic Chemicals production	38
4.2	Production of Inorganic Chemicals :	15
4.4	Plant health products and biocides:	2
4.5	Pharmaceutical production:	4
5.1	Hazardous waste disposal or recovery:	6
5.2	Municipal waste incineration:	1
5.4	Landfilling of waste:	5
6.1	Pulp and paper production:	3
6.3	Tanning of hides and skins:	1
6.4(a,b)	Food treatment and processing:	10
6.5	Disposal and recycling of animal carcasses	1
6.6	Poultry or pig rearing :	1
	<b><u>Total</u></b>	<b><u>118 Installations</u></b>

## Appendix 7

### External Environmental Regulatory Activities of the GAA Mannheim in 2000.

Subjects	Sites visits (inspection)	Meetings on site	Giving lectures	Others	Clarifying of accidents	Measurement and sampling	Non- compliances
Zone planning	284	121	1	2	-	2	12
Permitting procedures	224	255	2	5	2	2	48
Economic questions	25	58	-	1	-	-	6
Air quality control	764	431	3	8	8	29	342
Noise and vibrations	639	345	3	12	7	93	177
Light, heat and others	88	43	1	1	1	77	9
Hazardous wastes	137	112	1	3	1	2	28
Non-hazardous wastes	256	151	2	5	1	2	43
Waste avoiding and recycling	111	121	2	2	1	1	13
Waste water facilities	320	122	2	2	1	1	12
Handling substances constituting a water hazard	319	208	2	7	1	3	131
<b>Total</b>	<b>3167</b>	<b>1967</b>	<b>19</b>	<b>48</b>	<b>23</b>	<b>212</b>	<b>821</b>

### Internal Environmental Regulatory Activities of the GAA Mannheim and related enforcement actions in 2000.

Subjects	Statements	Non- compliance letters	Orders	Infringements	Prosecution
Zone planning	113		-	-	-
Permitting procedures	310	16	1	1	-
Economic questions	3	11	-	-	-
Air quality control	229	112	-	13	-
Noise and vibrations	423	122	-	-	-
Light, heat and others	11	14	-	-	-
Hazardous wastes	109	16	-	-	1
Non-hazardous wastes	83	22	-	-	1
Waste avoiding and recycling	73	14	-	-	1
Waste water facilities	267	25	-	-	-
Handling substances constituting a water hazard	108	41	-	-	-
<b>Total</b>	<b>1729</b>	<b>393</b>	<b>1</b>	<b>14</b>	<b>3</b>

## Appendix 8

### GAA TRAINING PLAN

#### Training and qualification for inspectors (Organization and Syllabus)

#### 1 BEGINNERS

##### A/ Practical training in the GAA (maximum 3 months)

- Part 1 : introduction to the authority (1 week)  
 Part 2 : “learning by doing”  
 insight into all departments and areas of competencies  
 helped by mentoring

##### B/ Basic seminars

Central (all GAAs/UVM)	Internal (individual GAA)
<b>General topics (7 weeks)</b> <ul style="list-style-type: none"> <li>- administration (1 w.)</li> <li>- administrative law and structure of environmental administration (2 w.)</li> <li>- methodologies, and managerial requirements (4 w.)*</li> </ul>	<b>In depth training on local procedures</b>
<b>Subject related seminars (3,5 weeks)</b> <ul style="list-style-type: none"> <li>- Air Quality control (1 w.)</li> <li>- Occupational health and safety (1 w.)</li> <li>- Waste and waste water management (1 w.)</li> <li>- Information Technology within the frame of the GAAs</li> </ul>	<b>On the job training</b>  (subject specific training and working under supervision)

\*

For staff recruited to the senior grades the training programme includes a special 4 – week-advanced course on management, legal and administrative aspects relevant to their wider role in the Civil Service.

### C/ Seminars for advanced beginners

<b>Central (state)</b>	<b>Local (GAA)</b>
<b>Subject related seminars (3 weeks)</b> <ul style="list-style-type: none"> <li>- Air Quality control (1 w.)</li> <li>- Occupational health and safety (1 w.)</li> <li>- Waste and waste water management (1 w.)</li> </ul>	<b>Subject related training</b>

## 2. GENERAL FURTHER TRAINING

<b>1/ Central seminars</b>	<b>3/ Common seminars with Counties</b>
<ul style="list-style-type: none"> <li>- Current technical and legal developments</li> <li>- Legal issues on current practice</li> <li>- Cross cutting topics</li> <li>- Personal development</li> </ul>	<ul style="list-style-type: none"> <li>- Land wide training courses for integrated industrial supervision</li> <li>- Briefings at the district governments</li> </ul>
<b>2/ Internal subject related training</b>	<b>4/ Subject-related training by external bodies</b>
<ul style="list-style-type: none"> <li>- Briefings (general/subject)</li> <li>- Specific subject seminars (e.g. by EPA)</li> </ul>	



**Figure 1**

**Organisational Structure**

