



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 inspection
procedures**

Phase 4: Review of Trial of Scheme

Introduction to IMPEL

The European Union Network for the Implementation and Enforcement of Environmental Law is an informal network of the environmental authorities of EU Member States, candidate countries, and Norway. The European Commission is also a member of IMPEL and shares and chairmanship its Plenary Meetings.

The network is commonly known as the IMPEL Network
--

The expertise and experience of the participants within IMPEL make the network uniquely qualified to work on certain of the technical and regulatory aspects of EU environmental legislation. The Network's objective is to create the necessary impetus in the European Community to make progress on ensuring a more effective application of environmental legislation. It promotes the exchange of information and experience and the development of greater consistency of approach in the implementation, application and enforcement of environmental legislation, with special emphasis on Community environmental legislation. It provides a framework for policy makers, environmental inspectors and enforcement officers to exchange ideas, and encourages the development of enforcement structures and best practices.

Information on the IMPEL Network is also available through its web site at:
<http://europa.eu.int/comm/environment/impel>

Document Page:

Title report IMPEL Review Initiative, A voluntary scheme for reporting and offering advice on inspectorates and inspection procedures – Phase 4: Review of Trial of Scheme	Number report: 2003/10
Project Manager Martin Murray, (United Kingdom)	Report adopted at IMPEL Plenary Meeting: Dublin, 2 – 4 June 2004
Project Group Members Maria de los Angeles Barrecheguren Beltran (Spain), Annick Bonneville (France), Allan Duncan (United Kingdom, Rapporteur), Jean Pierre Janssens (Belgium), Hans Erling Jensen (Denmark), Erkki Kantola (Finland), Inga Birgitta Larsson (Sweden), Nazrul Meah (United Kingdom), Ralf Patzold (Germany), Terence Shears (United Kingdom), Sabine Sommer (IMPEL Secretariat) Pieter-Jan van Zanten (The Netherlands).	Number of pages 62 Report: 52 Annexes: 11

Executive Summary

The IMPEL Review Initiative (IRI) is a project of four phases designed to test “a voluntary scheme for reporting and offering advice on inspectorates and inspection procedures”. Phase 1 comprised design of a review mechanism, Phase 2 was a trial of the methodology in Denmark and Phase 3 involved trial review of regulatory systems in 6 volunteer EU Member States. Phase 4 concludes the review. This report summarises the results and overall outcome of all seven reviews, considers the lessons learnt, and recommends, subject to the agreement of the IMPEL Plenary:

- The continuation of the scheme
- The features and purposes of the scheme should not be changed.
- Any future IRI scheme should allow for 3-5 reviews a year.
- IMPEL should establish a pool of 3-4 Team Leaders with experience of the IRI process.
- The terms of Reference for individual reviews should be simplified as far as possible.
- The current format for conducting and reporting on reviews should be retained
- The structure of the Questionnaire should be revised to reflect better the logic and structure of the regulatory cycle.
- Future IRI Reports should be systematically reviewed on a periodic basis by IMPEL and a digest of the collected good practices extracted and published separately.

Disclaimer

This report on the IMPEL Review Initiative (A voluntary scheme for reporting and offering advice on inspectorates and inspection procedures, Phase 4: Review of Trial of Scheme) is the result of a project within the IMPEL Network. The content does not necessarily represent the view of the national administrations or the Commission.

TABLE OF CONTENTS	Page
1. Introduction	10
2. Background	11
2.1 Origin of the Project	11
2.2 Features of the Scheme	11
2.3 Scope of Review	12
2.4 Objective and Products of Project	13
3. Structure of summary of trial review reports	14
3.1 Introduction	14
3.2 Findings of Review	14
3.3 Examples of good practice	14
3.4 Provision of Advice	14
3.5 Products and their Dissemination	14
3.6 Impact of the Review	14
4. Summary of Trial Review Reports	15
4.1 Phase 2 test review: assessment and test of questionnaire and guidance, Nykobing Falster, Denmark, 22-24 February 2001.	15
4.2 Phase 3: 1 st Review, Mannheim, Baden-Wurttemberg, Germany, 5-19 October 2001	18
4.3 Phase 3: 2 nd REVIEW, Wexford, Ireland, 4-8 March 2002.	21
4.4 Phase 3: 3 rd REVIEW, Brussels, Belgium, 24-28 June 2002	25
4.5 Phase 3: 4 th REVIEW, Douai, France, 14-18 October 2002.	28
4.6 Phase 3: 5 th REVIEW, Zwolle, The Netherlands, 18-22 November 2002.	31
4.7 PHASE 3: 6 th REVIEW, Santiago de Compostela, Autonomous Community of Galicia, Spain, 3-7 March 2003.	35
5. Outcome of trial reviews	39
5.1 Introduction	39
5.2 Findings of Reviews	39
5.3 Examples of Good Practice	40
5.4 Provision of Advice	41
5.5 Impact of Reviews	41
6. Recommendations for continuation of review process.	43
6.2 The purposes of the Review scheme	43
6.3 The Organisational and Regulatory Scope of the Scheme	45
6.4 The Number and Frequency of Reviews	46
6.5 Identification and Scheduling of Candidate Inspectorates for Review	46
6.6 Size and Composition of Review Teams	46
6.7 Arrangements for Selection and Agreement of Review Team Members	47
6.8 Organisation and Preparation for Reviews	48
6.9 Arrangements for Agreeing Scope of Individual Reviews	48
6.10 Format, Conduct and Reporting of Review	49
6.11 Protection and Dissemination of Review Reports and Extracts	49
6.12 Resources Required and Allocation of Costs of Scheme	50
6.13 Capture and Dissemination of Lessons Learnt to Other Inspectorates	51
6.14 Handling of Requests for follow-up support from Candidate Inspectorates	51
Annex 1	52
Annex 2	56
Annex 3	60
Annex 4	62

1. INTRODUCTION

The IMPEL Review Initiative (IRI) is a project of four phases designed to test “a voluntary scheme for reporting and offering advice on inspectorates and inspection procedures”. Phase 1 comprised design of a review mechanism, Phase 2 was a trial of the methodology in Denmark and Phase 3 involved trial review of regulatory systems in 6 volunteer EU Member States. Phase 4 concludes the review. It examines the results and the lessons learnt, considers whether the review process worked and formulates recommendations for its continuation. Finalised reports of the trial of the methodology in Denmark and the reviews in Germany, Belgium, Netherlands, Ireland, France and Spain are available.

This report summarises the results and overall outcome of all seven reviews, considers the lessons learnt, and recommends, subject to the agreement of the IMPEL Plenary, the continuation of the scheme.

2. BACKGROUND

2.1 Origin of the Project

The terms of reference for the project were agreed at the Porto plenary meeting of IMPEL in May 2000 against the following 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 a 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. In March 2000, the Council of the European Union adopted a Common Position, (5684:00), on the proposal for this recommendation. Section III(3) of that Common Position said:

“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.”

The eventual need for arrangements to review implementation of such recommendations was foreseen, and IMPEL proposed such a voluntary scheme for the purpose. It noted that the potential benefits of such a scheme might also include:

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

2.2 Features of the Scheme

It was judged that the features of any such scheme designed to deliver the above benefits would need to 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.

2.3 Scope of Review

As regards scope of application, the Recommendation providing for Minimum Criteria for Environmental Inspections in Member States (MCEI) was adopted in April 2001 and its scope was defined as being “environmental inspections of 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.”

This scope includes all IPPC processes and other lesser processes that, 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 IMPEL was limited to regulation of “major industrial processes”. For the same reason it was proposed that the Regulatory Scope of this scheme be limited initially to regulation of IPPC processes.

It was also proposed for the purposes of review of 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 and Annex 1 category of IPPC processes.
- 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.

2.4 Objective and Products of Project

The objective set for the project was to devise and test a voluntary scheme for reporting and offering advice on Member State inspectorates and inspection procedures that incorporates the features outlined above and delivers the associated benefits.

In addition to the benefits listed above tangible products were expected to include,

- Written reports of reviews for candidate inspectorates,
- Relevant extracts from review reports, as agreed with candidate inspectorates, for dissemination to IMPEL members and the EC,
- Training and Educational material on “lessons learnt” and on examples of good practice for incorporation into training schemes of Member State inspectorates.

3. STRUCTURE FOR SUMMARY OF TRIAL REVIEW REPORTS

The following headings are designed to highlight elements of the overall review process that, collectively, address the features, objectives and benefits foreseen for the scheme. They are used, in the first instance, as a framework for summarising the results of each of the trial reviews and then for consolidating the lessons learnt from the trial.

3.1 Introduction

This simply provides information about the identity of the candidate inspectorate, the countries represented in the Review Team and about any modifications to the standard review scope. The arrangements for the trial reviews, which were common to all, are described in Appendix 1.

3.2 Findings of Review

This section summarises the reported findings of the review in regard to areas of environmental law covered by the regulatory scope and to those issues agreed for the organisational scope. In particular, it covers the findings in regard to implementation of the MCEI.

3.3 Examples of Good Practice

This shows some examples of the areas of good practice in the candidate inspectorate recognised by the review team during the course of the review.

3.4 Provision of Advice

This shows some examples of advice offered by the review team to the candidate inspectorate. The examples have been selected on the basis of their importance as perceived by the candidate inspectorates

3.5 Products and their Dissemination

Under this section, the production and dissemination of the tangible products (i.e. reports, extracts, any training material, etc.) are described.

3.6 Impact of the Review

This section addresses the nature and extent of the subsequent effects of the review on the candidate inspectorate, such as implementation of advice, capacity-building, collaborative exercises, etc. and any other non-tangible benefits.

4. SUMMARY OF TRIAL REVIEW REPORTS

4.1 PHASE 2 TEST REVIEW: ASSESSMENT AND TEST OF QUESTIONNAIRE AND GUIDANCE, Nykobing Falster, Denmark, 22-24 February 2001

At a project seminar in London in October 2000, the arrangements for conducting IRI reviews were discussed and agreed, (shown in Appendix 1), together with preparation of a Questionnaire and associated Guidance. These were assessed and tested in a limited trial of the review process in Nykobing F, Denmark, by the kind co-operation of the Storstroem County Inspecting Authority. As a result of this trial minor modifications were made to the wording and order of the Questionnaire and Guidance, and they were merged into one document. It was emphasised that the document is not intended to be used as a checklist, as in an audit. Rather, it is an aid to two-way discussion and exchange of ideas during the review process. What follows is a summary of the test review, which used the Questionnaire and Guidance in their original form.

4.1.1 Introduction

The candidate inspectorate in this case was the Storstroem County Inspecting Authority, and the Review Team included members from Ireland, the Netherlands and the UK. The review did not have the benefit of pre-review discussion by any member of the review team with the Inspectorate but Mr. Hans Erling Jensen, of the candidate inspectorate, was involved in drafting the Questionnaire and Guidance, and the arrangement for reviews, so was familiar with the purpose of the review. No written material was presented in advance but the Inspectorate had prepared for oral presentation at the review. In the short time available, less than 3 days, no attempt was made to seek evidence in support of the information supplied. Otherwise, the arrangements were largely as foreseen by the project group.

4.1.2 Findings of Review

Environmental inspection in Denmark is undertaken at both County and Municipality level but the Counties regulate major processes, other than agriculture. Constitutionally, the County Inspectorate reports to the County Council, which is the formal decision-making body for environmental regulation. Under this constitutional structure, the responsibilities of National Government are limited to policy-making, rule-making and supervising. The regulatory activities of the County Inspectorate are financed directly from the County Treasury. No specific legislation has been introduced to implement the IPPC Directive as the existing Danish Consolidated Environmental Protection Act (CEPA), with minor amendments for advertisement of licence applications and for public consultation, is considered to have sufficient scope and flexibility to cover all requirements.

The Storstroem County Inspectorate is part of a Department, which is also responsible for Roads, Physical Planning and Conservation. About 50% its total strength is deployed on regulation of installations covered by the IPPC Directive. A strong team culture is evident and staff have a mix of functions. Internal communication of policies, objectives, strategies and priorities are achieved by way of the strong team-working philosophy, with regular team meetings supplementing

written information required by the quality management system. Its inspectors also have the opportunity to exchange information and experience with other environmental colleagues, within Denmark, by way of an Association of Environmental Practitioners (DAVID). External communication is by way of leaflets produced specifically for the public. The Inspectorate operates an internal quality management system for all regulatory activities, with internal audits twice per year. These concentrate on the management system and do not address performance of individual members of staff.

The Inspectorate is responsible for regulation of 25 IPPC Annex 1 installations and for all elements of environmental inspection as defined in Article II, Section 2, of the MCEI. The responsibility for dealing with accidents on IPPC installations that are also covered by the Seveso II Directive was not clear however. There are no fixed frequencies for inspection of specific categories of installation. Rather, the Inspectorate prepares a detailed annual programme of inspections based on the environmental risks associated with individual installations and with generic features of plant operation selected for particular attention during the year. In this way, inspection effort is focussed to best environmental effect. The inspectors are engineers and environmental scientists with a mix of experience and qualifications at different levels, as between university degrees and lower-level qualifications. In recruitment, the general requirement is for knowledge of the regulatory process together with an element of specialisation appropriate to a particular post. In practice, inspectors' duties seem to be effectively matched to their qualifications, skills and experience. Opportunities for personal development and requirements for training are identified in an annual review with their team leader. Apart from induction and 3-4 days basic training, which is organised on a national basis, training is on-the-job under the supervision of an experienced inspector.

The internal quality management system is supported with procedures and instructions consistent with the MCEI requirements for environmental inspections. However, the Inspectorate was unaware of the likely need to supply related information for use by the Danish Government in its Member State capacity under the MCEI. Formal guidance on environmental and emission standards for regulatory judgements is issued by Danish Environmental Protection Agency. Collection and dissemination of technical information on BAT, by way of the Internet is organised by way of the DAVID structure. At the time of the review, there was no reference to the availability of BREFs or to the role they might play within Denmark, in due course.

The Inspectorate carries out part of its own assessment of quality and consistency of regulatory activities by way of its internal quality management system. In regard to permits, particularly, quality and consistency are assessed and assured by way of team discussions of drafts. The quality and consistency of inspections are assessed and assured by way of the twice-yearly joint inspections in which another inspector brings fresh eyes and a fresh approach to the work of a colleague. In addition, the Inspectorate positively encourages feedback on its regulatory performance from those it regulates. This is done by an "external satisfaction survey". Information about its operational activities is reported to DEPA for completion of a national annual report on environmental regulation. This includes information about the installations under regulation by the Inspectorate, the number of inspections carried out and the resources used, including costs. At the time of the review there were no provisions for preparation of a Pollution Emissions Register, as required by the IPPC Directive.

All relevant information about licensing and inspection of installations under regulation is maintained on files that are available for consultation by the public. Documents on file may be copied for members of the public.

The review team noted in its conclusions that, in this case, the inspectorate was a relatively small body within a strongly regionalised system. It is clearly committed to high quality environmental regulation, and its small size allows for a management style that is strongly dependent on day-to-day communication between team-members and their management, without the need for much of the formal documentation and procedures required by larger or national bodies.

4.1.3 Examples of Good Practice

The areas of good practice identified by the Review Team included the following examples:

- Interfaces between Environmental Regulation, Physical Planning and Conservation are facilitated by having all in one Department.
- Co-operative arrangements for inter-regional exchange of information and experience, by way of an organisation such as DAVID, appear to offer substantial benefits for quality and consistency of regulation within the Member State
- Inspection programmes are planned and prioritised in advance, on the basis of risks associated with individual installations and with generic features of plant operation, in order to focus effort to best environmental effect.
- The written policy on joint inspections by colleagues is conducive to maintenance of good and consistent quality of inspection across the Inspectorate.
- The use of an environmental “external satisfaction survey” to help focus work-plans is a good example of goal-based regulation.

4.1.4 Provision of Advice

The Review Team offered various items of advice of which the following are examples:

- The Inspectorate may want to consider documenting its arrangements for training in anticipation of the IMPEL recommendations for inspector training.
- The Inspectorate may want to explore with DEPA arrangements for the delivery of Member State responsibilities under IPPC , Article 17, Transboundary Effects.
- The total arrangements for implementation of the Seveso II Directive on IPPC installations are not clear and the Inspectorate may want to seek advice from DEPA on this.

4.1.5 Products and their Dissemination

The first result of this review was a revised and combined Questionnaire and Guidance document that was used throughout subsequent trials. The report of the review was produced immediately after the review and sent to the Storstroem County Inspecting Authority who subsequently

submitted it to the IMPEL plenary after minor editing of factual points. It is now publicly available by way of the IMPEL website.

4.1.6 Impact of the Review

After the review a workshop concerning responsibilities under the Seveso II Directive was held, and the Fire Inspectorate, the Labour Inspecting Authority and the local municipalities participated.

The Inspectorate has explored the issue concerning transboundary effects. Due to the quite small installations in Storstroem County and the fact that the county is situated on several small islands, it is inconceivable that there will be any transboundary effects. None of the installations in Storstroem County exceeds the thresholds for reporting in the European Pollution Emission Register.

4.2 PHASE 3: 1st REVIEW, Mannheim, Baden-Württemberg, Germany, 5-19 October 2001

4.2.1 Introduction

This review was carried out 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 Review Team included members from Denmark, France, Germany (Nordrhein-Westfalen), Ireland, and the UK. The possibility of language becoming a barrier to full participation in discussions was explored at the pre-review meeting and it was noted that the proposed Review Team had at least two German speakers so, 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.

4.2.2 Findings of the Review

Germany is a federal state with 16 constituent Länder (States). The Federal Government and Länder have separate administrative competencies but there is a high level of cooperation and co-ordination between them. The Federal Government has 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 is only effective when supplemented by Länder regulations. The Länder implement Federal law by way of delegation to District Government level, County level and sometimes even to the bigger municipalities. In the case of Baden-Württemberg there are 4 District Governments with a total of 44 County Authorities. These have the competence for environmental permitting and for enforcement, and 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 GAAs are independently funded by, and report to, the UVM by way

of their District Governments. They have a range of responsibilities but it should be noted that these vary from one Land to another.

Legislation for transposition of the IPPC Directive into German Law was introduced in 2001. This amended a range of existing German legislation. The Review Team noted in particular that, despite the apparent complexity of the legal system, conflicts between the requirements of different laws are avoided because the system of issuing an environmental permit 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.

The GAA Mannheim is organised on the basis of 6 Technical Departments and one Administrative Department with responsibility also for legal affairs as prescribed in administrative guidelines from the UVM. Staff in the technical departments 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 and by way of a Land intranet. Areas requiring special competence are covered by specialist groups. It is also required to have an IPPC specialist who develops and maintains his specialism by way of meetings with UVM officials, the EPA, and colleagues from other GAAs. The specialist 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.

The GAA is responsible for regulation of 118 IPPC Annex 1 installations and 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 equivalent of between 6 and 8 full-time members of staff are devoted to the inspection of these IPPC installations and to provision of advice to the permitting authorities. This includes the work associated with Major Accident Prevention (Seveso II Directive). The GAA inspection programme is based on objectives set by the UVM, but the GAA management has discretion on how to achieve them. Planning and prioritisation of the inspectors’ workload is left to individual inspectors on the basis of broad objectives set by the Head of the GAA and their knowledge of relevant installations. The UVM is conducting a pilot inspection planning exercise with 2 GAAs to formalise this. Inspectors 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 by competitive interview against requirements for specific vacancies. 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. A dedicated training manager oversees the training programme, and a training record is maintained and documented for each trainee.

A UVM Administrative Instruction describes the duties of the GAAs in regulation of IPPC permits in sufficient detail so as to be used directly as working instructions. In the case of imminent danger to the environment or human health, however, the GAA inspector must take direct action to avert the danger but 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. In general, however, the German legislation is sufficiently detailed so as to be regarded also as procedures or work instructions. Guidance on the technical standards to be applied is available on the Land Intranet and from Federal Technical Instructions, such as TA Luft, and also by way of the specialist IPPC inspector. BREFs will not be used directly until available in German. Advice on specific issues is also available from German Expert Bodies (e.g. TÜV).

The GAA assesses its environmental performance indirectly by the effect of its regulatory activities on the trends in emissions to air, air quality and in the quality of water in rivers and lakes. This information is published on behalf of the UVM by the EPA and the system is being extended 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. In addition, a special 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. 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.

4.2.3 Examples of Good Practice

The areas of good practice identified by the Review Team included the following examples:

- 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, by way of a process that involves the GAAs.
- The UVM Administrative Instruction setting out the roles and responsibilities of the different bodies involved in the environmental regulatory process.
- The use of an Intranet for assisting inspectors in their work, including details of environmental legislation, updated regularly.
- Publication of an Annual Report describing GAA regulatory activities and related enforcement action.

4.2.4 Provision of Advice

The Review Team offered various items of advice of which the following are examples:

- The pilot exercise for the planning of inspections is a timely opportunity to develop a system consistent with the objectives of the MCEI recommendation and showing how detailed plans cascade from the objectives set by the UVM
- 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 wish to consider introducing and maintaining Development Plans for longer-term personal and professional development of its staff.

4.2.5 Products and their Dissemination

The report of the review was discussed in draft with the UVM and GAA at the end of the review. It was completed immediately after the review and sent to the UVM who subsequently submitted it to the IMPEL plenary after minor editing of factual points. It is now publicly available by way of the IMPEL website.

4.2.6 Impact of the Review

In the absence of a German translation, the contents of the IMPEL Report have not been widely disseminated among the 9 GAAs. Those who read the report in whole, and especially the people who were personally involved in the review, were able to achieve a broadened insight as to how specific legal directives are being handled in other European countries. This was new knowledge and was judged to be valuable. The individual consequences of this can still not be foreseen fully today.

The pilot inspection planning exercise mentioned on p.14 of the full report has been completed in the meantime. The findings of this project allow a more precise and detailed planning of the individual inspector's workload. This may result in more comprehensive and/or more frequent inspections of specific IPPC installations in the future. The introduction of this scheme, however, is overshadowed by the hitherto unknown consequences of the great administrative reform on the authorities in charge of the enforcement of environmental law including inspections due in 2005.

4.3 PHASE 3: 2nd REVIEW, Wexford, Ireland, 4-8 March 2002

4.3.1 Introduction

This review was carried out by the kind co-operation of the Environmental Protection Agency (EPA), Ireland and the Review Team included members from Belgium (Brussels), Germany (Baden-Württemberg), Spain (Xunta de Galicia), Sweden and the UK (Northern Ireland). This was the first review to include arrangements for a site-visit to a chemical installation in order to see, at first hand, how the EPA inspectors conduct their business.

4.3.2 Findings of the Review

Ireland is a unitary state with a centralised form of Government. The Department of Environment and Local Government (DoELG) is responsible for determining environmental policy and legislation. The Environmental Protection Agency (EPA) is responsible for permitting and controlling a range of industries that includes IPPC Annex 1 installations, and it reports directly to the Irish Parliament. 34 Local Authorities issue single medium permits to smaller industries for wastewater discharges, emissions to air and smaller waste recovery activities. The Member State responsibility for dealing with transboundary issues, (e.g. under Article 17 of the IPPC Directive), however, resides with the DoELG and the EPA provide relevant information to that Department. It is supported by an Advisory Committee and is responsible also for overseeing the

pollution control activities of the Local Authorities. It is funded partly by way of cost recovery charging and partly by Government, from general taxation.

At the time of the review, IPPC was implemented by direct administrative effect, but the then current legislation for Integrated Pollution Control (IPC) was to be modified to give effect to the IPPC Directive. Implementation of the Seveso II Directive on IPC processes lies with the National Authority for Occupational Safety and Health (HSA), with whom EPA have a Memorandum of Understanding for areas of common interest. Proposals have also been made for joint EPA/HSA inspections on non-Seveso II, IPPC installations to cover arrangements for prevention of accidents. It was noted that appeals against EPA permitting decisions may be made to the EPA Board and that higher appeal is only available by way of Judicial Review. Generic appeals from industry at large may be dealt with by way of discussion at EPA/Trade Association meetings, and similar arrangements apply to appeals by Non-Governmental Organisations.

The IPPC permitting and enforcement functions of the EPA are led by a Director for Licensing and Control supported by a Technical Manager and an Administration Manager, all based in the Head Office. The Technical Manager is supported by 34 IPC inspectors at 4 levels of seniority. These are located at the Head Office and at two of the 5 EPA regional offices. The Administrative Manager is responsible for procuring legal services and providing administration services. In addition, specialist analytical and monitoring services are available by way of laboratories at regional locations, as are other services including substantial library facilities and Information Technology support. A Quality Management System (QMS) certified to the ISO 9002 Standard is in place. EPA regulatory policies, objectives and strategies are promulgated periodically by way of a published "Statement of Strategy". Board decisions, Divisional Memos giving details of new legislation, its implications, etc. are communicated internally to staff. Information is also exchanged and shared within EPA by way of meetings, seminars and an EPA INTRANET, which also provides access to a comprehensive enforcement database.

At the time of review the EPA was responsible for control of 531 installations under the then current IPC legislation. It undertakes the full range of activities comprising "environmental inspection" as defined in the MCEI Recommendation, except for revocation of permits which must be carried out by the High Court. Annual work planning is carried out on the basis of detailed allocation of time, and frequency, to particular elements of the regulatory task such as general inspection, visits for sampling, analysis or monitoring, audit inspections and producing an IPC permit. No work plan allocation is made, however, for reactive inspection or dealing with complaints.

Inspectors employed on this work enter EPA at various levels of seniority. For the most junior level, the requirement is for an appropriate scientific or technical degree together with 2 years of relevant experience. Exceptionally, specific skills may be sought for a particular post. New recruits undergo "on-the-job" training by an EPA colleague, acting as a mentor but new arrangements were being made to provide essential induction training, perhaps by way of private study, including use of interactive CD-ROMs, supervised activity, and formal courses on specific subjects. New inspectors are also required to conduct supervised inspections and audits to a satisfactory standard before being issued with their formal document of authorisation as a fully qualified inspector with right of access to IPC sites. Each EPA inspector has an annual appraisal

that includes identification of any training needs, which are then entered into personal training plans and into the overall requirement for training provision within EPA.

As part of the QMS, procedures for determining, issuing and reviewing permits and for conduct of routine inspections and non-routine inspections, including complaint investigation, are in place, together with related guidance and instructions and are available on the INTRANET. Scheduling and planning of inspections according to the MCEI are also covered by a QMS procedure. The QMS does not apply to the activities of the Laboratory Service so monitoring and surveillance visits are not covered by the ISO 9002 system, but are certified under the ILAB scheme. Standards and guidance for regulatory judgements are promulgated to inspectors by way of a system of QMS procedures that refer to relevant guidance documents, some of which are already available from external sources. External promulgation is typically by way of trade associations and employers groups. The EPA Board itself is advised by an Advisory Committee comprised of members appointed by Government. In addition, the EPA may employ consultants to advise on specific issues.

Work activity is reviewed against the Key Performance Indicators promulgated by the EPA Board. The results of checks and audits are reviewed by senior management who are required, under the QMS, to take any necessary corrective action. The environmental impact of the regulatory process is judged, in part, by the results of the environmental surveillance programme undertaken by the EPA Environmental Management and Planning Division, and EPA identified the potential use the Pollution Emissions Register (PER) to influence future work prioritisation. General feedback on the operation of EPA is obtained by way of regular meetings with Trade Associations and employers groups. All information on EPA regulatory activities is accessible to the public except for commercially confidential material. The EPA publishes a range of reports covering its licensing and control activities, including an Annual Report to Parliament, and a quarterly Newsletter is sent to a mailing list of about 6000 people. It also provides information to DoELG for Member State reporting under the MCEI and for PER requirements.

The findings of this review were broadly reinforced by separate discussions with a major site operator who confirmed the perception of the EPA as independent regulator and complimented it on the skills and knowledge of its inspectors.

4.3.3 Examples of Good Practice

The areas of good practice identified by the Review Team included the following examples:

- Publication of a draft permit for comment, before issue.
- Requirements for elements of an EMS in IPC permits.
- Multi-annual Board Strategy implemented by way of detailed annual work programmes and enforcement plans.
- Comprehensive system, e.g. system for work planning and resource allocation, QMS accredited to ISO 9002.
- Quality of public register.

4.3.4 Provision of Advice

The Review Team offered various items of advice of which the following are examples:

- Review geographical location of inspectors with a view to enhancing the level of service to operators and the public.
- Consider opportunity during introduction of IPPC legislation, to seek new or amended powers, e.g. for revocation of permits, increase in application fees and /or transfer of application fee-setting powers, and for requiring information for permitting.
- Progress development of MoU's with Local Authorities and other relevant bodies on issue of common or overlapping interest. Where appropriate, consideration to co-ordination of inspection

4.3.5 Products and their Dissemination

The report of the review was discussed in draft with the EPA at the end of the review and was completed and sent immediately after the review. The EPA subsequently submitted it to the IMPEL plenary after some internal discussion and minor editing. It is now publicly available by way of the IMPEL website.

4.3.6 Impact of the Review

Overall there is very positive feedback concerning the review in Ireland. The project objectives with respect to encouraging ideas for capacity building, discussion on common issues/problems and the development and dissemination of good practice were achieved. The external review was seen overall as a constructive exercise, it has been particularly useful as a benchmarking tool and for generation ideas for continual improvement. The recommendations in the review have fed into the EPA Strategic Framework 2003 – 2006.

To date the majority of the 'Opportunities for Development' have been addressed. Some are on-going as part of recent developments in Irish legislation. Others are being implemented as part of the Agency's Strategic Framework, which involves a restructuring of the Agency.

Some examples of the impact of review and of how "Opportunities for Development" have been progressed include the following.

- The role of the Agency has been reviewed and a high level document outlining the Agency's Strategic Framework 2003 – 2006 has been published.
- The Protection of the Environment Act, 2003, grants significant additional enforcement powers to the EPA, for example, powers to revoke a permit, powers to issue binding direction to the local authorities.
- The establishment of the Office of Environmental Enforcement within the EPA has achieved further integration of enforcement activities. This office is dedicated to the implementation and enforcement of environmental legislation in Ireland. Its establishment gives an extra focus on enforcement by bringing together all the major

enforcement activities of the EPA into one Office. It gives greater attention and priority to supervising the environmental performance of local authorities.

- An Enforcement Policy for the Office of Environmental Enforcement has been published. Enforcement activities have now been decentralised into four Regions and the allocation of inspectors and public viewing facilities has been revised to reflect the needs of these four Regions.
- A Customer Service Action Plan has been published.
- A new method for documenting work plans has been developed and implemented for 2004.
- A study has been carried out to evaluate the environmental impact of IPC to date. A more detailed study will be carried out to further develop criteria for the development of further audit and inspection plans.

4.4 PHASE 3: 3rd REVIEW, Brussels, Belgium, 24-28 June 2002

4.4.1 Introduction

This review was carried out by the kind co-operation of the Brussels Institute for Management of the Environment (BIME), Brussels, Belgium and the Review Team included members from Denmark, France, Ireland, Netherlands, Spain (Xunta de Galicia), and the UK. The BIME had requested that, in addition to the scope set out in the original project terms of reference, the review should also cover a selection of other enterprises or facilities subject to permitting by the BIME. Since all installations of environmental significance are regulated by way of a uniform system it was agreed that this widened scope would better reflect the operations of the BIME.

4.4.2 Findings of the Review

Belgium is a federal state based on three regions defined by economic considerations: the Flemish Region, the Brussels Capital Region and the Walloon Region. The Regional Governments are each responsible for passing and implementing their own environmental legislation with some exceptions. The environmental responsibilities devolved to the regions by the Belgian Federal Government include transposition of EC Directives and it does not follow that the systems described for the Brussels Region are representative of Belgium as a whole. Each region has a duty to establish its own regulatory arrangements. For these purposes, the BIME has been created and, amongst other things, is responsible for advising Government on environmental matters including EU legislation, for control of air-, water- and soil-pollution, noise nuisance and elimination of all types of waste (except nuclear waste and transfer of waste) and for use of energy. It is also responsible for transboundary issues such as Article 17 of the IPPC Directive. Installations subject to environmental controls are classified, by Ordinance, into four classes. The two major classes, which include IPPC installations, are permitted by BIME. The 19 local authorities are responsible for issuing permits or “declarations” to the other two lesser classes. BIME and the local authorities each have powers to inspect all classes of installation within their area of jurisdiction but in fact this is left largely to BIME. It is funded directly from Regional Government funds that include income from environmental taxes on classified installations, permit application fees and administrative fines, although none of these

are reserved specifically for funding BIME. It was noted that BIME has legal authority to administer substantial fines directly in certain circumstances.

Environmental Law in the Brussels Capital Region consists of various laws inherited from the Federal Government, and its own later laws. The latter includes a 1997 Permitting Ordinance that is sufficiently robust to accommodate the inter-related requirements of the IPPC, Seveso II and EIA Directives. The law allows the BIME to control and regulate all installations within its defined competence, including those operated by Government, by itself, the Armed Forces and the EC. In practice it has some difficulty with the Armed Forces and with the EC, which does not allow BIME to carry out unannounced inspections. There is three-level system for appeal against BIME decisions that, in the final instance may go to the Council of State.

BIME comprises 6 Divisions, two of which deal separately with permitting and inspection. Regulatory decisions are taken formally at Director-General level, with limited delegation to other members of staff. (One example of delegation is the ability of inspectors to take immediate action to close down a site). The Inspection Division is responsible for inspecting all classified installations against all environmental legislation in the Brussels Region, a responsibility that it shares with local authorities. The Division has a total of 44 staff 31 of which are site inspectors. The BIME operates a system of integrated inspection in which one inspector is responsible for all BIME inspections on a site, although specialist colleagues may be brought in as necessary. The work associated with IPPC installations is equivalent to about half a full-time inspector. A well-managed flow of information on policies, objectives etc, is achieved by way of an innovative, horizontal matrix structure of Working Groups and Thematic Networks.

Against a background of much wider responsibilities the BIME is responsible for permitting and inspecting 25 IPPC installations on 23 sites. It undertakes the full range of activities comprising “environmental inspection” as defined in Section II (2) of the MCEI Recommendation. The workload is planned and prioritised on the basis of a Regional Government 5-year environmental strategy and other strategies for specific, high priority issues such as waste, surface water pollution, noise, PCBs and asbestos. The BIME is also preparing a 5-year inspection strategy for all classes of installation in the Brussels Region. Its Annual Work Plans are already available to the public and detailed work plans are developed down to the level of individual members of staff.

BIME has five categories of staff, with a university degree being required only for entry to the highest category. They are recruited either as permanent civil servants by means of an Open Competition organised by the Brussels Capital Region, or as contractors on temporary contracts. BIME advises on the technical requirements to be examined. It is desirable but not essential to recruit inspectors with industrial experience. Initial training is “on the job” by a qualified inspector. The Head of Department assesses new recruits continuously and matches qualifications and skills to regulatory duties. He also decides the training requirements for each inspector. Permanent staff have a right to between 15 and 36 hours training a year and training records are maintained. Training of temporary staff is provided only on the basis of the further skills and knowledge required for their post, as assessed by their managers. Staff are also rotated between posts to increase experience. Each inspector is given an official document that proves identity and legal right of access to all installations, and complies with the recommendation of MCEI.

BIME applies systematic procedures in its work but these had been developed on an ad hoc basis. At the time of the review BIME was committed to achieving EMAS registration and to introduction of an appropriate management system.. It had already produced procedures covering legal and administrative matters and was planning to prepare further procedures covering technical activities. These will formalise existing procedures and will address the recommendations of the MCEI. It was noted that there was no formal procedure for dealing with accidents in IPPC installations subject to the Seveso II Directive. As regards Standards and Guidance, an expert working group approach is used to produce permits for sites that contain IPPC or Seveso II installations. They conduct their own literature reviews of BAT as no published BREF was then relevant to the IPPC installations in the Brussels Region, and they can employ expert, independent consultants if necessary.

Management conducts mid-year performance reviews against thematic strategic plans and Annual Work Programmes. These are supported by a wide range of performance assessment techniques including independent expert audit of permits and inspection. The results of these assessments are used by management in preparation and modification of work plans. In addition, detailed analysis of case-files and complaint statistics are used to deploy regulatory resources to best effect. BIME reports every 2 years on the overall state of the environment in the Brussels Region and produces an Annual Report of its own activities. In addition, the Inspection Division produces a more detailed Annual Report of its inspection activities, designed to meet the requirements of the MCEI. A Bulletin is produced 4 times per year, is sent to about 2000 people and is made available on the Internet together with other information about BIME activities. Information for the Pollution Emissions Register and on application of the MCEI is provided to the Federal Government on request, by way of the Brussels Capital Region Government.

The Industrial site visit showed industry to be generally supportive of BIME and flagged a number of issues, such as communication about policy and legislation and desire for more involvement in determination of BAT that should be helpful to BIME.

4.4.3 Examples of Good Practice

The areas of good practice identified by the Review Team included the following examples:

- The system of administrative fines.
- Preparation of 5-year inspection strategy as a basis for work and resources planning.
- Structured approach to the investigation of all complaints.
- Use of independent experts to audit the quality of permits and inspection.
- Management Board review of progress against milestones in strategies and work plans.

4.4.4 Provision of Advice

The Review Team offered various items of advice of which the following are examples:

- Consider having a Memorandum of understanding with local authorities on inspection activities.

- Formalise and develop arrangements for exchange of information between regional inspectorates.
- Avoid self-regulation by referring decisions on BIME installations to the Environmental College.

4.4.5 Products and their Dissemination

The report of the review was discussed in draft with the BIME at the end of the review and was completed and sent to BIME within a few weeks of the review. The BIME subsequently submitted it to the IMPEL plenary without modification. It is now publicly available by way of the IMPEL website.

4.4.6 Impact of the Review

Following the completion of the review the BIME has developed Memoranda of Understanding with six local authorities and one Administration.

In addition Brussels IRI report was published as part of the BIME Annual Report.

4.5 PHASE 3: 4th REVIEW, Douai, France, 14-18 October 2002

4.5.1 Organisational Arrangements

This review was carried out by the kind co-operation of the French Ministry of Ecology and Sustainable Development and the Direction Régionale de l'Industrie, de la Recherche et de l'Environnement (DRIRE) Nord Pas-de-Calais. The Review Team included members from Austria, Belgium (Brussels), Spain (Xunta de Galicia) and the UK. It was requested that the review cover the full scope set out in the original project terms of reference and that, in addition to regulation of IPPC installations, it should also cover a selection of other enterprises or facilities subject to the Seveso II Directive.

4.5.2 Findings of the Review

In France, the responsibility for industrial pollution control lies, centrally, within the Ministry of Ecology and Sustainable Development (the "Ministry") and, specifically with its Directorate for Pollution and Risk Prevention. The Ministry is responsible for the preparation of legislation and ordinances and for the management of environmental inspection. Under the direction of a Chief Inspector located in the Directorate for Pollution and Risk Prevention in the Ministry, responsibility for organisation and implementation of environmental regulation lies, in general, with the DRIRE in each of France's 24 Regions. (Separate arrangements apply to Paris.) The authority for signing and issuing all environmental permits, prepared by DRIRE inspectors, lies with the Préfet of the relevant Department, who is responsible for administrative sanctions, in cases of non-compliance, and is also responsible for transboundary issues. Environmental regulation of agricultural sites is organised and implemented separately. The DRIREs have a wide range of responsibilities, and individual inspectors are responsible for all regulatory aspects on sites under their control including permitting, inspection, enforcement and advising on

appropriate action in relation to enforcement action. The Ministry has a new programme for improving the collective efficiency of inspection and is having regard to the MCEI. On monitoring or inspection, specifically, the Directorate prepares a National Yearly Action Plan based on thematic priorities. This plan is promulgated formally to the Préfet of each Department and is published on the Ministry website, after widespread consultation with interested parties. Inspection activities are funded wholly by the State by way of general taxation, which includes the environmental fees and charges levied on industrial installations.

The Environment Act of 2000 consolidates previous legislation that had already transposed the IPPC and Seveso II Directives into domestic law. The details of all relevant legislation are available on the Ministry website. The DRIRE is not responsible for inspection of defence establishments or farms, but sites belonging to the State or to Municipalities are regulated as if they were operated by private operators. In cases of imminent danger, an inspector must inform the relevant Préfet who has the power to close down or suspend operation of the offending installation. There is a concordat between the Ministries of Health and of Ecology and Sustainable Development to avoid conflicts in specification of information requirements for worker safety and environmental protection. There are various levels of appeal against conditions in a permit, starting with the DRIRE and ending with Counsel of State.

With the exception of some specific features, the DRIRE Nord Pas-de-Calais is a typical example of a DRIRE. The Regional Director has a number of Divisions, one of which is responsible for environmental matters. The Division Heads are based in the Regional office and are supported by teams of inspectors, each responsible for advising on a specialist topic. Site inspectors are allocated individual portfolios of sites and are based in Sub-Divisions, which are aligned with local administrative boundaries. Site inspectors work under local management, on an integrated basis with responsibility for all the activities of permitting, inspection and enforcement for both pollution and risk prevention. They have access to specialist support from the Regional office. Information on regulatory policies, objectives, strategies and priorities is promulgated from the Ministry by way of Administrative Circulars.

The DRIRE Nord Pas-de-Calais controls about 2000 sites including about 325 sites that contain at least one IPPC installation and of which 77 are Seveso II sites, and are therefore subject to the additional requirement for permit review within 10 years. This excludes those IPPC installations related to agricultural activities. The DRIRE undertakes all of the activities comprising “environmental inspection” as defined in Section II(2) of the MCEI Recommendation, except for those concerned with “Monitoring achievement of environmental quality standards” and, “Consideration of environmental audit reports and statements.” The Ministry produces an annual, national plan identifying a number of themes for priority action, which is then developed into the published regional implementation strategy and which, in turn, is used as the basis for detailed inspectors’ work plans.

DRIRE inspectors are employed by the Ministry for Ecology and Sustainable Development and deployed to the Regional DRIREs. They may be engineers or technicians. Engineers will have qualified as members of the national Corps of Engineers for Industry and the Mines. Thus, new entrants to the DRIRE, at all levels, are already well qualified and trained in broad technical and scientific matters. The DRIRE may not employ contractors for regulatory activities when under-

staffed. However, special arrangements exist for recruitment of specially qualified individuals if required in the national interest. New entrants to the DRIRE are given extensive training by way of a foundation course and subsequent courses on regulatory aspects, interspersed with periods of field training. At the end of this training, new entrants are recognised as qualified inspectors and given warrants.

The Ministry's new efficiency programme includes definition of common methodologies for dealing with all regulatory functions, and a range of documents is publicly available by way of the Internet. In addition, the DRIRE has written internal procedures and instructions designed to supplement those provided by legal instruments and Ministry documents. Every inspector is issued with a handbook containing all essential procedural guidance and supporting information. This includes a copy of the Ministry's Mission or Charter and a copy of the MCEI recommendation. This handbook is also available on the Intranet. Emission standards are set out in a series of Arrêtés published in the French Official Journal and placed on the Ministry website. As regards technical guidance on BAT, inspectors currently depend on publication of the EC BREFs, which will be translated into French in due course. The DRIRE may also employ independent third party specialists e.g. for risk assessment of SevesoII and other hazardous installations.

In the context of National Follow-up under the Efficiency Programme, the DRIRE is subject to general inspection organised by the Ministry and involving independent experts. It is also subject to review by the Director for Pollution and Risk Prevention, from the Ministry, and his Chief Inspector. As regards meeting objectives, the DRIRE management undertakes continuous assessment of regional progress against the priority themes identified in the annual National Plan. The DRIRE publishes an annual report of its industry-related environmental activities in the Region. In general, any information that can be made publicly available is published, including permits, and inspection reports are available to the public on request. Where practicable information is entered on the Internet and presented at public meetings. A wide range of statistics is supplied to the Ministry, e.g. for the Pollution Emissions Register, which may also be sufficient for MCEI purposes.

The industrial visit was to an IPPC and Seveso II site. A large number of observations were recorded but the visit generally confirmed a positive view of the DRIRE activities.

4.5.3 Examples of Good Practice

The areas of good practice identified by the Review Team included the following examples:

- Publication of an annual national plan that identifies thematic priorities and a regional implementation strategy derived from them.
 - Inspector's Handbook containing all essential guidance including the MCEI.
 - Good systems in place for ensuring regulatory quality and consistency.
 - Effective utilisation of available legal sanctions. Administrative penalties, which include holding a cash, guarantee against the need for plant improvement or remediation
- Extensive use of Internet for making information available to public.

4.5.4 Provision of Advice

The Review Team offered various items of advice of which the following are examples:

- Consider introduction of formal system for rotating inspectors between sites and between the permitting and inspection functions.
- In the absence of an externally specified time limit for the complete process of permitting, DRIRE may wish to establish an internal target time
- Encouragement of development of the national model permit for classified installations subject to authorisation

4.5.5 Products and their Dissemination.

The draft report of the review was not sufficiently complete for sensible discussion with the DRIRE and the Ministry at the end of the review, but was completed and sent later. After minor editing of points of fact, the report was adopted at the IMPEL plenary in Rome in November 2003.

4.5.6 Impact of the Review.

Following the IMPEL review a new efficiency program has been drafted by the Ministry and representatives from the DRIREs. This program includes a lot of good ideas discussed during the review, including the following:

- Definition of a target time limit for the complete process of permitting.
- Introduction of a formal system for rotating inspectors between sites after 6 years.
- Experimentations of separating inspection and permitting functions.
- Improvement of response to the public.
- Formal recognition of the status of “confirmed inspectors” by way of the documented Scheme of Delegation.
- Greater use of the Intranet as a dynamic system for exchange of expertise and guidance between inspectors and to publish minutes of meetings of groups of experts.
- Development of the national model permit for classified installations subject to authorisation.
- Creation of specialist teams for environmental and health risk assessment.

4.6 PHASE 3: 5th REVIEW, Zwolle, The Netherlands, 18-22 November 2002

4.6.1 Introduction

This review was carried out by the kind co-operation of the Enforcement Division in the Department of Environmental Affairs of the Province of Overijssel in the Netherlands. The Review Team included members from Germany (Nordrhein-Westfalen), Spain (Xunta de Galicia), Sweden and the UK.

4.6.2 Findings of the Review

The Netherlands is a decentralised unitary state comprising three levels of government, i.e. National Government, 12 Provinces and about 450 Municipalities. Administrative competencies may be exercised by the national Government or by the provinces and municipalities depending on the particular regulations. It is usual to delegate competencies for implementation to provincial and local authorities, as in fields such as town and country planning, or water and air pollution control, for example. Provinces now grant environmental permits under the Environmental Management Act (EMA) of 1993, and are responsible for the supervision of industrial installations, municipalities' regulatory activities, physical (spatial) planning, water management, sewage water treatment plants etc. It is a framework Act that requires the task of inspection to be undertaken but does not specifically set up Inspectorate arrangements. A separate decree, under that Act, (Facilities and Licensing Decree, 1993) sets out the relevant responsibilities of the National Government, the Provinces and the Municipalities in this regard.

The Provinces report to the Environment Ministry, which is indirectly responsible for work carried out under the EMA and which in turn reports to Parliament. In this context, the Government was considering a system for audit of Municipalities, by the Provinces, and for audit of the Provinces, by the Inspector-General for the Environment.

The 12 Provinces have joint working groups, which include German counterparts, on specific projects. They also have a Senior Management Group for exchange of information and for communication with colleagues in the Inspectorate-General.

The Provinces may only make informal representations about legislative changes they believe to be necessary. Almost all funding of Province and Municipality activities is by way of general taxation and their budgets are decided nationally. There is no charge for environmental permits or licences.

The EMA implements the IPPC Directive and, in part, the Seveso II and Environmental Assessment Directives but not the safety of workers or river and water safety. Additional legislation, which interfaces with the EMA, includes Health and Safety, Water and Spatial Planning legislation. The EMA implements arrangements for co-ordinated permitting between its own requirements and those of Water Regulation and Spatial Planning, thus avoiding conflicts between the three permits. The Operator of the installation has to apply for the three permits in parallel and in the event of either the Water or Planning permit not being granted the EMA permit is refused. The Provinces are responsible for regulation of the majority of IPPC installations, but military and nuclear installations are regulated at national level and a small number of IPPC installations at Municipal level. Appeal against Provincial permitting decisions is by way of the administrative courts and against enforcement decisions by way of an independent provincial committee or the National Administrative Court in The Hague and in the final analysis to the European Court of Justice.

Executive responsibility for implementing the EMA lies with the Overijssel Regional Parliament and is delegated to the Regional Executive Committee. The officials responsible for advising on

environmental policy, permitting, inspection, enforcement and administrative sanctions are split between the Economy, Environment and Tourism (EMT) Department and the Public Affairs Department. Within the EMT Department the policy and permitting functions and the inspection and enforcement functions are separated. Responsibility for designated sites is rotated on a 4-year cycle. Common procedures and systems apply across all regions, and the internal management system is accredited to ISO 9001. The compliment of professional staff is fixed and requires parliamentary approval for any variation. It was then around 62 (35 policy and licensing, 25 inspection and enforcement, and 7 legal staff involved in administrative enforcement).

The Province is responsible for regulating 412 major sites that include approximately 40 IPPC installations. It also provides a single point of contact (24 hrs/7days a week) for enquiries from the public on environmental information needs, complaints etc, for notifications from installations regulated by the province. This is supported by an 8-inspector response team operating on a stand-by basis. This team also monitors the achievement of environmental quality standards and, together with other specialist institutions provides information for assessing the impact of permits. Work plans are established by reference to a four year Provincial Environment Management Plan that reflects National Environment Management Plans. Detailed work planning is assisted by availability of data for the time required for specific inspector duties, drawn from a system of time recording.

New staff normally have a Bachelor level degree in a relevant subject. They are on probation for one year, with an experienced inspector as a mentor. The period of mentoring lasts for a minimum of three months and until the recruit is judged able to operate autonomously. There is also an obligatory three level training programme, ranging from general induction to detailed instruction on the work of a permitter or inspector. Inspectors may be generalists covering all IPPC sectors or specialists with knowledge and experience in fields of special interest like safety, hazardous waste, administrative inspections etc. Personal Development Plans are maintained, and any further requirements are identified during annual appraisals. Subsequent training is then carried out according to procedures specified in the Quality Management System.

The 12 Provinces of the Netherlands have a Quality System for Licensing and Enforcement in place, with associated procedures. The procedure for revoking a permit, specifically, is set out in the Environmental Management Act. It is now proposed that Provinces carry out internal audits on each other and thus learn from one another's experience. There is also a policy document entitled "Guidance for Licensing and Enforcement" that sets out relevant technical, policy and regulatory developments and priorities. This is linked to the Provincial Environmental Plan, is revised every four years, and is publicly available. Some standards for regulation are drawn directly from EU legislation while others are established by the National Emissions Recommendation (NER) group, which consists of experts and representatives from large companies and takes into account BAT and BREF documents. The quality system for BAT deals with procedures and notes that have to be taken into account. There is a standard package of permit rules with a description of how they should be used. The package takes account of BAT, decrees etc. This guidance is available to industry.

Performance assessment is carried out within the framework of the ISO 9002 QMS and addresses both the quantity and quality of work against established work plans. The Review Team did not

find evidence of any assessment of performance linking the Inspectorate's work to improvement of the environment. However, it noted that the Inspectorate is in the process of developing/researching performance measures for linking the inspection/enforcement process to environmental outcome. In addition, the provincial authority is subject to performance audit by the Environment Ministry and is required to contribute to its twice-yearly digest of environmental performance. The Province also prepares and publishes an Annual Report containing specific environmental information, including details of how many complaints have been received. Information on inspection activities, permitting and enforcement is also made available to the public. A single collated report, containing both quantitative and qualitative environmental data, is prepared by the Conference of the Provinces for the National Government and the European Commission. The report is publicly available and is discussed with political and other interests. It is also used as the basis for reports to Regional Governments.

The industrial site visit generally confirmed the effective operation of the inspectorate operations and flagged a number of points for its possible consideration.

4.6.3 Examples of Good Practice

The areas of good practice identified by the Review Team included the following examples:

- Clarity of responsibilities between the Policy and Permitting role and the Inspection and Enforcement role, and QMS procedures that reflect the requirements of the MCEI.
- Transparent and publicly available system of reporting activities and performance.
- Integration of the national priorities with the annual work-plan of the inspectorate.
- Provision of 24-hr/7 day a week environment surveillance service.
- Rotation of inspectors between sites every 3-4 years.

4.6.4 Provision of Advice

The Review Team offered various items of advice of which the following are examples:

- Consider the benefits of, and scope for, introducing even a low level of fees for permits, and for subsistence, to prevent spurious applications.
- Review inspection, enforcement and permitting process to allow for developments in BAT outside the permit review cycle.
- Consider including licences and inspector reports on both intranet and Internet.

4.6.5 Products and their Dissemination

The report of the review was discussed in draft with the Province of Overijssel Inspectorate at the end of the review and was completed and sent to the Province within a few weeks of the review. The Province subsequently submitted it to the IMPEL plenary without modification. It is now publicly available by way of the IMPEL website.

4.6.6 Impact of the Review

All Inspectorates in the Netherlands have to improve their performance and processes by the beginning of 2005, in the framework of national agreed improvement programme. This report gave, among other surveys and action-plans, useful input for the operation to be carried out by the Province of Overijssel on this subject. The Province chooses to be even more ambitious than the national project and took the permitting-processes as an extra, non-obligatory part, on board in this operation. This extra step is logical for the reason that good permitting is essential for successful Inspection and Enforcement. Also on the permitting side of the work some good advice for improvement came out of the review process and it will be taken into account to 2005.

Generally, it can be concluded that the review gave a very positive boost both to the staff involved and to the quality of work done by the whole organisation. Examples of good practice and advice were discussed in several regional and national meetings with policy-makers and experts. Also, the politicians responsible for this part of public work were involved in one way or another with the process. The Provincial Executive Board formally approved the report and was later disseminated to regional, national and international (IMPEL) levels.

Looking back, the Province of Overijssel is overall very confident with the report and the process that led to it. If there is an opportunity for an Inspectorate to 'host' an IRI-review, it is a unique chance for both the organization and the practitioners to discuss their work against the background of the IPPC and RMCEI and to benefit from it.

4.7. PHASE 3: 6th REVIEW, Santiago de Compostela, Autonomous Community of Galicia, Spain, 3-7 March 2003

4.7.1 Introduction

This review was carried out by the kind co-operation of the Inspection Service of the Ministry of Environment in the Autonomous Community of Galicia, Spain, and the Review Team included members from Belgium (Brussels), Germany (Nordrhein-Westfalen), The Netherlands, Portugal, The Autonomous Community of La Rioja, Spain and the UK (Northern Ireland).

4.7.2 Findings of the Review

Galicia is one of 17 autonomous communities in Spain that have their own governments, Parliament and supreme legal authorities. It has four provinces, each of which has its own government and an administration that is responsible for a range of services including health, public works, sports facilities etc. Central government has no environmental inspectors and requires each autonomous community to carry out inspections within its areas of competence. Reports on these inspections are sent to central government although there is little feedback about any subsequent action or about national priorities, which would inform allocation of resources. The Autonomous Community of Galicia receives funding from various sources including local taxation, fees, public charges (e.g. for discharges to water) and from central government. It has a system of

taxation for emissions by large installations of SO_x and NO_x that is, in effect, an emissions trading scheme.

Galician environmental law consists of laws that derive from the period before autonomy together with its own subsequent environmental legislation, which includes the Decree that created the Galician Environment Ministry. Within this Ministry, permitting and inspection are separate activities. Its Inspectorate is required to maintain control and surveillance over all activities and installations capable of having a negative impact on the environment and, furthermore, the constitution requires the Environment Ministry to protect the environment even where the competence lies with another Ministry. IPPC Annex 1 installations are within the defined scope of Federal Spanish legislation, and a law of 2002 defines a system for coordinated permitting of IPPC installations, which is currently in the process of being adopted. This law allows the Galician Environment Ministry to permit and inspect IPPC installations, together with other installations within its defined competence. Local authorities permit some installations, and those operated by the Federal Government and Armed Forces are permitted and inspected by separate Federal Authorities. Where an installation has the potential to impact on more than one autonomous community, or has a transboundary impact on another Member State, the activity is permitted by the Central Government. Competence for Seveso II sites lies with the central authority for Civil Defence and Emergency Planning. The interface between the Environment Ministry and that authority on sites subject to both the IPPC and Seveso II Directives is not yet clear. The Inspectorate is not responsible for enforcement action. It identifies non-compliance and brings it to the attention of the appropriate permitting and enforcement authorities. There are three sequential levels of appeal against permit conditions, ending up in national Supreme Administrative Court in Madrid if necessary.

The Ministry of the Environment has 6 Directorates. Inspection is the responsibility of the Environmental Management and Quality and Assessment Directorate headed by a Director-General, with two sub-directorates comprising Environmental Assessment and Environmental Quality. The Sub-Directorate of Environmental Assessment is further sub-divided into the Inspection Service and Assessment Service. The Inspection Service has a central inspectorate based in the Environment Ministry in Santiago de Compostela, and four Provincial Inspectorates in which the responsibilities for inspection and assessment are integrated, with potential for conflict between roles of inspecting and advising. There is also a central Laboratory Service under the direct control of the Director-General. The Laboratory Director attends the monthly Inspection Planning Meeting at which priorities are reviewed and the sampling programme can be revised as necessary. The Inspectorate supports its work with an Intranet based database for inspections, including relevant protocols, together with a database of installations.

The Galician Ministry of Environment is responsible for regulation of 287 IPPC installations. The Ministry and its Inspectorate are responsible for the full range of activities comprising “environmental inspections” as defined in the MCEI. In addition to inspection duties, the Inspectorate supports permitting authorities in the preparation of licences and permits and the competent bodies in the process of enforcement. The annual inspection work plan, complying with the MCEI, is based partly on objectives set centrally by the Ministry of Environment and is optimised by detailed planning and prioritisation of individual workloads, having regard to defined frequencies and time allocation for inspections.

Inspectors are required by statute to be permanent Civil Servants with a minimum qualification of a degree in a relevant technical subject. Temporary contracts can be offered, but only to individuals on the Civil Service list. Initial training of new recruits is “on-the-job”. They are subject to continuous assessment by their Head of Department and their regulatory duties matched to qualifications, skills and experience, although they are expected to be able to inspect all types of permitted installations. The Inspectorate senior managers set high-level training priorities and, in discussion with individuals, decide individual training requirements. It was noted, however, that scarcity of resources for training courses has resulted in training being paid for by industry on at least one occasion, which could lead to regulatory capture.

In general, the prescriptive Laws, Decrees and Circulars, etc provide much of the procedural guidance and instructions necessary for consistent conduct of environmental regulatory activities. The Laboratory Service is accredited for the sampling and analysis of air, water and soil and a Quality Manual covers its procedures. A full range of inspection protocols supports those activities within the competence of the inspection service. These address the recommendations of the MCEI. The production of standards and guidance is the responsibility of the Sustainable Development Division. It has produced a range of BAT Guidance in the Galician language developed in partnership with industry, trade associations and other interested parties. Staff also have access to BREFs, but only in English. Guidance on technical matters and changes to legislation is available to inspectors by way of Circulars issued by the Director-General.

As a Civil Service Department the performance of the Inspectorate at the regional and provincial level is subject to external audit against agreed performance standards and targets. Standards address quantity and quality of work, and targets address specific environmental issues such as waste production. Performance against targets is reported in the Environment Ministry’s Annual Report. In addition, the Central Inspection Service monitors performance against the Annual Work plan throughout the year and revises it as necessary. It also undertakes continuous assessment of provincial progress against the Annual Work Plan. The Environment Ministry publishes, and puts on the Internet, an Annual Report that includes a report of Inspectorate performance. The Inspectorate also produces information for Central Government for the MCEI and Pollution Emissions Register. Information concerning inspections and the Annual Work Plan is available to the public on written request.

The Review Team visited a site incorporating an IPPC installation, and the Ministry’s Laboratory Service. A number of observations were recorded but the visit generally confirmed a positive view of the Central Inspection Service activities.

4.7.3 Examples of Good Practice

The areas of good practice identified by the Review Team included the following examples:

- Use of legal documents in the form of Actas setting out non-compliance and remedial requirements
- Close co-operation with the Environmental Laboratory Service (LMAG).
- The annual inspection work programme

- Casework seminars to discuss particular cases of inspection in order to draw lessons from them
- Use of circulars formally to communicate guidance.

4.7.4 provision of Advice

The Review Team offered various items of advice of which the following are examples:

- In view of IPPC responsibilities, the inspecting authority may care to re-examine the balance between the tasks it wants to carry out and the staff and other resources it has available.
- Review of existing procedures in the light of feedback from the legal department on enforcement action arising from reports to enforcing authorities.
- Consider improvements in liaison with permitting and enforcement authorities through the development of a memorandum of understanding.

4.7.5 Products and their Dissemination

The report of the review was discussed in draft with the Environmental Inspection Service at the end of the review and was completed and sent to the Community within a few weeks of the review. It is currently under consideration by the Autonomous Community of Galicia.

4.7.6 Impact of the Review

After the IRI review, two courses were held for the Galician inspectors during which inspectors from other countries gave some of the lectures. A meeting of all the Autonomous Communities in Spain was held in June 2003 in order to explain the role of IMPEL, the nature of the IMPEL Review Initiative and the projects being carried out within the framework of the IMPEL Network. Also, the IRI Review report on the Galician Environmental Inspection Service has been translated into Spanish and Galician and will be sent to all the Autonomous Communities and local authorities and to other bodies in Galicia.

5 OUTCOME OF TRIAL REVIEWS

5.1 Introduction

This section examines the overall outcome of the trial reviews with a view to preparing recommendations on its continuation. It is organised under the following headings.

- Findings of Reviews.
- Examples of Good Practice.
- Provision of Advice.
- Impact of Reviews.

5.2 Findings of Reviews

The first observation is that the current *Organisational Scope* captures virtually all of the important features of the design and operation of an environmental inspectorate. In the trial reviews all 10 elements of the scope, from Constitutional and Legal arrangements to Reporting, were thoroughly explored and seemed to be of relevance and interest to all participants.

It was soon found, however, that limiting the *Regulatory Scope* to IPPC would have constrained exploration of important areas of the work of those inspectorates with a wide range of integrated responsibilities, in which IPPC may be a relatively small component. In such cases, the scope was widened, and thus complied more closely with the full scope of the MCEI. This is an issue that will need to be considered in deciding the regulatory scope of future reviews as it may have implications for the workload. It was also found useful to address the overall scope in terms of the regulatory cycle of law making, permitting, inspection, enforcement and review.

As regards the substance of discussions, particularly in regard to “consistent implementation and enforcement of Community environmental law”, it is clear that the *Constitutional and Legal Bases* for implementing EC law vary widely from state to state and that the roles and responsibilities of inspectorates vary accordingly. Nevertheless, it seemed that the basic requirements of EC law were being satisfied regardless of the variety of arrangements.

Equally, the *Structure and Management* of Inspectorates varied, reflecting different roles and responsibilities and national cultures but it was found, generally, that the need to comply with the MCEI was recognised in their organisational systems and that all appeared to be delivering an effective regulatory service.

Because of the different structures, roles etc, and the integration of responsibilities in many cases, it was not possible to compare *Workloads* covered by different candidate inspectorates.

The *Qualifications, Skills and Experience* required of inspectors, and arrangements for their *Training* were also explored thoroughly in reviews. Again there was wide variation as between recruiting people with industrial experience and recruiting people straight from university or college and providing them with extensive technical training. In all cases, of course, training was provided on legal and regulatory matters. By and large, the end product appeared to be a

satisfactory level of competence so far as the Review Teams could judge by direct contact with inspectors and by discussion with industrial operators. This is an observation that may have to be recognised in any EC Recommendations on Qualifications for Inspectors and on their Training.

As regards *Procedures, Standards and Guidance*, the reviews show extensive adoption of, or preparation for, formal management systems certified to the ISO 9000 series of standards. Provided the arrangements for internal and external audit are effective, this is clearly a good step towards effective application of EC law and recommendations. The IRI review scheme would require substantial resources if it were to extend its remit into this area. In respect of *Standards*, specifically, the Review Team noted that inspectors in some states had difficulty in using the IPPC BREFs if they had not been translated from English into a more accessible language.

Arrangements for *Performance Assessment* varied widely too. These were part of the management system where formal, certified systems were in place. Often, however, assessment by candidate inspectorates themselves addressed only quantity and quality of work (e.g. permits and inspections) and compliance with work plans and targets. In other cases the impact of the regulatory process on the environment was also assessed. The Review Teams have remarked on this in regard to examples of good practice and advice on possible development. Again, there was little that the Review Teams could do in the time available to corroborate claims for satisfactory quality of performance beyond examining a sample of permits, procedures, guidance, etc. and seeking operators' views on inspectorate activities.

All inspectorates appeared to have effective systems for *Reporting* its activities and plans to the public. Arrangements for reporting of environmental data varied widely and depended on the constitutional position of the inspectorate within its state. In this context, it was noted that some regionalised inspectorates had no formal procedure for supplying the state with information it is obliged to return to the EC, such as data for the European Polluting Emissions Register or for reporting on implementation of the MCEI Recommendation, or information that it must provide to a neighbouring state, in respect of Article 17 of the IPPC Directive for example. The Review Teams were generally impressed, however, by the extent to which Information Technology, including the Intranet and Internet, are being used to make information available both internally to staff and externally to the public.

In general, these findings seem to confirm that the principle of subsidiarity, as applied to implementation of environmental law in the EU, is working effectively.

5.3 Examples of Good Practice

Those good practices given, as examples, in the summaries of individual review reports are only a selection from many examples of good practice identified during the trial reviews. The identification of so many examples is a measure of the effectiveness of that part of the scheme concerned with promoting best practice across the Community and, in that context, the review process appears to have been successful. A digest of the good practices identified during the trial reviews is shown in Appendix 2. This records the features covered by the examples of good practice, shown under the headings of the main areas of the Organisational Scope of the review process.

5.4 Provision of Advice

As with the good practices, those items of advice given, as examples, in the summaries of individual review reports are only a selection from many items offered during the trial reviews. Their identification, and their substance, are good measures of the effectiveness of that part of the scheme concerned with offering advice on inspectorates and inspection procedures in Member States, paying due regard to the different systems and contexts in which they operate. In this context too, the review process appears to have been successful in demonstrating that it can identify any gaps or weaknesses in a regulatory system and provide advice on improvement.

A detailed comparison of all the items of advice given and good practice identified during the trial reviews shows the extent to which weaknesses in one inspectorate can be strengthened by reference to an example of good practice from another inspectorate, thus providing the opportunity for collaboration between EU Member State inspectorates and for the spread of good practice.

5.5 Impact of Reviews

The general impression is one of very positive feedback about the impact of these trial reviews on the candidate inspectorates and their staff. The review process seems to have been judged by participants as a wholly constructive exercise, which has proved particularly useful as a benchmarking tool and for generating ideas for improvement of inspectorate systems, and even national legislation in at least one case. Against this background it may fairly be claimed that project objectives in regard to encouraging ideas for capacity building, discussion of common issues and problems, and the development and dissemination of good practice were achieved.

The impacts appear to fall generally into three broad categories as follows.

- Influencing changes to organisational and operational systems and arrangements.
- Encouraging exchange of information and increasing general awareness of current developments.
- Enhancing understanding of new EC legislation and recommendations and improvement of their implementation.

There is clear evidence that where the opportunity for change existed, as in France and in Ireland, ideas derived from the IRI review have been incorporated into new systems and arrangements. There is an indication, also, that when impending administrative changes are made in Germany, the IRI lessons will be considered. It is also clear from the feedback provided by candidate inspectorates that, in addition to the exchanges during the review process, the ideas discussed during the reviews have encouraged exchange of information and experiences between regional bodies in the relevant Member State and, in the case of Spain for example, there have been exchanges with inspectors from other Member States and a general increase in awareness of the various activities and products of the IMPEL network. In regard to EC law and recommendations, there is also evidence that discussion during review of the implementation of the IPPC Directive, for example, has led to more thorough understanding of national obligations in regard to issues such as transboundary effects and reporting under the MCEI.

As regards the overall impact of the IRI Review process, and in considering whether and how to develop it, the following important observations were made by those involved in the trials:

- In terms of “Capacity Building”, the review process was of as much value to Review Team Members as to the Candidate Inspectorate.
- The IRI process has a special feel, not an audit but a good balance between examining details and establishing the overall regulatory philosophy.
- The IRI process was equally successful in large and small inspectorates and across all variations of cultural, constitutional and legal backgrounds.
- The high level of communication and exchange of views as a result of the review process emphasised the relevance of the project itself and the role of IMPEL.

6. RECOMMENDATIONS FOR CONTINUATION OF REVIEW PROCESS

6.1 Introduction

This section sets out the issues that need to be considered by IMPEL in regard to any recommendation for continuation of the IRI Review scheme on a permanent basis, and makes proposals for the way forward.

The desirable features of any permanent scheme are considered to be the same as those described in the “Background” above, and no change is proposed.

The issues to be considered now are as follows:

- The purposes of the review scheme.
- The Organisational and Regulatory Scope of the scheme.
- The number and frequency of reviews to be carried out across the Community.
- Identification and scheduling of candidate inspectorates for review.
- Size and composition of review teams.
- Arrangements for selection and agreement of review team members.
- Organisation and preparation for reviews.
- Arrangements for agreeing scope of individual reviews.
- Format, conduct and reporting of review.
- Security and dissemination of review reports and extracts.
- Resources required and allocation of costs of scheme.
- Capture and dissemination of lessons learnt to other inspectorates.
- Handling of requests for follow-up support from candidate inspectorates.

Each of these issues is addressed in turn, below, drawing where appropriate on lessons learnt from the IRI Trial Reviews and recorded in Appendix 1, in regard to arrangements, and in Appendix 3, in regard to conduct of reviews and the overall IRI process.

6.2 The Purposes of the Review Scheme

The “potential benefits” or purposes of the review scheme, as described in the “Background” above, were developed originally before publication of the MCEI recommendation but with knowledge of the preparations for it. The MCEI purpose was to ensure that:

“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.”

It also included the following Articles,

Article III(4): “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.”

Article IX(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.”

Article IX(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.”

Against this background it may be seen that the original purposes of the IRI scheme and the MCEI purposes are quite consistent but, for clarity, they may be paraphrased now as:

- 1) Reporting and offering advice on inspectorates.
- 2) Reporting and offering advice on implementation of inspection.
- 3) Promoting best practice.
- 4) Contributing to the strengthening of compliance with environmental law in the European Community.
- 5) Contributing to consistent implementation and enforcement of environmental law in the European Community

In regard to reporting and offering advice on “inspectorates”, this was interpreted as including all aspects of the organisation and operation of inspectorates, and the original Organisational Scope was designed accordingly. In regard to “inspections”, it was taken to include all aspects addressed in Article II, “Scope and Definitions”, of the MCEI. In addition, it was foreseen that the scheme might eventually be required to address, specifically, those aspects covered by EC Recommendations on Qualifications and on Training.

As regards Item 1, the lessons from the trial suggest that the original organisational scope covers issues of interest to all concerned, and that it is worth retaining. In particular, it turns out that understanding the constitutional and legal background is most important to understanding of the role of the inspectorate within the Member State regulatory sequence of law-making, permitting, inspection and enforcement. It also has implications for issues such as workload, reporting, etc. and, in particular, for qualifications and training.

Item 2 is carried out on the basis of the MCEI. It appears to have worked well during the trial and there seems little scope or need for change.

Item 3 is a basic element of continuous improvement and capacity building and is a part of the IMPEL “raison d’être”. The lessons suggest no change in the review scheme as such, but consideration needs to be given to the question of whether the arrangements for wider dissemination of relevant information, and for follow-up action, are adequate for the purpose.

As regards Item 4, the reports of the trial, together with examples of good practice and advice offered, suggest that this is a deliverable objective for the scheme, and that current arrangements can actually contribute to, and provide reassurance on, compliance with environmental law within the European Community. This would seem to be a valuable purpose for retention.

Experience and lessons suggest that Item 5 is deliverable so far as “contributing” is concerned. The dissemination of good practice, and the actual review process itself will do this. It is unlikely and not the target, however, that this scheme alone will be able to provide full re-assurance that environmental law is actually being implemented consistently across Member States. This would probably require a separate survey of, for example, the permits and regulatory decisions made in respect of specific types of installations across the Community.

It is therefore proposed that the purposes of any future scheme should be as listed in Items 1-5 above.

6.3 The Organisational and Regulatory Scope of the Scheme

These two issues need to be addressed together, and with the matter of resource allocation in mind.

As noted above, experience of the trial review suggests that the original Organisational Scope, as defined by the 10 areas of the Questionnaire, were all found to be valuable in reviewing the organisation and operation of inspectorates, and the implementation of environmental law. None of the lessons from the review, except for the matter of resources, suggested any need for change to this scope.

The Regulatory Scope was recognised originally as having to include “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”, as defined in the scope of the MCEI. For practical purposes, the original trial scope was limited to the requirements of the IPPC Directive but experience of the trial soon showed that this was an artificial constraint against a background of very different roles and workloads. It was subsequently broadened to include those situations where an inspectorate may have an integrated responsibility for inspecting a wide range of installations, against a wide range of legislation, but with no direct responsibility for permitting or enforcement, as well as those inspectorates with responsibility for permitting, inspection and enforcement, but only for a limited range of major installations.

Experience showed that, with only one week allowed for each trial review, some compromise between breadth and depth had to be made and, if the time allocation stays the same, this will need to be clearly understood in order to avoid raising false expectations as to either the depth or breadth of any particular review.

With this proviso, it is proposed to retain the original Organisational and Regulatory Scopes and to allow the Review Team leader and Candidate Inspectorate to agree precise details in advance of the review.

6.4 The Number and Frequency of Reviews

The design of the trial scheme took into account demands on the time of potential Review Team members and on the resources of candidate inspectorates. With 15 Member States in the Community, three reviews per year with a Review Team of five people meant that, on average, each Member State would have to volunteer only one team member per year and that each Member State could have a review every five years. This demand on the resources of Member States was thought to be reasonable, as was the resulting review frequency.

As regards Review Team size, the reports of the trial reviews show what can sensibly be done with a team of five members. During the trials, the team stayed together and a good mix of experience was brought to the discussions. Reducing team size could limit the range of experience. Increasing it could, potentially, allow for deployment of part of the team to study particular elements of the candidate inspectorate operation more closely. A review frequency of less than one in five years per Member State could leave questions about the current situation in a Member State, whilst a higher frequency might be judged to be too much of a drain on already scarce inspectorate resources.

In the context of an extended Community of 25 Member States, continuation at the same average review frequency and demand for team members would mean conducting five reviews per year with teams of five people. An observation from the trial was that, at the trial level of demand for team members, the reviews benefited greatly from having senior inspectorate members with all the experience they brought to bear. An increased review frequency or increased team size, resulting in increased demand for volunteers, could dilute this experience.

In light of all these considerations it is proposed that any future scheme should allow for 3 to 5 reviews per year.

6.5 Identification and Scheduling of Candidate Inspectorates for Review

The original request from the IMPEL plenary in Helsinki was for a proposal for “a voluntary scheme”. The trial scheme was designed on that basis, and volunteer candidate inspectorates for review were identified and agreed by way of the half-yearly IMPEL plenary meetings. This system has worked well for the trial reviews. If the scheme continues on a voluntary basis, the IMPEL plenary would seem to be an appropriate forum for agreeing the schedule of reviews.

It is therefore proposed that the arrangements for identifying candidate inspectorates and for scheduling reviews should be by way of the IMPEL Multi-Annual Work Programme.

6.6 Size and Composition of Review Teams

The size of review teams has been addressed above in the context of number and frequency of reviews. Teams of five people worked well in the trial reviews. The advantage of having experienced senior people as review team members cannot be over-emphasised. They bring a practical understanding of the subject matter that facilitates analysis of organisations and

operations, and provides a good basis for provision of advice. Hence the concern about increasing size of teams or review frequency and any consequent dilution of team member experience.

As regards particular skills, if the organisational scope remains as it is, the team will need to be able to draw on individuals with experience of policy, technical and organisational issues. In any event, the scope may vary from review to review depending on what is agreed by the Review Team leader and the relevant candidate inspectorate. In this situation, it may be best to retain sufficient flexibility to match the team composition to the agreed scope, subject to agreement by the candidate inspectorate.

Against this background, it is proposed that the team size should be a minimum of 5, including the Team Leader, and that it should be composed of senior, experienced members from different countries and with different regulatory experience. Also, so far as practicable, members should come from a previous candidate inspectorate, from one scheduled for future review, and should include individuals new to the IRI process.

6.7 Arrangements for Selection and Agreement of Review Team Members

The first issue is selection of a Review Team Leader. The process was not tested during the trial because the IRI Project Manager filled that role for all trial reviews. This had the advantage of continuity and consistency, and the benefit of team management by an experienced individual who was able to recognise important issues and know when to let discussions take a natural course and when to curtail them. It did mean, however, that the working language of all reviews had to be English.

It should also be noted that the review process is very demanding of those involved. The load on the Team Leader, in particular, is very high and needs to be shared by other team members. The task of the rapporteur also needs to be considered in the same light.

One option for the future would be to appoint Team Leaders for a fixed period or, perhaps, for a specified series of reviews. This would be a substantial demand on most inspectorates but it would provide an element of continuity, consistency and experience and, by way of the proposed arrangements for programming reviews, would allow some flexibility in choice of working language for example. Another option would be to appoint Team Leaders for individual Reviews from a pool of volunteers offered by Member States. This would provide maximum flexibility as regards matching experience to the specific review and as regards choice of working language, but continuity and consistency may be lost.

After due consideration, it is proposed that the IMPEL Plenary should establish a pool of 3-4 Team Leaders with experience of the IRI process, each for a two year commitment, and that they be selected for individual reviews by agreement with the candidate inspectorate.

As regards Review Team members, selection by the Team Leader from a pool of volunteers from Member State inspectorates, by agreement with the Candidate Inspectorate, worked well during the trial and there does not appear to be a preferable alternative. It is important to consider the

issue of language and to select at least one team member who can discuss matters of detail in a common language with the inspectorate.

It is therefore proposed to continue the current arrangement for selecting Review Team members, with the only additional proviso that arrangements are made by way of National IMPEL Coordinators, and the observation that this requires a continuing commitment by IMPEL members to provide the necessary people.

6.8 Organisation and Preparation for Reviews

This part of the trial scheme is described under “Arrangements for Trial Reviews and Experience of Practical Implementation” in Appendix 1. The bulk of the work fell to the Review Team leader and to the candidate inspectorate. The Team Leader’s role is described in the Appendix 1 and, for the purposes of the trial, the Team Leader carried out this work with the support of his own organisation and of a rapporteur employed by the candidate inspectorate. The candidate inspectorate was responsible for preparing, in an appropriate format, the information required in advance of the review and, subsequently, for all the local arrangements for the review itself.

These arrangements were generally regarded as simple and straightforward, and were judged to have worked well, with the exception of the format for Terms of Reference for individual reviews. These were thought to be unnecessarily complex. Also, it was recognised that the load on the Team Leader is substantial and consideration was given to whether a permanent scheme should be supported by a standing secretariat or should be supported by a rapporteur employed by the candidate inspectorate.

Having regard to the experience described in Appendix 1 and other lessons recorded in Appendix 3, it is proposed that the organisation and preparation for reviews should continue broadly as they are, including the employment of a rapporteur to support the process. It is also proposed that the Terms of Reference for individual reviews be simplified as far as possible.

6.9 Arrangements for Agreeing Scope of Individual Reviews

Within the framework agreed for the scheme as a whole, the Candidate Inspectorate will want to agree both the Organisational and Regulatory scopes for review. The only two apparent options are agreement at the plenary, when scheduling reviews and appointing Team Leaders, or agreement with the appointed Team Leader in a pre-review meeting. The first option has the advantage of matching a Team Leader to the precise nature of the review. The second has the potential advantage of allowing the Team Leader and Candidate Inspectorate to discuss in more detail the precise nature of the review and to start the actual review with a good basis of understanding. Experience of the trial reviews would tend to support the second option.

It is proposed to continue with the second option, whereby the candidate inspectorate agrees review scope with the appointed Team Leader in a pre-review meeting.

6.10 Format, Conduct and Reporting of Review

Numerous lessons were learnt during the trials about the format, conduct and reporting of the review. These are recorded in Appendix 3. They address issues of style of discussion, particularly as regards use of the Questionnaire, and practical issues such as making time available for Team briefings and recapitulation, support for the Team Leader, seeing examples of inspectorate work at first hand, etc. Three main lessons emerge, however.

First, the format should allow free discussion and exchange of ideas, with the Team Leader allowing this to run for so long as it is useful but holding, broadly, to an agenda based on the structure of the regulatory cycle. The review is not an audit, and the questionnaire is a guide to discussion not a checklist. Experience of the trials demonstrated repeatedly that this approach was of advantage to candidate inspectorates and to Review Team members alike.

Second, candidate inspectorates attach high importance to producing the review report during the review, and having a draft available for discussion at the end of the review. This is a substantial task and involves the Team Leader and rapporteur in concentrated effort during the review, as noted above under “Organisation and Preparation for Reviews”.

Third, the issue of working language is important in considering requirements for a permanent scheme. The trial reviews were conducted in English with arrangements made for subsequent translation of parts of the discussion that had to be conducted in the candidate inspectorate’s first language. There may be merit in considering whether reviews should be carried out also in other working languages with appointment of Team Leaders and Review Team members accordingly.

The above issues have implications also for the nature of the Review report. A standardised format was adopted for the trial reviews and this proved to be very helpful for its production on a tight timescale. There is any danger, however, that this might lead in time to a standardisation of the substance and to production of formulaic conclusions and recommendations. Particular care was taken to avoid this during the trial and the point will need to be noted if there is to be a variety of rapporteurs.

Against this background, it is proposed to retain the current format and methods for conducting and reporting on reviews, taking account of the lessons learnt during the trials and having regard to the possibility in future of conducting and reporting on reviews in a language other than English. It is also proposed to revise the structure of the Questionnaire to reflect better the logic and structure of the regulatory cycle.

6.11 Protection and Dissemination of Review Reports and Extracts

If the IRI scheme is to continue on the basis that there is no threat of self-incrimination or infraction proceedings arising specifically from its application, it would seem that control by the candidate inspectorate of dissemination of information arising from any review is unavoidable. In practice, the system of discussing a draft report before departure of the Review Team, followed by submission of the report only to the candidate inspectorate, worked well. The Review Reports

that have been submitted to the IMPEL plenary so far have had only minor editing of matters of fact by the relevant Candidate Inspectorate. These reports are now available on the IMPEL website and represent a fair and true account of the review findings for all to see.

It is proposed that the current arrangements for protection and dissemination of review reports and extracts continue unchanged.

6.12 Resources Required and Allocation of Costs of Scheme

The resources required include the time and the costs of travel and subsistence of Review Team members, including the Team Leader, and the time of the Candidate Inspectorate. They may also include the costs associated with employment of any rapporteurs for producing review reports or the costs associated with maintaining a secretariat for support of the scheme. The total costs will obviously depend on final decisions about the number and frequency of reviews and about the size of review teams.

For the trial, Team members and the Team Leader volunteered their time. Although it had been suggested originally that Team members would meet their own costs for the trial period, the candidate inspectorates met all travel and subsistence costs, the costs associated with employment of a rapporteur, and their own costs. Because this was an IMPEL project, the candidate inspectorates recovered a very considerable part of these costs from the EC. The arrangement worked well for the trials and, insofar as continuation of the scheme is of benefit to the EC as well as Member State inspectorates, continued allocation and sharing of the costs on this basis seems reasonable.

Also, as regards longer-term arrangements for scheduling, organising and supporting the scheme, it might be considered more appropriate for these to be undertaken by a small Secretariat, not co-located with the main IMPEL Secretariat, but having appropriate links to it. This would preserve a “Chinese Wall” between the IMPEL work carried out in association with the EC and any review-related work which needs to be confidential to candidate inspectorates and Review Team members. Such a Secretariat might be volunteered and funded, on rotation, by individual Member States or might involve volunteered accommodation staffed on rotation by volunteers from participating Member States. Alternatively it might be established permanently in an agreed location at the shared, collective expense of participating Member States and the EC. The latter arrangement would of course involve the bureaucracy associated with keeping and presenting financial accounts to participants.

Given the satisfactory experience of the simple arrangements for resourcing and allocating costs during the trial reviews it is proposed to continue them and not to seek creation of a secretariat.

6.13 Capture and Dissemination of Lessons Learnt to Other Inspectorates

Publication of IRI Review Reports on the IMPEL website is already a substantial step towards capture and dissemination of lessons learnt. Examination of these reports demonstrates the thorough nature of the review process and the breadth and depth of discussions leading to identification of examples of good practice. It was foreseen, however, that such examples of

good practice might be incorporated somehow into the Guidance, Education and Training schemes of Member State inspectorates. It is probably premature to judge the success or extent of this but to date there is no evidence that this has taken place.

It is proposed for the future that published IRI Review Reports should be systematically reviewed on a periodic basis by IMPEL and a digest of the collected good practices extracted and published separately.

6.14 Handling of Requests for Follow-up Support from Candidate Inspectorates

It was originally foreseen that, if any candidate inspectorate seeks further assistance to develop or respond to any issue arising from an IRI Review, the IMPEL Secretariat would use its contacts and best endeavours to arrange appropriate support from other IMPEL members. Practical arrangements such as meeting any associated costs would be matters for the organisations concerned. Some evidence of follow up exists with requests for team members to return to candidate inspectorates to assist in or provide information on specific areas of development or of good practice.

It is proposed that the current provision remains unchanged.

ARRANGEMENTS FOR TRIAL REVIEWS AND EXPERIENCE OF PRACTICAL IMPLEMENTATION

The following arrangements for organising and conducting the trial reviews were agreed by the project group, with the recognition that they might need to be modified in the light of later experience.

General Arrangements for Trial Reviews

For the trial period, reviews would be arranged at IMPEL Plenaries. Arrangements would include selection of volunteer candidate inspectorates and the appointment of Review Team Leader(s).

Role of the Review Team-Leader

Appropriate preparation for the review is of vital importance. The preparation should include the following elements to ensure its smooth running and greater efficiency:

- The objectives of review 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 review. If it is not possible to achieve this then the information required should be presented to the review team directly on their arrival in the host country.
- He/she 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 review report would be produced, in the first instance, in English and translated as required by the candidate inspectorate.

Selection of Review Team Members

Selection of review teams would be by the review team-leader from a pool of volunteers from Member State inspectorates. Review teams would comprise a maximum of five regulators including the team leader. This would include individuals with experience of policy, technical

and organisational issues. Secretarial support would be provided or paid for by the candidate inspectorate.

Structure of Review

The review would concentrate on arrangements for the implementation of standards and systems by the candidate inspectorate and not on individual inspection activities, which is the area covered by the IMPEL Project on Environmental Enforcement Practices (PEEP). Reviews would be conducted on the basis of a standard questionnaire agreed by IMPEL. Comparators or indicators of quality would be derived from appropriate sources such as the IMPEL reports on “Minimum Criteria for Inspections”, “Planning and Reporting of Inspections and on “Qualifications and Training” in due course, IPPC Brefs, EC Environmental Quality Standards and related EC Directives etc.

Reporting

For the purpose of providing advice and opinions to the candidate inspectorate, the review team would have detailed discussions with the candidate inspectorate at the end of the review, and agree a report for dissemination. This report would follow a standard format and include examples of good practice that might be considered for incorporation into the Guidance, Education and Training schemes of other Member State inspectorates.

Follow –up

If any candidate inspectorate seeks further assistance to develop, or respond to, any issue arising from review, the IMPEL Secretariat would use its contacts and best endeavours to arrange appropriate support from other IMPEL members. Practical arrangements such as meeting any associated costs would be matters for the organisations concerned.

Resources for Review

Depending upon the scope agreed with the candidate inspectorate, an initial estimate of the resources required for a review might be:

- A team of five (maximum) including secretarial support, each giving,
- 2.5 days for review and assessment
- 0.5 days for comparison and collation of team views
- 1 day for writing draft report, in a standard format
- 1 day for feedback, discussion and finalisation of report.

i.e. a total of five person-weeks(maximum) over a period of one week .

In addition, time would need to be allocated to enable the team leader to agree the detailed arrangements for the review with the candidate inspectorate (2-3 person days).

Experience of Implementation

The organisational arrangements for trial of the review scheme were simplified for the purposes of the trial in regard to Review Team leadership and support, funding, and working language. It had been agreed that all participants would meet their own costs unless other arrangements were made, that the IRI Project Manager would be Team Leader for at least the initial trial reviews, that secretarial support would be provided or funded by the candidate inspectorate, and that the working language of review meetings and reports would be English. It was already recognised that these issues would have to be revisited in consideration of organisational arrangements for any permanent scheme. In practice, the Candidate Inspectorates met all travel and subsistence costs of the Review Teams, the costs associated with employment of a consultant/rapporteur and their own costs. Because this was an IMPEL project, the Candidate Inspectorate recovered part of these costs from the EC.

In general, arrangements for trial reviews appear to have worked well, almost certainly aided by the simplifications described above. Other particular points of note and associated lessons were as follows.

The selection of review teams, by the Team Leader, from a pool of volunteers from Member State Inspectorates was very successful. Members were generally experienced senior inspectors, and even Chief Inspectors or their equivalent. A particularly successful feature was the policy of selecting Review Team members from inspectorates that were next on the schedule for review and, in some cases, that had already been reviewed. In the former case this was helpful to the relevant inspectorate in preparing for their review, and in the latter case it was helpful in the conduct of subsequent reviews. It was also found helpful in reviews of inspectorates in Federal States, or in states that have regionalised or devolved inspection arrangements, to include a team member from an inspectorate in a different Land, Community, Region or Province from that of the candidate inspectorate. This provides the team with an indication of commonality of systems across such a state. The only difficulty experienced in the selection process was in establishing the availability of volunteers in time for discussion and agreement at the Pre-Review meeting. This was resolved simply by later contact between the Team Leader and the candidate inspectorate, but still before the actual review.

The critical importance of the pre-review meeting was repeatedly confirmed. In addition to allowing discussion of the background to the project, such as the importance of the EC Recommendation on Minimum Criteria for Environmental Inspection (MCEI) etc, it allows clarification of issues or questions arising about use of the Questionnaire, as well as discussion of the issues of scope, Review Team membership, etc. It also allows discussion of such matters as the use of language in the review and allows the Team Leader and the candidate inspectorate to establish the right working relationship for constructive discussion during the actual review. In this regard, experience showed that it is useful to emphasise the value of the Review Team having advance information, particularly on constitutional arrangements and relevant legislation, but that preparation of presentations for the review should be kept to a sensible minimum. As

regards practicalities, it is helpful to see the venue for the meeting and its facilities, as it was found that a meeting room for 12-15 people was about the minimum requirement. It was found that 2 full days should be allowed for the pre-review meeting and that it is prudent to ensure that travel arrangements do not curtail it. It was also found helpful to involve as many people as possible from the candidate inspectorate.

EXAMPLES OF GOOD PRACTICE

The features addressed by the various examples of good practice identified during trial reviews are shown below, under the 10 main headings of Organisational Scope as set out in the Review Questionnaire. Reference should be made to the Review reports for details of the original examples and their precise contexts.

Constitutional Basis for Inspectorate

- Clarity of the constitutional position of inspectorates with respect to Central Government, Provinces, Regions, Länder, Counties, Municipalities, etc, and to related inspectorates or authorities. (e.g. for Health and Safety or for Spatial Planning).
- Independence of inspectorates from Government Departments.
- High-level environmental strategies, thematic priorities, established or agreed by Government, and used as a basis for inspection plans.
- Arrangements for funding and recovery of regulatory costs.
- Scope for inspectorates to provide feedback to government on new or modified legislation.

Legal Basis for Inspectorate

- Consolidation of all environmental legislation into one self-consistent Environment Act.
- Avoidance of self-regulation. (e.g. in regard to control of installations owned by a County that is also the ultimate regulatory authority).
- Provisions for effective sanctions under administrative, criminal and civil law. (e.g. administrative fines, holding of cash or bank guarantees for improvements or remediation, etc.)
- Statutory requirements for advertisement of permit applications, for public consultation on draft permits and for permits to include conditions on annual environment reports, environmental management systems, etc.
- Single permit for several installations owned by same operator but located in different places.
- Formal, legal documents for specifying non-compliances and remedial requirements.
- Independent appeal mechanisms.
- Availability, and updating, of environmental legislation on Intranet and availability of translated résumés of IPPC BREFs.

Organisation, Structure and Management of Inspectorate

- Organisational structures with specialist technical and legal support and sector-based working groups, thematic networks, etc, for securing effective flow of up-to-date information and operational consistency, and for avoiding vulnerability to concentration of knowledge in individuals.
- Implementation of Quality and/or Environmental Management Systems, designed to ISO 9000 or EMAS Standards, with transparent systems for delegation of authority, clear systems and procedures, arrangements for review and assessment, etc.

- Separation of permitting, inspection and enforcement.
- Systems for setting objectives and priorities and for planning general strategy.
- Use of modern information technology for maintaining details of permitting, inspection, environmental monitoring and enforcement activities and for exchanging and disseminating technical information.
- Arrangements for handling matters relating to the European Union.

Workload

- Systems for planning and prioritising detailed inspection programmes, e.g. on basis of high-level objectives and priorities, the generic features of plant and of risks associated with individual installations.
- Allocation of resources for regulatory function and its support.
- Systems for recording inspector time devoted to tasks and activities.
- Utilisation of legal sanctions.
- Approach to investigation of complaints and to managing and interrogating complaints database.
- Systems for tracking and monitoring outcome of prosecution submissions.
- Arrangements for providing environmental surveillance, environmental incident response and environmental data on 24-hr/day, 7-days/wk basis.

Qualifications, Skills, Experience

- Arrangements for specifying the skills and competences of candidates for recruitment.
- The need for industrial experience or other relevant experience.
- Use of multi-disciplinary inspection teams with a collective range of skills.
- Opportunities for staff to progress professionally within inspectorate.
- Uses of warrants or other forms of inspector accreditation.
- Rotation of inspectors every 3-4 years for experience, to avoid “issue blindness” or over familiarity, and to minimise the risk of corruption.
- Formal declaration of inspector interests, for public ethics purposes.
- Register of inspectors’ skills available to colleagues by way of Intranet.

Training

- Arrangements for designing and providing induction training and further structured professional training for new recruits.
- Arrangements for assessing training requirements of individual members of established staff, and for providing it. (e.g. continuing training and refreshment of technical and legal skills.)
- Role of a dedicated Training Manager and the maintenance and use of formal training records and programmes.
- Assessment of the effectiveness of training programmes.

- Maintenance and use of Personal Development Plans, and sponsored membership of professional bodies.
- Importance of internal seminars, lectures, discussion groups, etc. as a means of ensuring that staff have information on new technical, regulatory, legal, or constitutional developments, and the culture of cascading such information to colleagues.
- Sharing of training programmes or courses with other authorities, e.g. police, to enhance and facilitate roles at the interface between authorities.
- Involvement of inspectors in IMPEL projects for broadening of horizons on European basis.

Procedures

- Formal and informal systems for specifying roles, responsibilities and procedures to be followed by inspectors in undertaking their various duties. (e.g. specification of procedures that reflect the requirements of the MCEI.)
- Specific procedures relating, for example, to joint or team inspections, reporting on inspections, maintenance of public registers, provision of public information, (e.g. on new permits), legal and administrative functions, review of plans and priorities, etc.
- Promulgation of procedures and instructions to staff by way of Policy Documents, “Inspector’s Handbook” or Intranet.
- Provision of copies of relevant procedures to operators.

Standards and Guidance

- Arrangements for providing inspectors with information on emission standards and BAT, and for derogation from these standards.
- Systems for providing guidance on other regulatory matters such as risk assessment, enforcement and prosecution, including use of independent Commissions and third-party experts.
- Co-operative arrangements for inter-regional exchange of information and experience and for dissemination of up-to-date technical guidance, leading to enhanced consistency across regions.
- Standard templates for permits and other formal regulatory documents.
- Maintenance of permitting standards through screening of draft permits by appropriate legal and technical groups.
- Linkage of guidance to the procedures for permitting, inspection and enforcement.
- Systems for communication and dissemination on information on standards and guidance, e.g. by way of Circulars, subsidised publications, Intranet, etc.

Performance Assessment

- Systems for Quality Assurance of regulatory activities by way internal and independent, third party assessment of performance, e.g. examination of the quality of permits, inspections, etc., as required by management systems.

- Adoption of Key Performance Indicators for both quantity and quality of regulatory activities, coupled with arrangements for regular management assessment of programmes against these indicators. (e.g. on basis of monthly reports from inspectors.)
- Use of feed back from operators and independent research (e.g. on external satisfaction surveys) to assess performance and the effects of new legislation.
- Systems for 360° feed back on inspectorate management performance.
- Publication of information on industry performance, and on complaint statistics, coupled with structured system for their analysis.
- Annual review of overall performance by senior management, and modification of systems and procedures, revision of targets and priorities, etc. with a view to improvement of performance as necessary.

Reporting

- Publication of inspectorate targets, priorities and work plans.
- Publication of Annual Reports of inspectorate activities for comparison with work plans.
- Publication of “State of the Environment” reports giving data on releases into the environment and on environmental levels of pollutants.
- Periodic, (e.g. quarterly), publications giving information on “success stories”, naming and shaming operators subject to enforcement action, etc.
- Provision of information to public on cost-free or subsidised basis. (e.g. documentation, manned kiosks, internet, etc.)
- Creation of community groups as a means of informing the public and providing opportunity for debate of local environmental issues.
- Arrangements for providing information to Member States for reporting to the EC.

LESSONS FOR THE IRI REVIEW PROCESS

Lessons for Conduct of Reviews

A large number of valuable lessons were learnt for the future conduct of IRI reviews. Most importantly, it was confirmed that the Questionnaire must be seen only as a guide to discussion, and that the real value of the review lies in having free exchange of ideas around its ten headings. This is of benefit to the Candidate Inspectorate and to Review Team members and the inspectorates they represent. Nevertheless, the structure of review should continue broadly to follow the ordered, regulatory sequence of legislation, application, determination, permitting, inspection, enforcement, review, etc.

Experience also showed that the industrial visit is a most worthwhile component of the review for gaining an external perspective of the candidate inspectorate and is, to some extent, an additional means of assessing the quality of the regulatory process.

As regards lessons for conduct of reviews, specifically, the following were recorded during trial reviews.

- More time should be allowed for effective Review Team briefing at the beginning of the first day of the review, particularly for those team members unfamiliar with the review process.
- Time should be available at the end of each day for the Review Team to recapitulate what it has learnt, and to identify and record the examples of good practice and opportunities for development. This is important for effective production of the Review Report.
- Each day might start with an internal presentation of a summary of the Review Team's impressions from the previous day, particularly where the discussion has involved free or unstructured exchange of views and may have been subject to misconceptions.
- The structure of review should continue to follow the ordered, regulatory sequence of legislation, application, determination, permitting, inspection, enforcement, review.
- The adoption of open-ended questions leads to useful discussion and exchange of ideas that are of benefit to the Candidate Inspectorate and to Review Team members and the Inspectorates they represent.
- The term "Audit" appears to have specific connotations in different languages and different Member States, and needs to be used with care.
- It is important to understand where the legal authority for decision-making lies in order to understand, clearly, the roles and responsibilities of inspectors. This is particularly relevant to issues such as accreditation or warranting of inspectors.
- There should be time during the review to get a closer feeling for the actual work of the inspectors and their products, e.g. by examination of permits, procedures, inspection reports, enforcement notices, etc.
- Include an industrial site visit in the review programme.

- It is most important to have a near-final draft of the Review report for presentation and discussion on the final day.
- The review process is very demanding of those involved and, although sustainable in the short term, will need to be reconsidered for the longer term. The load on the Team Leader, for example, is too high and needs to be shared by other team members. The task of the rapporteur also needs to be considered in the same light.

Lessons for the Overall IRI Process

Various lessons were learnt also for the overall IRI process. The following list is a digest of the more important points:

- The pre-review meeting was confirmed as being essential, and it might be useful for more people from the candidate inspectorate, such as Heads of Division, to participate.
- It is important for the pre-review meeting to clarify issues or questions in the Questionnaire, to discuss practical issues such as the use of language in the review, and to establish the right working relationship for constructive discussion.
- It is important to have summary information about main areas of the Questionnaire in advance of reviews, particularly in regard to constitutional and legal arrangements, but it is desirable to limit preparation of such information to a sensible minimum,
- Allow widening of the Regulatory Scope of IRI reviews to include all aspects covered by the MCEI.
- It is recommended that reviews in Federal States include a participant from at least one other land, community or province not directly involved in the review.
- Direct contact with inspection staff during reviews was invaluable for a balanced report but numbers should not become so large as to impact on the conduct of business.
- Travel arrangements should not curtail time for the pre-review meeting.
- The review needs a fairly large meeting room, e.g. for 12 – 15 people.

LIST OF PARTICIPANTS IN REVIEW.

Maria de los Angeles Barrecheguren Beltran (Spain),	Regional Ministry of the Environment of the autonomous community of Galicia, San Lazaro, E 28071 Santiago de Compostela, Spain.
Annick Bonneville (France),	Ministry of the Environment, DPRI/SEI Av de Segur 20, F-75302 Paris 07 SP, France
Allan Duncan (United Kingdom, Rapporteur),	Consultant, Environmental Protection and Regulation, 14 Rawlings Grove, Abingdon Oxon, OX14 1SH United Kingdom
Jean Pierre Janssens (Belgium),	Director, Brussels Institute for Environmental Management, Division of Inspection and Surveillance, Gulledele 100, B-1200 Brussels, Belgium.
Hans Erling Jensen (Denmark),	Senior Inspector, Roskilde County, Kogevej 80, 4000 Roskilde, Denmark.
Erkki Kantola (Finland)	Northern Finland Environmental Permit Authority, PO Box 113, FIN-90101 GOVERNMENT, Helsinki, Finland.
Inga Birgitta Larsson (Sweden),	Swedish Environmental Protection Agency, SE-10648 Stockholm, Sweden.
Nazrul Meah (United Kingdom),	Department for Food, Environment and Rural Affairs (Defra), Zone 5/F8, Ashdown House, 123 Victoria Street, London, SW1E 6DE United Kingdom.
Martin Murray (United Kingdom)	The Environment Agency, Rio House , Waterside Drive, Aztec West Business Park, Almondsbury Bristol, BS32 4UD, United Kingdom.
Ralf Patzold (Germany),	Head of Unit, Ministry of Environment and Transport, Pf. 10 34 39 D-70029 Stuttgart, Germany.
Terence Shears (United Kingdom),	The Environment Agency, Rio House, Waterside Drive, Aztec West Business Park, Almondsbury Bristol, BS32 4UD, United Kingdom.
Sabine Sommer (IMPEL Secretariat)	IMPEL Secretariat, Environment DG/D.2, BU-9 1/94 European Commission, B-1049 Brussels, Belgium.
Pieter-Jan Van Zanten (The Netherlands).	Provincie Overijssel, Head of Unit Environmental Enforcement, PO Box 10078, 8000GB Zwolle, The Netherlands.

