



IMPEL NETWORK

European Union Network for the Implementation
and Enforcement of Environmental Law

IMPEL REVIEW INITIATIVE (IRI)

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

Phase 3: Testing of the Review Scheme

4th Review: Douai, France, 14-18 October 2002.

Co financed by the European Commission

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1. EXECUTIVE SUMMARY

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

This review was carried out in October 2002 by the kind co-operation of the Direction Régionale de l’Industrie, de la Recherche et de l’Environnement (DRIRE) Nord Pas-de-Calais. A pre-review meeting was held in the offices of the DRIRE Nord Pas-de-Calais in Douai, France on 17/18 September 2002. The nature of the review was discussed and practical arrangements made for it. This meeting reinforced the experience of the first three reviews in confirming the value and necessity for such a pre-review meeting.

The report includes a brief description of French environmental law and the constitutional arrangements for implementing it. The Review Team noted the clarity of the constitutional position of the DRIRE in environmental regulation of classified installations in France. It also noted the comprehensive nature of French environmental law and how all relevant legal instruments, together with supporting information on standards and guidance, were widely available by way of the Internet, as well as by way of conventional publication. It was impressed by the range of administrative sanctions available for non-compliance and, in particular, by the provision for holding a cash guarantee against the completion of required plant improvement or remediation work. Against this background, the Review Team concluded that provisions for implementation of IPPC were covered and noted that its principles were applied also to classified installations beyond the scope of the Directive. It also concluded that arrangements for environmental inspections were broadly in line with the MCEI Recommendation except for “Monitoring achievement of environmental quality standards”, which is the responsibility of other bodies, and “Consideration of environmental audit reports and statements”, which is actually covered in part by arrangements for review of IPPC permits.

The Review Team was impressed by the DRIRE internal management and training systems, and by the Ministry arrangements for their regular general inspection. It noted, in particular, the clear lines of responsibility and their recording in a written Scheme of Delegation, and the issue to inspectors of a Handbook containing all essential guidance including the MCEI. It also noted the extensive arrangements for providing the public with information and the opportunity for debate of important local environmental issues. As regards interaction with the Ministry, the Team suggested consideration of enhanced recognition of local priorities in work planning and more DRIRE involvement in centralised activities such as the setting of emission standards.

The findings of this review were broadly reinforced by separate discussions with a major site operator.

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

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

2. INTRODUCTION.

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

The potential benefits foreseen from such a scheme were:

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

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

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

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

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

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

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

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



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

The third phase of the project is designed to test the review scheme by way of six reviews, over a period of two years, using the Questionnaire and Guidance developed in Phase 2. This report describes the result of the fourth of these reviews. It was undertaken by the kind co-operation of the Direction Régionale de l'Industrie, de la Recherche et de l'Environnement (DRIRE) Nord Pas-de-Calais at their office in Douai, France. The terms of reference for the review are attached at Appendix 4.

This report is the result of a project within the IMPEL network. The content does not necessarily represent the view national administrations or of the Commission. The report was adopted during the IMPEL Meeting in Athens, 14-16 May 2003.

3. PRE-REVIEW MEETING.

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

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

The Reports of IRI Phase 2 and of the first three IRI trial reviews, in Mannheim, Germany, in Wexford, Ireland, and in Brussels, Belgium had each confirmed the importance of such preparation and emphasised the need for advance information in order to allow the review to concentrate on areas of special interest. They had also emphasised the importance of clarifying issues or questions in the Questionnaire that may not be clear, or even relevant, to the candidate inspecting authority.

Martin Murray, IRI Project Manager and team leader for the Direction Régionale de l'Industrie, de la Recherche et de l'Environnement (DRIRE) Nord Pas-de-Calais Review, arranged a pre-meeting for this fourth trial review by way of Mr. Guillaume Panié, Chef du service régional de l'environnement industriel of the DRIRE Nord Pas-de-Calais. The meeting took place in the Douai office of the DRIRE on 17 and 18 September 2002. In addition to Martin Murray and Guillaume Panié, the participants were Annick Bonneville from the Ministry of the Environment and Michel Colin from the DRIRE together with Terry Shears, Project Coordinator.

Martin Murray summarised the objectives of the IRI Project, with particular reference to Recommendation III (4) of the MCEI Recommendations:

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

He emphasised the importance of this voluntary scheme as an effective alternative to some more formal requirement. He explained that the candidate inspectorate owned the IRI Review report and that publication of it, or parts of it, was at the discretion of the candidate inspectorate. He also reviewed the lessons of the first three IRI reviews.

The DRIRE Nord Pas-de-Calais 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. Farming would not be covered by the review since this was not within the DRIRE’s area of responsibility. The final composition of the Review Team would be decided shortly but would include Allan Duncan, Project Consultant. Practical arrangements for the review were also discussed and agreed. These included arrangements for a site-visit to an appropriate installation in order to see, at first hand, how the DRIRE inspectors conduct their business. This was partly in response to a lesson from the first review, in Mannheim, which indicated that “There needs to be time during the review to get a closer feeling for the actual work of the inspectors and their products. (But not to be confused with the objectives of the IMPEL PEEP project.)” and in recognition of the success of such a site visit during the second and third reviews in Wexford and Brussels respectively.

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

Subsequent experience has confirmed that time is saved in the process of review by the opportunity to set a relaxed tone by way of the pre-review meeting, and to demonstrate that there is no need for detailed preparation of answers to individual questions in the Questionnaire prior to the IRI Review.

The pre-review meeting was also a useful opportunity to discuss the potential problem of language becoming a barrier to full participation in discussion. English will not be the first language of most team members nor of DRIRE staff, so the English language of discussion therefore needs to be straightforward and not too fast. Also, where necessary, discussion and clarification of particular points could be carried out in French, with the relevant review team members translating the main points and conclusions for the record of the review.

The meeting concluded with agreement that information on French legislation and on the constitutional arrangements of the DRIRE should be sent to Review Team members in advance of the review, and the following schedule for work was proposed:

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

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

4. REVIEW AND MAIN FINDINGS

This test was conducted in the Douai office of the DRIRE Nord Pas-de-Calais using the revised Questionnaire and Guidance shown in Annex 3. The list of participants is at Annex 5.

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

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

Lessons for the review process are also identified and noted.

4.1 Constitutional Basis for Inspecting Authority.

France has a centralised form of Government, and the State is ultimately responsible for industrial pollution control. This responsibility lies within the Ministry of Ecology and Sustainable Development (the “Ministry”) and, specifically with its Directorate for Pollution and Risk Prevention. Other Directorates are concerned with the related matters of Nature and Landscape, Water, Environmental Evaluation and International Affairs. The Ministry is directly responsible for the preparation of legislation and ordinances and for the management of environmental inspection. In regard to matters concerning industrial pollution control, the Directorate for Pollution and Risk Prevention assumes the lead responsibility but consults the other Directorates on related matters as necessary

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. (The DRIRE Nord Pas-de-Calais is a typical example.) The DRIRE were created in 1992 and are supported by inspectors in over 200 DRIRE offices in the 100 Departments of France. The authority for signing and issuing all environmental permits, prepared by DRIRE inspectors, lies with the Préfet of the relevant Department. He or she is a civil servant and is the formal representative of Central Government for administrative purposes in the Department. The Préfet has a wide range of responsibilities and, within limits, has discretion to modify the conditions in permits in order to balance the local factors and circumstances for which he or she is responsible. A Department Health and Safety Committee advises him or her on technical matters and provides an opportunity for petitioners to make verbal representations.

Environmental regulation on agricultural sites is organised and implemented at Department level by the Directorate for Veterinary Services (DSV) and, in Paris, environmental regulation is organised and implemented by the Technical Service for Inspection of Classified Installations (STIIC), located within the Prefecture of Police, both under the direction of the Ministry for Ecology and Sustainable Development.

Staff from the Ministry of Defence carry out environmental regulation on defence sites subject to Seveso II and IPPC Directives.

In addition to pollution control and risk prevention, the DRIRE are also responsible for regulation of vehicles, pressure vessels and measuring equipment, for nuclear safety, for the security of energy supply systems and for industrial research and development in the Region. In regard to pollution control and risk prevention, individual DRIRE inspectors are responsible for all regulatory aspects on sites under their control. These include permitting, inspection, enforcement and advising on appropriate penalties in relation to enforcement action.

In regard to the MCEI recommendation, the Directorate for Pollution and Risk Prevention has a major, new Efficiency Programme whose objectives are to improve the collective efficiency of French inspections and to explain better the inspection activity to the population. It builds on points contained in the MCEI recommendation. This programme addresses the following topics:

- Organisation
- Monitoring/National follow-up
- Methodology and know-how
- Training/Certification of Inspectors
- Information Systems
- Communication
- International Involvement.

On monitoring or inspection, specifically, the Directorate prepares a National Yearly Action Plan based on thematic priorities. In 2000, for example, it addressed such issues as heavy metals, Seveso II sites and waste incinerators. These are identified initially by way of communication with both inspectors and with other interested parties including industry, and the resulting plan is subjected to further wide consultation before it is issued. This plan is promulgated formally by way of an Administrative Circular to the Préfet of each Department and is published on the Ministry website. In addition, the Directorate has defined about 1800 priority installations in the whole of France, on the basis of their emission levels or high levels of risk. It has set rules requiring management of their regulation by the DRIRE at Regional level, as opposed to Department level, and their inspection at least once per year. The results of DRIRE regulatory activities on these 1800 or so priority installations are published in a high level annual report. More detailed Regional reports are also published.

In regard to national follow-up, or review of delivery of tasks, the Director for Pollution and Risk Prevention and his Chief Inspector meet with each of the Regional DRIRE Directors and their Heads of Environmental Inspection annually. The Ministry also arranges general inspections of the environmental inspection function in Regional DRIREs. They appoint independent, experienced individuals for this purpose and about five such inspections are conducted every year, so each Regional DRIRE inspectorate is inspected about once every five years on the specific activity of environmental inspection..

Inspection activities are funded wholly by the State by way of general taxation, which includes the environmental fees and charges levied on industrial installations. Previously these inspection activities had been funded in part, and directly, by these fees and charges. The fees and charges do not cover the full regulatory costs, however, and no attempt is made to match fees and charges to the costs of regulation.

In regard to development of new legislation, and identification of any shortcomings with existing legislation, there is a direct line of communication from inspectors in the field, by way of line management, to the Ministry. Industry also has the opportunity to make relevant input to this activity.

The Member State responsibility for dealing with transboundary issues, under Article 17 of the IPPC Directive, has been delegated to Préfets. They are directly responsible for devising and implementing systems for satisfying the requirements of the Directive in regard to providing information about installations in their own Departments and to responding to notifications about installations in neighbouring Member States that may affect their Department. In this context, they are the representatives of the Member State and no direction or guidance is given by Central Government. They consult local DRIRE inspectors about notifications received from other Member States, but the system for dealing with such notifications does not appear to be completely developed yet.

In the international context, DRIRE inspectors at the national, regional and sub-division level participate in IMPEL programmes. Domestically, exchange of information and personnel occurs between DRIRE Divisions responsible for conventional pollution control and for nuclear safety, for example. Similar exchanges occur between DRIREs in different Regions by way of national working groups organised by the Ministry. Exchanges between DRIRE inspectors and their counterparts in the DDSVs or the Ministry of Defence are less developed.

Examples of Good Practice.

- Clarity of the constitutional position of the DRIRE vis-à-vis the French Central Government authorities.
- Publication of annual national plan that identifies thematic priorities.

Opportunity for Development.

- Continue to support Préfets in developing a procedure for handling notifications from neighbouring Member States under Article 17 of the IPPC Directive and, perhaps, for carrying out joint activities with Inspectorates in these States.
- Continue to encourage exchange of information and co-operation between DRIRE inspectors and their counterparts in DDSVs and Ministry of Defence.

4.2 Legal Basis for Inspection Authority.

In France, the first general text concerned with regulation of installations giving rise to nuisance or risk was the Imperial Decree of 15 October 1810. This has been progressively developed and modified over the years but has retained the principle of classification of industrial installations according to the level of nuisance or health risk to the occupiers of neighbouring dwellings.

In regard to prevention of industrial pollution and risks, the legislation implemented by the DRIRE derives from the Law of July 1976 concerning classified installations and introducing integrated permitting. The Environmental Code of July 1976 and the associated Decree of September 1977 set out the detailed provisions for an integrated approach to pollution and risk prevention. There were three categories of installation reflecting, in decreasing order, the associated levels of nuisance or risk; i.e. those requiring “Authorisation”, those requiring “Declaration”, and those described as “Uncontrolled”. The body of existing law collectively covered all aspects of the IPPC Directive except for the requirement to review permits. This latter requirement was covered by a minor modification requiring review of the permits of IPPC installations within 10 years, effectively completing transposition of the IPPC Directive into domestic law. This and other relevant legislation was consolidated into a single Environment Act in 2000. This body of legislation also implements the Seveso II Directive. The details of all relevant legislation is available on the Ministry website where it is updated every week. Copies are also available on CD ROM updated four times a year.

The DRIRE is not responsible for inspection of defence establishments or farming installations, but sites belonging to the State or to Municipalities are regulated in the same way as if they were operated by private operators. Visits to classified sites covered by declarations are usually carried out only as a result of public complaints or as part of a campaign of inspection of particular industries or types of site.

In cases of imminent danger, an inspector must seek authorisation from the relevant Préfet before he or she may close down or suspend operation of the offending installation. Although there is a procedure that allows for the rapid provision of such an authorisation, the Review Team noted that it might be better if, in such cases, the inspector could act immediately and then seek the Préfet’s approval or confirmation retrospectively.

The main pieces of legislation that interact with environmental legislation on classified installations are those relating to worker safety, public health and urban planning. Worker safety is regulated by a single, national authority, which does not report through the Préfet. The authorities responsible for the other aspects interact with the Préfet in the same way as does the DRIRE. A hierarchical process for resolution of any conflict between these regulatory regimes is available, but informal contact between the relevant authorities at Department and Region levels is encouraged and such conflict appears to be rare.

There is a considerable amount of interaction between IPPC regulation and urban planning. Urban planning is actually the responsibility of the Municipalities but the

Préfet may over-rule the Mayors if necessary. As regards any matter concerning the interaction of worker safety and environmental protection, informal meetings are held with the authority responsible for the safety of workers once a year, both regionally and locally. One of the ways by which conflict between regulatory regimes is avoided is by having goal-based conditions in permits. This means that the permit describes the desired outcome and it is a matter for the operator to decide how that is to be achieved in a way that is consistent with all regulatory requirements.

Because of the potential for conflicting or duplicating requirements from the DRIRE and the Public Health Authorities, there is a concordat between the local Health authorities and the DRIRE concerning the specification of information requirements. This was seen as an example of good practice, which might be extended if appropriate to other matters such as worker safety.

The State sets standards for Emission Limit Values, Environmental Quality Standards and Best Available Techniques (BAT). Site-specific BAT assessments are undertaken by the DRIRE. The BAT for an installation is addressed when deciding applications for new permits. For IPPC installations, the BAT is assessed at least every 10 years as the permit is reviewed. For non-IPPC installations, there is no minimal frequency for the assessment of the BAT. These assessments are guided by EC BREFs, where available. Résumés, in French, of those EC BREFs already issued have been placed on the Ministry website, and the intention is to translate all BREFs and to produce guidance on how to use them.

There are various arrangements for appeal against the conditions in a permit. A company has two months from the time of issue in which to appeal against permit conditions. All other parties who can prove an interest in the permit, including NGOs, have four years to appeal against permit conditions, or one year in the case of permits for public institutions. The consideration of an appeal is initially by the DRIRE itself. This is then followed sequentially, as necessary, by an Administrative Tribunal, Administrative Appeal Court and Counsel of State.

Members of the public have two opportunities to participate in the permitting process. The first is by way a public hearing on the application prior to formulation of the permit by the DRIRE inspector. The second, prior to its signing and issue by the Préfet, is by way of petition to the Department Health and Safety Committee that advises him or her. It was noted that it is in the context of the public hearing that the broader matter of Environmental Impact Assessment is addressed and the related issues of Habitats, etc. considered. The application is advertised in newspapers and in notices within a specified radius of the site in question, the size of the radius depending on the nature of the site in question. The public hearing procedure lasts one month during which time the proposals are presented in Town Halls and the public is invited to make comments. In this context, it was noted that permits for short-term trials may be developed without reference to a public hearing. There are time limits specified for the various stages of the permitting procedure but, in practice, these can readily be extended with the approval of the Préfet, and it takes an average of nine months for a decision on an application to be reached. The Review Team suggested setting a maximum period for reaching a decision on the application. In general, once a permit has been decided there is no time limit on the period of its validity. For IPPC permits, however, there is a

requirement to review permits at least every ten years. Seveso II safety cases are reviewed every five years.

In cases of non-compliance with the conditions of a permit, administrative and criminal sanctions upon operators are available. Administrative sanctions include issue by the Préfet of a notice to comply. They also include a requirement for the operator to deposit of a sum of money with the DRIRE as guarantee against completion of any plant improvement or remedial work required to secure compliance. This is reimbursed if the operator carries out the necessary works. The third level of administrative sanction is the suspension of the installation until it is in compliance. In addition, if criminal sanction is considered appropriate, a prosecution report may be submitted to the Public Prosecutor. The line of communication from inspectorate to the Public Prosecutor does not go through the Prefect.

Examples of good practice.

- Consolidation of environmental legislation in the Environment Act of 2000
- Details of environmental legislation available on the Internet and updated every week, supplemented by its availability on CD ROM, updated four times a year.
- Administrative penalties, which include holding a financial guarantee against the need for, plant improvement or remediation.
- Translation of résumés of the available EC BREFs.

Opportunities for Development.

- Consider arrangements for periodic review of all permits, on the lines of the requirements for IPPC permits.
- During the inspection process, inspectors might review the status of plant on sites against contemporary BAT with a view to updating permits.
- In the absence of an externally specified time limit for the complete process of permitting, DRIRE may wish to establish an internal target time.
- Consider with the Ministry whether there might be circumstances of imminent danger in which it would be appropriate for inspectors to suspend plant operation without prior agreement from the Préfet, but with retrospective confirmation.
- Noting the helpful development of a concordat on information requirements between the Ministry of Ecology and Sustainable Development and the Ministry of Health, the DRIRE may wish to consider the value of similar concordats with other authorities, such as those for Worker Safety.

4.3 Organisational Structure and Management.

As noted in Section 4.1, the Direction Régionale de l'Industrie, de la Recherche et de l'Environnement (DRIRE) in each of France's 24 Regions is responsible for organisation and implementation of environmental regulation under the direction of a Chief Inspector located in the Directorate for Pollution and Risk Prevention in the Ministry for Ecology and Sustainable Development. Common procedures and systems apply across all regions, and internal management systems have many of the features of ISO 9001 and ISO 14001 standards. Also as noted in Section 4.1, in the context of

“National follow-up” within the “Efficiency Programme”, the implementation of systems and procedures is subject to two levels of general inspection organised by the Ministry. In addition, the DRIREs in two regions have had their management systems certified to the ISO 9001 standard.

With the exception of some specific features, the DRIRE Nord Pas-de-Calais is a typical example of a DRIRE. It has a total staff complement of 250 Full Time Equivalents (FTEs). Of those concerned with prevention of industrial pollution and risks on classified installations, 55 FTEs are technical staff, categorised within the French Civil Service system as Engineers or Technicians, and 20 FTEs are administrative staff. An organisational structure chart is shown at Annex 6. The Regional Director is supported by 4 Heads of Functional Divisions, the Heads of a General Secretariat and of a Communication Service, and by 4 Heads of Groups of Sub-Divisions. 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 and which, for management purposes, are grouped under a local Head of Group.

Prevention of industrial pollution and risks on classified installations is the responsibility of the Environment Division. The Head of Division is supported by 10 specialist inspectors (responsible for air, water, contaminated land, etc.) and their administrative staff. This team is the link to the Directorate for Prevention of Pollution and Risks in the Ministry, and to the Planning Authorities. It also provides specialist media-based technical advice to site inspectors, who operate on an integrated basis in the Sub-divisions. There are 25 Sub-divisions (out of total of 40 in the DRIRE Nord Pas-de-Calais) wholly dedicated to prevention of pollution and risk from classified installations. In this last regard the DRIRE Nord Pas-de-Calais is not typical of DRIREs in general. Each of these Sub-divisions has 1 inspector at Engineer level and some have another at Technician level.

As noted in Section 4.1, site inspectors are generalists and work on an integrated basis, with responsibility for all the activities of permitting, inspection and enforcement, under the authority of the regional division. They have access to specialist support from the Regional office as required. However, the system is flexible enough to allow individual inspectors to have a portfolio of responsibilities that takes advantage of any individual specialist experience and that may extend beyond the boundaries of his or her Sub-division. Two important rules apply in the DRIREs generally. The first is that inspectors do not mix regulatory and advisory functions, in order to avoid conflict of interest. The second, which does not now apply to DRIRE Nord Pas-de-Calais because the relevant Sub-divisions are wholly dedicated to environmental activity, is that those with environmental regulatory responsibilities must devote at least 50% of their time to these activities in order to maintain their levels of competence.

Regulatory policies, objectives, strategies and priorities are set centrally by the Ministry and promulgated formally by way of the Administrative Circulars to Préfets, as described in Section 4.1. These circulars address priority sites and national strategic themes. The themes reflect national priorities and are designed to achieve improvements in pollution control and reduction of the risks associated with classified

installations. They are generally issued annually and are publicly available. When these circulars are issued the DRIREs establish a regional implementation strategy, which is published on the Intranet. The opportunities for inclusion of local priorities at this stage appear to be limited, because of the limited staff available. Detailed local implementation arrangements, including work programmes for individual inspectors, are then agreed between the Regional Director, the Head of Division and the Sub-Division Heads.

Analogous arrangements apply to the central setting of standards and norms for DRIRE regulatory activities, including permitting, inspection and enforcement, and these are reflected in the documentation published by the Ministry on its website.

Formally, regulatory decisions are taken and promulgated by the relevant *Préfets* on the basis of proposals made by the DRIRE. The authority within the DRIRE for deciding the substance of such proposals depends on the nature of the proposal, and its delegation to the various levels of management is documented in a Scheme of Delegation, which is reproduced at Annex 7.

The actual costs of DRIRE regulatory activities are reflected primarily by the staff and facilities deployed. The Ministry reviews total national requirements annually, and allocation of available national resources to individual regions is based on the relative level of industrialisation of the region. The DRIREs do not maintain records of time spent on individual activities for accounting purposes. The Ministry holds the budget for research, although relevant industries might be invited to fund studies in areas specific to their regulation. Research on behalf of the Ministry is carried out by the National Institute for the Industrial Environment and Risks (INERIS), which, amongst other things, maintains the Ministry's website.

Examples of good practice.

- The documented scheme of delegation of authority for decision-making.
- The available resource (which is national) is allocated to regions on the basis of their respective industrialisation levels (even if, globally, the available resource is not matched to the global workload. Accordingly, no mechanism is in place to ensure that the available resource on a regional scale is matched to the regional workload)
- Publication of regional implementation strategy derived from national thematic priorities.

Opportunities for Development.

- Consider the practicality and relative merits of separating the permitting and inspection functions as practiced elsewhere.
- Consider, with the Ministry, the opportunities for addressing more local priority issues in development of the regional implementation strategy in cases, for example, where emissions may be low but the environmental impact disproportionately high.
- The circulars from the Ministry are very clear and set specific tasks but arrangements for feedback from the DRIRE to the Ministry might be further developed.

4.4 Workload.

In 2002, there are, in the whole of France, about 64 600 sites containing installations subject to authorisation and about 450,000 sites with installations subject to declaration. Of the sites with installations subject to authorisation, about 6,000 (<10%) contain at least one installation categorised as an IPPC installation under Annex 1 of the IPPC Directive, and 1,150 contain installations subject to the Seveso II Directive.

The Regional DRIREs each maintain a database of sites in their region that contain classified installations subject to authorisation. These are merged into a national database twice yearly. The Préfets are each required to maintain a record of declarations from sites in their Department. There is currently no national database for the 450,000 sites subject to declaration. There were 18,000 new sites of this latter kind in 2001.

The DRIRE Nord Pas-de-Calais is currently responsible for control of about 2000 sites containing installations classified as requiring authorisation. These include about 325 sites containing at least one IPPC installation, and therefore subject to the additional requirement for permit review within 10 years. This number excludes those IPPC installations in the Region that are related to agricultural activities and are regulated by the DDSV.

On these 2000 sites 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”.

In the French language version of the MCEI, however, reference is made in the latter activity to “declarations” and, under French law, an environmental declaration is required from operators of IPPC installations as part of the process of reviewing permits within 10 years. Hence, although not related to the EMAS scheme, as was the original intent of the recommendation, the DRIRE inspectors carry out a closely related activity.

The average rate of inspection for all sites with installations requiring authorisation is about once in four years. For those sites with installations classified nationally as “priority” installations the frequency of inspections is at least once per year.

As described in Section 4.3, the Ministry produces an annual, national plan identifying a number of themes for priority action, which is then developed into a regional implementation strategy. This is used as the basis for inspectors work plans and allocation of resources. In some Regions, the DRIRE allocates specific periods of time for inspections, for the purpose of work planning. Others, including the DRIRE Nord Pas-de-Calais, prefer an objective-based approach in which the number of inspections to be carried out per year is specified in the work plans of individual inspectors. A similar approach is preferred for the activities of producing a permit, maintaining it and undertaking any related enforcement action. This approach is preferred because the

national resource of environmental inspectors is already allocated between Regional DRIREs on the basis of levels of industrialisation in the Regions and an attempt to share fairly the workload on inspectors. In DRIRE Nord Pas-de-Calais environmental inspectors devote 100% of their time to the environmental regulatory function. Collectively, the 55 inspectors in this DRIRE produce about 150 new permits and 300 permit modifications in a year and the site inspectors, individually, carry out 15-20 inspections per year on average. Reference to national data for numbers of inspectors and numbers of inspections carried out show that this is close to the average for the whole of France. The Review Team noted that the requirement to review permits for IPPC installations every 10 years, and permits for Seveso II installations every 5 years, will add substantially to the load associated with permit production. It was not obvious that this has been taken into account in the national workload planning.

In this general context, it was noted that the DRIRE prioritises its resources, against four main tasks, i.e. implementing legislation, permitting, inspection and complaint investigation. At present, complaints are given a low priority but liaison committees associated with individual, contentious sites, including landfill sites, have been set up to facilitate discussion between industry and neighbours. These liaison committees currently cover only a limited part of the territory. The DRIRE is considering their development.

The State levies charges for issue of new permits and modifications requiring a public inquiry. It also makes an associated annual subsistence charge. The charge for a permit or modification is typically €2,000. Annual subsistence charges are based on plant complexity. A large chemical plant would typically be charged about €30,000 and a small, simple plant €300. The cost of discharge sampling and monitoring required by a permit is borne directly by the relevant operator.

In regard to inspection activity, the ratio of inspector time on installations to time in the office is determined by the need for preparation for inspection and for follow-up activity. Typically, one day on site requires one day of preparation and two days for follow-up activities, giving a ratio of 1:3 for time on site to time in the office for inspection purposes. The ratio of time spent on planned, routine inspection to time on non-routine inspection is determined by the incidence of complaints or accidents. As described above, no specific allocation of time is made for these activities in the development of objective-based work plans but historic, national data indicate that the ratio of time on routine inspections to time on non-routine inspections is typically about 8:1. This ratio reflects the priorities of the DRIRE Nord Pas-de-Calais, which places a lower priority on public response than on routine regulatory activity.

In 2001 the following administrative sanctions were applied:

- 344 Notices to comply.
- 14 Guarantees of funds for work on improvements or remediation.
- 18 Suspensions of operation.
- 0 Closure orders.

In addition, 68 prosecution reports were submitted to the Public Prosecutor. The DRIRE has an effective database for tracking the progress and outcome of these submissions and full details are available to staff by way of the Intranet.

As regards pre-application contact with operators, an Administrative Circular of September 2001 allows a limited amount of time for pre-application activities and limits these to providing advice on what is required in an application for a permit. It allows for only one meeting with an operator prior to application and for only one request for further information if an application is incomplete. After this, an application must be accepted as adequate or it must be rejected.

Examples of Good Practice.

- Objective-based work plans for individual inspectors.
- Effective utilisation of available legal sanctions.
- System for tracking and monitoring of the outcome of prosecution reports submitted to the Public Prosecutor

Opportunities for Development.

- Consider reviewing the balance of priorities as between public response and routine inspection.
- Discussion with the Ministry of the work load implications of review of permits for IPPC and Seveso II installations.
- Encourage development of database of sites with installations subject to requirement only for declaration.
- Consider review of arrangements for work and resource planning.
- Consider comparison of regulatory performance with other Regional DRIREs.

4.5 Qualifications, Skills and Experience.

DRIRE inspectors are permanent civil servants recruited by the State and employed for the Ministry for Ecology and Sustainable Development, and subsequently deployed to the Regional DRIREs. They may be engineers or technicians. Engineers occupy more senior positions and the majority are recruited by way of competitive examination from four Ecoles des Mines, in Douai, Ales, Albi and Nantes, which are sponsored by the Ministry for Industry as opposed to the Ministry for Education. Entry to these institutions is very competitive and the resulting qualifications are highly regarded. Students receive a broad technical and scientific training resulting in an Engineering Diploma, and the competitive examination is designed to meet DRIRE requirements. Successful examination candidates become members of the national Corps of Engineers for Industry and the Mines and their professional development is reflected in progression through the various levels of seniority of this body. This, in turn, influences the career development opportunities open to them within the DRIRE. A small proportion of engineers are similarly recruited by competitive examination mostly from Ecole Polytechnique. These become members of the more senior Corps of Engineers for the Mines, and members of this Corps eventually occupy the most senior positions.

They are eligible for positions not only in the DRIRE but also in certain Central Government Ministries.

Technicians are recruited by way of national, competitive examinations that are not based on the four Ecoles des Mines mentioned above. Successful candidates are admitted to the Corps of Technicians for Industry and the Mines and are given a one-year training course on general technical subjects and environmental subjects, with concentration on topics of interest to the DRIREs. After 8 years, technicians may transfer to the Corps of Engineers for Industry and the Mines by way of an internal, competitive examination.

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. These arrangements do not depend necessarily on recruitment by way of the Ecoles de Mines or the Ecole Polytechnique. Such arrangements are being used in the national recruitment of an additional 150 DRIRE inspectors, following recent experience of serious accidents on major, classified installations. (e.g. the incident at Toulouse.)

New entrants to the DRIRE, and those transferring or returning to the Environment Division from other Divisions, are given a Foundation Training Course before being allowed to carry out regulatory activities on their own authority. This comprises two separate weeks of training with an interval of three months between them, during which time practical, field training is given under the supervision of an experienced inspector. The first week comprises training on legal, governmental and administrative aspects together with instruction on the major principles of inspection and associated matters. The second week addresses the specific issues of water and air pollution control, evaluation of health effects, accident risk, soil pollution, waste, radioactive sources and noise and vibration.

At the end of this training, new entrants are recognised as qualified inspectors and given warrants as evidence of their authority and of their right of entry to sites that may have an impact on the environment. Their work is still subject to an element of supervision by way of a system of second-level control in which a line manager checks their activities.

A further “Basic” training programme is currently in development. It is intended that over the three years following completion of the Foundation training, a further 25 days of training will be given. This will comprise nine separate modules addressing the following issues in more detail.

- Industrial risks (5 days)
- Water (3 days)
- Air and odour (3 days)
- Wastes (3 days)
- Soil pollution (3 days)
- Health effects (3 days)

Public affairs (2 days)
Emergency management (1 day)
Information and communication (2 days)

Consideration is currently being given to how to recognise satisfactory completion of this training by way of a title such as “Confirmed Inspector” and reduced requirement for second-level checking of their work.

In addition to the above training, if further qualifications or skills are required for specific positions or functions, specialist training is also provided.

Vacant posts in the DRIRE are open on a national basis, and are subject to the general employment principle of fairness in selection. Hence, because staff qualifications are generally broad and any attempt to match staff to particular posts would be regarded as unfair, such matching is not allowed excepting for a few post of specialist. For the first level of inspectors, selection is based on seniority only. Appointees are expected to remain in post for at least 3 years before seeking another position. Generally, site inspectors are expected to be generalists and to cover all technical sectors of industry within the DRIRE remit, calling on support from specialists at the Regional level if necessary. As noted in Section 4.3, however, the system allows for an element of site inspector specialisation.

The issues associated with “regulatory capture”, “undeclared interests” and “issue blindness” are generally avoided by way of the provisions for second-level control mentioned above, by the involvement of the Préfet in formal promulgation of regulatory decisions and by the external general inspections organised by the Ministry. The situation is also helped by rotation of inspectors’ duties. There is no administrative system requiring regular rotation of inspectors’ site duties but they change in the natural course of events at periods typically between 3 and 10 years. DRIRE inspectors are not required to declare any particular interests, such as shareholdings in companies regulated by the DRIRE, but they may not hold any other employment except as authors, artists etc.

Examples of good practice.

- Issue of warrant as evidence of inspectors’ authority and right of entry to sites after appropriate foundation training.
- Appointments expected to last for 3 years before re-assignment.
- Opportunity for technicians to transfer to Corp of Engineers.

Opportunities for development.

- Consider introduction of formal system for rotating inspectors between sites and between the permitting and inspection functions.
- Consider formal recognition of the status of “confirmed inspectors” by way of the documented Scheme of Delegation.
- After experience of recruitment of 150 specialist inspectors by special arrangements, consider extending practice to direct entry of professional engineers to inspector positions.

4.6 Training for IPPC.

The Ministry sets high-level priorities for training that are reflected in the programmes designed to provide basic qualifications and skills, as described in Section 4.5 above. Beyond this, the DRIRE decides what further training is appropriate in discussion with individual inspectors during annual appraisal meetings with their managers. The requirement may be for development of new skills, or simply for refreshment of existing skills in the case of experienced inspectors. Following this review, a record is made of the training that is considered appropriate for the inspector to undertake during the following year. Each inspector has a record of the formal training he or she has undertaken during his or her career, but this excludes details of training “on the job.” This record is held on a database by the Finance and Administration service

Most training is provided centrally by the Ministry and is open to inspectors from DRIRE, DDSV, STIIC, and MoD. Details of available training courses are made known to staff by way of a prospectus published by the Ministry. Some training, however, is organised locally by DRIRE Nord Pas-de-Calais, using both internal and external trainers, as required.

Arrangements are made for feedback on the quality of training after it has taken place. For example, new inspectors complete a questionnaire after the first week of their Foundation course. The inspector’s annual appraisal with his or her manager, which will normally consider the effect on his or her daily work of any training course undertaken, also provides an opportunity for discussing its usefulness. Of course, this may be some time after the training has taken place.

Awareness of relevant technical, policy and regulatory developments is maintained within the DRIRE by means of the Intranet, seminars, circulars and other information systems. Meetings of specialist inspectors are held within the DRIRE and expert working groups are also organised nationally by the Ministry. Minutes of these working group meetings are made available to staff, usually in hard copy and in some cases on the Intranet. The Review Team noted the potential for wider use of the Intranet for this purpose.

There is no formal requirement for an inspector to undertake training beyond the basic training, and no formal sanction for any refusal to do so in order to develop or retain an appropriate level of skill. Rather, good performance is rewarded and those whose performance is less good are given incentives to do better. The performance of any poor performers who refuse the opportunity to upgrade their skills would normally be monitored more closely during the following year and it is possible that they might be required to carry out different tasks or that the scope of their activities might be reduced.

Examples of good practice.

- Well-structured foundation and basic training courses for new recruits and transferring or returning staff.
- Overall training arrangements are well developed and take advantage of both internal and external training providers.
- Training records are very clear and well organised documents.

Opportunities for development.

- More formal arrangements for requiring refreshment training, where necessary, might be considered.
- Greater use might be made of the Intranet to publish minutes of meetings of groups of experts

4.7 Procedures.

In general, the prescriptive nature of French Laws, Decrees, Arrêtés, Circulars, etc. is such that they already provide much of the procedural guidance and instructions necessary for consistent conduct of environmental regulatory activities. Nevertheless, the Ministry's Efficiency Programme commits to definition of common methodologies for dealing with permit applications, on-site inspections and associated enforcement activities, and a range of documents is publicly available by way of the Internet. In addition, the DRIRE has a substantial number of written internal procedures and instructions designed to supplement those provided by legal instruments and Ministry documents. The list of DRIRE Nord Pas-de-Calais procedures is available on their Intranet and the Review Team was given various examples in hard copy for examination. Also, 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.

As regards determining, issuing and reviewing permits, the Decree of 1977 sets out the requirements for submission of an application for authorisation of a classified installation. These requirements are further developed in subsequent decrees. Advice to operators on how to make an application is given on the DRIRE website and further detail is available in a separate Ministry circular. A standard model permit developed by the DRIRE for installations requiring authorisation, including Seveso II installations, is available on the Internet. This model permit is a Regional product but a national model is currently in development. Legal guidance on the standards to be applied in determining applications for particular types of installations is also on the Internet.

A national Arrêté of July 2000 describes the information requirements and the procedure for 10-year review of IPPC installation permits. In the case of old plants, the 10 years is counted from the date of the last public inquiry associated with substantial permit modification.

The revoking of a permit can be construed in the French law as either suspension of plant operation or complete withdrawal of the permit. The procedures are described in legislation. The Préfet of the relevant Department implements suspension but withdrawal requires the authority of the Minister.

The scheduling and planning of inspections are carried out broadly according to the MCEI Recommendation. As already explained, high level plans and priorities are produced nationally and are publicly available. These are elaborated at local level using the extensive database of information on sites and installations under DRIRE control. The DRIRE appeared, however, to take no account of EMAS reports in inspection planning and seemed unaware of any role they might have on an EMAS registered site in regard to reporting of non-compliances to the EMAS Competent Body. (It was noted, however, that the uptake of EMAS registration in France is very low.)

Arrangements are in place for coordination of inspection activities with other relevant inspecting authorities, in particular the DDSV and the worker safety authority.

The written procedures include arrangements for conducting in-depth inspections and for progressing related enforcement actions. These include arrangements for reporting on inspections and, in particular, an excellent pro-forma for inspection reports. The Review Team examined examples of inspection reports and was able to confirm their good quality. In regard to criminal prosecution specifically, there is national guidance on when to submit a prosecution report, and local instructions are produced by each DRIRE on how a proposal for prosecution should be undertaken. The decision on whether to submit a prosecution report is made on a case-by-case basis, but it is estimated that only about 15% of prosecution reports lead to actual prosecutions. Although there is a good system for tracking the progress of prosecution reports, as described in Section 4.4, there did not appear to be a well-developed system for reviewing the outcome of such submissions or for learning any lessons for their preparation and submission. The Review Team noted that it might be helpful to have feed-back from the Public Prosecutor in this regard but noted also that the DRIRE had no in-house lawyers to analyse the information and formulate the lessons

As regards public information, public inquiries are held in the cases of all authorisations and the proceedings are published in appropriate newspapers. Permits are publicly available on request, as are inspection reports after the Préfet has agreed those matters or actions that fall within his or her powers. In addition, DRIRE Lorraine has piloted the Internet publication of new permits and non-compliance information. This approach is to be extended to other regions, and arrangements are currently being made to place new permits on the Intranet and to make them available to the public on the Internet by the end of 2002.

In addition, the DRIRE hosts a Permanent Secretariat for the Prevention of Industrial Pollution (SPPPI) whose role is to provide information to the public, NGOs, elected officials, etc. It is funded equally by the DRIRE, the Local Municipalities and Industry.

As regards dealing with accidents, all SevesoII sites and some other hazardous sites have detailed emergency plans. The key players are the Fire Service and the Security Services, operating under the authority of the Préfet. The DRIRE has an emergency

response procedure, in the form of a checklist of questions and actions provided by the Ministry and available on the Internet. In practice the DRIRE sees its main role as organising a review of the lessons to be learnt from any accident and modifying the permit to prevent recurrence. The ministry also maintains a database of incidents and accidents on Internet; the DRIRE makes available information on the significant accidents that occur in the Region on its Internet site and the Review Team queried whether real time information could be entered and made available to the public by way of the Internet.

Examples of good practice.

- Availability of written instructions to supplement the requirements and procedures defined in legal instruments.
- Inspector's Handbook containing all essential guidance including the MCEI.
- The pro-forma for reporting on site inspections.
- The proposed publication of new permits on the Internet.
- Public availability of inspection reports after the Préfet has agreed those matters or actions that fall within his or her powers.

Opportunities for development.

- Encouragement of development of the national model permit for classified installations subject to authorisation.
- Consider seeking advice on any role expected of the DRIRE in regard to the EMAS scheme, particularly in regard to reporting of non-compliance to the Competent Body.
- Consider seeking feedback from Public Prosecutor on the outcome of prosecution reports for purpose of learning any lessons.
- Consideration of need for in-house legal expertise to assist with above exercise.
- Continue placing real time information on incidents and accidents on the Internet as well as the Intranet.

4.8 Standards and Guidance.

Emission standards for inclusion in environmental permits, and against which regulatory judgements may be made, are set out in a series of Arrêtés published in the French Official Journal. These have been collected together in a list published on the website maintained on behalf of the Ministry by the National Institute for the Industrial Environment and Risks (INERIS), at <http://aida.ineris.fr>. There is a series of industry sector specific Arrêtés and one major, integrated Arrêté (February 1998) which addresses the remaining industry sectors. In addition, the latter document provides generic standards for application in the absence of sector-specific information. The standards are given in terms of mass per unit of production (e.g.mass of NO₂ released per tonne of nitric acid produced) or in terms of concentration.

They are given in the form of limit values with mandatory force or in the form of guide values. The limit values may be mandatory, without qualification or exception, in which case inspectors can only vary emission limit values downwards in a permit. Or they

may be mandatory subject to derogation allowing higher levels to be set, but only on the advice of the national committee set up to advise the Ministry on these matters. Guide values allow inspectors to set emission limit values either higher or lower but, in the case of higher values, only with good justification.

In some cases, the quoted limit values apply only to new plant. In such cases, the permitted emission limit values for an existing plant are based on what is judged to be BAT for that specific installation, or on levels proposed in the original permit application and which have been subjected satisfactorily to environmental impact assessment.

The Ministry on the basis of advice sets the published standards from a national committee (CSIC) comprising representatives of all interested parties, including the DRIRE . This is the committee that also advises on derogations from mandatory standards. It is supported by a range of sector-specific working groups in which it was noted that DRIRE involvement is limited. The standards are detailed. For example, in the case of limit values for liquid discharges, they recognise the difference between discharges to surface waters and discharge to sewers. In the case of the latter, they also recognise the difference between discharge to sewers with and without collective sewage treatment plant.

All these emission standards did not appear to be subject to a system of periodic review. This is done only for some of them, usually as a following of a national actions Rather, they are revised when required by way of new Directives, new environmental assessments or new technical developments with consequent changes in BAT. (A parallel system of Arrêtés addresses technical aspects of control of risks on Seveso II installations.)

As regards technical guidance on BAT, inspectors currently depend on publication of the EC BREFs, which will be translated into French in due course. So far as the setting of Emission Limit Values is concerned, of course, this generic BAT guidance is already reflected in the published emission standards, which include provision for justified adjustments to reflect local circumstances as described in Article 9(4) of the IPPC Directive.

Where the DRIRE needs highly specialist advice as, for example, in risk assessments associated with Seveso II and other hazardous installations, it may employ independent third party specialists at the cost of the operator of the relevant installation. To ensure further that the advice given is truly independent of the operator such specialists may be selected from outside France. In recognition of the importance of this matter, the Ministry has been associated with compilation of an informal list of third-party experts in whose independence they are confident and who are entrusted with the task of reviewing and advising on the validity of major risk assessments. There appears to be some reluctance to fund such expert advice directly from the DRIRE budget in order to remove any lack of independence arising from funding by operators. The difficulty may be removed, however, following the decision that some of the 150 inspectors to be recruited by special procedure will be assigned to specialist risk assessment groups. By the end of 2002, in order to pilot this scheme, six such groups each comprising six inspectors will be set up. One group will be in DRIRE Nord Pas-de-Calais. There are

currently no parallel proposals, however, for creation of such specialist teams for environmental or health risk assessment.

At a more general level, guidance may be sought from colleagues in the Ministry. This may be done either by a formal letter, which will result in a formal reply, or less formally by electronic mail or telephone. In addition, there are meetings of media-specific Standing Groups organised every two months by the Ministry. These provide an opportunity to discuss specific issues or problems. The Review Team noted that, apart from the system for consulting regional specialists, there appeared to be no mechanism by which an inspector might identify a fellow inspector with specific expertise or experience for discussion of a technical matter or from whom to seek guidance on a specific issue. It noted that in other inspectorates this is often done by way of a searchable register of experience, coupled with a searchable record of answers to previously asked questions.

Examples of Good Practice

- Availability of Arrêtés giving detailed information on emission standards to be used in permits.
- Formal arrangement, by way of national committee, for advising on derogation from mandatory standards.
- Listing of informally approved independent, third party experts for advising on validity of risk assessments.
- Creation of centres of expertise for risk assessment.

Opportunities for Development

- Suggest a system for regular review of emission standards coupled, perhaps, to a system for following developments in BAT as described in Article 11 of the IPPC Directive.
- Suggest creation of specialist teams for environmental and health risk assessment.
- Consider creating, and placing on the Intranet, a searchable register of the technical expertise and experience of individual inspectors on intranet.
- In parallel with creation of register of expertise, consider use of the Intranet as a dynamic system for exchange of expertise and guidance between inspectors, and for maintaining a searchable record of answers to previous requests for advice and guidance.

4.9 Performance Assessment.

Performance assessment in the DRIRE Nord Pas-de-Calais addresses both quantity and quality of work carried out.

Individual members of staff have an annual appraisal meeting with line managers, and a twice-yearly review of how well objectives are being met.

The work done by inspectors is divided between work on priority sites and on those with lower priority.

Priority sites include those identified nationally. They are sites that, in terms of pollution or accident potential, or for specific local reasons, are considered high risk. The work of permitting, inspection, etc. carried out on priority sites by a Sub-division is checked by the relevant Head of Group of Sub-divisions and reported to the Regional Headquarters in Douai, where the relevant media specialists provide a further check. The Head of the Environment Division then approves the work, if judged to be satisfactory, and in the case of draft permits, etc., he forwards them to the relevant Préfet for signature and issue. This system of in-depth monitoring ensures that quality and consistency of approach are maintained.

The Head of Group of Sub-Divisions also checks work on sites with lower priority. In particular, he or she checks draft permits, etc. and forwards them directly to the relevant Préfet for signature and issue. Copies are sent to the Regional Headquarters for information. This enables the regional specialists to maintain an oversight of developments and to seek subsequent modification of a permit if necessary. It also allows them to identify any systematic issues that might indicate the need for guidance or support from regional level.

As mentioned in Section 4.1, in the context of National Follow-up under the Efficiency Programme, the DRIRE is subject to general inspection both internally and externally. In addition, the Director of the DRIRE Nord Pas-de-Calais and his Head of Environment Division meet with the Director for Pollution and Risk Prevention, from the Ministry, and his Chief Inspector to discuss annual objectives and reporting. Such meetings take place at least once a year. A review of the DRIRE objectives is carried out in June and review of the extent of their achievement is carried out at the end of the year. There is also frequent reporting of information and data to the Ministry throughout the year.

As regards meeting objectives, the DRIRE Nord Pas-de-Calais undertakes continuous assessment of regional progress against the priority themes identified in the annual National Plan. They recognise the benefits of concentrating resources where they are likely to have most effect but at a regional level they can only gauge the effects of implementing the national themes by reference to the environment around particular installations in their region. In this context, they have recognised the need also to target those sites with relatively low emission levels in the scale of national priorities but, when located in locally sensitive areas, with the potential for significant impact on the environment. Monthly meetings with inspectors provide feedback for identifying such local priorities and the issues are reflected in changes to permits if necessary. As noted in Section 4.3, however, the scope for including such sites in the portfolio of inspection priorities is limited.

Examples of good practice.

- Good systems in place for ensuring the quality and consistency of regulatory activities.
- System of monthly feedback from site inspectors for tracking and assessing local environmental issues.

Opportunity for development

- Further development of the system for use of local environmental information and feedback from inspectors to target sites with lower emission levels but with potential for significant local impact.

4.10 Reporting.

DRIRE Regional implementation strategy is published annually on the Internet. This elaborates upon the annually published National Action Plan, which addresses themes of national priority, and it shows how the DRIRE work plans reflect the considered environmental priorities of Central Government. The DRIRE also publishes a substantial annual report of its industry-related environmental activities in the Region. Amongst other things, this gives detailed information on industrial emissions to air and water, (by pollutant and by industry sector), on waste disposal activities, on soil pollution, on risks from Seveso II installations and on site inspections. This information is collated into a national summary, with the reports from other Regions, which is published by the Ministry.

In general, any information that can be made publicly available is published, including permits, as recommended by the MCEI. Where practicable, such information is entered on the DRIRE website at www.nord-pas-de-calais.drire.gouv.fr and the Review Team saw many examples during the course of the review. (This website has links to a national DRIRE website, to other Regional DRIRE websites and to the Ministry website.)

Information is also presented directly to the public by way of public meetings. These are of two kinds. Liaison Committees linked to a particular site, and to landfills and waste incinerators in particular, meet once or twice a year for presentation of information to the local, concerned public and for direct dialogue. This allows DRIRE together with its fellow regulators and the industry to explain their roles and activities, and it allows members of the public to express their concerns.

There are also arrangements for a more general form of debate or discussion with the public. These are in the form of meetings with public groups to address environmental issues associated with air, water, waste, noise, risk and new projects. These groups are typically about 300 people who are known to the organisers as being interested, and are specifically invited, together with any other persons who wish to participate. Meetings take place 2 –3 times per year for each of the different groups and are organised, as described in Section 4.8, by the SPPPI. There are two such groups in the DRIRE Region of Nord Pas-de-Calais.

In connection with the Ministry's Efficiency Programme, described in Section 4.1, a wide range of performance statistics is supplied to the Ministry by DRIRE in the normal course of annual reporting. This may already be sufficient to satisfy the invitation, in Section VIII (1) of the MCEI, for Member States to submit in April 2003 a report on

their experience of the operation of the Recommendation. However, the Ministry is currently developing the system for responding to this recommendation and it is not yet known what further information will be required, if any.

DRIRE has been sending the Ministry information on emissions and waste, in its own format, for the purposes of EPER. The Ministry has, however, recently produced a standard 12-page questionnaire for these returns and DRIRE plans to have site operators complete it for their own sites, with the intention that individual site returns will be consolidated for return to the Ministry. This is currently being done in paper form but the intention is, eventually, to have an electronic, Internet-based system for this purpose.

In addition to the performance statistics sent to the Ministry, inspectors have recently been required to prepare short quarterly reports illustrating the impact of their regulatory activities, e.g. reductions in the mass release of heavy metals from surface treatment plants. This result-based reporting is part of a change from management focus on work activity to one based on environmental outcome. It is also seen as a useful tool for the annual staff appraisals and the twice-yearly reviews of progress against objectives. “Success stories” derived from these reports are published on the Internet in order to improve communication with the public.

Examples of Good Practice.

- Extensive use of Internet for making information available to public.
- Creation of the SPPPI for providing information to the public and for organising opportunities for debate of major environmental issues.
- Publication of “Success stories” derived from objective or outcome-base work programmes.

Opportunity for Development.

- Check with the Ministry on what information is likely to be needed from the DRIRE in order to prepare a report on experience of operation of the Recommendation on Minimum Criteria for Environmental Inspections.

5. INDUSTRY VISIT.

As part of this review, the IMPEL Review Team visited a site incorporating both IPPC and Seveso II installations. Discussions with the company, independently of the DRIRE, were beneficial and helped to crystallise the views of the Review Team.

In general the industry was complimentary about the skills and knowledge of DRIRE Inspectors. Specifically, the Review Team noted:

- Industry is supportive of the DRIRE's need to regulate to ensure compliance with environmental law.
- The DRIRE Nord Pas-de-Calais "Green Book" (annual state of the environment publication) was recognised as being a useful document.
- Industry's understanding of the separation of the roles of DRIRE and Prefet.
- Recognition of DRIRE's strategic approach to targeting regulation, noting the different emphasis in regulatory priorities as between Regions e.g. Nord Pas de Calais:-Emphasis on contaminated land, Normandy:- Air Pollution Control on the macro scale
- A perception that DRIRE regulation had evolved and moved to more in depth assessment of compliance with Safety Management Systems.
- Operator view that permit determination, although taking between 6 and 12 months, was not on the critical path for the introduction of new plant.
- Industry valued the professional status of DRIRE Inspectors and their breadth of knowledge
- Industry understanding and support for DRIRE's proposed creation of specialist risk management teams, noting that creation of a specialised team of experienced inspectors mirrored industry's approach to Safety and Risk Assessment.
- Perception that such teams would lead to a more proportionate use of third party experts reducing industry's costs.
- Industry's positive view of the prospective expansion of inspector numbers and of the open recruitment procedure, but concern about the difficulty of integrating such a large number of new inspectors.
- The suggestion from industry that the special recruitment campaign needed to be supported by an in depth training programme
- Industry opinion that an Inspector took around 5 years from initial placement to be recognised as being fully competent.
- Support of the need to maintain distinction between the use of Operator Self Monitoring data and random check monitoring samples in enforcement action.
- Confirmation by industry of the existence, and use, of appeal mechanisms on regulatory decisions.
- Welcomed publication of enforcement data
- Evidence of inspectors independence from other non regulatory DRIRE activities
- Evidence of a proportionate approach to regulation by DRIRE Inspectors

6. SUMMARY OF FINDINGS

Examples of good practice, and opportunities for development by the DRIRE Nord Pas-de-Calais are collected below. (The sub-section number, in brackets, identifies each source.)

Examples of Good Practice.

- Clarity of the constitutional position of the DRIRE vis-à-vis the French Central Government authorities. (4.1)
- Publication of annual national plan that identifies thematic priorities. (4.1)
- Consolidation of environmental legislation in the Environment Act of 2000. (4.2)
- Details of environmental legislation available on the Internet and updated every week, supplemented by its availability on CD ROM. (4.2)
- Administrative penalties, which include holding a cash, guarantee against the need for plant improvement or remediation. (4.2)
- Translation of résumés of the available EC BREFs. (4.2)
- The documented scheme of delegation of authority for decision-making. (4.3)
- The available resource (which is national) is allocated to regions on the basis of their respective industrialisation levels (4.3)
- Publication of regional implementation strategy derived from national thematic priorities. (4.3)
- Objective-based work plans for individual inspector. (4.4)
- Effective utilisation of available legal sanctions. (4.4)
- System for tracking and monitoring of the outcome of prosecution reports submitted to the Public Prosecutor. (4.4)
- Issue of warrant as evidence of inspectors' authority and right of entry to sites after appropriate foundation training. (4.5)
- Appointments expected to last for 3 years before re-assignment. (4.5)
- Opportunity for technicians to transfer to Corp of Engineers. (4.5)
- Well-structured foundation and basic training courses for new recruits and transferring or returning staff. (4.6)
- Overall training arrangements are well developed and take advantage of both internal and external training providers. (4.6)
- Training records are very clear and well organised documents. (4.6)
- Availability of written instructions to supplement the requirements and procedures defined in legal instruments. (4.7)
- Inspector's Handbook containing all essential guidance including the MCEI. (4.7)
- The pro-forma for reporting on site inspections. (4.7)
- The proposed publication of new permits on the Internet. (4.7)
- Public availability of inspection reports after the Préfet has agreed those matters or actions that fall within his or her powers. (4.7)
- Availability of Arrêtés giving detailed information on emission standards to be used in permits. (4.8)
- Formal arrangement, by way of national committee, for advising on derogation from mandatory standards. (4.8)

- Listing of informally approved independent, third party experts for advising on validity of risk assessments. (4.8)
- Creation of centres of expertise for risk assessment. (4.8)
- Good systems in place for ensuring the quality and consistency of regulatory activities. (4.9)
- System of monthly feedback from site inspectors for tracking and assessing local environmental issues. (4.9)
- Extensive use of Internet for making information available to public. (4.10)
- Creation of the SPPPI for providing information to the public and for organising opportunities for debate of major environmental issues. (4.10)
- Publication of “Success stories” derived from objective or outcome-base work programmes. (4.10)

Opportunities for Development.

- Continue to support Préfets in developing a procedure for handling notifications from neighbouring Member States under Article 17 of the IPPC Directive and, perhaps, for carrying out joint activities with Inspectorates in these States. (4.1)
- Continue to encourage exchange of information and co-operation between DRIRE inspectors and their counterparts in DDSVs and Ministry of Defence. (4.1)
- Consider arrangements for periodic review of all permits, on the lines of the requirements for IPPC permits. (4.2)
- During the inspection process, inspectors might review the status of plant on sites against contemporary BAT with a view to updating permits. (4.2)
- In the absence of an externally specified time limit for the complete process of permitting, DRIRE may wish to establish an internal target time. (4.2)
- Consider with the Ministry whether there might be circumstances of imminent danger in which it would be appropriate for inspectors to suspend plant operation without prior agreement from the Préfet, but with retrospective confirmation. (4.2)
- Noting the helpful development of a concordat on information requirements between the Ministry of Ecology and Sustainable Development and the Ministry of Health, the DRIRE may wish to consider the value of similar concordats with other authorities, such as those for Worker Safety. (4.2)
- Consider the practicality and relative merits of separating the permitting and inspection functions as practiced elsewhere. (4.3)
- Consider, with the Ministry, the opportunities for addressing more local priority issues in development of the regional implementation strategy in cases, for example, where emissions may be low but the environmental impact disproportionately high. (4.3)
- The circulars from the Ministry are very clear and set specific tasks but arrangements for feedback from the DRIRE to the Ministry might be further developed. (4.3)
- Review the balance of priorities as between public response and routine inspection. (4.4)
- Discussion with the Ministry of the work load implications of review of permits for IPPC and Seveso II installations. (4.4)

- Encourage development of database of sites with installations subject to requirement only for declaration. (4.4)
- Consider review of arrangements for work and resource planning. (4.4)
- Consider comparison of regulatory performance with other Regional DRIREs. (4.4)
- Consider introduction of formal system for rotating inspectors between sites and between the permitting and inspection functions. (4.5)
- Consider formal recognition of the status of “confirmed inspectors” by way of the documented Scheme of Delegation. (4.5)
- After experience of recruitment of 150 specialist inspectors by special arrangements, consider extending practice to direct entry of professional engineers to inspector positions. (4.5)
- More formal arrangements for requiring refreshment training, where necessary, might be considered. (4.6)
- Greater use might be made of the Intranet to publish minutes of meetings of groups of experts. (4.6)
- Encouragement of development of the national model permit for classified installations subject to authorisation. (4.7)
- Consider seeking advice on any role expected of it in regard to the EMAS scheme, particularly in regard to reporting of non-compliance to the Competent Body. (4.7)
- Consider seeking feedback from Public Prosecutor on the outcome of prosecution reports for purpose of learning any lessons. (4.7)
- Consideration of need for in-house legal expertise to assist with above exercise. (4.7)
- Continue placing real time information on incidents and accidents on the Internet as well as the Intranet. (4.7)
- Suggest a system for regular review of emission standards coupled, perhaps, to a system for following developments in BAT as described in Article 11 of the IPPC Directive. (4.8)
- Suggest creation of specialist teams for environmental and health risk assessment. (4.8)
- Consider creating, and placing on the Intranet, a searchable register of the technical expertise and experience of individual inspectors on intranet. (4.8)
- In parallel with creation of register of expertise, consider use of the Intranet as a dynamic system for exchange of expertise and guidance between inspectors. (4.8)
- Further development of the system for use of local environmental information and feedback from inspectors to target sites with lower emission levels but with potential for significant local impact. (4.9)
- Check with the Ministry on what information is likely to be needed from the DRIRE in order to prepare a report on experience of operation of the Recommendation on Minimum Criteria for Environmental Inspections. (4.10)

7. CONCLUSIONS.

The Review Team noted the clarity of the constitutional position of the DRIRE in environmental regulation of classified installations in France. It also noted the comprehensive nature of French environmental law and how all-relevant legal instruments, together with supporting information on standards and guidance, were widely available by way of the Internet, as well as by way of conventional publication. It was impressed by the range of administrative sanctions available for non-compliance and, in particular, by the provision for holding a cash guarantee against the completion of required plant improvement or remediation work. Against this background, the Review Team concluded that provisions for implementation of IPPC were covered and noted that its principles were applied also to classified installations beyond the scope of the Directive. It also concluded that arrangements for environmental inspections were broadly in line with the MCEI Recommendation except for “Monitoring achievement of environmental quality standards”, which is the responsibility of another body, and “Consideration of environmental audit reports and statements”, which is actually covered in part by arrangements for review of IPPC permits.

The Review Team was impressed by the DRIRE internal management and training systems, and by the Ministry arrangements for their regular general inspection. It noted, in particular, the clear lines of responsibility and their recording in a written Scheme of Delegation, and the issue to inspectors of a Handbook containing all essential guidance including the MCEI. It also noted the extensive arrangements for providing the public with information and the opportunity for debate of important local environmental issues. As regards interaction with the Ministry, the Team suggested consideration of enhanced recognition of local priorities in work planning and more DRIRE involvement in centralised activities such as the setting of emission standards.

The findings of this review were broadly reinforced by separate discussions with a major site operator.

The Review Team recognised and recorded examples of good regulatory practice and, based on their own experience, have suggested opportunities for development that the DRIRE may wish to consider.

8. ACKNOWLEDGEMENTS

The project management wishes to thank the representatives of the DRIRE Nord Pas-de-Calais and the Review Team members from Austria, Belgium and Spain for their constructive participation in this trial. It also wishes to thank their respective organisations and the Directorate-General Environment of the European Commission for their support.

9. FURTHER LESSONS FOR THE REVIEW PROCESS.

- The importance of having at least an outline of constitutional arrangements and relevant legislation, in advance of the review, was confirmed.
- A Review Team briefing before the review starts is important for those team members unfamiliar with the review process.
- This review reinforced the previous lesson that the discussion might be better structured by reference to the natural sequence of the regulatory process, i.e. permitting, inspection, enforcement, etc.
- The need for time at the end of the day for a team discussion of conclusions, lessons, etc. was reinforced. (This is important from the point of view of completing a near-final draft report by the end of the week.)
- The above point was further reinforced by the DRIRE suggestion that each day should start with presentation to the Candidate Inspectorate of a summary of the team's impressions from the previous day. (This is important for those occasions when the review discussion has been more of a free exchange of views and it may be necessary to correct any misconceptions.)
- The benefits of allowing a free-ranging discussion were reinforced. Experience shows that important points emerge that might not do so in a more formally structured discussion.
- Consideration might be given to seeking views on implementation of environmental regulation from Non Government Organisations as well as from the operators of regulated installations.
- The term "Audit" appears to have specific connotations in different languages and different Member States, and needs to be used with care. (In France, what might be construed as "audit" of the management systems in other countries translates as "general inspection".)
- The inability to do so on this occasion emphasised the "huge" importance of having a near-final draft of the Review report for presentation and discussion on the final day.
- In the absence of a near-final draft of the Review report, arrangements will be required to allow the Candidate Inspectorate to correct errors of fact or omission before the final report is presented to it.

10. ABBREVIATIONS.

BAT	Best Available Technique. (Under IPPC).
BREF	(EC) BAT Reference Document.
CSIC	Conseil Supérieur des Installations Classées
DRIRE	Direction Régionale de l'Industrie et de la Recherche
ELV	Emission Limit Value.
EMAS	Environmental Management and Assessment Scheme.
EPER	European Polluting Emissions Register.
IPPC	Integrated Pollution Prevention and Control. (Under EC Directive.)
IRI	IMPEL Review Initiative.
MCEI	(Recommendation on) Minimum Criteria for Environmental Inspections.
PEEP	(IMPEL) Project on Environmental Enforcement Practices.

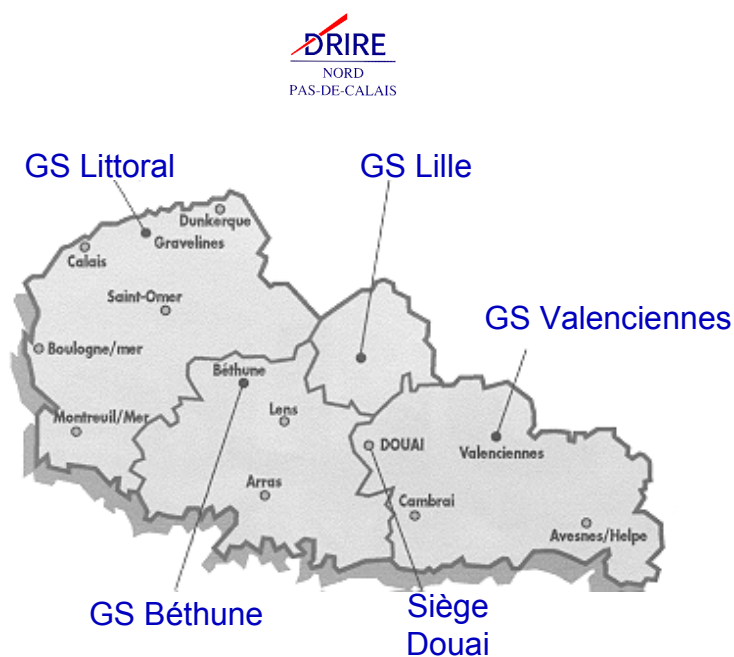
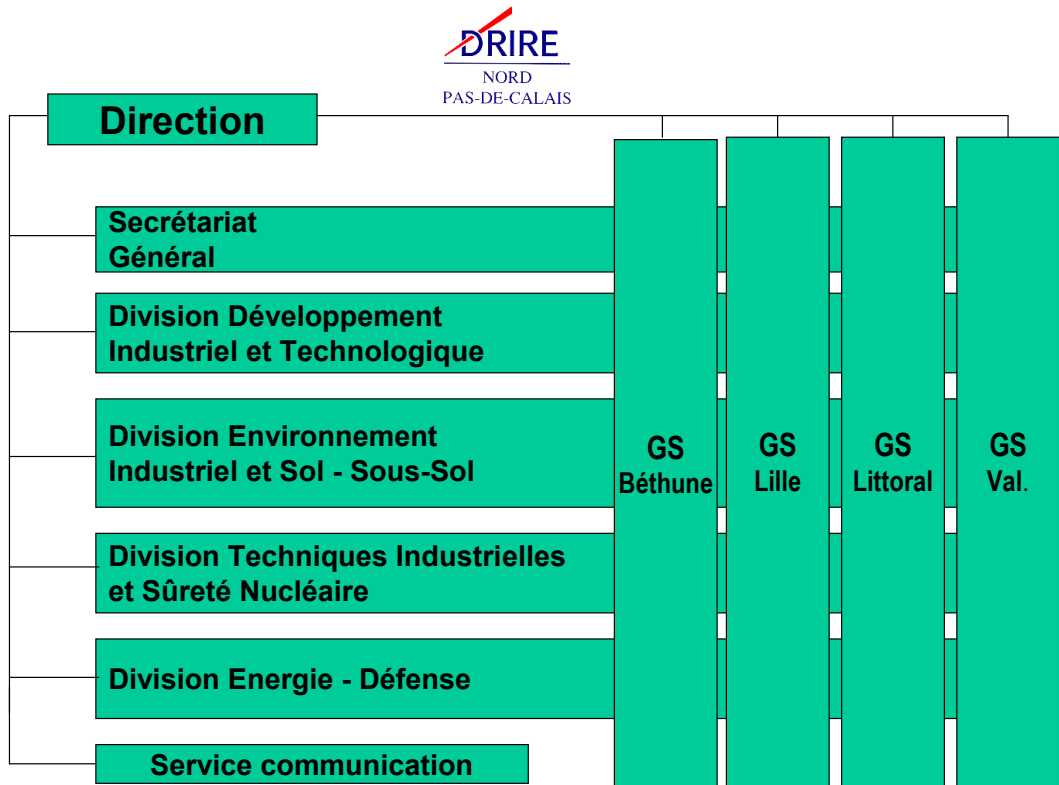
Appendix 1

LIST OF PARTICIPANTS IN REVIEW.

Mima Garcia	Environmental Inspectorate, Pontevedra, Galicia, Spain.
Jean Pierre Janssens	Brussels Institute for Management of the Environment, Belgium.
Gisela Wolschner	Environmental Inspectorate, Carinthia, Austria.
Martin Murray	Environment Agency, England and Wales. (Project Manager)
Terence Shears	Environment Agency, England and Wales. (Project Co-ordinator)
Allan Duncan	Environmental Consultant, UK
Annick Bonneville	Ministry of Ecology and Sustainable Development, France.
Cécile Castel	Ministry of Ecology and Sustainable Development, France.
Pierre-Franck Chevet	Director, DRIRE Nord Pas-de-Calais and Douai School of Mines.
Guillaume Panié	Head of Environment Division, DRIRE Nord Pas-de-Calais.
Michel Colin	Environment Division, DRIRE Nord Pas-de-Calais.
Gerard Kamalski	Head of Lille Group of Sub-divisions, DRIRE Nord Pas-de-Calais.
Laurent Chauvel	Head of Lille Sub-division, DRIRE Nord Pas-de-Calais.
Charlotte Perez	Head of Armentières Sub-division, DRIRE Nord Pas-de-Calais.
Stéphane Noel	Head of St. Amand Sub-division, DRIRE Nord Pas-de-Calais.

Appendix 2

ORGANISATIONAL STRUCTURE OF DRIRE NORD PAS-DE-CALAIS.



Appendix 3

SCHEME OF DELEGATION OF AUTHORITY.

Douai, le 28 septembre 2000

B/03/09

Note de service

Objet : Délégation de signature accordée au chef de la division Environnement industriel et sol - sous-sol

Réfer. : Arrêté du préfet du Nord du 13 septembre 1999

Arrêté du préfet du Pas-de-Calais du 11 août 2000

Note de service B/01/06 du 30 août 1995 relative à la délégation de signature

Note de service B/03/08 du 24 mars 1998

La présente note est prise en application de la note B/01/06 du 30 août 1995 relative à la délégation de signature. Elle remplace et annule la note B/03/08 du 24 mars 1998.

En application de la note de service susmentionnée, délégation de signature est donnée au chef de la division environnement industriel et sol - sous-sol pour les affaires désignées par les arrêtés préfectoraux en référence. Les possibilités de subdélégations aux chefs de GS et en interne à la division sont indiquées au fil du tableau ci-dessous.

Le régime de subdélégation aux chefs de GS sera précisé par note de service B/03/09/01.

Le régime de subdélégation interne à la division, en temps normal et en cas d'intérim, sera précisé par note de service B/03/09/02. Dans ce cadre, les adjoints du chef de la division pourront exercer l'ensemble de la délégation de signature, chacun dans son domaine de compétence.

Délégation accordée au chef de la division	Possibilité de subdélégation	
	1 ^{er} niveau Chef de GS Division	2 ^e niveau Subdivision
<p>A. Inspection des installations classées, police des mines et des carrières, eaux minérales et souterraines</p> <p><i>A.1. Établissements prioritaires (niveau national ou régional)</i></p> <p><i>Aspects RGIE pour les terrils et carrières</i></p> <p><i>Ouvertures de travaux miniers avec enquête publique, procédure d'arrêt des travaux miniers</i></p> <p><i>Eaux minérales</i></p> <p>A.1.1 Rapport en préfecture (y compris 1^{er} avis et</p>	interdite	Interdite

Délégation accordée au chef de la division	Possibilité de subdélégation	
	1 ^{er} niveau Chef de GS Division	2 ^e niveau Subdivision
consignation), sauf cas ci-dessous		
A.1.2 Rapport proposant une suspension	interdite	Interdite
A.1.3 Réponse à un recours administratif	interdite	Interdite
A.1.4 Lettre à un autre service de l'État ou établissement public, sauf <i>infra</i>	interdite	Interdite
A.1.5 Permis de construire, demande d'avis aux services	autorisée	Autorisée
A.1.6 Transmission de PV	interdite	interdite
A.1.7 Lettre à la Chambre régionale des comptes et à la Cour d'appel	interdite	interdite
A.1.8 Lettre à l'exploitant	autorisée	autorisée
A.1.9 Lettre à un élu important	interdite	interdite
A.1.10 Lettre à un autre élu et à un plaignant	autorisée	interdite
A.1.11 Lettre à un tiers (demande de renseignement...)	autorisée	autorisée
A.2 Établissements non prioritaires		
<i>Ouverture des travaux miniers sans enquête publique</i>		
A.2.1 Rapport en préfecture (y compris 1 ^{er} avis et consignation), sauf cas ci-dessous	autorisée	interdite
A.2.2 Rapport proposant une suspension	interdite	interdite
A.2.3 Réponse à un recours administratif	interdite	interdite
A.2.4 Lettre à un autre service de l'État ou établissement public, sauf <i>infra</i>	autorisée	interdite
A.2.5 Permis de construire, demande d'avis aux services	autorisée	autorisée
A.2.6 Transmission de PV	interdite	interdite
A.2.7 Lettre à la Chambre régionale des comptes et à la Cour d'appel	interdite	interdite
A.2.8 Lettre à l'exploitant	autorisée	autorisée
A.2.9 Lettre à un élu important	interdite	interdite
A.2.10 Lettre à un autre élu et à un plaignant	autorisée	interdite
A.2.11 Lettre à un tiers (demande de renseignement...)	autorisée	autorisée
A.3 Procédures de mouvements transfrontaliers de déchets (tous établissements) : lettres aux bureaux des douanes, aux préfectures, aux déclarants et aux autorités étrangères	autorisée	autorisée
A.4 Lettres aux exploitants relatives à la TGAP (tous établissements)	autorisée	autorisée
B. Planification – Concertation		
B.1 Plans		
B.1.1 PREDIS	autorisée	interdite

Délégation accordée au chef de la division	Possibilité de subdélégation	
	1 ^{er} niveau Chef de GS Division	2 ^e niveau Subdivision
B.1.2 PDEOM 59 et 62	autorisée	interdite
B.1.3 PRQA	autorisée	interdite
B.1.4 PPA	autorisée	interdite
B.1.5 SDAGE	autorisée	interdite
B.1.6 SAGE	autorisée	autorisée
B.1.7 Schémas départementaux des carrières	autorisée	interdite
<i>B.2 Organismes et structures de concertation</i>		
B.2.1 S3PI Flandre Côte d'Opale et S3PI Artois	autorisée	interdite
B.2.2 CLIS	autorisée	interdite
B.2.3 Pôle de compétences sites et sédiments pollués	autorisée	interdite
B.2.4 Réseaux de surveillance de la qualité de l'air	autorisée	interdite
B.2.5 Instance régionale de concertation ,charte des terrils	autorisée	interdite
C. Autres		
<i>C.1 Application des articles 131 et 133 du Code Minier</i>	autorisée	autorisée
<i>C.2 Propositions de sanctions administratives prévues à l'article 36 du décret n° 95-696 du 5 mai 1995 : travaux et plans levés d'office</i>	autorisée	interdite
<i>C.3 Délégué permanent de la surface</i>		
C.3.1 Gestion administrative	autorisée	autorisée
C.3.2 Certificats de travail	interdite	interdite
C.3.3 Propositions de sanctions administratives (article L 712-24 du Code du Travail)	interdite	interdite
<i>C.4 Décisions pour lesquelles le Code du Travail attribue la compétence à l'Inspecteur du Travail</i>	autorisée	autorisée
<i>C.5 Explosifs (hors ICPE)</i>	autorisée	autorisée
<i>C.6 Eaux souterraines</i>		
C.6.1 Loi sur l'eau	autorisée	interdite
C.6.2 Gestion des aquifères DRIRE	autorisée	autorisée
<i>C.7 Urbanisme – Affaissement Miniers - Puits de Mines abandonnés</i>		
C.7.1 Urbanisme – Correspondance courante avec les D.D.E. ou les préfectures en matière de POS., SDAU ou permis de construire (portés à connaissance, avis de service...)	autorisée	autorisée
C.7.2 Affaissement miniers, puits de mines : Correspondance avec le public, les entreprises, les notaires et les administrations concernées	autorisée	autorisée
C.7.3 Instructions mixtes à l'échelon local:	autorisée	autorisée

Délégation accordée au chef de la division	Possibilité de subdélégation	
	1 ^{er} niveau Chef de GS Division	2 ^e niveau Subdivision
C.7.4 Instructions mixtes à l'échelon central:	interdite	interdite
C.8 <i>Parcs Naturels, Espaces Naturels protégés (avis de la DRIRE aux autres services de l'État ou aux syndicats compétents...)</i>	autorisée	autorisée
C.9 <i>S.D.I.C.S. Nord</i>		
<i>Délégation générale sauf correspondance diverse avec le président du Conseil Général du Nord</i>	autorisée au chef du SDICS	interdite
D. Mesures générales pour l'ensemble des activités de la division non spécifiées par ailleurs		
<i>D.1 Correspondance pour avis ou propositions avec :</i>		
D.1.1 les autres DRIRE, les services centraux des ministères	interdite	interdite
D.1.2 les administrations départementales ou régionales	autorisée	autorisée
D.1.3 l'Agence de l'Eau Artois-Picardie	autorisée	autorisée
D.1.4 la délégation régionale de l'ADEME	autorisée	autorisée
D.1.5 l'EPF	autorisée	autorisée
D.1.6 Centre Thématique National sur les Sols Pollués du BRGM (DEFIS)	autorisée	interdite
D.1.7 l'ANDRA	autorisée	interdite
D.1.8 autres organismes publics ou parapublics régionaux intéressés à des titres divers à l'environnement	autorisée	interdite
<i>D.2 Correspondance adressée à des élus locaux ou aux administrations des collectivités locales sur des questions ne concernant pas directement la gestion d'une collectivité locale (sauf réponse à un courrier signé personnellement par un parlementaire ou un maire d'une grande ville)</i>	autorisée	autorisée
<i>D.3 Relations avec le BRGM (SGR) et l'INERIS : lettres de demande d'intervention (crédits d'appui aux administrations, tiers expertise)</i>	autorisée	interdite
<i>D.4 Correspondance avec les associations de protection de l'environnement et les particuliers</i>	autorisée	autorisée
<i>D5 Transmission d'éléments de dossier aux tribunaux de grande instance à leur demande ou à un service de police des eaux dans le cadre de l'article L 238-1 du Code Rural (transactions)</i>	autorisée	interdite

Le directeur

Pierre-Franck CHEVET

Appendix 4

TERMS OF REFERENCE FOR DRIRE NORD PAS-DE-CALAIS REVIEW

No	Name of project
	<i>DRIRE Nord Pas-de-Calais FRANCE IRI REVIEW</i>
<i>Project Manager</i>	<i>Guillaume PANIE, DRIRE Nord Pas-de-Calais</i>

1. Scope

1.1. Background	<p><i>The Helsinki Plenary Meeting of IMPEL, in December 1999, requested that proposals be drawn up for “a voluntary scheme for reporting and offering advice on inspectorates and inspection procedures” (the “scheme”). This was against the background of preparation of a European Parliament and Council Recommendation on Providing Minimum Criteria for Environmental Inspections in the Member States and the expectation that further recommendations would follow on Minimum Criteria for Inspector Qualifications and for Inspector Training.</i></p> <p><i>In March 2001 the IRI Working Group finalised a proposal for the voluntary scheme and sought candidate Inspectorates to undertake the review process. The “IRI Review Guidance and Questionnaire” was approved at the IMPEL Meeting at Falun in June 2001. Germany hosted the first full review in October 2001. After that Ireland and Belgium hosted a review in March and June 2002. FRANCE also volunteered to act as a candidate inspectorate and proposes to hold a full review by the end of 2002.</i></p> <p><i>The Recommendation of the European Parliament and of the Council providing for minimum criteria for environmental inspections in the Member States (2001/331/EC) says in recommendation III (4).</i></p> <p><i>“In order to promote best practice across the Community, Member States may, in co-operation with IMPEL, consider the establishment of a scheme, under which Member States report and offer advice on Inspectorates and inspection procedures in Member States, paying due regard to the different systems and contexts in which they operate, and report to the Member States concerned on their findings.”</i></p> <p><i>IMPEL is willing to take this forward and to foresee the eventual need for arrangements to review implementation of such recommendations and proposes a voluntary scheme for the purpose.</i></p> <p><i>The potential benefits of this scheme include:</i></p> <ul style="list-style-type: none"> <i>• Encouragement of capacity–building in EU Member State inspectorates.</i> <i>• Encouragement of further collaboration between EU Member State inspectorates on common issues or problems, on exchange of experience and on development and dissemination of good practice in environmental regulation.</i>
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	<ul style="list-style-type: none"> • <i>provision of advice to candidate inspectorates who may be seeking an external view of their structure, operation or performance by trusted, knowledgeable and independent counterparts for the purpose of benchmarking and continuous improvement of their organisation.</i> • <i>the spread of good practice leading to improved quality of inspectorates and inspections, and contributing to continuous improvement of quality and consistency of application of environmental law across the EU.</i>
<p>1.2. Definition</p>	<p><i>Recommendation 2001/331/EC applies to “all industrial and other enterprises and facilities, whose air emissions and/or water discharges and/or waste disposal or recovery activities are subject to authorisation, permit or licensing requirements under Community law, without prejudice to specific inspection provisions in existing Community legislation.” (Section II, 1a.). This scope would include all IPPC and Seveso processes and other lesser processes which, in many Member States, are regulated by a variety of bodies at local level.</i></p> <p><i>It is also proposed for the purposes of the French review and to reflect the interests and activities of IMPEL that the Organisational Scope of the scheme should include any or all of the following:</i></p> <ul style="list-style-type: none"> • <i>the legal and constitutional bases of the inspectorate, including interfaces with other bodies such as Local Authorities.</i> • <i>structure and managerial organisation, including funding, staffing and lines of authority and responsibility for regulatory and policy functions.</i> • <i>workload, by number of IPPC processes and Annex I category.</i> • <i>Qualifications, skills and experience of regulatory staff.</i> • <i>Procedures for assessment of training needs and provisions for training and maintaining current awareness.</i> • <i>Procedures, criteria and guidance for drafting of permits, for scheduling inspections, for subsequent assessment of compliance and for enforcement action in cases of non-compliance.</i> • <i>Arrangements for internal assessment of the quality of regulatory performance and for improvement if appropriate.</i> • <i>arrangements for reporting on inspectorate activities.</i> <p><i>It is also envisaged that verification of implementation of above systems be conducted during the review. This will facilitate the identification of both “good practice” and “opportunities for development” which, in the opinion of the review team, exist in France. The verification may involve detailed examination of documentation related to the inspection of a number of IPPC permitted facilities</i></p>
<p>1.3. Objective of project</p>	<p><i>To undertake an “IRI” review of the DRIRE Nord Pas-de-Calais in France in accordance with the principles in Section 1.1 and the “IRI Review Guidance and Questionnaire” approved at the IMPEL Meeting at Falun in June 2001.</i></p>

	<p><i>The benefits of the project are :</i></p> <ol style="list-style-type: none"> <i>1. The DRIRE Nord Pas-de-Calais will benefit from an expert review of its systems and procedures with particular focus on conformity with the Minimum Criteria for Environmental Inspections 2001/331/EC</i> <i>2. The participants in the review team will broaden and deepen their knowledge and understanding of environmental inspection procedures</i> <i>3. Other Member States will benefit through the dissemination of the findings of the review through the IMPEL network.</i>
1.4. Product(s)	<p><i>In addition to the benefits listed in Section 1.1, tangible products will include,</i></p> <ul style="list-style-type: none"> <i>• A written report of the review for the candidate inspectorate,</i> <i>• Relevant extracts from the review report, as agreed with the candidate inspectorate, for dissemination to IMPEL members ; this will include material which might be considered for incorporation in the Guidance, Education and Training Schemes of other Member States Inspectorates.</i>

2. Structure of the project

2.1. Participants	<p><i>The review team will consist of 4-6 participants from 4-6 Member States. The team will be led by Martin Murray from the United Kingdom Environment Agency. Belgium, as the last host country, and the Netherlands as the next host country, will be asked to supply experienced Inspectors to the review team. The remaining participants are to be confirmed.</i></p> <p><i>In addition, it is proposed that Dr. Allan Duncan, previously involved in the development of the process, will act as a consultant expert rapporteur to the review team.</i></p>
2.2. Project team	<p><i>It is proposed that the project team be composed of IMPEL Members who wish to participate, or their representatives, and that work is co-ordinated by an external contractor Dr. Allan Duncan, who assisted in the development of the process. Mr. Martin Murray through the IRI Review Working Group will be responsible for overall monitoring and supervision of the project on behalf of IMPEL.</i></p>
2.3. Manager Executor	<p><i>Mr. Guillaume PANIE of the DRIRE Nord Pas-de-Calais will be responsible for monitoring and supervision of the French IRI project on behalf of IMPEL.</i></p> <p><i>It is proposed the project in France will take place in October 2002 and that a report will be submitted to the June 2003 IMPEL Plenary. The report will be quality assured prior to the Impel Plenary by the IRI Review Working Group.</i></p>
2.4. Reporting arrangements	<p><i>The results of the Review will be reported by the project manager via the IRI working group to the IMPEL Plenary for approval.</i></p>

	<p><i>The Report will follow the Template Structure shown in Appendix 1 attached and will include:</i></p> <ul style="list-style-type: none"> • <i>A written report of the review background, participants and expenditure.</i> • <i>Relevant extracts from review reports, as agreed with candidate inspectorates, for dissemination to IMPEL members,</i> • <i>Training and Educational material on “lessons learnt” and on areas of good practice for dissemination to IMPEL Members</i>
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3. Resources required

<p>3.1 Project costs</p>	<p><i>The project will involve the following;</i></p> <ul style="list-style-type: none"> • <i>Pre-meeting of the Review Team Leader and Lead Contractor with the Candidate Inspectorate to finalise the Scope and Timing of the Review.</i> • <i>Preparation of summary information by of the DRIRE Nord Pas-de-Calais and circulation to Review Team members.</i> • <i>Review over a period of 5 Days comprising</i> <ul style="list-style-type: none"> - <i>3.5 days for review and assessment</i> - <i>0.5 days for comparison and collation of team views</i> - <i>1 day for feedback, discussion and finalisation of report.</i> <p><i>i.e. a total of five person-weeks (maximum) over a period of one week. It is proposed that meetings and report are conducted in English. Belgium and some French participants will give interpretation if required.</i></p> <p><i>The costs will be limited to:</i></p> <ul style="list-style-type: none"> • <i>Travel and Subsistence(T&S) costs of 5 participants</i> • <i>Apex Flight and local transport 400 Euro for 5 people</i> • <i>Hotel accommodation 100 Euro for 5 people for 7 days</i> • <i>2 meals/day 50 Euro 5 people for 7 days</i> <p style="text-align: right;"><i>Total cost for T&S is 7,250Euro</i></p> <ul style="list-style-type: none"> • <i>The costs of the pre-review meeting (2 flights, overnight accommodation & meals) is estimated at 1,000 Euro</i> • <i>the costs of the contractor (6 man Days at 500 Euro plus Apex flight plus hotel accommodation and meals) is estimated at 4,250Euro</i> • <i>the production of the report in text suitable for publication on the IMPEL web-site at 1000 Euro.</i> <p><i>We estimate that the total costs for the IRI review would be 13 500 Euro. Personnel costs from the candidate inspectorate are not included in this assessment.</i></p>
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3.2. Fin. from Com.	<i>It should be noted that the project arises from EU Legislation and that the preparation for the IRI Review will require a substantial commitment from the Candidate Inspectorate. Accordingly, an 80% subsidy is sought from the Commission (10 800 euros). This is consistent with the earlier phases of the Project.</i>
3.3. Fin. from MS (and any other)	<i>Costs of time plus a contribution towards the costs of subsistence of participant in the review team</i>
3.4. Human from Com.	<i>None required.</i>
3.5. Human from MS	<i>The breadth of issues dealt with in the questionnaire requires that significant personnel resources from the candidate inspectorate are necessary. This was borne out by the German review held in Mannheim.</i>

4. Quality review mechanisms

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

5. Legal base

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

6.1. Approval	<i>As agreed at the IMPEL Meeting at Namur by written procedure.</i>
6.3. Start	<i>Work on finalising the review team can commence immediately after approval. The review itself is planned for October 2002 with a pre-review meeting to be held in September 2002.</i>

Appendix 5.

RECOMMENDATION ON MINIMUM CRITERIA FOR ENVIRONMENTAL INSPECTION

Recommendation of the European Parliament and of the Council of 4 April 2001 providing for minimum criteria for environmental inspections in the Member States (2001/331/EC).

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the Economic and Social Committee⁽¹⁾,

Having regard to the opinion of the Committee of the Regions⁽²⁾,

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

Whereas:

(1) The resolution of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, of 1 February 1993 on a Community programme of policy and action in relation to the environment and sustainable development⁽⁴⁾ and the Decision of the European Parliament and the Council on

⁽¹⁾ OJ C 169, 16.6.1999, p. 12.

⁽²⁾ OJ C 374, 23.12.1999, p. 48.

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

⁽⁴⁾ OJ C 138, 17.5.1993, p. 1.

its review⁽⁵⁾ emphasised the importance of implementation of Community environmental law through the concept of shared responsibility.

(2) The Commission Communication of 5 November 1996 to the Council of the European Union and the European Parliament on implementing Community environmental law, in particular paragraph 29 thereof, proposed the establishment of guidelines at Community level in order to assist Member States in carrying out inspection tasks, thereby reducing the currently-existing wide disparity among Member States' inspections.

(3) The Council in its resolution of 7 October 1997 on the drafting, implementation and enforcement of Community environmental law⁽⁶⁾ invited the Commission to propose, for further consideration by the Council, in particular on the basis of the work of the European Union network for the implementation and enforcement of environmental law (IMPEL), minimum criteria and/or guidelines for inspection tasks carried out at Member State level and the possible ways in which their application in practice could be monitored by Member States, in order to ensure an even practical application and enforcement of environmental legislation, and the Commission's proposal has taken into account a paper produced by IMPEL in November 1997 and entitled "Minimum Criteria for Inspections".

(4) The European Parliament by its resolution of 14 May 1997 on the Commission's Communication called for Community legislation on environmental inspections, and the Economic and Social Committee and the Committee of the Regions gave favourable opinions on the Commission's Communication and stressed the importance of environmental inspections.

⁽⁵⁾ OJ L 275, 10.10.1998, p. 1.

⁽⁶⁾ OJ C 321, 22.10.1997, p. 1.

(5) Different systems and practices of inspection already exist in Member States and should not be replaced by a system of inspection at Community level, as was considered in the Council resolution of 7 October 1997, and Member States should retain responsibility for environmental inspection tasks.

(6) The European Environment Agency can advise the Member States on developing, setting up and extending their systems for monitoring environmental provisions and can assist the Commission and the Member States in monitoring environmental provisions by giving support in respect of the reporting process, so that reporting is coordinated.

(7) The existence of inspection systems and the effective carrying out of inspections is a deterrent to environmental violations since it enables authorities to identify breaches and enforce environmental laws through sanctions or other means; thus inspections are an indispensable link in the regulatory chain and an efficient instrument to contribute to a more consistent implementation and enforcement of Community environmental legislation across the Community and to avoid distortions of competition.

(8) There is currently a wide disparity in the inspection systems and mechanisms among Member States in terms not only of their capacities for carrying out inspection tasks but also of the scope and contents of the inspection tasks undertaken and even in the very existence of inspection tasks in a few Member States, and this is a situation which cannot be considered satisfactory with reference to the objective of an effective and more consistent implementation, practical application and enforcement of Community legislation on environmental protection.

(9) It is necessary, therefore, to provide, at this stage, guidelines in the form of minimum criteria to be applied as a common basis for the performance of environmental inspection tasks within the Member States.

(10) Community environmental legislation obliges Member States to apply requirements in relation to certain emissions, discharges and activities; minimum criteria on the organisation and carrying out of inspections should be met in the Member States, as a first stage, for all industrial installations and other enterprises and facilities whose air emissions and/or water discharges and/or waste disposal or recovery

activities are subject to authorisation, permit or licensing requirements under Community law.

(11) Inspections should take place taking into account the division of responsibilities in the Member States between authorisation and inspection services.

(12) In order to make this system of inspections efficient, Member States should ensure that environmental inspections activities are planned in advance.

(13) Site visits form an important part of environmental inspection activities.

(14) The data and documentation provided by industrial operators registered under the Community eco-management and audit scheme could be a useful source of information in the context of environmental inspections.

(15) In order to draw conclusions from site visits, regular reports should be established.

(16) Reporting on inspection activities, and public access to information thereon, are important means to ensure through transparency the involvement of citizens, non-governmental organisations and other interested actors in the implementation of Community environmental legislation; access to such information should be in line with the provisions of Council Directive 90/313/EEC of 7 June 1990 on the freedom of access to information on the environment⁽⁷⁾.

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

(18) Member States should report to the Council and the Commission on their experience in operating this recommendation and the Commission should regularly inform the European Parliament.

(19) The Commission should keep the operation and effectiveness of this recommendation under review and report thereon to the European Parliament and the Council as soon as possible after the receipt of the Member States' reports.

⁽⁷⁾ OJ L 158, 23.6.1990, p. 56.

(20) Further work by IMPEL and Member States, in cooperation with the Commission, should be encouraged in respect of best practices concerning the qualifications and training of environmental inspectors.

(21) In accordance with the principles of subsidiarity and proportionality as set out in Article 5 of the Treaty, and given the differences in inspection systems and mechanisms in the Member States, the objectives of the proposed action can best be achieved by guidance set out at Community level.

(22) In the light of the experience gained in the operation of this recommendation and taking account of IMPEL's further work, as well as of the results of any schemes provided for in this recommendation, the Commission should, upon receipt of Member States' reports, give consideration to developing the minimum criteria in terms of their scope and substance and to making further proposals which might include a proposal for a directive, if appropriate,

HEREBY RECOMMEND:

I Purpose

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

II Scope and definitions

1. (a) This recommendation applies to environmental inspections of all industrial installations and other enterprises and facilities, whose air emissions and/or water discharges and/or waste disposal or recovery activities are subject to authorisation, permit or licensing requirements under Community law, without prejudice to specific inspection provisions in existing Community legislation.

(b) For the purposes of this recommendation, all the installations and other enterprises and

facilities referred to in point (a) are "controlled installations".

2. For the purposes of this recommendation, "environmental inspection" is an activity which entails, as appropriate:

(a) checking and promoting the compliance of controlled installations with relevant environmental requirements set out in Community legislation as transposed into national legislation or applied in the national legal order (referred to hereinafter as "EC legal requirements");

(b) monitoring the impact of controlled installations on the environment to determine whether further inspection or enforcement action (including issuing, modification or revocation of any authorisation, permit or licence) is required to secure compliance with EC legal requirements;

(c) the carrying out of activities for the above purposes including:

- site visits,
- monitoring achievement of environmental quality standards,
- consideration of environmental audit reports and statements,
- consideration and verification of any self monitoring carried out by or on behalf of operators of controlled installations,
- assessing the activities and operations carried out at the controlled installation,
- checking the premises and the relevant equipment (including the adequacy with which it is maintained) and the adequacy of the environmental management at the site,
- checking the relevant records kept by the operators of controlled installations.

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

(a) routine, that is, carried out as part of a planned inspections programme; or

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

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

responsible for the matters covered by this recommendation.

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

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

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

III

Organisation and carrying out of environmental inspections

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

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

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

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

they operate, and report to the Member States concerned on their findings.

IV

Plans for environmental inspections

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

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

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

(a) the EC legal requirements to be complied with;

(b) a register of controlled installations within the plan area;

(c) a general assessment of major environmental issues within the plan area and a general appraisal of the state of compliance by the controlled installations with EC legal requirements;

(d) data on and from previous inspection activities, if any.

4. Plans for environmental inspections should:

(a) be appropriate to the inspection tasks of the relevant authorities, and should take account of the controlled installations concerned and the risks and environmental impacts of emissions and discharges from them;

(b) take into account relevant available information in relation to specific sites or types of controlled installations, such as reports by operators of controlled installations made to the authorities, self monitoring data, environmental audit information and environmental statements, in particular those produced by controlled installations registered according to the Community eco-management and audit scheme

(EMAS), results of previous inspections and reports of environmental quality monitoring.

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

(a) define the geographical area which it covers, which may be for all or part of the territory of a Member State;

(b) cover a defined time period, for example one year;

(c) include specific provisions for its revision;

(d) identify the specific sites or types of controlled installations covered;

(e) prescribe the programmes for routine environmental inspections, taking into account environmental risks; these programmes should include, where appropriate, the frequency of site visits for different types of or specified controlled installations;

(f) provide for and outline the procedures for non-routine environmental inspections, in such cases in response to complaints, accidents, incidents and occurrences of non-compliance and for purposes of granting permission;

(g) provide for coordination between the different inspecting authorities, where relevant.

V Site visits

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

(a) that an appropriate check is made of compliance with the EC legal requirements relevant to the particular inspection;

(b) that if site visits are to be carried out by more than one environmental inspecting authority, they exchange information on each others' activities and, as far as possible, coordinate site visits and other environmental inspection work;

(c) that the findings of site visits are contained in reports made in accordance with point VI and exchanged, as necessary, between relevant inspection, enforcement and other authorities, whether national, regional or local;

(d) that inspectors or other officials entitled to carry out site visits have a legal right of access to sites and information, for the purposes of environmental inspection.

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

(a) that the full range of relevant environmental impacts is examined, in conformity with the applicable EC legal requirements, the environmental inspection programmes and the inspecting bodies' organisational arrangements;

(b) that such site visits should aim to promote and reinforce operators' knowledge and understanding of relevant EC legal requirements and environmental sensitivities, and of the environmental impacts of their activities;

(c) that the risks to and impact on the environment of the controlled installation are considered in order to evaluate the effectiveness of existing authorisation, permit or licensing requirements and to assess whether improvements or other changes to such requirements are necessary.

3. Member States should also ensure that non-routine site visits are carried out in the following circumstances:

(a) in the investigation by the relevant inspecting authorities of serious environmental complaints, and as soon as possible after such complaints are received by the authorities;

(b) in the investigation of serious environmental accidents, incidents and occurrences of non-compliance, and as soon as possible after these come to the notice of the relevant inspecting authorities;

(c) where appropriate, as part of the determination as to whether and on what terms to issue a first authorisation, permit or licence for a process or activity at a controlled installation or the proposed site thereof or to ensure the compliance with the requirements of authorisation, permit or licence after it has been issued and before the start of activity;

(d) where appropriate, before the reissue, renewal or modification of authorisations, permits or licences.

VI

Reports and conclusions following site visits

1. Member States should ensure that after every site visit the inspecting authorities process or store, in identifiable form and in data files, the inspection data and their findings as to compliance with EC legal requirements, an evaluation thereof and a conclusion on whether any further action should follow, such as enforcement proceedings, including sanctions, the issuing of a new or revised authorisation, permit or licence or follow-up inspection activities, including further site visits. Reports should be finalised as soon as possible.

2. Member States should ensure that such reports are properly recorded in writing and maintained in a readily accessible database. The full reports, and wherever this is not practicable the conclusions of such reports, should be communicated to the operator of the controlled installation in question according to Directive 90/313/EEC; these reports should be publicly available within two months of the inspection taking place.

VII

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

Member States should ensure that the investigation of serious accidents, incidents and occurrences of non-compliance with EC legislation, whether these come to the attention of the authorities through a complaint or otherwise, is carried out by the relevant authority in order to:

(a) clarify the causes of the event and its impact on the environment, and as appropriate, the responsibilities and possible liabilities for the event and its consequences, and to forward conclusions to the authority responsible for enforcement, if different from the inspecting authority;

(b) mitigate and, where possible, remedy the environmental impacts of the event through a determination of the appropriate actions to be taken by the operator(s) and the authorities;

(c) determine action to be taken to prevent further accidents, incidents and occurrences of non-compliance;

(d) enable enforcement action or sanctions to proceed, if appropriate; and

(e) ensure that the operator takes appropriate follow-up actions.

VIII

Reporting on environmental inspection activities in general

1. Member States should report to the Commission on their experience of the operation of this recommendation two years after the date of its publication in the Official Journal of the European Communities, using, to the extent possible, any data available from regional and local inspecting authorities.

2. Such reports should be available to the public and should include in particular the following information:

(a) data about the staffing and other resources of the inspecting authorities;

(b) details of the inspecting authority's role and performance in the establishment and implementation of relevant plan(s) for inspections;

(c) summary details of the environmental inspections carried out, including the number of site visits made, the proportion of controlled installations inspected (by type) and estimated length of time before all controlled installations of that type have been inspected;

(d) brief data on the degree of compliance by controlled installations with EC legal requirements as appears from inspections carried out;

(e) a summary, including numbers, of the actions taken as a result of serious complaints, accidents, incidents and occurrences of non-compliance;

(f) an evaluation of the success or failure of the plans for inspections as applicable to the inspecting body, with any recommendations for future plans.

IX

Review and development of the recommendation

1. The Commission should review the operation and effectiveness of this recommendation, as soon as possible after receipt of the Member States' reports mentioned in point VIII above,



with the intention of developing the minimum criteria further in terms of their scope in the light of the experience gained from their application, and taking into account any further contributions from interested parties, including IMPEL and the European Environment Agency. The Commission should then submit to the European Parliament and the Council a report accompanied, if appropriate, by a proposal for a directive. The European Parliament and the Council will consider such a proposal without delay.

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

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

X Implementation

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

Done at Luxembourg, 4 April 2001.

<i>For the European Parliament</i>	<i>For the Council</i>
<i>The President</i>	<i>The President</i>

N. Fontaine

B. Rosengren

Appendix 6

IMPEL IRI REVIEW QUESTIONNAIRE AND GUIDANCE.

1. Introduction

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

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

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

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

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

2. Purpose

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

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

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

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

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

3. How to use the Questionnaire

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

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

4. Questionnaire

Question	Related Article
<p><u>1. CONSTITUTIONAL BASIS FOR INSPECTORATE</u></p> <p>Objective</p> <ul style="list-style-type: none"> • To establish how the Member State allocates responsibilities for technical policy, socio-economic policy and any related political issues associated with IPPC. • To understand how the Candidate Inspectorate is constituted within the Member State. • To understand the Candidate Inspectorates role in the interface between technical regulatory issues and related political or socio-economic issues in the Member State. <p>Guidance</p> <p>The response to the questionnaire should enable the Review Team and Candidate Inspectorate to examine:</p> <ul style="list-style-type: none"> • The Member State system for specifying the remit of the Candidate Inspectorate, for reviewing its performance, and for ensuring that the Candidate Inspectorate is funded to provide effective service delivery that is stable year-on-year. • Member State arrangements allowing the Candidate Inspectorate to comment upon relevant legislation and to suggest changes for improvement of the overall system for delivering the IPPC Directive. • The funding split between central taxation, local taxation and direct charging. • Arrangements for communicating with neighbouring Member States e.g. Article 17 of the IPPC Directive and notification and promoting exchange of information and staff between Inspectorates from the MCEI. <p>Questions</p> <p>1.1 What is constitutional relationship between the Inspectorate and its Member State (MS)?</p>	<p>III(1)</p>

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

Question	Related Article
<p data-bbox="188 367 751 405"><u>2. LEGAL BASIS FOR INSPECTORATE.</u></p> <p data-bbox="188 443 325 481">Objective</p> <ul data-bbox="188 517 1145 853" style="list-style-type: none"> <li data-bbox="188 517 1145 591">• To establish an understanding of the legal basis of the Candidate Inspectorate within its Member State. <li data-bbox="188 629 1145 741">• To gain an understanding of those parts of IPPC for which the Candidate Inspectorate is the competent authority together with an explanation of the types of installations and operators covered. <li data-bbox="188 779 1145 853">• To establish the roles of the candidate Inspectorate in enforcement of IPPC permit conditions and prosecution. <p data-bbox="188 891 325 929">Guidance</p> <p data-bbox="188 965 1145 1182">It is for the Member State to ensure that responsibilities for all requirements of the IPPC Directive are appropriately allocated within the Member State, e.g. as between the Candidate Inspectorate and other competent authorities. It would be helpful also to understand how those types of installations not covered by the Candidate Inspectorate are regulated and how the relevant bodies interact.</p> <p data-bbox="188 1220 1145 1438">The response to the questionnaire should enable the Review Team to establish a clear picture of where IPPC overlaps or interacts with other legislation. This should identify areas where there may be conflicting legislative requirements and how the relevant responsibilities are allocated and co-ordinated to ensure that IPPC requirements are not compromised by other considerations.</p> <p data-bbox="188 1476 580 1514">It should include a description</p> <ul data-bbox="188 1552 1145 2000" style="list-style-type: none"> <li data-bbox="188 1552 1145 1664">• of the powers, duties and sanctions available to the Inspectorate to secure compliance with all requirements of the relevant legislation, and to the necessary standards <li data-bbox="188 1702 1145 1776">• of where, in the Member State, the ultimate authority for determining the content of permits lies, <li data-bbox="188 1814 1145 1888">• of how the public is involved and what happens if an operator or the public appeals against a decision by the Candidate Inspectorate. <li data-bbox="188 1926 1145 2000">• Systems used by the Candidate Inspectorate to resolve legislative conflict <p data-bbox="188 2000 1145 2063">The Review team should be exploring transparency and clarity of arrangements.</p>	<p data-bbox="1168 367 1241 405">III(1)</p>

Question	Related Article
<p>Questions</p> <p>2.1 What legislation does your Inspectorate apply to IPPC-related activities?</p> <p>2.2 What is the scope of this legislation? (In terms of Installations/Sectors covered.)</p> <p>2.3 To whom does the legislation apply/not apply? (Industry, Government, Armed Forces, etc)</p> <p>2.4 With what other main pieces of legislation does IPPC interact? (Planning, Health and Safety, Seveso II Directive, Freedom of Information etc)</p> <p>2.5 How are responsibilities divided between bodies responsible for interacting legislation and how are differences resolved if they occur?</p> <p>2.6 What powers and duties are given to the Inspectorate to set and apply permit conditions in relation to Emission Limit Values, EQS, BAT, etc.</p> <p>2.7 Summarise appeal provisions within the Inspectorate</p> <p>2.8 Are there provisions for appeal to higher authority, by operators or the public, against Inspectorate decisions?</p> <p>2.9 How is the public involved in the regulatory process? (From application to grant of permit, through inspection to enforcement)</p> <p>2.10 What administrative and legal sanctions are available to Inspectorate in cases of non-compliance with the IPPC permit?</p>	<p>III(2)</p>

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

Question	Related Article
<p>Questions</p> <p>3.1 Outline the Management System used by the Inspectorate and identify any use of formal and informal systems (e.g. ISO9001/2)</p> <p>3.2 Using a chart/diagram describe the organisational structure of the Inspectorate, with associated staff numbers. Identify the resource e.g. person equivalent or the number of staff involved in IPPC by highlighting relevant parts of the chart/diagram</p> <p>3.3 How are Inspectorate regulatory policies, objectives, strategies and priorities set and communicated (internally and externally)?</p> <p>3.4 How are Inspectorate regulatory activities (policy-making, standard setting, research, permitting, inspection, enforcement, reporting and public consultation and guidance) organised and managed and how are resources allocated?</p> <p>3.5 Where are regulatory decisions taken within the organisation? Is this responsibility delegated?</p> <p>3.6 How are the costs of Inspectorate activities calculated, allocated reviewed and revised?</p>	

Question	Related Article
<p><u>4. WORKLOAD</u></p> <p>Objective</p> <p>To understand the workload of the Candidate Inspectorate and the arrangements for its effective delivery.</p> <p>Guidance</p> <p>The response to the questionnaire should enable the Review Team and Candidate Inspectorate to explore how the Candidate Inspectorate secures the:</p> <ul style="list-style-type: none"> • Effective and consistent setting of high-level objectives, strategies and priorities and their internal and external communication • Effective and consistent delivery of all activities associated with implementation of the IPPC Directive <p>The response should allow the Review Team and Candidate Inspectorate to gain an understanding of how and where, within the Inspectorate or Member State, final regulatory decisions are taken i.e. across the full spectrum of complexity of regulatory issues and installations, for example from individual permit conditions to the issue of complex permits.</p> <p>The information submitted should include information on and a description of any systems, if relevant, for calculating the costs of Candidate Inspectorate activities. This should take into account the “polluter pays principle”.</p>	<p>IV, V</p>

Question	Related Article
<p>Questions</p> <p>4.1 How many IPPC installations in each Annex 1 category are, or will be, regulated by the Inspectorate?</p> <p>4.2 Which of the elements of “environmental inspection”, as defined in Article II, Section 2 of the European Parliament and Council Recommendation (2001/331/EC) on providing for minimum criteria for environmental inspections in the Member States (MCEI), are carried out by the Inspectorate?</p> <p>4.3 How frequently are/will installations be inspected, by IPPC Annex 1 category?</p> <p>4.4 What time is allocated for each such inspection?</p> <p>4.5 How does the Inspectorate forecast the time required for:</p> <ul style="list-style-type: none"> • Producing a permit • Maintaining a permit • Undertaking enforcement action <p>4.6 Outline any charges levied by the Member State or Inspectorate:</p> <ul style="list-style-type: none"> • for a permit? • to maintain a permit? • For monitoring/sampling? <p>4.7 What determines the ratio of time spent on installations to time in the office on IPPC Regulation?</p> <p>4.8 What determines the ratio of time spent on planned (routine) inspection to non-routine (unplanned) inspection? Unplanned inspections include reactive work e.g. complaints, incident investigation inspection.</p> <p>4.9 How many enforcement actions and prosecutions are taken per year, by Annex 1 category, and what penalties (fines, imprisonment) are available and made?</p> <p>4.10 What pre-application contact is made with operators to ensure they are informed and prepared to comply with IPPC and how is this reflected in the work required for issuing and granting permits?</p> <p>4.11 How does the Inspectorate plan and prioritise its workload to make best use of the available resources?</p>	

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

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

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

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

Question	Related Article
<p><u>9. PERFORMANCE ASSESSMENT.</u></p> <p>Objective</p> <p>To understand how the Candidate Inspectorate assesses the quality, consistency of its performance as a regulator and the environmental impact of its activities.</p> <p>Guidance</p> <p>The response to the questionnaire should enable the Candidate Inspectorate and Review Team to explore the Inspectorate's:</p> <ul style="list-style-type: none"> • system for assessment of the of the Candidate Inspectorate's performance, • arrangements for review of results by senior management • feed-back mechanisms for incorporating relevant lessons or actions into programmes for improved performance. • Approach to the review of permits <p>Questions</p> <p>9.1 Does the Inspectorate have systems to assess the quality and consistency of its regulatory activities? If so how is it done and how often?</p> <p>9.2 How and by who are the results of any such assessments reviewed?</p> <p>9.3 How is the environmental impact of the regulatory process assessed?</p> <p>9.4 How are the results of any assessment incorporated into management action on procedures, training programs, guidance, work planning etc?</p>	

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