



**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**

**5<sup>th</sup> Review: Zwolle, The Netherlands, 18-22 November 2002.**

**Co financed by the European Commission**



<b>CONTENTS</b>	<b>Page</b>
<b>1. Executive Summary</b>	<b>1</b>
<b>2. Introduction</b>	<b>2</b>
<b>3. Pre-Review Meeting</b>	<b>5</b>
<b>4. Review and Main Findings</b>	<b>8</b>
<b>5. Industry Visit</b>	<b>26</b>
<b>6. Summary of Findings</b>	<b>27</b>
<b>7. Conclusions</b>	<b>31</b>
<b>8. Acknowledgements</b>	<b>32</b>
<b>9. Lessons for the Review Process</b>	<b>32</b>
<b>10. List of Abbreviations</b>	<b>33</b>
<b>Appendix 1. Terms of Reference for IRI Project</b>	<b>34</b>
<b>Appendix 2. Recommendation on Minimum Inspection for Environmental Inspection</b>	<b>41</b>
<b>Appendix 3. Questionnaire and Guidance</b>	<b>48</b>
<b>Appendix 4. TOR for Province of Overijssel Review</b>	<b>55</b>
<b>Appendix 5. List of Participants in Review</b>	<b>62</b>
<b>Appendix 6. Numbers of IPPC and Seveso II Installations Regulated by Province of Overijssel.</b>	<b>63</b>
<b>Appendix 7. Organisation Structure Chart.</b>	<b>64</b>



## 1. EXECUTIVE SUMMARY

This report describes the results of the fifth 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 November 2002 by the kind co-operation of the Province of Overijssel. A pre-review meeting was held in the offices of the Province of Overijssel in Zwolle, the Netherlands on 23 October 2002. The nature of the review was discussed and practical arrangements made for it. This meeting reinforced the experience of the first four reviews in confirming the value and necessity for such a pre-review meeting.

The report includes a brief description of Dutch environmental law and the constitutional arrangements for implementing it. The Review Team concluded that provisions for implementation of IPPC were covered, except perhaps slight constraints on site specific BAT assessments, this being a consequence of taking a co-ordinated approach to permitting to implement the Directive. It also concluded that arrangements for environmental inspections were broadly in line with the MCEI Recommendation for those activities falling within the Provinces inspection service.

The adoption use and application of a Quality Management System impressed the Review Team, together with the use of third party audits to quality assure its systems and the decision to critically assess the effectiveness of their compliance activities. It also noted the twenty-four hour seven days a week Environmental Surveillance Service and commitment of staff at all levels to effective regulation

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 the report.



## 2. INTRODUCTION.

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

The potential benefits foreseen from such a scheme were:

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

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

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



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

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

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

This scope addresses all aspects of inspectorate organisation, management and operation as implied by the agreed terms of reference for the project. These refer to “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 fifth of these reviews. It was undertaken by the kind co-operation of the Province of Overijssel at their office in Zwolle, the Netherlands. The terms of reference for the review are attached at Appendix 4.

It should be noted that this report is the result within in IMPEL. The content does not necessarily represent the view of the national administrations or the Commission. The report was adopted during the IMPEL Plenary Meeting of 14-16 May at Athens in Greece.



### 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 four IRI trial reviews, in Mannheim, Germany, in Wexford, Ireland, in Brussels, Belgium and in Douai, France had each confirmed the importance of such preparation. They had also emphasised the need for advance information in order to allow the review to concentrate on areas of special interest and 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 Province of Overijssel Review, arranged a pre-meeting for this fifth trial review by way of Mr. Pieter-Jan van Zanten, Head of Enforcement Division, Environmental Affairs of the Province of Overijssel. The meeting took place in the Zwolle office of the Province on 23 October 2002. In addition to Martin Murray and Pieter-Jan van Zanten, the participants were Jos Hilberink, also from the Province of Overijssel together with Terry Shears, UK IMPEL Co-ordinator.

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 four IRI reviews.

The Province of Overijssel requested that the review cover the full scope set out in the original project terms of reference. The final composition of the Review Team would be decided shortly. 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 Province's 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, third and fourth reviews in Wexford, Brussels and Douai 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 four 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 staff in the Province of Overijssel, 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 Dutch, with other review team members translating the main points and conclusions for the record of the review.

The meeting concluded with agreement that information on Dutch legislation and on the constitutional arrangements of the Province of Overijssel 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, 4 and 7.
Wednesday	Questions 5 and 6 and site visit.





Thursday      Questions 8, 9 and 10.  
Friday        Finalising draft report.

The agreed information was subsequently supplied to Review Team members before the start of the review.

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.



#### **4.0 REVIEW AND MAIN FINDINGS**

This review was conducted in the Zwolle office of the Province of Overijssel, using the Questionnaire and Guidance shown in Annex 3. The list of participants is at Annex 5.

This report follows the structure of the 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 the Inspecting Authority**

The Constitution of the Netherlands dates from 1815 and was redesigned into its present form in 1848. It was completely revised in 1983 and frames the general rights, obligations and freedom of the government of its citizens.

The Dutch state is composed of three levels of government: the central Government, the Provinces and the Municipalities. This constitutes what has been called a decentralised unitary state. The Netherlands has 12 Provinces and approximately 450 Municipalities. The Queen is Head of State and signs all legislation. The Parliament consists of two chambers. The first chamber is the Senate with 75 members elected by Provincial MPs and has the power of veto over legislative proposals put forward by the second chamber but only for judiciary reasons. The second chamber with 150 members is elected by proportional representation on a list basis. Within the National Government there are normally 13 Ministers.

The primacy of legislative powers lies with the national Government. The Constitution regulates the competencies of provinces and municipalities guaranteeing them autonomous powers. They are limited in the sense that they may not come into conflict with the acts of higher government levels.

Administrative competencies may be exercised by the national Government or by the provinces and municipalities depending on the applicable regulations. There is a tendency to delegate implementation competencies to provincial and local authorities, for example in fields such as town and country planning, or water and air pollution control.

Until the 1970s, municipalities were the only permitting authorities. In the 1970s important implementation functions such as the permitting of highly polluting installations were transferred to the provinces. Provinces now grant the



environmental permit under the Environmental Management Act (EMA), and are responsible for the supervision of installations, municipalities regulatory activities, physical (spatial) planning, water management, sewage water treatment plants etc. The Act is a framework Act that requires the task of inspection to be undertaken but does not specifically set up of the Inspectorate. A decree under that Act (Facilities and Licensing Decree, 5 January 1993, with subsequent amendments) sets out the relevant responsibilities of the National Government, the Provinces and the Municipalities. The decree may be revised from time to time with the approval of the Parliament.

The general organisation of each province contains a provincial council, a provincial executive and a Queen's Commissioner who represents the Crown in the provinces. The provinces are responsible for certain decentralised policy sectors and may make autonomous decisions in those areas.

The EMA covers the IPPC, Seveso II and EIA Directives but neither the safety of workers nor river and water safety. The Provinces are required to report to the Environment Ministry which is indirectly responsible for work carried out under the EMA and which has in turn to report to the Parliament on the operation of the EMA. Reports on activities and their results are prepared every six months at national, provincial and municipal levels and these reports are made public. The report for the first half-year contains quantitative data while that for the second half year focuses more on best practices and what has been achieved.

The Dutch Government is considering a system for audit of Municipalities (by the Provinces) and for audit of the Provinces (by the Inspector General for the Environment). One of the tasks proposed for Provincial oversight is to check that the Municipalities have undertaken a self-assessment of their provision for environmental regulation. Within the province itself there were 19 topics for self-assessment that formed a good basis for prioritising work.

The budget for the provinces and municipalities is decided nationally. Almost all funding is from general taxation though the Municipalities have revenues from minor taxes on the possession of houses and the collection of waste and the Provinces are able to retain a small part of the tax on the possession of a car. There is now no charge for permits and licences though until the mid 1990s charges were made on companies for these. This means that Municipalities and Provinces are able to carry out their inspection roles independently of economic pressures but on the other hand they have found that the number of spurious applications has increased. The province may wish to consider the possibility of discussing with the Environment Ministry (VROM) the benefits of and scope for small level fees for permits and for subsistence to prevent spurious applications.

There is no written procedure by which the Provinces can make representations about legislative changes but they are able to contact MPs or their official staff. A problem that arises occasionally is that they are given additional responsibilities (for example, as a result of the accident in Enschede at the fireworks storage warehouse) but with no matching funding. Furthermore, they were receiving more and more work as a result of case law. It was suggested that the Provinces might collaborate to establish a



system for illustrating the costs of changes in case law and regulations. For instance, a Regulatory Impact Assessment could be prepared with the goal of ensuring a better appreciation of the impact of new legislation or of changes to case law.

The Province of Overijssel has joint Working Groups on projects at senior management level with neighbouring Dutch Provinces and their counterparts in Germany. Inhabitants on the other side of the boundary have the same rights as those living in the Province concerning installations such as Waste Incineration Plants that could potentially have an impact on them.

A Management Group with representatives from each of the 12 Provinces provides a forum for an exchange of information. This Group reports formally to the Advisory Council of Provincial Executives (IPO). At the same time there is a direct line of communication with their counterparts in the Inspectorate General with whom they meet four times a year with the Conference of the Provinces.

#### 4.Examples of Good Practice

Formatted: Bullets and Numbering

- The clarity in the constitutional arrangements between the national government, provincial government and the municipalities
- The inspectorate funding system which is independent of economic pressures
- Good reporting system at national level which is transparent and publicly available
- Good framework for competencies between authorities which sets out responsibilities very clearly
- The range of sanctions under administrative, criminal and civil law
- The clarity of the legal position in respect of transboundary issues
- Strong participation by the Provincial Authorities in IMPEL and other networks including IPO (Conference of Provinces)

#### 4.Opportunities for Development:

Formatted: Bullets and Numbering

- Useful to consider the possibility of discussing with VROM the benefits of and scope for small level fees for permits and for subsistence to prevent spurious applications
- In the absence of a charging scheme for applications and subsistence it would be useful to have information on the performance and costs of various activities in order to identify more clearly the gap between what is desirable and what is possible
- Consider extending the networks to include participation by other authorities involved in integrated permitting



## 4.2 Legal basis of the Inspection Authority

Dutch legislation comprises Parliamentary Acts, Decrees and Ministerial Ordinances. Legislation was introduced in 1993 “the Environmental Management Act” (EMA1993) this consolidated a wide range of Environmental legislation in the Netherlands.

EMA93 implements the IPPC Directive and in part the Seveso II and Environmental Assessment Directives. Historically Dutch environmental legislation in the 1970s was divided into sectors, with separate statutory regulations for environmental issues such as water, air, noise and waste. During the 1980s and 1990s these were increasingly integrated, resulting in the Environmental Management Act 1993. The EMA 1993 includes a planning framework for authorities, regulations for waste management, the framework for integrated licensing, some compliance checking activities, and instruments for harmonisation with other environmental laws.

A Ministerial Decree, the Facilities and Licensing Decree of 5 January 1993, as amended, specifies the roles and responsibilities of the National, Provincial and Municipal authorities under EMA93. EMA 93 applies to all IPPC installations.

Additional legislation, which interfaces with the EMA 93, includes Health and Safety, Water and Spatial Planning legislation. These are regulated separately by the National Labour Inspectorate, Regional Water Inspectorates and the municipalities. The principal interfaces are tabulated below

Legislation	Competent Authority
EMA 1993	12 Provincial Authorities
Economic Offences Act 1950	Public Prosecutor/Police
Water Legislation	33 Regional Inspection Authorities and National Water Inspectorate
Health and Safety Legislation	National Labour Inspectorate
Spatial Planning	Municipalities (detailed) and Provincial authorities (outline)

EMA 93 implements a co-ordinated permitting between the requirements of EMA, Water Regulation and Spatial Planning. Conflicts between the requirements of the different laws are avoided because of the system of issuing the three permits. The Operator of the installation has to apply for the three permits in parallel and in the even of either the Water or Planning permit not being granted the EMA permit is not granted.

The review team noted that the co-ordinated permitting approach although meeting the requirements of the IPPC Directive had limited scope for cross media optimisation of permits when determining BAT.

The provincial authorities are responsible for the licensing, inspection and enforcement of the majority of IPPC Installations with the exception of nuclear installations and military installations which are regulated at the national level



together with a small number of IPPC installations which are regulated by the municipal authorities.

The scope and number of IPPC installations regulated by the Provincial authorities in the Overijssel Province are described in Appendix 6. In 2000 369 installations were subject to regulation by the Provincial authorities in Overijssel Province, compared to a total of 4909 installations within the 12 provincial authorities across the Netherlands (2001 data). Current figures (2002) show a total of 412 installations subject to integrated permitting under EMA 2002.

The Provincial authorities in setting permit limits have a range of powers and duties in relation to emission limit values, EQS and BAT. The authorities have a duty to ensure EQS's are not exceeded as a consequence of an authorised discharge. BAT is set with reference to BREFs and national standards. Where these do not exist limits are set with reference to National Emission Guidelines. These represent best practice but can be varied both upwards and downwards as a result of a local site-specific BAT assessment so long as they would not result in non-compliance with an EQS and are justified.

Once a permit is issued the permit is fixed and BAT is not normally reassessed as part of the inspection and enforcement process. The Provincial authorities do however review permits at least once every 5-7 years to take into account developments in BAT.

Municipalities with over 400,000 inhabitants have an obligation to make an air quality survey every two years. The main findings are that traffic and industry are the main polluters.

#### **4. Appeal provisions with Overijssel Province**

Formatted: Bullets and Numbering

##### Staff complaints

Two appeal mechanisms exist internally within the Provincial authority: internal management procedures and a formal complaint process. An intermediate mediation process is also in place as a pilot. Internal arrangements are documented within the quality manual. Normally 95 % of enquiries are resolved utilising the internal management system. The remainder are resolved utilising the official procedure which involves the establishment of an independent enquiry board which reports independently.

##### Appeals against permitting decisions

Following receipt of an application the Provincial authorities produce a draft decision within 3 months, the proposed decision is then consulted on for a period of one month. After which the provincial authorities have two months to finalise the draft licence. The licence is in two parts, a decision document and a prescriptive licence. Following the grant of the permit interested parties have 6 weeks to register an appeal with the administrative courts. Which make a two-stage decision (a) is the licence to



be suspended or not. This is followed by a longer-term judicial review with one of three outcomes, decision upheld, permit amended or the decision that authority needs to review the decision and repeat the permitting process. In 2001 15 out of 80 permits were referred to the administrative courts

#### Appeals against Administrative Enforcement

The administrative enforcement process begins following the identification of a non-compliance with a permit. Sanctions range from a letter, a performance bond, or the intervention of the provincial authority with subsequent recovery of costs from the operator. The public has no role in this process. Operators however have a three stage appeal process. The appellant must submit his appeal within 6 weeks of the issue of a performance bond. The initial stage is a public hearing with an independent provincial committee comprising a member of the provincial parliament, an external chairman, a legal representative and a secretary. This committee provides advice to the Provincial Executive Committee who make a decision. Whilst this is being progressed the appellant can make representation to the Raad van State (National Administrative Court in The Hague) which can make a ruling to suspend or enforce the Performance bond whilst the appeal process is undertaken. Following the decision the appellant may appeal against the decision of the Provincial executive committee The second stage appeal is to the Raad van State in the Hague. The final stage is to the European Court of Justice.

#### Public involvement on the regulatory process

The permitting process begins with the submission of an application to the provincial authorities. After three months a draft permit with a draft decision document is published and the public and operator and other statutory consultees invited to comment. The consultation period is one month. After which the provincial authorities have two months to take the consultation responses into consideration before publishing their decision. At this time the public (including other interested parties) can appeal to the Raad van State in The Hague. Visit reports, correspondence etc is publicly available through the provisions of Freedom of Environmental Information legislation. The review team noted that this passive approach was in the process of being reviewed

#### Administrative and legal sanctions

In cases of non-compliance with the conditions of a permit, administrative and criminal sanctions upon operators are available. The Provincial authorities sanction administrative sanctions. In addition, if criminal sanction is considered appropriate, a prosecution report may be submitted to the police who will undertake a criminal investigation who, if he or she agrees, will forward it to the Public Prosecutor

The Dutch legal system allows administrative, criminal and civil sanctions

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

**4.**

Formatted: Bullets and Numbering



- Clarity of responsibilities between Policy, and Permitting from Inspection and Enforcement
- Clarity of internal guidance on Freedom of Environmental Information
- Existence and use of National Emission Guideline implementing sector specific BAT
- Provision of appeal mechanisms and an independent judgement of administrative decisions through the administrative courts
- Clarity and structure of the Freedom of Information policy
- Consultation on the draft permit and decision document

4.

#### 4. Opportunities for Development

4.

- Provincial Authority may wish to review administrative links with the water boards to explore capacity for cross media considerations in setting BAT
- Review inspection enforcement and permitting process to allow for consideration of BAT outside the permit review cycle
- Consider formulating a policy for the timely review of industrial permits in the absence of a statutory requirement

Formatted: Bullets and Numbering

### 4.3 Organisational Structure and Management

As noted in Section 4.1, Overijssel Province is one of twelve provinces within the Netherlands. Each province has a Regional Parliament that under the provisions of the Environmental Management Act 1993 is responsible for the provision of Integrated Permits implementing the Seveso II and IPPC Directives for the majority of industrial installations.

Executive responsibility lies with the Parliament although this is delegated to the Regional Executive Committee of the Parliament. Within Overijssel the officials responsible for the provision of advice on environmental Policy, permitting, inspection (permit- maintenance, enforcement and the issue of administrative sanctions are split between two departments the Economy Environment, and Tourism Dept and the Public Affairs Department). Within the EMT Department the Policy and permitting functions and inspection and enforcement function are separated. Responsibility for designated sites is rotated on a 4-year cycle.

Common procedures and systems apply across all regions, and the internal management system is accredited to ISO 9001. The review team noted the Overijssel province was continuing to develop the system and was seeking accreditation to ISO 9001/2000 during 2003.

The compliment of professional staff within the Provincial Civil Service is around 62 complimented staff (35 policy and licensing, 25 inspection and enforcement and 7 legal staff involved in administrative enforcement). This staff compliment is fixed and requires parliamentary approval for any variation to the fixed compliment. Most of those concerned with regulation under the Environment Management Act have a bachelor Degree and some industrial experience.





An Organisational structure chart is shown at Appendix 7.

Permitting and Inspection is the responsibility of the EMT Division. Two teams of specialist inspectors support the Head of Division, one being responsible for policy and permitting, the other for inspection and enforcement. The inspection and enforcement team is further subdivided into two clusters one responsible for the inspection of waste management facilities the second industrial sites.

The costs of regulatory activities are reflected primarily by the staff and facilities deployed. Overall requirements are reviewed annually by the EMT Director and BA Director, and their team leaders and priorities established by reference to their legal duties and a four year Provincial Environment Management Plan. These reflect priorities established in a National Environmental Management Plans and equivalent documents related to Spatial Planning and Water Management which have a detailed time horizon of 4 years and a further outline planning time horizon of 4-8 years. The subsequent priorities are then reflected in team based work plans that are transposed into individual work plans by the team leader

The wider national plans are influenced by a variety of means including participation in a provincial network the “conference of the provinces (IPO)” and its associated working groups

The Overijssel Province maintains records of time spent on individual activities for accounting purposes. The Provincial Authorities do not hold a budget for research, although it does have budget provision for monitoring (sampling and analysis) activities and specialised consultancy services e.g. for Seveso II safety case assessments

#### 4.Examples of Good Practice

Formatted: Bullets and Numbering

- The existence of an accredited Quality Management System
- The system for implementing national guidance and legal requirements in Provincial high level objectives, strategies and priorities
- Publication of the four year Environment Management Plan
- Public process for the setting of annual work-plans
- Transparent Scheme of Delegation as set out in the Environmental Management Act 1993
- Rotation of inspectors every 3-4 years
- Separation of permitting, inspection legal enforcement role
- Process for the development, review and transposition of the annual work plan into individual work plans of inspectors
- Participation in the Conference of the Provinces (IPO)

#### Opportunities for Development



- May wish to consider how the permitting team assess site specific BAT and impact of emissions on the local receiving environment and contribute to sustainability
- Consideration of transfer of staff as part of career development between the licensing, inspection and legal enforcement units.
- Consider secondment of staff between provinces, municipal authorities water boards and VROM to exchange experience in each other's work areas
- Consider the need to review liaison arrangements with other bodies for preparing permits to enable increased consideration of cross media impacts

#### 4.44.4 Workload

Formatted: Bullets and Numbering

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

The Province carries out both planned (usually unannounced) and reactive inspections. In addition the provincial Inspectorate also operates a 24 hour 7 days a week Environmental Information Point This service acts as a single point of contact within the province for enquiries from the public relating to environmental information needs, complaints etc for the National, Municipal and Provincial regulation. It also is the point of contact for notifications from installations regulated by the provincial authorities. A complementary 24 hours 7 day a week Environmental Surveillance Service (ESS) is provided by a group of 8 inspectors on a one week in 8 standby rota. A comprehensively equipped response vehicle supports the ESS

The ESS monitors the achievement of environmental monitoring quality standards. It also measures emissions such as those from chimneys or levels of noise. Specialist scientific institutions such as the RIVM (National Institute for Public Health and the Environment) and RIZA (National Institute for Inland Water Management and Wastewater Treatment) have responsibility for monitoring immissions to land or that has similar responsibilities for water, this information in assessing the impact of permits. Environmental audit reports are not utilised as part of the permitting process but environmental statements from operators are used as part of compliance checking.

In assessing compliance results of operator self-monitoring is taken into account but this data cannot be used for prosecutions. The Province undertakes its own sampling which it uses for enforcement. While they assess the activities and operations carried out at controlled installations, it is not always possible to take legal action as a result. They check premises and relevant equipment as part of inspections and they also check relevant records kept by operators. Contractors can be employed in the licensing department but they need to have the same qualifications as civil servants carrying out those tasks.

Chapter 17 of the Environment Management Act specifies what must be done when installations are operating out of the range set in permits. The Province can require them to carry out an investigation and to take measures to bring about an improvement.



There are targets for the inspection of installations in the IPPC Annex 1 categories. The target is that these sites should be inspected four times a year except for the metal industry (twice a year) and the chemical industry (twelve times a year). The assumption is that each inspection should take twelve hours and the Province's policy is that it is acceptable for, say, two inspections to be carried out on a site which should have four but with two inspectors taking part in each. In practice the targets are ambitious given the amount of staff time available. Instead of forty eight hours being spent on inspecting an installation that should have four visits a year, the figure was likely to be between twenty and thirty hours.

There is a time recording system in place, though that is to be upgraded next year. The current target for producing a permit is 25 days, but the proposed development of the time-recording system will give an opportunity for looking at the various stages in the development of permits more closely. Small variations should be issued in six weeks and the time allowed by the law for issuing a permit is six months. This period only begins when all necessary information has been received though the applicant has to be informed that more information is needed within eight weeks of submitting an application. It was suggested that it might be useful for the new time recording system to link the time spent to particular operators.

The time recording system suggests that 30 hours is needed to issue a Performance Bond. Administrative prosecutions require a total of 32 hours (12 hours from the Inspection Department and 20 hours from the Enforcement Department).

There are no charges for issuing or maintaining a permit, nor for monitoring or sampling. It is not possible to recover costs of enforcement action through the costs, except where action is undertaken on behalf of an operator, which the operator himself should have done. The budget for monitoring is €200,000 and it was suggested that the Province might want to consider other methods for funding monitoring.

Half of the twelve hours allocated for a typical installation of an installation will be spent in the office for preparatory work and for writing a report. The rest of the time will be divided between travelling to the site and the actual inspection.

An inspector has 1,350 hours available in a year. Roughly 1,000 hours will be spent on inspections and the rest on other activities. Roughly 70% of inspections are planned and 30% are unplanned.

Over the year 2002 the following actions were undertaken:

- 500 inspections
- 292 enforcement actions as follow-up of the inspections
- 292 enforcement letters
- 62 administrative sanctions
- 20 on side monitoring inspections on stacks and noise

There is often pre-application contact with operators. It is thought that this results in better applications containing all necessary information. It might be helpful to



identify pre-application work in the new time-recording system and to consider the possibility of having a single point of contact for operators

### Examples of good practice

- Time recording system
- Integration of the national priorities as established by the RIZA, RIVM and the VROM in the four year environmental management plan of the Province and the annual work-plan of the provincial inspectorate
- Top down and bottom up approach to setting plans and prioritising the workload
- Provision of environmental data information point on a twenty four hour seven day a week basis
- Provision of twenty four hour, seven day a week environment surveillance service

### Opportunities for development

- The team noted that the targets for inspections had not been reviewed for three years. It might be useful to review the target figures in the light of current resources and priorities.
- Review the balance between permitting and licensing resources reflecting effectiveness and efficiency, to bring old, and even possibly unenforceable, permits up-to-date
- The continued development of team inspections, thus giving fewer but more in-depth inspections.
- Consider other methods for funding monitoring activities
- Consider having a link in the new recording system to show time spent on permitting, inspection and enforcement actions for individual operators and how this relates to the polluter pays principle.
- Identify pre-application work in the new time-recording system.
- Consider the possibility of a single point of contact for operators.
- Consider the possibility of having an agreed written policy for not responding to all complaints

### 4.54.5 Qualifications, Skills and Experience

Formatted: Bullets and Numbering

New staff are recruited by advertisement. Their applications are assessed for the level of knowledge (education), experience (including competencies), behaviour (team player, communication skills) and flexibility. After an initial sift of applications, four or five people will be interviewed for each vacancy. The interview panel will consist of one or two people from the team together with the team leader. This will be followed by a second interview for two or three people per vacancy and the panel on this occasion will consist of a team colleague, the team leader, the Head of Department (who has to make the appointment) and a representative from the



Personnel Department. After the second interview, potential recruits will be asked to supply references and these will be taken up.

In order to increase the complement of staff it is necessary to approach the Provincial Executive in order to make a request for a new “formation”. If they agree with this request, new formation can be appointed. If not, there is a prioritisation mechanism that has to be agreed with the Provincial Executive.

New recruits will normally have a Bachelor level in Environmental Science or Management or a Technical Direction. The probationary period for new recruits is one year during which they have to prove that they can operate as fully-skilled civil servants in this field of work or at least have the potential to become so soon. Each new recruit will have an experienced inspector as a mentor and his/her performance will be regularly assessed by the Team Leader. In this division of tasks, the role of the mentor is implicit though it is not fully defined. The period of mentoring lasts for a minimum of three months and may continue after that until the Team Leader judges that the new recruit can operate more or less autonomously.

The Introduction Program is obligatory and is in three layers:

- Provincial Introduction Program (PIP)
- Departmental Introduction Program (DIP)
- Team Introduction Program (TIP)

The PIP gives a general introduction to the work of the Province and lasts eight days over a period of six months. The DIP lasts about two days and gives an introduction to the working field, procedures and persons working in the Department. The TIP is the most important part of the Introduction Program and introduces the team member into the new working field of permitter or inspector.

Annually, the team leader and the team member will meet to discuss the working program for the next year and skills and competencies needed to carry it out in a proper way. This program will set out specific details of the tasks the team member will undertake to meet his or her contribution to the team work program, also in accordance with the budgets available. The team member will draw up the working program for the next year and his or her Personal Development Plan for the coming year and the four subsequent years which he or she will then agree with the team leader.

There are two types of generalist inspectors covering all IPPC sectors and some of them have special knowledge and experience in fields of special interest like safety, hazardous waste, administrative inspections etc.

Inspectors are accredited immediately after their appointment as otherwise they may not be allowed to carry out inspections.

The quality assurance manual contains a mechanism that ensures that at least every four years responsibility for an installation changes from one inspector to another in order to avoid issue blindness and undeclared interests. The team leader assesses this



mechanism from time to time to ensure that it is functioning properly. The team leader also countersigns all inspection reports and this includes enforcement reports.

### Examples of good practice

- The hierarchy and content of the Introduction Programmes.
- Team members are responsible for preparing their own annual working programs and personal development plans.
- The rotation of inspectors at least every four years as a requirement of the quality assurance manual.
- All posts have identified competencies and skill requirements which are subject to review under the QMS
- The provision of individualised training to enable staff to gain the skills and competencies required, for example funding of external training courses including Bachelor degrees
- Provision to address issue-blindness

### Opportunities for Development

- The role of the mentor is implicit but might also be made explicit for the benefit both of the mentor and the new colleague.
- Consider the need for internal co-ordination and oversight of training needs across the permitting, inspecting and enforcement groups

## 4.6-4.6 Training

Formatted: Bullets and Numbering

For IPPC there is a training programme in place within the Quality Management System (Chapter 6). In the yearly meeting (as mentioned in the previous Chapter) there are discussions on whether further training is needed against these standards. Together with a review of the key competencies for the role. If changes are agreed the Quality manual is amended.

When the team leader and the team member agree that training is needed on a particular topic, an external school or organisation usually carries it out. There is a budget available of about €80,000 for the Department (120 full time people). This budget excludes, however, very intensive courses like Bachelor or Master degrees for the development of staff. For that purpose there is a central provincial budget in place.

The extent to which training that has been undertaken is successful is discussed at the yearly evaluation meeting with the Head of Department and on an informal basis after the training by the team leader by assessing the results of the work itself.

### Examples of good practice



- Provision for and maintenance of Personal Development Plans
- Mentoring scheme for new inspectors

### **Opportunities for development**

- Consider the need to develop more refresher training for established inspectors
- Consider the scope for a joint training program with other Provinces and, for common issues, other regulatory authorities
- For specialist training, for example Seveso II and specific IPPC sectors, consider the further development of existing networks to enable knowledge and experience to be kept up to date.

### **4.7 Procedures**

The Quality Management Group of the 12 Provinces of the Netherlands have in place a Quality System for Licencing and Enforcement. This provides an opportunity for an exchange of knowledge and experience several times a year. There is a proposal for Provinces to carry out internal audits on each other and thus to enable them to learn from one another's experience.

There is a policy document entitled "Guidance for Licensing and Enforcement" that sets out relevant technical, policy and regulatory developments and priorities. This guidance is strongly linked to the Provincial Environmental Plan and revised every four years. This document is publicly available.

The Province of Overijssel has a procedure for issuing permits as described in section 4.2. The procedure for revoking a permit is set out in the Environmental Management Act. The Province may ask the Provincial Executive whether they agree to revoke the permit and they can then decide whether to do so (for example for reasons of safety or health).

There are both formal and informal contacts with the Water Boards and with the Labour Inspectorates (the latter on Seveso II). The Water Board is legally required to prepare a draft permit within 2 months and the permit itself within 4 months, though the provincial authorities can suspend the timetable if it does not receive enough information. The Province co-ordinates the issuing of the permit.

Differences with the Water Board are resolved by discussion and there is no Memorandum of Understanding with them for resolving differences. The review team considered that it might be helpful to consider the possibility of writing down the procedure for resolving differences with the Water Board, with a view to reducing the time taken to resolve them.

The Quality System for the Industrial Permits has no fixed period or criteria for review of permits, though there is a general agreement to do so every five years. While there is no Programme for review of permits there is a procedure to follow for



carrying out such reviews. It would be worth considering whether there might be value in having a mechanism in place for reviewing permits.

Inspections are scheduled and planned in accordance with the Recommendation on Minimum Criteria for Environmental Inspections (2001/331/EC). Every site has an identified licensing contact and enforcement officer in the Province.

The National Environmental Plan is taken into account in setting permit conditions. The Province is considering the possibility of reviewing inspection priorities against the four-year Environmental Plan.

Procedures exist for carrying out both routine and non-routine inspections. Reports on inspections are made available to the public, and a procedure is in place to check the reports for confidential information. The Provincial Executive co-ordinates action on site safety including with the Fire Brigade and the Labour Department both for Seveso II sites and those sites subject to the IPPC Directive. There is co-operation between the Inspection and Licensing Departments and external safety case advisors when necessary. The Province had inspection specialists for Seveso II trained to a certain level.

There is no procedure within the permitting team for Natura 2000 sites, which are the responsibility of a different Department in the Province, though they had to take into account whether an installation is situated near a vulnerable area. It might be useful to consider whether the Province has a role in the protection of these sites.

### **Examples of good practice**

- Quality Management Group within the OPI
- Policy document “Guidance for Licensing and Enforcement”
- Every site has an identified licensing contact and permitting officer in the Province.
- Proposal to review inspection priorities against the four-year Environment Management Plan.
- Existence of procedures which reflect the requirements of the MCEI Recommendation
- Clarity of arrangements for the provision of information to the public under the Dutch Freedom of Information regulations

### **Opportunities for Development**

- The possibility of having a mechanism in place for reviewing permits where no statutory requirement exists.
- Consider whether the Province has a role in the protection of Natura 2000 sites.
- It might be helpful to consider the possibility of writing down the procedure for resolving differences with other authorities, for example the Water Board, with a





view to reducing the time taken to resolve them and the consistency of the decisions.

- Consider the desirability of a liaison procedure with other inspecting authorities to, for example, allow increased coordination of inspecting activities

#### 4.84.8 Standards and Guidance

Formatted: Bullets and Numbering

European Environmental legislation is transposed into Dutch law by the VROM through the Environment Management Act. Some of the figures and standards are written in decrees while others are established by the National Emissions Recommendation (NER), consisting of a group of experts and representatives from large companies and taking into account BAT and BREF documents. The Provincial Pollution Inspectorate may wish to consider whether it wishes to explore its potential to influence the work of the NER as a practitioner.

Generic guidance is prepared on how to prepare BAT for a process on a site-specific basis as described in 36 sector plans. This is done at a national level. The Environment Ministry decides about permitting for dealing with Hazardous Waste Conditions. It is therefore necessary to check with the Ministry whether they have any objections on Hazardous Waste.

The quality system for BAT is about procedures and notes which have to be taken into account. There is a standard package of permit rules with a description of how they should be used. The package takes account of BAT, decrees etc. This guidance is available to industry.

The NER recommendations are not legal though when cases are taken to court judges see them as surrogate legislation. The NER gives guidelines on how to establish BAT. Municipalities are involved in the process.

The guidelines are reviewed from time to time but there is no fixed period for the review.

#### 4. Examples of good practice

Formatted: Bullets and Numbering

##### 4.

- Existence and linkage of guidance to procedures identified in the quality manual for enforcement, permitting and inspection
- Existence of published enforcement and prosecution guidance
- Existence of an independent commission with representatives from National and Regional environmental authorities, industry and scientific experts involved in setting NER guidelines
- Access to external independent experts for example RIVM in contentious areas and in the determination of sector specific BAT



## Opportunities for development

- The Provincial Environmental Inspectorate may wish to consider seeking to have a greater influence on the work of the National Emissions Recommendation (NER)
- Review available guidance on the application of site specific BAT
- Review need for guidance on assessment of impact of emissions on immissions
- Use of internet to publish internal guidance and links to other providers, for example VROM, RIZA, RIVM and the Water Boards

### 4.9.9 Performance Assessment

Formatted: Bullets and Numbering

Performance assessment in the Inspection Service addresses both quantity and quality of work carried out against established work plans that take into account legal duties and provincial priorities. The review did not find evidence of an assessment of the performance linking the Inspectorate's work to the local environment and environmental improvement

The review team noted the Inspectorate is in the process of developing/researching performance measures linked to the outcome of the inspection/enforcement process, including the development of compliance plans and indicators

The quality of the work is assessed against the ISO 9002 QMS System by the use of audits. Thirty to forty third-party internal audits are undertaken each year together with two external audits. Every 2-3 years a certification audit is undertaken. Non compliances and points of improvement are collated, actioned and monitored by a management committee comprising the heads of the inspection permitting and administrative enforcement units, and the Quality Manager, every 6 weeks.

In addition the QMS procedure requires an annual review of all procedures.

The quantity of work is assessed internally against work plans and externally is benchmarked against other provincial authorities in the OPI annual environmental performance report.

Industry performance is assessed against collated complaint statistics gathered by the Environmental Information Point (EIP) and the outcome published in a "name & shame" report.

The provincial inspection authority is subject to a performance audit by the VROM, and are required to contribute to a twice-yearly digest of environmental performance, which is produced by VROM

In addition the Head of Division reports to the Provincial Executive on a weekly basis.

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



also included review of training needs and the individual inspector PDP Personal Development Plan

A range of formal and informal feedback mechanism including 360-degree feedback supports this.

The work done by inspectors is divided 70%: 30% between technical and general administrative work Compliance is monitored utilising the Inspectorate's time recording system.

#### 4.Examples of good practice

Formatted: Bullets and Numbering

- Internal third party audits (applied at all levels and including the identification of non-compliances and points of improvement) and external audits based on Quality Management System
- 360° feedback for managers
- Annual review of procedures
- Publishing of complaints statistics and information on industry performance (name and shame)
- Regular reporting to the Provincial Executive
- Research into compliance planning

#### 4.Opportunities for development

Formatted: Bullets and Numbering

- May wish to review the mechanism and guidance for the assessment of the environmental impact of the regulatory process
- Continue to develop mechanisms to establish the efficiency and effectiveness of the regulatory processes implemented by the Provincial Authorities

#### 4.104.10 Reporting

Formatted: Bullets and Numbering

Reporting is carried out at three main levels – to the public, to the Member State and to the European Commission. The Annual Report prepared by the Province is published and contains specific environmental information, including details of how many complaints have been received. It is published in a shortened form for the public. In addition, under Dutch Freedom of Information legislation, information on inspection activities, permitting and enforcement is made available to the public. There is also a name and shame policy for operators against whom enforcement action has been taken. A more general instrument is the report on the budget, which is sent to Parliament in February/March setting out how the budgets have been used. Information is published in the local press on a monthly basis and information is contained on the Internet site. In future, licences and inspector reports will be available on the Internet.



Between three and four hundred industrial installations in the Netherlands are required to make annual environmental reports as part of the reporting requirement under the Environment Management Act. Data supplied by the installations are verified both by the Province and the Water Boards and in some cases they are asked to describe how they have reached the figures contained in the reports. The verified versions of the reports have to be available by 1 June. The reports are forwarded to FO Industry (part of the Ministry of Industry) for onward transmission to the Government and to the European Commission.

Chapter 11 of the Environment Management Act requires reports to be prepared on inspections, licences and enforcement activities. A single collated report is prepared by the Conference of the Provinces (the Monitoring Report of the Conference of the Provinces) containing both quantitative and qualitative data for the national Government and the European Commission. The report is publicly available and is discussed with political and other interests. It is used as the basis for reports to Regional Government and it is used as the basis for the 'summer' and 'winter' letters.

There is a three to four year review at a national level to match the three to four year environment management plan.

There is a Regional Environmental Action Programme under the Regional Environment Programme. The Environmental Action Programme sets out priorities for the following four years. The system is well balanced but may be too comprehensive.

Requests for information from the European Commission are sent to the VROM and by them to the Provinces who interpret them and send them back to the VROM.

#### **4.Examples of good practice**

- Name and shame policy for operators against whom action enforcement action has been taken
- Very good reporting system which is a good platform for all authorities
- Data made available publicly through clear routes
- Provision of a single collated OPI report allowing comparison of the relative performance of different provinces

Formatted: Bullets and Numbering

#### **4.Opportunities for development**

- The inclusion of licences and inspector reports on the internet and intranet and, generally, increased use of these resources, including remote monitoring
- Possibility that the reporting system is so comprehensive that it is diverting staff resources from other more urgent tasks

Formatted: Bullets and Numbering

### **5. INDUSTRY VISIT**



As part of this review, the IMPEL Review Team visited a site incorporating an IPPC installation incorporating a Seveso II installation. Discussions with the company, independently of the Overijssel Provincial officials, were beneficial and helped to crystallise the views of the Review Team. In general, industry was complimentary about the skills and knowledge of Overijssel staff involved in licensing and permit-maintenance.

The Review Team noted the following main points:

- Industry is supportive of the Overijssel Provincial Authorities need to regulate.
- There was clear recognition in the Provincial Authority's role in the co-ordination of the Water Authority (water permit), Municipality (planning permit) Labour Inspectorate (Seveso II internal safety permit) in the production of the Environmental Management Act Integrated Permit. But concern that more could be done co-ordinate inspection activities once the permit is issued.
- The wish of industry for increased involvement in the development of concordats (voluntary agreements) to deliver environmental compliance both within Overijssel Province and across the Netherlands.
- A concern about the need to have multiple points of contact within Overijssel Provincial Authority Labour Inspectorate, Water Board, Fire Brigade etc
- Evidence of liaison with industry at the political and official levels
- A perception that Provincial regulation was reluctant to give credit for ISO 14001 in permitting activities by the issue of framework permits.
- Concern over an overtly prescriptive approach to permitting and to the definition of BAT and lack of full consideration of financial costs.
- Evidence of an in depth audit based approach to assessing compliance with permit conditions.
- Support of the need to maintain distinction between use of Operator Self-Monitoring data and check monitoring samples in enforcement action.
- Confirmation of the existence and use of appeal mechanisms on regulatory decisions
- Support of the integration of reporting requirement by the Operator in compliance with the EMA integrated permit into a single reporting format. Which can be accessed by all the regulatory authorities
- Disappointment at the re-establishment of separate reporting requirements to the Water Board
- Support for a move from "12 annual visits" to fewer visits of either longer duration or with the same duration but with more inspector resource.

## 6. SUMMARY OF FINDINGS

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

### Examples of Good Practice



Formatted: Bullets and Numbering

- 4. The clarity in the constitutional arrangements between the national government, provincial government and the municipalities (4.1)
- 4. The inspectorate funding system which is independent of economic pressures (4.1)
- 4. Good reporting system at national level which is transparent and publicly available (4.1)
- 4. Good framework for competencies between authorities which sets out responsibilities very clearly (4.1)
- 4. The range of sanctions under administrative, criminal and civil law (4.1)
- 4. The clarity of the legal position in respect of transboundary issues (4.1)
- 4. Strong participation by the Provincial Authorities in IMPEL and other networks including IPO (Conference of Provinces) (4.1)
- 4. Clarity of responsibilities between Policy, and Permitting from Inspection and Enforcement (4.2)
- 4. Clarity of internal guidance on Freedom of Environmental Information (4.2)
- 4. Existence and use of National Emission Guideline implementing sector specific BAT (4.2)
- 4. Provision of appeal mechanisms and an independent judgement of administrative decisions through the administrative courts (4.2)
- 4. Clarity and structure of the Freedom of Information policy (4.2)
- 4. Consultation on the draft permit and decision document (4.2)
- 4. The existence of an accredited Quality Management System (4.3)
- 4. The system for implementing national guidance and legal requirements in Provincial high level objectives, strategies and priorities (4.3)
- 4. Publication of the four year Environment Management Plan (4.3)
- 4. Public process for the setting of annual work-plans.(4.3)
- 4. Transparent Scheme of Delegation as set out in the Environmental Management Act 1993 (4.3)
  - Rotation of inspectors every 3-4 years (4.3)
  - Separation of permitting, inspection legal enforcement role (4.3)
  - Process for the development, review and transposition of the annual work plan into individual work plans of inspectors (4.3)
  - Participation in the Conference of the Provinces (IPO) (4.3)
  - Time recording system (4.4)
  - Integration of the national priorities as established by the RIZA, RIVM and the VROM in the four year environmental management plan of the Province and the annual work-plan of the provincial inspectorate (4.4)
  - Top down and bottom up approach to setting plans and prioritising the workload (4.4)
  - Provision of environmental data information point on a twenty four hour seven day a week basis (4.4)
  - Provision of twenty four hour, seven day a week environment surveillance service (4.4)
  - The hierarchy and content of the Introduction Programmes. (4.5)
  - Team members are responsible for preparing their own annual working programs and personal development plans. (4.5)
  - The rotation of inspectors at least every four years as a requirement of the quality assurance manual. (4.5)



- All posts have identified competencies and skill requirements which are subject to review under the QMS (4.5)
- The provision of individualised training to enable staff to gain the skills and competencies required, for example funding of external training courses including Bachelor degrees (4.5)
- Provision to address issue-blindness (4.5)
- Provision for and maintenance of Personal Development Plans (4.6)
- Mentoring scheme for new inspectors (4.6)
- Quality Management Group within the OPI (4.7)
- Policy document “Guidance for Licensing and Enforcement” (4.7)
- Every site has an identified licensing contact and permitting officer in the Province.(4.7)
- Proposal to review inspection priorities against the four-year Environment Management Plan. (4.7)
- Existence of procedures which reflect the requirements of the MCEI Recommendation (4.7)
- Clarity of arrangements for the provision of information to the public under the Dutch Freedom of Information regulations (4.7)
- | 4. Existence and linkage of guidance to procedures identified in the quality manual for enforcement, permitting and inspection (4.8)
- | 4. Existence of published enforcement and prosecution guidance (4.8)
- | 4. Existence of an independent commission with representatives from National and Regional environmental authorities, industry and scientific experts involved in setting NER guidelines (4.8)
- Access to external independent experts for example RIVM in contentious areas and in the determination of sector specific BAT (4.8)
- | 4. Internal third party audits (applied at all levels and including the identification of non-compliances and points of improvement) and external audits based on Quality Management System (4.9)
- | 4. 360° feedback for managers (4.9)
- | 4. Annual review of procedures (4.9)
- | 4. Publishing of complaints statistics and information on industry performance (name and shame) (4.9)
- | 4. Regular reporting to the Provincial Executive (4.9)
- | 4. Research into compliance planning (4.9)
- Name and shame policy for operators against whom action enforcement action has been taken (4.10)
- Very good reporting system which is a good platform for all authorities (4.10)
- Data made available publicly through clear routes (4.10)
- | 4. Provision of a single collated OPI report allowing comparison of the relative performance of different provinces (4.10)

Formatted: Bullets and Numbering

Formatted: Bullets and Numbering

Formatted: Bullets and Numbering

### Opportunities for Development

- | 4. Useful to consider the possibility of discussing with VROM the benefits of and scope for small level fees for permits and for subsistence to prevent spurious applications (4.1)

Formatted: Bullets and Numbering



4. In the absence of a charging scheme for applications and subsistence it would be useful to have information on the performance and costs of various activities in order to identify more clearly the gap between what is desirable and what is possible (4.1)
- Consider extending the networks to include participation by other authorities involved in integrated permitting (4.1)
  - Provincial Authority may wish to review administrative links with the water boards to explore capacity for cross media considerations in setting BAT (4.2)
  - Review inspection enforcement and permitting process to allow for consideration of BAT outside the permit review cycle (4.2)
  - Consider formulating a policy for the timely review of industrial permits in the absence of a statutory requirement (4.2)
  - May wish to consider how the permitting team assess site specific BAT and impact of emissions on the local receiving environment and contribute to sustainability (4.3)
  - Consideration of transfer of staff as part of career development between the licensing, inspection and legal enforcement units.(4.3)
  - Consider secondment of staff between provinces, municipal authorities water boards and VROM to exchange experience in each other's work areas (4.3)
  - Consider the need to review liaison arrangements with other bodies for preparing permits to enable increased consideration of cross media impacts (4.3)
  - The team noted that the targets for inspections had not been reviewed for three years. It might be useful to review the target figures in the light of current resources and priorities.(4.4)
  - Review the balance between permitting and licensing resources reflecting effectiveness and efficiency, to bring old, and even possibly unenforceable, permits up-to-date (4.4)
  - The continued development of team inspections, thus giving fewer but more in-depth inspections.(4.4)
  - Consider other methods for funding monitoring activities (4.4)
  - Consider having a link in the new recording system to show time spent on permitting, inspection and enforcement actions for individual operators and how this relates to the polluter pays principle.(4.4)
  - Identify pre-application work in the new time-recording system.(4.4)
  - Consider the possibility of a single point of contact for operators.(4.4)
  - Consider the possibility of having an agreed written policy for not responding to all complaints (4.4)
  - The role of the mentor is implicit but might also be made explicit for the benefit both of the mentor and the new colleague (4.5).
  - Consider the need for internal co-ordination and oversight of training needs across the permitting, inspecting and enforcement groups (4.5)
  - Consider the need to develop more refresher training for established inspectors (4.6)
  - Consider the scope for a joint training program with other Provinces and, for common issues, other regulatory authorities (4.6)
  - For specialist training, for example Seveso II and specific IPPC sectors, consider the further development of existing networks to enable knowledge and experience to be kept up to date.(4.6)





- The possibility of having a mechanism in place for reviewing permits where no statutory requirement exists.(4.7)
- Consider whether the Province has a role in the protection of Natura 2000 sites.(4.7)
- It might be helpful to consider the possibility of writing down the procedure for resolving differences with other authorities, for example the Water Board, with a view to reducing the time taken to resolve them and the consistency of the decisions.(4.7)
- Consider the desirability of a liaison procedure with other inspecting authorities to, for example, allow increased co-ordination of inspecting activities (4.7)
- The Provincial Environmental Inspectorate may wish to consider seeking to have a greater influence on the work of the National Emissions Recommendation (NER) (4.8)
- Review available guidance on the application of site specific BAT (4.8)
- Review need for guidance on assessment of impact of emissions on immissions (4.8)
- Use of internet to publish internal guidance and links to other providers, for example VROM, RIZA, RIVM and the Water Boards (4.8)
- 4. May wish to review the mechanism and guidance for the assessment of the environmental impact of the regulatory process (4.9)
- 4. Continue to develop mechanisms to establish the efficiency and effectiveness of the regulatory processes implemented by the Provincial Authorities (4.9)
  - The inclusion of licences and inspector reports on the internet and intranet and, generally, increased use of these resources, including remote monitoring (4.10)
  - Possibility that the reporting system is so comprehensive that it is diverting staff resources from other more urgent tasks (4.10)

Formatted: Bullets and Numbering

## 7. CONCLUSIONS.

The Review Team noted the clarity of the constitutional arrangements and legislative framework in the Netherlands and within Overijssel Province. The review team noted that the IPPC Directive was being implemented through a co-ordinated permitting approach. Against this background, the Review Team concluded that provisions for implementation of IPPC, except perhaps for site specific consideration of BAT were covered, and noted that the same principles were applied to categories of installations not covered by the Directive. It also concluded that arrangements for environmental inspections were broadly in line with the MCEI Recommendations.

The adoption use and application of a Quality Management System impressed the Review Team, together with the use of third party audits to quality assure its systems and the decision to critically assess the effectiveness of their compliance activities. It also noted the twenty-four hour seven days a week Environmental Surveillance Service and commitment of staff at all levels to effective regulation.

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 Province of Overijssel may wish to consider.

## **8. ACKNOWLEDGEMENTS**

The project management wishes to thank the representatives of the Province of Overijssel and the Review Team members from Germany, Spain and Sweden 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 pre-meeting was confirmed as being very useful.
- The review confirmed the desirability of the provision of pre –information advance of the review for participating IRI team members. Participants suggested this information should concentrate on the constitutional and legal framework.
- The need for a fairly large meeting room capable of accommodating 12 – 15 people was reinforced.
- The review confirmed the need and benefit of reserving time for Review Team discussion at the close of each day.
- Language did not cause difficulties.
- When undertaking reviews in federal states it is recommended that consideration be given to the review team including a participant from at least one other land, community or province not directly involved in the review.
- Industrial visit confirmed as being a worthwhile component of the review.
- The IRI process was seen as having a special feel, not an audit but a good balance between detail and establishing the overall regulatory philosophy within the regulatory system under review.



## 10. ABBREVIATIONS.

BAT	Best Available Technique. (Under IPPC).
BREF	BAT Reference Document.
EIA	Environmental Impact Assessment.
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.
MoU	Memorandum of Understanding.
PDP	Personal Development Plan
PEEP	(IMPEL) Project on Environmental Enforcement Practices.
VROM	Ministry for the Environment



## Appendix 1

### TERMS OF REFERENCE FOR IRI PROJECTS

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

#### 1. Scope

<p><b>1.1. Background</b></p>	<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>The Council of the European Union adopted its Common Position on the proposal for a recommendation on 20 March 2000 (5684:00). III(3) of the Common Position says:</i></p> <p><i>“In order to promote best practice across the Community, Member States may, in cooperation with IMPEL, consider the establishment of a voluntary scheme, under which Member States report and offer advice on inspectorates and inspection procedures in Member States, paying due regard to the different systems and contexts in which they operate, and report to the Member States on their findings.”</i></p> <p><i>IMPEL is willing to take this forward and too foresees the eventual need for arrangements to review implementation of such recommendations and proposes a voluntary scheme for the purpose.</i></p> <p><i>The potential benefits of such a scheme might include:</i></p> <ul style="list-style-type: none"> <li>• <i>Encouragement of capacity–building in EU Member State inspectorates.</i></li> <li>• <i>Encouragement of further collaboration between EU Member State inspectorates on common issues or problems, on exchange of experience and on development and dissemination of good practice in environmental regulation.</i></li> </ul>
-------------------------------	---



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

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

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

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



<p><b>1.2. Definition</b></p>	<p><i>The draft recommendation in the Common Position referred to above (5684/00) would apply to “all industrial and other enterprises and facilities, whose air emissions and/or water discharges and/or waste disposal or recovery activities are subject to authorisation, permit or licensing requirements under Community law, without prejudice to specific inspection provisions in existing Community legislation.”(Section II, 1a.). This scope would include all IPPC processes and other lesser processes which, in many Member States, are regulated by a variety of bodies at local level.</i></p> <p><i>It was to exclude the complication of having so many bodies that the initial regulatory scope of the EC Network of Enforcement Agencies (the precursor of IMPEL) was limited to regulation of “major industrial processes”. For the same reason it is proposed that the Regulatory Scope of this scheme be limited initially to regulation of IPPC processes.</i></p> <p><i>It is also proposed for the purposes of review of candidate inspectorates and to reflect the interests and activities of IMPEL that, by agreement with the candidate inspectorate, the Organisational Scope of the scheme should include any or all of the following:</i></p> <ul style="list-style-type: none"> <li>• <i>The legal and constitutional bases of the inspectorate, including interfaces with other bodies such as Health and Safety inspectorates, and its related powers and duties. (i.e. “political independence / dependence”)</i></li> <li>• <i>Structure and managerial organisation, including funding, staffing and lines of authority and responsibility for regulatory and policy functions.</i></li> <li>• <i>Workload, by number of IPPC processes and Annex1 category.</i></li> <li>• <i>Qualifications, skills and experience of regulatory staff.</i></li> <li>• <i>Procedures for assessment of training needs and provisions for training and maintaining current awareness.</i></li> <li>• <i>Procedures, criteria and guidance for drafting of permits, for scheduling inspections, for subsequent assessment of compliance (“inspection”) and for enforcement action in cases of non-compliance.</i></li> <li>• <i>Arrangements for internal assessment of the quality of regulatory performance and for improvement if appropriate.</i></li> <li>• <i>Arrangements for reporting on inspectorate activities.</i></li> </ul>
-------------------------------	---



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



## 2. Structure of the project

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





### 3. Resources required

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



#### 4. Quality review mechanisms

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

#### 5. Legal base

##### 5.1. Directive/ Regulation/ Decision

*In the short term, The European Parliament and Council Recommendation on Providing Minimum Criteria for Environmental Inspections in Member States and, in due course, those on Inspector Qualifications and Training.*

#### 6. Project planning

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



## Appendix 2.

### RECOMMENDATION ON MINIMUM CRITERIA FOR ENVIRONMENTAL INSPECTION

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

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

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

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

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

Whereas:

(1) The resolution of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, of 1 February 1993 on a Community programme of policy and action in relation to the environment and sustainable development<sup>(4)</sup> and the Decision of the European Parliament and the Council on its review<sup>(5)</sup> emphasised the importance of

implementation of Community environmental law through the concept of shared responsibility.

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

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

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

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

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

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

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

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

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

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



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<sup>(7)</sup>.

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

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

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

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

---

<sup>(7)</sup> OJ L 158, 23.6.1990, p. 56.



(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 3

### IMPEL IRI REVIEW QUESTIONNAIRE AND GUIDANCE.

#### 1. Introduction

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

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

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

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

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

#### 2. Purpose

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

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

- Encouragement of capacity–building in EU Member State inspectorates.



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

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

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

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

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



#### 4. Questionnaire

Question	Related Article
<p data-bbox="201 557 804 589"><u>1. CONSTITUTIONAL BASIS FOR INSPECTORATE</u></p> <p data-bbox="201 651 316 683"><b>Objective</b></p> <ul data-bbox="201 712 991 1016" style="list-style-type: none"> <li data-bbox="201 712 991 801">• To establish how the Member State allocates responsibilities for technical policy, socio-economic policy and any related political issues associated with IPPC.</li> <li data-bbox="201 837 991 896">• To understand how the Candidate Inspectorate is constituted within the Member State.</li> <li data-bbox="201 931 991 1016">• To understand the Candidate Inspectorates role in the interface between technical regulatory issues and related political or socio-economic issues in the Member State.</li> </ul> <p data-bbox="201 1079 316 1111"><b>Guidance</b></p> <p data-bbox="201 1140 991 1198">The response to the questionnaire should enable the Review Team and Candidate Inspectorate to examine:</p> <ul data-bbox="201 1234 991 1688" style="list-style-type: none"> <li data-bbox="201 1234 991 1352">• The Member State system for specifying the remit of the Candidate Inspectorate, for reviewing its performance, and for ensuring that the Candidate Inspectorate is funded to provide effective service delivery that is stable year-on-year.</li> <li data-bbox="201 1388 991 1469">• Member State arrangements allowing the Candidate Inspectorate to comment upon relevant legislation and to suggest changes for improvement of the overall system for delivering the IPPC Directive.</li> <li data-bbox="201 1482 991 1541">• The funding split between central taxation, local taxation and direct charging.</li> <li data-bbox="201 1576 991 1688">• Arrangements for communicating with neighbouring Member States e.g. Article 17 of the IPPC Directive and notification and promoting exchange of information and staff between Inspectorates from the MCEI.</li> </ul> <p data-bbox="201 1751 316 1783"><b>Questions</b></p> <p data-bbox="201 1812 991 1870">1.1 What is constitutional relationship between the Inspectorate and its Member State (MS)?</p>	<p data-bbox="1007 557 1070 589">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="201 533 667 566"><u>2. LEGAL BASIS FOR INSPECTORATE.</u></p> <p data-bbox="201 589 316 622"><b>Objective</b></p> <ul data-bbox="201 656 991 925" style="list-style-type: none"> <li data-bbox="201 656 991 712">• To establish an understanding of the legal basis of the Candidate Inspectorate within its Member State.</li> <li data-bbox="201 745 991 835">• To gain an understanding of those parts of IPPC for which the Candidate Inspectorate is the competent authority together with an explanation of the types of installations and operators covered.</li> <li data-bbox="201 869 991 925">• To establish the roles of the candidate Inspectorate in enforcement of IPPC permit conditions and prosecution.</li> </ul> <p data-bbox="201 958 316 992"><b>Guidance</b></p> <p data-bbox="201 1025 991 1205">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="201 1238 991 1417">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="201 1451 528 1485">It should include a description</p> <ul data-bbox="201 1507 991 1877" style="list-style-type: none"> <li data-bbox="201 1507 991 1597">• of the powers, duties and sanctions available to the Inspectorate to secure compliance with all requirements of the relevant legislation, and to the necessary standards</li> <li data-bbox="201 1630 991 1686">• of where, in the Member State, the ultimate authority for determining the content of permits lies,</li> <li data-bbox="201 1720 991 1776">• of how the public is involved and what happens if an operator or the public appeals against a decision by the Candidate Inspectorate.</li> <li data-bbox="201 1809 991 1877">• Systems used by the Candidate Inspectorate to resolve legislative conflict</li> </ul> <p data-bbox="201 1888 991 1928">The Review team should be exploring transparency and clarity of arrangements.</p>	<p data-bbox="1007 533 1070 566">III(1)</p>



Question	Related Article
<p><b>Questions</b></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 data-bbox="201 533 895 589"><b><u>3. ORGANISATION STRUCTURE AND MANAGEMENT OF INSPECTORATE</u></b></p> <p data-bbox="201 651 316 685"><b>Objective</b></p> <p data-bbox="201 712 940 768">To establish how the Candidate Inspectorate is organised, staffed and managed.</p> <p data-bbox="201 831 316 864"><b>Guidance</b></p> <p data-bbox="201 891 987 981">The response to the questionnaire should enable the Review Team and Candidate Inspectorate to explore how the Candidate Inspectorate secures the:</p> <ul data-bbox="201 1014 987 1171" style="list-style-type: none"> <li data-bbox="201 1014 987 1081">• Effective and consistent setting of high-level objectives, strategies and priorities and their internal and external communication</li> <li data-bbox="201 1115 987 1171">• Effective and consistent delivery of all activities associated with implementation of the IPPC Directive</li> </ul> <p data-bbox="201 1205 987 1350">And to allow the Review Team and Candidate Inspectorate to gain an understanding how and where, within the Inspectorate or Member State, final regulatory decisions are taken i.e. across the full spectrum of complexity of regulatory issues and installation, for example from individual permit conditions to the issue of complex permits.</p> <p data-bbox="201 1384 987 1507">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>	





## Appendix 4

### TOR FOR PROVINCE OF OVERIJSSSEL REVIEW

#### IMPEL IRI REVIEW GROUP

#### TERMS OF REFERENCE FOR IMPEL PROJECT

No	Name of project
	<i>Provincie Overijssel, the Netherlands IRI REVIEW</i>
<i>Project Manager</i>	<i>Pieter-Jan van Zanten, provincie Overijssel, The Netherlands</i>

#### 1. Scope

<b>1.1. Background</b>	<p><i>The Helsinki Plenary Meeting of IMPEL, in December 1999, requested that proposals be drawn up for “a voluntary scheme for reporting and offering advice on inspectorates and inspection procedures” (the “scheme”). This was against the background of preparation of a European Parliament and Council Recommendation on Providing Minimum Criteria for Environmental Inspections in the Member States and the expectation that further recommendations would follow on Minimum Criteria for Inspector Qualifications and for Inspector Training.</i></p> <p><b>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.</b></p> <p><b>Germany hosted the first full review in October 2001. After that Ireland, Belgium and France will also host a review. The Netherlands, the provincie Overijssel, also volunteered to act as a candidate inspectorate and proposes to hold a full review by the end of 2002.</b></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</i></p>
------------------------	---



	<p><i>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 too foresees 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"> <li>• <i>Encouragement of capacity–building in EU Member State inspectorates.</i></li> <li>• <i>Encouragement of further collaboration between EU Member State inspectorates on common issues or problems, on exchange of experience and on development and dissemination of good practice in environmental regulation.</i></li> <li>• <i>provision of advice to candidate inspectorates who may be seeking an external view of their structure, operation or performance by trusted, knowledgeable and independent counterparts for the purpose of benchmarking and continuous improvement of their organisation.</i></li> <li>• <i>the spread of good practice leading to improved quality of inspectorates and inspections, and contributing to continuous improvement of quality and consistency of application of environmental law across the EU.</i></li> </ul>
<p><b>1.2. Definition</b></p>	<p><i>Recommendation 2001/331/EC applies to “all industrial and other enterprises and facilities, whose air emissions and/or water discharges and/or waste disposal or recovery activities are subject to authorisation, permit or licensing requirements under Community law, without prejudice to specific inspection provisions in existing Community legislation.”(Section II, 1a.). This scope would include all IPPC processes and other lesser processes which, in many Member States, are regulated by a variety of bodies at local level.</i></p> <p><i>It is also proposed for the purposes of the Dutch 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"> <li>• <i>the legal and constitutional bases of the inspectorate, including interfaces with other bodies such as Local Authorities, the Health and Safety Authority, and its related powers and duties.</i></li> <li>• <i>structure and managerial organisation, including funding, staffing and lines of authority and responsibility for regulatory and policy functions.</i></li> <li>• <i>workload, by number of IPPC processes and Annex I category.</i></li> <li>• <i>Qualifications, skills and experience of regulatory staff.</i></li> </ul>



	<ul style="list-style-type: none"> <li>• <i>Procedures for assessment of training needs and provisions for training and maintaining current awareness.</i></li> <li>• <i>Procedures, criteria and guidance for drafting of permits, for scheduling inspections, for subsequent assessment of compliance and for enforcement action in cases of non-compliance.</i></li> <li>• <i>Arrangements for internal assessment of the quality of regulatory performance and for improvement if appropriate.</i></li> <li>• <i>arrangements for reporting on inspectorate activities.</i></li> </ul> <p><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 the Netherlands. The verification may involve detailed examination of documentation related to the inspection of a number of IPC permitted facilities.</i></p>
<p><b>1.3. Objective of project</b></p>	<p><i>To under take an “IRI” review of the provincie Overijssel in the Netherlands 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 four-fold;</i></p> <ol style="list-style-type: none"> <li><i>1. The provincie Overijssel 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></li> <li><i>2. The participants in the review team will broaden and deepen their knowledge and understanding of environmental inspection procedures</i></li> <li><i>3. Other Member States will benefit through the dissemination of the findings of the review through the IMPEL network.</i></li> <li><i>4. Because of participation of AC-IMPEL, Latvia, this country and other AC-countries can also benefit from the results.</i></li> </ol>
<p><b>1.4. Product(s)</b></p>	<p><i>In addition to the benefits listed in Section 1.1, tangible products will include,</i></p> <ul style="list-style-type: none"> <li>• <i>A written report of the review for the candidate inspectorate,</i></li> <li>• <i>Relevant extracts from the review report, as agreed with the candidate inspectorate, for dissemination to IMPEL members and the EC; this will include material which might be considered for incorporation in the Guidance, Education and Training Schemes of other Member States Inspectorates.</i></li> </ul>



## 2. Structure of the project

<p><b>2.1. Participants</b></p>	<p><i>The review team will consist of 5 participants from 5 Member States. The team will be led by Martin Murray from the United Kingdom Environment Agency. France, as the last host country will be asked to supply experienced Inspectors to the review team. The remaining two participants are to be confirmed. As a result of the twinning between the province Overijssel and Latvia an employe of the environmental inspectorate of Latvia will take part in the review as an observer.</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>
<p><b>2.2. Project team</b></p>	<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 coordinated 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>
<p><b>2.3. Manager Executor</b></p>	<p><i>Mr. Pieter-Jan van Zanten of the provincie Overijssel will be responsible for monitoring and supervision of the Dutch IRI project on behalf of IMPEL.</i></p> <p><i>It is proposed the project in the Netherlands will take place in November/December 2002 and that a report will be submitted to the June 2002 IMPEL Plenary. The report will be quality assured prior to the Impel Plenary by the IRI Review Working Group.</i></p>
<p><b>2.4. Reporting arrangements</b></p>	<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"> <li><i>• A written report of the review background, participants and expenditure.</i></li> <li><i>• Relevant extracts from review reports, as agreed with candidate inspectorates, for dissemination to IMPEL members and the EC,</i></li> <li><i>• Training and Educational material on “lessons learnt” and on areas of good practice for dissemination to IMPEL Members</i></li> </ul>



### 3. Resources required

<p><b>3.1 Project costs</b></p>	<p><i>The project will involve the following;</i></p> <ul style="list-style-type: none"> <li>• <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></li> <li>• <i>Preparation of summary information by the provincie Overijssel and circulation to Review Team members.</i></li> <li>• <i>Review over a period of 5 Days comprising</i> <ul style="list-style-type: none"> <li>- <i>3.5 days for review and assessment</i></li> <li>- <i>0.5 days for comparison and collation of team views</i></li> <li>- <i>1 day for feedback, discussion and finalisation of report.</i></li> </ul> </li> </ul> <p><i>i.e. a total of five person-weeks (maximum) over a period of one week</i></p> <p><i>It is proposed that meetings and report are conducted in English, and no interpretation is required. The costs will be limited to;</i></p> <ul style="list-style-type: none"> <li>• <i>Travel and Subsistence(T&amp;S) costs of 5 participants</i> <ul style="list-style-type: none"> <li>• <i>Apex Flight 400 Euro and local transport Amsterdam-Zwolle 100 Euro for 5 people</i></li> <li>• <i>Hotel accommodation 100 Euro for 5 people for 7 days</i></li> <li>• <i>2 meals/day 50 Euro 5 people for 7 days</i></li> </ul> </li> <li>• <i>Total cost for T&amp;S is 7,750Euro</i></li> <li>• <i>The costs of the pre-review meeting (2 flights, overnight accomodation &amp; meals) is estimated at 1,000 Euro</i></li> <li>• <i>the costs of the contractor (6 man Days at 500 Euro plus Apex flight plus hotel accomodation and meals) is estimated at 4,250Euro</i></li> <li>• <i>the production of the report in text suitable for publication on the IMPEL web-site at 1000 Euro.</i></li> </ul> <p><i>We estimate that the total costs for the IRI review would be 14,000 Euro. Personnel costs from the candidate inspectorate are not included in this assessment.</i></p> <p><i>The costs of the participant from Latvia will be covered separately.</i></p> <p><i>It would be proposed to share the costs between the Commission and participants in the review scheme.</i></p>
<p><b>3.2. Fin. from Com.</b></p>	<p><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. This is consistent with the earlier phases of the Project.</i></p>



<b>3.3. Fin. from MS (and any other )</b>	<i>Costs of time plus a contribution towards the costs of travel and subsistence of personnel volunteered for the first two stages and for review teams in the third stage of the project, together with those external costs, such as consultancy, associated with the review of the candidate inspectorate.</i>
<b>3.4. Human from Com.</b>	<i>None required.</i>
<b>3.5. Human from MS</b>	<ol style="list-style-type: none"> <li>1. 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.</li> </ol>

#### 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

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

#### 6. Project planning

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



- Appendix 1

## **IMPEL IRI REVIEW**

### **DRAFT REPORT STRUCTURE**

#### **1.0 Executive Summary**

#### **2.0 Introduction**

- 2.1 Background – From the TOR for the Review
- 2.2 Objective – From the TOR
- 2.3 Scope – From the TOR
- 2.4 Structure – Dates of: Pre-meeting with Review Team Leader, Dates of Review

#### **3.0 Regulatory Arrangements**

Summary description of Regulatory Structure in Member State and Role of Candidate Inspectorate

#### **4.0 Main Findings**

- 4.1 Legal and Constitutional Arrangements
- 4.2 Structure and Management Of Inspectorate
- 4.3 Workload
- 4.4 Qualification and Training
- 4.5 Procedures and Regulatory Decision Making
- 4.6 Performance Assessment and Reporting

#### **5.0 Summary of Findings**

#### **6.0 Conclusions**

#### **7.0 Appendices**

- Appendix 1 - TOR
- Appendix 2 - Summary of information submitted in advance of the Review

- 8.0 Participants
- 9.0 References



## Appendix 5

### LIST OF PARTICIPANTS IN REVIEW.

Martin Murray	Environment Agency, England and Wales. Review Team Leader
Terence Shears	Environment Agency, England and Wales. (Project Co-ordinator)
Andreas Jungmann	District Government Arunberg, North Rhine Westphalia, Germany
Luis Prada	Environmental Department Galicia, Spain
Bosse Lidén	Municipality of Österåker, Department of Environment, Sweden
Pieter-Jan van Zanten	Provincie Overijssel, the Netherlands
Ties de Groot	Provincie Overijssel, the Netherlands
Roelof Miychelsen	Provincie Overijssel, the Netherlands
Edwin Lange	Provincie Overijssel Provincie Overijssel, the Netherlands
Jos Hilberink	Provincie Overijssel, the Netherlands
Hans van Dijk	Provincie Overijssel, the Netherlands
Daan van Olst	Provincie Overijssel, the Netherlands
Jeroen Bannink	Provincie Overijssel, the Netherlands
Kitty Althof	Provincie Overijssel, the Netherlands. (Project Manager)
Edwin Lipholt	Provincie Overijssel, the Netherlands





## Appendix 6

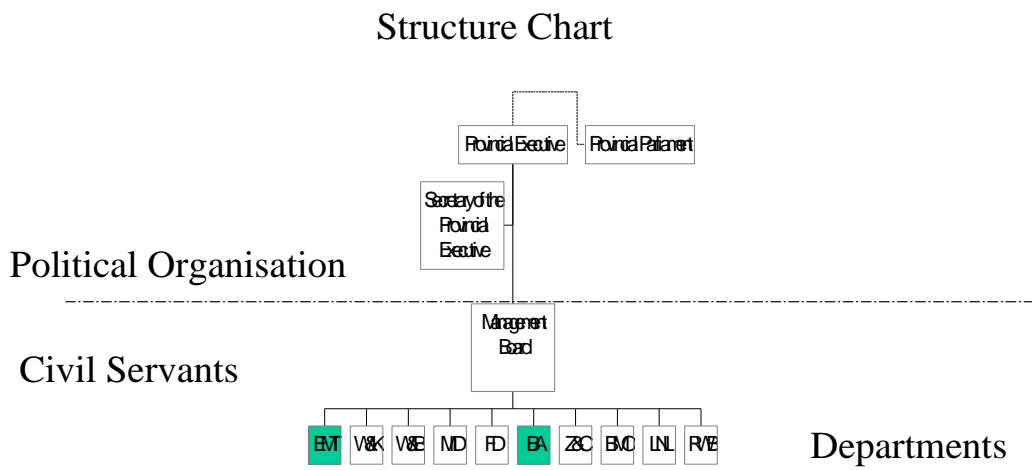
### NUMBERS OF IPPC INSTALLATIONS REGULATED BY THE OVERISSEL PROVINCIAL AUTHORITIES IN THE NETHERLANDS IN 2000

Category		Number
1	Energy	2
2.	Surface Treatment of Metals and Plastics.	21
3	Metal Industry	55
4.	Chemical.	5
5.	Waste.	259
6a	Paper	1
6b	Agricultural & Food and Drink	10
6.c	Others	2
7	Other non-IPPC Installations (for example, fireworks storage facilities)	34
<b>Total</b>	<b>412 Installations</b>	412



## Appendix 7

### ORGANISATIONAL STRUCTURE CHART



Parts of the shaded departments were the subject of the IRI Review