Environment: implementation of the Community law, minimal criteria for inspections

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To recall, in 2001 the Community adopted Recommendation 2001/331/EC providing for minimum criteria for environmental inspections (RMCEI), the purpose of which is to strengthen compliance with, and to contribute to a more consistent implementation and enforcement of Community environmental law in all of the EU's Member States. The minimum criteria set out in the Recommendation are:

- Establishing plans for environmental inspections.
- Performing inspections.
- Reporting on inspections.
- Investigating serious accidents, incidents and occurrences of non-compliance.

Further provisions in the Recommendation specify that the Commission should present a report reviewing the implementation of the Recommendation. This report summarises the information made available to the Commission on the situation in the Member States. It also sets out some conclusions on the degree of implementation of RMCEI as well as areas in need of further development.

Reporting Standards:

All Member States, acceding countries and candidate countries submitted their implementation reports. Some were complete though in may reports information gaps were found. Almost all of the reports were based on IMPEL Guidance, other that those stemming from Germany, Greece, Luxembourg, and Spain. This helped facilitate their completeness and consistency. Nevertheless, a number of information gaps have been reported in almost all of the reports submitted. Thus, the reports of Spain, Portugal, Greece and Italy were considered incomplete. In Italy and Spain replies were missing from some regions resulting in the impossibility of drawing "national" conclusions.

Implementation in the Member States:

- **Scope and definitions:** The RMCEI applies to all industrial installations and other enterprises. 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. Not all of the Member States had transposed all of these requirements given that some of the new Directives are yet to be transposed into national law.
- **Definition of environmental inspection:** Many countries reported that a link to compliance with individual Directives is not possible.
- **Type of inspection activities:** The Recommendation specifies that activities should include: site visits; monitoring environmental quality standards; consideration of environmental audit reports; consideration and verification of self monitoring by operators; assessing activities and operations carried out at the controlled installations; checking the premises, relevant equipment and adequacy of environmental management; and checking relevant records kept by the operators of controlled installations. In Austria, Belgium (Brussels, Flanders), the Czech Republic, Estonia, Finland, Ireland, Malta, the Netherlands, Slovakia, Slovenia, Sweden and the United Kingdom all of these activities were carried out. Cyprus, France and Latvia undertook all of these activities other than environmental audit reports and statements. Italy undertook all bar the checking of premises,

relevant equipment and the adequacy of environmental managements. Wallonia listed site visits, monitoring and control of self-monitoring. In Finland the inspection system for IPPC installations was based mainly on self-monitoring and by the monitors

- **Routine versus non-routine inspections:** All Member States carry out routine and non-routine inspections, although in some countries other terms are used for these.
- **Cooperation between Member States:** The Recommendation invited Member States to consider establishing a scheme, in cooperation with IMPEL, under which Member States report and offer advice on inspectorates and inspection procedures in other Member States, and report to the Member States concerned on their findings. Such a scheme was developed by IMPEL. The projects are to be continued and further volunteer Member States are being sought.
- **Plans for environmental inspections:** All environmental inspection activities should be planned in advance and cover the entire territory of the Member State. Each inspection plan should: define a geographical area which it covers; cover a defined time period; include specific provisions for its revision; identify the specific sites or types of controlled constellations covered; perceive the programmes for routine inspections; and provide for coordination between the different inspecting authorities. Based on the data forwarded to the Commission by the Member States it appears that only the Netherlands and Ireland fully comply with all the criteria. In Sweden and France inspection planning seems to comply with most of the criteria. The Czech Republic, Latvia, Lithuania, Luxembourg, Poland, Portugal, Slovakia, the United Kingdom and Romania have annual inspection plans that partially fulfil the criteria. In Belgium, Denmark, Estonia, Finland, Greece and Bulgaria annual inspection plans or programmes are established but not all, or incomplete, information has been given. In Austria, Cyprus, Germany, Italy and Malta plans exit for certain sectors only and no, or only partial, information is provided on the fulfilment of the criteria.
- **Public access to information:** As regards the availability of inspection plans to the public: in Estonia and Lithuania , plans are published on the internet. In the Netherlands, the plans are accessible to public pursuant to the Law on Administrative Openness and in Sweden pursuant to the Freedom of Press Regulation. In France, Ireland, Romania and Bulgaria inspection programmes are not published but made available upon request. In Cyprus, Hungary, Latvia, Poland and Slovakia, plans are not generally made available to the public.
- **Site visits:** According to the report, the information forwarded to it from the Member States was not sufficiently detailed to be able to assess the degree to which site visits fulfil the set criteria. Only a few countries replied that the full impact of installations on the environment is considered during site visits (Belgium, Czech Republic, Ireland, Malta, Slovenia and Sweden). Very little information was provided on the use of the results of site visits. In France, Hungary, Ireland, Latvia, Lithuania, Malta, the Netherland, Slovakia, Slovenia, Spain, Sweden and the United Kingdom cooperation between the different authorities for site visits is described as “good”.
- **Reports and conclusions following site visits:** In most countries the results of inspections are systematically documented and communicated to the operators. France has developed a methodology for site visits, which details the content of the reports and Germany has established a data format for reports on site visits.
- **Investigation of serious accidents, incidents and occurrences of non-compliance:** Very little information was forwarded on how these requirements have been implemented. In Cyprus the cause of responsibilities of accidents are not systematically determined although the actions to correct the problems are. In Germany, Ireland and the Netherland cases of serious accidents, incidents or occurrences of non-compliance are usually followed up by a site visit to investigate the causes and limit the negative consequences to the environment.

Information on the application of RMCEI:

- **Staffing and resources of inspectorates:** All Member States, other than Spain, provided data on the staffing and resources of inspecting authorities though it should be noted that important differences emerged in the way this information was reported.

- **Role of the inspectorates in establishing inspection plans:** All Member States, other than Germany, Greece and Hungary, provided information on the level at which inspection plans are established and implemented.
- **Summary details of inspections carried out:** Once again, a complete assessment of the inspections carried out, is hampered by the differing set of data provided by the Member States. Some countries provided information that covered all controlled installations, whilst other countries differentiated according to sectors of legislation such as air, water, waste or the type of Directive that applies. Austria and Finland even distinguished between the different sectors of the IPPC Directive (energy, metal processing, mineral processing, chemical industry, waste treatment and other industrial installations). Several countries did not submit complete data or submitted data that could not be aggregated.
- **Degree of compliance:** Member States were asked for data on the degree of compliance by controlled installations with relevant environmental requirements set out in Community legislation as transposed into national legislation. A problem mentioned by most Member States concerns distinguishing between EC requirements and national requirements. Member States transpose a Directive in several national laws or transpose several Directive in one national law. Thus, the link between inspections and the implementation of EU Directives can be difficult to make. Where information was available on individual Directives, it mainly concerned the IPPC and the Seveso Directive. Some countries did, however give more detailed data on non-compliance: In Brussels, the percentage of non-complying installations in 2002 was 6,5%; in Estonia 102 operators were found operating without a permit and 64 non-compliances were recorded; in France the estimated percentage of non-complying installations was 13% in 2002; in Greece violations were found in 14% of the controls carried out; in Ireland notifications of non-compliance were issued to 35% of the IPPC and VOC facilities and 75% of waste treatment installations; in Italy a 98% compliance rate carried out be the ARPAs was recorded – but levels of illegality found by the Environment Police varied from 32% for waste water treatment plants to 565 for waste disposal plants; and in Slovakia violations of legislation were found in 30% of the inspections in the waste sector and in 35,5% of the inspections in the water sector.
- **Actions taken as a result of complaints, accidents, incidents and occurrences of non-compliance:** In most of the Member States administrative orders and sanctions were imposed and some cases of criminal prosecution instigated. Civil or administrative court actions were used in a few Member States. In Latvia no criminal prosecutions were instigated whilst Denmark and Ireland do not impose administrative fines. Differences in judicial systems across the Member States make detailed assessment difficult.
- **Evaluation of the inspection plans:** The Member States were asked to report on the success or not of plans for inspections and setting out any recommendations they may have for future plans. Few Member States reported on this element. The information that was provided, however, varied considerably. This is linked to the general problem that inspections are subject to differing interpretations.

Conclusions:

The report finds that some countries have already achieved a high level of RMCEI implementation, whilst others have some way to go. Belgium, Germany, Ireland, the Netherlands, Sweden and the United Kingdom do appear to have reached a high level of implementation where as Austria, Luxembourg, Portugal, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia as well as Bulgaria and Romania have only partially implemented the Recommendation. Site visits reached a high degree of implementation whilst investigations of accidents, incidents and occurrences reached the lowest levels of compliance.

Although very few countries appear to fully apply the Recommendation, the report nevertheless concludes that it seems to have had a positive impact on the inspection systems in most countries. Many countries have begun to reform their inspection system based on criteria set out in the Recommendation. This, the

Commission argues, is a starting point for a process leading to more efficient inspection systems in all the Member States.