Procedure file

Basic information

COD - Ordinary legislative procedure (ex-codecision procedure) Recommendation	1998/0358(COD)	Procedure completed
Environment: implementation of the Community law, minimal criteria for inspections Subject 3.70 Environmental policy		

Key players

European Parliament	Committee responsible	Rapporteur	Appointed
	DELE EP Delegation to Conciliation Committee	PPE-DE JACKSON Caroline	26/09/2000
	Former committee responsible		
	ENVI Environment, Public Health and Consumer Protection	PPE JACKSON Caroline	01/06/1999
	ENVI Environment, Public Health and Consumer Protection	PPE JACKSON Caroline	15/02/1999
	ENVI Environment, Public Health, Consumer Policy	PPE-DE JACKSON Caroline	16/09/1999
	Former committee for opinion		
	JURI Legal Affairs, Citizens' Rights	The committee decided not to give an opinion.	
Council of the European Union	Council configuration	Meeting	Date
	Agriculture and Fisheries	2332	26/02/2001
	Culture	2287	26/09/2000
	Environment	2253	30/03/2000
	Environment	2235	13/12/1999
European Commission	Commission DG	Commissioner	
	Environment		

Key events

16/12/1998	Legislative proposal published	COM(1998)0772	Summary
24/02/1999	Committee referral announced in		

	Parliament, 1st reading		
19/07/1999	Vote in committee, 1st reading		Summary
19/07/1999	Committee report tabled for plenary, 1st reading	A4-0251/1999	
26/07/1999	Vote in committee, 1st reading		
26/07/1999	Committee report tabled for plenary, 1st reading	A5-0002/1999	
13/09/1999	Debate in Parliament		
16/09/1999	Decision by Parliament, 1st reading	T5-0018/1999	Summary
03/12/1999	Modified legislative proposal published	COM(1999)0652	Summary
30/03/2000	Council position published	05684/1/2000	Summary
13/04/2000	Committee referral announced in Parliament, 2nd reading		
19/06/2000	Vote in committee, 2nd reading		Summary
19/06/2000	Committee recommendation tabled for plenary, 2nd reading	A5-0164/2000	
05/07/2000	Debate in Parliament		
06/07/2000	Decision by Parliament, 2nd reading	T5-0321/2000	Summary
26/09/2000	Parliament's amendments rejected by Council		
22/11/2000	Formal meeting of Conciliation Committee		
08/01/2001	Final decision by Conciliation Committee		Summary
26/01/2001	Joint text approved by Conciliation Committee co-chairs	3603/2001	
01/02/2001	Report tabled for plenary, 3rd reading	A5-0041/2001	
26/02/2001	Decision by Council, 3rd reading		
13/03/2001	Debate in Parliament		
14/03/2001	Decision by Parliament, 3rd reading	T5-0132/2001	Summary
04/04/2001	Final act signed		
04/04/2001	End of procedure in Parliament		
27/04/2001	Final act published in Official Journal		

Technical information

Procedure reference	1998/0358(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Recommendation
Legal basis	EC Treaty (after Amsterdam) EC 175-p1

Stage reached in procedure	Procedure completed
Committee dossier	CODE/5/13721

Documentation gateway

Legislative proposal		COM(1998)0772	16/12/1998	EC	Summary
Economic and Social Committee: opinion, report		CES0448/1999 OJ C 169 16.06.1999, p. 0012	28/04/1999	ESC	
Committee report tabled for plenary, 1st reading/single reading		A4-0251/1999 OJ C 279 01.10.1999, p. 0008	19/07/1999	EP	
Committee report tabled for plenary, 1st reading/single reading		A5-0002/1999 OJ C 054 25.02.2000, p. 0010	26/07/1999	EP	
Committee of the Regions: opinion		CDR0179/1999 OJ C 374 23.12.1999, p. 0048	15/09/1999	CofR	
Text adopted by Parliament, 1st reading/single reading		T5-0018/1999 OJ C 054 25.02.2000, p. 0056-0089	16/09/1999	EP	Summary
Modified legislative proposal		COM(1999)0652	03/12/1999	EC	Summary
Council position		05684/1/2000 OJ C 137 16.05.2000, p. 0001	30/03/2000	CSL	Summary
Commission communication on Council's position		SEC(2000)0576	07/04/2000	EC	Summary
Committee recommendation tabled for plenary, 2nd reading		A5-0164/2000 OJ C 121 24.04.2001, p. 0009	19/06/2000	EP	
Text adopted by Parliament, 2nd reading		T5-0321/2000 OJ C 121 24.04.2001, p. 0165-0386	06/07/2000	EP	Summary
Commission opinion on Parliament's position at 2nd reading		COM(2000)0526	04/08/2000	EC	Summary
Joint text approved by Conciliation Committee co-chairs		3603/2001	26/01/2001	CSL/EP	
Report tabled for plenary by Parliament delegation to Conciliation Committee, 3rd reading		A5-0041/2001	01/02/2001	EP	
Text adopted by Parliament, 3rd reading		T5-0132/2001 OJ C 343 05.12.2001, p. 0103-0153	14/03/2001	EP	Summary
Follow-up document		COM(2007)0707	14/11/2007	EC	Summary
Follow-up document		SEC(2007)1493	14/11/2007	EC	Summary

Additional information

European Commission	EUR-Lex

Final act

EP/Council Recommendation 2001/331
OJ L 118 27.04.2001, p. 0041 Summary

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

PURPOSE : Proposal for a Council Recommendation providing for minimum criteria for environmental inspections in the Member States. CONTENT : Following on from the Commission's 1996 Communication concerning the implementation of Community Environmental Law (see COS0485), this proposal for a Recommendation would apply to environmental inspections of all industrial installations and other enterprises and facilities whose emissions and/or discharges to the environment, or activities which may lead thereto, are subject to authorisation, permit or licence requirement under EC law. It also would also apply to inspections of nuclear installations in the research and medical sectors. In recognition of the fact that there is a wide disparity in the inspections systems and mechanisms among Member States, the proposal is in the form of a non-binding instrument and leaves to Member States the choice of the inspections, administrative structure and systems, and the level at which such structures and systems are established, whether national, regional or local level. The following aspects are covered by the proposed Recommendation: - the organisation and carrying out of environmental inspections; - plans for environmental inspections, which have to be accessible to the public; - criteria to be respected for site visits; - reports and conclusions following site visits; - investigations of serious accidents, incidents and occurrences of non-compliance.?

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

With one abstention - the Committee followed rapporteur Caroline JACKSON (EPP, UK) in proposing to convert a commission proposal for a recommendation providing minimum criteria for environmental inspections in the member states into a directive. The Commission proposal is aimed at re-enforcing Community environmental legislation by establishing guidelines on environmental inspections carried out in the Member States. Such inspections should be applied to all industrial installations and other enterprises and facilities whose emissions or discharges into the environment are subject to authorisation under Community law. This legislation is required to harmonise as far as possible the procedures followed during Member States' environmental inspections. The Commission chose to issue a recommendation rather than proposing a directive because of differences in existing national inspection systems - one or two Member States do not have inspections at all. The Committee however, shared Mrs Jackson's view that only a directive could oblige Member States to set up such inspections systems. The Committee adopted 24 amendments that aimed at the establishment of minimum inspection standards.

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

In adopting its report, drafted by Ms. Caroline JACKSON (EPP, UK), the European Parliament called for the proposed Council Recommendation (non-binding) to be changed into a proposal for a Directive (binding) given the importance of ensuring that Community environment legislation is applied uniformly. The Parliament stresses the importance of encouraging the coordination of inspections and inspection services between the Member States. It demands that Member States ensure that the inspecting authorities after every site visit process or store, in identifiable form, and in data files, the inspection data and their findings. Reports shall be publicly available within 2 months of the inspection taking place. The Commission is invited, in cooperation with IMPEL and the European Environment Agency and other interested parties, to draw up minimum criteria for the qualifications and accreditation of environmental inspectors who are authorised to carry out environmental inspections on behalf of competent bodies or on an individual basis. Member States are invited, in cooperation with IMPEL and other interested parties, and with the support of the Commission, to develop training programmes so as to meet the demand for qualified environmental inspectors. Member States are invited to develop the necessary training programmes so as to meet the demand for qualified environmental inspectors.?

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

The Commission can accept in full amendments numbers 1 and 10, provided that the form of a recommendation is retained. It can also accept in principle amendments number 16 (without the reference to the European Environment Agency (EEA)), 17 and 24, provided that the form of a recommendation is retained. The amendments which the Commission accepts in full concern: - the involvement of the EEA in advising the Member States on their systems for monitoring environmental provisions and giving support in respect of the coordination of reporting ; - the exhortation of the Member States, in cooperation with IMPEL and the Commission, to encourage the coordination of inspections and inspection services in order to prevent illegal cross-border environmental practices. - The Commission accepts in principle the amendments relating to : - the involvement of the EEA and the IMPEL. This amendment introduces and new Point VIIIa. The first paragraph seeks to encourage the Commission in cooperation with the IMPEL, the EEA and other interested parties to draw up minimum criteria in relation to the qualification and accreditation of inspectors. The Commission can accept this in principle provided the reference to the EEA is removed, as this sort of activity does not form part of its functions ; - training programmes for inspectors can also be accepted in principle ; - reports being made publicly available within 2 months of the inspection taking place, can be accepted in principle provided it is understood that such reports must be finalised within 2 months of the site visit and any request by the public for such reports. In addition, once finalised, they must comply with Directive 90/313/EEC which provides that such information shall be available as soon as possible after a request, in the first instance, and at the latest within 2 months. The Commission rejected the European Parliament's amendments relating to : changing the form of the proposal from a recommendation to a directive ; - matters of transposition for which Member States, not the Commission, are responsible ; - the processing and storing of data following site visits instead of 'reports' as such and detracts from the accuracy and strength of the Commission's proposal; - brief data rather than detailed reporting on compliance with particular legal requirements which cannot be accepted as the inspection should reveal which particular legal requirements have not been met.?

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

The Commission accepted in substance, provided the form of the proposal remained that of a recommendation, five of the fifteen amendments adopted by the European Parliament. The common position adopted by the Council, which endorses the Commission approach for a recommendation on minimum criteria concerning environmental inspections in the Member States at this stage, incorporates in principle, fully

or in part, a good number of the European Parliament's amendments accepted by the Commission in its amended proposal. The main changes introduced to the text and agreed by the Council are as follows: - the Council modified the Preamble to bring it in line with the content of the common position; - the addition of new recitals concerning the acknowledgement of the existence of different systems and practices of inspections in the Member States; the division of responsibilites between authorisation and inspection services to be taken into account when inspections take place; the requirement for Member States to report to the Commission and Council on the experience in operating the Recommendation and subsequent request to the Commission to inform regularly the Parliament; further work to be done by IMPEL and the Member States on training and qualifications of environmental inspectors. In addition, a few modifications aiming at clarifying and improving the text have been introduced by the Council, mainly concerning: - the consideration of data on and from previous inspection activities; - the consideration of statements produced by the "controlled installations" according to the EMAS regulation; - the consideration of environmental risks in the programmes for routine environmental inspections; - the provision of co-ordination between different inspections authorities. Furthermore, the main change introduced by the Council with regard to the reporting requirements concerns paragraph 2, where the common position states that full reports will be communicated to the operator of the "controlled installation" in question and be available to the public . The Council has followed a pragmatic approach with the intention of avoiding a cumbersome procedure by which in any case the full report be communicated to the operator concerned. With regard to Point VII on investigations of serious accidents, incidents and occurances of non compliance, this text has been streamlined by the Council by incorporating the concept of the appropriate follow-up actions to be taken by the operator.?

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

The purpose of the proposal is to establish guidelines for minimum criteria in environmental inspections of industrial installations and other enterprises and facilities ('controlled installations') whose air emissions, water discharges or waste activities are subject to authorisation, permit or licence under Community law. Provided that the form of the proposal remained that of a recommendation, the Commission accepted in principle 5 of the 15 amendments adopted by the European Parliament at first reading. The Commission's amended proposal COM(1999) 652 final of 3 December 1999 took account of these 5 amendments, with some minor drafting changes. Two of these five amendments have been incorporated, in modified form, in the Common Position. The Commission considers that the Common Position achieves the purposes of the proposal and that some useful changes have been made. The changes made by the Council do not, in general, affect the substance of the proposal and are often helpful in clarifying its terms. The exclusion of nuclear inspections from the scope of the proposal is a significant modification but the Council and Commission statements are a sufficient response to enable new and more specific guidelines for nuclear installations to be proposed. Therefore, taking everything into account, the Commission supports the Common Position.?

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

The committee adopted the recommendation for second reading (codecision procedure) by Caroline JACKSON (EPP/ED, UK) amending the Council's common position. The committee reinstated Parliament's main demand at first reading, namely, that the instrument governing environmental inspections should be a directive rather than a recommendation. It argued that the adoption of a directive would mean that Member States would be under a legal obligation to set up such inspection systems and not merely to think about doing so. Financial penalties could also be imposed where necessary. The committee felt that it would be undesirable for the EU to enlarge without having on the statute book a clear legal definition via a directive of what national environmental inspectorates are required to do in order to enforce EU law. Most of the other amendments were designed to adapt the text so that it had the binding force of a directive. One amendment also sought to encourage the coordination of inspections and inspection services between the Member States in order to avoid "environmental dumping". ?

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

The European Parliament in its second reading recommended by Caroline JACKSON (EPP/ED, United Kingdom) made several amendments to the Council's common position, the main ones being: -the recommendation containing best practices has been made into a directive establishing minimum criteria for inspections, with the effect that the provisions of this measure are legally binding on Member States. -a precise timetable should be drawn up for the Member States to develop a format for authorisation systems, jointly and with support from the Commission, so that a distinction can be made between Community provisions and national provisions with which the Controlled Installations must comply. -Inspection reports shall be publicly available within two months of the inspection taking place. ?

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

The Commission's position on the amendments presented By Parliament is that none of the amendments seeking to change the form of the proposal from a recommendation to a directive can be accepted. The main reason is that, given the wide disparity in Member States' environmental inspection activities, it was desirable to ensure that minimum inspection tasks were performed as a first step. A directive would be proposed on inspections generally (minimum criteria, frequency of inspections, training etc.) in due course in the light of experience of the operations of the recommendation. There is also strong resistance from the Member States and IMPEL to a directive. With regards to amendments as to substance, three part amendments can be accepted if the proposal remains a recommendation. These include: - the European Environment Agency can advise the Member States on developing and extending their systems for monitoring environmental provisions, so that reporting may be co-ordinated. - review by the Commission of the recommendation will take into account contributions from the European Environment Agency. - in order to prevent illegal cross-border environmental practices, the Member States should encourage co-ordination of inspections and inspection services.?

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

The Conciliation Committee reached agreement on the joint text of the recommendation. The main points of the compromise were as follows: - Parliament accepted a recommendation instead of a directive but only in combination with a revision clause. This meant that after two years (i.e. before the end of Parliament's current term of office) the Commission would submit to Parliament and Council a report on the functioning of the recommendation, accompanied, if appropriate, by a proposal for a directive. Both institutions, EP and Council, undertook to consider any proposal for a directive without delay. - In order to increase transparency for the EU public, Parliament insisted on inspection reports being made publicly available within two months of the inspection. - Parliament was particularly concerned about illegal cross-border environmental practices. It therefore pushed through a provision providing for improved coordination of inspections between the Member States. Parliament's delegation acknowledged that the result meant a number of its aims were not fulfilled but claimed it was the best achievable compromise. The delegation also announced that Parliament would in future consider adding a standard clause to any environmental legislation, calling for a proper environmental inspection system to be put in place to monitor its application.?

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

The European Parliament voted by 435 to 42 with 4 abstentions to endorse the compromise reached in conciliation on minimum criteria for environmental inspections in Member States based on the report drafted by Mrs Caroline JACKSON (EPP/ED, UK). (Please refer to the previous texts).?

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

PURPOSE : to ensure a better application and a more coherent implementation of environmental community law in all the Member States. COMMUNITY MEASURE : Recommendation of the European Parliament and of the Council 2001/331/EC providing for minimum criteria for environmental inspections in the Member States. CONTENT : the recommendation foresees environmental inspectiond for all industrials installations and other enterprises and facilities whose air emissions are subject to authorisation, permit or licensing requirements under Community law. The environmetnal inspections 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. Two types of inspection are provided in particular: - routine inspections, that is, carried out as part of a planned inspection programme; or - 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. Moreover, Member States should ensure that environmental inspections 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 States and of the controlled installations within it. Each plan for environmental inspections should as a minimum: - cover a defined time period , for example one year; - include specific provisions for its revision; - identify the specific sites or types of controlled installations covered; - 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; - 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 or granting permission; - provide for coordination between the different inspecting authorities, where relevant. Lastly, there should be adequate reports and conclusions following the site visits. These reports should be communicated to the operator of the controlled installation adn should also be publicly made available within two months of the inspections taking place. Member States should report to the Commission on their experience of the operation of this recommendation two years after its entry into force. In light of the experience gained from their application, the Commission should review the operation and effectiveness of this recommendation. To this end, it shall submit to the European Parliament and the Council a report accompanied, ifappropriate, by a proposal for a Directive. IMPLEMENTATION : the 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 27/04/2002.?

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

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.

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

To recall, the 2001 Recommendation providing for minimum criteria for environmental inspections in the Member States, contains non-binding criteria for the planning, carrying out, follow-up and reporting on environmental inspections. Its main objective is to strengthen compliance with Community environmental law and to contribute to a more consistent implementation/enforcement of EU environmental legislation in all of the Member States. Under the terms and conditions of this Recommendation, the Member States were asked to report on their implementation of the Recommendation and on their experiences with its application. These reports were then forwarded to the Commission for further analysis. A thorough and complete report describing the implementation and application of the Recommendation is annexed to this Communication.

The purpose of this Communication is to set out the Commission?s views on the further development of the Recommendation and to launch a broad-based discussion with stakeholders on its future direction. In the course of 2007, the Commission will hold meetings with interested parties as well as carrying out an internet consultation exercise with interested parties.

Implementation of the Recommendation in the Member States:

All of the EU Member States submitted a report to the Commission regarding the Recommendation?s implementation. However, in many cases the information submitted was either incomplete or difficult to compare. In some cases, where the environmental responsibility lies with the regions, it was impossible for the Commission to draw any conclusions at a national level. Most information relates to 2002-2003. In spite of these gaps, the report notes that almost all Member State have, partially, implemented the Recommendation. All but a few have managed to implement it in full. Large disparities still exist in the way environmental inspections are being carried out within the Community ? meaning that the full implementation of Community wide environmental legislation can not be guaranteed. This trend could lead to competitive distortion at a business level. There also appear to be large differences in the political priority being given to environmental inspections in the Member States.

Areas for improvements:

- Scope: Based on the reports received, the Commission feels that the scope of the Recommendation needs to be improved. The scope has been interpreted in different ways by the Member States, resulting in large differences in the number of installations subject to environmental inspections and large difference between the percentages of installations inspected per year. The difference in interpretation is particularly relevant for the waste sector. A further challenge concerns the number of environmental activities that are subject to Community-wide legislation but which are not covered by the scope of the Recommendation.
- Definitions: Similarly, many definitions set out in the Recommendation are being interpreted in different ways by the Member States. They refer, specifically, to the following terms: inspection, control, audit; Inspection authority; Inspection plan; Inspection programme; cross border mechanism; and routine/non-routine inspections.
- Planning inspections: None of the planning inspection criteria have been fully implemented in all of the Member States, with many of the ?inspection plans? failing to include strategic elements. In many cases a planning inspection plan consists of mere lists of installation or sectors to be inspected. Some Member States have, however, established advanced systems to plan inspections and the use of risk based management approaches to plan inspections has been proposed as a useful method for achieving good practice in inspections.
- Evaluation of inspection plans: Evaluating the success of inspection plans has been recognised as an important tool to improve the planning of inspections. Some Member States have sophisticated systems into place with which to evaluate their inspections plans, which in turn has helped them to define their future plans.
- Reporting: The first reporting exercise has produced a large amount of information showing how the Recommendation is implemented and applied in the Member States. The information is not, however, always comparable and does not allow clear conclusions on the efficiency of the inspection systems to be drawn. One possibility would be the drafting of simpler, more targeted, reporting systems.
- Access to information: Information forwarded to the Commission by the Member States indicates that several do not make the inspection plans and reports available to the public in spite of obligations to do so. Several reasons are given for this. The release of information, prior to an inspection, could jeopardise their success. Also, many reports contain confidential commercial information and the obligation to provide environmental information already exists under Directive 2003/4/EC. Ways, therefore, need to be found to make the strategic part of the inspection plan public, without making public the information on the list of installations to be inspected.

Proposed way forward:

In the Commission?s view, the lack of full implementation requires the establishment of legally binding requirements for environmental inspections. The following actions are, as a result, being proposed:

- Revision of the Recommendation: The Recommendation should be amended. Attention should be given to broadening its scope so

that it covers, as far as possible, all environmentally significant activities. Definitions relating to inspections should be reconsidered as should the criteria for the planning of inspections. A simple reporting system that is as clear as possible should be established in order to provide for comparable information on how inspection systems are working and whether they achieve the Recommendations core objective: improved environmental legislation compliance.

- Sectoral inspection requirements: Specific, legally binding requirements, for the inspection of certain installations and activities should be included in sectoral legislation. This would have the advantage that requirements can be adapted to the specific nature and risks of the installations or activities covered and be more precise as well as better targeted than general criteria. Sectoral inspection requirements can be either complementary to the Recommendation or concern themselves with installations or activities that are not covered by the Recommendation. The report gives the example of the Seveso II Directive for the control of major-accident hazards. Further, the Commission is considering proposals that would specially target rules for the inspection of waste shipments. Other pieces of environmental legislation that are currently under review/preparation include: a scheme for greenhouse gas emission allowance trading within the Community; substances that deplete the ozone layer; the quality of water intended for human consumption; the approximation of laws, regulation and administrative provisions regarding the protection of animals used for experimental and other scientific purposes; waste electrical and electronic equipment; the protection of species of wild fauna and flora by regulating trade therein; and a possible future Directive on the injection and sub-surface storage of carbon.

Cooperation between the Member States:

The Commission has actively participated in, and supported, projects that encourage Member State cooperation including:

- The IMPEL Review Initiative (IRI), which sends teams of senior inspectors from different countries to explore the regulatory system of the candidate inspectorate.
- The IMPEL Cluster Transfrontier Shipments of Waste, which has carried out several projects concerning the prevention of illegal shipments of waste.

Numerous guidance documents have been developed by IMPEL on how to plan and carry out inspections. Exchanges of information and experiences between inspectors have been organised. All initiatives have had a positive impact on the strengthening of inspections in the Community. IMPEL should receive continuous support for such projects.