IMPEL Project

Comparison of Common Regulatory Frameworks

Final Report

October 2010

Introduction to IMPEL

The European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL) is an international non-profit association of the environmental authorities of the EU Member States, acceding and candidate countries of the European Union and EEA countries. The association is registered in Belgium and its legal seat is in Brussels, Belgium.

IMPEL was set up in 1992 as an informal Network of European regulators and authorities concerned with the implementation and enforcement of environmental law. The Network's objective is to create the necessary impetus in the European Community to make progress on ensuring a more effective application of environmental legislation. The core of the IMPEL activities concerns awareness raising, capacity building and exchange of information and experiences on implementation, enforcement and international enforcement collaboration as well as promoting and supporting the practicability and enforceability of European environmental legislation.

During the previous years IMPEL has developed into a considerable, widely known organisation, being mentioned in a number of EU legislative and policy documents, e.g. the 6th Environment Action Programme and the Recommendation on Minimum Criteria for Environmental Inspections.

The expertise and experience of the participants within IMPEL make the network uniquely qualified to work on both technical and regulatory aspects of EU environmental legislation.

Information on the IMPEL Network is also available through its websites at:

http://impel.eu/.

Title report: Comparison of Common Regulatory Frameworks	**Number report:** 2010/16
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Project participants: Representatives of 17 IMPEL member countries and the European Commission	

Executive summary:

Better regulation actions/activities to improve efficiency and effectiveness whilst maintaining or improving levels of environment protection are increasingly being put in place by environmental inspectorates in member countries. This is often done in response to challenges such as relieving unnecessary burden on industry, increasing pressures on the environment and limited resources. The creation of a *common regulatory framework* is an example of a better regulation action/activity that some member countries have initiated to address these challenges.

The IMPEL Common Regulatory Framework Comparison Project has identified a breadth of *common regulatory frameworks* across Europe. Case studies identified through questionnaires, a practitioner workshop and a literature review were assessed and compared to identify perceived advantages and disadvantages; the costs, benefits and barriers; and to identify good practice.

In terms of common regulatory and enforcement frameworks there is a spectrum of approaches in member countries and wider, ranging from alignment (laws remain separate but requirements are harmonised) to integration and full codification. A degree of codification was found to be desirable and facilitated the establishment of common regulatory processes and language providing a wide range of benefits. These benefits include improved environmental protection, reduced burdens and costs for operators, clarity of legal

requirements, better targeting of resources and increased clarity for operators and stakeholders.

In addition, integration or full codification facilitated integrated permitting whether single site permitting or setting general rules for lower risk activities/sites. Single site permitting was also considered desirable allowing everything to be authorised at the one time so the process is simpler leading to a reduction in administrative and supervision burden. Single site permits also provide a holistic balanced view of the regulated activity or site.

However, there are some issues to overcome with regard to single site permits including: how to incorporate variable and non variable elements; identifying the competent authority if multiple organisations are involved; and how to deal with very large and complex sites under one permit. It was concluded that the way to overcome some of these issues is to ensure flexibility in regulations to allow permits to be tailored to the issue or situation and to simplify regulatory processes before they are integrated or codified.

General rules were also considered desirable for simple sites or operations as they provide clarity for the industry, consistency across regions and inspectorates and an easier way for government to speak with industry. Further, there is the potential to create a set of rules for a particular sector covering a range of different regulations.

Whilst common regulatory and enforcement frameworks were found to deliver significant benefits it was recognised that costs can be significant to enforcers bringing in new integrated regulatory systems. There can also be disruption to processes for number of years with requirements for transitional arrangements whilst regulators and the regulated adjust to a new system. Consultation and active participation of stakeholders with clear communication of benefits is essential to minimise disruption and to get “buy in” from business and industry.

The project also identified many examples of integrated inspection processes within IMPEL member countries and wider. It was concluded that integrated inspections have many benefits including improved environmental protection and compliance, more streamlined and effective enforcement, better balanced inspections and transparent, flexible, consistent approaches. Customer satisfaction can also be improved. Integrated inspections can be delivered without changes to regulation at minimal or even reduced cost to the regulator and operator. However, careful organisation is required particularly when many different organisations are involved and consideration is needed on the balance between super inspectors (inspectors with knowledge across media) or specialists to maintain the quality and effectiveness of inspections.

Integrated information systems were also identified in a number of member countries and it was felt that these can offer a way forward in the management of the vast array of environmental data available for use by experts, policy makers and the public. Whilst investment is required to design and implement integrated information systems and this may be a barrier in the current economic climate, it was considered that such systems deliver significant benefits. These include improved environmental management due to better data quality, provision of coherent environmental information to facilitate environment policy making and the ease of fulfilling EU reporting requirements.

Overall the project considers *common regulatory frameworks* to be desirable with significant benefits for the environment, economy and society. However, careful assessment of the costs, risks and benefits are required particularly where creation of a *common regulatory framework* involves significant regulatory change.

A number of recommendations are made by the project:

1. This report should be promoted and used within IMPEL to support future projects and IMPEL members should disseminate and promote the report within their individual countries to assist in decision making and the implementation and refinement of *common regulatory*

frameworks as required.

2. As a next step it is recommended to IMPEL that more detailed case studies of the *common regulatory frameworks* identified are compiled to provide in-depth information on costs, risks and benefits and useful models which could be applied in the context of member countries. The detailed case studies could highlight the spectrum of different organisations involved and identify where and why political issues may arise.

3. Consideration should be given to the promotion of *common regulatory frameworks* at a European level and how this might be achieved. It is felt that greater consultation and policy decision making is required across Europe on how to deal with differences across environmental directives. Further it is recommended that a process is established to identify the potential to merge environmental directives to facilitate the establishment of common regulatory frameworks.

Contents

Annexes

Abbreviations

EIA	Environmental Impact Assessment
ELV	End of Life Vehicles
EMAS	Eco-Management and Audit Scheme
EU	European Union
ICT	Information and Communication Technologies
IMPEL	European Union Network for the Implementation and Enforcement of Environmental Law
IPPC	Integrated Pollution Prevention and Control
IPPCD	Integrated Pollution Prevention and Control Directive
LCPD	Large Combustion Plant Directive
SED	Solvent Emissions Directive
Seveso	Council Directive 82/501/EEC on the major-accident hazards of certain industrial activities (OJ No L 230 of 5 August 1982)
SME	Small and Medium Enterprises
WEE	Waste Electrical and Electronic Equipment

1 Background

Better regulation actions/activities to improve efficiency and effectiveness whilst maintaining or improving levels of environment protection are increasingly being put in place by environmental inspectorates in member countries. This is often done in response to challenges such as relieving unnecessary burden on industry, increasing pressures on the environment and limited resources.

Policy drivers for better regulation at the European level (e.g. the Lisbon Strategy and the new Europe 2020 Strategy) and within member countries (e.g. the Hampton Review 2005, UK) and heightened interest in the actual or perceived impacts of regulation are also powerful influences, particularly with respect to enterprise and industry. In addition, the prevailing economic conditions sharpen the need for efficiencies. Simplified and streamlined approaches and focusing on improvements in regulatory outcomes are therefore key objectives for many regulators and Governments in the European Union (EU).

In addition, targets have been set by the European Commission to reduce the administrative burden and amount of time businesses spend filling in forms and reporting on a wide range of issues by 25% by 2012.

The creation of a *common regulatory framework* is an example of a better regulation action/activity that some member countries have initiated to address these challenges.

Common Regulatory Framework
Definition

The simplification and streamlining of regulatory activities and processes through the development of common legislative, regulatory and/or administrative systems (including information systems), procedures, guidance and/or language.

The word **common** can mean, for example, integrated, aligned, shared, combined or joint.

Permitting and compliance systems for different regulations have often developed separately over time and may have different procedures and rules creating a complex and overly-burdensome regulatory system. Creating a *common regulatory framework* can provide a consistent way to implement both existing and new legislation, recognising the common goal of protecting the environment and human health. It has the potential to help simplify and streamline regulatory activities and processes through the development of common systems, procedures, guidance and language. It also has the potential to ensure that processes and activities are more workable, transparent and flexible and to reduce administrative burden to business.

Many EU countries have recent examples of legislation they have modernised and this has provided an opportunity to review how legal requirements are packaged and delivered. Member countries are at different stages in the process and will be devising systems to suit their own circumstances. This provides an opportunity to learn from the various choices that have been made, including understanding the reasons why some options were not taken further.

The aim of the project is therefore to identify *common regulatory frameworks* that have been (or will be) implemented in member countries and elsewhere countries, to evaluate the experience gained and lessons learnt and to provide IMPEL recommendations and statement on *common regulatory frameworks*.

2 Objectives

The objectives of the Common Regulatory Framework Comparison Project are to look at environmental regulatory frameworks (legislative, regulatory and/or administrative) within and between member countries and wider, and specifically:

- To identify examples of *common regulatory frameworks* developed by different member countries and elsewhere and describe their history, the reasons why they were developed and why they took the form they did.
- To identify options for *common regulatory frameworks* that were considered but rejected and the reasons for this.
- To compare the examples and identify the perceived advantages and disadvantages of *common regulatory frameworks* for regulators and business/industry including administrative burdens.
- To identify barriers to integration/combining of environmental regulatory frameworks.
- To identify the benefits of *common regulatory frameworks* for member countries considering adopting such frameworks.
- To provide recommendations for IMPEL and member countries on the creation of *common regulatory frameworks* and good practice.
- To identify best means of dissemination to a wider audience including relevant conferences and business/industry associations.

It was expected the project will have the following benefits:

- Member countries (Government and environmental authorities) will be better equipped to implement and refine *common regulatory frameworks* as required through the availability of good practice information and data and contact with relevant practitioners in member countries.
- There will be better evidence of the outcomes/effectiveness of *common regulatory framework* approaches and their benefits for the environment and business.
- There will be more knowledge and understanding of the circumstances under which specific examples of *common regulatory frameworks* will or will not work.
- The project will inform the European Commission on good practice, how *common regulatory frameworks* are being put in place in member countries and help identify where there may be a need for integration and/or review of legislation at a European level to enable further implementation of *common regulatory frameworks* within and/or between member countries.

3 Methodology

The project was managed by a core team with representatives from Austria, Germany, the Netherlands, Spain, the UK and the European Commission.

It has built on the findings and recommendations of IMPEL report “Practical Application of Better Regulation Principles in Improving the Efficiency and Effectiveness of Environmental Inspection Authorities” (December 2009). Specifically the recommendation to “consider whether there are specific areas of permitting that would be useful for IMPEL members to share experience in more detail e.g. integrating permitting requirements or company level approaches” forms the basis for this project. A number of the case studies in the better regulation principles report of 2009 are examples of *common regulatory frameworks*; these have been considered in this report.

The core team designed a questionnaire with input from IMPEL Clusters 1 and 3 to identify what better regulation initiatives are being taken forward by member countries and to

consider information on their outcomes, etc. A copy of the questionnaire is provided in Annex I to this report.

The questionnaire focuses on *common regulatory frameworks* that have been put in place; are currently being considered, planned or implemented within or between member countries; and ideas for *common regulatory frameworks* that were considered and then rejected. It looks at their history, reasons why they were developed, outcomes, success factors and barriers to success.

Responses to the questionnaire were received from 15 IMPEL member countries as shown in Box 1. Almost forty examples of *common regulatory frameworks* were provided. Of note, Italy responded to say that it did not have any *common regulatory frameworks*.

Box 1. Countries responding to questionnaire

Austria, Cyprus, Czech Republic, Denmark, France, Germany, Greece, Malta, Netherlands, Poland, Romania, Spain, Sweden, Turkey and the United Kingdom (England and Wales, and Scotland).

The responses were grouped based on three classifications. Annex II provides a collation of the responses received on common regulation and enforcement frameworks. Annex III collates responses on integrated inspections and Annex IV includes responses on information systems. This classification is also used to structure the report.

A literature review of *common regulatory frameworks* in non-IMPEL member countries was also conducted by Strathclyde University, Glasgow, Scotland and is included in Annex V.

In order to discuss the outcomes of the questionnaire and identify critical issues, conclusions and recommendations, a workshop was held in Vienna in June/July 2010. The workshop included presentations about specific initiatives and discussion on critical issues related to integrated and alignment of regulation and enforcement, integrated inspections and information systems.

Section 4 of this report sets out the findings from the project, drawing on questionnaire responses, the literature review and the outputs from the workshop. It looks at common regulatory and enforcement frameworks, integrated inspections and integrated information systems. For each subsection there is a comparison of different frameworks and discussion on costs and benefits, barriers and hurdles, success factors, other lessons learnt and changes required at a European level.

4 Outcomes and Discussion

4.1 Overview

Examples of *common regulatory frameworks* provided by IMPEL members for regulation and enforcement, integrated inspections and information systems are presented in Tables 1 to 3 respectively.

Discussions of findings is provided in Section 4.2 (regulation and enforcement), Section 4.3 (integrated inspections) and Section 4.4 (information systems)

Table 1. Examples of common regulation and enforcement frameworks

Common regulation and enforcement frameworks (in place)	
Bavaria	Substitution and Deregulation for Eco-Management and Audit Scheme (EMAS) registered Organisations
Cyprus	Environmental Impact Assessment (EIA) and Opinion within the Town Planning permit procedure. (Combination of Law on EIA and the Town

	Planning and Housing Law).
Denmark	lov om miljøgodkendelse m.v. af husdyrbrug (husdyrgodkendelsesloven) & bekendgørelse om tilladelse og godkendelse m.v. af husdyrbrug (Husdyrgodkendelsesbekendtgørelsen) (the act and regulation)
Denmark	Bekendtgørelse om godkendelse af listevirksomhed under miljøbeskyttelsesloven. The former is a regulation based in the latter which is the Danish Environment Protection Act.
England and Wales	Environmental Permitting
France	Classified Installation (Book V titre I of environment code)
Germany	Integrated Pollution Prevention and Control (IPPC) permissions / § 13 Bundes-Immissionsschutzgesetz (BImSchG) Concentrated Permission
Malta	Programme and Timeplan to Consolidate Environment Regulations
Netherlands	Dutch Environmental Management Act
	Dutch Water Act
	4th Tranche of the General Administrative Law Act
Sweden	The Environmental Code
	The Enforcement and Regulations Council (Tillsyns- och föreskriftsrådet)
Common regulation and enforcement frameworks (in progress or planned)	
England and Wales	Bringing water abstraction and impoundment (WAI) into environmental permitting and transposition of permitting aspects of upcoming EU Directives
France	Making a convergence between Mining permitting process and environmental permitting process
Malta	General Binding Rules for selected small and medium sized enterprises (SMEs) and micro-enterprises
	Environmental Permitting
Netherlands	Activities Decree
Turkey	Improving the environmental permitting and licensing mechanism through a new by-law
Common regulation and enforcement frameworks (future plans)	
Cyprus	Permitting for waste management and IPPC
England and Wales	Combine water abstraction, impoundment, flood defence and fish pass approval into single hydropower permission. Possibly linked to land use planning permission.
Greece	A new regime for environmental impact assessment
	Integrated waste permits

Malta	Improvements to regulatory and environmental governance system
Common regulation and enforcement frameworks (rejected)	
Cyprus	Common framework for the Water Pollution Control Law (Department of the Environment) and the Law on Emissions from Industrial Units (Department of the Labour).
Germany	Creation of a German Environmental Code

Table 2. Examples of integrated inspections

Integrated inspections (in place)	
Czech Republic	System of integrated inspections
Germany – North Rhine Westphalia	Integrated Seveso inspections
Turkey	Combined environmental inspections
Poland	Integrated inspections
Romania	Integrated IPPC inspections
Scotland	Scotland's Environment and Rural Services (SEARS) integrated inspections
Integrated inspections (in progress or planned)	
Czech Republic	System of integrated inspections
Greece	Joint inspections by environmental inspectors and health inspectors
Scotland	Common risk assessment methodology to identify inspection requirements across regulatory regimes

Table 3. Examples of integrated information systems

Integrated information systems (in place)	
Austria	Monitoring Verfahren (IT Tool)
Spain	IKS eeM System
Austria	Electronic Data Management (EDM) in the environmental field

4.2 Common regulation and enforcement frameworks

4.2.1 Objectives of common regulation and enforcement frameworks

The project found that the objectives of common regulation and enforcement frameworks put in place by IMPEL member countries and wider included the following:

- Improved environmental protection and compliance;
- Simplifying and rationalising systems to increase efficiency and flexibility;
- Cutting unnecessary red tape to lessen burden on operators;
- Simplifying processes for a particular sector of significance where they interact with many directives (e.g. animal husbandry in Denmark);
- Ensuring that agencies focus resource on issues that matter;
- Providing clearer, simpler and quicker systems
- Increasing clarity and certainty for everyone on how regulations protect the environment;
- Avoiding contradictory decisions when many different public authorities are involved;
- Modernising and updating legislation;
- Encouraging cooperation between public authorities; and
- More effective enforcement.

In France and Denmark there has been a long tradition of integration of environmental regulation and this is the historical norm.

4.2.2 What do common regulation and enforcement frameworks cover?

Table 4 shows the kinds of regulations that have been or will be combined into common regulation and enforcement frameworks in different countries. The examples show that there are many combinations of environmental and non environmental (but related) regulation that can be brought under a *common regulatory framework*.

Table 4. Examples of regulation that have been or will be combined into common regulation and enforcement frameworks in different countries.

Country	**Regulation combined**
Cyprus	EIA, town planning and housing law. In future will combine permitting for waste management and IPPC.
Denmark	For animal husbandry – EIA, habitats, IPPC, bird protection, nitrates and water framework directives. For all else – solvent emissions directive (SED), waste incineration directive, large combustion plant directive (LCPD), end of life vehicles (ELV) directive, waste electrical and electronic equipment (WEE) directive, IPPC directive, waste framework directive and landfill directive.
England/Wales	IPPC and related sectoral directives (e.g. LCPD, WID, SED), waste, water, groundwater, basic safety standards, radioactive substances and the permitting aspects of mining waste and batteries. Currently working on bringing in water abstraction and impoundment. In the future aim to combine water abstraction, impoundment, flood

	defence and fish pass approval into one single hydropower permission possibly linked to land use planning permission.
Germany	IPPC directive.
Scotland	In the future would like to align or integrate regulation for water, air, land, waste and radioactive substances.
Sweden	Nature Conservancy Act, Environmental Protection Act, Law of Prohibition against Dumping of Waste into Water, Water Act, Law of Chemical Products, Law of Environmental Damage, Law of Economizing on Natural Resources.
Turkey	Turkey is working towards combining media based environmental permits into one in support of IPPC implementation.

4.2.3 Codification and alignment of regulation - discussion

Codification of environmental law can be included in the broad definition of a *common regulatory framework*. However the term *codification* is open to different interpretations. For the European Commission codification is the simple act of producing a new, otherwise unchanged version of a Directive which has been subject to amendment: for example the "codified" IPPC Directive 2008/1/EC. (In the UK, it would normally be referred to as *consolidation*.) Whilst acknowledging the Commission's specific definition, this is not the definition used for the purposes of this project.

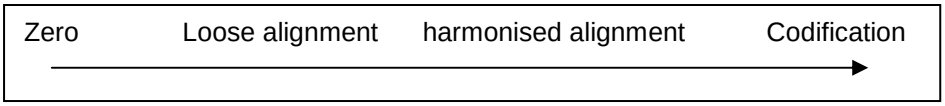
By *codification* we mean bringing previously separate environmental laws together into one single law, or code. Nonetheless, there remains the possibility of significant differences between member countries as to what is codified, and how. For example, in some systems IPPCD and Seveso may be brought together with spatial planning and water law, while in others some or all of these may remain separate, even though a degree of codification has nevertheless taken place.

It is important to distinguish codification from *alignment*, by which laws remain separate, but means are found at least to harmonise their requirements (typically procedural) in some way, and possibly to deliver their requirements through a *common regulatory framework*.

Codification
Bringing previously separate environmental laws together into one single law, or code.

Alignment
Laws remain separate, but means are found to harmonise their requirements.

The different ways in which alignment could take place, and what it might lead to suggest there is a spectrum of approaches to deliver a *common regulatory framework*. Legal *integration* can therefore be considered as a continuum, with zero integration at one end and full codification (across a wide range of laws) at the other. Looser types of alignment would be closer to the zero end of the scale than more harmonised systems:



In reaching this conclusion, however, it is very clear national systems are inevitably predicated upon diverse historical, cultural and political traditions. Even allocating national examples to a particular place along the continuum is not easy (and the two-dimensional continuum may be too simplistic a representation of a complex situation).

An equally fundamental issue is that the act of alignment or codification of laws does not of itself produce a *common regulatory framework*. Indeed, there is no automatic connection at all between integration and establishment of a *common regulatory framework*. As discussed below, there are examples of codification and alignment both with and without establishing a *common regulatory framework*; and *common regulatory frameworks* have been established without any legal integration.

Selected national examples are discussed below, and conclusions and recommendations are presented at the end.

National examples

1 New Zealand and South Africa

The literature review indicated that both New Zealand (NZ) and South Africa (SA) had codified their environmental laws to a degree. However, while NZ's Resource Management Act was fairly wide-ranging codification, and a single resource consent may be granted in some cases, there appears to be a *common regulatory framework* only in a very limited sense with, in some cases, multiple consents still being required even from one regulatory authority. Here, then, is what appears to be one example of codification largely without a *common regulatory framework* (there may be similarities with Britain's 1990 Environmental Protection Act). SA's National Environmental Management Act (NEMA) on the other hand is probably best described as a means of facilitating alignment, and is even less a *common regulatory framework*. The NEMA sets out a set of core principles and procedures, with separate legislation for each different environmental regime. Whilst not underestimating the benefits of having such a core set of principles underpinning environmental regulation, this system appears to be more one of very loose alignment, with no real *common regulatory framework* to speak of.

2 Netherlands, Germany and Austria

In the questionnaires sent out to member countries, the Netherlands' (NL) Environmental Licensing (General Provisions) Bill (Wabo) was cited as an example of a *common regulatory framework*. Interestingly, however, while the Wabo covers a range of different legal requirements, including air and water pollution and spatial planning, it is in fact a mechanism for delivering entirely separate legal requirements through one permit, which would otherwise be executed by several authorities with their own forms and procedures. It is undoubtedly a *common regulatory framework*, but involves no codification and, arguably, minimal alignment. It provides for a "one-stop-shop". Moreover, and very importantly, it applies only to relatively small-scale activities which are regulated exclusively by municipalities. For larger-scale activities more than one permit from more than one authority is likely to be required, so although the Wabo's horizontal scope is relatively broad, it is vertically limited.

Germany's Bundesimmissionsschutzgesetz (BImSchG) is also broad in scope, covering aspects of construction, nature conservation, pollution and even monument protection and air traffic issues. It does not, however, deliver water protection measures, which remain subject to a separate legal regime. In fact, and as with the Wabo, the BImSchG is a mechanism for delivering the requirements of diverse laws through one permit for the activities which it governs. It is, once again, a form of alignment. Recent attempts to codify German law, including bringing IPPCD and water requirements together, ran into significant political opposition and were abandoned.

In Austria the 2002 Waste Management Act gives authorities powers to issue a single permit, covering a wide range of legislation which would normally be the purview of other authorities

(federal and Land), for waste facilities. This constitutes a type of *common regulatory framework*, but again is by alignment, and only for certain types of facility.

These national examples indicate perhaps both some of the difficulties inherent in attempting to codify laws, and also the significant advantages perceived in delivering *common regulatory frameworks*. One of the matters we considered in the breakout session was the ease of transposition of new EU legislation in aligned systems. In Germany, depending on the nature of the EU law, a range of separate, existing laws may have to be amended as appropriate (for IPPCD the number was very considerable), and there appeared to be a degree of consensus that a more codified system might offer greater ease when transposing new EU law. Against that, however, the point was made that this would depend on how laws had been codified. Adding increasingly heterogeneous requirements to a "monolithic" legal framework could make the law increasingly "dense" and difficult to understand (but see also discussion of Environmental Permitting in England and Wales below).

3 France and Sweden

France provided a very interesting example of codification, but one which in fact followed establishment of a *common regulatory framework*. The concept of a *classified installation* (CI) dates back to the mid-1970s, but codification into laws and subsidiarity decrees took place only in 2000. Codification explicitly did not amend existing laws. Again, this demonstrates that more extreme integration is not a prerequisite for a *common regulatory framework*. The French Environmental Code is divided into seven "books", the CI being found in Title I of Book V. This *common regulatory framework* addresses most environmental issues, including emissions to air and water, and Seveso; only spatial planning remains separate. Common permitting provisions apply, and the system sets out for each activity what kind of permit is required and the geographical extent for public consultation. As in England and Wales, a hierarchy of permits includes registration for lower-risk activities, a full authorisation being required for IPPCD activities. The French system appears to be a fully codified *common regulatory framework*, albeit where codification post-dates the establishment of the *common regulatory framework*.

Swedish environmental law has also been codified in its Environmental Code, which replaced and, unlike France, amended 15 separate laws. However, the Code is a framework law and operates at a fairly high level, detailed substantive legal requirements being set out in subsidiarity, sector-specific legislation (including laws setting Environmental Quality Standards). While a single permit may be granted for matters subject to the Code, planning and Energy Act requirements are dealt with separately. As in France, there is a hierarchy of permitting, with low-risk activities being required only to notify municipal authorities, while higher-risk activities require a permit from either a County Administrative Board (CAB) or the Environmental Court. The high-level nature of the Code means that, although Sweden frequently claims to have transposed new EU legislation through pre-existing requirements, it is far from unknown for the Commission to require at least further information before being satisfied as to the adequacy of transposition.

As with France, it was possible to issue a single permit delivering most legal requirements before the adoption of the Environmental Code. So, once again, there appears to be a codified *common regulatory framework*, but the *common regulatory framework* pre-dated codification. Sweden does, however, believe that codification improved transparency, clarity and consistency of the law, and that amending existing laws at the point of codification was an important element in this.

4 Romania

Romania provides a very interesting counter-example, in that its environmental laws remain entirely separate. There was a suggestion in the workshop that this made it – at least superficially – easier to transpose EU legislation in the first instance, although whether this resulted in overall fragmentation and inconsistency is possibly an issue. Romania seeks to

deliver relevant legal requirements through a single permit and therefore has a *common regulatory framework*, but difficulty has been experienced in doing so, given the non-integrated legal system, and there appeared to be a consensus that there were more disadvantages than advantages in trying to develop a *common regulatory framework* in this way.

5 England and Wales

Environmental law was to a degree codified in the 1990 Environmental Protection Act, which brought together a number of laws, including those on waste management, integrated pollution control, nuisance and contaminated land. However, each regime remained procedurally and substantively separate and different, so codification did not produce a *common regulatory framework*. Indeed, the IPPCD was transposed by means of a separate Pollution Prevention and Control Act and Pollution Prevention and Control Regulations. Desire for a *common regulatory framework*, at least for the clearly-overlapping areas of IPPC and waste management, led England and Wales to develop the 2007 Environmental Permitting Regulations (EPR). These set out common procedural provisions for permitting and enforcement, with the substantive requirements of a number of Directives, including IPPCD, the Waste Framework Directive and a number of sectoral Directives (e.g. waste incineration, landfill, large combustion plant, solvent emissions etc.) being delivered through a series of Schedules to the Regulations. In 2010 new EPR replaced the 2007 version, and brought radioactive substances regulation, water discharge consenting and groundwater regulation into the framework. In the meantime, the Batteries and Mining Waste Directives had already been transposed through the EPR.

Although the EPR do not cover spatial planning, water abstraction and other environmental issues, they do constitute an essentially codified *common regulatory framework*, and one which is designed to be risk-based (using a hierarchy of exemptions, standard rules and bespoke permits) and flexible. This flexibility allows for transposition of future Directives by addition of further Schedules, with minimal amendment of the procedural provisions in the main body of the EPR. The framework therefore arguably retains a certain simplicity, even while the list of substantive requirements it can deliver grows.

Summary

In summary, the project promotes the concept of a continuum of integration, with full codification being at one end of that spectrum and it is considered that greater codification, subject to the limits of national political systems, is essentially desirable, not least because of the potential for developing a common language and understanding of environmental issues, and for improving public participation through transparency of the legal system. This is particularly the case given the occasionally patchy evolution of environmental law in recent decades.

However, the obstacles to codification are also recognised and along with the fact that codification in itself does not guarantee a *common regulatory framework*. The project has identified a wide range of existing *common regulatory framework*s of diverse scope, and these can be found at almost every point along the continuum.

4.2.4 Integrated permitting - discussion

Integrated permitting (with or without codification) also falls under the definition of a *common regulatory framework*. Two approaches to integrating permitting can be seen from the examples provided:

1. One single permit: combining different permits from different regulations into one, sometimes even beyond the environmental regulations. This will end in a combined permit for an installation / organisation instead of having separate permits for the different regulations.

2. Setting general rules instead of having (separate) permits. The company/installation itself is responsible for ensuring that the general rules are met. In many member countries no permitting procedure has to be followed. However, in England and Wales operators have to apply for a “general rules” permit.

Single site permitting has the benefit of doing everything at one time. It provides a one stop shop rather than having to go through several procedures and/or delivering the same data several times. So it is simpler, not only in the result, the permit, but also in the procedures potentially leading to a reduction of administrative and supervision burden.

Single site permitting provides a holistic balanced approach ensuring equilibrium and balance of interest for example between air treatment and waste generation. It helps avoid instances where fulfilling the requirements of one permit may lead to non-compliance with another permit. This means that discrepancies between the different regulations may become apparent and result in more aligned regulation.

There are issues to overcome however. Firstly, how do you incorporate variable elements into a permit that may be issued for life (e.g. IPPC permits in Germany and France)? This can be overcome by having a different section in a permit and a bespoke site permit could be reviewed at any time.

Secondly, how do you tackle issues of competence if different parts of the permit are the responsibility of different organisations? Does a single site permit drive you down the route of a big Environment Agency with many competencies? Possible solutions can be drawn from Germany where the organisation responsible for the permit coordinates input from other responsible organisations and from France where there are specialists who are contacted during the permitting process. These issues suggest that whilst single site permits reduce the administrative burden for business they may significantly increase the burden on the regulators in terms of coordinating input from other organisations.

Thirdly, where do you draw the line for single site permits? Where does an issue cease to be environmental? For example in some countries environmental impact and planning issues are included in the permit. There may be different reasons within each country for why certain aspects are or are not included depending on the organisation and structure of the governmental system.

Fourthly, for complex or large size projects (e.g. an extension to an airport) single site permits can result in huge permit applications (and corresponding huge objection documents) which are difficult or time consuming to process, review and manage. Objections on one aspect of the application can add significant delay to other non related aspects. It is therefore essential to ensure that the permit has the minimum required information with perhaps standard aspects being held separately on an information system (standardisation). For complex or large size projects it may be easier to structure the single site permit or split it into separate permits.

This last point emphasises the importance of being able to tailor the type of permit issued to the situation/activity. This requires flexibility in regulations governing permitting processes. It also raises the importance of simplifying regulatory processes before bringing them under one permit.

Finally, initiating regulatory reform to put in place single site permits requires a clear understanding of the benefits, as reform can cause years of disruption.

Another option for integrating permitting is to establish general rules. However these are only applicable to simple sites or operations. Using general rules for more complex sites can result in a set of standard rules with long lists of exceptions; this may not contribute to the aim of simplification and streamlining of processes.

There are benefits for general rules. They help industry prepare for what it will need to comply with and what to expect from inspections and as a result there is the potential for

industry to become more aware and responsible. General rules give consistency across areas and inspectorates and provide an easier way for government to speak with industry. They also have the advantage that you can draw in more expertise. Further there is the potential to create a set of rules for a particular sector covering a range of different regulations.

4.2.5 Economic costs of common regulatory and enforcement frameworks

Economic costs can be significant to enforcers bringing in new common regulatory and enforcement frameworks but may be modest to operators. Indeed, in some instances costs for operators can be reduced. However, when new systems are brought in the operator will require investments in environmental knowledge and understanding the demands of the Code or regulation. Further if there is tightening of regulations some operators may be brought into the system for the first time and there is then the cost of making applications for permits and adjustments to business processes (including installation of technical equipment) in order to comply.

4.2.6 Benefits of common regulatory and enforcement frameworks

Many benefits of common regulatory and enforcement frameworks have been identified including:

- Improved environmental protection;
- Monetary savings;
- Reduced administrative burdens;
- Ease of compliance;
- More effective and targeted use of resources;
- Maintains an overall and holistic perspective;
- Fewer permits needed;
- Environmental Codes (e.g. Sweden) broaden the responsibility for the environment to the operator;
- Tightening of legislation;
- Can provide single points of contact;
- Clarity on legal requirements;
- Quicker implementation of mitigations;
- Easier to meet domestic and strategic targets and objectives;
- Improved governance; and
- Development of knowledge and awareness raising for all stakeholders.

Further, where legal requirements are the same across all sectors there is the benefit that environmental regulators can transfer their knowledge across sectors. This is particularly helpful when you have regulatory responsibilities spread across many authorities and decentralised governmental environment centres (as in Denmark and Germany).

4.2.7 Barriers/Hurdles

Some of the barriers and hurdles to common regulatory and enforcement frameworks include the following:

- More sites/operators can be within scope of the new integrated system;
- Assessment of permits can suddenly become more thorough;
- There are potential business risks when regulators are depending on fees and charges which may change with implementation of a new integrated system;

- Having simple high level permit conditions means that field staff can find it harder to enforce compliance;
- There can be difficulty in updating existing permits into new system (possibly resulting in double systems). Drive and funding is needed for this with consideration of appropriate transitional arrangements so that operators have time to adjust.
- Some aspects are hard to combine in an integrated system for some countries (e.g. Germany) due to differences between fixed decision making for some elements and decisions that have latitude or estimation.
- New systems, e.g. Environmental Codes, can take time to settle in.

Further, the attempt to bring in an Environmental Code in Germany demonstrates the resistance that can be generated from industry and agriculture to the concept of integrated permits. In Germany's case it was because they were considered to be an unknown entity that would possibly engender legal uncertainty. There was also the concern that the intended standardisation would mean certain sectors would lose specific regulatory privileges (particularly in agricultural matters).

4.2.8 What made them successful?

Some of the factors that made common regulatory and enforcement frameworks successful were centralised acceptance criteria, data systems and information provision. Consultation and participation processes associated with integrating regulatory systems also led to buy in from operators and stakeholders.

4.2.9 Other lessons learnt

Other lessons learnt from the establishment of common regulatory and enforcement frameworks included:

- Do not over sell the benefits ahead of time. England/Wales found that initial benefits were quite modest for IPPC permit holders and those not needing new permits.
- It is not possible to satisfy everyone in terms of level of detail in guidance.
- National permitting centres have the potential for loss of contact with customer; however this can be overcome by having local points of contact during and following determination. The relationship between national permitting centres and regulated organisations needs to be carefully managed to ensure information flows between regulators and their stakeholders are maintained.
- Acts can get more elaborate and complex over time as they add in new and broader European legislation (e.g. the Netherlands).
- Consultation and proactive stakeholder engagement is a critical part of the process when changing legal systems.

4.2.10 European level changes

It was considered that changes could be made at a European level to encourage and facilitate the development of *common regulatory frameworks*. Consultation and policy decisions about how to deal with the differences across environmental Directives could be a useful exercise at the European level (for example addressing tensions between definitions in different Directives). It was also suggested that merging water and environmental directives into one would be of assistance.

The issue of subsidiarity needs consideration during the drafting of EU legislation to ensure that this does not hamper implementation of *common regulatory frameworks* at the national level. Promotion by the European Commission of the concept of single permitting would also be of benefit.

4.3 Integrated Inspections

4.3.1 Objectives of integrated inspections

From a review of the case studies provided it was found that the objectives of integrated inspection processes put in place by IMPEL member countries and wider included the following:

- Increased environmental protection;
- Improving compliance;
- Increasing the effectiveness of inspections by integrating and streamlining;
- Reducing administration burden;
- Minimising duplicity of inspections;
- Achieving economic benefits for inspectorates and operators;
- Ensuring consistent quality of inspections;
- Providing joined up services; and
- Improving customer experience.

4.3.2 What do integrated inspections cover?

Table 5 provides examples of the types of regulation that are covered by integrated inspections in different member countries.

Table 5. Examples of regulation covered by integrated inspections in different member countries.

Country	**Regulations covered by integrated inspections**
Czech Republic	IPPC
Germany – North Rhine Westphalia	Seveso
Turkey	Across media
Poland	IPPC
Romania	IPPC, LCP, waste disposal and others
Scotland	Water framework directive and ground water directives

4.3.3 Integrated inspections - discussion

The project identified many examples of integrated inspection processes within IMPEL member countries and wider.

Denmark has joint inspections between different organisations for Seveso sites. At such sites there can be conflicts between health and environmental inspectors if for example there is an accident and there is the issue of impact of fire water on water quality. Joint inspections can give a more balanced view of each aspect. However there are big differences in approach and method of inspections between different organisations (e.g. health, environment and fire brigade/ civil defence) which can make joint inspections harder to coordinate.

In the Netherlands, all authorities involved in Seveso know when inspections are planned throughout the year. There is the flexibility to prioritise the focus of inspections. It was found that integrated inspections helped shift priorities in the right direction and get a balance in terms of conflicting priorities between Ministries.

The question was raised about integrated inspections relating to a single site permit and who is lead authority if one aspect of the single site permit is non-compliant? It was considered that the organisation that is defined in law is responsible and that they enforce the permit. Another way of tackling this is for integrated permits to set out who is responsible for different aspects. The question still remains, however, whether the authority who signs off the permit is ultimately responsible for compliance. In Germany if you have written the permit it is your responsibility to enforce it together with the responsible authority. In France if you are a civil servant and you find a problem then you are obliged to go to the prosecutor and make a report.

Where there are many different organisations involved in integrated inspections it was felt that integrated IT tools should be considered in order to share information between organisations.

The project considered whether it is best to have one “super” inspector or specialists for different statutory tasks. In France you have some inspectors who are specialised in a particular area and they help local inspectors to do more complex inspections. A cross match is made with a field inspector at a departmental level. As the regulatory system is integrated inspections are automatically integrated. In the Netherlands you have to pay for specialists performing Seveso inspections. In France they do not have to do this as inspectors are civil servants and it is considered important to have a chain from field officers all the way to the Minister. Romania and the Czech Republic also have specialised inspectors who support local inspectors. In Poland there are universal inspectors doing all kinds of inspections, 34 environmental regulations and directives are inspected by one organisation (with 16 subdivisions). In South Africa the inspection process is managed by an Environmental Management Inspectorate. This Inspectorate provides the structure for a national network of environmental enforcement officials who record activities online. This is intended to break through a traditional separation of enforcement activities.

It was concluded that for many inspection tasks specialists are needed. On the other hand there are inspection tasks that are not too complicated where integrated inspections can be performed by one authority or even one inspector.

It was considered that a balance is needed between having more inspectors per site and going to more sites with fewer inspectors. In Romania, every inspection is done by two inspectors. One looks at emissions related topics and one looks at water or waste. Each inspector can do everything but they are rotated round aspects and also around plants. In Austria, it is considered necessary to have more than one person at complex installations like refineries to focus on different aspects of possible environmental impacts; so one inspection a year by one inspector is not enough for Seveso sites. In France they make point inspections focusing on particular aspects. Inspection plans decide who goes where and what help is needed to inspect.

In conclusion, the more complex your inspection objective is, the more inspections or inspection time and specialised inspectors are needed. The inspection of sites, facilities and installations is organised differently in the countries. If the inspection is organized on an installation level yearly or less frequent inspections with one or two inspectors are sufficient. This may be varied when a lot of different installations or facilities have to be inspected on one site. In the end the inspection frequency or the inspection time has to be multiplied by the number of different installations within the inspection objective and careful consideration is needed on the type of installations specialists needed and when “super” inspectors are sufficient.

4.3.4 Economic costs of integrated inspections

Investments are generally minimal to regulators when establishing an integrated inspection system. Changes can generally made by adjusting rules, procedures or competencies. However there may be increased workload for regulators in coordinating integrated inspections if they involve more than one organisation.

4.3.5 Benefits of integrated inspections

The benefits of integrated inspections were found to be the following:

- Improved environmental protection;
- Improved compliance and ease of compliance;
- More streamlined and effective enforcement;
- Effective targeted use of resources;
- The sharing of information across sectors leading to better advice provision through combined visits and knowledge transfer;
- Better balanced inspections;
- Provides a holistic approach – helps adjust and balance priorities;
- Inspectors have better information about particular operations;
- Can broaden the horizon of inspectors;
- Transparent, flexible, consistent and aligned approaches;
- Reduction in inspection numbers and less time spent on site overall;
- Customers feel they are getting a better service and are not being pulled in different directions;
- Makes life easier for companies;
- Can drive improvements to information systems and lead to more resilient data and traceable results; and
- Reduced carbon emissions through fewer separate visits.

4.3.6 Barriers and hurdles to integrated inspections

The main barriers to integrated inspections include in some instances unwillingness to change established procedures particularly when it's necessary to coordinate a whole inspection group which may cross organisations. Structural issues within inspectorates can also be a barrier to joining up inspection processes.

Some disadvantages to integrated inspections were also highlighted including:

- Conflicting responsibilities and organisational cultures;
- It can be difficult for one or two inspectors to know all the different aspects of a complex site;
- Organisation and coordination between different organisations can be difficult and there may be different lengths of inspections for different elements;
- It can give a reason to reduce staff;
- Can lead to a gradual drawing down of competence and potential for reducing standard of inspections; and
- There is a risk of losing specialists and expertise.

4.3.7 What made them successful?

A number of factors were identified as being key to the success of integrated inspection processes including:

- The consolidation of the whole inspection system;
- Acceptance of the system by both inspectorates and industry;
- Memorandum of agreements;
- Sense of common purpose;
- Stakeholder engagement;
- Drive, enthusiasm and communication skills of leaders; and
- Culture change and committed, enthusiastic staff.

4.3.8 Other Lessons learnt

Other lessons learnt when implementing integrated inspection processes included the following:

- Training is essential for integrated inspections and is an opportunity to exchange information and experience;
- Sometimes it is better to adapt the structure of the responsible authorities to the structure of regulation rather than the other way around; and
- By in by both inspectorates and industry is essential to success.

4.3.9 European level changes

It was considered that consolidation of inspections could be facilitated by the amendment of the IPPC Directive with regard to enforcements of inspections and environmental protection and that exchange of experience between competent authorities across the EU is important for effective implementation of integrated inspections and associated enforcement.

4.4 Integrated Information Systems

4.4.1 Objectives of integrated information systems

The project found that the objectives of integrated information systems put in place by IMPEL member countries included:

- Promotion of the positive effects of information and communication technologies (ICTs) to the economy, society and personal quality of life;
- Implementation of an integrated system replacing conventional paper based records and reports (including applications submitted to the authorities);
- Reduction of administrative burden on authorities and companies;
- Shortening of procedure times; and
- Transparency, clarity, traceability.

4.4.2 What do integrated information systems cover?

The integrated information systems in identified by the project cover a number of EU directives that require issuing of permits.

4.4.3 Integrated information systems - discussion

A major challenge in Europe and globally is to organise the vast array of already collected environmental data and information and to integrate these, where desirable, with existing social and economic data. Data and tools are needed to allow experts to do their own analyses and to communicate their results in ways which policy makers and the public can

readily understand and use as a basis for their own actions. At the same time, member countries and EU institutions need efficient and modern reporting systems to fulfil their legal obligations under European Union and international environmental policies and legislation, to avoid double, overlapping, and redundant reporting efforts. Citizens may also wish to know if the quality of air and water in their neighbourhood is good enough or if floods, droughts or pollution are risking their property and livelihood.

There are a number of examples that illustrate the environmental problems that can arise where information systems are not integrated. For example, the "Manual for the implementation of Regulation (EC) Nº 2150/2002 on waste statistics" (July 2006. Eurostat) warns that waste information is deficient and poorly harmonised, based on different definitions and methodologies, and it is characterised by overlaps in the reporting process and data errors. This suggests that waste related statistics at the European level may be based on poor quality information. Further, the "Waste without borders in the EU" Report (European Environment Agency, January 2009) refers to the waste control across sea borders and emphasises that the LER code for waste statistics is not effective potentially leading to deficiencies in the control of waste. These examples illustrate how data issues can reduce the effectiveness of environmental management processes such as waste transfer.

Integrated information systems can offer a way forward to the management and provision of the vast array of environmental data for experts, policy makers and the public. The Shared Environmental Information System (SEIS) for Europe aims to address these challenges. In addition the EU ISA programme a new programme to support electronic cooperation among Public Administrations should ensure the availability of common frameworks, common services and generic tools in support of cross-border and cross-sectoral interaction between European public administrations and support sectors in assessing the information and communication technology (ICT) implications of Community legislation and in planning the implementation of relevant solutions. The INSPIRE directive establishing an infrastructure for spatial information in Europe to support Community environmental policies, and policies or activities which may have an impact on the environment, will also be of help.

4.4.4 Economic costs of integrated information systems

Significant investments are needed to develop integrated information systems and to cover the resources required to run the system.

4.4.5 Benefits of integrated information systems

Integrated information systems can bring many benefits at the EU and member countries level. European citizens can be empowered by providing them with useful environmental information in their language and thus enable them to make informed decisions on their environment and influence public policy. This will enable real-time data to be made available to decision-makers and allow them to make immediate decisions where required. In return integrated information systems can provide member countries and EU institutions with more coherent environmental information to facilitate the drafting, implementation, and effectiveness of environmental policies.

Furthermore, the quality of the provided information will be increased. The significance of processed information is directly linked to its timeliness, both for reasons of precision and for comparability purposes.

In terms of cost it is estimated that great savings can be made by improving the efficiency of data-gathering conducted by member countries. Greater harmonisation and prioritisation of monitoring activities organised at national and regional level is likely to be particularly effective in improving the cost-efficiency of current investments.

Environmental data and information can be used by many players for a number of purposes. Improving the mechanisms for collecting, exchanging and using the data can significantly

increase the use of environmentally-relevant data at least cost to users as demonstrated by the IKS eeM case study below.

A Basque Country Case Study – eEnvironmental System

IKS eeM System

The IKS eeM System, Integral Management System of Environmental Information, is a management instrument orientated at the new technologies which the Department of the Environment, Territorial Planning, Agriculture and Fishery of the Basque Country provides entities and the public in general of the Basque Autonomous Community to facilitate the exchange of information exclusively by electronic means through the INTERNET.

The Electronic Management System includes all the information that external entities must provide the Administration for environmental control. It serves to cover all the information transactions of both the System clients (external entities), the Department, other administrators (local, state, Ministry of the Environment), and/or the European Community. At the same time it supports the electronic transmission of administrative files.

On the one hand, external entities are also able to obtain the necessary indicators that define their environmental behaviour from the information contained in the Management System. On the other, the administration will have the necessary information to define and implement environmental policies.

For private entities a modern and efficient electronic system allows them to fulfil their reporting obligations related to EU environmental policies. By doing away with paper reporting, the process through which environmental information is made available will be simpler, more flexible and more efficient as demonstrated by the Austrian case study in the box below.

An Austrian Case Study - Environmental Reporting

EDM-Environment - Electronic Data Management in the Environmental Field

This eGovernment application replaces paper-based records and reports through efficient electronic data management in line with international standards in the environment field. From the environmental sector the whole waste sector, PRTR, ETS, certain air emission pollutants and emissions to surface water registry.

EDM is part of EU policy framework (i2010) promoting the positive effects of information and communication technologies (ICTs) to the economy, society and personal quality of life

It has benefit in terms of cost reduction for public and private sector, for information on environmental data and for environment.

Today, the emerging challenge is to use ICT technologies to improve collaboration between organisations and to facilitate interaction with civil society at large. It is considered that without improved collaboration between European public sector organisations, growth and security, jobs and freedom or health and a safe environment will be more difficult to achieve.

4.4.6 Barriers/hurdles

Interoperability, the ability to exchange information from different sources, becomes a real problem when a vast number of data formats and information representation schemata are employed. When providing an e-Environment service, this information should be integrated and provided in the form that best suits its users.

In addition, the current economic climate and reduction in available resources can act as a barrier to the development of integration information systems.

4.4.7 Other lessons learnt

Monitoring and reporting requirements on businesses with regard to environmental performance can be extensive and impose significant costs, not least because these are usually on-going costs rather than one off events. It is, therefore, important that businesses are only required to monitor necessary aspects of their operation and report the data once. This should link with the systems of relevant authorities to reduce regulatory burdens and enable effective us of received information.

5 Conclusion

The IMPEL Common Regulatory Framework Comparison Project has identified a breadth of *common regulatory frameworks* across Europe. Case studies identified through questionnaires, a practitioner workshop and a literature review were assessed and compared to identify perceived advantages and disadvantages; the costs, benefits and barriers; and to identify good practice.

In terms of common regulatory and enforcement frameworks there is a spectrum of approaches in member countries and wider, ranging from alignment (laws remain separate but requirements are harmonised) to integration and full codification. A degree of codification was found to be desirable and facilitated the establishment of common regulatory processes and language providing a wide range of benefits. These benefits include improved environmental protection, reduced burdens and costs for operators, clarity of legal requirements, better targeting of resources and increased clarity for operators and stakeholders.

In addition, integration or full codification facilitated integrated permitting whether single site permitting or setting general rules for lower risk activities/sites. Single site permitting was also considered desirable allowing everything to be authorised at the one time so the process is simpler leading to a reduction in administrative and supervision burden. Single site permits also provide a holistic balanced view of the regulated activity or site.

However, there are some issues to overcome with regard to single site permits including: how to incorporate variable and non variable elements; identifying the competent authority if multiple organisations are involved; and how to deal with very large and complex sites under one permit. It was concluded that the way to overcome some of these issues is to ensure flexibility in regulations to allow permits to be tailored to the issue or situation and to simplify regulatory processes before they are integrated or codified.

General rules were also considered desirable for simple sites or operations as they provide clarity for the industry, consistency across regions and inspectorates and an easier way for government to speak with industry. Further, there is the potential to create a set of rules for a particular sector covering a range of different regulations.

Whilst common regulatory and enforcement frameworks were found to deliver significant benefits it was recognised that costs can be significant to enforcers bringing in new integrated regulatory systems. There can also be disruption to processes for number of years with requirements for transitional arrangements whilst regulators and the regulated adjust to a new system. Consultation and active participation of stakeholders with clear communication of benefits is essential to minimise disruption and to get “buy in” from business and industry.

The project also identified many examples of integrated inspection processes within IMPEL member countries and wider. It was concluded that integrated inspections have many benefits including improved environmental protection and compliance, more streamlined and effective enforcement, better balanced inspections and transparent, flexible, consistent approaches. Customer satisfaction can also be improved. Integrated inspections can be

delivered without changes to regulation at minimal or even reduced cost to the regulator and operator. However, careful organisation is required particularly when many different organisations are involved and consideration is needed on the balance between super inspectors (inspectors with knowledge across media) or specialists to maintain the quality and effectiveness of inspections.

Integrated information systems were also identified in a number of member countries and it was felt that these can offer a way forward in the management of the vast array of environmental data available for use by experts, policy makers and the public. Whilst investment is required to design and implement integrated information systems and this may be a barrier in the current economic climate, it was considered that such systems deliver significant benefits. These include improved environmental management due to better data quality, provision of coherent environmental information to facilitate environment policy making and the ease of fulfilling EU reporting requirements.

Overall the project considers *common regulatory frameworks* to be desirable with significant benefits for the environment, economy and society. However, careful assessment of the costs, risks and benefits are required particularly where creation of a *common regulatory framework* involves significant regulatory change.

6 Recommendations

A number of recommendations are made by the project:

1. This report should be promoted and used within IMPEL to support future projects and IMPEL members should disseminate and promote the report within their individual countries to assist in decision making and the implementation and refinement of *common regulatory frameworks* as required.

2. As a next step it is recommended to IMPEL that more detailed case studies of the *common regulatory frameworks* identified are compiled to provide in-depth information on costs, risks and benefits and useful models which could be applied in the context of member countries. The detailed case studies could highlight the spectrum of different organisations involved and identify where and why political issues may arise.

3. Consideration should be given to the promotion of *common regulatory frameworks* at a European level and how this might be achieved. It is felt that greater consultation and policy decision making is required across Europe on how to deal with differences across environmental directives. Further it is recommended that a process is established to identify the potential to merge environmental directives to facilitate the establishment of common regulatory frameworks.

Annex 1 - A copy of the questionnaire for the IMPEL Common Regulatory Framework Comparison Project

COMMON REGULATORY FRAMEWORK COMPARISON PROJECT QUESTIONNAIRE

Information about your organisation and contact details

Contact name(s), details and position/expertise	
Name of your organisation	
Is your organisation national, regional or other?	
If regional (or other), please name your country's national environmental organisation(s)?	
What is the regulatory context within which your organisation and your country's national environmental organisation operate?	

Please complete the relevant section of the questionnaire below for each common regulatory framework you are describing (**a minimum of two examples per country in total** is requested if available).

Please answer all questions in the relevant section for your two best examples (where possible). For any other examples you provide you can either answer all the questions or just the essential questions marked with a star.

Section A

Common regulatory frameworks - already completed

* What is the name of the common regulatory framework?
Answer:
* Who is the main contact for this?
Answer:
* When did it start and finish?
Answer:
If available, please provide a link to relevant information or documents.
Answer:
* Why was it put in place[1]?
Answer:
* What European Directives does it cover?
Answer:
* What national/regional legislation/regulation does it cover?

[1] E.g. compliance with Lisbon agenda, pressure group lobbying, political or economic pressures etc.

Answer:
Has it involved any joint working between Member States? If so which countries and why?
Answer:
Which stakeholders/organisations were involved in its implementation?
Answer:
* What were its objectives[2]?
Answer:
Please describe the common regulatory framework including: * 1. An overview 2. A brief description of any stages in its development * 3. A brief description of the *common* element[3] 4. A brief description of whether existing legislation was amended or replaced and how was this done (e.g. part of pre-planned legislative change or a free standing action/activity)?
Answer:
What were the costs[4] and benefits[5] of the common regulatory framework? Please provide any data or assessments if available.
Answer:
Were big investments needed to implement it and by whom?
Answer:
* Were there any barriers or hurdles to implementation? Were these expected or unforeseen?
Answer:
* How successful was the common regulatory framework? Please provide any data or assessments if available.
Answer:
Was there anything in particular that contributed to its success?
Answer:

[2] E.g. for environmental protection or to reduce administrative burdens etc.
[3] E.g. permitting, inspections, enforcement or a legislative, regulatory or administrative process etc.
[4] E.g. investment and resources for implementation, impacts of change, perception of a reduction in environmental protection etc.
[5] E.g. improved environmental protection, monetary savings, reduced administrative burdens, improved compliance, ease of compliance, more effective and targeted use of resources, change of focus from legislation to guidance etc.

* Could changes at a European level have helped its implementation? If so what and by whom?
Answer:
* Are there any other lessons that can be learned?
Answer:

* Essential information

Section B

Common regulatory frameworks - in progress or planned

* What is the name of the common regulatory framework?
Answer:
* Who is the main contact for this?
Answer:
* When did (or will) it start and when is it planned to finish?
Answer:
If available, please provide a link to relevant information or documents.
Answer:
* Why is the common regulatory framework being put in place[1]?
Answer:
* What European Directives does it cover?
Answer:
* What national/regional legislation/regulation does it cover?
Answer:
Does it involve any joint working between Member States? If so which countries and why?
Answer:
Which stakeholders/organisations are involved in its implementation?
Answer:
* What are its objectives[2]?
Answer:
Please describe the common regulatory framework including:

* 1. An overview 2. A brief description of any stages in its implementation * 3. A brief description of the *common* element[3] 4. A brief description of whether existing legislation is or has been amended or replaced and how is or was this done (e.g. part of pre-planned legislative change or as a free standing action/activity)?
Answer:
What do you think the costs[4] and benefits[5] of the common regulatory framework will be?
Answer:
Are big investments needed to implement it and by whom?
Answer:
* Are there any potential barriers or hurdles to implementation?
Answer:
* Could changes at a European level help implementation? If so what and by whom?
Answer:
* Are there any other lessons that can be learned so far?
Answer:

* Essential information

Section C

Examples of environmental regulatory systems that your country would like to integrate/combine in the future

* Please describe any examples of regulatory systems in your country that you would like to integrate/combine in the future?
Answer:
* Who is the main contact for these ideas?
Answer:
* What national legislation/regulation would be incorporated into the action/activity?
Answer:
* Why do you want to integrate/combine these regulatory systems[1]?
Answer:
What would be the overall benefits of doing this[5]?
Answer:

* Are there particular reasons (barriers/obstacles) why these actions/activities have not yet been put in place?
Answer:
What ideas do you have for overcoming barriers/obstacles?
Answer:
* Could anything be done at a European level to help overcome barriers/obstacles?
Answer:

* Essential information

Section D

Examples of common regulatory frameworks that were considered but rejected

* Please describe any examples of common regulatory frameworks which your country considered but rejected.
Answer:
* Who is the main contact in your organisation for this?
Answer:
* Why did you consider it[1]?
Answer:
What would have been the overall benefits of doing this[5]?
Answer:
* Why did your country decide not to pursue it? What were the barriers or obstacles?
Answer:
* Could anything be done at a European level to help overcome these barriers/obstacles in the future?
Answer:

* Essential information

Questionnaire Responses
Section A
Common regulatory frameworks - already completed

Bavaria
* What is the name of the common regulatory framework?
Answer: Substitution and Deregulation for EMAS-registered Organisations
* Who is the main contact for this?
Answer: Bavarian State Ministry of the Environment and Public Health, Division P2, Dr. Matthias Weigand
* When did it start and finish?
Answer: 1995/2002
If available, please provide a link to relevant information or documents.
Answer: http://www.stmug.bayern.de/umwelt/wirtschaft/entlastung/index.htm (please see attachement)
* Why was it put in place[1]?
Answer: "better regulation"; to avoid deficits of enforcement, to reduce administrative burdens and to streamline enforcement procedures, to support self-responsibility of business
* What European Directives does it cover?
Answer: Regulation (EC) No. 1221/2009
* What national/regional legislation/regulation does it cover?
Answer: all national/regional legislation/regulation referring to environmental protection
Has it involved any joint working between Member States? If so which countries and why?
Answer: No, it was a German/Bavarian incentive; some MS (e.g. Austria, Italy, Ireland, Spain) copied the idea.
Which stakeholders/organisations were involved in its implementation?
Answer: business associations, NGO's, government
* What were its objectives[2]?

[1] E.g. compliance with Lisbon agenda, pressure group lobbying, political or economic pressures etc.
[2] E.g. for environmental protection or to reduce administrative burdens etc.

Answer: shift of paradigm, l.a. question 5!
Please describe the common regulatory framework including: * 1. An overview 2. A brief description of any stages in its development * 3. A brief description of the *common* element[3] 4. A brief description of whether existing legislation was amended or replaced and how was this done (e.g. part of pre-planned legislative change or a free standing action/activity)?
Answer: 1. Application of EMAS with its compliance approach as a tool of legislation and enforcement of relevant environmental provisions. 2. first stage: use of EMAS for enforcement procedures second stage: implementation of EMAS into environmental legislation 3. common element: the commitment of the EMAS-registered organisations to be compliant with each environmental legislation/regulation 4. existing legislation is amended by supplementing links to EMAS as a part of preplanned legislative change.
What were the costs[4] and benefits[5] of the common regulatory framework? Please provide any data or assessments if available.
Answer: The reduction of administrative burdens lowers costs for the administration and the organisations; a decreasing deficit of enforcement is good for the environment. Additionally administrative fees are reduced for EMAS-registered organisations (see the Report from the Commission to the European Parliament and the Council on incentives for EMAS registered organisations in the period 2004 - 2006 ((SEC(2010)59)), 01.02.2010).
Were big investments needed to implement it and by whom?
Answer: No. Only the organisation's investment for the voluntary implementation of an environmental management system is needed. But the best available management is in the organisation's own interest.
* Were there any barriers or hurdles to implementation? Were these expected or unforeseen?
Answer: Traditionally thinking administration has usually some problems with the shift of paradigm. The learning process has to be supported.
* How successful was the common regulatory framework? Please provide any data or assessments if available.

[3] E.g. permitting, inspections, enforcement or a legislative, regulatory or administrative process etc.
[4] E.g. investment and resources for implementation, impacts of change, perception of a reduction in environmental protection etc.
[5] E.g. improved environmental protection, monetary savings, reduced administrative burdens, improved compliance, ease of compliance, more effective and targeted use of resources, change of focus from legislation to guidance etc.

Answer: Look at EMAS-statistics with top results for Germany/Bavaria.
Was there anything in particular that contributed to its success?
Answer: The German/Bavarian incentives reported from the Commission to the European Parliament and the Council (l.a. question 12)
* Could changes at a European level have helped its implementation? If so what and by whom?
Answer: The system needs links to EMAS in all relevant European environmental legislation/regulation to make national legislation and enforcement easier.
* Are there any other lessons that can be learned?
Answer: Environmental management systems should be a self-evident part of each organisation's management. So the high environmental standards of these new instruments could be used as one pillar of normal legislation and enforcement partly substituting poor command and control-approaches including a lot of deficits.

Cyprus
* What is the name of the common regulatory framework?
Answer: EIA Assessment and Opinion within the Town Planning permit procedure. (Combination of Law on EIA and the Town Planning and Housing Law).
* Who is the main contact for this?
Answer: The Dept of the Environment is responsible for EIA Assessment and Oprinion. The Dept of Town Planning and Housing of the Ministry of the Interior is responsible for the town planning permits (permits for any development projects).
* When did it start and finish?
Answer: It started at 2002. It still continues.
If available, please provide a link to relevant information or documents.
Answer: The docs on EIA are on the website www.moa.gov.cy. The Town Planning Permits are not publicised.
* Why was it put in place[6]?
Answer: It was put in place to ensure the terms on the EIA Opinions on projects would be included in the town planning permits.
* What European Directives does it cover?

[6] E.g. compliance with Lisbon agenda, pressure group lobbying, political or economic pressures etc.

Answer: The directives on EIA.
* What national/regional legislation/regulation does it cover?
Answer: Law 140(I)/2005 which transposes the EIA dir. and the Town Planning Law.
Has it involved any joint working between Member States? If so which countries and why?
Answer: No
Which stakeholders/organisations were involved in its implementation?
Answer: There are state departments and other stakeholders involved in the Committee for the Assessment Environmental Impacts of Projects including the ministry of communication and works, the ministry of health, the department of labour, the department for town planning and housing, the federation of ecological and environmental orgs, the technical chamber, representatives from the affected communities.
* What were its objectives[7]?
Answer: To include in the permit for development environmental parameters with the participation of the wider public.
Please describe the common regulatory framework including: * 1. An overview 2. A brief description of any stages in its development * 3. A brief description of the *common* element[8] 4. A brief description of whether existing legislation was amended or replaced and how was this done (e.g. part of pre-planned legislative change or a free standing action/activity)?
Answer: Permitting process The application for development is submitted to the Town Planning and Housing Department. According to the Environment Impact Assessment on Certain Projects Law, if the project falls within the framework of the latter legislation a EIA report or a Comprehensive EIA has to be submitted to the Department of Environment. The EIA is then assessed within the department and from the EIA Committee. The Opinion form the Environmental Authority is then communicated to the Town Planning Dept where it is seriously taken into consideration at the permitting process. In general all the terms of the opinion are included in the permit.
What were the costs[9] and benefits[10] of the common regulatory framework? Please provide any data or assessments if available.

[7] E.g. for environmental protection or to reduce administrative burdens etc.
[8] E.g. permitting, inspections, enforcement or a legislative, regulatory or administrative process etc.
[9] E.g. investment and resources for implementation, impacts of change, perception of a reduction in environmental protection etc.

Answer: There are no specific data on the issue. The fact that EIA is included in the development permit ensures that environmental parameters are examined and taken into consideration at the very early stage before the detailed design of a project.
Were big investments needed to implement it and by whom?
Answer: No
* Were there any barriers or hurdles to implementation? Were these expected or unforeseen?
Answer: There have been complaints that the need for the conduction of an EIA report or a Comprehensive EIA is seen as a time consuming process. There have been efforts to minimise the time necessary for evaluation. However it is strongly believed that the conduction of EIA before granting the permit saves time and costs from applicants since it is a good tool to avoid subsequent environmental damage otherwise not foreseen.
* How successful was the common regulatory framework? Please provide any data or assessments if available.
Answer: The framework is in place since 2002 and seems that is working smoothly throughout the years.
Was there anything in particular that contributed to its success?
Answer: Good cooperation between government departments
* Could changes at a European level have helped its implementation? If so what and by whom?
Answer: The issue was dealt at national level. Examples from other countries were studied before implementing the framework.
* Are there any other lessons that can be learned?
Answer: Cooperation between departments is necessary for common framework to be effective.

Denmark
* What is the name of the common regulatory framework?
Answer: *lov om miljøgodkendelse m.v. af husdyrbrug (husdyrgodkendelsesloven) & bekendgørelse om tilladelse og godkendelse m.v. af husdyrbrug (Husdyrgodkendelsesbekendtgørelsen)* (the act and regulation)
* Who is the main contact for this?

[10] E.g. improved environmental protection, monetary savings, reduced administrative burdens, improved compliance, ease of compliance, more effective and targeted use of resources, change of focus from legislation to guidance etc.

Nikolaj Marzell Krogsbøl Schulz
* When did it start and finish?
Answer: 01/01/2007
If available, please provide a link to relevant information or documents.
Answer: https://www.retsinformation.dk/Forms/R0710.aspx?id=128754 https://www.retsinformation.dk/Forms/R0710.aspx?id=124123
* Why was it put in place[11]?
Answer: Denmark wished to regulate animal husbandry under a common regulatory framework. The reason is the large animal husbandry sector. Permit numbers pertaining to animal husbandry approach the number of the other environmental permits. Also the environmental impact of the animal husbandry sector requires more interaction with directives pertaining to water quality and land use than most industrial activities.
* What European Directives does it cover?
Answer: the regulation cover parts of the EIA directive, the Habitat directive, IPPC directive, bird protection directive, nitrate directive and water framework directive.
* What national/regional legislation/regulation does it cover?
Answer: the law covers all animal husbandry sites larger than 3 animal units. The unit is a standard size allowing for comparison between different animal species. (app 1 cow pr. Unit). Some sites not covered by EU directive. The law covers protection of water, natural resources, landscape assessment etc.
Has it involved any joint working between Member States? If so which countries and why?
Answer: N/A
Which stakeholders/organisations were involved in its implementation?
Answer: *Landbrug og fødevare, Danmarks naturfredningsforening and other ministries,*
* What were its objectives[12]?
Answer Denmark wished to regulate animal husbandry under a common regulatory framework. The reason is the large animal husbandry sector. Permit numbers pertaining to animal husbandry approach the number of the other environmental permits. Also the environmental impact of the animal husbandry sector requires more interaction with directives pertaining to water quality and

[11] E.g. compliance with Lisbon agenda, pressure group lobbying, political or economic pressures etc.
[12] E.g. for environmental protection or to reduce administrative burdens etc.

land use than most industrial activities*:*
Please describe the common regulatory framework including: * 1. An overview 2. A brief description of any stages in its development * 3. A brief description of the *common* element[13] 4. A brief description of whether existing legislation was amended or replaced and how was this done (e.g. part of pre-planned legislative change or a free standing action/activity)?
Answer:
What were the costs[14] and benefits[15] of the common regulatory framework? Please provide any data or assessments if available.
Answer: We have no exact economical data concerning the consequences of the implementation. 64 percent of all animal husbandry productions are applying or have received an environmental approval.
Were big investments needed to implement it and by whom?
Answer: The legal framework came simultaneously with a large reform concerning big changes in local authorities. Technically a good effort and resources have been used for developing a central web based pollution calculator. This platform is an important tool for applying and assessing. The framework have received around 300 mio. DKK in extra support.
* Were there any barriers or hurdles to implementation? Were these expected or unforeseen?
Answer: Several issues arose concerning implementation. First of all many animal husbandry productions had to apply due to a tightened regulation. Second each assessment became more through than previously. Third the authorities and private consulting companies needed to develop new competences. Some of these hurdles were expected and planned for but some were unforeseen. Therefore the extra amount (300 mio. DKK).
* How successful was the common regulatory framework? Please provide any data or asses sments if available.
Answer: The common regulatory framework is in many ways a big success. First of all many animal husbandries now have a common environmental approval. Secondly a large amount of environmental data can be extracted for future regulatory use. Third the standard of environmental protection has risen overall.
Was there anything in particular that contributed to its success?
Answer: A consistent focus on central acceptance criteria concerning the

[13] E.g. permitting, inspections, enforcement or a legislative, regulatory or administrative process etc.
[14] E.g. investment and resources for implementation, impacts of change, perception of a reduction in environmental protection etc.
[15] E.g. improved environmental protection, monetary savings, reduced administrative burdens, improved compliance, ease of compliance, more effective and targeted use of resources, change of focus from legislation to guidance etc.

environmental assessment of applications and the development of a central web based tool providing for critical data for the application and assessment process.
* Could changes at a European level have helped its implementation? If so what and by whom?
Answer: A serious need on European level are common pollution models since a big issue is to secure the implementation of EU directives (for instance habitate, nitrate, water framework directive).
* Are there any other lessons that can be learned?
Answer:

Denmark
* What is the name of the common regulatory framework?
Answer: *Bekendtgørelse om godkendelse af listevirksomhed* under *miljøbeskyttelsesloven.* The former is a regulation based in the latter which is the Danish environment protection act.
* Who is the main contact for this?
Answer:
* When did it start and finish?
Answer: Environmental permits has since the beginning of this type of regulation in Denmark been given under *Bekendtgørels om godkendelse af listevirksomhed (godkendelsesbekendtgørelsen)*. The exception to this is the permitting of agricultural sites involved with animal husbandry, which is the subject of the second case study. The regulation covers the application for and granting of all environmental permits minus the exception mentioned earlier. There are various other regulations under the act detailing certain minimum conditions, which must be put into certain types of permits such as waste incineration permits and/or specific information which must be supplied with applications for certain sites. These ensure that the specific requirements of different directives are met if they go beyond what is covered by general permitting procedures. Enforcement of permit conditions is carried out under §'s in *Godkendelsesbekendtgørelsen.*
If available, please provide a link to relevant information or documents.
Answer: https://www.retsinformation.dk/Forms/R0710.aspx?id=13040 and https://www.retsinformation.dk/Forms/R0710.aspx?id=13072
* Why was it put in place[16]?
Answer: The original "*godkendelsesbekendtgørelsen*" regulation predates most of the relevant directives. It has been the norm in Denmark to include the permitting

[16] E.g. compliance with Lisbon agenda, pressure group lobbying, political or economic pressures etc.

requirements of different environmental regimes in this regulation. As a consequence the regulation has been amended and updated regularly to fulfil new requirements. Directive requirements not related to individual permitting are met in separate regulation.
* What European Directives does it cover?
Answer: It covers the aspects relating to granting of permits under SED, waste incineration directive, LCPD, ELV directive, the WEE directive, IPPCD (except animal husbandry), waste framework directive, the landfill directive.
* What national/regional legislation/regulation does it cover?
Answer: The regulation also covers several types of sites that have pollution potential, which are not specifically covered by EC directives.
Has it involved any joint working between Member States? If so which countries and why?
Answer: There is corporation between the Nordic countries (Iceland, the Faeroe Islands, Finland, Norway, Sweden and Denmark) on determining BAT. This work has often been focussed on sectors outside EU directives, but not exclusively so.
Which stakeholders/organisations were involved in its implementation?
Answer: Various organisations have been involved in amending the regulation over the years. Most recently *Dansk Industri* and *Kommunernes landsforening* have been close partners in regulatory reforms of the area. The former represent large parts of Danish industry and the latter represent the Danish local authorities centrally. They are stakeholders due to their role as environmental authority for many sites.*Dansk Industri* has helped nominate representatives from industry to take part in working groups etc.
* What were its objectives[17]?
Answer: To ensure that the environment received sufficient protection from harm. The regulation (Godkendelses bekendtgørelsen) is the original Danish approach to environmental protection. The work in developing it has therefore initially not been driven by the need for simplification in the manner described for the environmental permitting system from England and Wales. However periodic efforts to simplify and rationalise the regulations has been made during the various amendments. This is especially true for the regulatory reforms of the last ten years, which has focussed on lessening the burden on industry.
Please describe the common regulatory framework including: * 1.Overview As described above all non- agricultural permitting is done under *Godkendelsesbekendtgørelsen* which find its legal basis in *miljøbeskyttelsesloven.* This is not the result of better regulation efforts. This approach has been used since the beginning in Denmark. Better regulation efforts has instead focussed on improving the permitting process by introducing general binding rules for certain sites, removing some site types from the permitting

[17] E.g. for environmental protection or to reduce administrative burdens etc.

regime and providing different pieces of guidance in support of environmental permitting

2. A brief description of any stages in its development
3. A brief description of the *common* element[18]
Waste sites, ippc sites and all other non-agricultural environmental permits relating to the carrying out industrial activities are given under *Godkendelsesbekendtgørelsen.* There are activities which are controlled outside the permitting regime but these are controlled by separate regulations rather than individual permits. I.e. a form of general binding rules. *Godkendelsesbekendtgørelsen* covers all aspects relating to applying for and issuing permits as well as enforcement of permit conditions. The administrative processes are set out in the regulations. Specific demands on which must be met for certain sites types are often set out in separate regulations but implemented via G*odkendelsesbekendtgørelsen*. I.e. conditions required to meet waste incineration directive demands are covered in separate regulations but the permit is granted under *Godkendelsesbekendtgørelsen.*

Environmental inspections in Denmark are carried out under an inspection program. The program covers permitted activities, regulated activities and certain activities which are covered by general rules pertaining to all non-permitted activities which have been identified as problematic enough to require regular inspection.

The program sets out a number of minimum inspection frequencies. These represent the basic level of environmental protection. This is backed up by risk based inspection. The frequencies are the result of a politically agreed process on environmental inspection. Enforcement activity as a result of inspection is carried out using *Godkendelsesbejkendtgørelsen*

4. A brief description of whether existing legislation was amended or replaced and how was this done (e.g. part of pre-planned legislative change or a free standing action/activity)?
This question does not apply as the regulations have not structurally been changed, but rather just been adapted to allow for new directives

Answer:

What were the costs[19] and benefits[20] of the common regulatory framework? Please provide any data or assessments if available.

Answer: There are no comparative figures available as the *Godkendelsesbekendtgørelsen* has never replaced a different regime. In terms of nonmonetary benefits the system has a distinct advantage that all the legal requirements of permitting are the same across all sectors – this means that environmental regulators can transfer their knowledge across many sectors. This is essential in the Danish regulatory context where the regulatory responsibility is spread across 98 local authorities and three decentralised governmental

[18] E.g. permitting, inspections, enforcement or a legislative, regulatory or administrative process etc.
[19] E.g. investment and resources for implementation, impacts of change, perception of a reduction in environmental protection etc.
[20] E.g. improved environmental protection, monetary savings, reduced administrative burdens, improved compliance, ease of compliance, more effective and targeted use of resources, change of focus from legislation to guidance etc.

environment centres. The implementation of directives through several regulations can be difficult to maintain an overall perspective on for some people. As this adds a level of complexity compared with a set of separate regulations implementing individual directives. However this disadvantage is outweighed by the simplification of the day to day permitting activities.
Were big investments needed to implement it and by whom?
Answer: As the system is an upgraded version of the original permitting regime it is impossible to separate the costs. Considerable effort has been made in regulatory reform of the regime over the past 10 years in order to cut down administrative costs for the regulated industries. Amendments implement various EU directives has also required considerable efforts.
* Were there any barriers or hurdles to implementation? Were these expected or unforeseen?
Answer: N/A
* How successful was the common regulatory framework? Please provide any data or assessments if available.
Answer: N/A
Was there anything in particular that contributed to its success?
Answer: N/A
* Could changes at a European level have helped its implementation? If so what and by whom?
Answer: N/A
* Are there any other lessons that can be learned?
Answer: N/A

England and Wales
* What is the name of the common regulatory framework?
Answer: Environmental Permitting
* Who is the main contact for this?
Answer: Environmental Permitting Programme, based at Defra, London.

* When did it start and finish?
Answer: Started in April 2008 and continues.
If available, please provide a link to relevant information or documents.
Answer: http://www.defra.gov.uk/environment/policy/permits/index.htm
* Why was it put in place[21]?
Answer: It is the result of a partnership between Defra, WAG and DECC, with advice from the Environment Agency on practical implementation issues. They wanted to reduce admin burden and have a common consistent framework. Driven by government policy to produce better regulation.
* What European Directives does it cover?
Answer: All directives applying to industrial processes, waste (including radioactive) and water management. Notably: • Integrated Pollution Prevention and Control (IPPC) Directive • The Waste Framework Directive • The Water Framework Directive • The Groundwater Daughter Directive (2006/118/EC) • The Basic Safety Standards Directive (96/29/Euratom) • The High-Activity Sealed Radioactive Sources and Orphan Sources Directive (2003/122/Euratom) Details at http://www.environment-agency.gov.uk/static/documents/Business/RGN_4_Setting_Standards_(v2.0)_30_March_2010.pdf
* What national/regional legislation/regulation does it cover?
Answer: Implementation of EU legislation is the main channel. Anything more is now challenged as possible goldplating. The framework does help national strategies on air quality, waste and water management.
Has it involved any joint working between Member States? If so which countries and why?
Answer: No
Which stakeholders/organisations were involved in its implementation?
Answer: It was extensively consulted with businesses, trade associations, NGOs and the public.
* What were its objectives[22]?
Answer:

[21] E.g. compliance with Lisbon agenda, pressure group lobbying, political or economic pressures etc.
[22] E.g. for environmental protection or to reduce administrative burdens etc.

- Cuts unnecessary red tape - bringing cost-savings to industry and allowing regulators to focus their resources on issues that matter,
- Provides continued protection of the environment and human health – maintaining current standards,
- Increases clarity and certainty for everyone on how the regulations protect the environment - a clearer, simpler and quicker system allowing a better understanding of the law and its effects.

Permitting and compliance systems have developed separately over time and have adopted different procedures and rules despite aiming for the same goal which is to protect the environment and human health. This has led to a regulatory system that is unnecessarily complex. In line with feedback from both industry and regulators we feel that the permitting systems need to be modernised to increase efficiency and flexibility.

- The Hampton review (March 2005) recommended proportionality in regulation by the application of effective risk-based approaches. Its follow-up review, the Hampton Implementation Review (2008) on the Environment Agency, lists EPP1 as a positive example of Defra and the Environment Agency working on streamlining and rationalising processes for business and therefore encouraging economic progress.
- The Department for Business, Enterprise and Regulatory Reform (BERR) guide on how to implement European Directive effectively (September 2007) gave the EPP, with subsequent expansion to other environmental permitting systems, as an example of good practice in implementing directives.
- Environment, Food and Rural Affairs Committee report on The Environment Agency (May 2006) welcomed the development of a common regulatory framework and recommended extension of this common framework to other systems.
- Better Regulation Task Force report (March 2005) highlighted that the procedures for IPPC [integrated pollution prevention and control] and waste management are different, yet their objective to protect the environment is the same.

Please describe the common regulatory framework including:

* 1. An overview
2. A brief description of any stages in its development
* 3. A brief description of the *common* element[23]
4. A brief description of whether existing legislation was amended or replaced and how was this done (e.g. part of pre-planned legislative change or a free standing action/activity)?

Answer:

1. A common permitting framework. Regulators not changed (in general). That is a national regulator (EA) for high risk (industrial) and aspects which

[23] E.g. permitting, inspections, enforcement or a legislative, regulatory or administrative process etc.

need a national perspective/expertise (waste and water). Local authorities continuing to regulate lower risk multi-media (IPPC) sites and those only requiring regulation of releases to air.

Framework comprising a definition of operator (who must be in control and hold the permit) and of regulated facility; application requirements; operator competence requirements (based on risk); offences and a requirement to return the site to a satisfactory state (no ongoing pollution and equivalent to when activities commenced).

See attached slides.

Regulations structured with permitting requirements in main body and then annexes implementing requirements, typically directives. This modular approach should (in theory) make it easy to implement further EU Directives by adding them as annexes.

Provided a risk-based framework by introducing standard rules permits for common lower risk activities still requiring a permit – slotting in between bespoke permits for high risk activities and exemptions (from need for a permit) for lowest risk activities which simply need to be registered.

Provides for the regulator to be switched between national (EA) and local authority by ministerial direction (subject to criteria, such as competence) and a single permit for a site or series of sites undertaking same activity.

Allowed the regulator to use a common application form, IT, guidance, operational instructions for staff and business systems, integrating with national permitting centres and common (risk-based) compliance assessment and reporting systems.

2. The Environmental Permitting (England and Wales) Regulations 2007 created one regulatory system by streamlining and integrating Waste Management Licensing and Pollution Prevention and Control. This single EP system replaced 41 statutory instruments with one set of Regulations: the Environmental Permitting (England and Wales) Regulations 2007 which are one third of the length of the previous legislation.

   They were extended in April 2010 to include those regimes for

   - discharge consenting,
   - groundwater authorisations and
   - radioactive substances regulation.

   The extended Regulations provide industry, regulators and others with a single permitting and compliance system. Find out more about the EP Regulations 2010.

3. The common elements are listed above. It is a permitting platform. Any environmental legislation pertaining to the activity can be met through the common single permit.

4. Enabled by the Pollution Prevention and Control Act (primary legislation passed by both Houses of Parliament). Then detail in a set of regulations

(secondary legislation) which can be extended. The economic benefits of bringing permitting regimes in were assessed and proposals developed for those with a significant benefit, and consulted and passed by Parliament.
What were the costs[24] and benefits[25] of the common regulatory framework? Please provide any data or assessments if available.
See Table 1 below.
Were big investments needed to implement it and by whom?
Answer: The EA and Defra (on behalf of local authorities) issued a complete set of integrated guidance, application forms and instructions. Holders of existing permits were deemed to be holders of environmental permits, ie did not have to reapply. So costs to industry were modest.
* Were there any barriers or hurdles to implementation? Were these expected or unforeseen?
Answer: • inevitably permitting regimes which developed for different purposes had structural differences and bringing them together required consultation on policy decisions about how to deal with the differences. This was well foreseen and some policy compromises were necessary.
* How successful was the common regulatory framework? Please provide any data or assessments if available.
Answer: An implementation review is in progress and will be published in due course. It will compare predicted benefits with what was actually realised. About 60% of new permit applications in the waste sector are for standard rules permits. As predicted. Charges are dropping for these as EA becomes slicker/quicker in issuing them. Issue time is dropping towards a theoretical minimum of about a week.
Was there anything in particular that contributed to its success?
Answer: There was extensive consultation of all those involved at every stage. Customers participated in design of application forms and guidance. Absolutely crucial, otherwise cannot get the products right.

[24] E.g. investment and resources for implementation, impacts of change, perception of a reduction in environmental protection etc.
[25] E.g. improved environmental protection, monetary savings, reduced administrative burdens, improved compliance, ease of compliance, more effective and targeted use of resources, change of focus from legislation to guidance etc.

* Could changes at a European level have helped its implementation? If so what and by whom?
Answer:
* Are there any other lessons that can be learned?
Answer: • do not over sell the benefits (quite modest for IPPC permit holders and those not needing a new permit); • they take time to realise because regulators cannot take unacceptable business risks when dependent on fees & charges for income; • cannot satisfy everybody on the level of detail in guidance. The problem is that every sector wants its own very concise & tailored guidance (and application form). We chose to break them into interlinked pieces to make an integrated package devoid of almost any duplication. Now getting some pushback about that. • Using simple high level & outcome-focussed permit conditions as part of the system has meant field staff can sometimes find it harder to enforce compliance. • National permitting centres were a complementary system & not essential to the framework. They brought consistency but adequacy/quality has suffered a little in an effort to reduce costs/charges and determination times. Most important has been a customer feeling they have lost involvement/ownership by the local field inspector. • Introducing at a time when a sector needs to be repermitted can be a good opportunity. Otherwise, have a legacy of old permits which prove difficult to get updated (where is the driver and funding?).

Table 1. *Answer:* Summary of headline cost benefits of each of the regimes and the percentage

Prog.	System	No of permits in England and Wales	No of permits in England	No of permits in Wales	Baseline for England and Wales	NPV benefit over ten years England and Wales	NPV benefit over ten years England	NPV benefit over ten years Wales
EPP1	PPC A(1)	3,556	3,200	356	----	----	----	----
EPP1	PPC A(2)	400	384	16	----	----	----	----
EPP1	PPC Part B	22,000	21,120	880	----	----	----	----
EPP1	Waste Management licensing	9,010	8,110	900	----	----	----	----
EPP1	Registered waste exemptions	70,000	64,400	5,600	----	----	----	----
EPP1	Registered waste exemptions at farms	560,000	480,300	79,700	----	----	----	----
EPP2	Water Discharge Activities	104,490	95,861	8,629	£77.7m	£11.1m	£10.2m	£0.9m
EPP2	Groundwater	8,104	6,153	1,951	£4.6m	£14.9m	£11.3m	£3.5m
EPP2	RSR – registrations authorisations (NN) and Nuclear permits(Nuc)	3,734 (800 NN) (36 Nuc)	3,516 (761 NN)) (33 Nuc)	218 (39 NN) (3 Nuc)	£7.4m	£8.2m	£7.7m	£0.5m
EPP2	Mining Waste Directive	1,650	1,474	176	----	£4.4m	£3.9m	£0.5m
EPP2	Batteries Directive	<10	<10	1	----	£0.8m	£0.8m	£0.1m
EPP2	Water Abstraction and Impoundment	22,856	20,026	2,829	£27.2m	£4.5m	£3.9m	£0.6m
EPP2	Carriers and brokers	5,000[26]	4,500	500	£3.1m	£0.9m	£0.9m	£0.1m
EPP2 total	**-----**	**145,880**	**131,573**	**14,307**	**£118.8m**	**£44.8m**	**£40.3m**	**£4.6m**

France
* What is the name of the common regulatory framework?
Answer: Classified Installation (Book V titre I of environment code)
* Who is the main contact for this?
Answer: minister of Ecology, Energy, Sustainable Development and Sea, DGPR/SRT

[26] There are 77,500 registered carriers and brokers, however it is intended that only those with other EPP permits would be including in EPP2. ***WAI not implemented yet.***

* When did it start and finish?
Answer: first common regulation framework in classified installation was establish in 1810, the Environnement Code integrated the Classified installation in 2000 (last major law in the field 1976)
If available, please provide a link to relevant information or documents.
Answer: http://installationsclassees.developpement-durable.gouv.fr/accueil_en.php (in english) who provide entry point , all regulation are available at http://www.ineris.fr/aida/
* Why was it put in place[27]?
Answer: Codification and integrated law is a long tradition (It was one of the great input of Napoleon, among others)
* What European Directives does it cover?
Answer: classified installation are covering : - IPPC - Seveso (I and II) - 85/337 for industrial plant point of view - some sectoral directive (LCP,WID, SED,…..)
* What national/regional legislation/regulation does it cover?
Answer: National (there is no regional legislation/regulation)
Has it involved any joint working between Member States? If so which countries and why?
Answer: no one other member state involved
Which stakeholders/organisations were involved in its implementation?
Answer: all stakeholder are involved in several step when implementing : - at the first step stakeholders are involved in working groups to establish the first draft (for example we do have working group for establishing the regulation about Distillery) - at the second time a large written Consultation is made over all the stockholders (more than 100 hundred stockholders) - at the third time texts are presented in a national Council the CSPRT (high council for technologic risk prevention) in which all kind of stockholder are represented (trade union, NGO, professional representative, …)
* What were its objectives[28]?

[27] E.g. compliance with Lisbon agenda, pressure group lobbying, political or economic pressures etc.

Answer: the objective of the common regulation is to provide integrated permitting process. The permits (in fact the "autorisation") is covering all aspect of Environnement protection (waste, risk, air and water discharge …). The only point who are not covered is the spatial planning rule.
Please describe the common regulatory framework including: * 1. An overview 2. A brief description of any stages in its development * 3. A brief description of the *common* element[29] 4. A brief description of whether existing legislation was amended or replaced and how was this done (e.g. part of pre-planned legislative change or a free standing action/activity)?
Answer: Classified installation deal with all activities (permitting , inspection …) dealing with industrial and farm activities for classified installation and since the beginning all this point where included : - permitting or declaration process - administrative process - enforcement and inspection - law and regulation
What were the costs[30] and benefits[31] of the common regulatory framework? Please provide any data or assessments if available.
Answer:
Were big investments needed to implement it and by whom?
Answer:
* Were there any barriers or hurdles to implementation? Were these expected or unforeseen?
Answer:
* How successful was the common regulatory framework? Please provide any data or assessments if available.
Answer:
Was there anything in particular that contributed to its success?
Answer:

[28] E.g. for environmental protection or to reduce administrative burdens etc.
[29] E.g. permitting, inspections, enforcement or a legislative, regulatory or administrative process etc.
[30] E.g. investment and resources for implementation, impacts of change, perception of a reduction in environmental protection etc.
[31] E.g. improved environmental protection, monetary savings, reduced administrative burdens, improved compliance, ease of compliance, more effective and targeted use of resources, change of focus from legislation to guidance etc.

* Could changes at a European level have helped its implementation? If so what and by whom?
Answer: the main change we hope at European level is to clarify and unify the fields of action for the directive. For example there is some difference between IPPC and 85/337 activities definition
* Are there any other lessons that can be learned?
Answer:

Germany
* What is the name of the common regulatory framework?
Answer: Integrated IPPC permissions / § 13 Bundes-Immissionsschutzgesetz (BImSchG) Concentrated Permission
* Who is the main contact for this?
Answer: Responsible for German Federal Law is the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety
* When did it start and finish?
Answer: The inclusion of other permits and regulatory decisions have been in the act from the enacting onwards, but have been extended since then for more and more permits and regulatory decisions. Integration has not been completed yet,, e.g.up to now, the use of water resources haven't been included (a proposal for an Environmental Code failed in 2009, see also section D).
If available, please provide a link to relevant information or documents.
Answer:
* Why was it put in place[32]?
Answer: In a permission procedure an installation is examined also for other aspects under public law. So the permission was created in § 13 BImSchG as a complete licence, covering most permits and regulatory decisions concerning the installation.
* What European Directives does it cover?
Answer: It covers the IPPC-Directive, especially Article 7, demanding an integrated approach to issuing permits: *"Member States shall take the measures necessary to ensure that the conditions of, and*

[32] E.g. compliance with Lisbon agenda, pressure group lobbying, political or economic pressures etc.

procedure for the grant of, the permit are fully coordinated where more than one competent authority is involved, in order to guarantee an effective integrated approach by all authorities competent for this procedure. "

* What national/regional legislation/regulation does it cover?

Answer: In Germany the IPPC Directive is implemented into German law mainly by the "Bundes-Immissionsschutzgesetz" (BImSchG).

§ 13 BImSchG
Genehmigung und andere behördliche Entscheidungen

Die Genehmigung schließt andere die Anlage betreffende behördliche Entscheidungen ein, insbesondere öffentlich- rechtliche Genehmigungen, Zulassungen, Verleihungen, Erlaubnisse und Bewilligungen mit Ausnahme von Planfeststellungen, Zulassungen bergrechtlicher Betriebspläne, behördlichen Entscheidungen auf Grund atomrechtlicher Vorschriften und wasserrechtlichen Erlaubnissen und Bewilligungen nach den §§ 7 und 8 des Wasserhaushaltsgesetzes.

In §13 BImSchG *"Permits and other regulatory decisions"* it is stated that the environmental permit includes other permits and regulatory decisions like:

- constructing permit;
- steam boiler, gas-filling installations or storage tank permits;
- air traffic act permit;
- permits concerning water issues like sewage treatment plants, buildings in flood areas, within dyke areas or at the waterside, precautionary water protection (but: watch the exclusion in the last paragraph of this answer!);
- instructions related to nature conservation;
- instructions related to monument protection;
- instructions related to occupational health and safety;
- and the Environmental Impact Assessment.

All these permits and decisions are included in the environmental permit in a way that the applicant only gets one permit from the environmental authority and does not have to deal with other authorities.

Not included are planning approvals and permits for specific installations like landfills, mining facilities, nuclear power plants or facilities „outside" the industrial premises (urban electrical cables).

Not included are permits, licences, authorisations and regulatory decisions, that are not connected with the installation but with the person of the person running the enterprise, like personal reliability (e. g. in case of running a crematory).

Also excluded are authorisations for the withdrawal of surface or ground water and the discharge of sewage into rivers. But concerning the last issues the "BImSchG" authority has at least to coordinate these permitting procedures. Nevertheless these permits are issued by a different administrative authority with their own internal procedures and time frames.

Has it involved any joint working between Member States? If so which countries and why?

Answer: It is very similar to Dutch law (so called WABO, see the dutch proposal), so it is watched with interest in the border regions, but has not involved joint working.

Which stakeholders/organisations were involved in its implementation?

Answer: normal democratic legislation process

* What were its objectives[33]?

Answer: There are a lot of advantages:

- simplification of administrative procedures (e.g. one permit from one authority)
- reducing administrative burdens (e.g. different permitting procedures)
- avoiding contradictory decisions by involved different public authorities
- making synchronized demands (resulting of differing public laws) possible
- transparency and validity of the legal position for the entrepeneur/applicant

Please describe the common regulatory framework including:

* 1. An overview
2. A brief description of any stages in its development
* 3. A brief description of the *common* element[34]
4. A brief description of whether existing legislation was amended or replaced and how was this done (e.g. part of pre-planned legislative change or a free standing action/activity)?

Answer:

1. A former regulation has been part of the first enactment of the German Immission Control Act. It was common sense, that there should be an integrated permit.
2.
3. In most member states there will be a multitude of permits, licences, authorisations and other regulatory decisions, based on several laws. to be got, before running a new or substantial changed installation (from mostly involved construction permit up to more exotic permits like air traffic act , e. g. for rotors of wind energy mills near airports, or chopping trees on the site.
4. First the complete water permits were excluded, but then parts of it were integrated. An legislation attempt to integrate all permits and other regulatory decisions according to water failed in 2009.

What were the costs[35] and benefits[36] of the common regulatory framework? Please provide any data or assessments if available.

Answer: It may lead to a shift of administrative personnel from one authority to another. Also there may be cost for creating more specimens of application by the applicant and sending it to the involved authorities. But this cost are supposed to be lower by far in comparison to a multitude of additional administrative permit

[33] E.g. for environmental protection or to reduce administrative burdens etc.
[34] E.g. permitting, inspections, enforcement or a legislative, regulatory or administrative process etc.
[35] E.g. investment and resources for implementation, impacts of change, perception of a reduction in environmental protection etc.
[36] E.g. improved environmental protection, monetary savings, reduced administrative burdens, improved compliance, ease of compliance, more effective and targeted use of resources, change of focus from legislation to guidance etc.

procedures-
Were big investments needed to implement it and by whom?
Answer: No
* Were there any barriers or hurdles to implementation? Were these expected or unforeseen?
Answer: The highest barrier in Germany is the missing inclusion of essential water permits. These have been excluded by purpose, because the permit in case of BImSchG is a fixed decision, while the water permits are given by latitude/estimation of the administrative authorities. That and the differing administration authorities have lead to the exclusion of most of the water decisions. That leads to the problem, that e. g. someone may have got a permit to build and run a power plant, but is waiting for a permit to withdraw cooling water from the river. This problem was expected, but is not absolutely solved yet. Coordination of the administrative procedures as requested helps, but doesn't lead to integrated permits.
* How successful was the common regulatory framework? Please provide any data or assessments if available.
Answer: It is general accepted and there are no relevant contradictions from the economical, political or administrative actors. The actual discussion is only about how far this could be broadened.
Was there anything in particular that contributed to its success?
Answer: see the advantages listed to question "objectives" further up
* Could changes at a European level have helped its implementation? If so what and by whom?
Answer: See section D last answer
* Are there any other lessons that can be learned?
Answer: It must be tried to involve as much permits and other regulatory decisions as possible. If essential permits or many - even seen as more insignificant - authorizations are excluded from an integrated permission, this may lead to additional administrative burdens and reduce the acceptance by the authorities and applicants.

Malta
* What is the name of the common regulatory framework?
Answer: Programme and Timeplan to Consolidate Environment Regulations
* Who is the main contact for this?
Answer: Suzanne Gauci, EU Affairs Manager, Environment Protection

Directorate, Malta Environment and Planning Authority
* When did it start and finish?
Answer: January to April 2009
If available, please provide a link to relevant information or documents.
Answer: N/A
* Why was it put in place[37]?
Answer: The aim was to improve compliance with the EU's Better Regulation Agenda.
* What European Directives does it cover?
Answer: *Directive 2001/42/EC (the SEA Directive) 'on the assessment of the effects of certain plans and programmes on the environment* *Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment* *Directive 2001/18/ECon the Deliberate Release of GMOs* *Directive 92/43/EEC on the Conservation of natural habitats and of wild fauna and flora Trade in Species of Fauna and Flora* *Directive 2008/98 of the European Parliament and of the Council on waste* *Directive 2008/50/EC on ambient air quality and cleaner air for Europe* *Directive 2008/56/EC establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive)* *Directive 2008/116 on Environment Quality Standards Directive*
* What national/regional legislation/regulation does it cover?
Answer: *L.N. 327 of 2008 - Environment Protection Act (CAP. 435) Strategic Environmental Assessment (Amendment) Regulations , 2008 amending LN 418 of 2005* *L.N. 32 of 2006 - Commencement notice of the Strategic Environmental Assessment Regulations, 2005* *L.N. 418 of 2005 - Environment Protection Act (CAP. 435) Strategic Environmental Assessment Regulations, 2005* *L.N. 114 of 2007 - Development Planning Act (CAP. 356) Environment Protection Act (CAP. 435) Environmental Impact Assessment Regulations, 2007 Arrangement of Regulations* *L.N. 169 of 2004 - Environment Protection Act (CAP. 435) Rubble Walls and Rural Structures Conservation and Maintenance (Amendment) Regulations, 2004* *L.N. 160 of 1997 - Environment Protection Act (Act No.V of 1991) Rubble Walls and Rural Structures (Conservation and Maintenance) Regulations, 1997* *L.N. 144 of 1993 - Environment Protection Act (Act No.V of 1991) Birds and Wild Rabbit (Declaration of Protected Species and Nature Reserves) Regulations, 1993* *L.N. 150 of 1993 - Environment Protection Act (Act No.V of 1991) Birds and Wild Rabbit (Declaration of Protected Species and Nature Reserves) (Amendment) Regulations, 1993* *L.N. 215 of 1997 - Environment Protection Act (Act No.V of 1991) Birds and Wild Rabbit (Declaration of Protected Species and Nature Reserves) (Amendment) Regulations, 1997*

[37] E.g. compliance with Lisbon agenda, pressure group lobbying, political or economic pressures etc.

L.N. 106 of 1998 - Environment Protection Act (Act No.V of 1991) Birds and Wild Rabbit (Declaration of Protected Species and Nature Reserves) (Amendment) Regulations, 1998
Chapter 323 Filfla Nature Reserve Act, 1988
LN 22 of 1992 Fungus Rock (il-Gebla tal-General) Nature Reserve Regulations, 1992
LN 25 of 1993 Selmunett Islands (St. Paul Islands) Nature Reserve Regulations., 1993
GN 112 of 2007 Environment Protection Act, 2001 (CAP. 435) Development Planning Act, 1992 (CAP. 356) Flora, Fauna and Natural Habitats Protection Regulations, 2006
L.N. 12 of 2001 - Environment Protection Act (CAP. 348) Trees and Woodland (Protection) Regulations, 2001
L.N. 170 of 2002 - Environment Protection Act (Act No. XX of 2001) Deliberate Release into the Environment of Genetically Modified Organisms Regulations, 2002
G.N. 112 of 2007 - Environment Protection Act, 2001 (CAP. 435) Development Planning Act, 1992 (CAP. 356) Flora, Fauna and Natural Habitats Protection Regulations, 2006
G.N. 161 of 2007 - Environment Protection Act (CAP. 435) Development Planning Act (CAP.356) Flora, Fauna and Natural Habitats Protection Regulation, 2006
GN 812 of 2008 - Environment Protection Act, 2001 (CAP. 435) Development Planning Act, 1992 (CAP. 356) Flora, Fauna and Natural Habitats Protection Regulations (Declaration of Wied Moqbol to Il- Ponta ta' Benghisa Special Protection Area), 2006
GN 859 of 2008 - Environment Protection Act, 2001 (CAP. 435) Development Planning Act, 1992 (CAP. 356) Flora, Fauna and Natural Habitats Protection Regulations 2006 (Declaration of Ta' Cenc Special Protection Area and Special Area of Conservation)
L.N. 19 of 1992 - Environment Protection Act (Act No.V of 1991) Trade in species of Fauna and Flora Regulations, 1992
L.N. 96 of 1992 - Environment Protection Act (Act No.V of 1991) Trade in species of Fauna and Flora (Amendment) Regulations, 1992
L.N. 22 of 1995 - Environment Protection Act (Act No.V of 1991) Trade in Species of Fauna and Flora (Amendment) Regulations, 1995
L.N. 140 of 1997 - Environment Protection Act (Act No.V of 1991) Trade in Species of Fauna and Flora Regulations, 1997
L.N. 244 of 2000 - Environment Protection Act (Cap. 348) Trade in Species of Fauna and Flora (Amendment) Regulations, 2000
L.N. 236 of 2004 - Environment Protection Act (Cap. 435) Trade in Species of Fauna and Flora Regulations, 2004
L.N. 335 of 2001 - Environment Protection Act (Act No. XX of 2001) Importation of Skins of Certain Seal Pups and Derived Products Regulations, 2001
L.N. 311 of 2006 - Environment Protection Act (Cap. 435) - Development Planning Act (CAP. 356) - Flora, Fauna and Natural Habitats Protection Regulations, 2006
L.N. 76 of 1992 - Environment Protection Act (Act No.V of 1991) Reptiles (Protection) Regulations, 1992
L.N. 203 of 2003 - Environment Protection Act, 2001 (Act No. XX of 2001) Marine Mammals Protection Regulations of 2003
L.N. 144 of 1993 - Environment Protection Act (Act No.V of 1991) Birds and Wild Rabbit (Declaration of Protected Species and Nature Reserves) Regulations, 1993
L.N. 146 of 1993 - Environment Protection Act (Act No.V of 1991) The Protection of Birds and Wild Rabbit Regulations, 1993
L.N. 150 of 1993 - Environment Protection Act (Act No.V of 1991) Birds and Wild Rabbit (Declaration of Protected Species and Nature Reserves) (Amendment) Regulations, 1993
L.N. 45 of 1996 - Environment Protection Act (Act No.V of 1991) The Protection of Birds and Wild Rabbit (Amendment) Regulations, 1996
L.N. 23 of 1997 - Environment Protection Act (Act No.V of 1991) The Protection of Birds and Wild Rabbit (Amendment) Regulations, 1997
L.N. 215 of 1997 - Environment Protection Act (Act No.V of 1991) Birds and Wild Rabbit (Declaration of Protected Species and Nature Reserves) (Amendment) Regulations, 1997
L.N. 216 of 1997 - Environment Protection Act (Act No.V of 1991) The Protection of Birds and Wild Rabbit (Amendment) Regulations, 1997

L.N. 75 of 1998 - Environment Protection Act (Act No.V of 1991) Protection of Birds and Wild Rabbit (Amendment) Regulations, 1998 *L.N. 106 of 1998 - Environment Protection Act (Act No.V of 1991) Birds and Wild Rabbit (Declaration of Protected Species and Nature Reserves) (Amendment) Regulations, 1998* *L.N. 107 of 2000 - Environment Protection Act (Cap.348) The Protection of Birds and Wild Rabbit (Amendment) Regulations, 2000* *L.N. 1 of 2002 - Environment Protection Act (Act No. XX of 2001) Protection of Birds and Wild Rabbit (Amendment) Regulations, 2002* *L.N. 41 of 2003 - Environment Protection Act (Act No. XX of 2001) Protection of Birds and Wild Rabbit (Amendment) Regulations, 2003* *L.N. 56 of 2003 - Environment Protection Act (Act No. XX of 2001) Notice of coming into force of the Protection of Birds and Wild Rabbit (Amendment) Regulations, 2002* *L.N. 158 of 2003 - Environment Protection Act, 2001 (Act No. XX of 2001) Protection of Birds and Wild Rabbit (Amendment) (No. 2) Regulations, 2003* *L.N. 222 of 2003 - Environment Protection Act, 2001 (Act No. XX of 2001) Protection of Birds and Wild Rabbit (Amendment) (No. 2) Regulations, 2001* *G.N. 938 of 2005 - Environment Protection Act (Cap. 435) The Protection of Wild Rabbit (Amendment) Regulations, 2005* *L.N. 161 of 2002 - Environment Protection Act (Act No. XX of 2001) Waste Management (Waste Oils)* *L.N. 337 of 2001 - Environment Protection Act (Act No. XX of 2001) Waste Management (Permit and Control) Regulations, 2001* *L.N. 235 of 2004 - Environment Protection Act, 2001 (Act No. XX of 2001) Ambient Air Quality Assessment and Management (Amendment) Regulations, 2004* *L.N. 292 of 2007 - Environment Protection Act (Cap. 435)Arsenic, Cadmium, Mercury, Nickel and Polycyclic Aromatic Hydrocarbons in Ambient Air Regulations, 2007* *L.N. 231 of 2004 - Environment Protection Act, 2001 (Act No. XX of 2001) Limit Values for Nitrogen Dioxide, Sulphur Dioxide and Oxides of Nitrogen, Particulate Matter and Lead in Ambient Air (Amendment) Regulations, 2004* *L.N. 11 of 2003 - Environment Protection Act (Act No. XX of 2001) Ozone in Ambient Air Regulations, 2003* *L.N. 224 of 2001 - Environment Protection Act (Act No. XX of 2001) Limit Values for Nitrogen Dioxide, Sulphur Dioxide and Oxides of Nitrogen, Particulate Matter and Lead in Ambient Air Regulations, 2001* *L.N. 215 of 2001 - Environment Protection Act (Act No. XX of 2001) Air Pollution by Ozone Regulations, 2001* *L.N. 163 of 2002 - Environment Protection Act (Act No. XX of 2001) Limit Values for Benzene and Carbon Monoxide in Ambient Air Regulations, 2002* *L.N. 216 of 2001 - Environment Protection Act (Act No. XX of 2001) Ambient Air Quality Assessment and Management Regulations, 2001* *The Regulations listed above are available on http://www.mepa.org.mt/lplegislationpolicymain*
Has it involved any joint working between Member States? If so which countries and why?
Answer: No.
Which stakeholders/organisations were involved in its implementation?
Answer: MEPA.

* What were its objectives[38]?
Answer : The objectives of this exercise was to come up with a time plan for action to consolidate existing regulations to reduce the amount of regulations.
Please describe the common regulatory framework including: * 1. An overview 2. A brief description of any stages in its development * 3. A brief description of the *common* element[39] 4. A brief description of whether existing legislation was amended or replaced and how was this done (e.g. part of pre-planned legislative change or a free standing action/activity)?
Answer: *This regulatory framework involved the identification of national Regulations which required consolidation through discussions with the relevant Unit Managers within the Environment Protection Directorate within MEPA.* *As soon as the relevant Regulations were identified a timetable for action was developed and agreed to within the Environment Protection Directorate. Draft Regulations have already been prepared, some of which have been referred for approval. It should be noted that some regulations will be published this year (in line with the relevant transposition deadline of corresponding directives, namely the following:* • *Directive 2008/98 of the European Parliament and of the Council on waste* • *Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive)* • *Directive 2008/105/EC on environmental quality standards in the field of water policy, amending and subsequently repealing Council Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC, 86/280/EEC and amending Directive 2000/60/EC of the European Parliament and of the Council* *The consolidation of Environment Assessment Regulations will be issued as part of the wider MEPA's reform.*
What were the costs[40] and benefits[41] of the common regulatory framework? Please provide any data or assessments if available.
Answer: Costs: Human Resources; Benefits: Reduced administrative burden for stakeholders.
Were big investments needed to implement it and by whom?

[38] E.g. for environmental protection or to reduce administrative burdens etc.
[39] E.g. permitting, inspections, enforcement or a legislative, regulatory or administrative process etc.
[40] E.g. investment and resources for implementation, impacts of change, perception of a reduction in environmental protection etc.
[41] E.g. improved environmental protection, monetary savings, reduced administrative burdens, improved compliance, ease of compliance, more effective and targeted use of resources, change of focus from legislation to guidance etc.

Answer: No.
* Were there any barriers or hurdles to implementation? Were these expected or unforeseen?
Answer: No.
* How successful was the common regulatory framework? Please provide any data or assessments if available.
Answer: The identification of the regulations and the timeplan for action was successful. However its implementation is still underway.
Was there anything in particular that contributed to its success?
Answer: A central focal point within Director's Office to follow up implementation by the relevant units within the Environment Protection Directorate.
* Could changes at a European level have helped its implementation? If so what and by whom?
Answer: The adoption of consolidated regulations at a European Level would help such a process.
* Are there any other lessons that can be learned?
Answer: No.

Netherlands
* What is the name of the common regulatory framework?
Answer: Dutch Environmental Management Act
* Who is the main contact for this?
Answer: Josien Stoop, *josien.stoop@minvrom.nl*
* When did it start and finish?
Answer: started 1st of March 1993
If available, please provide a link to relevant information or documents.
Answer: http://docs1.eia.nl/cms/Environmental%20Management%20Act%20%5BMay%202004%5D.pdf
* Why was it put in place[42]?
Answer: it combines several previously individual environmental acts

[42] E.g. compliance with Lisbon agenda, pressure group lobbying, political or economic pressures etc.

* What European Directives does it cover?
Answer: It covers all European directives on the following aspects: environmental quality requirements, Environmental zoning, Environmental impact assessment, substances and products, waste substances (complete list in preparation?)
* What national/regional legislation/regulation does it cover?
Answer: It covers the major part of the national regulation that deals with the protection of the environment
Has it involved any joint working between Member States? If so which countries and why?
Answer: No
Which stakeholders/organisations were involved in its implementation?
Answer: Government, (Association of) provinces, (Association of) municipalities
* What were its objectives[43]?
Answer: Environmental protection
Please describe the common regulatory framework including: * 1. An overview 2. A brief description of any stages in its development * 3. A brief description of the *common* element[44] 4. A brief description of whether existing legislation was amended or replaced and how was this done (e.g. part of pre-planned legislative change or a free standing action/activity)?
Answer: 1) The Environmental Management Act is the most important environmental act in the Netherlands. It determines the (juridical) instruments that can be used for environmental protection. It is a so-called framework act describing the general rules for environmental protection. More detailed rules are elaborated in decrees or regulations. The most important instruments are plans and programs, environmental quality objectives, permits, general rules and supervision and financial instruments like taxes, rates of contributions and compensations. 2) -Before 1993 there were separate environmental acts for instance for water, air, soil, waste and noise. The Environmental management Act combines these (but no all) different environmental acts. The idea is that by combining acts, there is more harmonization and consequently acts are easier to comply with. -Since the Environmental Management Act has come into force, new (European) legislation has been implemented by integrating it in the Environmental Management Act. –At this moment, and after many changes because of (European) developments, the question arises how to go on with it. The Act as it is now, is quite elaborated and complex. Because of its focus on the environment, new and broader European legislation is not always easy to incorporate. 3) The common element is *environmental regulation*.
What were the costs[45] and benefits[46] of the common regulatory framework? Please provide any data or assessments if available.

[43] E.g. for environmental protection or to reduce administrative burdens etc.
[44] E.g. permitting, inspections, enforcement or a legislative, regulatory or administrative process etc.
[45] E.g. investment and resources for implementation, impacts of change, perception of a reduction in environmental protection etc.

Answer:
Were big investments needed to implement it and by whom?
Answer:
* Were there any barriers or hurdles to implementation? Were these expected or unforeseen?
Answer:
* How successful was the common regulatory framework? Please provide any data or assessments if available.
Answer: Successful in a sense that there is a common environmental act, including almost all environmental instruments
Was there anything in particular that contributed to its success?
Answer: Being a framework act has as an advantage that almost all relevant developments can be incorporated when needed/necessary.
* Could changes at a European level have helped its implementation? If so what and by whom?
Answer:
* Are there any other lessons that can be learned?
Answer: It is obvious that a framework environmental act has advantages. A disadvantage is that in the long run it delivers a complex entity and broader (new) European regulation is not always easy to incorporate.

Netherlands
* What is the name of the common regulatory framework?
Answer: Dutch Water Act
* Who is the main contact for this?
Answer: *Florence.Eizinga@ivw.nl*
* When did it start and finish?
Answer: 22th of December 2009
If available, please provide a link to relevant information or documents.
Answer: http://www.helpdeskwater.nl/service-functies/english/legislation/
* Why was it put in place[47]?

[46] E.g. improved environmental protection, monetary savings, reduced administrative burdens, improved compliance, ease of compliance, more effective and targeted use of resources, change of focus from legislation to guidance etc.
[47] E.g. compliance with Lisbon agenda, pressure group lobbying, political or economic pressures etc.

Answer: political pressure, reduction of permitting systems, integration of different environmental Dutch laws, to implement the Water Framework Directive
* What European Directives does it cover?
Answer: It covers (water management) parts of the Water Framework Directive (2000/60/EC), the Flood Risk Directive (2007/60/EG), the waste water directive, daughter directive on priority substances and IPPC directive.
* What national/regional legislation/regulation does it cover?
Answer: It covers 8 previously separate Dutch acts concerning aspects of (surface-and ground)water management and parts of regulation for soil and activities in water bodies.
Has it involved any joint working between Member States? If so which countries and why?
Answer: Not directly. But indirectly, yes: to prepare the River Basement Management plans
Which stakeholders/organisations were involved in its implementation?
Answer: Government, (Association of) provinces, (Association of) municipalities, (Association) of regional water authorities.
* What were its objectives[48]?
Answer: Firstly, the objective is to improve the link between individual water management acts and the link between water policy and spatial planning policy. Secondly it contributes to the reduction of rules, permitting and administrative burden. Thirdly: it was set up for the implementation of the Water Framework Directive.
Please describe the common regulatory framework including: * 1. An overview 2. A brief description of any stages in its development * 3. A brief description of the *common* element[49] 4. A brief description of whether existing legislation was amended or replaced and how was this done (e.g. part of pre-planned legislative change or a free standing action/activity)?
Answer: 1) The Dutch Water Management Act is the combination of 8 previously separate acts on surface- and groundwater management (plus some parts of regulations for soil and activities in water bodies). And it allowed to implement the WFD obligations, such as plan cycles, setting water bodies objectives. It offers the possibilities for local authorities to prevent water logging, water scarcity and contamination of water. Some aspects are elaborated in decrees or regulations. 2) -Before the Dutch Water Act inhabitants, companies or municipalities needed to apply for 6 different permits to prevent there were separate environmental acts for instance for water, air, soil, waste and noise. The Environmental management Act combines these (but no all) different environmental acts. The idea is that by combining acts, there is more harmonization and consequently acts are easier to comply with. -Since the Environmental Management Act has come into force, new (European) legislation has been implemented by integrating it in the Environmental Management Act. –At this moment, and after many changes because of (European) developments, the question arises how to go on with it. The Act as it is now, is quite elaborated and complex. Because of its focus on the environment, new and broader European legislation is not always easy to incorporate.

[48] E.g. for environmental protection or to reduce administrative burdens etc.
[49] E.g. permitting, inspections, enforcement or a legislative, regulatory or administrative process etc.

3) The common element is *water management regulation*.
What were the costs[50] and benefits[51] of the common regulatory framework? Please provide any data or assessments if available.
Answer: There are benefits for companies: less permits are needed. No data is found, but an indication for this can be found in the explanation of this new act (in Dutch: Water Act: kamerstuk 30818, nr 3, page 71-91).
Were big investments needed to implement it and by whom?
Answer: The costs to make this act (and put different regulations together) are not high. But to implement and carry out the obligations of the Water act and thus the WFD is about 7 mld.
* Were there any barriers or hurdles to implementation? Were these expected or unforeseen?
Answer: it needed a recast of environmental and spatial laws and caused problems for several authorities (needed to be joined together)
* How successful was the common regulatory framework? Please provide any data or assessments if available.
Answer: Successful in a sense that there is a common environmental act, including almost all environmental instruments.
Was there anything in particular that contributed to its success?
Answer: Being a framework act has as an advantage that almost all relevant developments can be incorporated when needed/necessary.
* Could changes at a European level have helped its implementation? If so what and by whom?
Answer: Possibly by merging environmental and water directives in one directive.
* Are there any other lessons that can be learned?
Answer: It is obvious that a framework environmental act has advantages. A disadvantage is that in the long run it delivers a complex entity and broader (new) European regulation is not always easy to incorporate.

Netherlands
* What is the name of the common regulatory framework?
Answer: 4th trench of the General Administrative Law Act
* Who is the main contact for this?
Answer: *Atze.Dijkstra@minvrom.nl*

[50] E.g. investment and resources for implementation, impacts of change, perception of a reduction in environmental protection etc.
[51] E.g. improved environmental protection, monetary savings, reduced administrative burdens, improved compliance, ease of compliance, more effective and targeted use of resources, change of focus from legislation to guidance etc.

* When did it start and finish?
Answer: started 1st of January 2009
If available, please provide a link to relevant information or documents.
Answer: http://www.justitie.nl/onderwerpen/wetgeving/awb/Wettekst_awb/#paragraph2
* Why was it put in place[52]?
Answer: political pressure
* What European Directives does it cover?
Answer: none?
* What national/regional legislation/regulation does it cover?
Answer: is the body of law that governs the activities of administrative agencies of government
Has it involved any joint working between Member States? If so which countries and why?
Answer: No
Which stakeholders/organisations were involved in its implementation?
Answer: Government, (Association of) provinces, (Association of) municipalities
* What were its objectives[53]?
Answer: to stimulate more uniformity and simplifying the administrative law
Please describe the common regulatory framework including: * 1. An overview 2. A brief description of any stages in its development * 3. A brief description of the *common* element[54] 4. A brief description of whether existing legislation was amended or replaced and how was this done (e.g. part of pre-planned legislative change or a free standing action/activity)?
Answer: 1) The Administrative Law Act applies to the making of administrative decisions and the juridical review of these decisions in courts. On the basis of the Adminstrative LawAct, citizens can oppose a decsion made by a public body within the adminstration and apply for juridical review in courts if unsuccesfull. 2) –In the past the administrative aspects were arranged for each individual act. –In 1983 it was stated in the Constitutional Law that these aspects should be arranged in a Administrative Law Act. Because of the great amount of acts to be streamlined, implementation in trenches was foreseen. – Since January 2009 the forth trench was implemented containing rules in the field of enforcement 3) The common element is *administrative decisions*.
What were the costs[55] and benefits[56] of the common regulatory framework? Please provide any data

[52] E.g. compliance with Lisbon agenda, pressure group lobbying, political or economic pressures etc.
[53] E.g. for environmental protection or to reduce administrative burdens etc.
[54] E.g. permitting, inspections, enforcement or a legislative, regulatory or administrative process etc.

or assessments if available.
Answer: less administrative burden, uniformity
Were big investments needed to implement it and by whom?
Answer:
* Were there any barriers or hurdles to implementation? Were these expected or unforeseen?
Answer:
* How successful was the common regulatory framework? Please provide any data or assessments if available.
Answer: Successful in a sense that in the long run all administrative procedures are uniform.
Was there anything in particular that contributed to its success?
Answer:
* Could changes at a European level have helped its implementation? If so what and by whom?
Answer:
* Are there any other lessons that can be learned?
Answer:

Sweden
* What is the name of the common regulatory framework?
Answer: The Environmental Code
* Who is the main contact for this?
Answer: The Ministry of Environment and the Swedish EPA
* When did it start and finish?
Answer: The work with an Environmental Code started in 1989. The Environmental Code came into force on 1 January 1999.
If available, please provide a link to relevant information or documents.
Answer: http://www.naturvardsverket.se/en/In-English/Menu/Legislation-and-other-policy-instruments/The-Environmental-Code/

[55] E.g. investment and resources for implementation, impacts of change, perception of a reduction in environmental protection etc.
[56] E.g. improved environmental protection, monetary savings, reduced administrative burdens, improved compliance, ease of compliance, more effective and targeted use of resources, change of focus from legislation to guidance etc.

* Why was it put in place[57]?
Answer: It replaced fifteen previous environmental acts which were amalgamated into the Code. The replaced environmental acts where, e.g. - the Nature Conservancy Act (naturvårdslagen) - the Environmental Protection Act (miljöskyddslagen) - the Law of Prohibition against Dumping of Waste into Water (dumpningslagen) - the Water Act (vattenlagen) - the Law of chemical products (lagen om kemiska produkter) - the Law of Environmental Damage (miljöskadelagen) - the Law of Economizing on Natural Resources (lagen om hushållning av naturresurser) The Environmental Code constitutes a modernised, broadened and more stringent environmental legislation aimed at promoting sustainable development. One of the main ideas behind the Environmental Code reform was to modernise and update Swedish environmental legislation. Gathering the central environmental laws into a code and effecting substantial systematic and juridical changes to them are just part of the reform. The fact that working with the Code has encouraged a well-needed broadening and tightening up of central legislation is probably of greater significance.
* What European Directives does it cover?
Answer: A broad variety of directives connected to the environment field such as the waste directive, the IPPC-directive, the Biocide directive, the directive on Environmental Impact Assessments, the GMO-directive, the directive on Strategic Environmental Assessments, the directive on Environmental Liabilities, the directive on Large Combustion Plants and the Birds and Habitats directives.
* What national/regional legislation/regulation does it cover?
Answer: The national legislation The Environmental Code.
Has it involved any joint working between Member States? If so which countries and why?
Answer: No
Which stakeholders/organisations were involved in its implementation?
Answer: In the work experts participated from the Ministry of Environment, the EPA, County Administrative Boards, municipalities, the Swedish Association of

[57] E.g. compliance with Lisbon agenda, pressure group lobbying, political or economic pressures etc.

Local Authorities and Regions, NGOs like Greenpeace, World Wildlife Fund, the Swedish Association for Animal Protection and The Swedish Society for Nature Conservation. Also the trade and industry sector, like representatives for the forest industry (The Swedish Forest Industries Federation and Swedish Forest Owners Association) and waste and recycling industry, participated.

(Näringsliv och NGO: WMI Sellbergs AB, Svenska Åkeriförbundet, SKAFAB, Svenska Kommunförbundet, Naturskyddsföreningen, Globträdet, Världsnaturfonden, Svenska Djurskyddsföreningen, Metsä-Serla AB, Vattenvärnet, Greenpeace, Skogsindustrierna och Skogsägarna, Sveriges Energiföreningars Riksorganisation, Svenska Renhållningsverks-Föreningen, Norrköpings Fettåtervinning, Näringslivets Förpackningsråd, Husvagnsbranschens Riksförbund och Skogsägarnas Riksförbund (se SOU 1996:103, Miljöbalken – En skärpt och samordnad miljölagstiftning för en hållbar utveckling, s. 5))

* What were its objectives[58]?

Answer: The purpose of the Environmental Code is to promote sustainable development which will assure a healthy and sound environment for present and future generations.

Please describe the common regulatory framework including:

* 1. An overview
2. A brief description of any stages in its development
* 3. A brief description of the *common* element[59]
4. A brief description of whether existing legislation was amended or replaced and how was this done (e.g. part of pre-planned legislative change or a free standing action/activity)?

Answer:

The purpose of the Environmental Code is to promote sustainable development which will assure a healthy and sound environment for present and future generations. To achieve this, the code shall be applied so that:

- human health and the environment are protected against damage and detriment, whether caused by pollutants or other impacts
- valuable natural and cultural environments are protected and preserved
- biological diversity is preserved
- the use of land, water and the physical environment in general is such as to secure long term good management in ecological, social, cultural and economic terms
- reuse and recycling, as well as other management of materials, raw materials and energy are encouraged so that natural cycles are established and maintained.

The area of application of the Environmental Code is directly linked to the promotion of sustainable development. The Code is applicable to all activities or measures that are of significance for this purpose to be achieved. It therefore concerns all types of measures and operations that can be of importance to those interests the Code is intended to protect, regardless of whether they are part of a

[58] E.g. for environmental protection or to reduce administrative burdens etc.
[59] E.g. permitting, inspections, enforcement or a legislative, regulatory or administrative process etc.

private individual's daily life or are some form of business activity.

The area of application of the Code is not just important for the situations in which the Code can be used. Primarily, it decides what types of environmental issues that can be examined in a court of law, for example, a pre-condition that may be set for the start of an environmentally hazardous activity might be anything that promotes sustainable development.

All in all, this means in many cases that the regulations that were part of previous environmental legislation now have a new and broader application.

General rules of consideration

Chapter 2 of the Environmental Code contains a number of general rules of consideration that express, for instance, the precautionary principle, polluter pays principle, product choice principle and principles regarding resource management, recycling and suitable localisation of activities and measures.

The rules have a preventive effect since they place binding demands on anyone running a business or an operation or is taking action to gain knowledge on the environmental effects of such activities and express the principle that the risks of environmental impact should be borne by the polluter and not by the environment.

Supervisory and licensing authorities have the power to base their decisions on these general rules of consideration concerning injunctions, bans, permit conditions etc. As a result, the content of these rules becomes much more concrete through regulations or decisions in each individual case.

Objectives and goals for environmental quality

The Environmental Code places more emphasis on goal and result management than previous environmental legislation. Government ordinances and regulations from authorities will therefore not only be governed by the purpose of the Code and the general rules of consideration, but also by other environmental goals not included in the Code.

Licensing and supervision work is to be steered by the *National Environmental Quality Objectives*, specified in the form of regional and sector goals. This means that the licensing and supervision of activities and measures must take the goals of environmental policy into consideration.

Environmental quality standards

The Environmental Code contains environmental quality standards (EQS), which is a new feature in Swedish environmental legislation. EQS are regulations concerning the quality of land, water, air and the environment in general. Whereas the previous environmental legislation was only aimed at minimising and alleviating environmental disturbances, as far as was reasonable, the Environmental Code with EQS places direct demands on the final result.

Area and species protection

Regulations concerning different types of area protection, such as national parks, nature reserves, biotope protection and shoreline protection, have been brought together in the Environmental Code. Together with regulations regarding protection of species, the purpose is to preserve biological diversity.

Environmental sanction charges

One reason why compliance with the previous environmental legislation was poor was that the risk of being punished for an environmental crime was rather small. Consequently there has been a need for a rapid and effective way of responding

to infringements of the environmental rules. Therefore penalties in the form of environmental sanction charges were introduced with the Environmental Code. These charges are levied directly by the supervisory authorities when an infringement has been established.

The permitting system

In order to ensure that the rules of consideration are genuinely complied with, a large number of activities and operations are subject to licensing. These activities or operations may not be launched without a permit from a competent authority or an environmental court. The permit states the conditions under which the activity may be carried out. The authority in charge may also refuse a permit if they find that the activity is not permissible according to the Environmental Code.

Licensing authorities are Environmental Licensing Delegations (ELD) at the County Administrative Boards (CAB) or Environmental Courts. ELD is a special function at the CAB. There are 21 ELDs, one in each county, and five Environmental Courts. The CABs also perform various other government functions.

The allocation of licensing tasks between the ELDs and the Courts is regulated in an ordinance where environmentally hazardous activities are listed based on severity from an environmental point of view. For activities that entail a significant environmental impact (A-activities), the applicant must apply for a permit at a Environmental Court. For activities with less impact on the environment (B-activities), the applicant must apply for a permit to a CAB. Activities with limited impact or causing only local disturbances (C-activities) are not subject to licensing, but the operator must notify the local Environment and Public Health Committee (EPHC) who may decide on precautions.

The EPA is active in some licensing cases. The EPA could involve itself in cases where important legislative principles are at stake or the activity concerned might lead to major environmental impact.

Inspection and enforcement authorities

Inspection and enforcement responsibilities rest on three levels, national, regional and local. The Swedish EPA is the major environmental authority responsible for supervision of most environmental directives. The Swedish Rescue Services Agency is the authority on supervision concerning the Seveso II directive. Both these authorities have guiding, evaluating, advising and co-ordinating roles. There are also ten other national authorities with some limited inspection and enforcement responsibilities, as the Surgeon General is responsible for military installations. An Envorcement and Regulation Council is a body for co-operation among Swedish public authorities concerning enforcement and regulations in accordance with the Environmental Code.

Environmental inspections and enforcement concerning installations and other activities on the ground is mostly planned and carried out at regional and local level by the 21 County Administrative Boards (CABs) or the 290 Environmental and Public Health Committees (EPHCs) at the municipalities. Most EU-directives is a responsibility for the CABs but could according to a special procedure, with the exception of the Seveso II-directive, be delegated to the EPHCs.

Fees, fines and offences

Anyone carrying out an activity is obliged to pay for work done by the authorities under the Code, e.g. licensing, inspection and enforcement.

To strengthen the force of an injunction concerning for example precautionary

measures, the inspection authority may combine it with an administrative fine. The amount of the fine should approximately correspond to the operator´s costs to implement the measures. If the operator ignores the injunction, the authority may turn to the environmental court to impose the fine. Anyone infringing some specified regulations in the Environmental Code, regulations issued pursuant the Code or violating conditions in a permit might pay a fine or be sentenced to a maximum of two years imprisonment by a court decision. In most court decisions where the offender has been found guilty the offenders hav been sentenced to pay fines.
What were the costs[60] and benefits[61] of the common regulatory framework? Please provide any data or assessments if available.
Answer: Costs: The Environmental Code implies a greater responsibility for the one running a business, an operation or is taking action, compared to the old environmental legislation. A higher environmental ambition leads naturally to increased costs. Chapter 2 of the Environmental Code contains a number of general rules of consideration for stakeholders that express, for instance, the precautionary principle, polluter pays principle, product choice principle and principles regarding resource management, recycling and suitable localisation of activities and measures. The rules have a preventive effect since they place binding demands on anyone running a business or an operation or is taking action to gain knowledge on the environmental effects of such activities and express the principle that the risks of environmental impact should be borne by the polluter and not by the environment. There has been costs for example for the new permitting organisation with 21 ELDs and five Environmental Courts. Benefits: Improved environmental protection. Improved consistency beween regulated areas.
Were big investments needed to implement it and by whom?
Answer: Stakeholders have had costs for investments in environmental knowledge and other demands according to the Environmental Code.
* Were there any barriers or hurdles to implementation? Were these expected or unforeseen?
Answer: The application of the Environmental Code is to some extent left to the legal practice. The practice has taken time to settle and it has taken various time for different areas. There was opponents of the Environmental Courts saying that the courts only should have the judiciary task and not the permit licensing task.
* How successful was the common regulatory framework? Please provide any data or assessments if available.
Answer: The Swedish environmental legislation is modernised and updated.

[60] E.g. investment and resources for implementation, impacts of change, perception of a reduction in environmental protection etc.
[61] E.g. improved environmental protection, monetary savings, reduced administrative burdens, improved compliance, ease of compliance, more effective and targeted use of resources, change of focus from legislation to guidance etc.

The Code has encouraged a well-needed broadening and tightening up of central legislation.
Was there anything in particular that contributed to its success?
Answer:
* Could changes at a European level have helped its implementation? If so what and by whom?
Answer: Less detailed directives could facilitate to edify a common regulatory system as the Environmental Code.
* Are there any other lessons that can be learned?
Answer: It is not always easy to see how the directives are implemented into the Swedish legislation system and we therefore often get questions from the Commission. The reason to this is e.g. that we consider directives are implemented through Chapter two in the Environmental Code as the rules there are of general character.

Sweden
* What is the name of the common regulatory framework?
Answer: The Enforcement and Regulations Council (Tillsyns- och föreskriftsrådet)
* Who is the main contact for this?
Answer: The Council is chaired by Martin Eriksson, Director of the Climate Change Department at the Environmental Protection Agency.
* When did it start and finish?
Answer: The Council was founded in 1999, when the Environmental Code entered into force.
If available, please provide a link to relevant information or documents.
Answer: www.tofr.info
* Why was it put in place[62]?
Answer: To encourage co-operation between Swedish public authorities concerning enforcement and regulation matters in association with the Swedish Environmental Code.

[62] E.g. compliance with Lisbon agenda, pressure group lobbying, political or economic pressures etc.

* What European Directives does it cover?
Answer: A broad variety of directives connected to the environment field such as the waste directive, the IPPC-directive, the Biocide directive, the directive on Environmental Impact Assessments, the GMO-directive, the directive on Strategic Environmental Assessments, the directive on Environmental Liabilities, the directive on Large Combustion Plants and the Birds and Habitats directives.
* What national/regional legislation/regulation does it cover?
Answer: The Environmental Code and the regulations and ordinances belonging to it.
Has it involved any joint working between Member States? If so which countries and why?
Answer: No
Which stakeholders/organisations were involved in its implementation?
Answer: None.
* What were its objectives[63]?
Answer: To encourage co-operation between Swedish public authorities concerning enforcement and regulation matters in association with the Swedish Environmental Code.
Please describe the common regulatory framework including: * 1. An overview 2. A brief description of any stages in its development * 3. A brief description of the *common* element[64] 4. A brief description of whether existing legislation was amended or replaced and how was this done (e.g. part of pre-planned legislative change or a free standing action/activity)?
Answer: The Enforcement and Regulations Council is a body for co-operation between Swedish public authorities concerning enforcement and regulations matters in association with the Swedish Environmental Code. The Council has established this website, www.tofr.info, where you can find (in Swedish) the outcome of the Council's activities, enforcement information from the various authorities that are members of the Council etc. **Members** The members of the Enforcement and Regulations Council are appointed by the Government, representing the following authorities: • Surgeon General • Swedish Board of Agriculture

[63] E.g. for environmental protection or to reduce administrative burdens etc.
[64] E.g. permitting, inspections, enforcement or a legislative, regulatory or administrative process etc.

- Swedish Chemicals Agency
- Swedish Environmental Protection Agency
- National Board of Health and Welfare
- County Administrative Board of Jönköping County
- County Administrative Board of Kalmar County
- Swedish Association of Local Authorities and regions
- The Municipal Environmental Committee of Karlstad

The activities of the Council are mainly organised into time-limited projects with participation from various member authorities.

Seminars on topics of common interest for the member authorities are organised regularly by the Council. They focus on key issues and act as fora for discussing common viewpoints and promoting sector and level integration.

Up till now, seminars have been held on, inter alia, "Inspection for better self monitoring", "Inspection planning based on the environmental quality objectives", "Environmental crime and enforcement", "The quality of enforcement", "IMPEL and its relation to Swedish environmental inspection", "Environmental penalty charge and coordinating the work against environmental crime", "Enforcement methods and the role of the enforcement officer" and "Environmental management systems and enforcement".

What were the costs[65] and benefits[66] of the common regulatory framework? Please provide any data or assessments if available.

Answer: Costs: The Council has a budget for two fulltime employees, which is about 100 000 Euro per year. The costs for an updated website during 2010 are 60 000 Euro. The members of the Council have costs for travelexpenses and for attending the meetings (usually six per year).

Benefits: The inspection authorities have great use especially of the website, according to feedback to the Council.

Were big investments needed to implement it and by whom?

Answer: The EPA have had investments for the employees and the webpage.

* Were there any barriers or hurdles to implementation? Were these expected or unforeseen?

Answer: No

* How successful was the common regulatory framework? Please provide any data or assessments if available.

Answer: The webpage is useful especially for the inspection authorities. The

[65] E.g. investment and resources for implementation, impacts of change, perception of a reduction in environmental protection etc.
[66] E.g. improved environmental protection, monetary savings, reduced administrative burdens, improved compliance, ease of compliance, more effective and targeted use of resources, change of focus from legislation to guidance etc.

webpage contains all directives, EU-regulations, and all laws, regulations and ordinances belonging to the environmental field. The webpage also contains all court decisions. It is daily updated.
Was there anything in particular that contributed to its success?
Answer: The webpage.
* Could changes at a European level have helped its implementation? If so what and by whom?
Answer: No
* Are there any other lessons that can be learned?
Answer: The council is a useful tool to encourage co-operation between authorities in the environmental field.

Section B
Common regulatory frameworks - in progress or planned

England and Wales
* What is the name of the common regulatory framework?
Answer: Bringing water abstraction and impoundment (WAI) into environmental permitting.
* Who is the main contact for this?
Answer: as above
* When did (or will) it start and when is it planned to finish?
Answer: Implement in April 2012
If available, please provide a link to relevant information or documents.
Answer: See above.
* Why is the common regulatory framework being put in place[1]?
Answer: As above.
* What European Directives does it cover?
Answer: Principally the Water Framework and Habitats Directives.
* What national/regional legislation/regulation does it cover?
Answer: Water abstraction and impoundment
Does it involve any joint working between Member States? If so which countries and why?
Answer: No.
Which stakeholders/organisations are involved in its implementation?
Answer: Water industry, farming and other major users.
* What are its objectives[2]?
Answer: as above Single permits for complete use of water, ie abstraction, use & discharge.
Please describe the common regulatory framework including: * 1. An overview 2. A brief description of any stages in its implementation * 3. A brief description of the *common* element[3]

4. A brief description of whether existing legislation is or has been amended or replaced and how is or was this done (e.g. part of pre-planned legislative change or as a free standing action/activity)?
Answer: As above.
What do you think the costs[4] and benefits[5] of the common regulatory framework will be?
Answer: See WAI in table above.
Are big investments needed to implement it and by whom?
Answer:
* Are there any potential barriers or hurdles to implementation?
Answer: Needs primary legislation.
* Could changes at a European level help implementation? If so what and by whom?
Answer: No.
* Are there any other lessons that can be learned so far?
Answer: Decouple installing a framework from other policy changes.

France
* What is the name of the common regulatory framework?
Answer: Making a convergence between Mining permitting process and environmental permitting process
* Who is the main contact for this?
Answer: H.Kaltembacher DGPR/SRT
* When did (or will) it start and when is it planned to finish?
Answer: Process still begin with two directive transposition (CSC and **Waste** from extractive operations)
If available, please provide a link to relevant information or documents.
Answer: none at this point
* Why is the common regulatory framework being put in place[1]?
Answer: Mining permitting process are including two main parts (royalties/properties aspects and environmental aspect. For the second aspect nowadays we are obliged to treat in a separate way mining procedure to protect

Environnement (for example underground water discharge) and classified installation
* What European Directives does it cover?
Answer: CSC and **Waste** from extractive operations
* What national/regional legislation/regulation does it cover?
Answer: National
Does it involve any joint working between Member States? If so which countries and why?
Answer: no at this point
Which stakeholders/organisations are involved in its implementation?
Answer: all stakeholder are involved
* What are its objectives[2]?
Answer: simplify permit processing
Please describe the common regulatory framework including: * 1. An overview 2. A brief description of any stages in its implementation * 3. A brief description of the *common* element[3] 4. A brief description of whether existing legislation is or has been amended or replaced and how is or was this done (e.g. part of pre-planned legislative change or as a free standing action/activity)?
Answer: problem solving in progress
What do you think the costs[4] and benefits[5] of the common regulatory framework will be?
Answer:better coherence of treatment for the same problem.
Are big investments needed to implement it and by whom?
Answer:
* Are there any potential barriers or hurdles to implementation?
Answer:
* Could changes at a European level help implementation? If so what and by whom?
Answer:

* Are there any other lessons that can be learned so far?
Answer:

Malta
* What is the name of the common regulatory framework?
Answer: General Binding Rules for selected SMEs and micro-enterprises
* Who is the main contact for this?
Answer: Michael J. Sant, Unit Manager – Environmental Permitting & Industry
* When did (or will) it start and when is it planned to finish?
Answer: 2007 – review and updating is envisaged as a constant process
If available, please provide a link to relevant information or documents.
Answer: http://www.mepa.org.mt/gbrs
* Why is the common regulatory framework being put in place[1]?
Answer: Currently, environmental obligations affecting various SMEs and micro-enterprises are dispersed through various legal instruments, and are implemented through various measures. The intention is to provide a single point of reference to such enterprises through a registration system, by which the operator is committed to abide to sets of environmental conditions that are specific to different sectors. This system is intended to clarify legal uncertainties and lack of awareness, improve compliance with environmental regulations, and reduce administrative burden for both the enterprise and the regulator.
* What European Directives does it cover?
Answer: The initiative is cross-cutting with numerous Directives, since the registration is intended as a single point of reference which is to be updated as new legislation comes into force. Consequently, the Directives involved are those concerning waste management (except for specific directives such as those concerning packaging and WEEE), air quality, water quality and the proper use of chemicals. Measures in the various directives are those which are applicable to individual enterprises, and not those referring to national targets (unless these are applied through the formulation of national strategies which may apply to the sectors).
* What national/regional legislation/regulation does it cover?
Answer: The initiative is cross-cutting with various national legal instruments, since the registration is intended as a single point of reference which is to be updated as new legislation comes into force. Consequently, the legislation involved are those concerning waste management (except for specific Directives such as those concerning packaging and WEEE), air quality, water quality and the

proper use of chemicals. Measures in the various legal instruments are those which are applicable to individual enterprises, and not those referring to national targets (unless these are applied through the formulation of national strategies which may apply to the sectors).

Does it involve any joint working between Member States? If so which countries and why?

Answer: This project was facilitated through a Twinning Project carried out with the Umweltbundesamt GmbH (Austrian Federal Environment Agency): 2004/16762.07.01 Institution Building Facility: Improving regulatory effort and compliance with EU environmental Directives (UE)

Which stakeholders/organisations are involved in its implementation?

Answer: This project involves substantial stakeholder consultation with other regulatory agencies and trade representatives.

* What are its objectives[2]?

Answer: The intention is to provide a single point of reference to such enterprises through a registration system, by which the operator is committed to abide to sets of environmental conditions that are specific to different sectors. This system is intended to clarify legal uncertainties and lack of awareness, improve compliance with environmental regulations, and reduce administrative burden for both the enterprise and the regulator.

Please describe the common regulatory framework including:

* 1. An overview

2. A brief description of any stages in its implementation

* 3. A brief description of the *common* element[3]

4. A brief description of whether existing legislation is or has been amended or replaced and how is or was this done (e.g. part of pre-planned legislative change or as a free standing action/activity)?

Answer:

1. *The project consists of a series of General Binding Rules that are applicable to SMEs and micro-enterprises.*
2. *The system is partially implemented, in that various sectors are already being regulated by Regulations, and have been put into practice. The GBRs on other sectors are still in various stages of public consultation.*
3. *The 'common' element is the effective integration of implementation of different obligations in a single registration type permit.*
4. *Legislation already exists applying the General Binding Rules Concept (LN106/07); however, additional legislation is being drafted to implement the additional GBRs which are not clearly regulated via sectoral oriented legislation (as opposed to general thematic based legislation. The GBRs have been drafted prior to the legislation to ensure that the latter is optimised to suit the contents of the GBRs, and to optimise the consultation process, allowing for a more participative approach.*

What do you think the costs[4] and benefits[5] of the common regulatory framework will be?
Answer: This system is intended to clarify legal uncertainties and lack of awareness, improve compliance with environmental regulations, and reduce administrative burden for both the enterprise and the regulator.
Are big investments needed to implement it and by whom?
Answer: Investment is likely to be required by both the regulator and the individual enterprises.
* Are there any potential barriers or hurdles to implementation?
Answer: Costs that may be incurred for individual sectors
* Could changes at a European level help implementation? If so what and by whom?
Answer: The issue of subsidiarity needs consideration during the drafting of EU legislation, to ensure that this does not hamper implementation of such systems at the national level.
* Are there any other lessons that can be learned so far?
Answer: There is a demand for legal certainty from industry that facilitates the introduction of such measures. Consultation is a critical part in this process as regards whether such measures are supported or opposed by operators and their trade representatives.

Malta
* What is the name of the common regulatory framework?
Answer: Environmental Permitting
* Who is the main contact for this?
Answer: Michael J. Sant, Unit Manager – Environmental Permitting & Industry
* When did (or will) it start and when is it planned to finish?
Answer: 2007 – review and updating is envisaged as a constant process
If available, please provide a link to relevant information or documents.
Answer: http://www.mepa.org.mt/environmentalpermitting
* Why is the common regulatory framework being put in place[1]?
Answer: At the present moment, environmental obligations affecting various SMEs and large-enterprises are dispersed through various legal instruments, and are implemented through various measures. The intention is to provide a single

point of reference to such enterprises through a permit system, by which the operations of enterprises are evaluated in a holistic manner, and provided with binding site-specific sets of environmental conditions.
* What European Directives does it cover?
Answer: The initiative is cross-cutting with numerous Directives, since the registration is intended as a single point of reference which is to be updated as new legislation comes into force. Consequently, the Directives involved are those concerning waste management (except for specific directives such as those concerning packaging and WEEE), air quality, water quality and the proper use of chemicals. Measures in the various directives are those which are applicable to individual enterprises, and not those referring to national targets (unless these are applied through the formulation of national strategies which may apply to the sectors).
* What national/regional legislation/regulation does it cover?
Answer: The initiative is cross-cutting with various national legal instruments, since the permit is intended as a single point of reference which is to be updated as new legislation comes into force. Consequently, the legislation involved are those concerning waste management (except for specific directives such as those concerning packaging and WEEE), air quality, water quality and the proper use of chemicals. Measures in the various legal instruments are those which are applicable to individual enterprises, and not those referring to national targets (unless these are applied through the formulation of national strategies which may apply to the sectors).
Does it involve any joint working between Member States? If so which countries and why?
Answer: This project was facilitated through a Twinning Project carried out with the Umweltbundesamt GmbH (Austrian Federal Environment Agency): 2005/017-511.05.01 Further development of the environmental permitting system and capacity building for its practical implementation in Malta
Which stakeholders/organisations are involved in its implementation?
Answer: This project involves substantial stakeholder consultation with other regulatory agencies and trade representatives.
* What are its objectives[2]?
Answer: The intention is to provide a single point of reference to such enterprises through a permit system, by which the operations of enterprises are evaluated in a holistic manner, and provided with binding site-specific sets of environmental conditions.
Please describe the common regulatory framework including: * 1. An overview 2. A brief description of any stages in its implementation * 3. A brief description of the *common* element[3] 4. A brief description of whether existing legislation is or has been amended or

replaced and how is or was this done (e.g. part of pre-planned legislative change or as a free standing action/activity)?
1. *The project consists of the design and implementation of a permit system for selected enterprises that are of significant environmental risk, involving an integrated evaluation of the environmental impacts and performance of the individual enterprises.* 2. *The system is partially implemented, in that various sectors are already being regulated by legal notices, and have been put into practice. The full system will shortly be the subject of a public consultation exercise.* 3. *The 'common' element is the effective integration of implementation of different obligations in a single permit.* 4. *Legislation already defines certain environmental obligations; however, a legal notice providing a legal framework for the system is required.*
What do you think the costs[4] and benefits[5] of the common regulatory framework will be?
Answer: This system is intended to clarify legal uncertainties and lack of awareness, improve compliance with environmental regulations, and reduce administrative burden for both the enterprise and the regulator.
Are big investments needed to implement it and by whom?
Answer: Investment is likely to be required by both the regulator and the individual enterprises.
* Are there any potential barriers or hurdles to implementation?
Answer: Costs that may be incurred for individual enterprises.
* Could changes at a European level help implementation? If so what and by whom?
Answer: *The issue of subsidiarity needs consideration during the drafting of EU legislation, to ensure that this does not hamper implementation of such systems at the national level.*
* Are there any other lessons that can be learned so far?
Answer: *There is a demand for legal certainty from industry that facilitates the introduction of such measures. Consultation is a critical part in this process as regards whether such measures are supported or opposed by operators and their trade representatives.*

Netherlands
* What is the name of the common regulatory framework?
Answer: Activities Decree

* Who is the main contact for this?
Answer:
* When did (or will) it start and when is it planned to finish?
Answer: in progress
If available, please provide a link to relevant information or documents.
Answer: *www.vrom.nl/pagina.html?id=2706&sp=2&dn=8049*
* Why is the common regulatory framework being put in place?
Answer: policy pressure
* What European Directives does it cover?
Answer: same as incorporated in the Environmental Management Act
* What national/regional legislation/regulation does it cover?
Answer: It is the permission part of the Environmental Management Act
Does it involve any joint working between Member States? If so which countries and why?
Answer: no
Which stakeholders/organisations are involved in its implementation?
Answer: Government, (Association of) provinces, (Association of) municipalities
* What are its objectives
Answer: The main purpose of Activities decree is to streamline the general rules for companies. Companies don't, need permits any more. All demands are describes in a general way.
Please describe the common regulatory framework including: * 1. An overview 2. A brief description of any stages in its implementation * 3. A brief description of the *common* element. 4. A brief description of whether existing legislation is or has been amended or replaced and how is or was this done (e.g. part of pre-planned legislative change or as a free standing action/activity)?
1) Companies have to apply with environmental regulation. These are based on the environmental Management Act and are outlined in such general environmental regulation as the general rules in the Activities Decree. Statutory rules apply to, for instance: noise and vibrations, energy, wate materials, odour, air emissions, discharching liquids, transport management, soil protection, hazardous substances. 2) -Before the start of the Activities decree, companies needed to apply for separate permits as demand out of several Acts/decrees. In this decree branches are described an general rule are described for the branch were to comply with.

3) The common element is setting general rules instead of permitting per company..
What do you think the costs and benefits of the common regulatory framework will be?
Answer: It will reduce administrative burden for companies.
Are big investments needed to implement it and by whom?
Answer:
* Are there any potential barriers or hurdles to implementation?
Answer:
* Could changes at a European level help implementation? If so what and by whom?
Answer:
* Are there any other lessons that can be learned so far?
Answer:

Turkey
* What is the name of the common regulatory framework?
Answer: **Improving the environmental permitting and licensing mechanism by a new by-law**
* Who is the main contact for this?
Answer: **Ministry of Environment and Forestry**
* When did (or will) it start and when is it planned to finish?
Answer: **The project was started at 2008, will finish at 2011**
If available, please provide a link to relevant information or documents.
Answer: **Not available at the moment.**
* Why is the common regulatory framework being put in place[1]?
Answer: **By this initiative media based environmental permits and licences will be combined into one single permit. The application for the permit will be performed electronically. Hence, the environmental permitting procedure for the industry will be simplified (reduction of bureaucracy) and preparation step for IPPC implementation will be established.**
* What European Directives does it cover?

Answer: **There are not any EU directives that it covers.**
* What national/regional legislation/regulation does it cover?
Answer: **National Environmental Law and By-Law on Environmental Permitting.**
Does it involve any joint working between Member States? If so which countries and why?
Answer: **This project does not involve any joint working. It is a part of a national project named "Information Society Strategy Action Plan" by the Secretary of State Planning Organization.**
Which stakeholders/organisations are involved in its implementation?
Answer: **Ministry of Environment and Forestry and its 81 Provincial Directorates.**
* What are its objectives[2]?
Answer: **To combine separate media based permits under one permit, simplify the environmental permitting procedure for the industry (reduction of bureaucracy), establish a preparation step for IPPC implementation, decrease the amount of time and budget spent during permitting.**
Please describe the common regulatory framework including: * 1. An overview 2. A brief description of any stages in its implementation * 3. A brief description of the *common* element[3] 4. A brief description of whether existing legislation is or has been amended or replaced and how is or was this done (e.g. part of pre-planned legislative change or as a free standing action/activity)?
Answer: **In TURKEY, existing environmental permitting system is media based (air, water, waste etc.), which is quite complicated at the moment for Industry.** **By-Law on "combined environmental permitting" is prepared and come into force by April of 2010. It aims to combine seperate media based permits under one permit, and permitting system is going to be online. This actually simplify the environmental permitting procedure for the industry (reduction of bureaucracy).**
What do you think the costs[4] and benefits[5] of the common regulatory framework will be?
Answer: ***cost*** → **investment and resources for implementation** ***(high, in terms of development of technical equipments),*** **impacts of change, perception of a reduction in environmental protection** ***(industry respond positively)*** ***benefit → improved environmental protection, monetary savings, reduced administrative burdens, improved compliance, ease of compliance, more effective***

and targeted use of resources.
Are big investments needed to implement it and by whom?
Answer: **It is needed especially to develop its IT base both at the Provincial Directorates and the Ministry (with contributions by the Prime Ministry).**
* Are there any potential barriers or hurdles to implementation?
Answer: **Not actually. Developing such a system (both legislative and IT) will take time.**
* Could changes at a European level help implementation? If so what and by whom?
Answer: **Not really.**
* Are there any other lessons that can be learned so far?
Answer: **Not really.**

Section C
Examples of environmental regulatory systems that your country would like to integrate/combine in the future

Cyprus
* Please describe any examples of regulatory systems in your country that you would like to integrate/combine in the future?
Answer: Permitting for waste management and IPPC
* Who is the main contact for these ideas?
Answer: The Department of the Environment.
* What national legislation/regulation would be incorporated into the action/activity?
Answer: Law on Waste Management and Law on Pollution Control
* Why do you want to integrate/combine these regulatory systems[1]?
Answer: It is seen that there is an overlap in the permitting process IPPC organisations and large waste management companies
What would be the overall benefits of doing this[5]?
Answer: a) More effective application process-less time and effort for the applicant if he/she could apply though one process for a single license incorporating

needs for permitting for both laws. b) Less administrative burden for both permitting and inspections. c) More effective enforcement concerning control and monitoring of organisations.
* Are there particular reasons (barriers/obstacles) why these actions/activities have not yet been put in place?
Answer: No there are not any significant obstacles. There is a need for further communication between the various sectors of the department.
What ideas do you have for overcoming barriers/obstacles?
Answer: Enhance communication between sectors through regular meetings to exchange experience.
* Could anything be done at a European level to help overcome barriers/obstacles?
Answer: The issue at this time could be solved locally.

England and Wales
* Please describe any examples of regulatory systems in your country that you would like to integrate/combine in the future?
Answer: Combine water abstraction, impoundment, flood defence and fish pass approval into single hydropower permission. Possibly linked to land use planning permission.
* Who is the main contact for these ideas?
Answer: as above
* What national legislation/regulation would be incorporated into the action/activity?
Answer: WAI as an environmental permit would be the core/basis. Then add in flood and fish protections. Principally concerns Water Framework and Habitats Directives, Environment Act 1995, Water Resources Act 1991, Salmon and Freshwater Fisheries Act 1975, Eel (England and Wales) Regulations 2009
* Why do you want to integrate/combine these regulatory systems[1]?
Answer: Reduce barriers to hydropower
What would be the overall benefits of doing this[5]?
Answer: Quicker implementation of climate change mitigation and meet domestic renewable targets..

* Are there particular reasons (barriers/obstacles) why these actions/activities have not yet been put in place?
Answer: Wide range of EU and domestic legislation involved.
What ideas do you have for overcoming barriers/obstacles?
Answer:
* Could anything be done at a European level to help overcome barriers/obstacles?
Answer:

Greece
In relation to the IMPEL Common Regulatory Framework Comparison Project Questionnaire and especially as regards environmental permitting in Greece, we intend to establish a new regime for the environmental impact assessment, taking under consideration all of the important recent developments in the field and incorporating all aspects of environmental permitting. Considering the Framework Waste Directive 2008/98/EC, there has been a proposal to repeal the existing procedure of granting industrial installations and other infrastructure a special permit for managing waste. The main idea under consideration is to replace this special permit by an analytical description of terms and conditions for managing waste integrated in the Decision for Approval of Environmental Terms.

Malta
* Please describe any examples of regulatory systems in your country that you would like to integrate/combine in the future?
Answer: *MEPA is in the process of developing a project proposal for funding under the Environmental Governance strand of EU's LIFE+ programme, aiming to improve a range of regulatory processes in the environmental field.* *The overall objective is to improve the regulatory and environmental governance system in its various aspects. In reaching this aim, the project will result in the development and transfer of European good practice in the area of better regulation, and in establishing, pilot-testing and demonstrating a blueprint for improving environmental regulation and governance in the environmental field that may be replicated in other European countries and regions. The project aims to deliver the following:* 1. ***An assessment, carried out in collaboration with stakeholders, completed by Month 5 of the project.*** *The assessment will consist of (a) an analysis of European best practices in environmental regulation & recommendations for Malta; and (b) an assessment of the current and projected environmental regulatory burdens & benefits of environmental*

regulation, carried out from the standpoint of the main regulator (MEPA), and of the subjects of regulation.

2. ***Strategic options and targets for the reduction of regulatory burdens, and the associated implementation strategy drawn up by the end of Month 8 of the project, in collaboration with stakeholders.*** *The strategy may take the form of a "Consensus Pact" concluded between the regulator (MEPA), and stakeholders in the regulatory process (industry, govt. entities, public, etc)*
3. ***A pilot project*** *is implemented in collaboration with local stakeholders, and in partnership with the Environment Agency for England & Wales. A law firm may be contracted to deliver the legal review. The project focuses on priority areas of environmental regulation (as identified in the strategy) and delivers:*
    a) *Key areas of legislation identified in the strategy are subjected to screening using IMPEL - NEPA P&E checklist or similar tools. Proposals for codification and simplification (concrete amendments to text) are presented to the Government by the end of Month 12 of the project*
    b) *An integrated regulatory resource is developed by the end of Month 14 of the project – based on "Consensus Pact" between regulators & stakeholders in the regulatory process (see result 2)*
    c) *Stakeholders are trained in the operation of the system by the end of Month 18 of the project*
    d) *A marketing campaign is implemented to promote the new resource by the end of Month 22 of the project*
4. ***The results of the project are disseminated through IMPEL and other networks***

- Who is the main contact for these ideas?

Answer: *Suzanne Gauci, EU Affairs Manager (Suzanne.gauci@mepa.org.mt) and Sergei Golovkin, Manager of International Projects Team (sergei.golovkin@mepa.org.mt)*

* What national legislation/regulation would be incorporated into the action/activity?

Answer: *All national legislation concerning the environment will be considered as part of this project at the assessment stage. However a pilot action which will implement a series of regulatory improvement measures would focus only on priority areas of legislation, which will be identified at the assessment stage (see further description below).*

* Why do you want to integrate/combine these regulatory systems[1]?

Answer: *Primarily to improve the effectiveness of regulation, while reducing unnecessary administrative and associated costs both for the regulator, and for the subjects of regulation.*

What would be the overall benefits of doing this[5]?

Answer: *Locally, the benefits will include a measurable reduction of the costs of regulation, both for the regulator, and for the regulated sectors of the economy. At*

the same time, the project is expected to improve overall compliance with environmental regulation, and increase awareness of the regulatory benefits for the economy and society. Finally, the project will translate the national strategy and action plan for better regulation and the associated targets into practical measures specifically tailored for the environmental sector. *On a European scale, Malta, being the smallest EU Member state in terms of the relative size of the regulated sectors, as well as due to its particular regulatory set-up which combines the functions of a land use planning authority with those of an environmental agency in a single institution (MEPA), is well placed to serve as a potentially useful case study for the improvement of environmental regulation, the process and outcomes of which may subsequently be applied elsewhere, possibly on a larger scale.*
* Are there particular reasons (barriers/obstacles) why these actions/activities have not yet been put in place?
Answer: *Lack of funding to tackle the proposed measures through a single consolidated project.*
What ideas do you have for overcoming barriers/obstacles?
Answer: *MEPA is applying for LIFE+ funding to facilitate the process. Bi-lateral collaboration with other environmental agencies is also very important.*
* Could anything be done at a European level to help overcome barriers/obstacles?
Answer: *Yes. Better regulation agenda should be better mainstreamed within the framework of diverse funding instruments, including Structural Funds, FP7, LLP, Interreg, LIFE+ and other programmes. Although the so-called BR Agenda has long been part of European policy discourse, it has not quite filtered down to the level of concrete mechanisms (such as funding programmes) that have the potential to stimulate development of BR initiatives on the ground. This issue is particularly acute within the context of the current economic slowdown, where cash strapped public administrations often straggle to secure the minimum upfront investment that may be necessary to streamline a variety of regulatory processes; but as a result of underfunding, other priorities often take precedence, which quite often, and rather ironically result in high cost and inefficient regulatory procedures and poor compliance. Better regulation and the development of common regulatory frameworks is clearly an area where some upfront strategic planning effort can go a long way to save considerable costs to the economy in the long run.*

Scotland
* Please describe any examples of regulatory systems in your country that you would like to integrate/combine in the future?
Answer: SEPA is working with the Scottish Government to consider how best to align administrative arrangements across environmental regimes and to explore an integrated environmental permitting system which would operate across regimes. This work is being progressed as part of SEPA's Better Regulation change

programme.
* Who is the main contact for these ideas?
Answer: Jo Green, Business Support Manager, SEPA
* What national legislation/regulation would be incorporated into the action/activity?
Answer: Alignment would be sought across Scottish environmental legislation relevant to water, air, waste and radioactive substances.
* Why do you want to integrate/combine these regulatory systems[1]?
Answer: We wish to improve the services we provide and in doing so deliver efficiencies and cost savings given the current economic climate. As the regulatory regimes have been developed at different times and in different ways environmental legislation in Scotland is more complex and burdensome than it otherwise could be both for SEPA and those it regulates. Permitting levels, administrative processes, guidance, definitions and language vary considerably between regimes.
What would be the overall benefits of doing this[5]?
Answer: Aligning legislation would reduce complexity and burdens; make the environmental regulatory process more streamlined, easier and quicker to use and allow future consideration of the potential for single permitting.
* Are there particular reasons (barriers/obstacles) why these actions/activities have not yet been put in place?
Answer: The main barrier has been identifying legislative means to make these changes. There are also cultural barriers across individual policy areas that have maintained an individual regime focus as opposed to integrated forward delivery. A potential hurdle in developing an integrated environmental permitting system is ensuring line of sight to demonstrate delivery of individual European Directive requirements.
What ideas do you have for overcoming barriers/obstacles?
Answer: Opportunities have and are being sought and taken to update existing legislation when it goes through review. For example a consultation is currently active in Scotland on the consolidation of Waste Management Licensing and could be considered the first step along the way towards regulatory alignment.

The Public Services Reform (Scotland) Act 2010 may also provide an opportunity to simplify and streamline regulatory requirements. Realising the full potential for integration may require further primary legislation requiring both Government and external stakeholder support.
* Could anything be done at a European level to help overcome barriers/obstacles?
Answer: This change aligns with thoughts shared with the European Commission on the contribution of good environmental regulation to the economy but also the future direction envisaged within the "Improving the Effectiveness of EU Environmental Regulation – A Future Vision" published in April 2008 by the Network of Heads of European Environment Protection Agencies (NEPA). The changes that will come about from the progressing of a SMART regulation initiative across European Commission policy and legislative proposals will also help overcome challenges.

Section D
Examples of common regulatory frameworks that were considered but rejected

Cyprus
* Please describe any examples of common regulatory frameworks which your country considered but rejected.
Answer: Common framework for the Water Pollution Control Law (Department of the Environment) and the Law on Emissions from Industrial Units (Department of the Labour).
* Who is the main contact in your organisation for this?
Answer: Mr. C. Hadjipanayiotou.
* Why did you consider it[1]?
Answer: There are industries which fall under the provisions of both laws.
What would have been the overall benefits of doing this[5]?
Answer: Decrease of time and procedures for the applicant. Less administrave burden for the department of Environment and Labour.
* Why did your country decide not to pursue it? What were the barriers or obstacles?
Answer: Lack of communication between departments.
* Could anything be done at a European level to help overcome these barriers/obstacles in the future?
Answer: The problem could be solved at national level. It is directly connected to the fact that the responsibilities for environmental issues are delegated to several departments.

Germany
* Please describe any examples of common regulatory frameworks which your country considered but rejected.
Answer Creation of a German Environmental Code, in which important specific (sectoral) environmental regulations would have been integrated into a code; the „heart“ of which would have been an integrated permit (“integrierte Vorhabengenehmigung >iVG) in which permits which are issued separately up to now would have been brought together
* Who is the main contact in your organisation for this?

Answer: Responsibility lies within the Federal Ministry for Environment, Nature Conservation and Nuclear Safety in Unit ZG III 4; head of this unit is Dr. Christof Sangenstedt
* Why did you consider it[1]?
Answer: The aim of the Environmental Code was to simplify the German environmental law and especially the different sectoral permit procedures in which differences are more historically motivated than by practical reasons.
What would have been the overall benefits of doing this[5]?
Answer: Environmental law in Germany would have been more transparent and consistent; an integrated permit would have simplified permit procedures further both for applicants and for the administration, as projects in principle would have only need for one permit
* Why did your country decide not to pursue it? What were the barriers or obstacles?
Answer: The proposal met with serious resistance from parts of industry and agriculture, the integrated permit was rejected as an unknown new instrument which would possibly engender legal uncertainty, the intended standardisation met with intense resistance from some lobby groups which feared loosing their specific regulative privileges (especially in agricultural matters)
* Could anything be done at a European level to help overcome these barriers/obstacles in the future?
Answer: promotion of the concept of single permitting

Questionnaire Responses

A: Common regulatory frameworks - already completed

Czech Republic

Czech Environmental Inspectorate (CEI)

The System of Integrated Inspections

The Integrated Inspections started in 2004 as pilot controls. Since 2004, the system has been in progress. CEI has its own internal methodologies and directives. These methodologies are going to be amended. In the amendment, there are evaluated experiences since 2004. The basic system will remain but some details are developed. Documents describing the system are at CEI intranet, accessible only for employees of CEI. There's no public link.

The System was it put in place to ameliorate the effectiveness of inspections, to reduce the effort in administration, and to achieve an economical effect for CEI as well as for operators.

The system is defined by the CEI Rules of Regulation, approved by the Ministry of Environment. It does not cover any European Directive nor does it cover any national/regional legislation/regulation. It is only an internal system for inspections. No other countries, stakeholders or organisations are involved in the implementation of the system. It is only an internal system of CEI.

The system was established to ensure that information is shared between CEI and permitting authorities at different administrative levels and to fortify effectiveness. The objectives are:

1. Effectiveness of inspections – cost savings (one inspection instead of many).
2. Minimizing duplicity of inspections at installations with IPPC permit.
3. Motions to Regional Offices for casual revisions of permits – The permitting authorities will be informed about results of inspections. Then, they could make revisions of permits.
4. The inspection is carried out as teamwork. All conditions of the integrated permit and other duties of environmental legislation are checked within the scope of the single inspection.
5. One inspections = one administrative procedure about fine.

The system of integrated inspections was set up in 2004. It has been developed during the years. One of the results of development was the creation of the Department for Integrated Issues in the framework in CEI. Basis of their work are integrated inspections, their implementation, coordination and administrative procedure about fine.

The first pilot integrated inspections started in 2004. In 2007 IPPC departments were created at CEI, which are concerned with integrated issues. The change of internal rules at CEI until 2010 has strengthened the signification of integrated inspections, the methodological development and the preparation of CEI to the amendment of the IPPC Directive. Experiences were processed into the internal documentation of CEI.

The common element is the common inspection of an installation by different authorities guided by CEI. The legislation was not amended to achieve this. The Rules of CEI has been amended only.

Benefit of this common regulatory framework is the partial reduction of a large number of inspections in particular installations. This has been achieved by merging some inspections into one. CEI carries out the inspection of installations according to an annual plan of inspections. Inspections are planned according to the 2001 Recommendation for minimum

criteria for environmental inspections.

The investments were minimal. The system was implemented by changing of the Rules of CEI. Inspectors, who work in this department, have multiple experiences. They are leaders of inspection teams. The methodology has been prepared. The whole system is developed and modified on the basis of experiences and analysis.

Barriers or hurdles: There is a little unwillingness inside CEI to change established procedures. Many people don't want to change anything. Performing integrated inspections make it necessary to cooperate and coordinate the whole inspection group. There are experts of environmental legislation and IPPC in the group.

There is an ongoing increase of the number of integrated inspections every year. More inspectors carry out integrated inspections. More information is gathered about operation of installations with IPPC permits cross the CEI. There is a management of combination of administrative procedures but no management of several administrative procedures about fines.

2007: 277 integrated inspections

2008: 474 integrated inspections

2009: 626 integrated inspections

During integrated inspections specifications of IPPC permits and other duties of environmental legislation are checked. The inspectors have got better information about the activities of IPPC installation than before. One integrated inspection = one administrative procedure about fine. The success lies in the implementation and consolidation of the whole system in practice. The consolidation at a European level could be done by the amendment of the IPPC Directive containing enforcements of inspections and of environment protection.

Other lessons that can be learned: Optimising the inspections, improving the effectiveness of inspections and an integrated access. It is necessary to have a sufficient number of training people and learn to understand of context.

Germany, North Rhine Westphalia (NRW): District Governments of NRW

Integrated Seveso Inspections

Integrated Seveso Inspections are carried out by the Immission Control Units of the five District Governments of NRW. The activity started with the legal validity of the Major Accident Ordinance (Stoerfall Verordnung = German law adapting the Seveso II Directive) in 2000, there is no defined end of the activity. At that time the occupational health and safety authorities and the environmental authorities were responsible for Seveso inspections. In 2007 both activities and the responsible staff were united in the Immission Control Units of the five District Governments of NRW. The activity was put into place to reduce the administrative burdens and to make the inspections more effective.

Until now there is no direct link to other countries or German States. In many countries or States the occupational health and safety authorities or the civil protection authorities are responsible for Seveso inspections while environmental authorities join in or perform additional inspections. In NRW the Ministries of Environment, Labour Protection and Internal Affaires signed a common agreement with the District Governments to shift the responsibility to the Immission Control Units of the five District Governments. The objectives were to streamline the inspections, make them more effective, and reduce the administrative burdens for the operators and the authorities by concentrating the responsibilities for all Seveso enforcement activities into one unit of one authority.

The responsibilities for all Seveso enforcement activities are concentrated in the Immission

Control Units of the five District Governments. There are no longer responsibilities at the occupational health and safety units or the environmental authorities of the NRW counties (Kreise) and big cities. Verifying of safety reports, planning and performing of inspections and enforcement actions are all done by the environmental units accompanied by own occupational health and safety staff. The common element of this activity is that responsibilities of three different authorities – environmental, and occupational health and safety authorities on the State level, and environmental authorities on the local level – were united into one authority. No legislation had to be changed to achieve this. Only the competencies of the involved authorities had to be adjusted.

There were no investments and no extra costs to change the administrational structure. The benefit is the more streamlined and more effective enforcement of the Seveso Directive. There were no hurdles to implement the new structure and bring it into action but new administrational interfaces had to be designed. There are no longer any responsibilities of local environmental authorities for Seveso establishments but the occupational health and safety authorities are furthermore responsible for the facilities beside Seveso enforcement questions. As an example, they are responsible for work accidents outside the Seveso regime.

The new common organisation is very successful. What was done before (in Cologne district) by 4 occupational health and safety inspectors and their superiors is now done by 2 occupational health and safety inspectors. Nobody from local environmental authorities has to deal with the complex questions of Seveso enforcement. There are no changes necessary at the level of European law to implement the new structure. The lesson learnt is that it is sometimes better to adapt the structure of the responsible authorities to the structure of the environmental and safety law than the other way round.

Turkey: Provincial Directorates of the MoEF

Combined environmental inspections

The aim of combined environmental inspections is reducing the number of inspections by combining different inspection regimes and increasing the number of combined environmental inspections

There are single media based inspections (such as only air and only water) and combined environmental inspections according to a By-Law on Environmental Inspection. In the Turkish Ministry of Environment a start has been made to combine inspections in order to decrease the number of inspections. There are 81 provinces in Turkey and MoEF has Provincial Directorates at each of the provinces. At the end of 2009 65 provincial directorates and more than 650 inspectors have been trained on “combined environmental inspections and EU Minimum Criteria for Environmental Inspections” by the MoEF. In 2010 there will be nearly 1000 certified trained inspectors and all Provincial Directorates of MoEF will be doing these combined inspections.

In 2009 1068 combined inspections were carried out. In the ministry most of inspectors are divided into sections like air, wastewater and waste as their responsibility field and regarding their departments. At the provincial level, inspectors usually are responsible for different types of legislations, so they may be responsible for 2 or 3 environmental fields of inspection. Combined inspections usually take one day to carry out, but it of course depends on the complexity of the facility. Huge facilities like petro-chemical industries may take 3 or 4 days.

Turkey
* What is the name of the common regulatory framework?
Answer: Reducing the number of inspections by combining different inspection regimes and increasing the number of combined environmental inspections
* Who is the main contact for this?
Answer: Ministry of Environment and Forestry
* When did (or will) it start and when is it planned to finish?
Answer: It was started at 2006, will finish at 2011
If available, please provide a link to relevant information or documents.
Answer: Not available at the moment.
* Why is the common regulatory framework being put in place**Error! Bookmark not defined.**?
Answer: In order to reduce the number of inspections and decrease the amount of time spent for one site, decrease the amount of budget used for site inspections (use this amount on some other areas, trainings, developing IT, technical equipments etc.)
* What European Directives does it cover?
Answer: There is not any European Directive that it covers.
* What national/regional legislation/regulation does it cover?
Answer: National Environmental Law and By-Law on Environmental Inspection.
Does it involve any joint working between Member States? If so which countries and why?
Answer: This project is one of the stage of the project named “Developing Capacity in Implementation and Enforcement of Environmental legislation in TURKEY” to implement the environmental acquis. This project of course includes exchange information and experience of IMPEL Member States through IMPEL standards, including the EC’s Minimum Criteria for Inspections and joint trainings and on-site inspections were organized through ECENA Network.
Which stakeholders/organisations are involved in its implementation?
Answer: Ministry of Environment and Forestry and its 81 Provincial Directorates.
* What are its objectives**Error! Bookmark not defined.**?
Answer: To reduce the number of inspections, decrease the amount of time and budget used for inspections, comply with the requirements of the RMCEI.
Please describe the common regulatory framework including:

* 1. An overview 2. A brief description of any stages in its implementation * 3. A brief description of the *common* element[Error! Bookmark not defined.] 4. A brief description of whether existing legislation is or has been amended or replaced and how is or was this done (e.g. part of pre-planned legislative change or as a free standing action/activity)?
Answer: In TURKEY, there is a combined* environmental inspection system since 2002. **Existing environmental permitting system is media based. Media based inspections are implemented in accordance with the related By-Laws on Permitting (air, water, waste etc.) Combined environmental inspections are implemented in accordance with the By -Law on Environmental Inspections. The overall objective is to reduce the number of inspections by combining different inspection regimes and increase the number of combined environmental inspections. Through an implementation project the necessary capacity within the Ministry is established to enable to prepare permitting, inspection and enforcement procedures in TURKEY that are in accordance with IMPEL standards, including the EC's Minimum Criteria for Inspections. To increase the number of combined inspections and get prepared for introduction of "integrated" approach, the implementation is being transferred to provinces through trainings on RMCEI and "combined environmental inspections". 64 Provincial Directorates and about 750 inspectors have been trained for combined inspections so far. **Since Integrated Pollution Prevention and Control (IPPC) Directive is not being implemented yet, the inspections are called as "combined" rather than being "integrated".* *** By-Law on "combined environmental permitting" is prepared and come into force at the end of 2010. It aims to combine seperate media based permits under one permit, simplify the environmental permitting procedure for the industry (reduction of bureaucracy)*
What do you think the costs[Error! Bookmark not defined.] and benefits[Error! Bookmark not defined.] of the common regulatory framework will be?
Answer: cost → investment and resources for implementation *(low – it needs time),* impacts of change, perception of a reduction in environmental protection *(no-actually it has positive effects)* *benefit → improved environmental protection, monetary savings, reduced administrative burdens, improved compliance, ease of compliance, more effective and targeted use of resources,*
Are big investments needed to implement it and by whom?
Answer: Not much. The Ministry should employ staff for the central body and for the Provincial Directorates.
* Are there any potential barriers or hurdles to implementation?

Answer: No.
* Could changes at a European level help implementation? If so what and by whom?
Answer: Of course. The piece of legislation in EU Environmental Law, like RMCEI, may help in terms of implementation.
* Are there any other lessons that can be learned so far?
Answer: Exchange of information and experience during trainings help us to develop best practices.

Poland: Chief Inspectorate for Environmental Protection in Poland
Integrated Inspections
The integrated inspections started in 1992 and are still in progress. In 2010 the Chief Inspectorate for Environmental Protection in Poland is responsible for inspections in the area of 34 EU Directives and Regulations. The action/activity was put in place to inspect the industry in all environmental aspects. At the moment there is different information in each region on the website (in Polish language). There is ongoing work on the Polish-Norwegian Project PL0100 “Improving the efficiency of Polish Environmental inspection, based on Norwegian experiences “. One part of the Project is the implementation of a modern inspection data processing system; the other part is the development of a public information dissemination system including inspection activity. In 2011 it should be it in place in all regional inspectorates. The legal basis for the inspection system is the IPPC Directive and the Polish Environmental Protection Act of 27 April 2001 (integrated permits and IPPC Directive) as well as the Inspection for Environmental Protection Act of 20 July 1991 Joint working between Member States to evolve the system: 1. Poland has received help from DANCEE [Danish Cooperation for Environment in Eastern Europe, Ministry of Environment] in implementation IPPC Directive – project J.No. M 128/031-0012.The Project had been conducted from December 2000 to July 2003; guidelines for administration and industry were published in 2004. This project was very helpful to Polish administration and industry in implementation IPPC Directive 2. Poland has received help also from the Netherlands (DCMR) and Sweden (Swedish EPA) in implementation IPPC Directive – project PL2003/IB/EN01. The following stakeholders/organisations were involved in implementing the integrated inspection system: the Polish Ministry of Environment, Inspection for Environmental Protection, industry, governmental and self-governmental administration on regional and provincial level. The objectives of the integrated inspection system are: 1. To improve compliance with environmental law in Poland and to improve enforcement (since 1992) 2. To implement and enforce IPPC Directive (since 2004) Since 2004 there are integrated permits in Poland according to IPPC Directive – it was a new

environmental legislation in Poland in 2001 according to accession process to join EU Since 1992 integrated inspections in the area of environmental protection are conducted. These inspections and enforcement actions are performed on the regional level (in 16 regions). In the Polish register are about 65 500 enterprises, each year about 25 % of them are inspected. Integrated inspections are conducted in about 20% of companies, the rest 80% concern the most important issues and the most difficult problems only.

There are no data about the costs but the benefit is improved environmental protection. Some enterprises had to change the technologies and to adopt the BAT; companies had to reduce their energy and water use per capita, what was of benefit to the environment and saved money for the industry. High costs of new technologies are barriers for some enterprises but that was expected.

Poland is quite successful in integrated inspections. In addition there is a general overview on all inspected EU Directives and Regulations, for example almost 99 % of IPPC installations under operation have an integrated permit. There still work to be done on the rest 1%.

The sustainable development is the best way both for industry and for administration. Common understanding of the problem, awareness of industry and cooperation with administration is the best way to make a progress.

Romania: National Environmental Guard (NEG)

Integrated IPPC Inspections

IPPC inspections are performed in Romania since 2003. The inspections were put in place to implement and enforce the measures necessary to ensure the compliance what IPPC Directive. The information about the IPPC inspections carried out annually by our inspection authority is provided by annual reports. The IPPC permits are available on the National Environmental Protection Agencies web sites. Unfortunately, these reports are not available in English.

The legal basis for the inspection system is the IPPC Directive and other directives that cover certain industries under the IPPC regime (e.g. LCP, Waste disposal) and the Romanian integrated pollution and control Act of November 10th 2005 as well as the environmental protection Act of December 22nd 2005.

Joint working between Member States to evolve the system:

1. The Romanian authorities involved in applying and enforcement of IPPC Directives (Environmental Protection Agency and National Environmental Guard) have received technical support form Federal Ministry for Environment, Nature Protection and Nuclear Security from Germany and Czech Environmental Ministry within the Twining Project RO/2006/IB/EN/04 “Implementation and enforcement of the environmental acquis focused on IPPC” for the Region South/West Oltenia. The project has been conducted from November 2005 to November 2007.

2. Also, National Environmental Guard received support to strengthen its capacity on inspection and control within the Twining Project RO2006/IB/EN/10 performed with Agency for Environmental Protection of Veneto Region, Italy. The project has been conducted form March 2009 to November 2009.

The following stakeholders/organisations were involved in implementing the IPPC inspections:

1. Romanian Ministry of Environment and Forests

2. Environmental Protection Agencies (from national, regional an county level)

3. National Environmental Guard (national, regional and county commissariats)

4. The Ministry of Industries

5. Water Management Authority

The objectives are:

1. to ensure the compliance with environmental law in Romania (since 1996)

2. to implement and enforce IPPC Directive (since 2003)

Since 2005, Environmental Protection Agencies form regional levels has issued integrated permits for installations and activities which fall under the IPPC Directive. Because most of IPPC facilities did not meet the emission limits values established by law the permits issued include measures leading to compliance in a certain period. Since 2004, the National Environmental Guard= NEG is conducting integrated inspections in the area of environmental protection for checking compliance with integrated permits issued by EPA.

Annually, inspections plans are developed covering all IPPC facilities in Romania. The frequency and time period for each IPPC facility is established according to a risk assessment methodology put in place two years ago. The common elements of site visits performed are facility/site inspections, check of self-monitoring data, enforcement actions (like: impose fines, installation close down, integrated permit suspension), and report writing after each site visit.

No data are available about costs. The main benefit is improving the stage of environment neighbourhood IPPC facilities. Many IPPC facilities from Romania have had to update their technologies and to adopt the BAT. To adopt the BAT technologies is high costly. Lack of financial resources is a significant barrier for implementing the measure needed to ensure the compliance with IPPC Directive. These barriers arise all the time since 2003 and now are enhanced by economic crises but almost all of IPPC facilities form Romania obtained integrated permits.

Annually the National Environmental Guard assesses the results of integrated inspections performed, calculating the number of facilities controlled, the number of facilities that are not complying with integrated permits, which are the non-compliances, the number and amount of fine issued, etc. Annual reports are public available but they are not translated into English.

Mainly the strategic investors who bring new technologies contributed to its success of the process as well as the knowledge gained during different projects such as twining projects conducted together with Federal Ministry for Environment, Nature Protection and Nuclear Security from Germany, Czech Environmental Ministry and Agency for Environmental Protection of Veneto Region, Italy.

The following changes at a European level can help at the implementation of the inspection system:

- IPPC Recast proposal (because it brings together several directives and so implementation becomes easier)
- IED Directive proposal.

These changes are important because they could help to get a more effective and uniform implementation of EU Directives in Member States. The exchange of experience between competent authorities across the EU is important for effective implementation and enforcement of the IPPC Directive.

Scotland: Scottish Environmental Protection Agency (SEPA)

Integrated advice, regulatory activity and consultation via Scotland's Environmental and Rural Services (SEARS)

The activity started in summer 2007 and is on-going.

www.sears.scotland.gov.uk
http://www.sears.scotland.gov.uk/pdf/SEARS_Annual_Review_2008-09.pdf

SEARS was instigated by the then Environment Minister, Michael Russell MSP, to provide more joined up services for rural land managers. It forms part of the Scottish Government's simplification programme aimed at realigning public services to achieve more effective service delivery.

It is a Scotland based initiative and it covers the Water Framework Directive and Groundwater Directives, and did not require legislative change at the European level. The Scottish national environmental regulation that it covers includes:

- The Water Environment (Controlled Activities) (Scotland) Regulations (CAR) including:
  - Groundwater licenses
  - CAR engineering regime
- The Water Environment (Diffuse Pollution) (Scotland) Regulations 2008
- Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) (Scotland) Regulations 2003
- The Water Environment (Oil Storage) (Scotland) Regulations 2006

The organisations and stakeholders involved in the implementation of SEARS are as follows:

Organisations

- Scottish Environment Protection Agency (SEPA);
- Scottish Government Rural Payments and Inspections Directorate (RPID);
- Forestry Commission Scotland (FCS);
- Scottish Natural Heritage (SNH);
- Animal Health Agency (AH);
- Deer Commission Scotland (DCS);
- Crofters Commission (CC);
- Cairngorm National Park Authority (CNPA);
- Loch Lomond and Trossachs National Park Authority (LLTNPA).

Stakeholders

- The National Farmers Union of Scotland (NFUS);
- Confederation of Forest Industries (Confor);
- Scottish Crofting Foundation (SCF);
- Scottish Countryside Alliance (SCA);
- Scottish Tenant Farmers Association (STFA);
- Scottish Rural Property and Business Association (SRPBA).

The objectives of SEARS overall are as follows:

Objectives for business:

- Users should see SEARS's partners delivering better joined-up services reflecting the current priorities of Scottish Government, to reduce duplication, bureaucracy and overlap across the public sector in pursuit of greater efficiency, effectiveness and speed of delivery;
- Through training and empowering across the SEARS partners business should notice

an improved customer experience by staff providing efficient, effective and coordinated services, primarily aimed at reducing the number of separate planned inspections and visits to rural land mangers;
- To have access to single point of contact through the provision of a 24/7 contact centre and web portal for access to information/forms/advice and guidance;
- To engage business customers in the project through research, focus groups and stakeholder engagement events aimed at gaining a better understanding of customer needs and issues;

Objectives for regulatory bodies:

- By training and awareness raising to change the culture of staff across the family to remove complexity from the customer and provide a more responsive service;
- To improve the customer experience by providing more efficient, effective and coordinated delivery of services;
- To train staff in partner organisations to deliver a range of advice and services during visits and wherever possible to resolve any issues during the visits;
- To save and make more efficient use of staff resources;
- To drive environmental improvement;
- To resolve data sharing issues;

Objectives for the environment:

- To achieve an equivalent or improved level of compliance with a range of existing and new regulatory regimes through assessment by trained officers in partners organisations during planned visits or inspections for other purposes.

Examples for SEARS:

Example 1

"Integrated advice, regulatory activity and consultation on CAR (Controlled Activities Regulations), diffuse pollution, and engineering activities: (SGRPID, SEPA, SNH & FCS)

Land managers throughout Scotland are subject to working within the new diffuse pollution and engineering regulations. SEPA lead on these new regulations and are responsible for establishing a programme of awareness raising and compliance assessment.

Introducing the integrated service, SGRPID, SNH and FCS have worked with SEPA to streamline the inspection process, thereby reducing the need for SEPA to plan and resource a national visit and inspection programme. All partners involved have combined SEPA's compliance assessment inspection into a proportion of their planned inspection programme." [1]

Example 2:

"Integrated regulatory activity (SSAFO): (SEPA & SGRPID) Farmers are subject to visits from SGRPID and SEPA in relation to the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil [Scotland] Regulations) as these Regulations fall within good farming practice. Prior to SEARS, SGRPID carried out approximately 700 good farming practice inspections, while at the same time, SEPA carried out randomly selected inspections on around 300 farms annually.

With the introduction of this integrated service, SGRPID and SEPA have developed a farm assessment form that will enable SGRPID to deliver a quicker version of SEPA's inspection and still assess the farm's compliance with the regulations. SGRPID have combined SEPA's inspection requirement into their planned inspections for Good Farming Practice." [1]

No amendments or replacements were required to legislation. This is a common

administrative process for environmental inspections.

COSTS:

> *"Each SEARS organisation absorbs expenses for initiatives and/or additional running costs below a threshold (£100,000 per annum for the larger partners)" [1]*

BENEFITS:

Example 1:

> *"In the financial year 2008/09, this has saved the rural land user nearly 900 SEPA inspections. Our partner organisations have raised the awareness of these regulations, improved the environment and assessed national compliance at the same time." [1]*

Example 2:

> *"In the financial year 2008/09, this saved the rural land user approximately 300 SEPA SSAFO inspections. SGRPID have been able to resolve minor non compliances and pollution events without involving SEPA in the process, significantly streamlining the process for the rural sector." [1]*

There have been 4979 fewer inspections or visits to land managers from SEARS launch (June 2008) to end March 2010. Combining inspections has reduced CO2 emissions of SEARS's partners by around 26 tonnes to end March 2010. More advice has been delivered on good environmental practice through combined visits and knowledge transfer. SEARS aims to continue to reduce the number of separate inspections and visits delivering a total of at least 7,000 fewer from launch to end March 2011. SEARS was therefore very successful in reducing burden on land managers and increasing advice provision on good environmental practice.

> *"Each SEARS organisation absorbs expenses for initiatives and/or additional running costs below a threshold (£100,000 per annum for the larger partners)" [1]*

There were very few barriers to success. Inevitably when cultures from different organisations are brought together there are differences that need to be overcome, but there was a refreshing willingness to make SEARS a success. The political will was certainly there but also the benefits became clearer as the project advanced. Many staff involved had to fit SEARS work within already full workloads which was a huge challenge.

Contributions to the success of SEARS:

1. A memorandum of agreement (MoA) set the framework for the partnership and defined and agreed high level organisational commitment.

2. The project structure, management and support provided by the 'buddies' to the work streams.

3. A sense of common purpose:

> "*The SEARS partners are all Scottish public bodies responsible to the Scottish Parliament through Scottish Ministers. The principle that costs and benefits should be assessed for the public purse as a whole reinforces this sense of common purpose." [1]*

4. Stakeholder engagement throughout the development process:

> *"At the outset in the summer of 2007 when the proposal was in the design phase, valuable input was secured from the National Farmers Union (Scotland), the Scottish Rural Property and Business Association and ConFor (the Confederation of Forest Industries) on behalf of the rural land management community. In addition, a series of events were held with the groups above and other stakeholder groups such as the Scottish Crofting Foundation, the Association of Deer Management, the Scottish*

Tenant Farmers Association and the Scottish Countryside Alliance." [1]

5. The drive, enthusiasm and communication skills of the project Chairman.
6. Culture change and committed and enthusiastic staff:

"Farmers' leaders at the Royal Highland Show confided that during the development of SEARS they had noticed a 'dramatic culture change' in the bodies involved." Extract from Scottish Farmer, 28 June 2008

One of the key findings of a lessons learnt exercise at the end of phase 1 of SEARS was the use of task and finish groups rather than full blown membership of work streams to help reduce staff input. This implementation of this arrangement has worked well in phase 2.

[1]: Extract from Scotland's Environmental and Rural Services ANNUAL REVIEW 2008–09

B: Common regulatory frameworks - in progress or planned

Czech Republic: Czech Environmental Inspectorate (CEI)

The System of Integrated Inspections

The Integrated Inspections started in 2004 as pilot controls. Since 2004, the system has been in progress. CEI has its own internal methodologies and directives. These methodologies are going to be amended. In the amendment, there are evaluated experiences since 2004. The basic system will remain but some details are developed.

The rules of CEI were amended. In 2007 the Integrated Department was re-constituted with regional sections. Every regional department has several sections. Separate environmental components are integrated. As a result of this integration integrated IPPC, EIA, E-PRTR inspections etc. will be performed.

The objectives are:

1. One integrated inspection in a factory with IPPC permit.
2. Eventually one combined administrative procedure about fine.
3. Analysis of integrated inspections, therefore better formation of plans for inspections
4. Effectiveness (financial, time and workforce savings)

Greece: Hellenic Environmental Inspectorate

Joint inspections at installations / facilities by environmental inspectors (Hellenic Environmental Inspectorate) and Health Inspectors (Ministry of Health)

The joint inspections at installations / facilities by environmental inspectors (Hellenic Environmental Inspectorate) and Health Inspectors (Ministry of Health) started in 2006 and are ongoing. Since there are impacts on both environment and public health, joint inspections activities focus on the simultaneous evaluation of both impacts.

The inspection system covers mainly the relevant environmental and public health pieces of European and national/regional legislations.

It does not involve any joint working between Member States. On a national level the Hellenic Environmental Inspectorate (Ministry of Environment) and the Health Inspectorate

(Ministry of Health) are involved.

Its objectives are the simultaneous assessment of environmental and health impacts resulting from the operation of specific types of installations / activities. Regarding the number of inspectors in joint inspections, usually two inspectors participate (1 or 2 Environmental Inspector(s) and 1 Health Inspector). The joint inspections are being made together (at the same day or days) covering all inspected themes / aspects. As regard IPPC inspections, Hellenic Environmental Inspectorate performs integrated inspections on IPPC installations. In Greece there are about 360 IPPC installations and this type of installations are considered as of high priority for the annual inspection plan. Usually in IPPC installations 2 or 3 environmental inspectors participate: one for air emissions, one for waste water effluents, and one for solid wastes.

Benefits are resources savings (mainly in terms of manpower needed for the joint inspection compared to individual ones) as well as for the operators of the inspected facilities / installations.

No big investments were needed to implement it and there were no potential barriers or hurdles to implementation. The crucial parameter is the proper coordination.

Lessons that can be learned so far are exchange of knowledge among participating inspectors, as well as exchange of inspection practises and methodologies, and a holistic approach of impacts and results.

Scotland: Scottish Environmental Protection Agency (SEPA)

Common risk assessment methodology to identify inspection requirements across regulatory regimes.

It is a Scottish approach and it started in 2008 and will be finished in winter 2010; there are no documents available as yet. It is being put into place in order to focus SEPA's inspection resources upon those sites which pose the greatest risk and ensure a consistent and aligned approach across regulatory regimes.

The main European Directives it covers include:

- Waste Framework Directive
- Landfill Directive
- Waste Incineration Directive
- SED
- Large Combustion Plant Directive
- Water Framework Directive
- IPPC Directive
- Groundwater Directives
- COUNCIL DIRECTIVE 96/29/EURATOM of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation

Of note, it does not currently include SEVESO II as this is covered by a UK wide risk assessment tool spanning several agencies.

The approach covers the following Scottish legislation implemented by SEPA:

- Water Environment (Controlled Activities)
- Pollution Prevention and Control (Parts A and B) Regulations

- Waste Management Licensing (including exemptions)
- Radioactive Substances Act 1993: The Hass (Scotland) Directions 2005

Key stakeholders will include the water industry, waste industry and power generation; there will be external consultation in autumn 2010.

The main objectives are:

1. To align risk assessment across regulatory regimes so there is a consistent approach.
2. To deliver the first step in holistic regulatory site management.
3. To develop a simple robust process that requires limited resource to calculate risk.

Currently SEPA's approach to monitoring sites differs substantially between regulatory regimes. The intention is to move towards a consistent approach across regimes using a consistent risk assessment methodology to determine the level of monitoring required. An approach is being developed whereby all activities regulated by SEPA can be fitted into a risk matrix which determines the level of compliance monitoring that should be undertaken by SEPA.

A matrix has been created which uses a combination of sector hazard, compliance record and site-specific risks to position any site relative to environmental risk. This provides a quick yet robust assessment of the risk a site poses. The matrix has been developed and is now being tested internally on a regime basis. The matrix will then be tested against individual sites to identify the amount of regulatory effort that needs to be spent.

The common element is the assignment of a consistent and aligned risk assessment methodology for activities/sites across regulatory regimes to determine the level of monitoring required. No amendments to legislation have been required. This is a common regulatory administrative process.

Costs:

1. Resource to develop, test and implement the approach (approximately 1 FTE for 1 year).

Benefits:

1. Effective targeting of inspection resources across regulatory regimes
2. Resources focused on areas of greatest environmental risk
3. Transparent, flexible, consistent and aligned approach
4. Allows us to reapportion effort from lower risk sites that historically received considerable amounts of regulatory effort to higher risk sites.

The investments needed are internal to SEPA and include the resource requirements to develop, test and implement approach. This is approximately 1 FTE for 1 year. Of note this investment covers 12,000 regulated activities in Scotland, very good value!

There may be the perception in Scotland that we are reducing our levels of environmental protection if we reduce levels of compliance monitoring. Having mandatory site visits for low risk activities in Directives (e.g. Solvent Emissions Directive) is not helpful as resource is being spent where there is limited benefit. There needs to be compromise in assigning risk across all regimes.

Questionnaire Responses
Section A
Common regulatory frameworks – already completed

Austria
* What is the name of the common regulatory framework?
Answer: "Monitoring Verfahren"; IT Tool for electronic monitoring of duration of permitting procedures in the administration of Lower Austria; regulatory framework is regional organisational law.
* Who is the main contact for this?
Answer: Mrs. Maria Rieder Innovation and Training T: +43-(0)2742-9005 / 12477 Maria.Rieder@noel.gv.at Office of Lower Austria Government Landhausplatz 1 3109 St. Poelten Austria
* When did it start and finish?
Answer: Phase 1, Concept and Implementation phase on district level: 1996 Phase 2, Concept and Implementation phase on regional level: since 2001
If available, please provide a link to relevant information or documents.
Answer: Information in German is available, but only on request
* Why was it put in place[1]?
Answer: Political agreement to improve permitting procedure on district levels (21 district authorities and on regional administration)
* What European Directives does it cover?
Answer: A number of EU directives require issuing of permits. The project covers all these EU directives for which in the federal system of Austria competence for permitting falls under competency of the regional administration.
* What national/regional legislation/regulation does it cover?
Answer:

[1] E.g. compliance with Lisbon agenda, pressure group lobbying, political or economic pressures etc.

The intention has been to cover all national/regional legislations which are transposition acts of EU directives and national/regional acts for which an EU acquis doesn't exist.
Has it involved any joint working between Member States? If so which countries and why?
Answer: No, It has been done only within the regional administration. But there are similarly systems in all other regional administrations in Austria.
Which stakeholders/organisations were involved in its implementation?
Answer: Chamber of Commerce, business companies
* What were its objectives[2]?
Answer: Main objective has been shortening of duration of procedure foreseen in all types legislations (e.g. Legislation on nature, waste, EIA, IPPC, agriculture, space planning, etc.); 80% of application should be decided within 13 weeks.
Please describe the common regulatory framework including: * 1. An overview Already 1996 the Administration of Lower Austria has set up an IT system to assess duration of permitting procedures in all kind of legislations. Main focus in Phase 1 has been 21 district authorities, so called Bezirkshauptmannschaften. From 2001 onwards the system has been introduced step by step into the central administration of the Region. The system consists of an assessment of duration of permitting procedure with the help of an IT system. This helps to get data on, to identify delays in a procedure and develop enhancements (e.g. standardised forms, guideline, one stop shop, etc.) 2. A brief description of any stages in its development The project consists of three stages. The conceptual phase has been used to disseminate information on the projects across different units, staffs in charge of permit procedures. The assessing phase in order to get data on duration of procedures and to identify shortcomings, weaknesses and in Phase 3 to improve the system, which has lead to guidelines, to one stop shops or concentration of permitting procedures. * 3. A brief description of the *common* element[3] The project is related to a permitting phase. 4. A brief description of whether existing legislation was amended or replaced and how was this done (e.g. part of pre-planned legislative change or a free standing action/activity)?
Answer:
What were the costs[4] and benefits[5] of the common regulatory framework? Please provide any data or assessments if available.

[2] E.g. for environmental protection or to reduce administrative burdens etc.
[3] E.g. permitting, inspections, enforcement or a legislative, regulatory or administrative process etc.

Answer: Costs for the project has been created through the design and development of a new IT tool, which has to be made consistent to an existing internal used administrative filing program. Benefits are the availability of data on duration of permitting procedures in a transparent form; identification of delays, burden, of a procedure to allow efficient improvements; efficient distribution of staff according to demand.
Were big investments needed to implement it and by whom?
Answer: Investment has been needed for the development of the IT tool and for staffs running the project.
* Were there any barriers or hurdles to implementation? Were these expected or unforeseen?
Answer: No, It required a good coordination with the administrative units
* How successful was the common regulatory framework? Please provide any data or assessments if available.
Answer: Data for several years are already available on district levels and are going to be available on central level too. An evaluation of data has started to improve duration of permitting procedure (80% within 13 weeks). At the beginning there were only 75 % in time, know there are 90 % in time.
Was there anything in particular that contributed to its success?
Answer: For the starting phase a good coordination between units involved in the project has been essential. Essential for the success of the project has been the data availability on duration of permitting procedures in consistent form.
* Could changes at a European level have helped its implementation? If so what and by whom?
Answer: A reasonable duration of procedure is essential for the acceptance of EU legislation by operators; otherwise there is a risk that activities are done without a proper permit. In AT the permitting procedure is laid down in federal administrative which is applicable for all kind of administrative permits of EU environmental legislation. Provisions are foreseen to ensure that decision has to be made within reasonable time. For good implementation it is crucial to find the right balance between correct and complete application of legislation and on providing permits in reasonable time to

[4] E.g. investment and resources for implementation, impacts of change, perception of a reduction in environmental protection etc.
[5] E.g. improved environmental protection, monetary savings, reduced administrative burdens, improved compliance, ease of compliance, more effective and targeted use of resources, change of focus from legislation to guidance etc.

applicants. On EU level it might be useful also to consider necessary implementation steps, when new legislation is going to be adopted.
* Are there any other lessons that can be learned?
Answer: No

Spain
IKS eeM System
Description: Within the 2006-2010 Strategic Plan's framework (Modernization, Management, Quality and the Automation of Systems) and boosted by the Basque Government's Department of the Environment and Regional Planning, the Environmental Information Integral Management System, IKS eeM System which makes up the basic central theme of the information transaction processes between entities (entities like any external agent to the organization, regardless of its legal status) and the Autonomous Basque Community's Environmental Administration. The Electronic Management System includes all the information that the entities (any external agent) must provide the Administration for environmental control, so that it serves to cover all the information transactions of both System clients (external entities) as well as the Department itself with said entities and/or with other administrations (local, state, Ministry of the Environment) and/or from the European Community, and at the same time makes up the support for the electronic transmission of the administrative files. On the one hand, said entities will also be able to obtain the necessary indicators that define their environmental behaviour from the information contained in the Management System, on the other, the administration will have the necessary information to define and implement environmental policies.

Section B
Common regulatory frameworks - in progress or planned

Austria
*** What is the name of the common regulatory framework?**
Answer: Project: EDM – **E**lectronic **D**ata **M**anagement in the environmental field Regulatory framework: Federal Law on Sustainable Waste Management (Waste Management Act 2002) and other environmental regulations.
*** Who is the main contact for this?**
Answer: Mr. Franz Mochty, Austrian Federal Ministry of Agriculture, Forestry, Environment and water management (Ministry of Live), 1010 Vienna Stubenbastei 5
* When did (or will) it start and when is it planned to finish?
Answer: In the framework of the intensified eGovernment efforts of the Austrian Federal Government, the Ministry of Live put into fare the regulatory basis back in

2002 to create the electronic data management (EDM) system.

The first application was set up in 2005.

The actual design and development plan envelops the project period until 2015.

If available, please provide a link to relevant information or documents.

Answer: www.edm.gv.at

* Why is the common regulatory framework being put in place?

Answer:

- Contribution to i2010, the EU policy framework promoting positive effects of information and communication technologies (ICTs) to the economy, society and personal quality of life;
- Implementation an integrated EGovernment system for replacing conventional paper based records and reports (including applications submitted to the authorities)
- Reduction of administrative burden on authorities and companies;

* What European Directives does it cover?

Answer:

- Regulation (EC) No. 1013/2006 on shipments of waste
- Directive 2006/123/EC on services on the internal market

* What national/regional legislation/regulation does it cover?

Answer: Waste law, landfill-, old vehicle-,electronic waste-,battery-,package-,waste incineration-,compost-,emissions, emissions certificate regulation, PRTR

Does it involve any joint working between Member States? If so which countries and why?

Answer: The Electronic Data Management in Environmental and Waste Management has been granted several times as “best practise project” already. In case of the EDM sub-project EUDIN, an initiative which was launched and developed as a joint project by the EU Member States Belgium and the Netherlands, this intention was chosen amongst the most innovative project for administrative simplification by a study of the European Commission (Best Project) and was presented at the BEST-conference in Brussels 2006.

The aim of the EUDIN-project is to set up an electronic system that renders possible an electronic exchange of the notification form and the transport documents. One basic objective of the EUDIN-project is to offer a practical way for the companies to announce their waste shipments electronically, fulfilling the legal requirements. Waste exporting and importing companies are involved as pilot users of the new system. Representatives of the administrative body (f.ex. department responsible for waste shipment within the Austrian Ministry of Environment) are members of the project team. Stakeholder views have been and will be integrated, especially regarding usability aspects. The extent is limited by both time and money.

Which stakeholders/organisations are involved in its implementation?

Answer: Federal and regional entities, Chamber of commerce, Industry organisation, companies, NGOs, Environmental Protection agency (UBA).

* What are its objectives?

Answer:

To Establish an integrated eGovernment system for the environmental sector providing tools for electronic recording of governmental tasks:

- Support for applications, permitting processes, control tasks
- User-support in applying complex regulations
- Reduction of administrative burdens
- Transparency, clarity, traceability

Presently about 40,000 people from the environmental and waste management sector, which are subject to registration and notification, are recorded. Recorded master data is available to those registered as well as to the relevant competent authorities; for public, general query tools have been set up. To registered users, EDM offers an IT system which satisfies the requirements of the portal group concept, with single sign-on for master data management and various applications from the environmental and waste management sector.

Description of the common regulatory framework:

Answer: The Electronic Data Management in Environmental and Waste Management is the fundamental e-Government Initiative of the Austrian Federal Ministry of Agriculture, Forestry, Environment and water management. Starting with waste management, registration and reporting obligations are being computerised. Apart from waste management, EDM supports also notifications to the European Pollutant and Transfer Register (ePRTR), the recording of industrial plants participating in emissions certificate trading (Act on Emissions Certificate Trading) as well as notifications concerning the marketing of fluorinated industrial pollutants (HFC). The Radiation Register and the notifications of emissions into surface water bodies (EMREG-OG Emission Register – Surface Water Bodies) are process of being computerised.

Both the registration of all natural and legal persons subject the notification requirement and the input of electronic notifications can be handled via the EDM portal www.edm.gv.at. For authorities, integration into the “Portalverbund” (Portal Group) has been prepared.

The centre of EDM is the master data register eRAS. It has been designed according to international standards and permits recording master data of industrial plants and persons across legal areas and depicting plant- and person-specific authorisations in a structured form (e.g. content of notices of approval).

Development of eRAS also included the integration of a WebGIS solution, which permits the geographical identification (mapping) of recorded industrial plants and operating facilities by their holders.

The progressive extension of the functions of eRAS also includes the linkage to other eGovernemnt registers, for example the corporate register to harmonise the master data of enterprises already recorded. Authorities are provided with an

efficient tool for recording person- and plant-specific authorisations; the generally accessible query tools are improved continuously.

The underlying legislation of the EDM-Programme is especially the Federal Law on Sustainable Waste Management (Waste Management Act 2002) as the set up of the electronic register is characterized as follows:

§ 22. (1) The federal Minister of Agriculture, Forestry, Environment and Water Management shall after hearing the governors of the provinces,

1. set up an keep an electronic register for the waste-relevant master data

a. of original waste producers

b. of waste collectors and treatment operators and treatment plants, including the relevant data from the notice auf authorisation, and

2. an electronic register with the data to be forwarded to the relevant competent authority in accordance with this Federal Act and in accordance with the Waste Shipment Regulation on import and export of waste,

And establish classification tables for types of waste, treatment methods and types of plants. A number shall be used for identification, which shall be an internationally standardised, uniform identification for locations and articles, and which shall be suitable for integration in electronic business data exchange where possible. (…)

Further regulations are included in the specific ordinances for waste management and f.ex. in the Regulation (EC) No. 166/2006 concerning the Establishment of a European Pollutant Release and Transfer Register or in the EMREG-OG Emission Register – Surface Water Bodies.

What do you think the costs[Error! Bookmark not defined.] and benefits of thee common regulatory framework will be?

Answer:

Benefit: reduce administrative burden

Costs: ~ 40 Mio. € till 2015

The project consists of 18 sub projects with high level of interference. So the reduction of administrative burden will increase with the progression of numbers of projects online. In the start up phase administrative work is needed for the initial set up of the registers.

Reduction of costs in future:

> 10 Mio. € for the economy sector

> 5 Mio € for the government sector

Are big investments needed to implement it and by whom?

Answer: Yes, the EDM-Project is financed by the Austrian Federal Ministry of Agriculture, Forestry, Environment and water management

* Are there any potential barriers or hurdles to implementation?

Answer: The biggest hurdle to implementation is a reduction of financial resources

* Could changes at a European level help implementation? If so what and by whom?
Answer: Specification of the obligatory usage of UN/CEFACTS international data- and messaging standards for registration and reporting obligations.
* Are there any other lessons that can be learned so far?
Answer: Apart form the situation in Austria, current developments at the European level must also be taken in consideration. Apart from EC-reporting obligations which can be fulfilled in a more efficient way, the Council Regulation on Waste Management Statistics demands additional responsibilities regarding waste data recording by companies. The waste recording system must be designed in a way that permits obtain the data required by the EU. While the Statistics Regulation does not stipulate any specific method of data compilation and also admits administrative data as a source, it will definitely call for very comprehensive information on quantities and channelling of waste, essentially in the European development to generate different data type requirements in different regulations.

Annex 5

European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL)

IMPEL Better Regulation Cluster
Common Regulatory Framework Comparison Project

Literature Review of Common Regulatory Frameworks in non-IMPEL Member Countries

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June 2010

Contents

Notes

References are footnoted following the Oxford Standard for the Citation Of Legal Authorities (OSCOLA). However, inconsistent with the conventions of OSCOLA, for ease of reference, authors are identified by their surname followed by their initial(s) and journals are cited using their full titles. Many references cite an online source, in such cases this source was available via the Internet at the date of completion of this literature review (23 June 2010).

Disclaimer

This literature review has been prepared by the researchers with guidance from representatives of IMPEL. The information does not necessarily represent either the views of the researchers, IMPEL, the national administrations or the commission. Rather, the content reflects the sources available and the constrained time period.

Executive summary

This research is a literature review to investigate common regulatory frameworks in non-IMPEL countries, namely, Australia, New Zealand, South Africa, and the United States of America (US). This focus on three English speaking developed, and one English speaking developing nation, reflected the availability of information in relation to the short timescale of this project (May-June 2010). Appropriate references were sourced from legal, social science and newspaper databases. The literature reviewed included references to legislation and parliamentary materials, academic journals and reports together with newspapers and opinion pieces.

Overall, the research found that Australia has a joint regulatory system, the National Water Initiative, overseen by a National Water Commission. New Zealand's Resource Management Act 1991 provides common permitting procedures for a range of environmental resources. South Africa has: a common (or alternative) framework to assess development applications; a common system for administration of water; a common set of principles to guide environmental decision making; has created a network of Environmental Management Inspectors; together with committees to facilitate co-operation in coastal management. No common regulatory frameworks, as defined by IMPEL, was found from reviewing literature relevant to the US.

The quantity and quality of the literature available varied with each nation studied. However, in all cases the common regulatory frameworks identified were formulated in response to existing environmental conditions and structures of governance. This leads to questions about the extent to which such frameworks can provide useful models for application within EU Member States. Literature searches revealed that the term 'common regulatory frameworks' was not being routinely used to refer to activities fitting the definition of this concept supplied by IMPEL. Therefore, it is likely that there are many activities, not listed in this review, which fit IMPELs definition of a common regulatory framework. Future research could usefully employ a simple process of interviews to unearth the potential breadth of common regulatory frameworks in Australia, New Zealand, South Africa, and the US together with other non-IMPEL countries.

Abbreviations

2003 Amendment	National Environmental Management (Amendment) Act, 46 of 2003 (South Africa)
COAG	Council of Australian Governments
DEAT	Department of the Environmental Affairs and Tourism (South Africa)
DFA	Development Facilitation Act (South Africa)
EEA	European Economic Area
EMI	Environmental Management Inspectors, also known as the 'green scorpions' (South Africa)
EU	European Union
ICM	National Environmental Management: Integrated Coastal Management Act (South Africa)
IMPEL	European Union Network for the Implementation and Enforcement of Environmental Law
IMPEL Questionnaire	IMPEL Better Regulation Cluster Common Regulatory Framework Comparison Project Questionnaire
NEMA	National Environmental Management Act (South Africa)
NGO	Non-governmental organisation
NPA	National Prosecuting Authority (South Africa)
NWA	National Water Act (South Africa)
NWI	National Water Initiative (Australia)
NZEPA	Environmental Protection Authority (New Zealand)
OSCOLA	Oxford Standard for the Citation Of Legal Authorities
RMA	Resource Management Act (New Zealand)
RMA Amendment	Resource Management (Simplifying and Streamlining) Amendment Act 2009 (New Zealand)
RRB	Reducing the Regulatory Burden (initiative of Victoria, an Australian State)
SAPS	South African Police Service
SLIM	Simpler Regulation for the Internal Market
UK	United Kingdom
US	United States (of America)
USEPA	Environmental Protection Agency (US)

1. Purpose, objectives and structure

The purpose of this Literature Review of common regulatory frameworks within non-IMPEL member countries is to inform the Common Regulatory Framework Comparison Project. IMPEL is an international non-profit association of the environmental authorities of the European Union Member States, acceding and candidate countries of the European Union (EU) and European Economic Area (EEA) countries.[1] Therefore this literature review focuses on countries out with the EU and EEA. It intends to provide a broad, rather than an in-depth, overview of common regulatory frameworks in non-IMPEL countries.

The aim of the common regulatory framework Comparison Project is to look at environmental regulatory frameworks (legislative, regulatory and/or administrative) within and between Member States and wider. The specific objectives of the IMPEL Common Regulatory Framework Comparison Project, relevant to this Literature Review, are:

- To identify examples of common regulatory frameworks developed by countries outside of IMPEL and describe their history, the reasons why they were developed and why they took the form they did;
- To compare the examples and identify the perceived advantages and disadvantages of common regulatory frameworks for regulators and business/industry including administrative burdens;
- To identify barriers to integration/combining of environmental regulatory frameworks;
- To identify the benefits of common regulatory frameworks for Member States considering adopting such frameworks; and
- To provide recommendations for IMPEL and Member States on the creation of common regulatory frameworks and good practice.

This literature review is to be used by IMPEL in conjunction with information gained from the IMPEL Better Regulation Cluster Common Regulatory Framework Comparison Project Questionnaire, 'the IMPEL Questionnaire'. Therefore, questions from the IMPEL Questionnaire have been adapted and used to structure the results section of this report so that outcomes from the literature review can be compared with those from the IMPEL Questionnaire. Consequently, this report is structured as follows:

Section 2 **Scope and Research Methods**, explains how this review was undertaken, including how questions from the IMPEL Questionnaire have been adapted to reflect the activities in non-IMPEL member states;

Section 3 **The countries and their common regulatory frameworks**, provides a more detailed overview of the countries and the common regulatory frameworks focused on within this review;

Section 4 **Results**, sets out the result from the process described in Section 2 for each selected country and common regulatory framework therein; and

Section 5 **Conclusions** concludes the review by providing an overview of the common regulatory frameworks examined and recommendations for how this topic could be further explored.

[1] IMPEL 'About IMPEL' [2010] http://impel.eu/about

2. Scope and Research Methods

This report is in essence a Literature Review. Section 2.1 explains the scope of this review and includes the working definition of common regulatory frameworks together with how this has been used to focus this review. Section 2.2 describes how literature was sourced, and Section 2.3 outlines the amendments made to the IMPEL Questionnaire so that it could be used to structure the results section (Section 4) of this report.

2.1 The scope of this review

This research investigates common regulatory frameworks in non-IMPEL countries, namely, Australia, New Zealand, South Africa, and the United States of America (US). This focus on three English speaking developed and one English speaking developing nation reflects the availability of information in relation to the short timescale of this project (May-June 2010). Box 1 provides the definition of common regulatory frameworks, derived from IMPEL, that has been used to guide this Literature Review.

The definition in Box 1 could be interpreted to apply to a large number of different types of activities and the inter-relationship between activities within different nations. For example non-IMPEL African countries have set up common regulatory frameworks for electronic communications networks.[2] This review focuses on common regulatory frameworks related to management of the environment within, rather than between, the specified countries.

Box 1 Definition of common regulatory framework

The simplification and streamlining of regulatory activities and processes through the development of common legislative, regulatory and/or administrative systems (including Information Systems), procedures, guidance and/or language.

The word common can mean, for example, integrated, aligned, shared, combined or joint.

Reflecting the definition provided in Box 1, whilst undertaking this literature review, clarity was required about where the commonality arose in relation to particular regulatory activities or processes. That is, whether this commonality was in terms of the administrative, procedural (for example permitting, inspection and/or enforcement processes), guidance and /or language.

Simplifying and streamlining regulatory activities and processes through the development of common regulatory frameworks supports the EUs Better Regulation agenda. This agenda is advocated at the EU Level by the Lisbon Strategy[3] and has been directly promoted within domestic legislation (e.g. within the UK[4]). It has previously been noted that Better Regulation is just one of a number of other initiatives which have "sought reform to the law" in recognition of "problems with law making in the EC".[5] Other initiatives include the Sutherland Report,[6] the Molitor Report,[7] and the Simpler Legislation for the Internal Market project or SLIM project.[8]

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[2] 'West African regulators agree on common regulatory framework: Creating an environment to nurture ICT' International Telecommunications Union News (October 2005) 17-18.

3 European Commission Enterprise and Industry 'Better regulation under the Lisbon Strategy' [2010] http://ec.europa.eu/enterprise/policies/better-regulation/other-initiatives/lisbon-strategy/index_en.htm

4 See the Legislative and Regulatory Reform Act 2006, The Environmental Permitting (England and Wales) Regulations 2007, and the Regulatory Enforcement and Sanctions Act 2008.

[5] Blake, L., Pointing, J., and Sinnamon, T. 'Over-Regulation and Suing the State for Negligent Legislation' (2007) 28 Statute Law Review, 218.

[6] 'The Internal Market after 1992: Meeting the Challenge. Report presented to the Commission by the High Level Group on the functioning of the Internal Market. (commonly called the Sutherland Report)' EC COM (1992).

[7] 'The Molitor Report, The Report of the Group of Independent Experts on Legislative and Administrative Simplification' COM SEC(95) 1379.

Better Regulation, a different, risk-based, more proportionate approach to regulation, aims to provide the same or better outcomes as existing approaches to environmental protection and regulation, whilst potentially decreasing economic and other costs. However, it has been noted "A subjective concept like better regulation could involve more or less regulation, higher or lower standards, or the same standards delivered through more efficient means. Most stakeholders want better regulation – but perhaps only if it is defined their way."[9]

This review provides an overview of common regulatory frameworks in non-IMPEL countries. Evidence of the documented advantages and disadvantages of these frameworks has been sought, largely from secondary sources. However, this literature review does not make overall judgements whether these initiatives support Better Regulation.[10] For example it does not assess them against any tests developed, such as within the UK's Hampton Report[11] or by IMPEL.[12] Indeed, how a particular common regulatory framework performs relies on the governance frameworks in which it operates. However, "Regulatory tools and institutions can be improved based on learning from past approaches, and tailored to suit European governance."[13] This literature review aims to inform this process.

2.2 How literature was sourced

The term Better Regulation is used within the EU English speaking member states. Therefore although extensive literature searches were initially undertaken of the terms 'better regulation' and 'common regulatory frameworks', a more flexible approach was required to identify common regulatory frameworks in non-IMPEL countries. There was a need to search under a number of different terms, for example what is referred to as a "permit" in Australia, the UK and US, is called a "resource consent" in New Zealand and an "environmental authorization" in South Africa. Therefore focussed searches by particular legislation by country were required, so that targeted information could be gained from each country.

Searches were undertaken of the legal databases Westlaw and Lexis Library, the geographic database, Geobase and Compendex (which contain a great deal of articles related to the environment). Information was also sourced from newspaper articles (via the database Nexis UK). The outputs from this initial review were then used to make targeted internet searches, enabling official reports, relevant to particular the common regulatory frameworks, to be identified. Therefore, the sources are primary literature (legislation and parliamentary materials), secondary (academic journals and report) and grey (newspapers and opinion pieces). This review is not exhaustive, but rather reflects what could be ascertained from the information reviewed in the restricted time period. Rather than impose a further layer of interpretation on

[8] 'The SLIM Initiative. Report of the Commission on the SLIM Pilot Project. Simpler Legislation for the Internal Market' COM(96) 559 final.

[9] Kellet, P. 'Is the better regulation agenda producing better regulation?' (2008) 20 Environmental Law & Management, 221. At p221. Also Kellet, P. 'Is the better regulation agenda producing better regulation?' (2009) 1 Journal of Planning Law 1 , 24.; and Kellet, P. 'Better Regulation: What the Modernising Agenda Might Mean for UK Environmental Laws' (2006) 18(4) Environmental Law & Management, 169.

[10] Ibid. Discussion of the merits of promoting the Better Regulation agenda can be found from other sources, both in relation to environmental, and other, regulation e.g. Weatherill, S. (Ed) 'Better Regulation' (2007) Oxford: Hart Publishing; Verbruggen, P. Does Co-Regulation Strengthen EU Legitimacy? (2009) 15(4) European Law Journal, 425.

[11] Hampton, P. 'Reducing administrative burdens: effective inspection and enforcement'. (2005 March) HM Treasury.

[12] IMPEL 'IMPEL Project: Practical Application of Better Regulation Principles in Improving the Efficiency and Effectiveness of Environmental Inspection Authorities' (2009) Environment Agency and Institute for European Environmental Policy. At p7.

[13] Weiner, J.B. 'Better Regulation in Europe', in, Holder, J. and McGillivray, D. 'Taking Stock of Environmental Assessment: Law, Policy and Practice' (2007) Abingdon: Routledge-Cavendish. 65-130. At p129.

this material, in general information has been extracted from the sources, with due acknowledgement given to the authors. The quantity of the data varied with each nation studied

2.3 Structuring the results using the IMPEL Questionnaire

To allow comparisons with responses from IMPEL member states, the IMPEL Questionnaire was used to structure the information derived from the literature search described in Section 2.2. The results section of this Literature Review is set out for each country in alphabetical order using the format of Section A of the IMPEL Questionnaire in terms of the common regulatory frameworks which they had implemented, and Section B if any were planned. As the questionnaire refers to IMPEL member countries some of the questions, in particular those concerned with the EU, had to be adapted, as indicated by Table 1.

Table 1 How specific questions from the IMPEL Questionnaire were adapted for this literature review of common regulatory frameworks in non-IMPEL Countries

Question from the IMPEL Questionnaire	**How the question was adapted for this literature review**
Who is the main contact for this?	What organisation or agency leads this common regulatory framework?
What European Directives does it cover?	What field of environmental regulation does it cover?
Has it involved any joint working between Member States? If so which countries and why?	Has it involved any joint working with other nations? If so which countries and why?
Could changes at a European level have helped its implementation? If so what and by whom?	[Question removed]

Table 1 illustrates the questions that were altered – all other questions are the same as those featured in the IMPEL Questionnaire. The question "Could changes at a European level have helped its implementation? If so what and by whom?" (Table 1) was removed because what would be a relevant equivalent question for non-IMPEL countries was not apparent.

3. The countries and their common regulatory frameworks

A previous IMPEL report concerning 'Practical Application of Better Regulation Principles in Improving the Efficiency and Effectiveness of Environmental Inspection Authorities' noted that "understanding the context of initiatives… requires a basic understanding of the environmental governance structures." [14] Therefore this section provides a brief description of the countries that are the focus of the review, their governance arrangements, and the common regulatory frameworks to be examined in greater detail in the results section. The information is set out in alphabetical order by country, with Australia (Section 3.1) followed by New Zealand (Section 3.2), South Africa (Section 3.3) and finally the US (Section 3.4).

[14] IMPEL 'IMPEL Project: Practical Application of Better Regulation Principles in Improving the Efficiency and Effectiveness of Environmental Inspection Authorities' (2009) Environment Agency and Institute for European Environmental Policy. At p29.

3.1 Australia

The Australian Commonwealth Government[15] has legislative power over certain issues, and the six state governments retain other matters. There can be cases where "the commonwealth and the states claim authority to make laws over the same matter."[16] During the 1990s, at commonwealth level, Australia engaged in meta-regulatory[17] initiatives to promote economic efficiency, the comprehensiveness of which has been described as "unprecedented"[18]. Over a seven-year period "the reforms required every state government and the [commonwealth] government to scrutinise every piece of legislation to determine whether it was subject to review. More than 1,700 pieces of legislation were actually listed for review."[19]

Environmental concerns necessitate collaboration between the commonwealth and the state governments. This is exemplified by the analysis of the National Water Initiative provided in Section 4.1 of this review. Other co-operative systems related to the environment have been set up – such as the regime related to Integrated Coastal Area (or Zone) Management.[20] There may also be some activity at state level concerned with better regulation more generally, if not common regulatory frameworks. For example the State Government of Victoria, under its Reducing the Regulatory Burden (RRB) initiative, "has committed to a $500 million reduction in regulatory burden by July 2012."[21] Therefore future research could usefully examine activity at the level of Australian state government. The focus of this review is:

- National Water Commission Act 2004

3.2 New Zealand

The New Zealand system of government is based on the British Parliamentary system. Therefore national government gives local government its powers. There is a hierarchy of local government jurisdiction:

- territorial authorities (city or district councils)
- regional authorities (commonly known as regional councils)
- unitary authorities (combined regional and territorial authorities).

Much of the responsibility for resource consent (environmental permitting) takes place through the territorial, regional or unitary authorities, rather than at the national level. This stems from the Resource Management Act 1991 and its amendments. However, an independent Environmental Protection Authority (NZEPA) and an Environmental Court also have powers under this act and its amendments.

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[15] Australia has a federal system of government. There is a national government, known as the Commonwealth Government, together with six state governments. Australia was established by a British Act of Parliament, the Commonwealth of Australia Constitution Act 1900.

[16] Australian Government 'Australia's Federation' [2010] http://australia.gov.au/about-australia/our-government/australias-federation

[17] Meta-regulation has been described as the "institutions and processes that embed regulatory review mechanisms into governmental policymaking." Morgan, B. 'Social Citizenship in the Shadow of Competition: The Bureaucratic Politics of Regulatory Justification' (2003) Aldershot: Ashgate Publishing Limited. At p17.

[18] Ibid. At p10.

[19] Ibid. At p10.

[20] Glazewski, J. and Haward, M. ' Towards Integrated Coastal Area Management: A Case Study in Co-operative Governance in South Africa and Australia,' 20 International Journal of Marine & Coastal Law (2005), 65.; Australian Government: Department of the Environment, Water, Heritage and the Arts 'Integrated Coastal Zone Management' [2008] http://www.environment.gov.au/coasts/iczm/index.html

[21] Government of Victoria, Department of Treasury and Finance 'Reducing the Regulatory Burden' [2010] http://www.dtf.vic.gov.au/CA25713E0002EF43/pages/reducing-the-regulatory-burden

NZEPA was established by the 2009 amendments to the Resource Management Act (1991) and "is a statutory office housed within the Ministry for the Environment under the Secretary for the Environment."[22] It assists with "Streamlining the decision making process for nationally significant proposals, such as major infrastructure or public works projects."[23]

Resource Management Amendment Act 1996 brought the Environmental Court into being, which was previously known as the Planning Tribunal. "Most of the Court's work involves issues arising under the Resource Management Act, largely dealing with appeals about the contents of regional and district statements and plans; and appeals arising out of applications for resource consents. The consents applied for may be for a land use, for a subdivision, a coastal permit, a water permit, or a discharge permit; or a combination of those."[24] The focus of this review is the changes to the land-use planning and environmental permitting systems resulting from the:

- Resource Management Act 1991 and its amendments, focusing on the Resource Management (Simplifying and Streamlining) Amendment Act 2009

3.3 South Africa

South Africa is a constitutional democracy. South Africa's post-apartheid constitution, in full effect in 1997, sets out the structures of government together with the rights and duties of citizens.[25] However, "all law that was in force when the Constitution took effect continues in force, subject to any amendment or repeal, and consistency with the Constitution."[26] If a law is inconsistent with the Constitution it may be repealed, amended or struck down.[27]

Therefore, the constitution is required to govern over a "highly fragmented legal landscape of environmental management in South Africa" with a "host of different implementing agencies."[28] This fragmentation results from the restructuring at the end of apartheid in 1994 but also the retention of many of the laws promulgated under apartheid. As Todes, Sim and Sutherland (2009) describe:

> "With the end of apartheid in 1994, extensive institutional restructuring of the country took place. A system of cooperative governance, with three overlapping 'spheres' of government (national, provincial and municipal), was established. The old provinces and homelands were consolidated into nine new provinces. In 2000 the plethora of fragmented and racially divided local governments were reshaped into 258 municipalities, cross-cutting old racial boundaries. Although rationalization of government has occurred, strong institutional divides persist between planning and environmental management, with separate government departments responsible for both.[29] The country's 1996 Constitution defines planning as a provincial and municipal affair, while environmental management is a national and provincial competency."[30]

[22] Environmental Protection Authority 'Welcome to the Environmental Protection Authority of New Zealand: Te Mana Rauhī Taiao' [2009] http://www.epa.govt.nz/
[23] Ibid.
[24] Environmental Court of New Zealand 'Environmental Court' [2010] http://www.justice.govt.nz/courts/environment-court
[25] The Constitution of the Republic of South Africa Act 200 of 1993.
[26] Bekink, B and Botha. C. 'Aspects of Legislative Drafting: Some South African Realities (or Plain Language Is Not Always Plain Sailing)' (2007) 28(1) Statute Law Review, 34.
[27] The mandate for this is provided by Constitution of the Republic of South Africa Act 200 of 1993, Section 102.
[28] Wynberg, R.P. and Sowman, M. 'Environmental Sustainability and Land Reform in South Africa: A Neglected Dimension' (2007) 50(6) Journal of Environmental Planning and Management, 783. At p788.
[29] The same separation also exists within the UK.
[30] Todes, A., Sim, V and Sutherland, C. 'The Relationship between Planning and Environmental Management in South Africa: The Case of KwaZulu-Natal' (2009) 24(4) Planning Practice and Research, 411. At pp418-419.

In advance of the Constitution coming into full effect, South Africa began to create frameworks to rationalise its planning and bureaucratic systems related to land development projects.[31] Subsequently it consolidated its legislation relating to water[32] and created an overall National Environmental Management regime.[33] Recently, South Africa has legislated to provide for integrated coastal management.[34] These frameworks have aspects that conform to the definition of common regulatory framework provided in Box 1. Therefore focus of the review is aspects of the implementation of these four different legal instruments:

- Development Facilitation Act, 67 of 1995;
- National Water Act, 36 of 1998;
- National Environmental Management Act, 107 of 1998; and
- National Environmental Management: Integrated Coastal Management Act, 2008.

However, Gibson (2007) cautions: "The implementation and enforcement of environmental law in South Africa has often been less impressive in practice than the appearance of legislation in the statute book."[35] Further reference to the development of South African law and the first three of these regimes can be found in Jan Glazewski's book 'Environmental Law in South Africa' (2005) Butterworths: Durban.

3.4 United States of America

As well as the Federal Government and 52 State Governments in the US, there are also Local Governments and Tribal Governments (Governments of particular Tribes native to the US that are federally recognised e.g. Native Americans). The European version of Better Regulation "emulates key concepts and tools of regulatory reform developed in the American administrative state over the past four decades."[36] Although there are many legal instruments originating at federal level that influence the environment and its protection, this review found none that clearly conform with the definition of common regulatory frameworks provided by IMPEL, Box 1.

A large amount of US literature was reviewed and two acts in particular were investigated further: Clean Air Act (focussing on the 1990 Amendment); and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (also known as the Superfund). Reference was made to "common elements", particularly within the Comprehensive Environmental Response, Compensation, and Liability Act.[37] However, this provision did not clearly relate to the common regulatory framework as defined within Box 1 and is therefore not dealt with further in this review. State level integrated approaches to environmental regulation may exist; seeking these out requires further research work – as Section 5 of this report identifies.

[31] Development Facilitation Act 1995; Also Rigby, S. and Diab, R. 'Environmental sustainability and the Development Facilitation Act in South Africa' (2003) 15(1) Journal of Environmental Law, 27.
[32] National Water Act, 36 of 1998.
[33] National Environmental Management Act, 107 of 1998.
[34] National Environmental Management: Integrated Coastal Management Act, 2008.
[35] Gibson, J. 'The development of integrated coastal management legislation in South Africa' (2007) 18(4) Water Law, 117. At p121.
[36] Weiner, J.B. 'Better Regulation in Europe', in, Holder, J. and McGillivray, D. 'Taking Stock of Environmental Assessment: Law, Policy and Practice' (2007) Abingdon: Routledge-Cavendish. 65-130. At p68.
[37] To achieve protection identified people who were liable for costs in accordance with a system of "common elements". USEPA 'Memorandum. Mar -6 2003' [2003] http://www.epa.gov/compliance/resources/policies/cleanup/superfund/common-elem-guide.pdf At p1.

4. Results

4.1 Australia

National Water Initiative

What is the name of the common regulatory framework? National Water Initiative
What organisation or agency leads this common regulatory framework? Department of the Environment, Water, Heritage and the Arts (part of the federal Commonwealth Government) and the independent statutory body within the portfolio of that department, the National Water Commission
When did it start and finish? "The Intergovernmental Agreement on a National Water Initiative was signed at the 25 June 2004 Council of Australian Governments (COAG) meeting. The Tasmanian Government joined the Agreement in June 2005 and the Western Australia Government joined in April 2006."[38] The National Water Commission "advises the COAG and the Australian Government on national water issues and the progress of the National Water Initiative."[39]
Links to relevant information or documents National Water Initiative http://www.nwc.gov.au/www/html/117-national-water-initiative.asp Northern Australia Land and Water Taskforce 'Sustainable development of northern Australia: A report to Government from the Northern Australia Land and Water Taskforce' [2009] http://www.nalwt.gov.au/files/NLAW.pdf Australian Government National Water Commission 'Australian water reform 2009: Second biennial assessment of progress in implementation of the National Water Initiative' [2009] http://www.nwc.gov.au/www/html/147-introduction---2009-biennial-assessments.asp?intSiteID=1 Other publications are also available from the Australian Government National Water Commission http://www.nwc.gov.au/www/html/394-publications-by-topic.asp
Why was it put in place? Each Australian state and territory manages water via its own set of institutional arrangements. "A range of interconnected environmental problems associated with the lack of water sustainability have attracted serious attention over the past decade."[40] The National Water Initiative is an attempt to address these problems in an integrated way.
What field of environmental regulation does it cover? Water

[38] Australian Government: National Water Commission 'National Water Initiative' [2010] http://www.nwc.gov.au/www/html/117-national-water-initiative.asp?intSiteID=1

[39] Australian Government: National Water Commission 'Role and functions' [2010] http://www.nwc.gov.au/www/html/93-roles-and-functions.asp

[40] Godden, L. 'Water Law reform in Australia and South Africa: sustainability, efficiency and social justice' (2005) 17(2) Journal of Environmental Law, 181. At p183.

What national/regional legislation/regulation does it cover?

The National Water Commission, established under the National Water Commission Act 2004, "advises COAG and the Australian Government on national water issues and the progress of the National Water Initiative."[41] "Under the Water Act 2007, the Commission [also] has a new, ongoing function to audit the effectiveness of implementation of the Murray-Darling Basin Plan and associated water resource plans."[42] Further analysis of the institutional arrangements for governance of Australian water can be found in Colebatch (2006).[43]

Has it involved any joint working with other nations? If so, which countries and why?

The National Water Initiative and the National Water Commission encourage joint working between the Australian State Governments.

Which stakeholders/organisations were involved in its implementation?

Partners in the duties undertaken by the National Water Commission are:

- the Australian Government (as their only investor)
- state and territory governments and agencies
- Australian Government departments and agencies
- the water sector - agencies, utilities, authorities, industry peak bodies, local government, companies and consultants
- local, regional and national environment and conservation groups
- the science and research sector.[44]

What were its objectives?

"The overall objective of the National Water Initiative is to achieve a nationally compatible market, regulatory and planning based system of managing surface and groundwater resources for rural and urban use that optimises economic, social and environmental outcomes."[45]

Description of the common regulatory framework

1. Overview

Godden (2005) states that National Water Initiative has been set up because of "considerable variation in water regulation practices across the Australian states – particularly in water licence characteristics. Significant administrative discretion characterised decision-making. Continual pressure for more supply often resulted in an over allocation of water beyond capacity in many catchments. There were wider systemic failures as the bodies of governing legislation became fragmented. Legislative regimes did not address the environmental implications of water resource development in any coherent manner."[46]

2. Brief description of any stages in its development

[41] Australian Government: National Water Commission 'Role and functions' [2010] http://www.nwc.gov.au/www/html/93-roles-and-functions.asp. The National Water Commission Act 2004 states that the date of Assent and Commencement was 17 Dec 2004 and that it ceases to be in force on 30 June 2012.
[42] Ibid.
[43] Colebatch, H.K. 'Governing the use of water: The institutional context' (2006) 187(1-3) Desalination, 17.
[44] This is not set out directly by statute but is indicated on the National Water Commission website. Australian Government: National Water Commission 'Our partners' [2010] http://www.nwc.gov.au/www/html/138-working-with-partners---introduction.asp
[45] Australian Government: National Water Commission 'National Water Initiative' [2010] http://www.nwc.gov.au/www/html/117-national-water-initiative.asp?intSiteID=1
[46] Godden, L. 'Water Law reform in Australia and South Africa: sustainability, efficiency and social justice' (2005) 17(2) JEL, 181. At p188.

The text of the National Water Initiative[47], Godden (2005)[48] and Petrie and Knowler (2006)[49] provide an overview of the drivers for water reform and the historical context. Originally systems for water management stemmed from the 19th century European colonisation. This began to alter in the 1980s with the State Government of Victoria overhauling their existing water legislation via the Water Act 1989. More substantial changes to water policy and law followed in the 1990s with COAGs endorsement of the 1994 strategic framework for the efficient and sustainable reform of the Australian water industry – the National Water Initiative and the National Water Act 2007 build on this and other subsequent agreements.

3. Brief description of the *common* element

The common element is the development of regulatory system overseen by National Water Commission. "The overall objective of the National Water Initiative is to achieve a nationally compatible market, regulatory and planning based system of managing surface and groundwater resources for rural and urban use…"[50] The National Water Commission is "an independent statutory body, as required by the [intergovernmental agreement] the National Water Initiative."[51]

The three main functions of the "National Water Commission are to:

- assess governments' progress in implementing the National Water Initiative (eg through biennial assessments of progress commencing in 2006-07)
- help governments to implement the National Water Initiative (eg by acting as lead facilitator on certain actions under the Initiative such as compatible registers of water entitlements and trades, and nationally consistent approaches to pricing)
- manage the Raising National Water Standards Program and National Groundwater Action Plan."[52]

4. Brief description of whether existing legislation was amended or replaced and how was this done (e.g. part of pre-planned legislative change or a free standing action/activity)?

Reforms of management of Australia's water, in line with the National Water Initiative, are set out in the Water Act 2007, under which regulations can be made to prescribe for certain matters. The Water Act 2007 was amended by the Water Amendment Act 2008 which, amongst other things, altered governance structures relating to the Murray-Darling Basin.[53]

This influenced state level activity. For example as a result of Western Australia finally signing the NWI a "two-phased comprehensive reform of water management legislation [is taking place]: the first phase will modernize the institutional arrangements covering water governance while the second phase will streamline and modernize existing legislation dealing with the provision of water services in the state." [54]

What were the costs and benefits of the common regulatory framework? Please provide

[47] Intergovernmental Agreement on a National Water Initiative http://www.nwc.gov.au/resources/documents/Intergovernmental-Agreement-on-a-national-water-initiative.pdf
[48] Godden, L. 'Water Law reform in Australia and South Africa: sustainability, efficiency and social justice' (2005) 17(2) Journal of Environmental Law, 181.
[49] Petrie, L. and Knowler, J. 'Current issues in Australian Water Law: Federal control versus states' rights - Power struggles in the pursuit of national water security' (2006) 17(5) Journal of Water Law, 210.
[50] Australian Government: National Water Commission 'National Water Initiative' [2010] http://www.nwc.gov.au/www/html/117-national-water-initiative.asp?intSiteID=1
[51] National Water Commission Act, No. 156 of 2004 as amended, Part 1 Section 3.
[52] Australian Government: National Water Commission 'National arrangements: National Water Commission Act 2004' [2009] http://www.nwc.gov.au/www/html/2352-national-water-commission-act-2004.asp
[53] Australian Government: Department of the Environment, Water, Heritage and the Arts 'Water legislation' [2010] http://www.environment.gov.au/water/australia/water-act/index.html#regulations-2008
[54] O'Hara, J. and Rossetto, L. 'Water Law reform in Western Australia: Making decisions for the future' (2007) 18(1) Journal of Water Law, 19. At p19.

any data or assessments if available. Not ascertained from the information reviewed to date.
Were big investments needed to implement it and by whom? Not ascertained from the information reviewed to date.
Were there any barriers or hurdles to implementation? Were these expected or unforeseen? Not ascertained from the information reviewed to date.
How successful was the common regulatory framework? Please provide any data or assessments if available. The website for the recent National Water Commission biennial report states: "In many areas, progress in the past two years has been good, but the Commission has identified some areas where reform has been slow or inadequate. Based on its findings, the Commission has made 68 recommendations for further action to refocus national reform efforts over the next two years."[55] In the Murray-Darling Basin permits were allocated for close to 100 percent of the average annual water resources. Permits last for ten years and there is an expectation they will be renewed.[56]
Was there anything in particular that contributed to its success? Not ascertained from the information reviewed to date.
Are there any other lessons that can be learned? Markets regulate agricultural water supply, but in certain areas, urban users are still subject to non-price regulation (which often restricts their water use). Byrnes, Crase and Dollery (2006) consider that more widespread use of water pricing could provide a more coherent approach to water allocation that is less open to abuse.[57] However, there are potentially social justice implications of this form of allocation because access to water will be influenced by comparative income.

[55] Australian Government National Water Commission 'Australian water reform 2009: Second biennial assessment of progress in implementation of the National Water Initiative' [2009] http://www.nwc.gov.au/www/html/147-introduction---2009-biennial-assessments.asp?intSiteID=1

[56] Quiggin, J. 'Repurchase of renewal rights: A policy option for the National Water Initiative' (2006) 50(3) Australian Journal of Agricultural and Resource Economics, 425.

[57] Byrnes, J., Crase, L. and Dollery, B. 'Regulation versus pricing in urban water policy: The case of the Australian National Water Initiative' (2006) 50(3) Australian Journal of Agricultural and Resource Economics, 437.

4.2 New Zealand

Resource Management Act 1991

What is the name of the common regulatory framework? Resource Management Act 1991 'RMA' (Full title: An Act to restate and reform the law relating to the use of land, air, and water)
What organisation or agency leads this common regulatory framework? The Ministry for the Environment
When did it start and finish? The RMA was passed in 22 July 1991 and came into force 1 October 1991 and it is still in force. It has since been amended several times, most recently by the Resource Management (Simplifying and Streamlining) Amendment Act 2009 'the RMA Amendment' which was passed 8 September 2009 and came into force 1 October 2009. The RMA Amendment is the main focus of this review.
Links to relevant information or documents The Act (as amended) http://www.legislation.govt.nz/act/public/1991/0069/latest/DLM230265.html The Ministry for the Environment website – Resource Management Act http://www.mfe.govt.nz/rma/index.html An Everyday Guide to the Resource Management Act Series http://www.mfe.govt.nz/publications/rma/everyday/ Daya-Winterbottom, T. 'Evolving practice – the Environment Court of New Zealand' (2005) 5 Environmental Liability, 119. New Zealand Parliament. Parliamentary business. Hansard and Journals (a large number of documents relating to the RMA can be sourced from this site). http://www.parliament.nz/en-NZ
Why was it put in place? The RMA was put in place to consolidate and amend New Zealand's environmental legislation providing a single framework for environmental protection. The amendment of the RMA by the RMA Amendment has, amongst other things, created a requirement to establish an Environmental Protection Authority (NZEPA) to centralise some of the regulatory roles under the Act. As Section 3.2 indicated the NZEPA assists with "Streamlining the decision making process for nationally significant proposals, such as major infrastructure or public works projects."[58] This role is undertaken with knowledge of, and sometimes in collaboration with, the councils.[59] The amendment also sought to improve the existing process of resource consent (described in detail below).
What field of environmental regulation does it cover? Air, land and water. The RMA has sections referring to land, coastal marine areas, river and lake beds, water, discharges (including incineration waste and radioactive waste), noise, air and water.
What national/regional legislation/regulation does it cover? The Act is national legislation related to town planning and resource management. The term "resource management" is not defined within the RMA or its amendments. However, the RMA

[58] Environmental Protection Authority 'How the Environmental Protection Authority works with councils' [2009] http://www.epa.govt.nz/about-us/how-the-epa-works-with-councils.html
[59] Ibid.

does reflect the definition of this concept as "A broad multidisciplinary area or programme of study focusing on the management of natural resources."[60]

Has it involved any joint working with other nations? If so, which countries and why?

No. The geographic location and island status of New Zealand means that direct transboundary issues, such as those relevant to many European Union Member States, do not arise.

Which stakeholders/organisations were involved in its implementation?

Minister for the Environment, Local Authorities, Enforcement Officers, Environmental Protection Authority

What were its objectives?

"The purpose of this Act is to promote the sustainable management of natural and physical resources"[61].

Description of the common regulatory framework

1. Overview

"In the 1960s and 1970s, New Zealand followed the US approach of having separate legislation for land, air and water. However, intractable problems arose when the same legislation did not extend to all the media. In reaction to this, the RMA allows for an integrative approach to air, water and land which is coordinated between the levels of government. This integration, combined with an emphasis on the environmental effects, empowers decision makers to deal with environmental issues that frustrate traditional environmental management regimes."[62]

The RMA set up a common administrative (authorisations) and enforcement regime in relation to processes influencing air, land and water. Authorisation is referred to as "resource consent". Certain activities are already authorised by the RMA, there are also activities authorised by particular rules in plans.[63] Therefore "Resource consent is permission from the local council [in most cases, but certain cases the Environment Court or a board of inquiry][64] for an activity that might affect the environment, and that isn't allowed 'as of right' in the district or regional plan".[65]

"A regional plan is created by a regional council. It concerns issues that affect the coast, air, water or land. Regional plan rules cover things such as the construction of jetties, and the discharge of wastewater from factories into waterways.

A district plan is created by a city or district council. It concerns the management of land use and subdivision in a city or district. District plan rules cover things such as [ambient] noise, and the location and height of buildings.

[60] resource management 1. (2000). In The Dictionary of Human Geography. Retrieved from http://www.credoreference.com/entry/bkhumgeo/resource_management_1
[61] Resource Management Act 1991, Part 2, Section 5.
[62] Michaels, S. and Furuseth, O. J. 'Innovation in environmental policy: The National Environmental Policy Act of the US and the Resource Management Act of New Zealand' (1997) 17(3) Environmentalist, 181. At p182.
[63] As overview of the required content of the plans and the environmental standards that must be adhered to is provided by RMA, Part 5, Standards, policy statements, and plans.
[64] Ministry for the Environment. An Everyday Guide to the Resource Management Act Series 1.4: National Level Guidance and Processes. [2009] Government of New Zealand. http://www.mfe.govt.nz/publications/rma/everyday/guidance-and-processes/national-level-guidance-processes.pdf
[65] Plain English explanation of RMA terms, derived from RMA, Section 2. [2009] http://www.mfe.govt.nz/rma/public/rma-terms.html

Sometimes you'll need to apply for a resource consent from both the regional and district/city council."[66]

2. Brief description of any stages in its development

"The RMA came into force on 1 October 1991 after four years of intense work…and was the largest law reform exercise in New Zealand's history…Until the law reform project began, a number of laws and administering agencies had been developed to address environmental problems as they arose. The result was a rather ad hoc collection of uncoordinated approaches, with considerable conflicts, gaps and overlaps… The RMA set out to create a more streamlined, integrated and comprehensive approach to environmental management. A review of local government at the same time provided legislators with an ideal opportunity to simplify the way the new legislation would be implemented."[67]

Memon and Gleeson provide a critical overview of the development of the RMA from the New Zealand 'town and country' style planning systems and its replacement with the RMA.[68] In 1993 Robertson provided a comparatively more favourable overview of the RMAs development.[69] Michaels and Furuseth (1997) give an overview of the formulation and promotion of the RMA in relation to its innovativeness.[70]

3. Brief description of the *common* element

The RMA[71] sets out that a resource consent can mean any of the following:

- land use consent[72]
- subdivision consent[73] [a consent to subdivide land as defined under Section 218 of the RMA]
- coastal permit[74] providing consent to do something in a coastal marine area.
- water permit[75]
- discharge permit[76]

Resource consent is sought by a "person" and is usually managed by councils. In this role they are called 'consent authorities'. There are three types of councils:

- territorial authorities (city or district councils)
- regional authorities (commonly known as regional councils)
- unitary authorities (combined regional and territorial authorities).[77]

[66] Ministry for the Environment. An Everyday Guide to the Resource Management Act Series 2.1: Applying for a Resource Consent. [2009] Government of New Zealand. http://www.mfe.govt.nz/publications/rma/everyday/consent-apply/applying-resource-consent.pdf At p5.
[67] Ministry for the Environment. Your Guide to the Resource Management Act. [2009] Government of New Zealand. http://www.mfe.govt.nz/publications/rma/rma-guide-aug06/rma-guide-aug06.pdf At p5.
[68] Memon, P.A. and Gleeson, B.J. 'Towards a new planning paradigm? Reflections on New Zealand's Resource Management Act' (1995) 22(1) Environment & Planning B: Planning & Design, 109.
[69] Robertson, W.A. 'New Zealand's new legislation for sustainable resource management: the Resource Management Act 1991' (1993) 10(4) Land Use Policy, 303.
[70] Michaels, S. and Furuseth, O. J. 'Innovation in environmental policy: The National Environmental Policy Act of the US and the Resource Management Act of New Zealand' (1997) 17(3) Environmentalist, 181.
[71] Resource Management Act 1991, Part 6, Section 87.
[72] Ibid, section 9 and 13.
[73] Ibid, section 11.
[74] Ibid, sections 12, 14, 15, 15A, and 15B.
[75] Ibid, section 14
[76] Ibid, section 15.
[77] Ministry for the Environment. An Everyday Guide to the Resource Management Act Series 2.2: Consultation for Resource Consent Applicants. [2009] Government of New Zealand.

Applications for particular types of consents are always to the same authority, except where applications are "directly referred to the Environment Court by the applicant (with the agreement of the council)[78], or proposals of national significance that have been referred to the Court or a board of inquiry by the Minister of the Environment (these are said to have been 'called-in').[79] As stated above, a resource consent may be needed both from the regional and district/city council or both in certain circumstances.[80] If a number of consents are sought for a one activity the council may decide "to consider all the applications as a single package".[81]

There is a common application process.[82] This application process requires "an assessment of environmental effects in such detail as corresponds with the scale and significance of the effects that the activity may have on the environment".[83] If the application "does not include an adequate assessment of environmental effects"[84] it can be determined as incomplete and returned with comments to the applicant who must begin the application process again.

4. Brief description of whether existing legislation was amended or replaced and how was this done (e.g. part of pre-planned legislative change or a free standing action/activity)?

The RMA repealed 59 Acts or Amendment Acts[85] and revoked 19 Regulations, orders or Amendment Regulations.[86] It also amended 54 Acts or Amendment Acts and two Regulations.[87]

What were the costs and benefits of the common regulatory framework? Please provide any data or assessments if available.

Simplifying an existing complicated regime.
Delays in processing consents by local authorities (e.g. 69 per cent of resource consent applications were processed on time in the period 2007/2008,[88] whereas in 2005/2006 it was 79%[89], and in 2003/2004 77%.[90]

Were big investments needed to implement it and by whom?

In relation to land use consent the RMA required a substantial restructuring of the activities at different levels of government. Therefore, although resources were required, it is difficult to determine how this influenced overall costs.[91]

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http://www.mfe.govt.nz/publications/rma/everyday/consent-consultation/consultation-for-resource-consent-applicants.pdf

[78] Ministry for the Environment. An Everyday Guide to the Resource Management Act Series 2.1: Applying for a Resource Consent. [2009] Government of New Zealand. http://www.mfe.govt.nz/publications/rma/everyday/consent-apply/applying-resource-consent.pdf At p4.

[79] Further information about the functions of the Environmental Court can be found in Ministry for the Environment. An Everyday Guide to the Resource Management Act Series 6.1: Your Guide to the Environment Court. [2009] Government of New Zealand. http://www.mfe.govt.nz/publications/rma/everyday/court-guide/your-guide-environment-court.pdf

[80] Ministry for the Environment. An Everyday Guide to the Resource Management Act Series 2.1: Applying for a Resource Consent. [2009] Government of New Zealand. http://www.mfe.govt.nz/publications/rma/everyday/consent-apply/applying-resource-consent.pdf At p5.

[81] Ibid. At p14.

[82] Resource Management Act 1991, section 88.

[83] Ibid, section 88, (2)(b).

[84] Ibid, section 88, (3).

[85] Ibid, schedule 6.

[86] Ibid, schedule 7.

[87] Ibid, schedule 8.

[88] Ministry for the Environment 'Resource Management Act: Two-yearly Survey of Local Authorities 2007/2008' [2008] Government of New Zealand. http://www.mfe.govt.nz/publications/rma/annual-survey/2007-2008/rma-pamphlet.pdf
'Resource management act shake-up needed to fix late consents' (2009) US State News, June 11.

[89] Ministry for the Environment. 'Resource Management Act: Key Facts about Local Authorities & Resource Consents In 2005/2006' [2006] http://www.mfe.govt.nz/publications/rma/annual-survey/2005-2006/rma-survey-summary-2005-06.pdf

[90] Ministry for the Environment. 'Resource Management Act: Key Facts about Local Authorities & Resource Consents In 2003/2004' [2004] http://www.mfe.govt.nz/publications/rma/annual-survey/2003-04/rma-survey-summary-2003-04.pdf

Were there any barriers or hurdles to implementation? Were these expected or unforeseen?

Planning officers continue to have "considerable leeway in determining whether an application should be subject to any public scrutiny."[92] This can lead to inconsistency in how the RMA is applied. An up to date overview of caselaw can be found from Quality Planning: The RMA Planning Resource.[93]

How successful was the common regulatory framework? Please provide any data or assessments if available.

Morgan (1995) identified inconsistencies in how the requirements for environmental impact assessment within different councils have been carried out.[94] Arguably "regions with less well-developed EIA procedures will probably be less effective in protecting the environment from adverse effects. Second, those regions may attract a disproportionate number of environmentally degrading developments as a result of the less effective EIA procedures."[95]

Michaels and Furuseth (1997) claim the RMA is perceived as a genuinely 'innovative' environmental policy.[96] Although they state: "It does not squarely address the social dimensions of environmental policy which are of great importance in the urban environment where most New Zealanders live."[97]

In 1993 Memon and Gleeson[98] situate the RMA within what has subsequently come to be known as a process of 'neoliberal reform'. Such reform is evident in the shift from the political economy of the welfare state, as represented by town and country planning, to a technocratic planning culture. This new system further prioritises private property rights leading Memon and Gleeson (1993) to state the RMA "may signal a dilution of social and economic equity considerations which, in our opinion, should be concerns for planning."[99]

Resource consent can be fast-tracked in cases where directly affected parties make a formal approval of the activity being undertaken. In 2007 Jackson and Dixon[100] refer to other work by Gleeson[101] to highlight the potential "commodification of the consent approval process."[102] Public notifications can be avoided if approvals are forthcoming from "anyone who may be adversely affected. It is claimed that "This provision has allowed developers to create an unofficial market in the purchase of approvals."[103]

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[91] Michaels, S. and Furuseth, O. J. 'Innovation in environmental policy: The National Environmental Policy Act of the US and the Resource Management Act of New Zealand' (1997) 17(3) Environmentalist, 181.
[92] Jackson, T. and Dixon, J. 'The New Zealand Resource Management Act: An exercise in delivering sustainable development through an ecological modernisation agenda' (2007) 34(1) Environment and Planning B: Planning and Design, 107. At p115.
[93] 'To notify or not to notify? That is the question!' (2010) http://www.qualityplanning.org.nz/consents/notify.php
[94] Morgan, R.K. 'Progress with implementing the environmental assessment requirements of the Resource Management Act in New Zealand' (1995) 38(3) Journal of Environmental Planning & Management, 333.
[95] Ibid. At p346.
[96] Michaels, S. and Furuseth, O. J. 'Innovation in environmental policy: The National Environmental Policy Act of the US and the Resource Management Act of New Zealand' (1997) 17(3) Environmentalist, 181.
[97] Ibid. At p182.
[98] Memon, P.A. and Gleeson, B.J. 'Towards a new planning paradigm? Reflections on New Zealand's Resource Management Act' (1995) 22(1) Environment & Planning B: Planning & Design, 109.
[99] Ibid. At p109.
[100] Jackson, T. and Dixon, J. 'The New Zealand Resource Management Act: An exercise in delivering sustainable development through an ecological modernisation agenda' (2007) 34(1) Environment and Planning B: Planning and Design, 107.
[101] Gleeson, B. 'The politics of consent notification', in 'Environmental Planning and Management in New Zealand' (2000) Eds Memon, P.A. and Perkins, H.C. Palmerston North NZ; Dunmore Press, 115.
[102] Jackson, T. and Dixon, J. 'The New Zealand Resource Management Act: An exercise in delivering sustainable development through an ecological modernisation agenda' (2007) 34(1) Environment and Planning B: Planning and Design, 107. At p111.
[103] Ibid.

There has been debate about whether the RMA has been interpreted appropriately in relation to specific Matters of National Importance, that is, "the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga" (Part 2, Section 6) [104] Many "local authorities [have] processes and systems in place to facilitate iwi/hapū participation in RMA processes".[105]

The Ministry for the Environment's Two-yearly Survey of Local Authorities 2007/2008 provided a range of information about monitoring, compliance and enforcement. It states: "Monitoring of consents has improved: 79 per cent of consents that required monitoring were monitored, compared to 59 per cent in 2005/2006. Of the monitored consents, 84 per cent were compliant with their conditions. These are the highest results over the past nine years.

Complaints about alleged breaches of the RMA continue to increase, with 47 per cent more complaints received in 2007/2008 than in the last survey. Complaints and breaches are increasingly resolved by formal methods, with an associated drop in resolution by informal methods."[106]

Two-yearly Survey of Local Authorities 2007/2008 also presented an overview of overall level of customer satisfaction with resource consent processing, 2003/2004–2007/2008. "In 2007/2008, 38 per cent (32 out of 84) of local authorities ran customer satisfaction surveys, up from 29 per cent (25 out of 85) in 2005/2006… Although there have been fluctuations in customer satisfaction ratings over the past three surveys, there are consistently more 'satisfied' and 'very satisfied' customers than any other grouping. No satisfaction surveys have found that the overall level of customer satisfaction was 'very dissatisfied'.[107]

Was there anything in particular that contributed to its success?

Not ascertained from the information reviewed to date.

Are there any other lessons that can be learned?

Morgan (1995) states "It is important that the Ministry for the Environment consider mechanisms for encouraging greater consistency in EIA approaches across the various consent authorities, and particularly between the regional councils."[108]

[104] Ahdar, R. 'Indigenous spiritual concerns and the secular state: some New Zealand developments' (2003) 23(4) Oxford Journal of Legal Studies, 611.; Daya-Winterbottom, T. and Gould, T. 'Blood, sweat and fears: resolving troubling cultural issues' (1999) 7(6) Environmental Liability, 165.
[105] Ministry for the Environment. Resource Management Act: Two-yearly Survey of Local Authorities 2007/2008. (2009) Wellington: Ministry for the Environment. http://www.mfe.govt.nz/publications/rma/annual-survey/2007-2008/rma-resource-consents.pdf At p xiii.
[106] Ibid. At p xii.
[107] Ibid. At p41.
[108] Morgan, R.K. 'Progress with implementing the environmental assessment requirements of the Resource Management Act in New Zealand' (1995) 38(3) Journal of Environmental Planning & Management, 333. At p346.

4.3 South Africa

Development Facilitation Act 1995

What is the name of the common regulatory framework? Development Facilitation Act, 67 of 1995, 'DFA'
What organisation or agency leads this common regulatory framework? A number of national government departments led this common regulatory framework. The Department of Housing, the Department of Regional Affairs and the Department of Agriculture. It was also led by the Reconstruction and Development Programme (RDP).[109] However its implementation is overseen by Provincial environmental and conservation departments.
When did it start and finish? The DFA's date of commencement was 22 December, 1995.[110] It has been claimed that the DFA has since been "repealed and replaced by other national legislation and a raft of provincial planning legislation."[111] However, the regulations that stemmed from the Act have been repealed[112] but the Act is still in place. A new Land Use Management Bill is in process.[113]
Links to relevant information or documents Hansard and other reports can be found from the Parliament of the Republic of South Africa http://www.parliament.gov.za/live/content.php?Category_ID=119 Text of the DFA (as amended) http://www.kznworks.gov.za/Portals/0/Docs/Legislation/DevelopmentFacilitiationActRegulations.pdf Rhizome Management Services / Gemey Abrahams Consultants 'Assignment 2: Development Facilitation Act Review. Synthesis Report (Final)' [2010] http://www.urbanlandmark.org.za/downloads/review_dfa_2010.pdf G. Budlender, G., Latsky, J. and T. Roux, T. 'Juta's New Land Law' (2000) South Africa: Juta. Chapter 2: The Development Facilitation Act. A criticism of a wide range of measures associated with land reform and their ability to integrate considerations linked to the environment and sustainability can be found in Todes, Sim and Sutherland (2009)[114], and Wynberg and Sowman (2007).[115]

[109] Rigby, S. and Diab, R. 'Environmental sustainability and the Development Facilitation Act in South Africa' (2003) 15(1) Journal of Environmental Law, 27. At p27. Footnote 15 explains that "The RDP is an integrated socio-economic policy framework which seeks to mobilise South Africa's people and resources, linking reconstruction and development, toward the final eradication of apartheid and the promotion of democracy."
[110] The DFA as amended [2010] http://www.kznworks.gov.za/Portals/0/Docs/Legislation/DevelopmentFacilitiationActRegulations.pdf
[111] McAuslan, P. 'Publication Review: Environmental Law in South Africa, Jan Glazewski' (2002) 14(2) Journal of Environmental Law, 266. At p268.
[112] Development Facilitation Regulations
[113] Rhizome Management Services / Gemey Abrahams Consultants 'Assignment 2: Development Facilitation Act Review. Synthesis Report (Final)' [2010] http://www.urbanlandmark.org.za/downloads/review_dfa_2010.pdf
[114] Todes, A., Sim, V and Sutherland, C. 'The Relationship between Planning and Environmental Management in South Africa: The Case of KwaZulu-Natal' (2009) 24(4) Planning Practice and Research, 411.
[115] Wynberg, R.P. and Sowman, M. 'Environmental Sustainability and Land Reform in South Africa: A Neglected Dimension' (2007) 50(6) Journal of Environmental Planning and Management, 783.

Why was it put in place?

The DFA "was introduced to provide a coherent and integrated legislative framework to facilitate and expedite land development projects in post-apartheid South Africa… The aim of the DFA was to overcome complex land use planning regulation, and to clarify institutional roles and responsibilities, in an attempt to circumvent the delays inherent in existing regulations, and thus 'fast-track' development"[116]

Section 3.3 of this report briefly explains the changes in governance with the end of apartheid in 1994. The DFA was thus "designed to bypass the sclerotic system of planning administration in the provinces and begin the process of breaking down urban apartheid."[117]

What field of environmental regulation does it cover?

Land use

What national/regional legislation/regulation does it cover?

The DFA was national legislation. "…it does not preclude land development applications under any other laws, but was implemented to operate in conjunction with existing land development and planning legislation, such as the Physical Planning Act 125 of 1991, provincial town planning ordinances and municipal by-laws, thereby offering an alternatives procedure to facilitate and expedite land development projects."[118]

Has it involved any joint working with other nations? If so, which countries and why?

No. Although there are potential transboundary issues with other African nations they are not tackled within this Act.

Which stakeholders/organisations were involved in its implementation?

The national, provincial and local governments co-ordinate "the interests of various sectors, such as environmental lobbies, agricultural unions, building materials suppliers, financiers, banks, the professions, etc."[119] This is undertaken via the Development Planning Commission and the Development Tribunals at the provincial level.

What were its objectives?

Its full title indicates the DFAs primary objective: "To introduce extraordinary measures to facilitate and speed up the implementation of reconstruction and development programmes and projects in relation to land."[120]

Description of the common regulatory framework

1. Overview

"The DFA introduced a choice to developers between the existing (old order) legislation and the possibility of using the land development procedures as set out in the DFA as an alternative. [As the full title of the DFA indicates this was via "establishment in the provinces of development tribunals which have the power to make decisions and resolve conflicts in respect of land development projects]. The DFA was not promulgated only to cater for the fast tracking of land development, but also as a solution to an extremely complex legal situation that presented itself when the boundaries

[116] Rigby, S. and Diab, R. 'Environmental sustainability and the Development Facilitation Act in South Africa' (2003) 15(1) Journal of Environmental Law, 27. At p27.
[117] McAuslan, P. 'Publication Review: Environmental Law in South Africa, Jan Glazewski' (2002) 14(2) Journal of Environmental Law, 266. At p268.
[118] Rigby, S. and Diab, R. 'Environmental sustainability and the Development Facilitation Act in South Africa' (2003) 15(1) Journal of Environmental Law, 27. At p28.
[119] Budlender, G., Latsky, J. and T. Roux, T. 'Juta's New Land Law' (2000) South Africa: Juta. At p2A-27.
[120] Development Facilitation Act, 67 of 1995 (as amended)

for the nine new Provinces were drawn in terms of the Interim Constitution [of South Africa as Section 3.3 explains]."[121]

Arguably this means that the system may be even more complex with a pre-existing system remaining together with a new fast-track alternative set up along side.

"The Act's primary implementation mechanisms are the provincial Development Tribunals, established to take responsibility for approvals of land development under the umbrella of the Act. The objective of these Tribunals, which comprise land development and public service experts, is to allow faster development decision-making, conflict resolution between the stakeholders, and also to provide a forum for greater community involvement and public participation within land development."[122] The tribunals are made of government representative and non-government sector experts, rather than elected officials. Although the DFA requires that development is guided by principles, including 'General principles for land development'[123] and 'General principles for decision-making and conflict resolution'.[124] Other principles guiding development (which must be coherent with those set out in the DFA) could come from local government. [125]

2. Brief description of any stages in its development

The land reform programme in South Africa was "implemented following decades of apartheid, which included racially-based land dispossessions."[126] The land reform programme "following the election of a democratic government, is a major attempt at redress and transformation and aims to address land inequalities..."[127]

3. Brief description of the *common* element

The Provincial Development Tribunals (briefly referred to at 1, above) provide a common framework to assess applications for development, "comprising Government officials and non-Government sector experts, charged with the responsibility to implement land development principles and policy in an objective manner."[128] Budlender, Latsky and Roux (2000) provide a comprehensive overview of the structure of these Tribunals.[129]

4. Brief description of whether existing legislation was amended or replaced and how was this done (e.g. part of pre-planned legislative change or a free standing action/activity)?

The DFA does not replace existing legislation. Rather the DFA, and in particular the forum provided by the Provincial Development Tribunals, intends to provide either an alternative means of legislation, or can be used to navigate the complexity of the existing legislation.

[121] Rhizome Management Services / Gemey Abrahams Consultants 'Assignment 2: Development Facilitation Act Review. Synthesis Report (Final)' [2010] http://www.urbanlandmark.org.za/downloads/review_dfa_2010.pdf At p61, cites Ivan Pauw & Partners 'Rapid review of the DFA' (2009). An expanded analysis is also provided by: Emdon, E. 'The Development Facilitation Act (DFA)' (1994) 5(2) Urban Forum, 89; Budlender, G., Latsky, J. and T. Roux, T. 'Juta's New Land Law' (2000) South Africa: Juta. pp2A5-2A12.
[122] Rigby, S. and Diab, R. 'Environmental sustainability and the Development Facilitation Act in South Africa' (2003) 15(1) Journal of Environmental Law, 27. At p28.
[123] Development Facilitation Act 1995, section 3.
[124] Development Facilitation Act 1995, section 4.
[125] 'Juta's New Land Law' (2000) South Africa: Juta. At p2A-37
[126] Wynberg, R.P. and Sowman, M. 'Environmental Sustainability and Land Reform in South Africa: A Neglected Dimension' (2007) 50(6) Journal of Environmental Planning and Management, 783. At p784. Also see Todes, A., Sim, V and Sutherland, C. 'The Relationship between Planning and Environmental Management in South Africa: The Case of KwaZulu-Natal' (2009) 24(4) Planning Practice and Research, 411.
[127] Ibid.
[128] Budlender, G., Latsky, J. and T. Roux, T. 'Juta's New Land Law' (2000) South Africa: Juta. At p2A-37.
[129] Ibid. At pp2A-37–2A-45.

What were the costs and benefits of the common regulatory framework? Please provide any data or assessments if available.

See the discussion under 'How successful was the common regulatory framework?'

Were big investments needed to implement it and by whom?

Not ascertained from the information reviewed to date.

Were there any barriers or hurdles to implementation? Were these expected or unforeseen?

Not ascertained from the information reviewed to date.

How successful was the common regulatory framework? Please provide any data or assessments if available.

McAuslan (2002) put forward this opinion: "As often happens it did not quite work out as intended – it was used more by developers wanting to build out-of-town locations for the middle-classes than by those wanting to build for the urban proletariat and was, in addition, not fully in sync with the housing subsidies development by the housing ministry…"[130]

Rigby and Diab also undertook an analysis of "39 DFA applications in KwaZulu-Natal, one of the nine provinces of South Africa, over the period June 1998 to July 2001."[131] Overall they found:
"The DFA appears to be facilitating development in accordance with its intentions, in that the development application process is indeed being expedited. It provides the means to assess environmentally sensitive areas, to mitigate against possible negative impacts, and to ensure that the decision-making process is conducted in as transparent and democratic a way as possible.[This is via measures for 'Participation With Regard To The Setting And Implementation Of Land Development Objectives' set out within Part B, Regulation 6-8 of the DFA. These include measure for public participation in the tribunals]. However, the lack of monitoring and enforcement controls makes it difficult to determine whether the mitigatory measures recommended by the Tribunal are indeed being implemented. Until post-decision monitoring is put in place, the effectiveness of the DFA and the Tribunal decision-making process remains inconclusive."[132]

Wynberg and Sowman (2007) state "Environmental factors are seldom integrated into planning and decision-making processes, and, in the face of intense political pressure, are given short shrift in the rush to settle claims and reach resolution." [133]

Was there anything in particular that contributed to its success?

Not ascertained from the information reviewed to date.

Are there any other lessons that can be learned?

The relationship between land use planning and environmental management in South Africa influences the effectiveness of the South African planning system.

[130] McAuslan, P. 'Publication Review: Environmental Law in South Africa, Jan Glazewski' (2002) 14(2) Journal of Environmental Law, 266. At p268.
[131] Ibid. At p32.
[132] Ibid. At p37.
[133] Wynberg, R.P. and Sowman, M. 'Environmental Sustainability and Land Reform in South Africa: A Neglected Dimension' (2007) 50(6) Journal of Environmental Planning and Management, 783. At p785.

National Water Act, 36 of 1998

What is the name of the common regulatory framework?

The National Water Act, 'NWA'

What organisation or agency leads this common regulatory framework?

Administered nationally by the Department of Water Affairs and Forestry

When did it start and finish?

The NWA was Assented to by the President of South Africa on 20 August 1998 and is still in force.

Links to relevant information or documents

Text of the NWA
http://www.info.gov.za/view/DownloadFileAction?id=70693

Stein, R. 'South Africa's new democratic water legislation: national Government's role as public trustee in dam building and management activities' (2000) 18(3) Journal of Energy & Natural Resources Law, 284.

Godden, L. 'Water law reform in Australia and South Africa: sustainability, efficiency and social justice' (2005) 17(2) Journal of Environmental Law, 181.

Malzbender, D, Goldin, J., Turton, A. and Earle, A. 'Traditional Water Governance and South Africa's "National Water Act" – Tension or Cooperation?' [2005] International workshop on 'African Water Laws: Plural Legislative Frameworks for Rural Water Management in Africa', 26-28 January 2005, Johannesburg, South Africa.
http://www.nri.org/projects/waterlaw/AWLworkshop/MALZBENDER-DB.pdf

The Parliament of the Republic of South Africa website contains Hansard and other parliamentary reports.
http://www.parliament.gov.za/live/index.php

The Parliament of the Republic of South Africa website lists meetings of the Portfolio Committee on Water Affairs and Forestry – outcomes from these meetings are not readily available.
http://www.parliament.gov.za/live/content.php?Item_ID=215&CommitteeID=31

Why was it put in place?

To provide for fundamental reform of the law relating to water resources; to repeal certain laws; and to provide for matters connected therewith (Identified in NWA prior to the pre-amble).

The NWA "does away with the division of water into different categories, such as public water, private water, surplus water and normal flow." [134]

What field of environmental regulation does it cover?

Water

What national/regional legislation/regulation does it cover?

The NWA is national legislation. Aspects of the implementation of the NWA are overseen by the National Environmental Management Act (also featured in this review).

[134] Goolam, N. 'Recent environmental legislation in South Africa. (2000) 44(1) Journal of African Law, 124. At p125.

Has it involved any joint working with other nations? If so, which countries and why?

The Act is national legislation but "South Africa is seeking to develop treaty arrangements with neighbouring countries in an effort to address long-term water supply deficiencies."[135]

Which stakeholders/organisations were involved in its implementation?

An example provided by Malzbender et al (2005) in Limpopo Province indicates that the Department of Water Affairs and Forestry "officials consult with a wide range of stakeholders…formally recognised institutionalised bodies such as irrigation boards, but importantly, the more loosely associated rural communities…"[136]

What were its objectives?

The full title of the Act indicates its objectives "To provide for fundamental reform of the law relating to water resources; to repeal certain laws; and to provide for matters connected therewith.

Description of the common regulatory framework

1. Overview

The NWA did "away with the division of water into different categories, such as public water, private water, surplus water and normal flow."[137] All water now has the same legal status. It introduced a new concept "water use" which "includes, among other uses, taking water from a water resource, storing water, diverting the flow of water, discharging waste into a water course, disposing of waste in a manner which may have a detrimental impact on a water resource and altering the bed, banks, course or characteristics of a water course."[138]

2. Brief description of any stages in its development

During the "apartheid regime, access to and distribution of water use rights were determined on a racially discriminatory basis. This is mainly because the distribution of water use rights was linked to land…distribution of water historically took no account of the basic needs of the nation's people as a whole."[139] The Water Act of 1956 did enable government control of some water sources but "the 1956 Act did not respond effectively to issues of environmental degradation, equity of distribution or the downstream effect of water allocations."[140] The Water Services Act of 1997 began the process of more significant reform. Rather than private rights to water, it recognises that waters are held by Government in the public trust. "The public trust concept was inspired by the original Roman-Dutch law formulation as well as more recent US trust principles."[141]

"Australian jurisdictions provided some of the models that South Africa looked to in drafting its National Water Act 1998."[142] South Africa then provided a model for Australia

[135] Godden, L. 'Water Law reform in Australia and South Africa: sustainability, efficiency and social justice' (2005) 17(2) Journal of Environmental Law, 181. At p185.
[136] Malzbender, D, Goldin, J., Turton, A. and Earle, A. 'Traditional Water Governance and South Africa's "National Water Act" – Tension or Cooperation?' [2005] International workshop on 'African Water Laws: Plural Legislative Frameworks for Rural Water Management in Africa', 26-28 January 2005, Johannesburg, South Africa. http://www.nri.org/projects/waterlaw/AWLworkshop/MALZBENDER-DB.pdf At p5.
[137] Goolam, N. 'Recent environmental legislation in South Africa. (2000) 44(1) Journal of African Law, 124. At pp125-126.
[138] Ibid. At p126.
[139] Stein, R. 'South Africa's new democratic water legislation: national Government's role as public trustee in dam building and management activities' (2000) 18(3) Journal of Energy & Natural Resources Law, 284. At p285.
[140] Godden, L. 'Water Law reform in Australia and South Africa: sustainability, efficiency and social justice' (2005) 17(2) Journal of environmental Law, 181. At p196.
[141] Ibid. At p198.
[142] Ibid At p181. Described in detail in Stein (2000), supra note 137, and also Malzbender et al (2005) supra note 134.

Godden (2005) provides a succinct overview of both the context to its development and some of the stages in its development.[143]

3. Brief description of the *common* element

The common elements relate to the common administration of what were previously identified as different types of water categorisation (as set out above at '1.Overview'). To govern this system, in circumstances where any person was not otherwise entitled to use water, the NWA set up a joint system of licensing, governed by Part 7 of Chapter 4 of the Act. This appears to both runs alongside existing systems of licensing, but also introduces a need to license activities not previously licensed.

Licences are authorised by the licensing authority, "which could be a catchment management agency or the Minister".[144] The NWA indicates that the Minister may authorise licences where a catchment management agency has not been established or is not functional.[145] A catchment management agency or the Minister authorising licences is an important change. Malzbender et al (2005)[146] outline originally 1652-1795 the overall right of control of water was assumed by the Dutch East India Company. "after 1795, under British rule, water rights were linked to land tenure. Private (riparian) water rights had precedence over public water right."[147] In the early 20 Century there was still no government control over water, "The allocation of water between riparian owners was the responsibility of water courts."[148] This system continued with the "Water Act (54 of 1956) [which] upheld the distinction between "public water" and "private water" with the latter category "determined by the riparian principle."[149] As a result of the NWA appeals against the decisions of licensing authorities' can now be made to the Water Tribunal. The Water Tribunal is an independent body which replaced the existing Water Court and also extended its powers.

4. Brief description of whether existing legislation was amended or replaced and how was this done (e.g. part of pre-planned legislative change or a free standing action/activity)?

Legislation was amended and replaced as part of a pre-planned change. The NWA replaced the Water Act 54 of 1956, and repealed "more than a hundred other Acts dealing with water." [150]

What were the costs and benefits of the common regulatory framework? Please provide any data or assessments if available.

Godden (2005) states: "the [NWA] provides a strategic approach to achieving long-term sustainability although it is recognised as financially and institutionally demanding, particularly in the inception phase."[151]

Godden (2005) "On balance, the National Water Act ushered in a significant break with past practices. The reforms will affect society and economy at a national and local level within South Africa. An expanded understanding of 'water' is combined with an extensive, centralised forward

[143] Ibid.
[144] Goolam, N. 'Recent environmental legislation in South Africa. (2000) 44(1) Journal of African Law, 124. At p126.
[145] National Water Act 1998, part 3, section 72.
[146] Malzbender, D, Goldin, J., Turton, A. and Earle, A. 'Traditional Water Governance and South Africa's "National Water Act" – Tension or Cooperation?' [2005] International workshop on 'African Water Laws: Plural Legislative Frameworks for Rural Water Management in Africa', 26-28 January 2005, Johannesburg, South Africa. http://www.nri.org/projects/waterlaw/AWLworkshop/MALZBENDER-DB.pdf At 18-4.
[147] Ibid.
[148] Ibid.
[149] Ibid.
[150] Goolam, N. 'Recent environmental legislation in South Africa. (2000) 44(1) Journal of African Law, 124. At p126.
[151] Godden, L. 'Water Law reform in Australia and South Africa: sustainability, efficiency and social justice' (2005) 17(2) Journal of environmental Law, 181. At p198.

planning process. There is an open textured institutional structure with the potential for progressive devolution of certain functions to a catchment level. Social reform agendas are highlighted through the commitment to the human needs reserve and equity based pricing mechanisms. The incorporation of environmental protection measures is evident in the promotion of both water quality objectives and sustainable use of water."[152]

Were big investments needed to implement it and by whom?

"To institute the wide reaching water reforms will require substantial capacity from within the institutional structure, particularly the Department of Water Affairs."[153]

Were there any barriers or hurdles to implementation? Were these expected or unforeseen?

"The critical role of human capacity and effective governance structures in implementing water law reforms is exacerbated by the accompanying recognition of widespread shortages in technical and administrative expertise."[154]

Goddens (2005) states "Given considerable variability in the availability of requisite resources and expertise, the successful implementation of water law reform is likely to be patchy across the country."[155]

How successful was the common regulatory framework? Please provide any data or assessments if available.

Goddens (2005) states "South Africa has instituted broad reaching water law and policy reform in a comparatively short time. The process is remarkable for its articulation of principles designed to achieve a range of socio-economic and environmental protection goals."[156]

Malzbender et al (2005) state "The ability of the state to effectively manage and control water resources by the state remains problematic… millions of South Africans are still dependent on water from open streams, boreholes or stagnant sources. In particular, water delivery to the former homelands as the poorest areas of the country remains inadequate. Despite strong government efforts to improve water supply to the rural poor and to implement a comprehensive formal water management…, the inability of the state to provide adequate water and sanitation to all South African in the near future, is cause for concern. Certainly, evidence suggests that the fledgling democracy faces very real institutional and financial constraints that challenge its ability to achieve integrated water resource management."[157]

Malzbender et al (2005) argue "that traditional leaders have an important role to play in narrowing the gap between policy and its practice and that there is sufficient evidence on the ground to suggest integrating traditional systems of control and management of water into formal structures that are provided for by the NWA."[158]

Was there anything in particular that contributed to its success?

Not ascertained from the information reviewed to date.

Are there any other lessons that can be learned?

Not ascertained from the information reviewed to date.

[152] Ibid. At p201
[153] Ibid. At p201 – Footnote 165 linking to Footnote 3 Judge A. Gildenehys, 'A New Water Law Dispensation', 10 Butterworths Property Law Digest 13 (1999). At 14.
[154] Ibid. At p201.
[155] Ibid. At p201.
[156] Ibid. At p202.
[157] Malzbender, D, Goldin, J., Turton, A. and Earle, A. 'Traditional Water Governance and South Africa's "National Water Act" – Tension or Cooperation?' [2005] International workshop on 'African Water Laws: Plural Legislative Frameworks for Rural Water Management in Africa', 26-28 January 2005, Johannesburg, South Africa. http://www.nri.org/projects/waterlaw/AWLworkshop/MALZBENDER-DB.pdf At p18-2.
[158] Ibid. At p18-11.

National Environmental Management Act, 107 of 1998

What is the name of the common regulatory framework?

National Environmental Management Act, 107 of 1998, 'NEMA'

What organisation or agency leads this common regulatory framework?

Department of Environmental Affairs and Tourism (South African Government)

When did it start and finish?

NEMA states that it "comes into operation on a date fixed by the President in the Gazette".[159] It came into operation 29 January 1999 and is still in operation. It has since been updated or amended several times including by the National Environmental Management (Amendment) Act, 46 of 2003, 'the 2003 Amendment,' which came into effect on 1 May 2005. The 2003 Amendment provides for the appointment of Environmental Management Inspectors (EMIs) in a network known as the Environmental Management Inspectorate. This measure assists with enforcement of and compliance with NEMA (which includes other environmental regimes, such as the National Water Act also described in this section) and is therefore discussed in detail in this section.

Links to relevant information or documents

Text of NEMA (as amended)
http://www.info.gov.za/view/DownloadFileAction?id=70641

Text of the 2003 Amendment
http://www.info.gov.za/view/DownloadFileAction?id=68023

Environmental Management Inspectorate
http://emi.deat.gov.za/login/index.aspp?ReturnUrl=%2findex.aspp

The Parliament of the Republic of South Africa website contains Hansard and other parliamentary reports.
http://www.parliament.gov.za/live/index.php

Why was it put in place?

NEMA "seeks to promote co-operative governance between the different levels of government."[160] NEMA "gives effects to the environmental clause in the Bill of Rights in South Africa's new constitution by providing a framework for facilitating environmental management within the different spheres of government in their general decision-making and establishes principles and procedures for this purpose" [161]

The intention of the 2003 Amendment is that it will "improve enforcement and compliance with environmental legislation and provides for the appointment of national environmental management inspectors (EMIs)."[162]

[159] National Environmental Management Act 1998, section 53.
[160] Goolam, N. 'Recent environmental legislation in South Africa. (2000) 44(1) Journal of African Law, 124. At p125.
[161] Glazewski, J.I. 'South Africa: The national Environment [*SIC*] Management Act, 107 of 1998. (1999) 7(1) Environmental Liability, CS8-9. At pCS8.
[162] Paterson, A. Current Survey: South Africa (2005) 13(4) Environmental Liability, CS58. At pCS61.

What field of environmental regulation does it cover?

NEMA focuses on the "environment", this:

"means the surroundings within which humans exist and that are made up of –
i) the land, water and atmosphere of the earth;
ii) micro-organisms, plant and animal life;
iii) any part or combination of (i) and (ii) and the interrelationships among and between them; and
iv) the physical, chemical, aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being."[163]

What national/regional legislation/regulation does it cover?

The Act is national legislation related to the environment (as defined in 'What field of environmental regulation does it cover?')

Has it involved any joint working with other nations? If so, which countries and why?

The focus of NEMA is environmental management within South Africa.

However, reflecting the South African Constitution, NEMA is guided by a set of principles including that "Global and international responsibilities relating to the environment must be discharged in the national interest."[164]

There are also measures for integrating International Obligations and Agreements into NEMA[165] and thus it is an important instrument in terms of South Africa satisfying its international environmental duties. However, there is no direct provision for joint working with other nations. Although other nations could presumably use consultation provisions where applicable in this and other South African Acts.

Which stakeholders/organisations were involved in its implementation?

Department of Environmental Affairs and Tourism, Director-General of Environmental Affairs and Tourism, Competent Authorities[166], environmental assessment practitioner, Environmental Management Inspectors, and Industry.

What were its objectives?

"To provide for co-operative environmental governance by establishing principles for decision-making on matters affecting the environment, institutions that will promote co-operative governance and procedures for co-ordinating environmental functions exercised by organs of state; to provide for certain aspects of the administration and enforcement of other environmental management laws; and to provide for matters connected therewith."[167]

The 2003 Amendment defines "certain expressions; to provide for the administration and enforcement of certain national environmental management laws; and to provide for matters connected therewith."[168]

[163] National Environmental Management Act 1998, section 1.
[164] Ibid, chapter 1, section 2n.
[165] Ibid, chapter 6, section 25.
[166] Ibid, section 1 – "the organ of state charged by this Act with evaluating the environmental impact of [specific listed activities] and, where appropriate, with granting or refusing an environmental authorization in respect of [those activities]"
[167] Ibid, Identified prior to the pre-amble. Also Poustie, M. 'Environmental Justice in SEPA's Environmental Protection Activities: A Report for the Scottish Environmental Protection Agency' (2004) Glasgow: University of Strathclyde Law School. At p39.
[168] National Environmental Management (Amendment) Act 2003, Identified prior to the pre-amble.

Description of the common regulatory framework

1. Overview

South Africa does not have a common permitting system. Rather, reflecting the Constitution, the NEMA provides a common system of principles and procedures, with different legislation that provides for different permitting systems. However, the principles themselves and a number of other measures resulting from NEMA and its amendments require shared or joint action. These are described in greater detail at '3. Brief description of the *common* element' below.

2. Brief description of any stages in its development

The Environmental Conservation Act 73 of 1989 "represented an earlier attempt at integrating environmental regulation in South Africa. The new Act is also a response to the shift from a system of national centralised powers, to one where powers and functions are divided between the three tiers, now terms 'spheres', of government under the new Constitution (Act 108 of 1996) which designates 'environment' as well as 'pollution' as areas of shared competency between the provincial and national governments."[169]

3. Brief description of the *common* element

Chapter 1 of NEMA sets out the National Environmental Management Principles which at as a guide to decision making including "the interpretation, administration and implementation of this Act, and any other law concerned with the protection or management of the environment."[170] As Glazewski (1999) notes these principles "are underpinned by the principle of sustainable development which the Act defines and specifies as requiring the consideration of all relevant factors including the following: '(i) pollution and degradation of the environment are avoided, or, where they cannot be altogether avoided, are minimised and remedied…(vii) that a risk averse and cautious approach is applied, which takes into account the limits of current knowledge about the consequences of decisions and actions' as well as a number of others (section 2(4)(a)(i) to (viii)). Other principles include the polluter pays principle (section 2(4)(p)), the doctrine of public trust (section 2(4)(o)) as well as environmental justice considerations (section 2(4)(c) and (d))."[171]

The Principles are put into action by Chapter 3 of NEMA is titled "Procedures for Co-Operative Governance". NEMA requires National government departments and provinces to prepare environmental management plans or environmental implementation plans or both.[172] Amongst other things "The purpose of environmental implementation and management plans is to:
a) co-ordinate and harmonise the environmental policies, plans, programmes and decisions of the various national departments that exercise functions that may affect the environment or are entrusted with powers and duties aimed at the achievement, promotion, and protection of a sustainable environment, and of provincial and local spheres of government, in order to
i) minimise the duplication of procedures and functions; and
ii) promote consistency in the exercise of functions that may affect the environment;"[173]

Chapter 2 of the Act also originally established the Committee for Environmental Co-ordination which had aimed "to promote the integration and co-ordination of environmental functions by the relevant groups of the state…"[174] however this has since been repealed.[175]

[169] Glazewski, J.I. 'South Africa: The national Environment [*SIC*] Management Act, 107 of 1998. (1999) 7(1) Environmental Liability, CS8. At pCS8.
[170] National Environmental Management Act 1998, Section 2, 1)e).
[171] Glazewski, J.I. 'South Africa: The national Environment [*SIC*] Management Act, 107 of 1998. (1999) 7(1) Environmental Liability, CS8. At pCS8.
[172] Ibid. At pCS8.
[173] National Environmental Management Act 1998, chapter 3, section 12.

Section 33 of Chapter 7, Compliance, Enforcement and Protection, also provides for Private Prosecution; making "it easier for any person acting in the public interest or in the interest of the protection of the environment to institute and conduct a private prosecution *by cutting out certain bureaucratic procedures in such cases*."[176]

The 2003 Amendment, providing for the appointment of EMIs, brings in a shared system for compliance and enforcement for NEMA and its associated legal instruments. This provision is described in greater detail below. The EMIs were discussed in a large number of newspaper articles.[177] However, there was limited academic information available about the operation of the Environmental Management Inspectorate of the EMIs. Therefore, the information below (including that in quotes) was largely derived from the Environmental Management Inspectorate web site.[178] Also referred to is a presentation that was prepared in 2005 by the Director: Enforcement, Department of the Environment, Tourism and Affairs.[179]

"The Environmental Management Inspectorate is a network of [EMIs] from different government departments (national, provincial and municipal)."[180] EMIs focus on criminal offences under environmental legislation and "also have administrative tools at their disposal, particularly by way of issuing a compliance notice to offenders…EMIs do not prosecute criminal cases in court."[181]

"The following officials may be designated as EMIs:

- officials employed by the Department of Environmental Affairs and Tourism (DEAT);
- officials employed by provincial environment departments, or other provincial organs of state;
- municipal officials; and
- officials employed by "other organs of state"

The legislation does not provide for members of the public, volunteers or representatives of non-governmental organisations to be EMIs. Before designation, officials must successfully complete an EMI training course."[182]

"At present, EMIs can be mandated to enforce a range of legislation depending on their particular functions, including:

- NEMA (including all regulations promulgated under NEMA, such as the 4x4 regulations and the new EIA regulations);
- the National Environmental Management: Biodiversity Act, 10 of 2004;
- the National Environmental Management: Protected Areas Act, 57 of 2004 and its regulations; and
- the National Environmental Management: Air Quality Act, 39 of 2004 (when Section 60 of this Act is brought into effect)."[183]

EMIs are informally known as "Green Scorpions" this reflects 'the Scorpions', that is, the

[174] Glazewski, J.I. 'South Africa: The national Environment [*SIC*] Management Act, 107 of 1998. (1999) 7(1) Environmental Liability, CS8.
[175] by the National Environmental Laws Amendment Act, 2009 (Act No. 14 of 2009).
[176] Emphasis added. Glazewski, J.I. 'South Africa: The national Environment [*SIC*] Management Act, 107 of 1998. (1999) 7(1) Environmental Liability, CS8. At pCS9.
[177] A NexisUK Search of "Environmental Management Inspector*" on 19.05.2010 produced 128 different articles related to South Africa (141 including duplicates).
[178] Environmental Management Inspectorate [2010] http://emi.deat.gov.za/login/index.aspp?ReturnUrl=%2findex.aspp
[179] Fourie, M. 'The National Environmental Management Act (NEMA) and the Environmental Management Inspectorate'. [2005] Presentation to Prosecutor Training Course. http://www.inece.org/africa/prosecutors/d1_s2a.pdf
[180] Environmental Management Inspectorate [2010] http://emi.deat.gov.za/login/index.aspp?ReturnUrl=%2findex.aspp
[181] Ibid.
[182] Ibid.
[183] Ibid.

Directorate of Special Operations based within the National Prosecuting Authority, created by the South African Constitution (Section 179) and governed by the National Prosecuting Authority Act, No. 32 of 1998. However, the functions of the 'Scorpions' differ from the EMIs. The common element of the 2003 Amendment relates to the sharing of information – as described by the Environmental Management Inspectorate:

"With the establishment of the Environmental Management Inspectorate, environmental enforcement officials [are] part of a national network, sharing intelligence, experience, standardised training and procedures. For the first time, environmental enforcement will have a distinctive national identity with a national profile.

This national EMI network [breaks] through the traditional separation between the protection of different aspects of the environment, and will include park rangers and conservation officers, air quality officers, marine and coastal enforcement officers, pollution and waste enforcement officials and officials monitoring urban developments."[184]

4. Brief description of whether existing legislation was amended or replaced and how was this done (e.g. part of pre-planned legislative change or a free standing action/activity)?

Rather than repeal existing legislation NEMA provides an overlay of common principles and procedures. However, procedural elements of other legislation were repealed. NEMA did repeal much of the Environment Conservation Act, 73 of 1989 (NEMA, Section 50). Certain aspects of the Environment Conservation Act, 73 of 1989, such as those related to environmental impact assessment, remain in force until new regulations are drafted.[185]

What were the costs and benefits of the common regulatory framework? Please provide any data or assessments if available.

Not ascertained from the information reviewed to date.

Were big investments needed to implement it and by whom?

Not ascertained from the information reviewed to date.

Were there any barriers or hurdles to implementation? Were these expected or unforeseen?

The presentation by Melissa Fourie[186] presents a list of current obstacles to effective compliance monitoring and enforcement in relation to EMIs set out below:

- Limited, localised publicity of enforcement actions, and no distinctive national profile;
- Legislation that is not geared for enforcement;
- Outdated, ineffective permitting systems;
- No functional separation and specialisation;
- No shared systems, procedures and resources;
- No sense of being part of enforcement community;
- Limited investigations experience among officials; and
- Limited experience of environmental crimes in SAPS [South African Police Service] and NPA [the National Prosecuting Authority]

[184] Ibid.
[185] Paterson, A. Current Survey: South Africa (2005) 13(4) Environmental Liability, CS58. At pCS59.
[186] Fourie, M. 'The National Environmental Management Act (NEMA) and the Environmental Management Inspectorate'. [2005] Presentation to Prosecutor Training Course. http://www.inece.org/africa/prosecutors/d1_s2a.pdf

How successful was the common regulatory framework? Please provide any data or assessments if available.

In relation to the use of environmental principles to guide decision making, Wynberg and Sowman (2007) state: "Despite supportive policy frameworks and increased environmental awareness, a growing body of evidence indicates that environmental sustainability is not central to planning and decision-making processes in land reform in South Africa."[187] That "Environmental factors are seldom integrated into planning and decision-making processes, and, in the face of intense political pressure, are given short shrift in the rush to settle claims and reach resolution." [188]

Was there anything in particular that contributed to its success?

Not ascertained from the information reviewed to date.

Are there any other lessons that can be learned?

Wynberg and Sowman (2007) suggest that "widespread adoption and implementation of [a specific] Environmental Sustainability Assessment Tool across the range of land reform processes could ensure that environmental opportunities and constraints are identified upfront and integrated into project planning and decision-making…"[189]

[187] Wynberg, R.P. and Sowman, M. 'Environmental Sustainability and Land Reform in South Africa: A Neglected Dimension' (2007) 50(6) Journal of Environmental Planning and Management, 783. At p783.
[188] Ibid. At p785.
[189] Ibid. At p799.

National Environmental Management: Integrated Coastal Management Act, 2008

What is the name of the common regulatory framework? National Environmental Management: Integrated Coastal Management Act, 2008, the 'ICM'. It is the key legislation in the South African to Integrated Coastal Area Management.
What organisation or agency leads this common regulatory framework? "Leadership at the National Level [is] provided for by the Minister of Environmental Affairs and Tourism, who will be empowered to appoint a National Coastal Committee."[190]
When did it start and finish? The ICM was Assented to on 9 February 2009 by the President of South Africa.
Links to relevant information or documents Text of the ICM http://www.info.gov.za/view/DownloadFileAction?id=96260 Gibson, J. 'The development of integrated coastal management legislation in South Africa' (2007) 18(4) W.L., 117. J. Glazewski and M. Haward, ' Towards Integrated Coastal Area Management: A Case Study in Co-operative Governance in South Africa and Australia,' 20 International Journal of Marine & Coastal Law (2005): 65-84 at 65-9, 72-80, 83-4.[191] The Parliament of the Republic of South Africa website contains Hansard and other parliamentary reports. http://www.parliament.gov.za/live/index.php
Why was it put in place? It was put in place in response to general recognition of the need for coastal management to protect what can often be sensitive areas that are also of economic importance.[192]
What field of environmental regulation does it cover? Coastal Management (management of specific areas of land and water)
What national/regional legislation/regulation does it cover? The ICM is national legislation.
Has it involved any joint working with other nations? If so, which countries and why? Not ascertained from the information reviewed to date.
Which stakeholders/organisations were involved in its implementation? As stated above (What organisation or agency leads this common regulatory framework?) the Minister of Environmental Affairs and Tourism, is empowered to appoint a National Coastal Committee. The membership of the National Coastal Committee "must include experts in coastal management and representatives of coastal provinces, municipalities and six national government

[190] Gibson, J. 'The development of integrated coastal management legislation in South Africa' (2007) 18(4) Water Law, 117. At p119.
[191] At pp149-150 South Africa is provided as a positive example in their development of legislation as a result of: Chircop, A., Dzidzornu, D., Guerreiro, J. and Grilo, C. 'The maritime zones of East African states in the law of the sea: benefits gained, opportunities missed' (2008) 16(2) African Journal of International and Comparative Law, 121.
[192] Gibson, J. 'The development of integrated coastal management legislation in South Africa' (2007) 18(4) Water Law, 117. At p117.

departments identified by their responsibilities, but overall the composition and individual appointments will be decided by the Minister."[193] Therefore these stakeholders/organisations are involved in the ICMs implementation alongside interest groups such as non-governmental organisations (NGOs) and industry.

What were its objectives?

The long title indicates the objectives of the Act:

- To establish a system of integrated coastal and estuarine management in the Republic, including norms, standards and policies, in order to promote the conservation of the coastal environment, and maintain the natural attributes of coastal landscapes and seascapes, and to ensure that development and the use of natural resources within the coastal zone is socially and economically justifiable and ecologically sustainable;
- to define rights and duties in relation to coastal areas; to determine the responsibilities of organs of state in relation to coastal areas;
- to prohibit incineration at sea;
- to control dumping at sea, pollution in the coastal zone, inappropriate development of the coastal environment and other adverse effects on the coastal environment;
- to give effect to South Africa's international obligations in relation to coastal matters; and
- to provide for matters connected therewith.

Description of the common regulatory framework

1. Overview

See '2. Brief description of any stages in its development' below.

2. Brief description of any stages in its development

A Coastal Management Policy Programme was first initiated by the South African Government in 1997. In 1998 a Green Paper was then put out to consultation. "This was followed in April 2000 by a White Paper containing the government's conclusions and proposals for action." This White Paper proposed the ICM. There was a significant delay and in December 2006 the proposed legislation was put out to public consultation, the revised draft followed July 2007 with the Bill being introduced to the National Assembly on 29 October 2007.[194]

3. Brief description of the *common* element

The ICM provides for committees to be set up at National[195], Provincial[196] and Municipal level[197] of government but also provides for "Co-ordination of actions between provinces and municipalities".[198] "Although the Committee must promote integrated coastal management and co-operative governance by co-ordinating the implementation of the Bill and the national coastal management programme, the legislation fails to prescribe any mechanisms or procedures of achieving this crucial objective."[199] The nature of the co-operative governance and co-ordination is determined by the powers the Minister provides to the National Coastal Committee.[200]

4. Brief description of whether existing legislation was amended or replaced and how was this done (e.g. part of pre-planned legislative change or a free standing action/activity)?

[193] Ibid. At p119.
[194] Ibid. At 117.
[195] National Environmental Management: Integrated Coastal Management Act, 2008, part 1.
[196] Ibid, part 3.
[197] Ibid, part 4.
[198] Ibid, chapter 11, section 94.
[199] Gibson, J. 'The development of integrated coastal management legislation in South Africa' (2007) 18(4) Water Law, 117. At p119.
[200] National Environmental Management: Integrated Coastal Management Act, 2008, chapter 5, section 35.

Schedule 1 of the ICM states that this repeals the Sea-shore Act, 21 of 1935 (to the extent it has not been assigned to the provinces) and the Dumping at Sea Control Act, 73 of 1980. The SEA-Shore Act is of relevance to coastal management whereas "The Dumping at Sea Control Act would have been replaced anyway, in order to implement the 1996 Protocol to the London Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matters 1972"[201] No other legislation is amended and the provisions of the Act will be "superimposed on the existing body of laws that currently affect the coast."[202]

What were the costs and benefits of the common regulatory framework? Please provide any data or assessments if available.

The costs and benefits below are derived from Gibson (2007)[203]. Potential costs are also listed under 'Were there any barriers or hurdles to implementation?' below.

Costs

- Will add to the complexity of land-use planning procedures

Benefits

- Focus on the public ownership of coastal property
- Adopts an integrated approach to both land and sea
- Land use planning – offers some opportunities to combine different forms of planning [although this is not clear cut because separate procedures continue to exist)
- Should limit inappropriate coastal development (if properly enforced)

Were big investments needed to implement it and by whom?

Not ascertained from the information reviewed to date.

Were there any barriers or hurdles to implementation? Were these expected or unforeseen?

Gibson (2007)[204] foresaw a number of potential barriers in advance of its implementation:

- Difficulties in interpretation – for example offences are created for areas below or above the high-water mark, a concept which has not been clearly defined;
- National, provincial and municipal government have separate competences provided for by the South African Constitution. In relation to marine spatial planning these may clash;
- The legislation is long and complex;
- It does not contain a statement of goals and principles [arguably these may be supplied by NEMA and the Constitution of South Africa];
- Absence of funding mechanisms and other financial provisions to support the ICMs implementation in practice;
- Wide power to make legislation related to aspects of integrated coastal management leading to a lack of control.

Glazewski and Haward (2005) anticipated "a lack of capacity, particularly at local authority level to implement" administration of coastal management at the three levels of government.[205]

[201] Gibson, J. 'The development of integrated coastal management legislation in South Africa' (2007) 18(4) Water Law, 117. At p117.
[202] Ibid. At p118.
[203] Ibid.
[204] Ibid.
[205] Glazewski, J. and Haward, M. ' Towards Integrated Coastal Area Management: A Case Study in Co-operative Governance in South Africa and Australia,' 20 International Journal of Marine & Coastal Law (2005), 65. At p83.

How successful was the common regulatory framework? Please provide any data or assessments if available. This framework is in its early stages but Gibson (2007) stated in advance of it coming into effect: "While it is generally an ambitious text, and contains some imaginative elements, it suffers from political compromises that have been made during its preparation. Its implementation will also require considerable resources and expertise at all levels of government, and there is a danger that its effectiveness may be undermined in practice by a shortage of administrative capacity."[206]
Was there anything in particular that contributed to its success? Not ascertained from the information reviewed to date.
Are there any other lessons that can be learned? Not ascertained from the information reviewed to date.

[206] Gibson, J. 'The development of integrated coastal management legislation in South Africa' (2007) 18(4) Water Law, 117. At p117.

5. Conclusions

This literature review has identified examples of common regulatory frameworks relating to regulation of the environment in the non-IMPEL English speaking countries of Australia, New Zealand and South Africa. Despite the US being a pioneer of Better Regulation[207], of which common regulatory framework are part, no common regulatory frameworks were identified in the US. Table 2 summarises the result by country, setting out the name of the common regulatory framework, the environmental media to which it relates, together with a brief description of the common element identified. In many cases the common regulatory frameworks listed contain a number of common elements – the focus of the 'Common elements identified' column in Table 2 are those discussed in greater detail in the results (Section 4) of this review.

Table 2 The countries and common regulatory frameworks that were the focus of this review together with an overview of the environmental media covered and common element identified

Country	Common regulatory framework	Environmental media	Common element identified
Australia	National Water Initiative	Water	Development of regulatory system overseen by National Water Commission
New Zealand	Resource Management Act 1991	Air, land and water	Common permitting procedures for a range of environmental resources
South Africa	Development Facilitation Act 1995	Land use	Common (alternative) framework to assess development applications
	National Water Act, 36 of 1998	Water	Common administration of types of water categorisation previously identified as separate (or in some cases not identified at all)
	National Environmental Management Act, 107 of 1998	Environment	A common set of principles to govern environmental management Establishment and networking of Environmental Management Inspectors to improve enforcement of environmental laws
	National Environmental Management: Integrated Coastal Management Act, 2008	Coastal Management (management of specific areas of land and water)	Committees to facilitate co-operative governance

The following conclusions are structured according to the IMPEL objectives listed in Section 1. However, the conclusions that can be drawn are limited by the reliance of this review on literature of varying quantity and quality in relation to each framework. Additionally, as Section 2.2 discussed, the term common regulatory framework was not routinely applied to regulatory or other activities that could conform to IMPELs definition of this concept, set out in Box 1. For example, in the US, the term "common element" was being used to refer to a legal provision within Comprehensive Environmental Response, Compensation, and Liability Act of 1980, unrelated to the concept of common regulatory frameworks as defined by Box 1. Such factors constrained the ability of this review to meet the IMPEL objectives set out in Section 1.

[207] Weiner, J.B. 'Better Regulation in Europe', in, Holder, J. and McGillivray, D. 'Taking Stock of Environmental Assessment: Law, Policy and Practice' (2007) Abingdon: Routledge-Cavendish. 65-130. At p68.

- To identify examples of common regulatory frameworks developed by countries outside of IMPEL and describe their history, the reasons why they were developed and why they took the form they did.

Section 4 of this Literature Review presented the information to meet this objective for the Countries and common regulatory frameworks set out in Table 2. This review highlighted that the New Zealand Resource Management Act 1991 is the only attempt to bring together both land use planning and environmental controls – but even this Act recognises limits to this joint process by requiring different permits for each of these in different circumstances (sometimes from different authorities). The South African National Environmental Management Act provides at minimum two broad common frameworks. The first is a set of principles to guide the application of all South African law concerned with the environment. The second established a network of Environmental Management Inspectors to provide a linked system of enforcement applying across different environmental statutes.

In contrast, the Australian National Water Initiative together with the South African Development Facilitation Act 1995 and Integrated Coastal Management Act, 2008 provide additional layers of administration which aim to generate progressive reform of existing governance. The South African National Water Act 1998 consolidated existing legislation to produce a common framework for the administration of water, similar to that of the EU Water Framework Directive.[208] Although these frameworks intend to promote integrated, aligned or shared action, they are largely across one environmental media, and may not be of such direct relevance to IMPEL.

- To compare the examples and identify the perceived advantages and disadvantages of common regulatory frameworks for regulators and business/industry including administrative burdens, and

- To identify barriers to integration/combining of environmental regulatory frameworks.

Overall the frameworks listed in Table 2 were influenced by the existing environmental conditions and structures of governance – and they can generate both opportunities for integrating environmental regulatory frameworks and barriers (together with advantages and disadvantages). Arguably, the massive restructuring of environmental and land use management in New Zealand, brought about by the Resource Management Act 1991, was achievable because of the unitary, rather than federal, system of government. In South Africa, often the common frameworks take the form of parallel systems, set up to work alongside existing laws. These systems in some cases replaced existing laws, in others complemented, but also perhaps confused the implementation of those laws already in place.

- To identify the benefits of common regulatory frameworks for Member States considering adopting such frameworks.

The environmental conditions and governance structures in each Member State will determine the form of common regulatory framework that is applicable in each circumstance. This is turn influences the benefits that will result from their adoption.

- To provide recommendations for IMPEL and Member States on the creation of common regulatory frameworks and good practice.

The outcomes from this Literature Review are to be assessed in relation to the information gained from the IMPEL Questionnaire. Further investigation is recommended to ascertain how

[208] Directive 2000/60/EC of The European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy.

the information contained in this review could inform the creation of common regulatory frameworks and good practice. The existence of other common regulatory frameworks could be further explored. For example there were a large number of examples of processes to encourage Integrated Coastal Area (or Zone) Management, such as in Australia[209] and nations within Africa.[210] This is part of a wider drive towards integrated management of oceans motivated by the 1982 United Nations Convention on the Law of the Sea.[211] However, these were not discussed further in this review because of their complicated nature. Morgan (2003)[212] discussed meta-regulation in Australia, identifying that Canada and Mexico demonstrated an interest in these Australian reforms. Therefore, common regulatory frameworks in other non-IMPEL countries, such as Canada and Mexico, could be investigated alongside a more in-depth review of Australia, New Zealand, South Africa and the US.

Other methods could be used to inform a comparatively more targeted and in-depth review. For example, academics specialising in environmental law and policy, or the representatives of organisations likely to have a role in facilitating such frameworks, could be interviewed. Table 3 provides an overview of potential academic contacts together with the organisations likely to have a role in facilitating such frameworks in each country. Each participant would be provided with an explanation of the term 'common regulatory framework', examples of where such frameworks may have arisen would be discussed, and direction to appropriate literature requested. Information could be obtained via telephone interviews or emails or both.

Table 3 Suggested academic contacts and organisation contacts in each country. Academics and appropriate representatives of the organisation could be contacted for interview.

Country	**Potential academic contact(s)**	**Organisation(s)**
Australia	Sharon Beder, University of Wollongong	Department of the Environment, Water, Heritage and the Arts
New Zealand	Ken Palmer or Tim McBride or both, The New Zealand Centre for Environmental Law, University of Auckland	The Ministry for the Environment
South Africa	Alexander Paterson, University of Cape Town Jan Glazewski, University of Cape Town Nazeem Goolam, Rhodes University	Department of Environmental Affairs Department of Water Affairs and Forestry Portfolio Committee on Water and Environmental Affairs, Parliament of the Republic of South Africa
United States of America		US Environmental Protection Agency United States Department of Agriculture

[209] Glazewski, J. and Haward, M. ' Towards Integrated Coastal Area Management: A Case Study in Co-operative Governance in South Africa and Australia,' 20 International Journal of Marine & Coastal Law (2005), 65.; Australian Government: Department of the Environment, Water, Heritage and the Arts 'Integrated Coastal Zone Management' [2008] http://www.environment.gov.au/coasts/iczm/index.html

[210] Chircop, A., Dzidzornu, D., Guerreiro, J. and Grilo, C. 'The maritime zones of East African states in the law of the sea: benefits gained, opportunities missed' (2008) 16(2) African Journal of International and Comparative Law, 121.

[211] Barnes, R.A. 'Editorial: Some cautions about integrated oceans and coastal management?' (2006) 8(4) Environmental Law Review, 247.

[212] Morgan, B. 'Social Citizenship in the Shadow of Competition: The Bureaucratic Politics of Regulatory Justification' (2003) Aldershot: Ashgate Publishing Limited.

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IMPEL Better Regulation Cluster
Common Regulatory Framework Comparison Project

Literature Review of Common Regulatory Frameworks in non-IMPEL Member Countries: Consolidated List of References

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June 2010

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United Kingdom

The Commonwealth of Australia Constitution Act 1900

Legislative and Regulatory Reform Act 2006

The Environmental Permitting (England and Wales) Regulations 2007

The Regulatory Enforcement and Sanctions Act 2008.

United States of America

Clean Air Act (as amended)

Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (also known as the Superfund.