



European Union Network for
the Implementation and Enforcement
of Environmental Law

IMPEL REVIEW INITIATIVE (IRI)

**“A voluntary scheme for reporting and offering advice
to environmental authorities”**

**Report on the IRI that took place in Lisbon
between 27 to 30 October 2009
at the Portuguese Environmental and Spatial Planning General
Inspectorate (IGAOT)**

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. Projects in IMPEL's Annual Work Programme are co-financed by the European Commission.

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 website at:

www.impel.eu

PORTUGUESE IMPEL REVIEW

REPORT STRUCTURE

Number report: 2009/09

Report adopted at the IMPEL Plenary Meeting in Stockholm, 02-04 December 2009.

1.0 Executive Summary

2.0 Introduction

- 2.1 The IRI scheme
- 2.2 Purpose of the IRI
- 2.3 Scope of the IRI in Portugal
- 2.4 Structure

3.0 Main Findings

Part A – Defining the regulatory framework of environmental protection in the IMPEL member country

Part B – Permitting activities

Part C – Performing inspection tasks (Environmental Inspection Cycle)

- 1a. Describing the context
- 1b. Setting priorities
- 1c. Defining objectives and strategies
- 1d. Planning and review

Part D – Site visit

4.0 Summary of Findings

5.0 Conclusions

6.0 Lessons learned from the Review Process

7.0 Appendices

1. Executive Summary

The IRI scheme is a voluntary scheme developed by the IMPEL Network providing for informal reviews of environmental authorities in IMPEL Member countries.

In line with the Recommendation for Minimum Criteria for Environmental Inspections (RMCEI), this informal review of the Portuguese Environmental and Spatial Planning General Inspectorate (IGAOT) by a broad cross section of the IMPEL network, focused upon the inspection and enforcement of the IPPC and SEVESO Directives and where relevant other EU Directives applicable to industrial processes covered by the RMCEI.

Throughout, the IRI team have identified several examples of 'good practice' and 'opportunities for development', when considering the implementation of the above Directives during the review. Specifically, the review team have highlighted the following as particularly strong examples of this:

Good practices:

- The central and formalised screening & tracking system for complaints;
- The exceptional Inspectorate's information systems (GIS, GESTIGAOT and Risk Assessment) and;
- The problem solving objectives and targets as described in their annual Activity Plan.

Opportunities for development:

- To develop multi-annual objectives;
- To make inspection reporting more efficient and;
- To use different types of interventions.

The review team considers that the objectives of the area of EC environmental law within the scope of the review of IGAOT are being delivered in Portugal. Furthermore the arrangements for environmental inspection and enforcement are broadly in line with the RMCEI.

Overall the review team is impressed by the range of instruments and provisions that IGAOT has developed over the last few years. This has significantly helped IGAOT in the process of professionalization to which it is strongly dedicated. IGAOT has shown that a relatively small inspection organisation can achieve major improvements and may serve as an example for inspection organisations with a similar size and scope of work.

2. Introduction

2.1 The IRI Scheme

The IRI scheme is a voluntary scheme providing for informal reviews of environmental authorities in IMPEL Member countries. It was set up to implement **the European Parliament and Council Recommendation (2001/331/EC) providing for minimum criteria for environmental inspections (RMCEI)**, where it states:

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

2.2 Purpose of the IRI

The aims of the IRI scheme are to:

- provide advice to environmental authorities seeking an external review of their structure, operation or performance by experts from other IMPEL Member Countries for the purpose of benchmarking and continuous improvement of their organisation
- encourage capacity building in environmental authorities in IMPEL Member Countries
- encourage the exchange of experience and collaboration between these authorities on common issues and problems
- spread good practice leading to improved quality of the work of environmental authorities and contributing to continuous improvement of quality and consistency of application of environmental law across the EU (“the level playing-field”).

The IRI is an informal review, not an audit process. The IRI is intended to enable the environmental authority and the Review Team to explore how the authority carries out its tasks. It aims at identifying areas of good practice for dissemination together with opportunities to develop existing practice within the authority and authorities in other IMPEL Member Countries.

2.3 Scope of the IRI in Portugal

The IRI uses a questionnaire to review the environmental authority against the requirements of the RMCEI. The **IMPEL “Doing the right things” Guidance Book for**

planning of environmental inspections¹ has been used to help structure the questionnaire and the review. The Guidance Book was developed to support Inspectorates in implementing the RMCEI and describes the different steps of the Environmental Inspection Cycle pursuant to the RMCEI.

The scope of the IRI in Portugal focussed on the work of the Environmental and Spatial Planning General Inspectorate (IGAOT) primarily in relation to the inspection of sites covered by the IPPC and SEVESO Directives. Further the use and practicability of the new developed questionnaire was also considered.

2.4 Structure

A pre-review meeting was held in Lisbon on the 14th & 15th May 2009 in which details for the review were discussed. The meeting comprised the team leader, rapporteurs and the hosts. In addition three members of the review team also attended to help develop the new questionnaire.

The review itself took place at the offices of the Ministry for Environmental, Spatial Planning and Regional Development (MAOTDR) in Lisbon on the 27th to the 29th of October 2009. The findings were presented to IGAOTs higher management team on the 30th October 2009.

The Review was structured according to the revised IRI questionnaire developed by the IRI review project during 2009.

The IRI Review team

UK (Scotland)	Simon Bingham	Review Team Leader
Norway	Erik Forberg	Reviewer
Netherlands	Jan Teekens	Reviewer
Spain	Jesus Ócio	Reviewer
Slovenia	Bojan Pockar	Reviewer
France	Nicolas Ponchon	Reviewer
Netherlands	Rob Kramers	Rapporteur
UK (England & Wales)	Michael Nicholson	Rapporteur
Host Team		
Portugal	Isabel Santana	IGAOT organiser
Portugal	Paula Matias	IGAOT organiser

¹ http://ec.europa.eu/environment/impel/pdf/step_by_step_guidance%20book.pdf

The review team consisted of a panel of experts with a wide range of experiences. It included a representative from Norway (the last IRI) and Slovenia (the next IRI).



3. Main Findings

Part A – Defining the regulatory framework of environmental protection in the IMPEL member country.

Objective

To find out about the organisation of the environmental authority, the relevant legislation it complies with and relationships with the public, operators government and other countries.

Overview

Portugal is a democratic republic with four main governing components. They are the President of the Republic, the Parliament (elected members collectively known as the Assembly of the Republic), the Government (headed by a Prime Minister) and the Courts.

A series of thematic Ministries is dedicated to the implementation of relevant EU & domestic legislation with the Ministry for Environment Spatial Planning & Regional Development overseeing the work of the reviewed authority: the Environmental & Spatial Planning General Inspectorate (IGAOT).

This section gives an overview of the organisations that have a direct or indirect role with regard to environmental protection in Portugal. For the Ministry of Environment, Spatial Planning and Regional Development and IGAOT a more detailed description is given. For the partner organisations of IGAOT only a brief description is given including their relationship with IGAOT.

Ministry for Environment, Spatial planning and Regional Development (MAOTDR)

The Ministry is a government department whose mission it is to define, implement and coordinate policy for the environment, regional planning and cities and regional development. It is also responsible for the overall coordination of cohesion policy in Portugal from the perspective of sustainable development and territorial cohesion. A group of sub-ordinate administrations (direct & indirect²) have been formed under the Ministry to implement European & domestic legislation. The relationship between the administrations are shown in figure 1. Annex 3 gives an overview of all the administrations.

² Simply, a *direct* administration is one where the Minister or the Secretary of State can instruct the administration to perform a particular task whereas *indirect* administrations have a degree of autonomy and the Minister or the Secretary of State have a supervisory role requesting specific tasks to be completed

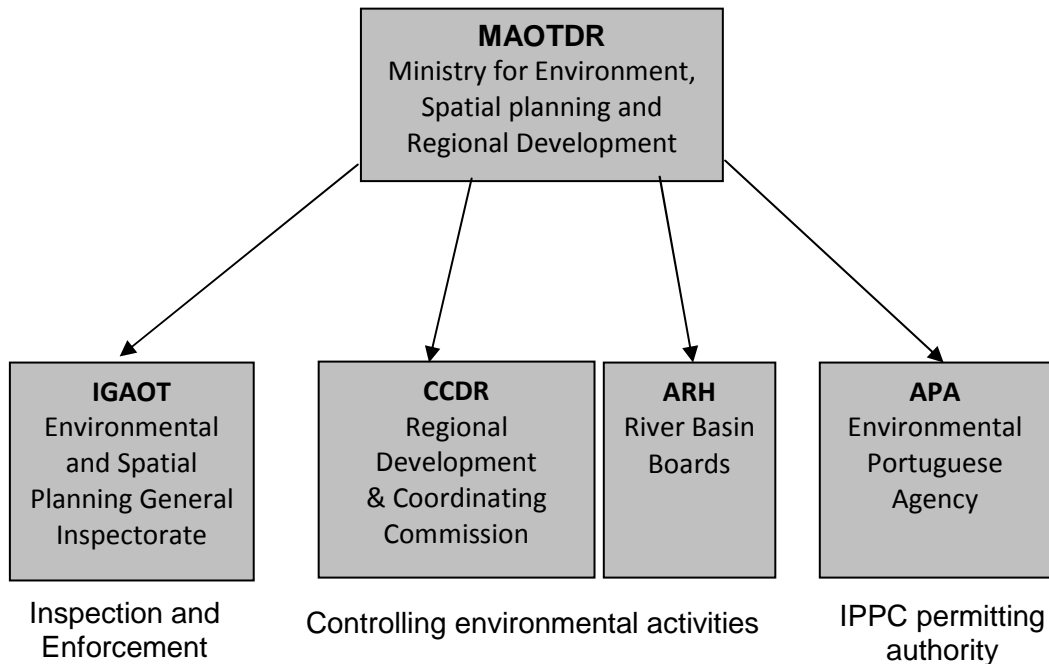


Figure 1.

MAOTDR carries out the following activities:

- Promote sustainable waste management policy.
- Promote and coordinate development of policies, programmes and measures to control and reduce greenhouse gas emissions.
- Promote air quality management policy.
- Planning and Management of the national water resources.
- Define the Integrated National Coastal Zone Management Strategy.
- Define the town and country planning policy. Define, implement and assess the social housing policy.
- Promote an economically and socially sustainable regional development policy.
- Co-ordinate the implementation of European Union cohesion policy in Portugal.
- Implement mechanisms that guarantee the transparency, rigour, effectiveness and efficiency in the use of EU structural funds.

Relationship between Ministry and IGAOT

IGAOT is a direct administration of the Ministry. Some elements of this relationship are listed below.

- Exchange of information
 - advice on legal issues (by IGAOT).
 - Interpretative notes (in addition to Brefs) about certain laws are made by MAOTDR.

- Reporting: Annual activity report and annual activity plan are sent to the Minister for his/her approval. If it is approved it is then made publicly available via the Internet. The Ministry can request IGAOT to focus on specific themes in the activity plan though discretion on how this is achieved is left to IGAOT.

Environmental and Spatial Planning General Inspectorate (IGAOT)

IGAOT is a national inspection and auditing service whose mission is to evaluate and verify the compliance with the legislation in the environmental, spatial planning and nature conservation areas by public and private organisations.

IGAOT is classed as a Criminal Police Authority. IGAOT also has powers to perform financial, administrative and control tasks, upon the other services and entities belonging to, or depending on, the Ministry for the Environment, Spatial Planning and Regional Development (including public enterprises).

IGAOT is structured in the following way: (see Figure 2)

Management Level: General Inspector and 2 Deputy Inspector General.

Operational level: 6 Inspection Services (SI)

- **SIA, SIB and SIC** Environmental Inspection Services (30 inspectors, 3 of which are Head of Units)
- **SID** Administrative Inspections of Entities belonging to MAOTDR , prosecution processes and law issues (18 people, 4 inspectors, 1 of which is Head of Unit)
- **SIE** Financial audits and inspections (2 inspectors, 1 of which is Head of Unit)
- **SIF** Spatial Planning inspections (3 people 1 of which is Head of Unit)

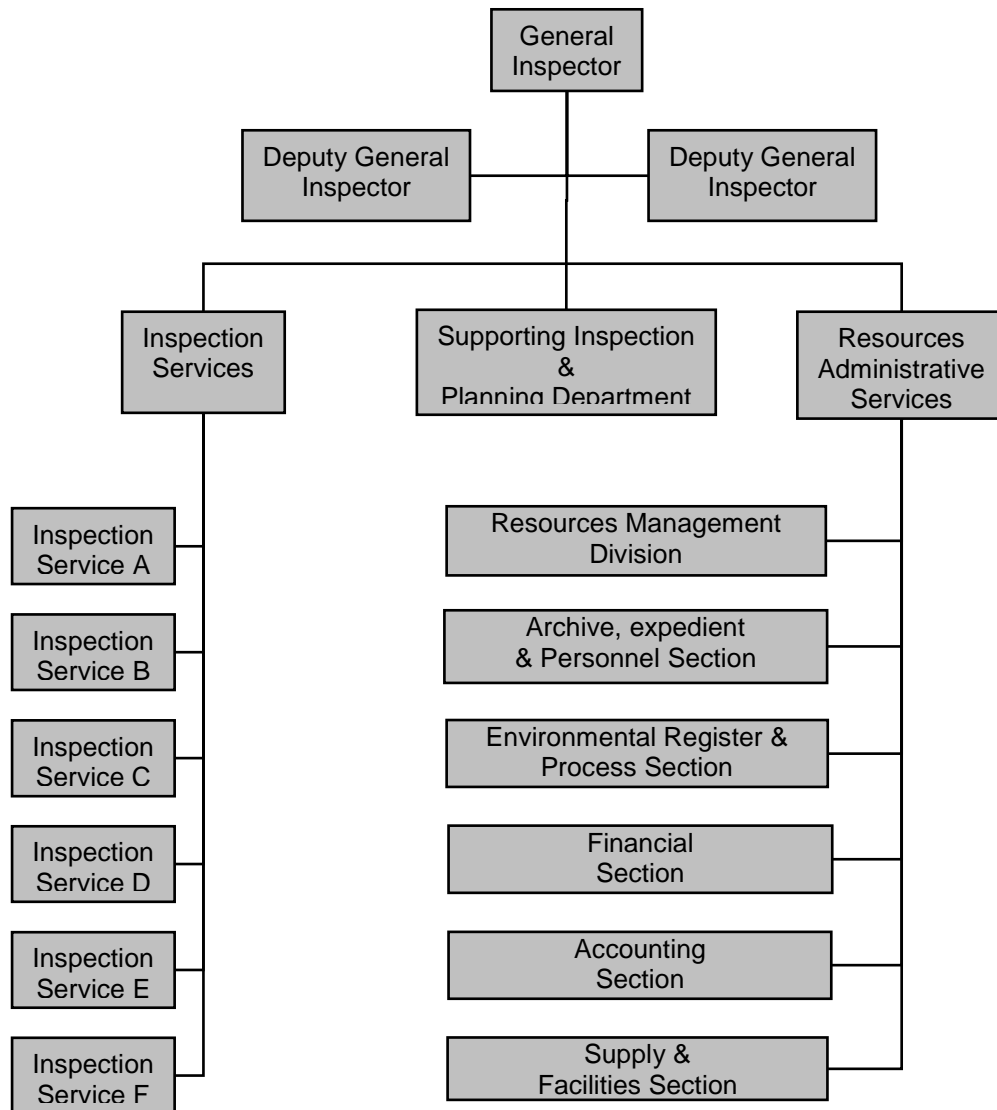
The categories of IPPC activities and SEVESO are divided over the Inspection Services A, B and C. Annex 2 shows how the industrial sectors are divided between the 3 environmental inspections services (SIA, SIB and SIC).

Supporting level

- Resources Administrative Service (26 people, 2 of which are inspectors and 1 is a Director)
- Resources Management Division (DGR) (6 Sections)
- Supporting Inspection and Planning Department, DPAI (7 people, 1 of which is inspector and 1 is Head of Unit)

IGAOT does not have any regional divisions.

Figure 2. Structure of IGAOT



Principle duties of the environmental inspection services (SIA, SIB and SIC)

- Routine Inspection of installations
- Inspection of installations which have environmental incidents.
- Report to the prosecutor incidents of environmental law infringement.
- Sampling of wastewater discharges, waste, sludge and measurements of noise
- Control of atmospheric emissions (external certified laboratories).
- Act as criminal police in crimes mentioned in the Portuguese Penal Code.
- Provide technical advice.

Funding

IGAOT receives the following funding:

- Share of Government budget.
The amount is estimated based on the previous year. After negotiations with IGAOT the Ministry decides how the total budget that is allocated to MAOTDR is split between its constituent organisations.
- Self-funding:
 - Amount of fines applied . IGAOT is entitled to a certain percentage of the fine, this percentage depends on the law³.
 - Pecuniary sanctions (a fine is applied if a witness does not attend the interview notified by IGAOT during the prosecution process)
 - Court fees (Offending operator is obliged to pay the court costs if found guilty in a prosecution process of IGAOT).
 - Sale of publications and other supporting materials.
 - Fees calculated according to the expenditures with environmental inspections in instances where the operator has no wastewater discharge permit or if there is failure to comply with that permit.
 - Contracts for technical studies, technical measurements and training (given by IGAOT)
 - During the year it is possible that IGAOT's budget can be reduced by the Ministry. IGAOT continues to follow its yearly Activities Plan as well as possible.

The Regional Development and Coordinating Commission (CCDR)

The CCDR is administratively and financially autonomous. Broadly, CCDR delivers Ministry policy related to the environment, spatial planning, regional development, urban redevelopment within its geographic remit. It provides support to local municipalities and their associations. There are 5 CCDRs covering different geographical areas.

Main tasks:

- Licensing authority for waste management operators (only non-hazardous waste).
- Monitoring of atmospheric emissions of the sites (only if the monitoring is not continuous).
- Competences on controlling certain environmental activities: atmospheric emissions, noise, waste.

³ A percentage of the collected fine is transferred to the Environmental Intervention Fund which shall be used in case remediation of the site is necessary when a facility closes and the company has no possibility to pay for it. This fund allows a quick intervention in case of environmental damages where there is no chance of using other legal or financial tools/means..

Relationship between IGAOT and CCDR

IGAOT and CCDR are both direct administrations of the Ministry. Elements of their relationship are listed below:

- Coordination of activities:
 - CCDR contributes suggested areas of activity to the IGAOT annual Activity Plan.
 - Complaints, there is a division of tasks between CCDR and IGAOT⁴.
- Exchange of information:
 - IGAOT's sends inspection reports of the companies that were suggested by the CCDR for inspection.
 - CCDR's notification of non-compliance by EIA operators.
- Can execute second line inspections of CCDR (administrative inspections and financial audits)⁵.

River Basin Boards (ARH)

In May 2007 a group of 5 River Basin Boards were created to be responsible for water management. The river basin regions are the main units for water planning and management, based on the river basin as a territorial structure. The ARH are administratively and financially autonomous.

Main tasks

- To develop River Basin Management Plans.
- Monitoring (river basin water quality monitoring network).
- Control issues related with water.
- Economic and financial regime for the river basins.
- Licensing authority for use of river resources (including wastewater discharges etc).
- Register of protected areas and identification of drinking water collection areas.
- Coastal zone and estuaries planning.

Relationship between IGAOT and ARH

IGAOT and ARH are both direct administrations of the Ministry. Elements of their relationship are listed below:

- Coordination of activities:
 - ARH contributes to the IGAOT annual activity plan.
 - Complaints, there is a division of tasks between ARH and IGAOT⁶.
- Exchange of information:
 - IGAOT's inspection reports of the companies that have been suggested by ARH.

⁴ When the complaint about a small facility or about a minor violation the CCDR deals with the complaint. If the complaint is about a bigger facility (IPPC and SEVESO) or if the environmental situation is serious than IGAOT takes over.

⁵ IGAOT has the authority to perform financial, administrative and control tasks upon CCDR

⁶ See note 5, with ARH the issue is focused only on water

- Can execute second line inspections of ARH (administrative inspections and financial audits).

There is a common database for waste water discharges and water use permits between the ARH and the Institute of Water.

Environmental Protection Agency (APA)

APA is a central service with administrative autonomy. They are responsible for the implementation of environmental policies regarding climate change, air pollution, EIA, waste, risk prevention and IPPC. They are the National Authority for Waste. APA is responsible for the National Environment Information System, the management of the Environment Reference Laboratory (APA's laboratory is certified) and for environmental education, participation and information to the public.

Main tasks

- Licensing authority for IPPC permits.
- Licensing authority for waste management operators in case of hazardous waste.
- Analysis of return of atmospheric emissions of the sites during continuous monitoring.
- Environmental Impact Assessment Authority.
- Recovery and recycling of soil and other contaminated land.
- REACH Competent Authority (along with the Authority for the Economical Affairs and the Health Authority).
- Approval of the SEVESO safety reports
- GMO Competent Authority
- TFS competent Authority

Relationship between APA and IGAOT

IGAOT and APA are both direct administrations of the Ministry. Elements of their relationship are listed below.

- Division of responsibilities: APA issues IPPC permits, IGAOT inspects the site against the permit.
- Coordination of activities: APA contributes to the annual activity plan of IGAOT.
- APA participates in TFS activities and performs analysis on sampling done by IGAOT.
- IGAOT has the powers to execute second line inspections on APA (administrative inspections and financial audits).
- Exchange of information:
 - Informal exchange of information about IPPC and SEVESO installations.
 - Before issuing the IPPC permit, APA occasionally asks for advice (also with EMAS operators).
 - APA gives data from the E-PRTR database to IGAOT's for use in the Risk Analysis tool.
 - APA's notification of non-compliance of IPPC permits (including the environmental reports).

- APA's notification of non-compliance by EIA operators.
- APA's notification of non-compliance by GMO's operators.
- Notification of technical requirements (legal).
- IGAOT's sends its inspection reports of the IPPC and SEVESO companies to APA.
- IGAOT's reports about the participation in international projects to APA.
- SEVESO task-force meetings (twice a year) with APA, IGAOT and ANPC.
 - Establishment of strategies for SEVESO enforcement.
 - Exchange of information about SEVESO operators.

National Authority of Civil Protection (ANPC)

The ANPC is part of the Internal Administration Ministry and therefore not part of the MAOTDR. Their aim is to prevent collective risks and occurrence of serious accidents, to protect cultural and environmental assets and to rescue and assist people in danger.

Main tasks

- Survey, forecast, evaluation and prevention of collective risks.
- Analysis of vulnerabilities facing risk situations.
- Information to the public.
- Emergency Planning.
- Inventory and availability of resources.

Relationship between ANPC and IGAOT:

- Coordination of activities
 - Joint SEVESO inspections in cases where fire protection issues are relevant (though this is, in reality, not very common).
- Exchange of information:
 - IGAOT's SEVESO reports (it's a legal obligation).
 - IGAOT's reports about the participation in international projects related to SEVESO.
 - Incidents/accidents.
 - SEVESO task-force meetings (twice a year) with APA, IGAOT and ANPC.

SEPNA (Environmental Brigade of the Police)

SEPNA is a part of the Internal Administration Ministry and therefore not a part of MAOTDR. It is a special department of the Republican National Guard which is a military and safety force.

Main tasks

- Ensuring compliance with the legislation related to the environment, nature conservation, hydro resources and soils.
- Investigation and punishment of infringements related to the above legislation.
- National coordination of the prevention, surveillance and detection of fires in forests as well as other environmental threats.

- Promotion and cooperation in training and educational activities related to the environment, nature conservation and biodiversity.

Relationship between SEPNA and IGAOT:

- SEPNA is responsible for the 24 hour environmental line call (SOS environmental call number) which is available for environmental complaints.
- Complaints about smaller companies or minor environmental violations are followed by SEPNA.
- SEPNA will inform IGAOT in case of complaints (and incidents or accidents) of IPPC operators.
- Close cooperation and joint inspections with TFS activities.
- SEPNA participates in the IMPEL/TFS conference.

Legislation

IGAOT is responsible for the enforcement of a wide range of environmental legislation. A full overview can be found in annex 4.

Strategy and policies

MAOTDR develops a series of strategies that are implemented by its various administrations. The following strategies were identified as being relevant to IGAOT:

- National Plan for Urban Solid Waste (RSU)- PERSU II (2007-2016).
- Strategic Plan for Human Water Consumption and Municipal Wastewater –PEAASAR II (2007-2013).
- National Strategy for wastewater discharged from Intensive Livestock Activities.
- Fight against climate change

In response to these strategies IGAOT developed the following actions within its activity plan:

- Improve the level of compliance with environmental legislation.
- Inspections of the installations covered by the Program for Reduction of Pollution of Surface Waters caused by certain dangerous substances in Schedule I of Directive 76/464/EEC of 4 May.
- Actions related to the transboundary movement and internal transport of waste.
- A campaign aimed at piggeries

Installations and activities

The total amount of installations in Portugal is around 20.000. Portugal currently has 727 IPPC installations (see annex 5 for the division per IPPC category) and 151 SEVESO sites (53 in upper tier and 98 lower tier).

The division of inspectors for the different Inspection Services is based on skill criteria, for example, Inspection Service A focuses on the mineral industry and waste management whereas Inspection Service B focuses on the chemical and energy

industries. Inspectors are not rotated between the Inspection Services unless there is a special request from the inspector.

IGAOT's Management system

There is a (non certified) management system in place that looks after the quality of inspection reports and notice of violations. The inspection reports are made directly into a database. The Heads of Unit and Deputy Inspector General give their final approval to the report.

The workload and the planning issues are dealt with by the Heads of Unit. The Heads of Unit also decide if a team needs to go to a site (for example in case of a difficult operator, in case extra witnesses are needed to make the case stronger in court, or in case of a technically complex facility) or if the inspection can be done by an individual inspector.

All inspectors are evaluated on an annual basis to make sure each member of staff is suitably qualified for their task.

External Interaction / IGAOT website

IGAOT uses the website to interact with target groups. In annex 6 an overview is given of the items that can be found on the website.

Other ways IGAOT interacts with stakeholders include:

- Giving information to the general public by answering phone calls and the Information Support Department (DPAI) responds to information requests.
- DPAI is also responsible for giving information to the complainers. In case an inspector is made to verify the complaint, the inspector is responsible to elaborate the written answer to the complainer.
- Press releases have to be made through the Press Department of MAOTDR.

Part B– Permitting activities

IGAOT is not responsible for permitting. The majority of this part is therefore not included in the scope of this IRI.

Although described in the other parts of this report the review team would like the make the follow observation here: There is no obligation for APA or agreements with APA to involve IGAOT in the permitting process. In practice IGAOT is only occasionally asked for advice during the permitting procedure. IGAOT does, however, provide APA feedback whenever it is found that a certain permit needs to be improved or changed.

Part C – Performing inspection tasks (Environmental Inspection Cycle)

1. Planning of inspections

Objective

To find out the criteria and procedures for planning of inspections and how this is put into practice.

1a. Describing the context

Overview

Identifying the scope:

The information on tasks, responsibilities, legislation and installations can be found in part A.

Information gathering:

The following information is gathered:

- Data about installations:
 - Emissions (air, water, waste, noise).
 - Behaviour (attitude).
 - Compliance Record.
 - Location.
 - Size/Complexity.
 - Accidents/Incidents
- Environmental policy of the Ministry
- Permits (information from APA).
- Information regarding complaints
- Data on site visits performed by the Ministry of Economics
- Relevant legislation and regulations that set out the legal obligations in an inspection are gathered and then disseminated by the Heads of Unit to individual Inspectors.
- Information about companies and installations given by other environmental authorities including APA, CCDR, ARH and ICNB
- Historical environmental background of the installations based on previous inspection reports
- Previous monitoring (mainly the monitoring of the emission of the installations, like wastewater, waste, noise, atmospheric emissions done by the Inspectorate)
- Identifying “critical” installations, through the complaints, accidents, incidents and occurrence of a large number of non compliances (previous inspection reports)
- Identifying “critical” geographical areas (high industrial concentration, highly polluted areas)

- IGAOT also gathers information from external entities to develop its inspection priorities. For example, it collects information from the Inspection Authority of the Economical Ministry (ASAE), the Municipalities, Industries, General Public, NGO and other stakeholders.
- Information is stored in GESTIGAOT (database for inspections) and GIS (Geographic Information System)

GESTIGAOT, IGAOT's database, is a thorough and powerful tool containing a lot of information. The strong point of this database is that it aggregates several related reports and allows inspectors to search for information, for example, by region/municipality, company name, dates and registration. It also stores copies of permits, photos, reports and the prosecution process behind each facility. All changes made within the database are done by the inspector when completing the inspection form therefore increasing the efficiency of reporting. The review team thought that GESTIGAOT contains a lot of information that APA and other related organisations could find useful.

GIS is also an important tool within IGAOT to collect, store and present relevant information. It is a centralised system that links information from different sources like a planning system and gives the opportunity to link resources (inspectors, cars) and calendars of the inspectors to inspections (name, location, date). The system allows multiple analyses on, for example, the category of industry, SEVESO sites, working status and distance to sensitive areas.

GIS has different levels of access: strategic level (high management), tactical level (Heads of Unit) and operational level (inspectors). The different levels of access give different kind of information. To find the correct locations of sites, inspectors take GPS references (at the entrance of a facility).

Already loaded onto GIS are: IPPC installations, special protected areas, protected areas (national park, natural reserve, natural park, natural monument, protected landscape), sites of human occupation/presence, Natura 2000, and sites of community importance. Points of water abstraction and discharge still need to be completed. The priority up until now has been to load all IPPC installations onto GIS and then the SEVESO and the remaining 20,000 sites in Portugal. The information is not yet shared with other organisations.

1b. Setting priorities

Overview

Criteria for prioritisation of target companies

IGAOT has registered in GESTIGAOT a group of total 20,000 installations subject to environmental law. In the 2009 Activity Plan of IGAOT the following target sectors have been chosen for prioritisation:

- Units that use organic compounds, for instance those covered by VOC's Directive and by the Paint and Refurnishing Vehicle Directive
- Transboundary and internal movements of waste
- Deliberate release into the environment of GMOs, specifically those relating to experimental trials
- Units that have never been inspected before
- SEVESO units
- Road and rail infrastructures financed by EU funds (specially those subjected to EIA)
- Environmentally challenging sites or those that require systematic follow-up
- Units covered by the Programme for the Reduction of Pollution in Surface Waters caused by specific dangerous substances

Procedure for setting priorities related to IPPC Directive

In 2008 IGAOT developed a risk assessment database for IPPC installations. To overcome resource challenges IGAOT used PhD students to assist them with the task of inputting data. The database was completed in 2009 and uses the following risk criteria:

1. Complexity and Size
2. Emissions to Air
3. Emissions to Water
4. Waste Management
5. Location
6. Attitude of the Operator
7. Compliance Behaviour

IGAOT's risk assessment tool has been harmonised with the proposals of the Industrial Emissions Directive (IPPC Re-cast), specifically that it creates a high risk and non high risk classification for IPPC. A high risk classification means an inspection once every year whereas a non high risk classification means an inspection once every three years.

This tool is not available for the public to view yet. The review team suggested that operators may find it useful to see their final risk classification even if individual components and/or scores are not listed. This would provide the operators with an understanding of where they stand in relation to their sectoral competitors. The review team also suggested that annual fees could easily be linked to this system to provide a financial incentive for operators to reduce their risk classification.

Changes are continuously being made to fine tune the risk assessment tool. These changes are registered and have the support of high level management. IGAOT may, in the future, add the emission of dangerous substances to the risk criteria. The data in the Risk Assessment tool is continuously updated after every IPPC inspection and through the E-PRTR reports from the APA.

Resources and time allocation

The following criteria are considered when allocating time and resources to inspections:

- Number of IPPC installations that have to be inspected (by each Inspection Service – A, B and C) split by the inspectors of each unit (work packages).
- Estimation of the time taken for each IPPC inspection: 30 hours/installation (medium time estimated for travelling = 5 hours). This includes preparation time and to complete the report.
- Follow-up actions are based upon the identified need to enforce certain installations along the year. This could mean a high risk site has to be visited more than once.

Routine and non-routine inspections

The Ratio between routine and non-routine inspections for all inspections that has been verified in the last 2 years is as follows:

- 90% Routine Inspections
 - Planned inspections
 - Follow-up inspections
 - Campaigns
 - SEVESO
 - Verification of postal notifications
- 10% Non-routine Inspections
 - Accidents/Incidents
 - Mandate verification
 - Institutional Request (for example, those that are made by the Minister, the Secretary of State, the Public Prosecutor our Court)
 - Environmental investigation (for example, complaints)

The review team suggested that greater transparency can be achieved if each legislative area is assigned specific inspection time in the Activity Plan (for example IPPC 20%, REACH 10%, SEVESO 5%). This will indicate what effect there will be if more legislation is added or if there are shifting priorities to the Inspection Service's workload. A risk assessment on a more general level could help to allocate the right amount of time.

1c. Defining objectives and strategies

Overview

The strategic objectives of the Activity Plan are agreed between the Heads of Unit and the Inspector General and Deputy Inspector General. They relate to MAOTDR policy and to the Environmental Services campaigns. There is a logical order of sub-objectives (a mixture of outputs and environmental outcomes) that are focused and clearly linked to the Ministry targets. Once the strategic objectives are agreed, Heads of Units typically devolve down responsibility of specific sub-objectives to individual inspectors. This is also built into the personal objectives of inspectors. The review team noted that this fostered a good team spirit and created a strong 'line of sight' linking corporate goals with individual goals so that each inspector could see how they contribute to their organisation's targets.

IGAOT does not use multi-year objectives. The review team suggested that by using multi-year objectives, perhaps over a 3-5 year period, more effective comparison could be made about longer term improvements in environmental outcomes as it is difficult to see results in only one year.

When defining objectives and targets, IGAOT considered the following:

- The 2009 Annual Activity Plan took into account the Guidance Book "Doing the Right Things III" for the three environmental inspection services.
- In 2008 the Risk Assessment database was still being developed. The objectives and targets that were set for 2009 were therefore not associated to the outcomes of the risk assessment. For 2010 the objectives and targets will be based in the priorities that were set through Risk Assessment.
- The objectives were defined according to the prioritisation criteria and took into consideration sensitive location areas and certain problematic activity sectors.

Inspection strategies:

The following interventions are used by the IGAOT

- Postal notifications – These installations are not a priority to be inspected and so compliance can be checked by written documentation sent through the post by the operator. The main advantage is that it can target a large number of installations at once and therefore inspections can be targeted at non-compliant operators or the operators that did not answer the postal forms.
- Sampling campaigns - for example, river sampling campaigns allow an evaluation of water quality which helps to identify pollutants and assists enforcement actions against identified operators.
- Intervention strategies will be further developed in a workshop in December 2009, under the Protocol of bilateral cooperation between Portugal and the Netherlands.

- Emission monitoring: IGAOT does not rely only on the self monitoring of operators and performs the measurements itself.

The most common inspection for IGAOT is the integrated inspection. The review team suggest that a wider range of inspection type could increase the effectiveness and the efficiency of the inspection work, for example: to make more use of compliance assistance (e.g. informing operators on new legislation). The legislation in Portugal leaves room for a wider range of differentiation in intervention strategies.

Communication strategy

In 2009 a Communication Strategy for the REACH Regulation was implemented. This strategy included:

- Chemical sector, plastics and production of paints and varnishes.
- Cooperation with the industrial associations.
- Fulfilment of the table of 11 (see step-by-step guidance book for planning of environmental inspections – IMPEL project: *Doing the Right Things*).
- Establishment of the inspection strategy.

IGAOT uses the Neighbourhood dialogue (toolkit from IMPEL project: *Resolution of Environmental Conflicts by Neighbourhood Dialogue*) to interact and communicate with stakeholders.

1d. Planning and review

Overview

The Activity Plans are made on a yearly basis. DPAI is responsible for the development of the Activity plans, with input from the Heads of Units. On a monthly basis the Heads of Units develop inspection schedules for the inspectors. For every week a mix of IPPC and non-IPPC inspections are planned.

In 2009, 1440 inspections are planned, of which 800 are integrated inspections. According to the outcome of the risk assessment database (which will be used for the planning of IPPC inspections for 2010), from the 727 IPPC installations, 92 % is considered to be not high risk and 8 % high risk. APA, CCDR, ARH and ICNB are asked to provide input to the plan.

2. Execution framework

Objective

To find out what provisions, instructions, arrangements, procedures, equipment etc, are in place to enable inspectors and other staff to carry out inspection activities on the ground.

Overview

Inspectors

Inspectors are well equipped to perform their job. It is however not (legally) possible for an inspector to be accompanied on site by a non-authorized person (e.g. specialist from another organisation). For this to happen, IGAOT has to seek authorisation from the company to be inspected, authorisation may or may not be granted.

Complaints

There are procedures in place on how to deal with complaints. These can come from different sources (e.g. government, the public, NGO's) but always through written format. The procedures describe when and how IGAOT will respond to these complaints and how they give feedback to the person or organisation that issued the complaint. Even when IGAOT is forwarding the complaint to the competent authority they keep track of the status of the complaint. Complaints are registered, and categorised by type. On the website of IGAOT, information on the complaint procedure can be found, and a complaint can be registered by filling in a digital form.

Emergency respond

There is an internal procedure in place on how to deal with emergencies. One of the inspectors is available 24h a day each year. Depending on the location SEPNA will be contacted and asked to help investigate the incident/accident. Higher management, depending on the seriousness of the event, will be involved in decisions on how to respond to emergencies.

Accidents and incidents

There are procedures for operators on how to deal with accidents and incidents. Operators are required to notify IGAOT when an accident or incident takes place. The forms are available on the IGAOT website.

Filled in forms are stored in a shared folder with the Inspection Units. The information in the forms is used for the Risk Assessment tool and trends are analysed for workload planning. Differentiation, in the forms, is made between normal facilities and SEVESO sites (for SEVESO sites the form requires that the operator fills in more information). For SEVESO sites there is also a legal obligation to report accidents and incidents. The

definitions of what is classified as an accident or incident are stated in the internal procedures.

Procedures and working instructions.

The following work procedures are in place and were updated during 2009. The procedures are available on IGAOT's intranet and in a shared folder accessible by all inspectors.

- International Activity / IMPEL Coordination – includes the procedures about the participation and reporting in international meetings or IMPEL projects.
- Environmental Complaints Management – includes procedures on how to deal with the complaints and the complainants.
- Monitoring of the activity of the environmental inspection services – an internal procedure for monitoring reporting.
- Elaboration of the monthly inspection schedule for the three environmental services.
- Elaboration of the annual Inspection Plan and provisions for its revision. For the environmental inspection services it is established that the methodology of the Doing The Right Things Guidance book should be followed.
- Emergency Annual Schedule for the environmental inspectors – includes procedures about the elaboration of the schedule and its aim.
- Elaboration of Postal Notifications – including procedures on how and who does it as well as the procedures to draw the final conclusions.
- Maintenance and update of the Risk Analysis database (IPPC installations) - including the definition of the department responsible for that task (DPAI) and the procedures that have to be followed to perform it.
- Procedures detailing IGAOT's actions in cases of accidents and incidents – including the definition of accident and incident and the action to take upon each.
- Judicial Inquiry procedures in case IGAOT has to act as a criminal police authority.
- Internal Rules about using office cars and travelling within the national territory – includes all the procedures that have to be followed by the inspectors whenever they use an office car as well as the procedures on how to deal with accidents involving those cars.
- Internal classification of the complexity of IPPC activities (Risk Assessment table activity).
- Description of the Risk Criteria used in the Risk Analysis database.
- 'Precaution Measures' (mandate/administrative order) – describing the internal procedures and correspondent deadlines whenever a very serious environmental situation is verified which requires imposing urgent measures to the operator.
- An electronic procedure is being developed which will allow all the documents and internal processes to be circulated by electronic means to the competent departments/people (electronic work-flow procedure).
- A procedure is being developed for the certification of IGAOT's sampling of water, wastewater and acoustic measurements.

There is a “complaint book (named yellow book)” for inward complaints from operators and stakeholders (this complaint book is obligatory for every public service).

Handbook for inspections and enforcement

The following handbooks and checklists are in place and available for inspectors:

- Guidance about environmental inspections.
- SEVESO Inspection Guide.
- Several checklists to verify safety issues of inflammable substances/liquids, liquefied gases and storage tanks of explosive substances.
- Guidance about the methodology of performing noise measurements.
- Thematic studies about certain industrial sectors or activities with environmental impact.

Qualification of staff

Inspectors are evaluated each year by their Head of Unit. This is a legal requirement for all civil servants. Besides the environmental objectives, the following personal qualifications, skills and experiences are required for inspectors:

- Be able to deliver results and achieve personal objectives set by IGAOT.
- Possess a public service ethos.
- Planning and Organisation.
- Ability to analyse technical information.
- Specialised knowledge and experience.
- Continuous improvement and flexibility to adapt to new or unexpected situations.
- Quality and innovation.
- Good resources management.
- Responsibility and commitment to public service.
- Good relationship with other people.
- Communication skills.
- Team spirit and willingness to cooperate.
- Ability to deal with stress, pressure and setbacks.

All inspectors have a University degree.

New inspectors are recruited according to the following rules:

- There is a legal basis to recruit new inspectors.
- The approval after specific training which takes place during a probationary time period (minimum 6 months training).
- During the first year the new inspectors undertake joint inspections with senior inspectors to learn how to perform an environmental inspection.

For all inspectors the following ethics are applicable:

- Law concerning inspectors ethics.
- Team work to prevent ‘issue blindness’.
- Quality of inspection reports supervised by the Heads of Unit.

- Confidentiality obligation.
- By law the following restrictions apply. All inspectors cannot:
 - Inspect installations where relatives work.
 - Inspect installations where they had worked at least three years before joining IGAOT.
 - Accept free or paid accommodation in establishments owned by the inspected company.
 - Begin working at a company they have previously inspected for a period of at least two years.

Training

IGAOT identifies the individual training needs of its staff at the beginning of each year. This way training and its related costs can be included in the budget proposal of the annual activity plan to be agreed by the Inspector General. Management promotes special training on the identified issues and keeps a record of each inspectors training.

Staff exchange between for example, APA and IGAOT, seems difficult because of legal constraints though it does occasionally occur.

Dissemination and exchange of information

The Heads of Unit play an important role in the dissemination of information to the inspectors. For example, for each new law or regulation, an abstract is provided to the inspectors by the Head of Unit. Furthermore the Heads of Unit offer practical guidance and advice on the legal obligations that have to be checked by the inspectors.

External guidance and support

The following overview gives a list of guidance and support that IGAOT uses or receives from (international) partners:

- IMPEL guidance about certain activities (e.g. tanning, cement, pig farming).
- BREF's.
- Advice and technical support given by the Netherlands under the Bilateral Cooperation Protocol with Portugal (year 2009), including REACH, IPPC and Spatial Planning.
- Training on REACH enforcement given by Dutch experts (networking contacts achieved through Forum REACH).
- Participation in the TWG2 (advisory body and working group of Major Accident Hazards Bureau focusing in SEVESO enforcement).
- A joint training session at the Health and Safety Executive (UK) about the human factors in SEVESO inspections is being outlined so that it can be held next year.
- Participation in Mutual Jointed Visits as part of SEVESO in Norway.
- Participation in the seminars about industrial accidents (IMPEL project: *Lessons learnt from accidents*).

- In case there is lack of guidelines and norms for a certain component, IGAOT makes use of information it can find in other countries. For example, for soil and groundwater limit values norms have been used from Canada (Ontario norms) and The Netherlands.

3. Execution and reporting

Objective

Find out how routine and non-routine inspection activities are carried out and reported and how data on inspections carried out, their outcomes and follow-up is stored, used and communicated.

Overview

Inspections, reports and notice of violation

All inspection activities are unannounced except for some of the SEVESO inspections. IGAOT also inspect sites that do not have a permit.

IGAOT do not use warning letters. They issue a notice of violation whenever a non-compliance is identified. After a notice of violation is issued and notified to the operator, the operator has 10 days to respond. When operators do not comply after a notice of violation has been issued, IGAOT has the authority to take the necessary enforcement measures. When a notice of violation is issued the operator receives the report jointly with the notification of the violation. Otherwise, the report is sent to the operator as soon as it is concluded (and approved by management level).

IPPC inspection reports are sent to APA. SEVESO inspection reports are sent to APA, ANPC, the municipalities and the Permitting Authority for the activity. Whenever CCDR and ARH had asked for IGAOT's cooperation to enforce a certain company the inspections reports are also sent to those authorities.

The reports include a lot of information, for example, all the observations during the inspection (compliance and non compliance) and the promotion of best practices are recorded. The review team noted that the time spend in writing an inspection report was disproportionate in relation to the time taken to conduct the inspection itself. The review team suggests IGAOT change the procedure for writing inspection reports.

SEVESO accidents

After a SEVESO accident occurs a working group with representatives from APA, ANPC and IGAOT is formed to analyse the causes and consequences of the accident. The working group also decides whether the accident has to be reported to the European Commission. Figure 3 elaborates the process.

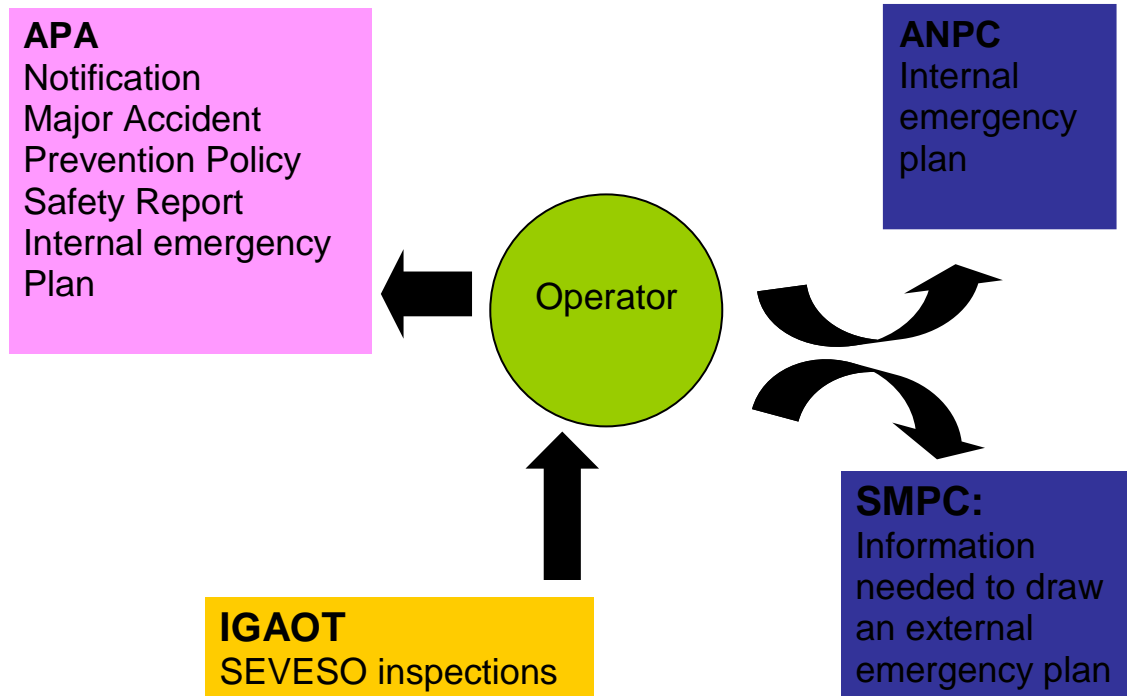


Figure 3

Data management

As mentioned in the section about describing the context, IGAOT stores its data in GESTIGAOT. The database includes:

- Inspections reports.
- Notices of Violation.
- Notices of Sampling.
- Record of all the activities that is known by IGAOT.
- Prosecution processes.
- List of infringements. DPAI keeps the data updated.
- Link to the environmental permits.
- Link to GIS.

The data in GESTIGAOT is used to make statistics and qualitative analysis of the content of the reports. GESTIGAOT gives access to digital information sent to IGAOT by the operator or other authorities.

The size of the fines depends on the applicable legislation and how serious the non-compliance is. There are three levels: less serious – serious – very serious, this classification is defined by law.

4. Performance monitoring

Objective

Find out how the environmental authority assesses its performance and the environmental and other outcomes of its activities.

Overview

Monitoring on environmental outcome (quality of environment) is done by the Head of Units of the three Inspection Services (A, B and C) and is based on the objectives that are defined in the Activity Plan.

Monitoring on output (amount/quantity of inspections) is done by DPAI comparing planned and actions carried out.

The monitoring reports of DPAI are made each quarter and include:

- Number of routine and non-routine inspection actions realised (going to the site), fulfilled (the site was not closed so the inspection could be done) and not fulfilled (the site was closed and so the inspection was not done)
 - By region
 - By environmental inspection service
 - By type of inspection
 - By economic activity
- Number of notices of sampling and violation issued by environmental inspection service
- Number of visits by inspector
- Number of visits to court by inspector
- Number of reports not yet approved by the head of unit.

Part D – Site visit

A site visit can be a useful way to confirm the Review team’s understanding of the regulatory system and work of the environmental authority. It is not compulsory and will add an extra ½ day to the review but previous reviews have shown it to be a useful addition.

Objective

To gain an understanding of the relationship between the environmental authority and industry and how this works in practice.

Overview

During the IRI no site visits were performed.

4. Summary of Findings

Good practice

The review team considers the following issues as good practice. In each section they are ranked in the order in which the review team consider to be important:

Part A

Regulatory framework

1. In the case of waste water IGAOT has the ability to charge the expenses of inspection work to the operator in cases where there is no permit or in cases where there is a breach of a condition in the permit. A methodology is developed to calculate these expenses.
2. When IGAOT issues a fine, a percentage of the collected fine goes to the Environmental Intervention Fund in case remediation of the site is necessary when a facility closes and there are no other financial or legal means to do it.
3. IGAOT uses IMPEL projects like Doing The Right Thing and bi-lateral cooperation with other EU member states (e.g. with the Netherlands) for the development of their organisation.
4. When there is a lack of guidelines or norms in Portugal, IGAOT uses limit values from other countries (e.g. soil and groundwater limit values from Canadian and Dutch)

Part C

Describing the context

1. IGAOT uses a Geographic Information System (GIS) for analysing, planning and prioritising inspections activities. The way information is gathered and used through GIS makes this a very strong tool.
2. IGAOT makes use of information from partner organisations to prioritise her work. For example the information from the E-PRTR database of the APA is used for the Risk Assessment tool of IGAOT.

Setting priorities

1. IGAOT developed an excellent and flexible risk assessment tool. The improvements that have been made in the tool are registered and have the formal approval of high level management.
2. The Risk Assessment tool is continuously updated after each IPPC inspection and through the E-PRTR report from the APA.
3. IGAOT uses creative solutions for human resource challenges. For example, the use of students to assist in the implementation of the risk assessment tool.

Defining objectives and strategies

1. The objectives and actions in the IGAOT's Action Plan 2009 are all linked to the strategies and policies that are defined by the Ministry of Environment. There is a logical order of sub-objectives that are focused and are clearly linked to the targets of the Ministry.
2. The objectives from the Activity plan are devolved down to the inspectors. This ensures a sense of ownership by the individual inspectors and the team and creates a 'line of sight' between corporate goals and individual inspectors' goals. The Head of Units frequently monitor whether objectives are being met.
3. Besides the objectives, the activity plan contains a list of criteria that is used to set priorities for the non-IPPC facilities
4. IGAOT uses the intervention strategy "Postal notifications" and "Sampling campaign". The first instrument targets a large number of operators at once and works efficiently and effectively. The second instrument helps to identify pollutants and assists enforcement actions by the evaluation of water quality.
5. IGAOT organises special task-force meetings for SEVESO to effectively exchange information with partner organisations.
6. IGAOT uses its website and the (IMPEL project) "Neighbourhood dialogue" to communicate with stakeholders. The website contains a wide range of documents.
7. IGAOT's Action Plan 2009 is publicly available through the website.

Planning and review

1. IGAOT seeks input to its Activity Plan from partner organisations like APA, ARH and CCDR.

Execution framework

1. IGAOT works with a central formalised screening and tracking database for complaints. The complaints process is very thorough. The procedure for complaining can be found on IGAOT's website.
2. For responding to accidents and incidents IGAOT installed a 24 h/365 days centralised service. IGAOT uses a classification for accidents and incidents that can be used to plan workload.
3. IGAOT makes good use of the department: "Supporting Inspection and Planning Department" (DPAI). This separate unit develops and maintains tools and helps the monitoring and output of inspection work.
4. Integrity and ethical rules for inspectors are stated in law and are clear for everybody. An example, inspectors cannot begin working in a company they have inspected for a period of at least 2 years after they leave IGAOT.
5. IGAOT has procedures in place that ensure knowledge gained through international projects/exchanges is captured and effectively disseminated to internal staff and related external organisations in Portugal.

6. IGAOT have identified key procedures. This is to make sure that procedures are not written for every process within their organisation.
7. IGAOT ensures new inspectors work through a minimum 6 months training period and undertake joint inspections for 12 months with senior inspectors. This encourages the principle 'learning by doing'. However there is a potential that this process consumes more staff resources.
8. Inspectors are annually evaluated by the Head of Unit (personal skills are based on the criteria set out by the Inspector General) and assessments are made on individual training needs.

Executing reporting

1. Inspectors enter the inspection findings directly into the GESTIGAOT database. This way reports are made in a consistent and efficient way without further bureaucracy. Quality assurance of inspection reports and notices of violations is done by management through the database.
2. IGAOT shares its inspection reports with partner organisations.

Performance Monitoring

1. There is a thorough performance monitoring system in place, that gives quarterly follow up of the output of the Inspection Services.

Opportunities for development

During the review a number of opportunities to further develop were identified. The review team does not consider all opportunities of equal importance; the list below is therefore divided into recommendations and considerations.

Part A

Regulatory framework

Recommendations

1. To explore the possibility of sharing information systems such as GIS or one central database with partner organisations like CCDR, APA and ARH.
2. To make more formal agreements on information exchange regarding annual environmental reports from companies with APA. It may improve IGAOT's capabilities if they were to receive a copy of this report as a matter of course.
3. To explore alternatives for further self funding to develop a stable financial income. For example to expand the financial possibilities of charging inspection activities to operators for other legislation.
4. To develop methods to get reliable data from self monitoring by operators. A good balance between monitoring by IGAOT and self monitoring by operators can reduce the costs of IGAOT.

5. To demonstrate a clear relationship between the available budget and the planned activities. Cuts in budget during the year should result in transparent and commensurate consequences for IGAOT's activities.

Considerations

1. To explore the legal possibilities of expanding the authorisation of the inspector so it will be possible for specialist to accompany an inspector on site (like in the Portuguese SEVESO law).
2. To explore the possibilities of further cooperation with local authorities.

Part B

Permitting

Recommendations

1. To make agreements and set procedures for the formal consultation of IGAOT in the permitting process of APA

Part C

Describing the context

Considerations

1. To explore the possibilities of the further use of environmental quality networks.

Setting priorities

Recommendations

1. To perform a risk assessment on a more general level. For example between different EC directives.
2. To use the ranking of the facilities that are just under the boundary of high and not high risk (these facilities will be inspected once every 3 year) for further prioritisation within the coming three years.
3. To not only allocate the initial inspection time but also the follow up time of inspections within the annual inspection plan.

Considerations

1. To evaluate if the current balance between routine and non-routine inspections (90% and 10%) is workable for IGAOT. The average balance that is used in the EU Member States between routine and non-routine is around 70% and 30% .
2. To make the outputs to the Risk Analysis tool publicly available.

Defining objectives and strategies

Recommendations

1. The define multi annual objectives with annual sub objectives and targets that lead to the multi annual objectives.

2. To define an inspection strategy with different types of interventions. An intervention strategy could, for example, include compliance assurance or changing the focus of a site inspection based on the outcome of the risk assessment (e.g. when inspecting a high risk IPPC installation focus the yearly inspection on the environmental aspects that scored high in the risk assessment and inspect the environmental aspects that scored low every 3 year for that same installation).

Considerations

1. To explore the use of industrial associations for reaching the target groups of IGAOT.

Executing reporting

Recommendations

1. To develop procedures that will ensure inspection reports are drafted in a more efficient way. For example, operators only receive inspection reports which describe in detail the non-compliances and in general terms the other observations (e.g. the compliances and issues from previous reports). Any other data can be stored in an extra remark field that will not be included in the report.

Considerations

1. To use a disclaimer in the inspection reports that an inspection does not mean that everything has been checked and that the operator is in full compliance with the permit. An inspection should be seen as a check in a given moment of time and responsibility to comply to the legislation will at all times be with the operator.

Performance monitoring

Recommendations

1. Analyse the trends of compliance (using the infringement statistical data of GESTIGAOT) to define objectives and intervention strategy.
2. Final decisions of court judgements analysed and explore relations and understanding with public prosecutor. For example, joint training sessions.

5. Conclusions

The review team considers that the objectives of the area of EC environmental law within the scope of this review of IGAOT are being delivered in Portugal. Furthermore the arrangements for environmental inspection and enforcement are broadly in line with the RMCEI.

Overall the review team is impressed by the range of instruments and provisions that IGAOT has developed over the last few years. This has significantly helped IGAOT in the process of professionalization to which it is strongly dedicated. IGAOT has shown that a relatively small inspection organisation can achieve major improvements and may serve as an example for inspection organisations with a similar size and scope of work.

There is a clear 'line of sight' linking the annual targets of the Ministry right down to individual inspectors. This clearly defines the organisation's targets for that year and many of the targets are devolved down to inspectors. This encourages 'ownership' of an environmental challenge/threat. Furthermore, IGAOT's Activity Planning also includes problem solving objectives and this specifically achieves targeted environmental outcomes. To assist this work planning further, IGAOT could consider using multi-annual objectives to monitor the development and sustained impact of an environmental improvement over a longer period of time.

Portugal's IGAOT is employing cutting edge IS systems to improve the effectiveness of its planning, inspection and enforcement of environmental legislation. The extensive use of Geographic Information Systems (GIS) is a modern, fit for purpose, approach to targeting IGAOT's resources. The GESTIGAOT database is also very commendable and enhances the efficiency of IGAOT. To build on these strong developments in Portugal, a link or interface between the IS systems of IGAOT, APA, CCDR and ARH could yield even more impressive results and lead to improved coordination and targeting of resources.

IGAOT also uses GESTIGAOT to increase the harmonisation of its inspection reporting. Inspectors do this by inputting data in a consistent way, directly into the GESTIGAOT database, and thereby reducing bureaucracy. To improve upon this, IGAOT could consider ways to make inspection reporting more efficient, for example, by recording only non-compliances or by inspecting a limited number of permit conditions and therefore targeting an installations area of greatest concern.

This report has suggested recommendations which could deliver tangible benefits to the organisation and highlighted elements of good practice which the review team hopes IGAOT can continue to do develop in the future.

6. Lessons learned from the Review Process

The following observations may be helpful for the organisation and conduct of future IRI Reviews:

- The value of the pre-review meeting, and of having information about institutional and legal matters well in advance of the review, was very useful.

The newly developed, shorter IRI questionnaire functioned well in general. The incorporation of the Environmental Inspection Cycle from the Doing the right things Guidance Book helped structure the discussions. This is valuable input for producing the final IRI questionnaire within the framework of the review of the IRI.

- There was an active participation of all the review team members. This contributed to getting a full, balanced picture.
- It is important for review team members to have a helicopter view. They should be able to put themselves in the position of the organisation which is being reviewed. Review team members should ask for the reasons or motives behind organisational structures rather than trying to obtain very detailed information.
- Presentations given by the host are good for structure and should be encouraged for the future.
- The review team leader led the discussions and frequently summarised the areas of good practice and opportunities for development. He acted first and for all as panel chairman, encouraging and stimulating all other review team members to actively take part in the discussions. This practice should be encouraged.
- Copies of any presentations are invaluable to the rapporteur.
- The involvement of the next member state, in this case Slovenia, to perform an IRI was very useful. This enabled the group to openly discuss ways to improve the IRI process and provided the opportunity for the member state in question to raise issues and understand what would be required during their IRI.

7. Appendices

- Annex 1** Terms of Reference for Test of the Reviewed IRI Scheme on IGAOT
- Annex 2** Division of industrial sectors per Inspection Service
- Annex 3** Ministry for Environment, Spatial planning and Regional Development organisational structure
- Annex 4** List of legislation IGAOT is responsible for to enforce
- Annex 5** List of IPPC installations per category
- Annex 6** List of issues on the website of IGAOT

TERMS OF REFERENCE FOR IMPEL PROJECT

No	Name of project
	Test of the Reviewed IRI Scheme on the Portuguese Environmental and Spatial Planning General Inspectorate (IGAOT)

1. Scope

1.1. Background	
	<p>The Recommendation of the European Parliament and of the Council providing for minimum criteria for environmental inspections in the Member States (2001/331/EC) (RMCEI) says in recommendation III (4).</p> <p style="text-align: center;"><i>“In order to promote best practice across the Community, Member States may, in co-operation with IMPEL, consider the establishment of a scheme, under which Member States report and offer advice on Inspectorates and inspection procedures in Member States, paying due regard to the different systems and contexts in which they operate, and report to the Member States concerned on their findings.”</i></p> <p>IMPEL was willing to take this forward and to foresee the eventual need for arrangements to review implementation of such recommendations and proposes a voluntary scheme for the purpose.</p> <p>The potential benefits of this scheme include:</p> <ul style="list-style-type: none"> • Encouragement of capacity–building in EU Member State inspectorates. • Encouragement of further collaboration between EU Member State inspectorates on common issues or problems, on exchange of experience and on development and dissemination of good practice in environmental regulation. • Provision of advice to candidate inspectorates who may be seeking an external view of their structure, operation or performance by trusted, knowledgeable and independent counterparts for the purpose of benchmarking and continuous improvement of their organisation. <ul style="list-style-type: none"> • <i>The spread of good practice leading to improved quality of inspectorates and inspections, and contributing to continuous improvement of quality and consistency of application of environmental law across the EU.</i> <p>The Helsinki Plenary Meeting of IMPEL, in December 1999, requested that proposals be drawn up for “a voluntary scheme for reporting and offering advice on inspectorates and inspection procedures” (the “scheme”). This was against the background of preparation of a European Parliament and Council Recommendation on Providing Minimum Criteria for Environmental Inspections in the Member States and the expectation that further recommendations would follow on Minimum Criteria for Inspector Qualifications and for Inspector Training.</p>

	<p><u>In March 2001 the IRI Working Group finalised a proposal for the voluntary scheme and sought candidate Inspectorates to undertake the review process. The “IRI Review Guidance and Questionnaire” was approved at the IMPEL Meeting at Falun in June 2001.</u></p> <p><u>Since than IRI’s have been executed in Germany, Ireland, Belgium, the Netherlands, Spain, Sweden, Scotland and Norway.</u></p> <p><u>Based on the experience of these IRI’s two evaluations of the IRI scheme were carried out. The last one took place in May 2008. This evaluation led to the conclusion that an IRI can be a very valuable instrument to show that the inspectorate is working according to EU Recommendation on Minimum Criteria for Environmental Inspections and that the questionnaire can be adapted to the renewed RMCEI. It was also suggested that the IRI Scheme should provide for possibilities for tailored made reviews to suit the specific needs of the host with regard to for instance the scope of the review (focus on specific topics) and translation arrangements. It was suggested to design one ‘basic’ review, derived from the RMCEI as the “standard option”, with optional components to broaden the survey if so requested.</u></p> <p>In the summer of 2008 the Portuguese Inspectorate has started a project covering a number of activities with the aim of further improving the implementation of Recommendation 2001/331/EC. A key element of the project is the further development of a risk based planning of environmental inspections of IPPC installations, taking into account the criteria in the RMCEI and the IMPEL Guidance book on inspection planning “Doing the right things”. An IRI, carried out in the second half of 2009, which would focus on these areas would in particular help the Portuguese Inspectorate to monitor the progress made and evaluate the outcomes of the project.</p>
<p>1.2. Link to MAWP and IMPEL’s role and scope</p>	<p>ART 3.3.2 OF MAWP 2007-2010, AMONG THE KEY PRIORITIES AND LEGISLATIVE AREAS OF IMPEL ACTIVITIES MENTIONS THAT :</p> <p>“IMPEL’s key priorities for the period 2007 – 2010 are to continue the work on the tasks given to IMPEL by the Recommendation on Minimum Criteria for Environmental Inspections (RMCEI) and to fulfil its mandate under the 6th Environment Action Programme (6th EAP). “</p>
<p>1.3. Objective (s)</p>	<p>To undertake an IRI review of the Portuguese Inspectorate as described under point 1.2.</p> <p>The benefits of the project are:</p> <ol style="list-style-type: none"> 1. The inspectorate will benefit from an expert review of its systems and procedures with particular focus on conformity with the RMCEI. 2. The participants in the review team will broaden and deepen their knowledge and understanding of environmental inspection procedures. 3. Other Member States will benefit through the dissemination of the findings of the review through the IMPEL network. <p>The inspectorate will in particular benefit from an expert review of the risk based planning of the IPPC installations which is currently</p>

	developed taking into account the criteria in the RMCEI and the IMPEL Guidance book on inspection planning “Doing the right things”
1.4. Definition	<p>The IRI would focus on The RMCEI IPPC and Seveso processes and – where relevant - other industrial process falling under the RMCEI. This particular IRI would include the following aspects:</p> <ul style="list-style-type: none"> • The legal and constitutional setting of the inspectorate, including interfaces with other bodies such as environmental regional services (CCDR/ARH) and environmental brigade of the police, and its related powers and duties. • Structure and managerial organisation, including funding, staffing and lines of authority and responsibility for regulatory and policy functions. • Workload, in terms of numbers of IPPC processes and Annex 1 category. • Qualifications, skills and experience of inspection staff. • Procedures for the execution and reporting of routine and non-routine inspections. • Procedures for assessment of training needs and provisions for training and maintaining current awareness. • Procedures, criteria and guidance for the development and revision of inspection plans and inspection schedules. • Setting the priorities for IPPC installations: the evaluation aspects, the risk assessment and classifications of risk. • Performance monitoring: Evaluation of the output and – where feasible - environmental outcome of inspection activities, The arrangements for internal assessment of the quality of inspection performance and for improvement if appropriate. • Arrangements for reporting on inspectorate activities. <p>It is also envisaged that assessment of implementation of above systems be conducted during the review. This will facilitate the identification of both “good practice” and “opportunities for development” by the review team. The assessment may involve examination of documentation related to the inspection of a number of IPPC permitted facilities.</p> <p>Taking the existing IRI questionnaires as a starting point, a review questionnaire will be developed prior to the review, which suits the need of this particular IRI. The development of this questionnaire will take place in close cooperation with the team of the IRI Review Project.</p>
1.5. Product(s)	<p>In addition to the benefits listed in Section 1.1, tangible products will include:</p> <ul style="list-style-type: none"> • A written report of the review for the Portuguese Inspectorate. • Relevant extracts from the review report, as agreed with the Portuguese Inspectorate, for dissemination to IMPEL members and the EC; this will include material which might be considered for incorporation in the Guidance, Education and Training Schemes of other Member States Inspectorates.

2. Structure of the project

2.1. Participants	The review team will consist of a review team leader, a review team secretary and 5 other experts from different Member States. The nomination of the team members will be decided upon in agreement with the Portuguese Inspectorate. The review team will work closely together with the project manager and assistant project manager of the Portuguese Inspectorate, Isabel Santana and Paula Matias.
2.2. Project team	See 2.1
2.3. Manager Executor	Isabel Santana (project manager) and Paula Matias (assistant project manager). It is proposed that the review takes place in Lisbon in the autumn of 2009 and that the final report will be submitted for approval to the Spring 2010 IMPEL General Assembly meeting. A pre-meeting is planned to take place in Lisbon in May 2009.
2.4. Reporting arrangements	The results of the Review will be reported by the project manager and a report will be submitted to the General IMPEL Assembly for approval.
2.5 Dissemination of results/main target groups	<p><i>Target audience</i></p> <ul style="list-style-type: none"> - IMPEL members - The Portuguese IGAOT <p><i>Dissemination of the result of the project</i></p> <p><i>IMPEL:</i> The report will contain recommendations on its dissemination and follow up</p> <p><i>Portugal:</i> The report will be available at IGAOT website</p>

3. Resources required

3.1 Project costs and budget plan

If possible this project will ask for funding from IMPEL, otherwise its costs will be covered by the Portuguese Inspectorate.

The project will include the following steps and events;

- A preparatory meeting of the review team to discuss the review questionnaire and the preparation of the organisation of the review.
- A pre-meeting of the Review Team Leader and the Review Rapporteur with the Portuguese contact persons to finalise the organisation, scope and timing of the review.
- Preparation of information on the Portuguese Inspectorate and its activities by the Portuguese contact persons (after a previous contact with the Review Team Leader in order to establish the relevant and needed information) and circulation to Review Team members.
- Review to take place over a period of 4 Days, including one evaluation/training day at the end (and in addition to this travelling days).
- A meeting of the Review Team Leader and the Review Rapporteur with the Portuguese contact persons to discuss the draft review report.

Meetings and written documents will be conducted in English and no interpretation is required.

	Year1	Year2
<i>1. Overhead (organisation) cost (€) :</i>		
<i>2 Project meeting costs (€)</i>		
<i>One Project Team Meeting (Lisbon) 1¹</i>		
No of Participants:6		
Travel ²	3000	
Accommodation ³	900	
Catering:	Provided by Portugal	
Meeting venue:	Provided by Portugal	
<i>Two Meetings Team leader and Team secretary with Portuguese project leader (Lisbon)</i>		
No of Participants:2		
Travel:	2000	
Accommodation:	600	
Catering:	Provided by Portugal	
Meeting venue:	Provided by Portugal	
<i>One Review Meeting (Lisbon)</i>		
No of Participants:6		

	Travel:	Provided by MS	
	Accommodation:	Provided by Portugal	
	Catering:	Provided by Portugal	
	Meeting venue:	Provided by Portugal	
	3. Other costs (€):		
	Consultant:		
	Translation:		
	Dissemination:		
	Other (specify):		
TOTAL cost per year €			
TOTAL project cost €			
¹ specify, like Review Group Meetings, Workshop, etc ² normative: €500/person ³ normative: € 150/person/night			
3.2. Fin. from IMPEL budget	2. Project meeting costs (€):	€ 6500	
3.3. Co-financing by MS (and any other)	1. Overhead costs (€): as co-financing contribution, committed by...(name of institution).....		
	3. Other costs (€): as co-financing contribution, committed by...(name of institution).....		
3.4. Human from MS	None required.		

4. Quality review mechanisms

Progress monitoring and quality assessment will be carried out by IMPEL Cluster 1. Cluster 1 will appoint a contact person for this project.

5. Legal base

5.1. Directive/Regulation/Decision	The European Parliament and Council Recommendation on Providing Minimum Criteria for Environmental Inspections in Member States (2001/331/EC).
5.2. Article and description	Recommendation 2001/331/EC is a substantial element of IMPEL's MAWP.
5.3 Link to the 6th EAP	ART 3.3.2 OF MAWP 2007-2010, AMONG THE KEY PRIORITIES AND LEGISLATIVE AREAS OF IMPEL ACTIVITIES MENTIONS THAT : "IMPEL's key priorities for the period 2007 – 2010 are to continue the work on the tasks given to IMPEL by the Recommendation on

	Minimum Criteria for Environmental Inspections (RMCEI) and to fulfil its mandate under the 6 th Environment Action Programme (6 th EAP). “
--	--

6. Project planning

6.1. Approval	<i>By written procedure so that project can be added to the 2009 work programme in time for submitting it together with the IMPEL LIFE+ grant application in Mid November 2008</i>
(6.2. Fin. Contributions)	
6.3. Start	Work on composing the Review Team and developing the questionnaire can commence after approval. The review itself is planned for autumn 2009 with a pre-review meeting to be held on May 2009.

Annex 2

Division of industrial sectors per Inspection Service

Inspection Service A (SIA) (7 inspectors)

- Mineral Industry
- Waste Management
- Health Services
- Airports
- Harbours
-

Inspection Service B (SIB) (11 inspectors)

- Energy Industry
- Production and processing of metal
- Chemical Industry
- Paper and pulp paper industry
- Foundries
- Refineries
- Textile
- Coating activities
- SEVESO sites

Inspection Service C (SIC) (12 inspectors)

- Food industry
- Treatment of animal and vegetable matter
- Intensive farming
- Urban WWTP
- Water treatment plants

Annex 3

Ministry for Environment, Spatial planning and Regional Development organisational structure.

- Direct State Administration
 - IGAOT (Environmental and Spatial Planning General Inspectorate)
 - APA (Environmental Portuguese Agency)
 - 5x CCDR (Regional Development and Coordinating Commission: North, Centre, Lisbon and Tejo Valley, Alentejo and Algarve)
 - Secretariat General
 - DPP (Department for Perspective, Planning and International Relations)
 - DGOTDU (Directorate General for Spatial Planning and Urban Development)
 - IGP (Portuguese Geographical Institute)

- Indirect State Administration
 - 5x ARH (River Basin Boards: North, Centre, Lisbon and Tejo Valley, Alentejo and Algarve)
 - IA (Water Institute)
 - ICNB (Nature, Conservation and Biodiversity Organisation)
 - ERSAR (Regulatory Waste Water Services)
 - IHRU (Institute for Housing and Urban Regeneration)
 - IFDR (Financial Institute for Regional Development)

Annex 4

List of legislation IGAOT is responsible for to enforce

- IPPC Directive
- SEVESO Directive
- LCPD Directive
- Water Framework Directive
- Urban Waste Water Directive
- Water Protection from Nitrate Pollution Directive
- Waste Framework Directive
- Air Quality Framework Directive
- Ozone Depleting Substance Regulation
- VOC's Directive
- Paint and Refurnishing Vehicle Directive
- NEC Directive
- GHG European Trading Scheme Directive
- REACH Regulation
- CLP Directive
- EIA Directive
- Agriculture use of Sludge (from wastewater plant) Directive
- POP Regulation
- ELV Directive
- Cells and Accumulators Directive
- Landfill Directive
- GMO Directive
- TFS Regulation
- Incineration and Co-incineration Waste Directive
- PCB's Directive
- WEEE Directive

Annex 5
List of IPPC installations per category

IPPC category	Nr of installations
1.1	20
1.2	2
2.2	2
2.3	7
2.4	10
2.5	16
2.6	67
3.1	12
3.3	8
3.4	3
3.5	62
4.1	26
4.2	12
4.3	2
4.5	3
4.6	2
5.1	25
5.2	1
5.3	2
5.4	49
6.1	27
6.2	26
6.4	104
6.5	8
6.6	205
6.7	26
Total	727

Annex 6

List of items on the website of IGAOT

- Activity plan and activity report.
- Environmental Inspection guidance and SEVESO Inspections Guidance.
- Procedures to follow in case of accidents/incidents.
- The list of the accidents/incidents occurred in 2007 and 2008 (without the identification of the operator).
- Link to the SOS environmental call number and SOS environmental electronic form (managed by SEPNA).
- Toolkit with the steps to establish and conduct a neighbourhood dialogue in case of environmental conflicts.
- List of the relevant environmental and spatial planning.
- Link to the European Legislation site (Euro-Lex) and to the website of the international conventions and protocols.
- RMCEI (Recommendation of the Minimum Criteria for environmental Inspections).
- Thematic Studies carried out by inspectors in 2004 and 2005.
- Procedures to follow by the complainers. Links to the other environmental authorities.
- Contacts and links of the other environmental authorities (SEPNA, CCDR, municipalities).
- Information about our mission, our competences and our personnel (with organigramme).
- Annual strategic and operational objectives and targets (regarding efficiency, quality and effectiveness)