



Annexes

*A SURVEY ON PRACTITIONERS' VIEWS ABOUT THE IMPLEMENTATION CHALLENGES WITH
EU ENVIRONMENTAL LEGISLATION, THEIR UNDERLYING REASONS AND WAYS TO
IMPROVEMENT: 2017*



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Annex I: Terms of Reference

TOR Reference No.: 2017/27

Author(s): Kristina Rabe

Version: 2

Date: 18/11/2016

TERMS OF REFERENCE FOR WORK UNDER THE AUSPICES OF IMPEL

1. Work type and title

1.1 Identify which Expert Team this needs to go to for initial consideration

- | | |
|--|-------------------------------------|
| Industry | <input type="checkbox"/> |
| Waste and TFS | <input type="checkbox"/> |
| Water and land | <input type="checkbox"/> |
| Nature protection | <input type="checkbox"/> |
| Cross-cutting – tools and approaches - | <input checked="" type="checkbox"/> |

1.2 Type of work you need funding for

- | | |
|-----------------------------------|-------------------------------------|
| Exchange visits | <input type="checkbox"/> |
| Peer reviews (e.g. IRI) | <input type="checkbox"/> |
| Conference | <input type="checkbox"/> |
| Development of tools/guidance | <input type="checkbox"/> |
| Comparison studies | <input type="checkbox"/> |
| Assessing legislation (checklist) | <input checked="" type="checkbox"/> |
| Other (please describe): | <input checked="" type="checkbox"/> |
| | <input checked="" type="checkbox"/> |

A 2014 survey on causes for implementation challenges will be repeated, its improved questionnaire providing a structure for systematic recording. The data collected should show trends/ developments in the past 3 years

1.3 Full name of work (enough to fully describe what the work area is)



A survey on practitioner's views about the implementation challenges with EU Environment legislation, their underlying reasons and ways to improvement.

1.4 Abbreviated name of work or project

Implementation Challenge 2017

2. Outline business case (why this piece of work?)

2.1 Name the legislative driver(s) where they exist (name the Directive, Regulation, etc.)

Improving implementation has been a key priority for the European Commission for some time. Compliance promotion and a reduction in infringements of EU Environmental Law are key to achieve improved implementation. The importance of better implementation has been highlighted again recently by the Commission's Communication of May 2016 on regular Environmental Implementation Reports, as well as in the 7th EAP which sets the framework for EU Environment Policy until 2020 and in several other communications on improving implementation of EU Environment law in the past years. Commission's communication of 2012 suggested that failure to fully implement environment legislation cost the EU around €50 billion every year in health costs and direct costs to the environment. Improved implementation will not only protect human health and the environment but also contribute to creating a level playing field for industry across EU Member States, aid job creation and support resolution of trans-national environmental issues. Identifying practical obstacles to implementation and eliminating them can reduce administrative burdens and reduce costs of implementation.

IMPEL can make an important contribution by regularly monitoring implementation gaps and its causes from the viewpoint of practitioners in environmental authorities. The network also has an important role to play in identifying possible remedies and developing as well as publicizing practical approaches, which can contribute towards closing these gaps.

2.2 Link to IMPEL MASP priority work areas

1. Assist members to implement new legislation
2. Build capacity in member organisations through the IMPEL Review Initiatives
3. Work on 'problem areas' of implementation identified by IMPEL and the European Commission

2.3 Why is this work needed? (Background, motivations, aims, etc.)

Many discussions have been held about the implementation challenges relating to EU Environment Legislation on a European and MS level. The 7th EAP has highlighted this as one of the key issues to improve across Europe. The European Commission has now worked out individual "Environmental Implementation reviews" for each Member State, in which strengths and weaknesses in environmental implementation on the national and regional level are mapped out. The survey



planned as core instrument for this project may also be used by interested Member States to check for facts, reasons and possible remedies for gaps identified in its EIR and may provide additional useful information for national or regional dialogues in this context.

IMPEL will gain additional insight on where and how to best focus its efforts to help improving implementation.

By repeating the survey on implementation gaps and possible remedies of 2014, this project may also gather information on trends and developments, contributing as such to the evidence base for policy makers.

2.4 Desired outcome of the work (what do you want to achieve? What will be better / done differently as a result of this project?)

Identify implementation challenges faced by IMPEL Members in 2017 and compare them to information gathered in 2014 as well as more recent data. Administrations and Member States that apply the questionnaire should gain an overview on their individual implementation challenges and collect ideas and views on possible remedies.

IMPEL should use the data and its comparison to data from 2014 and later to adjust the focus of its work programme on key issues, identify trends and developments and support proliferation of the best remedies against those challenges the network can influence.

2.5 Does this project link to any previous or current IMPEL projects? (state which projects and how they are related)

This work directly links to the Implementation Challenge project in 2014/2015, as well as to previous work done by the IMPEL Task Group and previous work done for the Multi Annual Strategic Work Programme (MASP).

3. Structure of the proposed activity

3.1 Describe the activities of the proposal (what are you going to do and how?)

- 1. Desk Top Exercise** – review key documents with information on implementation challenges, like the Environmental Implementation Reports (to be published beginning of 2017) and any related synthesis reports of the Commission (expected for 3/17). **To be conducted by the project team.**
- 2. Questionnaire/Interviews** – The questionnaire has been improved after a first round. Its basic features will not be changed in order to conserve comparability of 2014 – data and data collected under this project. This time it will be translated into as many languages as possible to facilitate participation on the regional/local level. It will be communicated to the IMPEL national coordinators, asking them to spread it nationally to practitioners of environmental authorities working in the field. If necessary, supplementary interviews will be carried out.



3. The documents mentioned above – and any other pertinent documents brought to the attention of the project team - will be checked on whether they suggest additional reasons for implementation challenges.
4. **The Analysis** of questionnaire responses and their comparison with the abovementioned documents and interviews will identify key implementation challenges and their developments/trends as well as possible remedies. It should also help focus further activities of the IMPEL Network and identify key issues of collaboration between the IMPEL and other key European Networks such as the Heads of EPA network/ENCA/Prosecutors Network. **To be developed by the consultant in dialogue with the project team.**
5. **Mini-Workshop** - to share results of poll and analysis and to further discuss interpretation on trends, remedies and appropriate focus for IMPEL activities. **To be integrated in the Autumn Cross Cutting ET/Mini conference meeting.**
6. **IMPEL Engagement** – Discussions of preliminary results to be held at the Cross-Cutting Expert Team and proposed also for the other ET meetings in autumn 2017.
7. **Report writing** – The report will be prepared by the consultants along the lines determined by the project team. The project team will act as a sounding board to ensure the report is fit for purpose.
8. **IMPEL approval** – at the General Assembly 2017

3.2 Describe the products of the proposal (what are you going to produce in terms of output / outcome?)

A report highlighting key implementation challenges, trends, developments and relation to other data identifying implementation challenges and potentially their causes; e.g. as reported in the EIRs and related synthesis; as well as consequences for future activities of the IMPEL Network.

Identify common grounds in problems and challenges with implementation across the EU and identify groups of countries with similar problems to identify where there is potential for IMPEL to help sharing knowledge and best practise to improve compliance.

3.3 Describe the milestones of this proposal (how will you know if you are on track to complete the work on time?)

Overview of planned activities (preparation of the project, project phase and reporting to IMPEL):

1. Translation of the questionnaire in as many members' languages as possible (a.s.a.p.)
2. Engaging Consultants – until February
3. Analysis of EIRs, synthesis report and other pertinent docs, - until end of April
4. Circulate and recollect questionnaire & carry out interviews - in dependence of available translation until > first half of June
5. Response analysis – second half of June/July
6. Draft Information/discussion paper for IMPEL Expert Teams – >first half of September
7. Discussion in all Expert Teams – comments, critiques, amendments – mid October
8. Final Analysis, comparison with 2014, draft report - >first week of November



9. Report to GA – December

3.4 Risks (what are the potential risks for this project and what actions will be put in place to mitigate these?)

1. Tight timescales for delivery – this will be managed by recruiting additional team members to the project team and by engaging a consultant to support the team.
2. Reluctance of national experts to uncover existing difficulties/implementation issues in their national administration for fear of ‘blame and shame’ or infringement procedures. Clear assurances will be given to all national coordinators and in the questionnaire that questionnaire responses will be anonymous, that responses will be treated confidentially and that findings reported will not be linked to individual authorities or Member States. Furthermore, possible synergies will be pointed out with national and regional survey and/or dialogue activities (e.g. in the context of national EIRs).
3. Low return rate in several member states because of limited readiness/capability to work with questionnaire in English. Efforts will be undertaken to find “in kind translation” support to provide for translated questionnaire versions for as many member’s languages as possible.

4. Organisation of the work

4.1 Lead (who will lead the work: name, organisation and country) – this must be confirmed prior to submission of the TOR to the General Assembly)

Simon Bingham

4.2 Project team (who will take part: name, organisation and country)

1. Kristina Rabe (Germany)
2. To be identified
3. To be identified
4. To be identified
5. To be identified

4.3 Other IMPEL participants (name, organisation and country)

IMPEL Members participating in the mini-workshop at ET Crosscutting 2017/II

4.4. Other non-IMPEL participants (name, organisation and country)



5. High-level budget projection of the proposal. In case this is a multi-year project, identify future requirements as much as possible

	Year 1 (exact)	Year 2	Year 3	Year 4
How much money do you require from IMPEL?	2.300 €			
How much money is to be co-financed	10.000 €			
Total budget				

6. Detailed event costs of the work for year 1

	Travel € (max €360 per return journey)	Hotel € (max €90 per night)	Catering € (max €25 per workshop-day)	Total costs €
<u>Event 1</u> <i>Mini-Workshop b2b2 ET XC</i> <i>Autumn</i> <i>20 participants</i>		1.800,-€	500,-€	
<u>Total costs for all events</u>		1.800,-€	500,-€	2.300,-

7. Detailed other costs of the work for year 1

7.1 Are you using a consultant?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
7.2 What are the total costs for the consultant?	Estimated at €10,000	
7.3 Who is paying for the consultant?	Germany	



7.4. What will the consultant do?	<p>Prepare the poll with the reviewed questionnaire and recollect the answers through suitable electronic providers (like e.g. lime survey). Analyse and compare responses.</p> <p>Prepare documentation of results and draft report for the mini-workshop and the information of all IMPEL Expert teams to support discussion of the draft outcome of the research and the project report.</p>
7.5 Are there any additional costs?	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Namely:</p>
7.6 What are the additional costs for?	<p>N/A</p>
7.7 Who is paying for the additional costs?	<p>N/A</p>
7.8. Are you seeking other funding sources?	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Namely:</p>
7.9 Do you need budget for communications around the project? If so, describe what type of activities and the related costs	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Explanation: to ensure a broad distribution and a good return quota, the questionnaire should be translated in as many member's languages as possible. The project team will seek in kind support for translation.</p>

8. Communication and follow-up (checklist)

- Article in IMPEL Newsletter First half 2018
- Translation of executive summary in as many member's languages as possible
- Proactive dissemination of results to other networks
- Ev. Press release



8.1 Indicate which communication materials will be developed throughout the project and when

(all to be sent to the communications officer at the IMPEL secretariat)

- TOR[✓] * Nov. 2016
- Interim report Spring 2017
- Project report[✓] * Nov. 2017
- Press releases Dec. 2017
- News items for the website[✓] * Spring 2018
- News items for the e-newsletter Spring 2018
- IMPEL at a Glance[✓] Spring 2018
- Other, (give details): Spring 2018
-
-
-

8.2 Milestones / Scheduled meetings (for the website diary)

PT meeting at the Cross-cutting ET Meeting in Spring
Workshop at the Cross-cutting ET Mini conference in Autumn

8.3 Images for the IMPEL image bank

Yes No

8.4 Indicate which materials will be translated and into which languages

Questionnaire (DE, FR?, ESP?, IT? POL? DAN? Others as available)
Executive Summary of the project report (all participants' languages)

8.5 Indicate if web-based tools will be developed and if hosting by IMPEL is required

A temporary use of the IMPEL server for LimeSurvey (or a comparable tool) may be necessary to execute the poll

8.6 Identify which groups/institutions will be targeted and how

The Commission
IMPEL Members
Heads of EPA Members
Policy makers in European Member States

8.7 Identify parallel developments / events by other organisations, where the project can be promoted

National dialogues and research projects (eventually triggered by EU Environmental Implementation Reports)
BRIG Meeting 2018
Heads of EPA Plenary meeting in 2018

[✓]) Templates are available and should be used. *) Obligatory



9. Remarks

Is there anything else you would like to add to the Terms of Reference that has not been covered above?

National experts interested in the projects are cordially invited to send their critics, suggestions and especially any interests in participation to: Kristina.Rabe@bmub.bund.de

A German version of the Questionnaire and the executive summary of the first round of poll will be available soon on basecamp



Annex II: Terms of Reference: Follow-Up Project

TOR Reference No.: 2018/23	Author(s): Chris Dijkens
Version: 3	Date: 27/08/2018
TERMS OF REFERENCE FOR WORK UNDER THE AUSPICES OF IMPEL	

10. Work type and title

1.1 Identify which Expert Team this needs to go to for initial consideration	
Industry	<input type="checkbox"/>
Waste and TFS	<input type="checkbox"/>
Water and land	<input type="checkbox"/>
Nature protection	<input type="checkbox"/>
Cross-cutting – tools and approaches -	<input checked="" type="checkbox"/>
Options to operationalise results from the Implementation Challenges survey 2017 on practitioner’s views about the implementation challenges with EU Environment legislation, their underlying reasons, ways to improvement and how IMPEL can use the outcome to support its members with the implementation of environmental legislation.	
1.4 Abbreviated name of work or project	
Implementation Challenges – options for transferring results into concrete IMPEL actions	

11. Outline business case (why this piece of work?)

1.1 Name the legislative driver(s) where they exist (name the Directive, Regulation, etc.)
<p>Improving implementation has been a key priority for the European Commission for some time. Compliance promotion and a reduction in infringements of EU Environmental Law are key to achieve improved implementation. The importance of better implementation has been highlighted in the 7th EAP, which sets the framework for EU Environment Policy until 2020, and in several other communications on improving implementation of EU Environment law in the past years. It was emphasised again by Commission’s Communications of May 2016 on regular Environmental Implementation Reports (EIR), as well as of January 2018 on an Action Plan for Environmental Compliance and Governance (APEC). Commission’s communication of 2012 suggested that failure to fully implement environment legislation costs the EU around €50 billion every year in health costs and direct costs to the environment. Improved implementation will not only protect human health and the environment but also contribute to creating a more level playing field for industry across EU Member States, aid job creation and support resolution of trans-national environmental issues. Identifying practical obstacles to implementation and eliminating them can also reduce administrative burdens and reduce costs of implementation.</p> <p>IMPEL can make an important contribution by regularly monitoring implementation challenges and its causes from the viewpoint of practitioners in environmental authorities, and by translating direct feedback from practitioners into concrete activities which address these challenges. The network has an important role to play in identifying possible remedies and developing as well as publicising practical approaches, which can contribute towards reducing the challenges and closing implementation gaps.</p>



In the Environmental Compliance Action Plan (APEC) published through a Commission Communication (COM(2018)10) and Commission Staff Working Document (SWD(2018)10), Actions 2 and 3 refer to capacity building and facilitation of the sharing of good practices for environmental compliance assurance. Furthermore, the setting up of a wider environmental implementation portal is envisaged.

2.2 Link to IMPEL MASP priority work areas

4. Assist members to implement new legislation	<input type="checkbox"/>
5. Build capacity in member organisations through the IMPEL Review Initiatives	<input type="checkbox"/>
6. Work on 'problem areas' of implementation identified by IMPEL and the European Commission	<input checked="" type="checkbox"/>

2.3 Why is this work needed? (Background, motivations, aims, etc.)

The more detailed analysis of the survey results will clarify and concretise information on practitioner's needs and practical solutions and on this base will enable IMPEL to better operationalise the conclusions drawn. It should inform IMPEL's future work in the framework of the Commission's APEC but also enable interested Member States to check for reasons and possible remedies for implementation gaps identified and may provide additional useful information for national or regional activities in this context.

IMPEL will gain additional insight on where and how to best focus its efforts to help improving implementation and the next IMPEL survey.

2.4 Desired outcome of the work (what do you want to achieve? What will be better / done differently as a result of this project?)

Further enhance the identification of implementation challenges faced by IMPEL Members in 2017 and options for practical solutions through the work of IMPEL and other potential actors, by answering the following questions:

1. Which concrete helpful measures/best practices do practitioners request or suggest in their survey answers?
2. In which general way these requests and suggestions can be satisfied through practical low-threshold measures?
3. What topics are already covered by IMPEL products and what could IMPEL do in the future, taking into account the framework of the Action plan (APEC), to further support practitioners in achieving better implementation?

Further enhance the questionnaire for post 2020 surveys, making sure that more Environmental Administrations and Member States spread and respond to the questionnaire, use it to gain an overview on their individual implementation challenges and collect ideas and views on possible remedies. IMPEL should use the data to adjust the focus of its work programme and its MASP on key issues, identify trends and developments and support proliferation of the best remedies against those challenges the network can influence.

2.5 Does this project link to any previous or current IMPEL projects? (state which projects and how they are related)

This work directly links to the Implementation Challenge project in 2014/2015 and 2017, as well as to previous work done by the IMPEL Task Group and previous work done for the Multi Annual Strategic Work Programme (MASP) and IMPEL Position Paper on the Action Plan on Environmental Compliance and Governance.

12. Structure of the proposed activity

3.1 Describe the activities of the proposal (what are you going to do and how?)

9. Refine the analysis of the results of the 2017 questionnaire, exploring results that were not used and



explore concrete proposals and helpful measure provided from Practitioners on the different topics, including on regulation and legislation, capacity building and best practices within the framework provided by the questions under 2.4. Improve Recommendations with the results. Present a proposal to integrate these results into the IMPEL Report: 13. November 2017, Report number: 2017/27, in order to have only one final report from the Implementation Challenge Survey 2017.

10. Contribute to the next periodic survey exercise, by further improving the questionnaire to be used in the next survey, with reasoned proposal of a questionnaire more simple and less burdensome for respondents, keeping the main and important topics for comparison of evolution of the results. This will be a separate annex to the report.
11. **1 and 2 to be developed by the consultant in dialogue with the** project team.
12. **IMPEL Engagement** – Discussions of preliminary result lists to be held at the Cross-Cutting Expert Team and proposed also for the other ET meetings in autumn 2018. Options how IMPEL can best cater to the needs expressed by environmental authorities to surmount identified implementation challenges in coordination with ongoing activities of the Commission and other relevant actors will be discussed and the results of discussions will be communicated to the project consultant for integration into the project report. This should encompass concrete operationalised proposals for future AWP's and the MASP.
13. **Report writing** – The report will be prepared by the consultants along the lines determined by the project team. The project team will act as a sounding board to ensure the report is fit for purpose.
14. **IMPEL approval** – at the General Assembly 2018

3.2 Describe the products of the proposal (what are you going to produce in terms of output / outcome?)

An enhanced report highlighting best practice remedies and measures to address key implementation challenges and potentially their cause as well as consequences in the form of concrete proposals for future activities of the IMPEL Network and eventually other actors.

Identify where and how there is potential for IMPEL to help sharing knowledge and best practise to improve compliance.

An enhanced questionnaire for post 2020 surveys, making sure that Administrations and Member States that apply the questionnaire gain an overview on their individual implementation challenges and collect ideas and views on possible remedies.

3.3 Describe the milestones of this proposal (how will you know if you are on track to complete the work on time?)

Overview of planned activities (preparation of the project, project phase and reporting to IMPEL):

10. Engaging Consultants – until end of August/beginning of September
11. Individual Responses and final report analysis and survey questionnaire analysis – September
12. Sector-specific and cross-cutting lists of preliminary results for IMPEL Expert_Teams –> before Expert Team meetings in last week of September and in October
13. Draft Information/discussion paper from IMPEL Cross cutting Expert Teams –>first half of October
14. Discussion in all other Expert Teams – comments, critiques, amendments – until 25th of October
15. Discussion in IMPEL Project Team – comments, critiques, amendments –until beginning of November
16. Final Analysis, draft final amendments for IG 2017 project report (results, operationalised proposals and post - 2020 questionnaire- >first week of November
17. Report to GA – mid November
18. Decision on adoption - in GA on 10th to 11th of December

3.4 Risks (what are the potential risks for this project and what actions will be put in place to mitigate these?)

4. Tight timescales for delivery – this will be managed by recruiting additional team members to the project team and by engaging a consultant to support the team.



13. Organisation of the work

4.1 Lead (who will lead the work: name, organisation and country) – this must be confirmed prior to submission of the TOR to the General Assembly)
Simon Bingham (Scotland, t.b.c.)
4.2 Project team (who will take part: name, organisation and country)
4. Kristina Rabe (Germany) 5. To be identified 4. To be identified 6. To be identified 5. To be identified
4.3 Other IMPEL participants (name, organisation and country)
To be identified
4.4. Other non-IMPEL participants (name, organisation and country)
-

14. High-level budget projection of the proposal. In case this is a multi-year project, identify future requirements as much as possible

	Year 1 (exact)	Year 2	Year 3	Year 4
How much money do you require from IMPEL?	0 €			
How much money is to be co-financed	12.370,31 €			
Total budget				

15. Detailed event costs of the work for year 1

	Travel € (max €360 per return journey)	Hotel € (max €90 per night)	Catering € (max €25 per workshop-day)	Total costs €
Event 1				
Total costs for all events				

16. Detailed other costs of the work for year 1

7.1 Are you using a consultant?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
7.2 What are the total costs for the consultant?	€ 10.223,40 net plus 21% of Belgian VAT, resulting in € 12.370,31
7.3 Who is paying for the	Germany



consultant?	
7.4. What will the consultant do?	<p>Review the answers to the Implementation Challenges 2017 questionnaire, list and analyse those responses that suggest concrete remedies for identified challenges and obstacles to implementation of EU Environmental Law, with regard to questions 1 and 2 under 2.4. Describe the ensuing options for concrete remedies or as appropriate; the next step to tackle these challenges and obstacles.</p> <p>Integrate the project group's input about remedies that IMPEL has already provided through completed projects and those that IMPEL may provide in the future, taking into account the plans and activities of the Commission (namely under the APEC) and other relevant actors (with regard to question 3 under 2.4). This should include concrete proposals for the next IMPEL AWP's and its MASP.</p> <p>Improve the Implementation Challenges questionnaire with a view to a next survey post 2020 as described above.</p> <p>Prepare documentation of results and amendments to the Implementation Challenges 2017-report for the information of all IMPEL Expert teams to support discussion of the draft outcome of the research, the consequences for further IMPEL activities and concrete operationalised measures that IMPEL can undertake, also in the form of an IMPEL project report.</p>
7.5 Are there any additional costs?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Namely:
7.6 What are the additional costs for?	N/A
7.7 Who is paying for the additional costs?	N/A
7.8. Are you seeking other funding sources?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Namely:
7.9 Do you need budget for communications around the project? If so, describe what type of activities and the related costs	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

17. Communication and follow-up (checklist)

Article in IMPEL Newsletter Translation of executive summary in as many member's languages as possible Proactive dissemination of results to other networks	First half 2019
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	Ev. Press release		
8.1 Indicate which communication materials will be developed throughout the project and when <i>(all to be sent to the communications officer at the IMPEL secretariat)</i>	TOR [✓] * Interim report (as lists of results) Project report [✓] * Press releases News items for the website [✓] * News items for the e-newsletter IMPEL at a Glance [✓] Other, (give details):	<input checked="" type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	August 2018 September 2018 November 2018 December 2018 Spring 2019 Spring 2019
8.2 Milestones / Scheduled meetings (for the website diary)			
8.3 Images for the IMPEL image bank	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
8.4 Indicate which materials will be translated and into which languages			
8.5 Indicate if web-based tools will be developed and if hosting by IMPEL is required			
8.6 Identify which groups/institutions will be targeted and how	The Commission IMPEL Members Heads of EPA Members Policy makers in European Member States		
8.7 Identify parallel developments / events by other organisations, where the project can be promoted	National dialogues and research projects (eventually triggered by EU Environmental Implementation Reports 2019) BRIG Meeting 2019 Heads of EPA Plenary meeting in 2019 <u>Workshops in the framework of the APEC in 2019</u>		

[✓]) Templates are available and should be used. ^{*}) Obligatory

18. Remarks

Is there anything else you would like to add to the Terms of Reference that has not been covered above?

National experts interested in the projects are cordially invited to post their critics and suggestions into the “Implementation Challenge” - basecamp discussion space and contribute to the foreseen discussions in the Expert Teams!



Implementation Challenge Workshop, Copenhagen, 15 September 2017

As part of the Implementation Challenge Project 2017 a workshop was held to provide an opportunity for IMPEL's member organisations to hear about the analysis of the results of the questionnaire survey and to discuss the main findings. The discussion was structured around a series of key questions. This report provides a summary of the outcome of the discussion.

Question 1: General question – reality check

Do the results of the Survey reflect your understanding of the key remaining challenges in implementing environmental law in Europe and how IMPEL can help organisations in overcoming them? Are there any surprises? Are there any obvious gaps or issues that you would have expected to come out more prominently?

There was some discussion on the format of the questionnaire. Some felt that it was too long and too complicated and this may have discouraged some organisations from completing it. There were some suggestions about improving the survey for next time including: re-structuring and shortening the questionnaire and using more optional sub-sections; carrying out interviews with practitioners; and using Basecamp for ongoing dialogue between organisations to help them support each other in overcoming implementation challenges.

Overall, the group felt that the survey results reflected the main issues and challenges that are being encountered by implementing organisations. Many of these are long-standing issues and were raised in the previous survey in 2014. There were no major surprises. Lack of resources was commented on by many respondents as being a major barrier in achieving effective implementation of environmental law.

Although the nature of the challenges is clear, IMPEL's work programme is not yet fully focused on the priority problems. IMPEL has carried out work on a range of these problems in the past, but they still persist. This raises questions about the uptake of existing tools and guidance, whether it is being used and, if so, how effective it is. If current tools and approaches do not suffice, IMPEL should help to develop and apply complementary solutions. There should be more effort going into developing more innovative and proactive ways of working, for example, in the application of social sciences, improving communications and promoting compliance.



There were a few comments on specific topics that didn't emerge from the survey, for example, the circular economy and unconventional oil and gas extraction. Participants highlighted some issues that were particularly relevant to their own countries, including: problems associated with the definition of intensive agriculture leading to operators avoiding regulation; flood protection; the use of earth observation techniques; self-monitoring and the quality and reliability of data; illegal dumping of waste; and the application of BAT definitions in permitting.

Question 2: Lack of resources

As with the previous Implementation Challenge Survey, insufficient capacity in human resources continues to be seen as the biggest single barrier in achieving effective implementation of environmental laws. What more could IMPEL do to help facilitate more efficient and effective use of resources in environmental authorities by sharing of experiences and practices and by developing appropriate tools and guidance?

The group thought that the problems related to lack of resources were different in different countries and organisations and had a range of underlying reasons. While several administrations report that they suffer from an overall lack of staff, others have problems with a lack of relevant expertise and do not have personnel with the required competences to carry out specific projects. Advanced vocational and in-house training is either not available or cannot be used in practice, because inspecting and permitting personnel are so overburdened that there is insufficient time available to be allocated to their training and development or because their professional background is not appropriate. A lack of reliable and up-to-date environmental and emissions data hampers analysis and assessment. Inadequate administrative and technical support results in insufficient time being devoted to core tasks because time is wasted on organisational matters. Also, a lack of modernisation in administrative structures leads to inefficiency in the use of staff resources.

These different situations reflect the wide range of circumstances regarding resource availability, governance models and institutional structures for environmental regulation across Europe. There was a feeling that many organisations were trying to cope with lack of resources but had no explicit strategy for dealing with it, for example, by adopting risk-based approaches for more effective targeting of resources where they are likely to have the greatest impact.

The temporary hiring of external experts was discussed as a possible solution. However, a potential problem was raised in that many consultants work more with industrial businesses rather than regulatory authorities and their advice and opinion may reflect their perspective of working within industry sectors. The setting-up of flexible technical support units for big projects to be managed at the local or sometimes even the regional level was seen as a potential solution for understaffed permitting authorities (although less so for understaffed inspectorates), but their organisation and financing can be problematic. A mapping of needs and the development of curricula for advanced vocational training were seen as potentially useful tools. The



establishment of a ‘compliance assurance academy’ at national or EU-level was also proposed to help to address compliance assurance in a more systemic and cross-sectoral manner.

Question 3: Compliance assurance strategies

Around 40 percent of respondents to the Survey said they did not have a compliance assurance strategy. Should IMPEL devote more of its work programme to this area? What support can IMPEL give to member organisations in developing compliance assurance strategies and in their practical implementation?

It was recognised that part of the problem is that there is no common understanding of the term ‘compliance assurance strategy’(CAS). Different kinds of strategy exist at different levels - organisational, regional, country – and they relate to different things. Respondents to the questionnaire survey may have elements of a CAS in place in their strategies, programmes and plans but this may not have been fully captured in their responses to the survey. Further analysis would be needed to develop a clearer understanding of the different kinds of compliance strategy that have been developed in different countries and how they are used in practice.

The group felt that advanced vocational training on developing strategic approaches and the coordinated contribution of practitioners in each administration were key elements in the successful development and implementation of any compliance assurance strategy. Experiences with the implementation of externally developed strategies had been negative, concerning both their suitability and the level of staff commitment.

Question 4: Engagement at the local level

Local authorities have a critical role in environmental compliance assurance in many countries. There are many thousands of these organisations across Europe with different governance, structures and functions. How can IMPEL extend its outreach to these important organisations in working to overcome remaining implementation challenges?

Communication will be key to engagement at the local level. IMPEL should seek opportunities for visits and presentations to local government organisations and politicians to explain who we are and what we do.

It was recognised that it would be very difficult and unrealistic to engage with 10,000s of individual municipalities. Engagement with Regional authorities is important here because they have well-established working relationships with local authorities and are able to exert an influence at the local level. needs to consider how it can assist Regional authorities to facilitate engagement at the local level. National Coordinators could and should be encouraged to lead on engagement and sharing of information in their countries.



A question was raised on how relevant IMPEL's work is to local authorities. Some areas of IMPEL's work have been concerned with local issues, for example, the use of neighbourhood dialogues in dealing with nuisance issues such as fly-tipping and littering. However, other areas of work, for example, implementation of the Industrial Emissions Directive, have tended to involve practitioners working at a more regional and national level. It was recognised that in some countries local authorities do not deal with environmental regulation.

IMPEL should look at whether countries have umbrella organisations that represent municipalities and how to engage with such organisations. This aspect should be included in the current IMPEL project on 'Mapping European Agencies'. It should examine who the umbrella authorities are so that we can ask them about the issues and challenges that they face. The umbrella authorities often have environment groups that can be engaged with. National Coordinators have an important role in supporting engagement and cooperation with local government associations and umbrella organisations.

Eurocities, the Council of European Municipalities and Regions (CEMR), and the Committee of the Regions (CoR) are key networks to engage with. These Networks could be invited to IMPEL's General Assembly meetings. IMPEL's Secretariat should distribute IMPEL reports through their website and online tools. Routine contact should be continued with the Secretariat of the CoR, particularly on environment dossiers.

It was recognised that language is often a particular challenge at local levels. The use of videos and short snapshots of projects and project outputs could be helpful here. Communication technologies and use of online tools could be very helpful in reaching out and engaging with the wider audience of practitioners working in local authorities.

Question 5: Agriculture

The survey results indicate that the agriculture sector is consistently the greatest area of concern, in particular for industry and air, land and water and nature protection. Should IMPEL take a more proactive role in supporting organisations in the regulation of agriculture and focus more of its resources in this area?

The group agreed that IMPEL should take a more proactive stance in tackling implementation challenges arising in the agricultural sector.

IMPEL should consider setting up a new Agriculture Expert Team or a collaborative structure supported by several of the Expert Teams to bring focus to this area of work.

It was recognised that there are different kinds of professionals and organisations working in the regulation of the agriculture sector and IMPEL should reach out to them in contributing to this area of work.



Question 6: Definition of waste

A large majority of respondents cited problems concerning the definition of waste as a significant and continuing implementation challenge. How could IMPEL support member organisations on this issue?

The group recognised that there was already guidance being used in different countries but it was very dispersed and may be difficult to access.

IMPEL should consider carrying out a country review to look at specific issues and problems related to the definition of waste. This could take the form of an IRI (a peer review known as the IMPEL Review Initiative).

Other ideas were carrying out an examination of specific processes, for example, the screening out of unwanted materials in the processing of recycled glass. The group also considered whether IMPEL might support a materials market place on the internet.

Question 7: Dissemination and uptake of IMPEL's work and outputs

Many of the areas that respondents cited as the source of continuing implementation challenges have been the subject of previous work by IMPEL. This has often resulted in the provision of guidance to help member organisations overcome implementation challenges. Nevertheless, problems are still being reported. Should IMPEL step up its efforts to understand how its work programme outputs and guidance are being used and by whom? Should it do more to promote its work and, if so, how? How can it improve communication with practitioners to improve feedback on the usefulness and effectiveness of its tools and guidance?

The group thought that it would be very worthwhile for IMPEL to take some time to refresh and evaluate the back catalogue of its work and to re-promote key outputs where necessary. The Expert Teams would be the appropriate groups to do this.

IMPEL should do more to actively seek feedback on how existing tools and guidance have been used. The IMPEL website could be used for inviting and recording feedback, both qualitative and quantitative, perhaps with some sort of rating or scoring system. Basecamp could be used as a forum for recording of experiences of implementing project outputs.

The Annual Report from member countries also provides a useful opportunity to gain feedback on what is beneficial. This should be continued.



The Communications Group could look at the development of short videos and case studies on how countries have used tools and guidance. This would help to disseminate practical experiences on how countries have benefitted from IMPEL's work. The weekly newsletter could be used as a channel for promoting case examples.

There should be an evaluation stage built into project plans, after 1 year or 2 years, to review the effectiveness and uptake of the projects. This should be managed via the Expert Teams. It should involve looking at the recommendations from projects and whether they have been taken forward or if more needs to be done. There should be an explicit agreement by Project Managers to this post-project review as part of the planning cycle and budget should be allocated to carry this out.

IMPEL members have already agreed that summaries from project reports should be translated into the language of member countries by project participants. This should also help in the dissemination and uptake of project output and should continue to be promoted.



Annex IV: The Questionnaire: Implementation Challenge Survey 2017

Implementation Challenge Survey 2017

Survey on obstacles and challenges to compliance with European Environmental Law – Version as implemented in Survey Monkey

Who is seeking this information?

You are receiving a questionnaire from IMPEL, the **European Union Network for the Implementation and the Enforcement of Environmental Law, to which your country or environmental authority is a member**. IMPEL is an international non-profit association of environmental authorities of the EU Member States, EEA countries, acceding countries and candidates. The Network's objective is to promote a more effective application of EU environmental legislation and policies and support the work of environmental authorities all over Europe. For more information see www.impel.eu

What is this questionnaire for?

This questionnaire seeks information on the **obstacles and challenges** that competent authorities face when applying¹ or enforcing² EU environmental legislation, as well as on innovative practices and solutions developed to overcome them. It collects the views of practitioners³ for environmental compliance assurance⁴ on what could help them in doing their work. The information gathered will be analysed and summarized, and relevant conclusions will be used by IMPEL to identify or develop strategies, projects and tools for better environmental compliance assurance. A project report will summarize its findings and will be published. The questionnaire may also be used by national authorities to collect relevant information on compliance assurance at local, regional or national levels.

¹ Legislation is applied by duty holders fulfilling their binding requirements and by public authorities controlling the duty holders and fulfilling their own binding requirements (like drawing up plans or inspection installations).

² Legislation is enforced by using means of substitute performance, administrative execution, administrative or penal sanction or liability claims.

³ In the context of this questionnaire, "practitioners" are public servants or other professionals entrusted with the performance of public service in the field of environmental compliance assurance.

⁴ Environmental compliance assurance is a term to cover the range of interventions used by public authorities to ensure compliance by duty-holders with environmental rules. It applies to economic and other activities that directly affect the environment through emissions, discharges or land-related impacts. It has three main components: compliance promotion by or with the support of public authorities; compliance monitoring (i.e. inspections and other checks) by public authorities; and enforcement by public authorities.



The questionnaire is **not** intended as an audit or a benchmarking exercise. IMPEL will **not** use it for case-specific reporting but would appreciate very much any quotable best-practice examples.

Target audience for the questionnaire

This questionnaire is addressed to public authorities directly responsible for any part of the **application or enforcement** of environmental legislation or the surveillance of the environment⁵.

Confidentiality

The usefulness of this survey depends on respondents being open and honest in their responses. We will therefore fully respect the confidentiality of respondents. We seek information, illustrative cases and examples that can be shared, but will not identify specific countries or organisations in our report unless we are explicitly allowed to do so.

Structure of the questionnaire

The questionnaire is structured to look at obstacles and challenges from several angles:

- Thematic areas: industry, noise and air quality, waste and trans-frontier shipment of waste, protection of water and land, nature protection and cross-cutting legislation.

⁵ Environmental competences and responsibilities are often divided per sector, e.g. between industrial installations, air quality, waste, water, soil, nature protection and some cross-cutting topics.



- Cross-cutting issues: planning, permitting, compliance promotion⁶, application, environmental monitoring and assessment⁷, risk assessment⁸, inspections and other forms of compliance monitoring⁹, enforcement¹⁰, investigation and prosecutions¹¹ and views on Prioritisation and Support.
- Trans-boundary and trans-sectoral issues, solutions and cooperation to improve application and enforcement across administrative and jurisdictional boundaries.

For several terms, additional explanation is available in footnotes.

The importance of real-life case examples

You are kindly asked to give specific examples (preferably in English) and make clear reference to relevant EU legislation and its specific requirements, if necessary as transposed into your national legal system. Where EU and national legislation are too closely interlinked for you to differentiate, just cite the relevant national norm and term.

Please complete this survey until dd/mm/2017.

Each organisation only needs to answer the part of the questionnaire covering its field of work, plus the cross-cutting questions under 1 and 6 to 9.

If possible, please answer in English when asked for descriptions or specific examples.

1. Details of Respondent and Organisation

⁶ Compliance promotion covers activities aimed at supporting natural and legal persons to comply with obligations under law by enhancing their awareness, knowledge and understanding of these obligations.

⁷ Environmental Monitoring and Assessment establishes the state of the environment, collecting and interpreting e.g. physical, chemical and biological data in a certain area.

⁸ Risk assessments take into account actual compliance levels and their impact to environment, health, safety and fair competition. Where no information on compliance levels is available, the likelihood of non-compliance shall be estimated. Other criteria may be included by competent authorities as appropriate.

⁹ Compliance monitoring covers activities to determine whether natural and legal persons comply with their obligations under law. Such activities may include [surveillance, inspections, investigations and verifying self-monitoring].

¹⁰ Enforcement covers actions by a competent authority under civil, administrative or criminal law in response to detected or notified non-compliances with obligations under law.

¹¹ Investigation and Prosecution are initiated if there is sufficient suspicion for penal law (or in some cases administrative) offences and involve police forces and public prosecutors concerned with environmental infractions, either in specialised or in general law enforcement units.



Question 1.1: Please indicate your name, job title, responsibilities, authority and contact details. If you prefer to stay anonymous, just skip this question.

Question 1.2: Please indicate your country. (dropdown)

Question 1.3: What is the operational level of your organisation?

national regional local

Question 1.4: Is your organisation responsible for environmental protection in the following areas (please mark relevant check boxes)?

- Industry
- Noise
- Air Quality
- Waste collection, treatment and disposal
- Trans-frontier shipment of waste
- Protection of Water
- Protection of Land
- Land use management and spatial planning
- Nature Protection (biodiversity and habitats)
- Other (please specify): ...

Question 1.5: Is your organisation responsible for the following tasks (please mark all relevant check boxes)?

- Environmental planning
- Environmental permitting
- Compliance promotion and assessment¹²
- Inspections

¹² Compliance assessment covers collecting information on compliance (levels) and the causes of non-compliance as well as predictions on further developments.



Environmental monitoring and assessment¹³
Environmental reporting¹⁴
Civil and/or administrative law enforcement
Environmental prosecution
Development of strategies and programs
Evaluation of performance of other authorities
Other (please specify): ...

Question 1.6: Does your organisation agree to be named in the list of organisations to have taken part in this questionnaire that will be included in the report? yes no

Question 1.7: Does your organisation agree that any specific information or examples that you have given is cited in the report (please mark checkbox)?

Yes, named Yes, anonymously No

2. Industry, Noise and Air Quality Regulation

Existing legislation relating to industry and air quality regulation includes:

- Directive 2010/75/EU on industrial emissions (integrated pollution prevention and control) – the ‘Industrial Emissions Directive’;
- Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community (as amended) – the ‘EU Emissions Trading Scheme’ (EU ETS);
- Directive (EU) 2016/2284 on the reduction of national emissions of certain atmospheric pollutants, amending Directive 2003/35/EC and repealing Directive 2001/81/EC;
- Directive 2008/50/EC on ambient air quality and cleaner air for Europe;
- Directive 2002/49/EC relating to the assessment and management of environmental noise;
- Directive 2012/18/EU on the control of major-accident hazards involving dangerous substances (the ‘Seveso III Directive’);
- The ‘Clean Air Policy Package’ of 18. December 2013 with Directives on national emission ceilings, emissions from medium-sized combustion plants and on long-range trans-boundary air pollution.

¹³ Environmental Monitoring and Assessment establishes the state of the environment, collecting and interpreting e.g. physical, chemical and biological data in a certain area.

¹⁴ Environmental reporting can be defined as the predetermined transfer of information of environmental or environment related data on a regular basis.



Please answer the questions on this page if your organisation is responsible for industry, noise and air quality regulation. Otherwise please continue to the next page.

Question 2.1: What are the main challenges in applying environmental legislation¹⁵ on industry, noise and air quality to your area of competence?

- Effect of industrial emission on air quality
- Effect of traffic on air quality
- Effect of domestic heating on air quality
- Effect of agriculture on air quality
- Drawing up air quality action plans
- Drawing up noise action plans
- Application of best available techniques in permits
- Permit–updating in consequence of changed BATs
- Application of emission limit values
- Defining more stringent emission limit values
- Waste water avoidance
- Assessing/preventing further soil contamination around installations
- Improving public access to industrial emissions, noise and air quality information
- Other/examples (please specify):...

Question 2.2: Are there specific industry sectors or processes¹⁶ that present greater challenges than others?

- Energy production
- Refineries
- Coal and steel
- Chemicals
- Intensive livestock farming
- Other agricultural practices (e.g. burning, soil fertilising¹⁷)

¹⁵ In other words: which binding requirements of the law are the most difficult to fulfil?

¹⁶This term denotes legal activities.

¹⁷ This includes practices that focus more on discarding organic waste than on improving fertility of the soil.



- Domestic heating¹⁸ with solid fuels
- Motorised vehicles
- Others (please specify): ...

Question 2.3: What are the key challenges in the control¹⁹ of industrial emissions and ambient air quality?

- Planning/execution of risk-based inspection
- Clarity of permit requirements
- Regular soil and groundwater monitoring
- Availability of air quality data
- Identification of pollution sources
- Others/examples: (please specify)...

Question 2.4: What are the main underlying reasons and causes of problems in achieving the requirements of relevant EU legislation (please mark check boxes²⁰)

- Unclear, incomplete or overly complex legislation²¹
- Unclear technical²² specifications and/or terms or definitions²³
- Inadequate urban and land use management and spatial planning
- Insufficient evidence, data and information due to lack of:
- reporting by duty holder
 - collection/analysis by authority

¹⁸ This includes occasionally used stoves and open fireplaces.

¹⁹ Control encompasses inspections, surveillance, analysis of data streams, reports, complaints and other external information and other activities undertaken with the intent to verify compliance of the duty holder with legal obligations (including permit requirements and binding agreements) but also with voluntary commitments.

²⁰ Please answer with: "1) correct/ 2) mainly correct/ 3) partly correct/ 4) rarely correct/ 5) incorrect/ 6) don't know.

²¹ If this is problematic, please name the relevant deficient norm and requirement or legal terms where these problems are most relevant, limited to a maximum of 4. If this is possible for you, please state the origin (EU/national/regional).

²² Technical is used here as opposed to (directly) legally binding specifications terms or definitions.

²³ If this is problematic, please name the relevant deficient norm and requirement or legal terms where these problems are most relevant, limited to a maximum of 4. If this is possible for you, please state the origin (EU/national/regional).



Inadequate technical understanding and knowledge²⁴

Insufficient capacity in your institution²⁵ in:

human resources

technical equipment

training/guidance²⁶

Examples (please specify):...

Question 2.5: Are there other main reasons for problems in achieving the requirements of relevant EU legislation?

Question 2.6: What could help you to address and overcome challenges in applying and enforcing industry, noise and air quality legislation? (Please fill in check boxes²⁷)

Access to modern surveillance technologies and earth observation technique.

Access to all available geospatial data relevant for your geographical area of competence (according to INSPIRE²⁸).

Sharing knowledge, skills and good practice

inside your authority

between your and other competent authorities

Receiving application-oriented guidance and training²⁹

²⁴ This addresses a lack in technical or scientific expertise which hampers proper analysis of technical data within the competent public authority.

²⁵ This addresses a lack of personnel, a lack of technical tools like e.g. measuring instruments, handhelds, helpful IT-applications for carrying out inspections, surveillance or data-analysis or a lack of advanced vocational training which should enable staff to keep up with technical, regulative or legal developments.

²⁶ Please specify the topics for which you would need guidance or training (if possible, in English).

²⁷ Please answer with: “1)helps to do our work / 2)could help in the future/ 3)could help under certain conditions” (please specify)/4) Would not be helpful/5) is done but not helpful/ 6) don’t know.

²⁸ The INSPIRE Directive aims to create a European Union spatial data infrastructure for the purposes of EU environmental policies and policies or activities which may have an impact on the environment. The Directive came into force on 15 May 2007 and will be implemented in various stages, with full implementation required by 2021.

²⁹ Please specify the topics for which you would need guidance or training (if possible, in English).



Coordinated action between different inspection authorities on:

- common inspections ..
- case-meetings ..
- common strategies
- land use planning
- other/examples³⁰

Establishment of and active participation in networks of environmental professionals to facilitate communication and best practice exchange.

Network cooperation (between the regional, national and European level and across the whole compliance chain)

Standing procedures to regularly inform policy makers about practical experiences and work results.

Best practice example(s) or conditions for the measure to be helpful:...

Question 2.7: Please describe any other helpful measures.

3. Waste and Trans-Frontier Shipment of Waste (TFS) Legislation

Existing EU legislation regulating waste and trans-frontier shipment of waste includes:

- Directive 2008/98/EC on waste and repealing certain Directives - the 'Waste Framework Directive';
- Directive 1999/31/EC on the landfill of waste;
- Directive 2000/76/EC on the incineration of waste;
- A range of Directives on waste originating from consumer goods, including: packaging and packaging waste (94/62/EC); batteries and accumulators (2006/66/EC); end of life vehicles (2000/53/EC); waste electrical and electronic equipment (2002/96/EC);
- Regulation (EC) No 1013/2006 on shipments of waste and Regulation (EU) No 660/2014 amending Regulation (EC) No 1013/2006 on shipments of waste;
- Directive 2006/21/EC on the management of waste from extractive industries;
- Regulation (EU) No 1257/2013 of the European Parliament and of the Council of 20 November 2013 on ship recycling;
- Directive 2000/59/EC of the European Parliament and of the Council of 27 November 2000 on port reception facilities for ship-generated waste and cargo residues.

³⁰ Please specify and give illustrative examples of best practice, if possible in English.



Please answer the questions on this page if your organisation is responsible for waste and trans-frontier shipment of waste (TFS) legislation.

Otherwise please continue to the next page.

Question 3.1: What are the main challenges in applying the waste and TFS legislation³¹ to your area of competence?

- Distinction between: waste and non-waste
- Distinction between: hazardous and non-hazardous waste
- Establishing adequate waste treatment-infrastructure³²
- Reaching recycling targets
- Establishing inspection plans for TFS (transfrontier shipment of waste)³³
- Drawing up waste prevention plans
- Drawing up waste management plans
- Managing nuisance³⁴ around waste treatment plants /landfills
- Promotion of waste pre-treatment
- Other/examples (please specify)...

Question 3.2: Are there specific sectors, activities and processes³⁵ that present greater challenges than others?

- Waste combustion for energy production
- Trade in “used goods”³⁶
- Others (please specify):...

³¹ In other words: which binding requirements of the law are the most difficult to fulfil?

³² The infrastructure required to ensure that waste has the least practicable impact on the environment.

³³ Trans-frontier shipment of waste: import and export as well as transit of waste within, into and outside the EU.

³⁴ E.g. odours, dust, pest, litter, gas, noise.

³⁵ This term denotes legal activities.

³⁶ E.g. because of difficulties to distinguish them from waste.



Question 3.3: What are the key challenges in the control of waste related activities?

Cumbersome and ineffective procedures/forms³⁷

Surveillance of specific waste streams:

electric or electronic waste³⁸

end of life-vehicles³⁹

end of life-ships⁴⁰

others (please specify in comment below)⁴¹:...

Tracking hazardous waste

Fighting organised waste crime

Surveillance of:

operating landfills

closure/after-care of landfills

illegal dumping/burning of waste

Others/examples (please specify):....

Question 3.4: What are the main underlying reasons and causes for challenges in achieving the requirements of relevant EU legislation (please mark check boxes)⁴²?

Unclear, incomplete or overly complex legislation⁴³

³⁷ E.g. transfer certificates and procedures.

³⁸ Meaning discarded electrical or electronic devices, including used electronics which are destined for salvage, recycling or disposal.

³⁹ Motor vehicles which have reached the end of their useful lives, primarily defined by the owner's will, but in certain cases a vehicle is considered end-of-life simply due to the condition it is in.

⁴⁰ Ships which have reached the end of their useful lives due to the decision of their owners or due to the condition they are in.

⁴¹ If possible in English, please.

⁴² Please answer with: "1)correct/ 2)mainly correct/ 3)partly correct/ 4) rarely/ 5)incorrect/ 6)don't know.

⁴³ If this is problematic, please name the relevant deficient norm and requirement or legal terms where these problems are most relevant, limited to a maximum of 4. If this is possible for you, please state the origin (EU/national/regional).



Unclear technical⁴⁴ specifications and terms or definitions⁴⁵

Insufficient evidence, data and information

due to lack of: reporting by duty holder

collection/analysis by authority

Inadequate technical understanding and knowledge

Insufficient capacity in competent authorities in:

human resources

technical equipment

training/guidance⁴⁶

Examples (please specify):...

Question 3.5: Are there other main reasons for problems in achieving the requirements of relevant EU legislation?

Question 3.6: What could help you to address and overcome challenges in applying and enforcing legislation on waste and trans-frontier shipments of waste? (please fill in check boxes⁴⁷)

Access to modern surveillance technologies and earth observation technique

Access to all available geospatial data relevant for your geographical area of competence (as intended by INSPIRE⁴⁸)

Sharing knowledge, skills and good practice:

inside your authority

between your and other competent authorities

⁴⁴ Technical is used here as opposed to (directly) legally binding specifications terms or definitions.

⁴⁵ If this is problematic, please name the relevant deficient norm and requirement or legal terms where these problems are most relevant, limited to a maximum of 4. If this is possible for you, please state the origin (EU/national/regional).

⁴⁶ Please specify the topics for which you would need guidance or training.

⁴⁷ Please answer with: "1)helps to do our work / 2)could help in the future/ 3)could help under certain conditions" (please specify)/4) Would not be helpful/5) is done but not helpful/ 6)don't know.

⁴⁸ The INSPIRE Directive aims to create a European Union spatial data infrastructure for the purposes of EU environmental policies and policies or activities which may have an impact on the environment. The Directive came into force on 15 May 2007 and will be implemented in various stages, with full implementation required by 2021.



Receiving application-oriented guidance and training⁴⁹

Coordinated action between different inspection authorities.on:

common inspections

case-meetings

common strategies

other/examples

Establishment of and active participation in networks of environmental professionals to facilitate communication and best practice exchange

Network cooperation (between the regional, national and European level and across the whole compliance chain)

Standing procedures to regularly inform policy makers about practical experiences and work results..

Best practice example(s) or conditions for the measure to be helpful:

Question 3.7: Please describe any other helpful measures.

4. Protection of Water and Land Legislation

Existing EU legislation relating to the regulation of water and land includes:

- Directive 2000/60/EC establishing a framework for Community action in the field of water policy – the ‘Water Framework Directive’;
- Directive 2007/60/EC on the assessment and management of flood risks;
- Directive 91/271/EEC concerning urban waste water treatment;
- Directive 98/83/EC on the quality of water intended for human consumption;
- Directive 2006/7/EC concerning the management of bathing water quality;
- Directive 2008/56/EC establishing a framework for Community action in the field of marine environmental policy – the ‘Marine Strategy Framework Directive’;
- Directive 2008/105/EC on environmental quality standards in the field of water policy;
- Directive 2006/118/EC on the protection of groundwater against pollution and deterioration;
- Directive (2009/128/EC) of 21. October 2009 on sustainable use of pesticides;

⁴⁹ Please specify the topics for which you would need guidance or training.



- Directive 76/464/EEC on pollution caused by discharges of certain dangerous substances, codified as 2006/11/EC, Directive 2006/11/EC of 15 February 2006 on pollution caused by certain dangerous substances discharged into the aquatic environment of the community;
- Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources.

Please answer the questions on this page if your organisation is responsible for protection of water and land legislation.

Otherwise please continue to the next page.

Question 4.1: What are the main challenges in applying water/land legislation⁵⁰ to your area of competence?

Installing/maintaining urban waste water treatment infrastructure

Drawing up plans/programs on:

river basin management

flood risk

marine water

Surface waters: monitoring/assessing:

chemical status

biological status

priority substances

nitrates

hydrological monitoring

Groundwater- monitoring/assessing:

nitrates

pesticides

biocides

other chemicals

quantitative status monitoring

Mitigating effects of::

physical modification of water bodies

flood prevention measures

⁵⁰ In other words: which binding requirements of the law are the most difficult to fulfil?



- Implementing soil protection measures
- Keeping the rule of non-deterioration
- Advancing towards “good ecological status” or “good environmental status”
- Management of transboundary pollution of surface waters
- Others/examples (please specify)...

Question 4.2: Are there specific sectors, activities and processes⁵¹ that present greater challenges than others?

- Agricultural fertilizing
- Intensive rearing
- Urban sewerage
- Industrial sites:
 - in operation
 - restoration after closure
- Landfills:
 - in operation
 - after closure
- Illegal dumping
- Sludge
- Point source discharges from:
 - industry
 - wastewater treatment plants
- Pollution from flooding
- Coal power plants
- Hydropower installations
- Wastewater discharge from mining activity
- Identification/management of derelict contaminated brownfield land
- Others (please specify)

⁵¹ This term denotes legal activities.



Question 4.3: What are the key challenges in the control of water and land related activities?

- Ensuring implementation of good agricultural practice
- monitoring and assessing soil contamination
- cooperation of different local and regional authorities
- reducing over-abstraction
- tackling illegal abstraction
- reducing diffuse water pollution
- monitoring and assessing the minimum ecological flow
- Others/examples (please specify):...

Question 4.4: What are the main underlying reasons and causes of problems in achieving the requirements of relevant EU legislation (please mark check boxes⁵²)?

- Unclear, incomplete or overly complex legislations⁵³
- Unclear technical⁵⁴ specifications and terms or definitions⁵⁵
- Insufficient evidence, data and information due to lack of:
 - reporting by duty holder
 - collection/analysis by authority
- Inadequate technical understanding and knowledge
- Insufficient control of contaminants
- Inadequate water pricing⁵⁶
- Inadequate spacial and land use planning
- Insufficient capacity in competent authorities in:

⁵² Please answer with: "1)correct/ 2)mainly correct/ 3)partly correct/ 4) rarely/ 5)incorrect/ 6)don't know.

⁵⁴ Technical is used here as opposed to (directly) legally binding specifications terms or definitions.

⁵⁵ If this is problematic, please name the relevant deficient norm and requirement or legal terms where these problems are most relevant, limited to a maximum of 4. If this is possible for you, please state the origin (EU/national/regional).

⁵⁶ Including prices for: drinking water, water for irrigation and other agricultural purposes, water for industrial purposes, waste water disposal.



human resources
technical equipment
training/guidance⁵⁷.

Examples(please specify) :...

Question 4.5: Are there other main reasons for problems in achieving the requirements of relevant EU legislation?

Question 4.6: What could help you to address and overcome challenges in applying and enforcing of water/land legislation? (please fill in check boxes⁵⁸)

Access to modern surveillance technologies and earth observation technique ..

Access to all available geospatial data relevant for your geographical area of competence (as intended by INSPIRE⁵⁹)

Sharing knowledge, skills and good practice

inside your authority

between your and other competent authorities

transboundary

Receiving application-oriented guidance and training⁶⁰

Coordinated action between different inspection authorities on:

common inspections

case-meetings

common strategies

Other/examples

⁵⁷ Please specify the topics for which you would need guidance or training.

⁵⁸ Please answer with: “1)helps to do our work / 2)could help in the future/ 3)could help under certain conditions” (please specify)/4) Would not be helpful/5) is done but not helpful/ 6)don’t know.

⁵⁹ The INSPIRE Directive aims to create a European Union spatial data infrastructure for the purposes of EU environmental policies and policies or activities which may have an impact on the environment. The Directive came into force on 15 May 2007 and will be implemented in various stages, with full implementation required by 2021.

⁶⁰ Please specify the topics for which you would need guidance or training.



Establishment of and active participation in networks of environmental professionals to facilitate communication and best practice exchange

Network cooperation (between the regional, national and European level and across the whole compliance chain)

Standing procedures to regularly inform policy makers about practical experiences and work results

Best practice example(s) or conditions for the measure to be helpful:

Question 4.7: Please describe any other helpful measures.

5. Nature Protection (Biodiversity and Habitats)

Halting and reversing the loss of biodiversity by 2020 is a key policy objective within the EU. The compliance with EU nature legislation (e.g. the Birds and Habitat Directives) is essential to achieve this target, and it is widely recognised that application and enforcement need to be improved. Less than one quarter of habitats assessed is currently in favourable conservation conditions. Nature legislation is the source of a relatively high number of complaints and infringement procedures.

Existing EU legislation relating to nature protection includes:

- Directive 2009/147/EC on the conservation of wild birds;
- Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora – the ‘Habitats Directive’;
- Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein (and related implementing regulation) – the “CITES Regulation”;
- Regulation No 1143/2014 on the prevention and management of the introduction and spread of invasive alien species;
- Regulation No 995/2010 laying down the obligations of operators who place timber and timber products on the market (as far as falling in the remit of environmental authorities).

Please answer the questions on this page if your organisation is responsible for nature protection (biodiversity and habitats).

Otherwise please continue to the next page.

Question 5.1: What are the main challenges in applying nature protection legislation⁶¹ to your area of competence?

⁶¹ In other words: which binding requirements of the law are the most difficult to fulfil?



- Designating sites of community interest⁶² i.e. key land
- Designating marine habitats
- Drawing up habitat management plans
- Preserving/restoring key habitats
- Connecting isolated habitats
- Assessing and reducing impacts from activities outside habitats⁶³
- Ensuring implementation of mitigation/compensation measures⁶⁴
- Supporting application of EU Timber regulation
- Combating illegal trade in/trafficking of protected species⁶⁵
- Management of invasive species
- Others/examples (please specify):...

Question 5.2: Are there specific sectors, activities and processes⁶⁶ that present greater nature protection challenges than others?

- Intensive rearing
- intensive farming
- Logging
- Hunting
- Mining
- Biogas
- Tourism
- Sports

⁶² This means habitats with importance to biodiversity conservation within the EU.

⁶³ E.g. mining, water extraction, air pollution, fertilising, intensive farming, intensive rearing.

⁶⁴ Measures to reduce the negative impact on habitats or measures to compensate negative effects of land use outside protected habitats (e.g. planting new trees to compensate cutting down trees elsewhere, restoring a habitat to compensate for soil sealing elsewhere).

⁶⁵ This includes trading and trafficking of parts and products derived from protected species.

⁶⁶ This term denotes legal activities.



Others(please specify):...

?

Question 5.3: What are the key challenges in the control of activities related to nature protection?

Detecting:

illegal change of land use

poaching

illegal fishing

illegal logging

illegal killing⁶⁷ of protected species

illegal ploughing up of grassland

illegal trafficking in protected species

?

Others/examples (please specify⁶⁸):...

?

Question 5.4: What are the main underlying reasons and causes of problems in achieving the requirements of relevant EU legislation (please mark check boxes⁶⁹)?

Unclear, incomplete or overly complex legislation⁷⁰

Unclear technical⁷¹ specifications, terms or definitions⁷²

Insufficient evidence, data and information

Inadequate taxonomical⁷³/ecological/technical understanding and knowledge

⁶⁷ This is often done to eliminate the potential damage to human activities caused by these species (perceived as “pest”), e.g. poisoning of birds of prey by hunters, fish- or poultry-farmers.

⁶⁸ Please cite relevant norms, targets or procedures and share concise illustrative examples (if possible in English).

⁶⁹ Please answer with: “1) correct/ 2) mainly correct/ 3) partly correct/ 4) rarely/ 5) incorrect/ 6) don’t know.

⁷⁰ If this is problematic, please name the relevant deficient norm and requirement or legal terms where these problems are most relevant, limited to a maximum of 4. If this is possible for you, please state the origin (EU/national/regional).

⁷¹ These are not legally binding but part of common standards, guidelines or recommendations.

⁷² If this is problematic, please name the relevant deficient norm and requirement or legal terms where these problems are most relevant, limited to a maximum of 4. If this is possible for you, please state the origin (EU/national/regional).

⁷³ Knowledge necessary for the identification of (protected) species.



Insufficient access to laboratory⁷⁴ expertise

Insufficient capacity in regulatory institutions in:

human resources

technical equipment

training/guidance⁷⁵

Examples (please specify):....:

Question 5.5: Are there other main reasons for problems in achieving the requirements of relevant EU legislation?

Question 5.6: What could help you to address and overcome challenges in applying and enforcing nature protection legislation? (please fill in check boxes⁷⁶)

Access to modern surveillance technologies and earth observation technique

Access to all available geospatial data relevant for your geographical area of competence (according to INSPIRE⁷⁷)

Sharing knowledge, skills and good practice:

inside your authority

between your and other competent authorities

Receiving application-oriented guidance and training⁷⁸

Coordinated action between different inspection authorities on:

common inspections

case-meetings

⁷⁴ Necessary for the identification of protected species e.g. through DNA-analysis, especially if products/parts derived from species are used.

⁷⁵ Please specify the topics for which you would need guidance or training.

⁷⁶ Please answer with: “1)helps to do our work / 2)could help in the future/ 3)could help under certain conditions” (please specify)/4) Would not be helpful/5) is done but not helpful/ 6)don’t know.

⁷⁷ The INSPIRE Directive aims to create a European Union spatial data infrastructure for the purposes of EU environmental policies and policies or activities which may have an impact on the environment. The Directive came into force on 15 May 2007 and will be implemented in various stages, with full implementation required by 2021.

⁷⁸ Please specify the topics for which you would need guidance or training.



common strategies

other/examples

Establishment of and active participation in networks of environmental professionals to facilitate communication and best practice exchange

Network cooperation (between the regional, national and European level and across the whole compliance chain)

Standing procedures to regularly inform policy makers about practical experiences and work results.

Best practice example(s) or conditions for the measure to be helpful:

Question 5.7: Please describe any other helpful measures.

6. Challenges Across the Compliance Chain

To ensure compliance with environmental (and any other) legislation, usually a whole sequence of activities is necessary. This may include planning, permitting, compliance promotion and the informed fulfilment of legal obligations by the duty holder. To control compliance, inspections, environmental monitoring and assessment and compliance assessments can be carried out. If non-compliance is discovered, measures for enforcement have to be taken, which may include prosecution and jurisdiction. For this, the informed collaboration of different public authorities and stakeholders is necessary, and obstacles and challenges interfering in one sequence may well affect the whole compliance chain.

- Directive 2014/52/EU of 16 April 2014 and amended Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment;
- Directive 2001/42/EC of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment;
- Directive 2007/2/EC of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE);
- Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS);
- Directive 2003/4/EC of 28 January 2003 on public access to environmental information;
- DIRECTIVE 2003/35/EC of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC (now 2011/92/EU) and 96/61/EC (now 2010/75/EU);
- Directive 2004/35/CE of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage;
DIRECTIVE 2008/99/EC of 19 November 2008 on the protection of the environment through criminal law.



Question 6.1: Which specific problems or difficulties create particular barriers to effective application and enforcement of EU environmental law in your area of competence - across the whole compliance chain (please mark all relevant checkboxes⁷⁹)?

Lacking compliance assurance plans⁸⁰ on the side of:

- public authority
- duty holders
- strategic level

Insufficient assessment of the effects of certain plans and programs⁸¹ on the environment

Insufficient rules or practices on collaboration between authorities

Unclear, deficient or lacking spatial planning or permits

Insufficient assessment of the effects of certain projects⁸² on the environment

Lacking, unclear or insufficiently analysed self-monitoring or reporting of operator

Lacking or insufficient risk assessments⁸³

Lacking environmental use or status data⁸⁴ (e.g. INSPIRE data⁸⁵)

⁷⁹ Please answer with: “1)correct/ 2)mainly correct/ 3)partly correct/ 4) rarely/ 5)incorrect/ 6)don’t know.

⁸⁰ Compliance assurance plans set out the activities to be undertaken in the planning period to achieve defined duties and goals. The plan should include information about the priorities, the underlying risk assessment and the resources required to implement the plan. Integrated plans also cover other areas of environmental and related law as appropriate. The plans should be evaluated and revised regularly.

⁸¹ According to the SEA-directive, the probable effect of certain plans and programs has to be assessed beforehand to promote informed political decisions.

⁸² According to the EIA-directive, the probable effect of certain projects on the environment has to be assessed beforehand to promote informed land use decisions.

⁸³ Risk assessments take into account actual compliance levels and their impact to environment, health, safety and fair competition. Where no information on compliance levels is available, the likelihood of non-compliance shall be estimated. Other criteria may be included by competent authorities as appropriate.

⁸⁴ Environmental status data covers data e.g. on biodiversity (possibly including non-indigenous species), eutrophication, soil integrity, geo- and hydrographical conditions, concentrations of contaminants, litter, introduction of energy and the functioning and reproductive capacity of the ecosystem.

⁸⁵ The INSPIRE Directive aims to create a European Union spatial data infrastructure for the purposes of EU environmental policies and policies or activities which may have an impact on the environment. The Directive came into force on 15 May 2007 and will be implemented in various stages, with full implementation required by 2021.



Lacking compliance assessment data

Lacking administrative enforcement instruments⁸⁶

Insufficient capacity of other relevant public authorities in the compliance chain in:

human resources

technical equipment

training/guidance

units specialised on environmental topics

Lacking integration and prioritisation of environmental issues

Lacking possibilities for authorities' differentiated responses towards different causes of non-compliance⁸⁷

Inadequate level of sanctions and fines

Inadequate coverage/financial security for closure, sanitisation and aftercare of contaminated sites

Others/examples (please specify):

⁸⁶ Many but not all national administrations have administrative means of enforcement at their disposal like administrative orders, administrative fines, administrative execution and administrative substitute performance. Where these means are lacking, the use of penal law often is the only way to enforce binding environmental law, which might hamper enforcement.

⁸⁷ Reasons for breaching environmental law are diverse and may relate to

- organised crime (e.g. illegal waste trafficking),
- opportunism (e.g. fly-tipping of waste),
- ignorance and carelessness (e.g. unwitting importation of items prohibited under CITES),
- lack of social acceptance (e.g. some illegal hunting, trapping and other traditional land use)
- or lack of investment (as where a municipality with legal responsibility for treating urban waste water fails to make the necessary investment)

Given the diversity of reasons, the success of possible interventions by competent authorities to ensure compliance may depend from the availability of a whole range of instruments, reaching from incentives, cooperation, campaigns and counselling for funding possibilities through inspections and additional permit requirements to police investigations and penal sanctions. Fewer instruments may result in less successful interventions.



Question 6.2: What are the most important things that could help overcome these implementation problems? (please mark check boxes⁸⁸)

Promoting strategic approaches to compliance assurance

Improving availability and accessibility of data on:

- spatial planning
- environmental status
- environmental users
- environmental management schemes
- inspection reports
- environmental enforcement issues
- others

Ensuring availability and comparability of relevant reports on:

- environmental assessments
- environmental management of sites
- environmental status

Revolving evaluations of the work of authorities with compliance assurance functions

Guidance on how to prepare and facilitate judicial enforcement (e.g. evidence gathering⁸⁹)

Establishment of and active participation in networks of environmental professionals to facilitate communication and best practice exchange

Network cooperation (between the regional, national and European level and across the whole compliance chain)

Standing procedures to regularly inform policy makers about strategic compliance assurance issues

Best practice example(s) or conditions for the measure to be helpful:

Question 6.3: Please describe any other helpful measures.

7. Complementary Support of Stakeholders for Compliance Assurance

⁸⁸ Please answer with: “1)helps to do our work / 2)could help in the future/ 3)could help under certain conditions” (please specify)/4) Would not be helpful/5) is done but not helpful/ 6)don’t know.

⁸⁹ As requirements for probative value in court are much stricter than for evidence in inspections, court enforcement actions may fail because of lacking quality of evidence.



While inspections, surveillance and enforcement by competent authorities are indispensable for the implementation of environmental law, complementary approaches seek to use additional incentives and to integrate possible contributions from the civil society i.e. citizens, NGOs, economic stakeholders, scientific institutions etc. to improve compliance. In addition, necessary or helpful information about the state of the environment and the environmental performance of sites are made publicly available. Finally, alternative tools and differentiated enforcement responses might help to address different reasons for non-compliance more effectively.

Question 7.1: Which complementary approaches are or could be helpful? (please mark check boxes⁹⁰)

Information/guidance/campaigns on compliance strategies⁹¹ for duty-holders

Additional incentives (e.g. label/awards/promotion) for duty-holders

Information of the public e.g. about the state of the (local) environment, inspection results⁹² and high performers⁹³

Effective involvement of local communities and stakeholders in environmentally relevant planning and decision processes⁹⁴

Integration of interested citizens or NGOs in surveillance and protection of sites or species (through sponsorship/guardianship of areas etc.)

Low threshold- easy access complaint system (with a follow up including procedural rights)⁹⁵

⁹⁰ Please answer with: “1)helps to do our work / 2)could help in the future/ 3)could help under certain conditions” (please specify)/4) Would not be helpful/5) is done but not helpful/ 6) don’t know.

⁹¹ Through publicity, targeted information towards sector associations or easily accessible sector specific information on the web, duty holders can be informed about their legal obligations and best strategies to fulfil them.

⁹² Some inspection authorities publish a summarised report on inspection results (after hearing the management of the inspected site and eliminating data covered by trade and business secrecy provisions). In some areas, this has considerably improved compliance.

⁹³ Some administrations or NGOs create awards for the best environmental performances per sector and use official award ceremonies or other means of publicity.

⁹⁴ E.g. early involvement in planning processes, planning conferences.

⁹⁵ Such systems would guarantee certain procedural rights to the complainant; e.g. would confirm reception and dealing with the complaint, would offer the complainant a possibility to react to contrary statements of other stakeholders and would communicate an administrative decision regarding the subject of the complaint.



Installation of an online portal where everyone may file notices about infractions or environmental problems (without resulting procedural rights)⁹⁶

Support for dialogues between site management and their neighbours to reduce possible conflicts and complaints⁹⁷

Integration of accredited external experts (including EMAS⁹⁸ verifiers) into inspection or surveillance activities

Use of environmental reports (under EMAS or other schemes⁹⁹) for the compliance control of sites¹⁰⁰

General simplifications or reduction of inspections for EMAS-certified sites

Best practice example(s) or conditions for the measure to be helpful:

Question 7.2: Please describe any other helpful measures.

8. Trans-Boundary or Trans-Sectoral Application and Enforcement Problems

Many environmental processes and issues cross administrative or national borders or different areas of competence and sectors of legislation. In many sectors - i.e. trans-frontier shipment of waste, management of river basins, long-range air pollution, trade and use of chemicals, ground water protection, fight against wildlife crime, protection of marine environment, strategic environmental assessments, etc. - effectiveness of environmental legislation depends upon good cooperation between different authorities with different competences, different districts or other sub-national entities and/or different countries and jurisdictions.

Question 8.1: What are the main outstanding implementation problems in your area of competence that require trans-boundary or trans-sectoral approaches, technical cooperation and coordination?

⁹⁶ Such systems would offer a possibility for anybody to transfer information about irregularities to the competent administration, without creation of a legal position.

⁹⁷ This may cover mediation as well as neighbourhood dialogues (see: <http://www.impel.eu/tools/neighbourhood-dialogue-toolkit/>).

⁹⁸ EMAS (Eco-Management and Audit Scheme) is a voluntary environmental management scheme based on EU-Regulation 1221/2009.

⁹⁹ ISO 14001 is a worldwide standard on environmental management but has less extensive requirements than EMAS, as it does not require legal compliance as a precondition for certification and has no external accreditation body.

¹⁰⁰ As EMAS does require legal compliance as a precondition for certification and the EMAS – certifier needs the registration of an external accreditation body, an EMAS certification could be accepted as a partial or occasional substitute for inspections of the competent authority.



Question 8.2: Are there discrepancies between EU and international legal instruments (i.e. Basel Convention¹⁰¹, Hong Kong Convention¹⁰², CITES¹⁰³, regional seas conventions, etc.) that hamper compliance?

...

Question 8.3: What could help you to overcome trans-boundary or trans-sectoral challenges? (please mark check boxes¹⁰⁴)

Facilitating communication between different authorities

Sharing knowledge, skills and good practice

Using common technical/procedural guidance¹⁰⁵.

Establishing information exchange routines.

Coordinating compliance action between authorities.

Informing policy with practical experience and expertise.

Best practice example(s) or conditions for the measure to be helpful:

Question 8.4: Please describe any other helpful measures.

¹⁰¹ The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal was adopted on 22 March 1989 and entered into force on 5 May 1992.

¹⁰² The Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009 (the Hong Kong Convention), was agreed in Hong Kong, China, on the 15 of May 2009.

¹⁰³ CITES (the Convention on International Trade in Endangered Species of Wild Fauna and Flora) is an international agreement and aims to ensure that international trade in specimens of wild animals and plants does not threaten their survival. It was agreed in Washington, USA, on 3 March 1973, and entered in force on 1 July 1975.

¹⁰⁴ 1)helps to do our work / 2)could help in the future/ 3)could help under certain conditions” (please specify)/4) i Would not be helpful/5) is done but not helpful/ 6)don’t know.

¹⁰⁵ Please specify topics (if possible, in English)



9. Concluding Questions

Question 9.1: Overall, what are the top 3 most important obstacles or challenges your organisation is facing right now?

Question 9.2: Do you have a general compliance assurance strategy?¹⁰⁶

Yes, per authority per region per sector on the national level No

Question 9.3: Could you identify specific areas where EU legislation has been particularly effective in helping to improve environmental protection in your area of competence?

THANK YOU VERY MUCH FOR YOUR PARTICIPATION IN THIS SURVEY – IT IS GREATLY VALUED!

¹⁰⁶ A high level plan to achieve compliance in your area of competence/remit, taking into account past experiences of your organisation and predictions based on them. A strategy should identify goals, determine actions to achieve the goals, and commit resources to execute the actions. It should describe in a comprehensive way how (an improvement of) compliance will be achieved by which actions and resources.



Annex V: Revised Questionnaire: Implementation Challenge Survey

IMPEL Implementation Challenge Survey

Survey on obstacles and challenges to compliance with European Environmental Law

This questionnaire seeks information on the **obstacles and challenges** that competent authorities face when applying or enforcing EU environmental legislation, as well as on **innovative practices and solutions** developed to overcome them. It is addressed to practitioners in public authorities directly responsible for any part of the **application or enforcement** of environmental legislation or the surveillance of the environment.

The information gathered will be analysed and summarized, and relevant conclusions will be used by IMPEL to identify or develop strategies, projects and tools for better environmental compliance assurance. A project report will summarize its findings and will be published.

The usefulness of this survey depends on respondents being open and honest in their responses. We will therefore fully respect the **confidentiality** of respondents. We would highly appreciate information, illustrative cases and best-practice examples that can be shared, but will not identify specific countries or organisations in our report. The questionnaire is **not** intended as an audit or a benchmarking exercise. IMPEL will **not** use it for case-specific reporting.

If you receive this questionnaire as a member of the IMPEL network, please consider distributing the questionnaire directly to environmental authorities and to encourage a multitude of experts' answers. The more individual answers IMPEL receives, the higher will be the value of the feedback. As a national authority, you could also use the questionnaire to collect relevant information on compliance assurance at local, regional or national level.

If possible, **please answer in English** when asked for descriptions, explanations or specific examples.

Who is seeking this information?

You are receiving this questionnaire from IMPEL, the **European Union Network for the Implementation and the Enforcement of Environmental Law, to which your country or environmental authority is a member.**

IMPEL is an international non-profit association of environmental authorities of the EU Member States, EEA countries, acceding countries and candidates. The Network's objective is to promote a more effective application of EU environmental legislation and policies and support the work of environmental authorities all over Europe. For more information see www.impel.eu

1. General questions

1.1. Please indicate your country.

[Dropdown of all IMPEL members]



1.2. What is the operational level of your organisation?

National	<input type="checkbox"/>
Regional	<input type="checkbox"/>
Local	<input type="checkbox"/>

1.3. Is your organisation responsible for environmental protection in the following areas? Click all that apply.

Industry	<input type="checkbox"/>
Noise	<input type="checkbox"/>
Air quality	<input type="checkbox"/>
Waste collection, treatment and disposal	<input type="checkbox"/>
Trans-frontier shipment of waste	<input type="checkbox"/>
Protection of water	<input type="checkbox"/>
Protection of land	<input type="checkbox"/>
Land use management and spatial planning	<input type="checkbox"/>
Nature protection (biodiversity and habitats)	<input type="checkbox"/>
Trade in wild fauna and flora (CITES)	<input type="checkbox"/>
Chemicals	<input type="checkbox"/>
Other (please specify): _____	

1.4. Is your organisation responsible for the following tasks? Click all that apply.

Environmental planning	<input type="checkbox"/>
Environmental permitting	<input type="checkbox"/>
Compliance promotion and assessment	<input type="checkbox"/>
Inspections	<input type="checkbox"/>
Environmental monitoring and assessment	<input type="checkbox"/>
Environmental reporting	<input type="checkbox"/>
Civil and/or administrative law enforcement	<input type="checkbox"/>
Environmental prosecution	<input type="checkbox"/>
Development of strategies and programs	<input type="checkbox"/>
Evaluation of performance of other authorities	<input type="checkbox"/>
Other (please specify): _____	

1.5. Do you have a general compliance assurance strategy? Click all that apply.

Compliance assurance strategy: A high level plan to achieve compliance in your area of competence, taking into account past experiences of your organisation and predictions based on them. A strategy should identify goals, determine actions to achieve the goals, and commit resources to execute the actions.

Yes, per authority	<input type="checkbox"/>
--------------------	--------------------------



Yes, per region	<input type="checkbox"/>
Yes, per sector	<input type="checkbox"/>
Yes, on the national level	<input type="checkbox"/>
No	<input type="checkbox"/>

1.6. Overall, what are the top three most important obstacles or challenges your organisation is facing right now?

Top 1	
Top 2	
Top 3	

2. Industry, Noise and Air Quality Regulation

[If the online survey software allows to do so, only show part 2 if respondents have indicated in question 1.3 that they are responsible for “Industry”, “Noise” and/or “Air Quality”]

Please answer the questions on this page if your organisation is responsible for industry, noise and air quality regulation.

Otherwise please continue to the next page.

2.1. In your experience, what are the main challenges in applying environmental legislation on industry, noise and air quality and in controlling its implementation? Please choose up to five.

Effect of industrial emission on air quality	<input type="checkbox"/>
Effect of traffic on air quality	<input type="checkbox"/>
Effect of domestic heating on air quality	<input type="checkbox"/>
Effect of agriculture on air quality	<input type="checkbox"/>
Drawing up air quality action plans	<input type="checkbox"/>
Application of best available techniques in permits	<input type="checkbox"/>
Adapting permits in result to BAT/BREFs	<input type="checkbox"/>
Clarity of permit requirements	<input type="checkbox"/>
Application of emission limit values	<input type="checkbox"/>
Defining more stringent emission limit values	<input type="checkbox"/>
Assessing/preventing further soil contamination around installations	<input type="checkbox"/>
Regular soil and groundwater monitoring	<input type="checkbox"/>
Planning/execution of risk-based inspections	<input type="checkbox"/>
Improving public access to industrial emissions, noise and air quality information	<input type="checkbox"/>
Identification of pollution sources	<input type="checkbox"/>
Others/examples: (please specify): _____	



**2.2. Are there specific industry sectors or processes that present greater challenges than others?
Please choose up to three.**

Energy production	<input type="checkbox"/>
Refineries	<input type="checkbox"/>
Coal and steel	<input type="checkbox"/>
Chemicals	<input type="checkbox"/>
Intensive livestock farming	<input type="checkbox"/>
Other agricultural practices (e.g. burning, applying fertilizer, pesticides or herbicides)	<input type="checkbox"/>
Domestic heating with solid fuels	<input type="checkbox"/>
Motorised vehicles	<input type="checkbox"/>
Other (please specify): _____	

3. Waste and Trans-Frontier Shipment of Waste (TFS) Legislation

[If the online survey software allows to do so, only show part 3 if respondents have indicated in question 1.3 that they are responsible for “Waste collection, treatment and disposal” or “Trans-frontier shipment of waste”]

Please answer the questions on this page if your organisation is responsible for waste and trans-frontier shipment of waste (TFS) legislation.

Otherwise please continue to the next page.

3.1. In your experience, what are the main challenges in applying waste and TFS legislation and in controlling its implementation? Please choose up to five.

Distinction between waste and non-waste	<input type="checkbox"/>
Distinction between hazardous and non-hazardous waste	<input type="checkbox"/>
Establishing adequate waste treatment-infrastructure	<input type="checkbox"/>
Reaching recycling targets	<input type="checkbox"/>
Establishing inspection plans for TFS (trans-frontier shipment of waste)	<input type="checkbox"/>
Drawing up waste prevention plans	<input type="checkbox"/>
Drawing up waste management plans	<input type="checkbox"/>
Managing nuisance around waste treatment plants/landfills	<input type="checkbox"/>
Promotion of waste pre-treatment	<input type="checkbox"/>
Cumbersome and ineffective procedures/forms	<input type="checkbox"/>
Tracking hazardous waste	<input type="checkbox"/>
Fighting organised waste crime	<input type="checkbox"/>
Surveillance of operating landfills	<input type="checkbox"/>
Surveillance of closure/after-care of landfills	<input type="checkbox"/>
Surveillance of illegal dumping/burning of waste	<input type="checkbox"/>
Others/examples (please specify): _____	



**3.2. Are there specific industry sectors or processes that present greater challenges than others?
Please choose up to three.**

Waste combustion for energy production	<input type="checkbox"/>
Trade in “used goods”	<input type="checkbox"/>
Electric or electronic waste	<input type="checkbox"/>
End of life-vehicles	<input type="checkbox"/>
End of life-ships	<input type="checkbox"/>
Organic waste	<input type="checkbox"/>
Mineral waste	<input type="checkbox"/>
Landfills	<input type="checkbox"/>
Other (please specify): _____	

4. Protection of Water and Land Legislation

[If the online survey software allows to do so, only show part 4 if respondents have indicated in question 1.3 that they are responsible for “Protection of water”, “Protection of land” and/or “Land use management and spatial planning”]

Please answer the questions on this page if your organisation is responsible for protection of water and land legislation.

Otherwise please continue to the next page.

4.1. In your experience, what are the main challenges in applying water and land legislation and in controlling its implementation? Please choose up to five.

Installing/maintaining urban waste water treatment infrastructure	<input type="checkbox"/>
Drawing up plans/programs on river basin management	<input type="checkbox"/>
Monitoring/assessing surface waters	<input type="checkbox"/>
Monitoring/assessing groundwater	<input type="checkbox"/>
Mitigating effects of physical modification of water bodies	<input type="checkbox"/>
Implementing soil protection measures	<input type="checkbox"/>
Keeping the rule of non-deterioration	<input type="checkbox"/>
Advancing towards “good ecological status” or “good environmental status”	<input type="checkbox"/>
Management of transboundary pollution of surface waters	<input type="checkbox"/>
Ensuring implementation of good agricultural practice	<input type="checkbox"/>
Monitoring and assessing soil contamination	<input type="checkbox"/>
Cooperation of different local and regional authorities	<input type="checkbox"/>
Tackling illegal abstraction	<input type="checkbox"/>
Reducing diffuse water pollution	<input type="checkbox"/>
Monitoring and assessing the minimum ecological flow	<input type="checkbox"/>
Others/examples (please specify): _____	



4.2. Are there specific sectors, activities and processes that present greater challenges than others? Please choose up to three.

Application of fertilizer, pesticides or herbicides in agriculture (including disposal of farm effluents)	<input type="checkbox"/>
Intensive rearing	<input type="checkbox"/>
Industrial sites (in operation or restoration after closure)	<input type="checkbox"/>
Landfills (in operation or after closure)	<input type="checkbox"/>
Illegal dumping	<input type="checkbox"/>
Sludge	<input type="checkbox"/>
Point source discharges from wastewater treatment plants	<input type="checkbox"/>
Identification/management of derelict contaminated brownfield land	<input type="checkbox"/>
Other (please specify): _____	

5. Nature Protection (Biodiversity and Habitats)

[If the online survey software allows to do so, only show part 4 if respondents have indicated in question 1.3 that they are responsible for “Nature Protection (biodiversity and habitats)” and/or “Trade in Wild Fauna and Flora (CITES)”]

Please answer the questions on this page if your organisation is responsible for nature protection (biodiversity and habitats).

Otherwise please continue to the next page.

5.1. In your experience, what are the main challenges in applying nature protection legislation and in controlling its implementation? Please choose up to five.

Designating protected areas (e.g. sites of community interest)	<input type="checkbox"/>
Drawing up habitat management plans	<input type="checkbox"/>
Preserving/restoring vulnerable protected habitats	<input type="checkbox"/>
Connecting isolated habitats	<input type="checkbox"/>
Assessing and reducing impacts from activities outside protected areas	<input type="checkbox"/>
Ensuring implementation of mitigation/compensation measures	<input type="checkbox"/>
Supporting application of EU Timber regulation	<input type="checkbox"/>
Combating and detecting illegal trafficking of protected species	<input type="checkbox"/>
Management of invasive species	<input type="checkbox"/>
Detecting illegal change of land use	<input type="checkbox"/>
Detecting poaching	<input type="checkbox"/>
Detecting illegal fishing	<input type="checkbox"/>
Detecting illegal logging	<input type="checkbox"/>
Detecting illegal killing of protected species	<input type="checkbox"/>
Detecting illegal ploughing up of grassland	<input type="checkbox"/>
Others/examples (please specify): _____	



5.2. Are there specific sectors, activities and processes that present greater nature protection challenges than others? Please choose up to three.

Intensive rearing	<input type="checkbox"/>
intensive farming	<input type="checkbox"/>
Logging	<input type="checkbox"/>
Hunting	<input type="checkbox"/>
Mining	<input type="checkbox"/>
Biogas	<input type="checkbox"/>
Tourism	<input type="checkbox"/>
Sports	<input type="checkbox"/>
Other (please specify): _____	

6. Underlying Causes of Implementation Challenges

6.1. What are the main underlying reasons and causes of problems in achieving the requirements of environmental EU legislation in your area(s) of competence? Please choose up to five.

Unclear, incomplete or overly complex legislation	<input type="checkbox"/>
Unclear technical specifications and/or terms or definitions	<input type="checkbox"/>
Inadequate urban and land use management and spatial planning	<input type="checkbox"/>
Insufficient evidence, data and information	<input type="checkbox"/>
Inadequate range of professional qualifications for efficient implementation and enforcement	<input type="checkbox"/>
Inadequate technical/ecological/taxonomical understanding and knowledge	<input type="checkbox"/>
Insufficient access to laboratory expertise	<input type="checkbox"/>
Insufficient capacity in competent authorities <i>in human resources</i>	<input type="checkbox"/>
Insufficient capacity in competent authorities <i>in technical equipment</i>	<input type="checkbox"/>
Insufficient capacity in competent authorities <i>in training/guidance</i>	<input type="checkbox"/>
Others/examples (please specify): _____	

6.2. Is there unclear, incomplete or overly complex legislation that creates implementation challenges?

Please name EU legislation and its specific requirements, if necessary as transposed into your national legal system. Where EU and national legislation are too closely interlinked for you to differentiate, please feel free to refer to the relevant national norm and, if appropriate, term instead.

6.3. Could you identify specific areas where EU legislation has been particularly effective in helping to improve environmental protection in your area of competence?



6.4. Which specific problems or difficulties create particular barriers to effective application and enforcement of EU environmental law in your area of competence - across the whole compliance chain? Please choose up to five.

To ensure compliance with environmental (and any other) legislation, a whole sequence of activities is necessary. This may include planning, permitting, compliance promotion and the informed fulfilment of legal obligations by the duty holder. To control compliance, inspections, environmental monitoring and assessment and compliance assessments can be carried out. If non-compliance is discovered, measures for enforcement have to be taken, which may include prosecution and jurisdiction. For this, the informed collaboration of different public authorities and stakeholders is necessary. Stakeholders within the compliance chain include legislators, regulators, the judiciary and networks carrying out activities such as policy development, permitting, inspections, and analysing data, reporting and possibly enforcement and sanctioning. This scope also includes the police, custom organisations, public prosecutors and judges.

Lacking compliance assurance plans (on the side of public authorities, duty holders or on the strategic level)	<input type="checkbox"/>
Insufficient assessment of the effects of certain plans, programs or projects on the environment	<input type="checkbox"/>
Insufficient rules or practices on collaboration between authorities	<input type="checkbox"/>
Inadequate, unclear or deficient urban and land use management, spatial planning or permits	<input type="checkbox"/>
Lacking, unclear or insufficiently analysed self-monitoring or reporting of operator	<input type="checkbox"/>
Lacking or insufficient risk assessments	<input type="checkbox"/>
Insufficient capacity of other relevant public authorities in the compliance chain in <i>human resources</i>	<input type="checkbox"/>
Insufficient capacity of other relevant public authorities in the compliance chain in <i>technical equipment</i>	<input type="checkbox"/>
Insufficient capacity of other relevant public authorities in the compliance chain in <i>training/guidance</i>	<input type="checkbox"/>
Lacking specialisation on environmental infractions in other relevant public authorities in the compliance chain (e.g. environmental prosecutors)	<input type="checkbox"/>
Lacking integration and prioritisation of environmental issues in other areas (e.g. agriculture)	<input type="checkbox"/>
Lacking political support for environmental issues	<input type="checkbox"/>
Lacking administrative enforcement instruments	<input type="checkbox"/>
Lacking possibilities for authorities' differentiated responses towards different causes of non-compliance	<input type="checkbox"/>
Inadequate level of sanctions and fines	<input type="checkbox"/>
Inadequate coverage/financial security for closure, sanitisation and aftercare of contaminated sites	<input type="checkbox"/>
Others/examples (please specify): _____	

7. Possible Solutions to Overcome Implementation Challenges

The following questions ask you to evaluate different measures to overcome challenges in implementing environmental legislation. Please name further helpful measures and best practice examples.



7.1. On which topics would you need guidance and training?

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7.2. Would an improved availability and accessibility of data, information and technologies help you to address and overcome challenges in applying and enforcing environmental legislation? If yes, which kinds of data, information or technologies would you need? Click all that apply.

Modern surveillance technologies and earth observation technique	<input type="checkbox"/>
Geospatial data relevant for your geographical area of competence (according to INSPIRE)	<input type="checkbox"/>
Data on spatial planning	<input type="checkbox"/>
Data on environmental users	<input type="checkbox"/>
Data on environmental management schemes	<input type="checkbox"/>
Inspection reports	<input type="checkbox"/>
Data on environmental enforcement issues	<input type="checkbox"/>
Comparable and relevant reports on environmental assessments	<input type="checkbox"/>
Comparable and relevant reports on environmental management of sites	<input type="checkbox"/>
Comparable and relevant reports on environmental status	<input type="checkbox"/>
Others/best practice examples (please specify): _____	

7.3. Would exchange and cooperation within your authority and with other competent authorities help you to address and overcome challenges in applying and enforcing environmental legislation? If yes, which measures are or would be helpful? Click all that apply.

Sharing knowledge, skills and good practice <i>inside your authority</i>	<input type="checkbox"/>
Sharing knowledge, skills and good practice <i>between your and other competent authorities</i>	<input type="checkbox"/>
Sharing knowledge, skills and good practice <i>between your and other competent authorities across borders</i>	<input type="checkbox"/>
Establishment of and active participation in networks of environmental professionals to facilitate communication and best practice exchange	<input type="checkbox"/>
Cooperation of networks (between the regional, national and European level and across the whole compliance chain)	<input type="checkbox"/>
Standing procedures to regularly inform policy makers about practical experiences and work results	<input type="checkbox"/>
Establishing information exchange routines (trans-boundary and/or trans-sectoral)	<input type="checkbox"/>
Revolving evaluations of the work of authorities with compliance assurance functions	<input type="checkbox"/>
Facilitating communication between different authorities	<input type="checkbox"/>
Coordinated action between different inspection authorities: <i>common inspections</i>	<input type="checkbox"/>
Coordinated action between different inspection authorities: <i>case-meetings</i>	<input type="checkbox"/>
Coordinated action between different inspection authorities: <i>common strategies</i>	<input type="checkbox"/>
Coordinated action between different inspection authorities: <i>land use planning</i>	<input type="checkbox"/>
Coordinating compliance action between authorities across borders	<input type="checkbox"/>
Others/best practice examples (please specify): _____	



7.4. Which complementary approaches are or could be helpful to improve compliance with environmental law? Click all that apply.

While inspections, surveillance and enforcement by competent authorities are indispensable for the implementation of environmental law, complementary approaches seek to use additional incentives and to integrate possible contributions from the civil society i.e. citizens, NGOs, economic stakeholders, scientific institutions etc. to improve compliance. In addition, necessary or helpful information about the state of the environment and the environmental performance of sites are made publicly available. Finally, alternative tools and differentiated enforcement responses might help to address different reasons for non-compliance more effectively.

Information/guidance/campaigns on compliance strategies for duty-holders	<input type="checkbox"/>
Additional incentives (e.g. label/awards/promotion) for duty-holders	<input type="checkbox"/>
Information of the public e.g. about the state of the (local) environment, inspection results and high performers	<input type="checkbox"/>
Effective involvement of local communities and stakeholders in environmentally relevant planning and decision processes	<input type="checkbox"/>
Integration of interested citizens or NGOs in surveillance and protection of sites or species (through sponsorship/guardianship of areas etc.)	<input type="checkbox"/>
Low threshold- easy access complaint system (with a follow up including procedural rights)	<input type="checkbox"/>
Installation of an online portal where everyone may file notices about infractions or environmental problems (without resulting procedural rights)	<input type="checkbox"/>
Support for dialogues between site management and their neighbours to reduce possible conflicts and complaints	<input type="checkbox"/>
Integration of accredited external experts (including EMAS verifiers) into inspection or surveillance activities	<input type="checkbox"/>
Use of environmental reports (under EMAS or other schemes like ISO 14001) for the compliance control of sites	<input type="checkbox"/>
General simplifications or reduction of inspections for EMAS-certified sites	<input type="checkbox"/>
Others/best practice examples (please specify): _____	

7.5. Please describe any other helpful measures to overcome implementation challenges.

Thank you very much for your participation in this survey – it is greatly valued!