

TOR Reference No.:	Author(s): Ana Garcia, Gisela Holzgraefe and Iñaki Bergareche
Version: 2.0	Date: 14.10.2015
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 checked="" 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 checked="" type="checkbox"/>
Comparison studies	<input type="checkbox"/>
Assessing legislation (checklist)	<input type="checkbox"/>
Other (please describe):	<input type="checkbox"/>
1.3 Full name of work (enough to fully describe what the work area is)	
Nature protection in permitting and inspection of extractive industry (quarries and open cast mining) – Implementation of Art. 6(3) of the Habitats Directive	
1.4 Abbreviated name of work or project	
Permitting under Art. 6(3) HD – quarries and open cast mining	

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

2.1 Name the legislative driver(s) where they exist (name the Directive, Regulation, etc.)
Habitats Directive, Council Directive 92/43/EEC of 21 May 1992 Birds Directive, Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009

2.2 Link to IMPEL MASP priority work areas

- | | |
|--|-------------------------------------|
| 1. Assist members to implement new legislation | <input type="checkbox"/> |
| 2. Build capacity in member organisations through the IMPEL Review Initiatives | <input type="checkbox"/> |
| 3. 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.)

A. Motivations

Decline in EU biodiversity

The alarming decline in Europe's biodiversity has driven the adoption, by the European Union (EU) of two key pieces of legislation – the Habitats and Birds Directives – to conserve Europe's most valuable species and habitats across their entire natural range within the EU.

The Birds and Habitats Directives are central to achieving the EU 2020 target of halting and reversing the loss of biodiversity endorsed by Heads of State and Government. The Commission has adopted an ambitious strategy to achieve this objective, comprised of six targets. Target 1 of this Strategy is focused on "Full implementation of EU nature legislation to protect" biodiversity and requires a significant improvement in conservation status. The implementation of EU nature legislation also contributes significantly to other targets of the biodiversity strategy, including in relation to green infrastructure and restoration under Target 2.

Assure compatibility of extractive industry with effects on wildlife and nature

Europe's manufacturing and construction industries are heavily dependent on the non-energy extractive industry for essential raw materials, including non-energy minerals, resources that are many times present on Natura 2000 sites, which highlights the a need to assure the compatibility of extractive industry with effects on wildlife and nature.

Increase the level of implementation and enforcement of the Habitats and Birds Directives within organizations in the Member States and identification of key challenges

In 2012 - 2014 the "Study on Evaluating and Improving the Article 6.3 Permit Procedure for Natura 2000 Sites" was carried out for the Commission. Only nature authorities were involved in it. A big variety of different approaches have been applied in practice.

In total it was found that the Article 6.3 permit procedure is functioning well.

However, some countries/regions some countries reported that there is still an overall lack of understanding of, or willingness to accept, the Article 6.3 procedure amongst certain authorities and/or sectors. Several countries reported that there was still a real need to set up a more systematic and consistent framework for assessment, provide skills training and locally adapted guidance (including for instance checklists and pro forma forms) for both the project or plan proponents and the competent authorities

A number of current problems are mentioned in the study, such as:

- Poor quality of the Appropriate Assessment (AA);
- Lack of skills/ knowledge /capacity in the Article 6 (3) procedure;
- Poor inadequate knowledge base on which to assess impacts ;
- Problems during screening;
- Lack of assessment of cumulative effects ;
- Poor understanding of key concepts and legal terms.

This report makes several recommendations, to facilitate the implementation of the HD Directive, increase the level of understanding of how this is to be done in practice and discuss any particularly complex or problematic cases, including:

- User-friendly up-to-date and practical guidance documents (eg practical 'how to' guide, with worked up examples of how to collect baseline information, assess impacts or cumulative effects, identify mitigation measures, ...).
- Consider drawing up standardized, but non obligatory, checklists of what to include in an AA report.
- Organize more systematic training courses (tailored to particular needs) and exchange platforms for competent authorities;
- Ensure there is a consistent and uniform framework in place for screening of all types of plans and projects;
- Provide a standardized format for preparing the screening application and to guide the developer/competent authority in terms of the minimum level of information that is required for the screening test (together with guidelines and explanations of how to complete them).

The Multi Annual Strategic Programme 2013-15 for IMPEL presents background information and the key priorities, in line on the European Commission's 7th Environmental Action Plan Consultation Document and its Communication on Implementation (COM(2012) 95 final). Together, these seek to deliver four important outcomes, being mainly important to this project: Implement EU legislation effectively to deliver better environmental outcomes; Align environmental policy and practice to latest scientific knowledge.

B. Background

In 2013 IMPEL identified in a small project "Nature protection in permitting and inspection". The need for more information concerning nature protection in permitting and inspection of industrial installations was confirmed. Therefore IMPEL carried out a follow-up in 2014 project with the title "Nature protection in permitting and inspection of industrial installations Implementation of Art. 6(3) of the Habitats Directive" in which nature authorities and permit and inspection authorities for industrial installations participated. It was found out very quickly that the project could only give a general overview of the situation and collect information about some best practice examples. It is impossible to give one recipe for all different species and particular targeted features. The main findings of the project 2014 were that there is a need for:

Improving knowledge about and use of EU guidance / awareness raising measures,
Initiating revision of existing or development of new EU guidance,
Sharing existing national guidance and scientific studies on different projects,
Exchange of knowledge about screening criteria and assessment methodologies, e.g accepted practices: use of Critical Loads (CL), criteria for habitat loss, new approaches.
Follow-up projects should concentrate on small steps.

In 2015 the project is ongoing, and the products will be:

- An evaluation of the applicability of the Guidance Document "Wind energy developments and Natura 2000" and a
- Sector specific guidance document on Article 6(3) HD in permitting of farm projects (pigs and poultry).

C. Aim

The main objective of this project is to contribute to the continuing development of capacity within IMPEL and to the gather forces and share of experience between MS to assure proper implementation and enforcement of the Nature directives at national level, to promote nature conservation.

To achieve such objective we propose a an IMPEL follow-up project in 2016 to explore the implementation and enforcement of article 6 (3) of the HD Directive on Non-Energy Mineral extraction sector, more specifically on quarries and open cast mining, by providing: An evaluation of the applicability of the EU Guidance Document “Non-Energy Mineral extraction and Natura 2000”, on the subject of quarries and open cast mining (for production of stones, sand (pits), chalk, gravel, and other products for civil construction, industry, etc.); and

To explore, analyze and report the practices, with concrete examples, of MS on application of Art 6(3) of the HD concerning this sector.

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?)

Exchange of experience concerning the applicability of the EU Guidance Document “Non-Energy Mineral extraction and Natura 2000” – on the subject of quarries and open cast mining and to explore and analyze the present the practices of MS on application of Art 6(3) of the HD concerning this sector.

At the same time the aim is to improve better knowledge about the document and discussion of national approaches.

For the development of a common understanding and sharing as well as spreading knowledge a report should be developed. The results will be available for all interested parties.

The expectations are to transfer the knowledge achieved in benefit of practical implementation of legislation at European and national level.

The project team members will consist of 6 MS, and from different organizations, for instance from nature conservation authority and environmental inspection authority. The broader evolvement of more organizations can contribute to improve cooperation and knowledge transfer.

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

2013: “Nature protection in permitting and inspection”

2014: “Nature protection in permitting and inspection of industrial installations Implementation of Art. 6(3) of the Habitats Directive” – general overview

2015: “Nature protection in permitting and inspection of industrial installations Implementation of Art. 6(3) of the Habitats Directive” – evaluation of the Guidance Document “Wind energy developments and Natura 2000” and development of a Sector specific guidance document on Article 6(3) HD in permitting of farm projects (pigs and poultry).

3. Structure of the proposed activity

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

Working with a core team for the preparation of the project activities, that might include a short questionnaire to be sent to MS.

Sending of the questionnaire to MS (to be decided, t.b.d.).

Invitation of experts concerning quarry and open cast mining projects for the evaluation of the Guidance Document “Non-Energy Mineral extraction and Natura 2000”.

Discussion with experts concerning Article 6(3) HD in permitting of projects.

Preparation of the documents (outputs).

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

Report that includes an evaluation of the applicability of the Guidance Document “Non-Energy Mineral extraction and Natura 2000” and that complements it, with actual practices and examples from MS, intended to cover:

- The non-energy extractive industry (NEEI) in the EU;
- The EU’s policy framework and legislation for nature and biodiversity;
- Potential impacts of non-energy extraction activities on nature and wildlife;
- The importance of strategic planning;
- Article 6.3: carrying out an appropriate assessment of NEEI plans and projects in accordance with the habitats directive;
- Screening lists and criteria
- Assessment of significance; significance criteria
- Cumulative effects assessment
- Article 6.4: alternative solutions;
- Some NEEI activities and their relations with the provisions of article 6.3 and 6.4 (Rehabilitation);
- Permitting;
- Monitoring;
- Inspection.

The Report will have an abstract in English, translated into the languages of the participating countries of the project team.

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

January 2016: identification of core team members

February to May 2016: identification of contributors to the project

March 2016: first core team meeting

March/April 2016: send questionnaire to MS

June 2016: workshop with experts

August 2016: second core team meeting

September 2016: draft final report for green expert team

November 2016: submission of the draft final report to GA

3.4 Risks (what are the potential risks for this project and what actions will be put in place

to mitigate these?)

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)

Project Manager: Gisela Holzgraefe, Ministry for Energy, Agriculture, the Environment and Rural Areas of Land Schleswig-Holstein, Germany
 Project Co-Manager: Ana Garcia, IGAMAOT - General Inspection for Agriculture, Sea, Environment and Spatial Planning, Portugal
 Project Co-Manager: Iñaki Bergareche Urdampilleta, The Territorial Unit of A Coruña Province of the Regional Environmental Authority, Spain

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

t.b.d
 6 countries:
 Germany, Portugal, and Spain
 Romania
 Croatia
 And possibly: Italy

4.3 Other IMPEL participants (name, organisation and country)

t.b.d

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

t.b.d.
 e.g. ENCA, Habitats Committee, ORNIS Committee, JASPERS, Working group for Appropriate Assessment procedure. Working group on EIA (Espoo Convention) and SEA (Kyiv Protocol)

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?	17 400 €			
How much money is to be co-financed	-			
Total budget	17 400 €			

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 day)	Total costs €
Event 1				
First core team meeting, March 2015, Location t.b.d. 6 participants 2 days, 1 night	6 x 360 € = 2 160 €	540 €	150 €	2 850 €
Event 2				
workshop June 2015 Location t.b.d. 18 (6 core team plus 12 experts) 3 days / 2 nights	18 x 360 € = 6 480 €	3 240 €	1 350 €	11 070 €
Event 3				
second core team meeting August 2015 Location t.b.d. 6 participants 2 days, 1 night	2 160 €	540 €	150 €	2 850 €
Event 4				
<Type of event>				
<Data of event>				
<Location>				
<No. of participants>				
<No. of days/nights>				
Total costs for all events	10 800 €	4 320 €	1 650 €	16 770 €

7. Detailed other costs of the work for year 1

7.1 Are you using a consultant?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
7.2 What are the total costs for the consultant?	[]
7.3 Who is paying for the consultant?	-

7.4. What will the consultant do?	Development of a draft for the final report, the evaluation document and the sector specific guidance document
7.5 Are there any additional costs?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Namely: 630 €
7.6 What are the additional costs for?	participation in IMPEL green expert team meeting
7.7 Who is paying for the additional costs?	IMPEL
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 Namely:

8. Communication and follow-up (checklist)

	What		By when
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 ^{✓*} Project report ^{✓*} Progress report(s) [✓] Press releases News items for the website ^{✓*} News items for the e-newsletter Project abstract ^{✓*} IMPEL at a Glance [✓] Other, (give details):	<input checked="" type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	t.b.d.
8.2 Milestones / Scheduled meetings (for the website diary)	First core team meeting Workshop Second core team meeting		
8.3 Images for the IMPEL image bank	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
8.4 Indicate which materials	t.b.d.		

will be translated and into which languages	
8.5 Indicate if web-based tools will be developed and if hosting by IMPEL is required	t.b.d.
8.6 Identify which groups/institutions will be targeted and how	COM, non-IMPEL participants, e.g. ENCA, Habitats Committee, ORNIS Committee, JASPERS, Working group for Appropriate Assessment procedure. Working group on EIA (Espoo Convention) and SEA (Kyiv Protocol)
8.7 Identify parallel developments / events by other organisations, where the project can be promoted	

✓) 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?

*In case of doubts or questions please contact the
[IMPEL Secretariat](#).*

*Draft and final versions need to be sent to the
[IMPEL Secretariat](#) in word format, not in PDF.*

Thank you.