



Study on the feasibility of the establishment of a Waste Implementation Agency

Final Report: Annexes

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This report has been prepared by Milieu Ltd, AmbienDura and FFact for the European Commission, DG Environment under Study Contract DG ENV.G.4/ETU/2008/0080r. The primary authors were Tony Zamparutti, Nancy Isarin, Matthieu Wemaëre and Kees Wielenga, with additional expertise and support provided by Martin Candell, Catherine Fielden, Florent Pelsy, Emma Psaila and Sophie Vancauwenbergh.

The views expressed herein are those of the consultants alone and do not necessarily represent the official views of the European Commission.

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Annex I. Overview of the stages of work

Task 1. Information gathering

The study team carried out a series of information-gathering tasks, as foreseen in the Technical Specifications, Tender and Work Plan for the study.

Desk studies were prepared on the following topics:

- EC waste legislation and legal issues related to its implementation (the results are presented in section 5 and in Annex VI of this report)
- statistical data and information on current implementation of EU waste legislation (see section 3)
- enforcement and training issues (section 4)
- Current EU agencies (Annex V)

The project team presented initial results at the *first informal workshop* organised by DG Environment on 2 April 2009. The summary report for this workshop is presented in Annex II.

The study team prepared two *questionnaires*, one for Member State officials and the other for industry and NGO stakeholders. Each group was given at least four weeks to respond, and most responses received after the deadlines were used (one response arrived too late for consideration in this report).

In total, the following responses were received:

- 13 responses from officials in 11 Member States (see the box on the following page for details)
- 11 responses from industry stakeholders, and one representing local and regional governments (see the following box)
- No responses from NGOs (three European NGOs were sent the questionnaire)

These responses provide a broad set of information and comments regarding current implementation of EU waste legislation as well as the opportunities for a European waste implementation agency. The survey responses are not seen as part of a formal consultation; rather, they represent initial opinions at the start of an exploratory study. Many of the key European waste industry associations responded to the survey. While less than officials in less than half of Member States responded, replies nonetheless come from both large and small and both EU15 and EU12 Member States; moreover, the responses from Member States that contain more than 60% of total EU citizens.

The information and comments received in these responses are presented especially in Part I of this report. Individual responses, however, are not identified.

The study team carried out *interviews* with officials in selected EU agencies and Member States.

The interviews with EU agencies sought additional information on activities related to those that a possible European waste implementation agency would carry out.

The Member State interviews sought information in particular to help support the assessment of agency options, as well as to capture opinion from some Member States that did not respond to the questionnaire.

Overview of the questionnaire to Member State officials

The questionnaire was sent to Member State officials who participate in key committees for waste legislation, the TAC members for the Waste Management Committee, for Landfills, for WEEE and RoHS; and the Waste Shipment Correspondents. For each Member State, a single email containing the questionnaire was sent to all the officials on these lists, with an encouragement to send a single, coordinated response.

A separate mailing was sent to Member State officials engaged in the IMPEL TFS network. However, no responses that specified IMPEL were received.

In total, 13 responses were received from officials in 11 Member States. (For two Member States, two responses were received; in addition, a second response from France was received at a late stage and could not be included in the analysis – it has not been included in this list.)

Table. Responses received from Member State officials

Member State	Number of officials contacted	Number of responses received
AT	9	1
BE	12 *	1
BG	5	0
CY	3	0
CZ	5	0
DE	8	1
DK	12	0
EE	5	1
EL	5	0
ES	5	0
FI	9	0
FR	9	1
HU	3	0
IE	4	2
IT	11	1
LT	5*	1
LU	4	0
LV	2	0
MT	8	0
NL	7	1
PL	9	0
PT	8	0
RO	6	0
SE	5	0
SI	5	2
SK	3	0
UK	9	1
Total		13

* In addition, the survey was sent to one generic email address

Overview of the questionnaire to stakeholders

The questionnaire was originally sent to the following stakeholders:

- six European waste industry associations, of which three replied
- nine waste stream associations, of which four replied
- the Association of Cities and Regions for Recycling and sustainable Resource management (ACR+), which responded
- three European NGOs, none of which replied

Over the course of the study, including at the informal workshop, several other industry associations contacted the study team asking to receive the questionnaire. As a result, responses were received from one manufacturing industry association, the Confederation of European Paper Industries, from two waste stream associations that had not been contacted originally (providing a joint response), and from one national association.

The study team decided to use all 12 stakeholder responses received:

- Association of Cities and Regions for Recycling and sustainable Resource management (ACR+)
- CEPI Confederation of European Paper Industries
- ETRMA European Tyre and Rubber Manufacturers Association
- Eurits – European Union for the Responsible Incineration and Treatment of Special wastes
- European Compost Network ECN/ORBIT
- European Metal Trade & Recycling Federation (EUROMETREC) and European Ferrous Recovery & Recycling Federation (EFR) (joint response)
- FEAD – European Federation of Waste Management and Environmental Services
- Municipal Waste Europe
- PRO EUROPE – Packaging Recovery Organisation Europe
- RESSOURCES (association of Brussels and Wallonia social enterprises engaged in waste management)
- RREUSE (European network of national and regional social economy federations and enterprises with activities in re-use and recycling)
- WEEE Forum

Task 2. Assessment of the options

The methods used in the *assessment* are described in Part II, section 7 of this report. Initial results were presented for discussion at the *second informal workshop*, held in September 2009 (see Annex III).

Annex II. Summary of the informal workshop held on 2 April 2009

The workshop was held to gather information from stakeholders and Member State officials regarding this study, which has been recently launched by the European Commission. The Commission has contracted a consortium of three consultancies – Milieu, AmbienDura and FFact – to undertake this exploratory study.

The high level of attendance at the workshop –over 50 participants – indicated a broad interest in the issues. About half of the participants at the workshop were Member State officials (with 19 Member States attending); the other participants included two officials from the IMPEL network, industry representatives, and one environmental NGO. Five members of the study team contracted by the Commission participated.

The Commission and the study team from the three consultancies described current problems in the implementation of EU waste legislation. A wide consensus among participants agreed that EU's waste problems are serious and urgent, as described by the Commission and the study team, and the evidence is clear that actions have to be taken to address the implementation gaps in many parts of the EU. The complexity of EU waste legislation and the diverse approaches for implementation throughout the EU merit consideration in this context.

Stakeholders by and large expressed positive views in favour of the establishment of an EU agency; for these participants, many tasks could be considered for a possible agency, e.g. inspections and enforcement, training, information gathering, regulatory analyses etc. Industry and trade should benefit from the centralisation of implementation- and enforcement tasks.

Many MS officials expressed reservations about creating an EU agency, in particular one that would work in the area of enforcement and inspections. Several officials questioned whether a new agency was necessary and some encouraged the study team to look at the possibility of employing existing structures, such as IMPEL or the European Environment Agency. On the other hand, a few MS officials were favourable to the idea of an agency, and others expressed support for a body undertaking tasks such as training or data gathering and data assessment.

Both MS officials and stakeholders suggested issues to be examined in the course of the study, including a proposal to broaden the scope of the study to include non-agency options. The Commission invited an open discussion on all possible mechanisms for improving implementation, but explained that any additional "study contracts" on this issue would need to be examined in separately and outside this specific study, whose scope is already fixed.

Opening

In opening the workshop, the European Commission explained that the serious environmental challenges being faced today set the background for this study. These challenges include recent incidents, such as the high number of illegal and mismanaged landfills and frequent occurrence of illegal waste shipments, as well as problems seen within large parts of the EU due to inadequate and insufficient waste disposal networks. Indeed, EU waste legislation is one of the two areas (along with nature conservation and biodiversity protection) that account for the most citizen complaints to the Commission as well as the most infringement actions and European court cases. Overall, in large parts of the EU this legislation is not properly applied, and thus environmental and health impacts are high.

The European Commission is carrying out several initiatives to address current gaps and improve implementation – for example, the Commission is undertaking information campaigns to increase understanding of key pieces of legislation. It also closely cooperates with the IMPEL network and supports its activities. The Commission is also investigating several options for future actions, including this feasibility study on a possible waste implementation agency. The Commission emphasised that all options for the future are open at this point in time.

The contractor's tasks relating to the feasibility study of a waste implementation agency were described. This study is reviewing in particular three areas of possible activity for an EU waste agency: actions to strengthen enforcement; those for EU-wide training; and the updating of legislation. The study can also investigate other options for the agency.

Existing EU agencies

Tony Zamparutti (Milieu Ltd) presented the study team's brief overview of existing EU agencies, noting those currently active in the areas of training, inspections and enforcement, and technical and scientific support for the updating of EU legislation. Different models thus exist for each of these activities.

In the discussion, participants suggested that the study team look at examples of agencies within Member States, such Portugal's waste institute. This body has the advantage having a focus on one issue, waste, rather than a broad scope. The UK WRAP Programme, which has encouraged waste prevention, re-use and recycling, is another example worth reviewing.

Participants asked about the Commission's current review of EU agencies.¹ The Commission explained that the feasibility study on a waste agency would try to incorporate preliminary results from the review, if available. However, the feasibility study is specifically looking at how to improve the implementation of EU waste legislation by adequate mechanisms, institutional and other arrangements in this context. Even if the feasibility study concerns the benefits and costs of the establishment of a waste implementation agency, all options are open and we cannot prejudge any future decisions in this area. In the discussion, participants said that an Agency should not be seen as a goal in itself but as a potential instrument to help Member States, stakeholders and the Commission with implementation. Tied to this, a further comment called for information on the reasons for creating existing EU agencies and on their results. A few Member State officials indicated they would like to the study to demonstrate the advantage of having an Agency and the problems it would solve, as well as an indication whether or not such problems could be addressed in a better way by other mechanisms.

Enforcement

Two members of the study team, Nancy Isarin of AmbienDura and Kees Wielenga of FFact, presented an overview of challenges in the implementation of EU waste legislation and short review of enforcement issues, in particular those concerning the Landfill Directive and the Waste Shipment Regulation.

In the discussion that followed, the participants generally recognised the situation described in the presentations, as well as the need for a mechanism that facilitates the exchange of information and experiences of inspectors, permittees and enforcers across Member States. The discussions also highlighted the fact that enforcement challenges and performance vary significantly across Member

¹ See: European Commission, *EU agencies – The way forward*, COM(2008) 135 final

States. The Commission has highlighted problems in the application of EU environmental law and waste law in particular.²

Several delegates noted that the main waste facilities must have IPPC permits, and this requirement provides a central element for enforcement.

Several participants noted that data quality was an important problem. Harmonising Member State definitions, for example of municipal solid waste, is one need; some participants proposed the improvement of data as a possible task for an agency. One related note is that information from inspectors should be brought into the system for better implementation, and also be brought up to EU level, to help identify areas where revisions of EU waste legislation may be valuable.

A number of problems with transboundary shipments of waste were mentioned. These include, for example, incidents of exporting end-of-vehicles as second-hand. Several participants underlined the need to strengthen controls of waste shipments leaving the EU. One industry participant warned that too often, such controls were left to the receiving countries.

Another industry representative warned that under current rules, companies sometimes found it as easy to export waste for disposal in third countries as to ship it to other Member States for re-use – thus undermining efforts to follow the waste hierarchy and weakening the competitive position of European companies against companies abroad. The tasks of a possible waste agency should not only be to avoid “bad” waste management (i.e. addressing the enforcement gap) but also to stimulate “good” things such as disseminating good practices.

One Member State representative mentioned that an enforcement gap also existed for producer responsibility schemes such as the directives on end of life vehicles, batteries, electrical and electronic equipment and packaging.

Training

Tony Zamparutti made an introductory presentation on training and guidance.

The participants generally recognised the need for better training as well as the value of establishing new training activities at EU level. At the same time, it was noted that some Member States have not been able to send people to participate in several related IMPEL activities. Thus, a precondition for training to be successful is that Member States have sufficient staff to implement the key areas of waste legislation.

The discussion identified several areas for the study to review. The discussion highlighted that different sectors of public officials will need different forms of training, and EU-wide training activities should provide different responses to the different sectors.

Participants suggested looking at TAIEX training activities for the new Member States before their accession, as well as the work of the Basel Convention’s Regional Centre for Central Europe, based in Slovakia. A further comment highlighted the importance of training trainers, both to spread information across the many EU languages and also to reach a high number of people. Another participant proposed the creation of a body focused on training, a sort of EU waste 'academy'.

² See: European Commission, *Communication ... on implementing European Community Environmental Law*, COM(2008) 773

Guidelines

Here, the participants suggested that in addition to guidance of specific issues related to enforcement issues, guidance documents should also address broader themes, such as assisting Member States develop waste prevention strategies and more generally establish resource-efficient economies. Guidance for local authorities could help these bodies undertake waste management actions that follow the waste hierarchy.

One Member State mentioned the experience of ‘transposition groups’ in which Member States and the Commission exchange information in the period when Member States transpose EU legislation as an experience and an option that could be considered.

Another specific area mentioned is the characterisation of waste as hazardous, and here guidance could help Member States make a link with chemicals legislation.

Technical and scientific support for the updating of legislation

The EU has a complex and comprehensive body of waste legislation, and this needs regular updating, guidance and clarification. The Commission explained that without prejudice to any future decisions of the Commission work in next coming years would probably to a large part consist of updates and guidance already foreseen or required by the implementation of existing legal instruments, rather than any major new pieces of legislation due to the fact that during last year such major proposals had already been proposed by the Commission (WEEE- and RoHS recasts) or adopted by the Council and the Parliament (the waste framework directive). The serious gaps identified so far were the lack of proper enforcement and application of EU waste legislation "on the ground" and addressing those gaps were to be considered a priority.

Closing and next steps

Matthieu Wemaëre presented an overview on the legal context for the creation of a possible Waste Implementation Agency. No time remained, however, for a discussion on this topic.

Participants were invited to send their written input via the questionnaires that the study team has distributed. Here, the team requested that participants send in their responses soon, as the time limits will soon run out.

The Commission welcomed in any event all further contributions on these issues, even if this would be outside the study due to time constraints. In addition, the Commission would examine to publish information on the study, including the presentations at this workshop, on its Europa website.

A second workshop is scheduled for 14 September.

Peter Wessman closed the meeting.

Annex III. Summary of the informal workshop held on 14 September 2009

In the workshop, the consultants undertaking the *Study on the feasibility of a Waste Implementation Agency* presented their ongoing analysis to Member State officials and stakeholders. The main aim of the workshop was to receive comments on these results and as well as information and suggestions for the final phase of analysis. Over 35 participants from Member States and other stakeholders attended the meeting, together with officials from the Commission (DG Environment, units G4 and A2) and members of the contractor team (Milieu, AmbienDura and FFact).

The Commission official chairing the meeting opened the workshop with an explanation of the rationale for the study. Here, he presented an overview of EU waste legislation as well as the serious and wide-spread gaps seen in its implementation and enforcement in a large number of Member States. These problems are seen in the high number of complaints and infringement cases that arise concerning waste, and also in several reports from Member States, stakeholders and media. A wide discrepancy exists among Member States in their approaches to implementation, and this creates an uneven playing field in the EU. Among the main causes seem to be an inadequate level of enforcement, inspections and monitoring of how EU waste legislation is applied "on-the-ground", insufficient resources invested in this area as well as a low priority for implementation of EU waste legislation in many Member States.

The Commission is currently taking a series of actions in order to bridge this gap, for example organising awareness events in Member States concerning key issues (illegal waste shipments, illegal landfills and waste management planning/waste prevention programmes) and maintaining a continuous dialogue with Member States and stakeholders at different levels. A number of specific implementation tasks carried out by the Commission are of high importance, such as regular technical and scientific updates of legislation, which requires background analysis, impact assessments and other supporting work, and issuing guidance to operators and authorities.

The feasibility study is one of the initiatives that the Commission is undertaking to explore new initiatives that could improve the implementation and enforcement of EU waste legislation.

The first set of presentations by the study team described the stages of work of the feasibility study, provided an overview of the results of the survey and interviews, reviewed key challenges for implementing and enforcing waste legislation, and described the methodology for the assessment phase of the study. (All the presentations will be sent by e-mail to the participants.)

An overview of the results of questionnaires and interviews with Member State officials highlighted the fact that nearly all of the Member State officials see the need for new initiatives at EU level to address the implementation gap. Some officials, however, questioned whether a new agency is needed (similar opinions were expressed at the first informal workshop in April).

The questionnaires to stakeholders showed strong support for new initiatives and for the creation of a new agency. In particular, the stakeholder responses as well as their comments at the previous workshop highlighted the fact that Member State application of EU waste legislation is not proper or uniform across the EU: as a result, there is not a level playing field.

In the discussion, it was asked whether the survey responses would be publically available, for example on the DG Environment website: in response, the study team explained that the survey did not specify that responses would be made public; as a result, they will be released only if agreed by the respondent.

Institutional setting

The study team explained that in response to comments made in the survey, in the interviews as well as at the previous workshop, the work for the study had broadened from focusing on an agency alone to a consideration of other institutional settings as well. Although the study itself focuses on the option of an agency (and will describe the possible future agency, its mission, mandate and tasks as well as staff- and resource-related issues), it could look at approaches that combine the agency-option with two or more other institutional settings.

A total of three settings have been identified:

- A. Community Agency
- B. Commission offices (a 'DG SANCO FVO' model)
- C. European networks for co-operation (an 'IMPEL' model)

The participants welcomed this approach and asked for further information on each setting.

The study team explained that option A could involve either the creation of a new agency or the assignment of new tasks to an existing agency. Existing EU agencies undertake little work similar to the new tasks proposed: as a result, either creating a new agency or assigning tasks to an existing agency would require a new legislative instrument (most likely a Regulation), the hiring of new staff and other set-up work. The team underlined that an agency will have strong representation from the Member States on its management board.

Regarding option B, the study team explained that DG SANCO has a separate Food and Veterinary Office (in formal terms, a division of the DG), which is based in Ireland. The office reviews Member State food safety controls to ensure that European requirements are met across the EU. This option would be similar, and thus would involve additional staff and resources for the Commission. (The study team noted that the Commission could engage outside consultants or other organisations to undertake some of the work: for example, in addition to DG SANCO's FVO, an Executive Agency – a temporary body that reports directly to the Commission – implements a training programme on food safety.)

Option C could involve a structure such as an enhanced IMPEL or another structure specifically created for this work.

In assessing the different options, the study team will in their next phase of work consider in particular how an agency carrying out a specific set of tasks might be combined with other tasks carried out under one or both other options.

Reviewing specific tasks

The next set of presentations described the specific tasks that could be undertaken. Here, it was emphasised that the core work of the study has focused on the tasks needed to address the gap in implementation of EU waste legislation.

These presentations covered four areas which had been examined by the contractor so far:

- Enforcement, i.e. inspections, controls and monitoring "on-the-ground". This was identified as a key problem area during the previous stages of the study and would therefore have to be given key attention when establishing any new initiative.
- Training. In the questionnaire responses, this is recognised as vital at EU level in order to put in place proper and uniform application of EU waste legislation throughout the EU.

- Updating and clarifying EU legislation – i.e. supporting the Commission’s work in this area; and
- Other key tasks.

The discussion on enforcement covered several key issues. One question is whether enforcement tasks should focus on individual cases or overall national systems: here, the participants agreed that national systems should be the main area of attention. In the discussion on the option for joint enforcement actions, some participants thought that this approach would work better for activities such as controls of transboundary waste shipments than for others, such as reviews of landfills. Moreover, it might be possible to combine monitoring of national systems for inspecting waste shipments while carrying out more direct inspections and controls of landfills.

It was considered important by several participants that certain minimum criteria, standards or benchmarks be developed at EU level. These are needed in particular for reviews of national enforcement systems. However, MS officials noted that countries have different approaches for enforcement – one size does not fit all. In contrast, however, a stakeholder representative said that for European industries, different approaches across MS can raise compliance costs.

Some participants also asked about the interaction between these proposals for enforcement tasks and the Commission’s response to the European Parliament’s 2008 request to assess the idea of a Directive on environmental inspections and to consider the creation of a European environmental inspectorate. The Commission noted that the feasibility study is a separate process that looks only at the waste sector.

The discussion regarding training options in part covered issues of who would pay: for example, some participants wondered whether the officials trained should pay for courses.

The presentations highlighted potential synergies among the different tasks. An example is that of training, which could be integrated with joint inspection activities to provide a ‘learning by doing’ approach. For example, the Joint Deployment Plans co-ordinated by the Communities Fisheries Control Agency have a training component along with the joint inspections.

The presentations also described initial assessments of the compatibility between each task and the three institutional settings considered.

Some participants suggested describing the problems and their underlying causes in greater detail. For example, one comment noted that the issue of illegal landfills can comprise very different elements, from small, illegal tips to large, operating sites that do not meet European standards. Participants also suggested linking the analysis of the problems more closely with the solutions proposed.

Here, participants also called for some quantitative detail, such as estimates of the number of Member State officials who could be trained under different approaches. The study team noted that requests for relevant quantitative information on MS activities had been part of the questionnaire and interview phase of the study, and they said they would welcome any Member State officials or others who could provide background data.

Closing and next steps

In their penultimate presentation, the study team described three initial ideas of ‘packages’ that pulled together tasks most appropriate for each institutional setting. In its final assessment, the team will take these results to consider initiatives that combine the agency-option with activities carried out in one or both of the other institutional settings, in order to identify an effective (and cost-effective) overall proposal.

The last presentation by the team described considerations for assessing the costs of the different packages. Here, participants said that cost estimates would be quite valuable in terms of evaluating the steps to be taken.

The draft final report for the paper is due in early October and the final report in early November.

Annex IV. Detailed budget calculations for the Waste Implementation Agency

For the estimation of the budget that would be required for a new Community Agency for waste implementation, information was gathered on the budget structure of four existing EU Agencies. The agencies that were analysed were:

- Community Fisheries Control Agency (CFCA)
- European Chemicals Agency (ECHA)
- European Environment Agency (EEA)
- European Maritime Safety Agency (EMSA)

These agencies were chosen because they represent a good mix of new and established organisation and because they perform a range of tasks that are relevant for a Waste Implementation Agency.

The budgets were analysed to estimate typical costs per staff member in the following areas:

- Salaries and other personnel costs such as allowances, costs for recruitment, medical costs and staff training
- Housing and other non-operational costs including those for building rental, IT systems, moveable property, documentation, office supplies, postal costs, telecommunications, translations, others communications and other general services
- Operational costs, including costs for the organisation of meetings and training courses, missions, publications, web sites and studies as well as the equipment for operational tasks

Some of these agencies perform tasks or include costs in their budget that are not relevant for the Waste Implementation Agency. Therefore the following costs were not taken into account for the comparison:

- Hiring vessels by the CFCA (€2.1 million)
- Topic Centres of the EEA (€8 million)³
- Anti pollution activities (€20 million) and long-range identification and tracking of ships (€2 million) for EMSA

The following table gives an overview of the findings of this analysis.

Table: Analysis of the budgets of four existing Community Agencies (millions of Euros)

Cost type	CFCA	EEA	ECHA	EMSA	Total	Average per member of Agency staff
Salaries	4.10	20.39	38.13	18.102	80.72	0.115
Housing	1.45	3.44	11.03	2.86	18.78	0.027
Total non operational costs	5.55	23.83	49.16	20.96	99.50	0.141
Operational costs	1.35	7.57	16.97	6.98	32.87	0.047
Total costs	6.90	31.40	66.13	27.94	132.37	0.188
<i>Number of staff</i>	<i>55</i>	<i>172</i>	<i>324</i>	<i>153</i>	<i>704</i>	

³ The Topic Centres were included in final estimates of the total cost of the proposal, including those of EEA and a Topic Centre

These estimates were used to calculate the budget needed for the Waste Implementation Agency.

For the costs of the other institutions involved the following assumptions were made:

Cost type	Commission officials	European network secretariat	MS officials working for the Eur. network	EEA/ETC officials
Salaries	same as for Agency	agency -25%: MS officials salaries are the basis	agency -25%: MS officials salaries are the basis	agency -10%: part of work done by ETC with lower personnel costs
Housing	agency -25%: small addition to larger existing structure	agency -25%: small addition to larger structure	0: not applicable for MS officials	agency -25%: small addition to larger existing structure
Operational costs	agency +20%: enforcement tasks require additional equipment	same as agency	same as agency	same as agency

Based upon these assumptions the total yearly budget necessary for the three approaches was calculated. The detailed tables are presented below.

It should be borne in mind that this is a static approach that takes into account the cost of the Agency when established. In the start-up period some initial investment costs have to be made. For example, in the start-up period (2 years) a new Agency will have higher costs that are related to:

- Initial recruitment of large number of staff
- Allowances to new staff to move to another country
- Training of new staff
- Initial investment in furniture, IT, office equipment and (if applicable) equipment related to operational enforcement equipment
- Development of methodologies and establishment of data bases

These additional costs in the first 2 years will be around 15% of the total annual budget: that is an additional 1.6 million Euros for the first two years for the Agency in recommended approach; and 1.0 million Euros for the Agency in alternative A.

Table: Detailed budget breakdown for the recommended approach

Task	Agency		Commission services		Secretariat of the European network		MS officials working for the European network		EEA/ETC		Total: Recommended approach	
	Number of staff	Costs (M€)	Number of staff	Costs (M€)	Number of staff	Costs (M€)	Number of staff	Costs (M€)	Number of staff	Costs (M€)	Number of staff	Costs (M€)
Training												
Direct training	6	0.69									6	0.69
Train-the-trainers	3	0.34									3	0.34
Coordination/ exchange	3	0.34					1	0.09			4	0.43
Enforcement												
Information exchange	4	0.46					1	0.09			5	0.54
MS reviews	6	0.69									6	0.69
Coordinated activities	10	1.15					1	0.09			11	1.23
European Task Force			15	1.72							15	1.72
Guidance/ updating												
Support: updates to leg.	3	0.34									3	0.34
Guidance: enforcement	2	0.23					1	0.09			3	0.32
Guidance: implementation	2	0.23							0.5	0.052	2.5	0.28
Other tasks												
Assessment: MS plans	5	0.57							0.5	0.052	5.5	0.62
Data on recycling	0.25	0.03							0.25	0.026	0.5	0.05
Data to support enforcement	0.25	0.03					1	0.09	0.25	0.026	1.5	0.14
Overall waste data			0.5	0.06					0.25	0.026	0.75	0.08
Helpdesk/knowledge centre	3	0.34									3	0.34
Total operational	47.5	5.4	15.5	1.8	0.0	0.0	5.0	0.4	1.8	0.2	69.8	7.8
Admin and overhead	11	1.3	6	0.7	2	0.2	0	0.0	0	0	19	2.1
Total staff costs	58.5	6.7	21.5	2.5	2	0.2	5	0.4	1.75	0.2	88.75	10.0
Housing, IT etc		1.6		0.4		0.04		0.0		0.04		2.07
Total non operational		8.3		2.9		0.2		0.4		0.2		12.0
Operational budget		2.7		1.2		0.1		0.2		0.08		4.34
Total budget		11.0		4.1		0.3		0.7		0.3		16.4

Table: Detailed budget breakdown for Alternative A

Task	Agency		Commission services		Secretariat of the European network		MS officials working for the European network		EEA/ETC		Total for Alternative A	
	Number of staff	Costs (M€)	Number of staff	Costs (M€)	Number of staff	Costs (M€)	Number of staff	Costs (M€)	Number of staff	Costs (M€)	Number of staff	Costs (M€)
Training												
Direct training											0	0.00
Train-the-trainers	3	0.34									3	0.34
Coordination/ exchange	3	0.34					1	0.09			4	0.43
Enforcement												
Information exchange	4	0.46					1	0.09			5	0.54
MS reviews	6	0.69									6	0.69
Coordinated activities							1	0.09			1	0.09
European Task Force			15	1.72							15	1.72
Guidance/ updating												
Support: updates to leg.	3	0.34									3	0.34
Guidance: enforcement	2	0.23					1	0.09			3	0.32
Guidance: implementation	2	0.23							0.5	0.052	2.5	0.28
Other tasks												
Assessment: MS plans	5	0.57							0.5	0.052	5.5	0.62
Data on recycling	0.25	0.03							0.25	0.026	0.5	0.05
Data to support enforcement	0.25	0.03					1	0.09	0.25	0.026	1.5	0.14
Overall waste data			0.5	0.06					0.25	0.026	0.75	0.08
Helpdesk/knowledge centre											0	0.00
Total operational	28.5	3.3	15.5	1.8	0.0	0.0	5.0	0.4	1.8	0.2	50.8	5.7
Admin and overhead	8	0.9	6	0.7	2	0.2	0	0.0	0	0	16	1.8
Total staff costs	36.5	4.2	21.5	2.5	2	0.2	5	0.4	1.75	0.2	66.75	7.4

Task	Agency		Commission services		Secretariat of the European network		MS officials working for the European network		EEA/ETC		Total for Alternative A	
	Number of staff	Costs (M€)	Number of staff	Costs (M€)	Number of staff	Costs (M€)	Number of staff	Costs (M€)	Number of staff	Costs (M€)	Number of staff	Costs (M€)
Housing, IT etc		1.0		0.4		0.04		0.0		0.04		1.48
Total non operational		5.2		2.9		0.2		0.4		0.2		8.9
Operational budget		1.7		1.2		0.1		0.2		0.08		3.32
Total budget		6.9		4.1		0.3		0.7		0.3		12.2

Table: Detailed budget breakdown for Alternative B

Task	Commission services		Secretariat of the European network		MS officials working for the European network		EEA/ETC		Total	
	Number of staff	Costs (M€)	Number of staff	Costs (M€)	Number of staff	Costs (M€)	Number of staff	Costs (M€)	Number of staff	Costs (M€)
Training										
Direct training										
Train-the-trainers	0.25	0.03			4	0.34			4.25	0.37
Coordination/ exchange	0.25	0.03			4	0.34			4.25	0.37
Enforcement										
Information exchange					4	0.34			4	0.34
MS reviews	6	0.69							6	0.69
Coordinated activities					10	0.86			10	0.86
European Task Force									0	0.00
Guidance/ updating										
Support: updates to leg.									0	0.00
Guidance: enforcement					1	0.09			1	0.09
Guidance: implementation							0.5	0.052	0.5	0.05
Other tasks										
Assessment: MS plans							0.5	0.052	0.5	0.05
Data on recycling							0.5	0.052	0.5	0.05
Data to support enforcement					1.25	0.11	0.25	0.026	1.5	0.13
Overall waste data	0.5	0.06					0.25	0.026	0.75	0.08
Helpdesk/knowledge centre									0	0.00
Total operational	7.0	0.8	0.0	0.0	24.25	2.1	2.0	0.2	33.3	3.1
Admin and overhead	3	0.3	7	0.6	0	0.0	0	0	10	0.95

Task	Commission services		Secretariat of the European network		MS officials working for the European network		EEA/ETC		Total	
	Number of staff	Costs (M€)	Number of staff	Costs (M€)	Number of staff	Costs (M€)	Number of staff	Costs (M€)	Number of staff	Costs (M€)
Total staff costs	10	1.1	7	0.6	24.25	2.1	2	0.2	43.25	4.0
Housing, IT etc		0.2		0.14		0.0		0.04		0.38
Total non operational		1.3		0.7		2.1		0.2		4.4
Operational budget		0.6		0.3		1.1		0.09		2.11
Total budget		1.9		1.1		3.2		0.3		6.5

Annex V. Overview of existing EU agencies

An introduction to EU agencies

The EU has established over 30 decentralised bodies, commonly referred to as European agencies. Each of these deals with specific tasks in a defined area of EU policy.

There are four main types of EU agencies:

- 23 Community Agencies: these bodies handle technical issues related to EU legislation and policy, thus allowing the European Commission to focus on its core functions.
- 6 Executive Agencies: these have a more limited role and assist the Commission in the management of the EU financial support programmes
- 3 Common foreign and security agencies
- 3 Criminal and police cooperation agencies

(These designations may change with the entry into force of the Lisbon Treaty; they are maintained in this report.) This section reviews existing EU agencies, focusing on those with activities in the three key areas of work for a possible waste implementation agency:

- Organising training for Member State officials; and
- Supporting Member States on enforcement, e.g. through coordination and strengthening activities and possibly the carrying out of systematic investigations, inspections and controls.
- Providing analysis of technical issues relevant to the updating of EU waste legislation;

The matrix on the following pages reviews the existing EU agencies in terms of these three areas. This review shows that ten Community agencies and one Executive agency provide training activities for Member State officials or other groups, along with several agencies in the other categories.

Eight Community agencies have an enforcement role, which can vary from setting common requirements (e.g. European Railway Agency) to coordinating Member State activities in this field (e.g. Community Fisheries Control Agency) to directly undertaking inspections and related actions (e.g. European Maritime Safety Agency). Two criminal and policy cooperation agencies also work in this area.

At least six Community agencies provide support to the Commission on technical issues related to the updating of EU legislation.

In 2005, the Commission proposed an inter-institutional agreement to establish a common structure for agencies (COM(2005) 59). This proposal did not see progress, and in 2009 the Commission started a review of agencies, with the goal of launching a dialogue on the role of agencies (COM(2008) 135). The proposal for a new Waste implementation agency made in the main report fits within the structure proposed by the Commission in 2005; moreover, the agency's powers would be similar to those of existing agencies. For this reason, it is expected that this proposal will fit within the conclusions of the Commission's review and the subsequent dialogue.

Matrix of EU agencies

Agency	Mission or Main Tasks	Systematic investigations, inspections and controls	Analyses in connection with updating and clarifying EU legislation	Training of officials and decision-makers
Community Agencies				
Translation Centre for the Bodies of the European Union (CdT)	Provide translation services to the specialised decentralised agencies of the European Union	No	No	No
European Centre for the Development of Vocational Training (Cedefop)	Help promote and develop vocational education and training	No	No	No
Community Fisheries Control Agency (CFCA)	To strengthen the uniformity and effectiveness of enforcement by pooling EU and national means of fisheries control and monitoring resources and co-ordinating enforcement activities	Coordinates national control and inspection activities	No	Training of inspectors
Community Plant Variety Office (CPVO)	Establish a system of Community plant variety rights	No	No	No
European Aviation Safety Agency (EASA)	Establish and maintain a high uniform level of civil aviation safety in Europe	Certifies aeronautical products and organisations	Drafts European rules for aviation safety	Some technical training for national aviation authorities
European Centre for Disease Prevention and Control (ECDC)	Help strengthen EU defences against infectious diseases	No	No	No
European Chemicals Agency (ECHA)	Ensure consistency in chemicals management across the EU and to provide technical and scientific advice, guidance and information	Not at present	Technical issues related to implementation of REACH	Training of Member State trainers
European Environment Agency (EEA)	Providing sound and independent information on the environment	No	No	Occasionally on data issues
European Food Safety Authority (EFSA)	Provide independent scientific advice on all matters with a direct or indirect impact on food safety	No	Provides scientific opinions for food safety decisions	No specific mandate but <i>ad hoc</i> training as part of the information exchange and cooperation mechanisms
European Monitoring Centre for Drugs and Drug Addiction (EMCDDA)	Gather, analyse and disseminate 'objective, reliable and comparable information' on drugs and drug addiction	No	No	No
European Medicines Agency (EMA)	Evaluation and supervision of medicines for human and veterinary use	Monitors the safety of medicine through the pharmaco-vigilance network	Not as a core activity	Some training activities for Member State authorities

Agency	Mission or Main Tasks	Systematic investigations, inspections and controls	Analyses in connection with updating and clarifying EU legislation	Training of officials and decision-makers
European Maritime Safety Agency (EMSA)	Assist the Commission and Member States in matters of maritime safety, security and preventing pollution caused by ships	Checks that port authorities apply required controls. Coordination via the SeaSafeNet and CleanSeaNet systems	Technical support to the Commission on EU legislation for maritime safety and security, prevention of and response to pollution caused by ships	Works with Member States to organise training activities for the sector.
European Network and Information Security Agency (ENISA)	To support Member States, the EU-institutions and the business community to prevent, address and respond to Network and Information Security problems	Not directly – but ENISA monitors risks related to network and information security	Assists the Commission in technical preparatory work for new legislation when requested	Undertakes some training activities, including preparation of training materials
European Railway Agency (ERA)	To reinforce safety and interoperability of railways throughout Europe	Develops common safety requirements and methods, sets safety targets for each Member State	Monitors national safety rules; makes recommendations for Commission rules	No
European Training Foundation (ETF)	To share expertise in vocational education and training	No	No	Provides advice to Member States and shares good practice
European Agency for Safety and Health at Work (EU-OSHA)	To bring together and share knowledge and information on occupational safety and health issues	No	No	No
European Foundation for the Improvement of Living and Working Conditions (EUROFOUND)	To contribute to the planning and establishment of better living and working conditions in Europe	No	No	No
European Union Fundamental Rights Agency (FRA)	To provide EU institutions and authorities and Member States with assistance and expertise on fundamental rights when implementing EU law	Regular overviews of fundamental rights in Member States, including the capacity of national institutions for their protection	Not at present	Some support to FRONTEX and CEPOL on law enforcement training regarding human rights
European Agency for the Management of Operational Cooperation at the External Borders (FRONTEX)	Co-ordinate operational cooperation between Member States in the field of border security	Co-ordinates Member State cooperation on border controls and supports special operations	No	Assists Member States in the training of national border guards and the establishment of common training standards

Agency	Mission or Main Tasks	Systematic investigations, inspections and controls	Analyses in connection with updating and clarifying EU legislation	Training of officials and decision-makers
The European GNSS Supervisory Authority (GSA)	To develop a new generation of Global Navigation Satellite Systems (GNSS)	No	No	No
Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)	The official authority carrying out the procedures for EU trade marks (since 1996) and for EU registered design (from 2003)	No	No	No
EURATOM Agencies (a sub-group of Community Agencies)				
Fusion for Energy (European Joint Undertaking for ITER and the Development of Fusion Energy)	To work with European industry and research organisations on the development and manufacturing of hi-tech components for the ITER fusion project	No	No	No
EURATOM Supply Agency	To ensure a regular and equitable supply of nuclear fuels for EU users	No	No	No
Executive Agencies				
Education, Audiovisual and Culture Executive Agency (EACEA)	Implement EU programmes for education and training, active citizenship, youth, audiovisual and culture	No	No	No – though EACEA manages projects on education and training
Executive Agency for Competitiveness and Innovation (EACI)	Manages Intelligent Energy – Europe, SME and eco-innovation initiatives, Marco Polo Programme	No	No	No
European Research Council Executive Agency (ERC)	Manages funding programmes for science	No	No	No
Executive Agency for Health and Consumers (EAHC)	Implementing EU programmes for health and consumers and initiative for food safety training	No	No	Manages initiative for Better Training for Food Safety
Research Executive Agency (REA)	Manages funding programmes for research	No	No	No
Trans-European Transport Network Executive Agency (TEN-T EA)	Managing EU funds for the trans-European transport network	No	No	No
Common Foreign and Security Policy agencies				
European Defence Agency (EDA)	Improve EU defence capacities, promote armaments cooperation, create a competitive European defence industry, promote research	No	No	No
European Union Institute for Security Studies (ISS)	To help create a common European security culture and to support a strategic debate	No	No	No

Agency	Mission or Main Tasks	Systematic investigations, inspections and controls	Analyses in connection with updating and clarifying EU legislation	Training of officials and decision-makers
European Union Satellite Centre (EUSC)	The exploitation and production of information deriving from the analysis of earth observation space imagery	No	No	Carries out training for Member State imagery analysts
Police and judicial cooperation in criminal matters agencies				
European Police College (CEPOL)	Organises courses for senior police officers	No	No	Training for police officers
European Police Office (EUROPOL)	To help the EU member states co-operate more closely and effectively in preventing and combating organised international crime	Yes	No	No
The European Union's Judicial Cooperation Unit (EUROJUST)	To enhance the effectiveness of competent authorities within Member States when they are dealing with serious cross-border and organised crime	Provides legal advice and assistance to judicial authorities in Member States on cross-border cases; can coordinate investigations	No	Training of judges and prosecutors through cooperation with European Judicial Network (EJN)
Other agencies				
European Agency for Reconstruction (EAR)	Management of EU assistance programmes in Kosovo, Serbia, Montenegro, and Macedonia	Various and extensive	No	Training for public authorities in recipient countries and territory
European Institute of Innovation and Technology	To become a flagship for excellence in European innovation	No	No	No

Sources: European Commission (http://europa.eu/agencies/index_en.htm); agency web sites

The legal context for EU agencies

The EU has established, in particular over the last few years, a number of decentralised bodies, commonly referred to as European agencies, each dealing with specific tasks in different areas of EU policy. The main objective of creating such bodies is to hand over specific technical issues to technical experts working in the agencies, in order to allow the European Commission to focus on its core functions while, at the same time, allowing technical issues to be developed without political pressures and thus to be more consistent in the long run.

Legal considerations

From a legal perspective, the devolution of technical executive powers is generally applauded by legal scholars⁴, on the condition of being in line with the principles of good governance.

The delegation of powers by EU institutions to European agencies was strictly limited from the start by the ECJ in its 1958 *Meroni* case⁵. The Court stated that the Treaty does not allow the delegation of discretionary powers, but merely of executive powers, and that the institutions cannot delegate powers different from those which they received under the Treaty. This limitation has identified the boundaries for establishing European agencies. As such, the delegation of executive powers to a European Agency can be effected, but should be foreseen in a piece of legislation with a legal basis in the Treaty, and provided that the delegation is confined to the aim and means set out in that provision.

The creation of European Agencies has no formal legal basis in the EU Treaties. Agencies are therefore set up on the basis of secondary legislation. As such, there is no uniform procedure for establishing European agencies.

The 22 Community and 6 Executive agencies were established by means of a regulation; the common foreign and security policy agencies by a Council Joint Action; and the criminal and policy cooperation agencies by a Council Decision.

The Lisbon Treaty has modified the voting procedures for a significant number of areas of EU law. However, these changes would have no particular effect on the creation of a new waste implementation agency as waste legislation is already adopted by qualified majority and co-decision.

The European Agencies have a number of formal characteristics, but are at the same time very different due to the specificity of their mandate. As there is no common procedure for establishing an agency, their regulation is ad-hoc and involves a number of common characteristics rather as a consequence for the need of good governance, than as a legal obligation. It is worth noting that all agencies have legal personality and a certain degree of organisational and financial autonomy.

The 2002 Commission *Communication on the Operating framework for EU regulatory agencies* stressed the importance of clearly establishing the responsibilities of the European agencies in balance with the Commission's executive function, in order to ensure transparency and legal certainty. In particular, in view of the principles of good governance, it is of crucial importance for any agency that its independence, accountability, transparency and participation be clearly ensured.

In the framework of this study, it is relevant to analyse in more detail the Community and Executive agencies as a waste implementation agency would fall into one of these categories.

⁴ R. Dehousse, « Misfits : EU law and the transformation of EU governance », 2002 ;E. Vos, « Reforming the European Community. What role to play for European agencies ? », 2002, CMLR 1113; and others.

⁵ *Meroni v. High Authority*, 9/56, ECR 1958, p.133. It is worth noting though that the strict interpretation of the Treaty in the *Meroni* case is considered by some authors, such as D. Geradin, as too restrictive and outdated.

Community agencies

No common framework for Community agencies has been established. Certain attempts were made to define a common framework for the establishment, structure and working mechanisms of Community agencies. However, the initiative undertaken by the Commission by means of a draft inter-institutional agreement in 2005 defining these building blocks stranded in the Council. In 2008, the Commission has issued a new Communication launching an inter-institutional dialogue in order to evaluate the existing agencies and define some horizontal elements.⁶ At present, there is thus still no common framework for Community agencies, but initiatives are underway to establish some common ground in the future. It is unlikely that a legal framework institutionalising the agencies would be adopted as this would affect their flexibility in adapting to the specific tasks they are entrusted with.

A Community agency is established by a specific regulation for each agency. Initially, the legal basis used for creating a Community agency was Article 308 of the former EC Treaty, which says: *“If action by the Community should prove necessary to attain, in the course of the operation of the common market, one of the objectives of the Community, and this Treaty has not provided the necessary powers, the Council shall, acting unanimously on a proposal from the Commission and after consulting the European Parliament, take the appropriate measures.”*

Currently, the Commission’s policy is to base such agencies on the relevant Treaty provisions governing the area in which they will operate.⁷ For instance, The European Chemicals Agency (ECHA) was established by the REACH Regulation on the basis of then-Article 95 EC, and the European Agency for the Management of Operational Cooperation at the external borders (FRONTEX) was created on the basis of Articles 62(2)(a) and 66 of the former EC Treaty.

This new approach can provide, depending on the actual legal basis used, the advantage of not having to use the burdensome decision-making procedures under Article 352 TFEU. For a waste implementation agency, the specific advantage of using Article 191 TFEU⁸ would lie in the adoption of the Regulation by qualified majority voting in the Council instead of unanimity, with a right to co-decision for the European Parliament, instead of its mere consultation. This would thus, on the one hand, facilitate decision-making in the Council and, on the other hand, give the regulation a greater democratic weight.

The regulation establishing a European Agency determines its functions. These functions vary according to the mission the particular agency is meant to accomplish, but can include scientific research and monitoring, assistance to Member States and the Commission on implementation, and the facilitation of dialogue with interest groups.

From an organisational point of view, three bodies are usually common to each of the Community Agencies:

- the Administrative or Management Board,

The Management or Administrative Board governs the Agency and is responsible for ensuring that the agency carries out its tasks. It therefore adopts the multi-annual Work Programme, the yearly Work Programme and annual reports, determining the specific tasks and status of their accomplishment. These managing documents are standard practice for the European agencies.

⁶ This evaluation is expected to end in 2009-2010. During the course of the evaluation, the Commission has engaged not to adopt any decisions establishing new Community agencies.

⁷ C. Craig and G. De Burca, *EU Law. Text, cases and materials.* (fourth edition), Oxford University Press, 2008, p. 79.

⁸ Articles 191 and 192 TFEU contain the legal basis for EU environmental legislation.

The Management Board consists usually of representatives of the Commission and the Member States, and in some agencies by members appointed by the Parliament or of the social partners. If provided for by the Regulation establishing a specific agency, membership of the agency can be open to third countries, namely to Candidate countries or countries in the European Neighbourhood Policy.⁹ These countries will be able to propose representatives for the Management or Administrative Board, who will enjoy the status of observer, without having the right to vote.

- the Executive Director

The Executive Director of a European Agency ensures the operational working of the agency. He is responsible for the day-to-day management of the agency and for representing the agency. In some agencies such as, for example, the EFSA¹⁰ and the CFCA¹¹, the Executive Director is assisted in its functions by an Advisory Board or Advisory Forum.

- Technical or Scientific Committees.

Finally, Technical or Scientific Committees are responsible for carrying out the specific technical tasks within the mandate of the agency. They consist of technical experts, who are staff members of the agency. Only some agencies have such Technical or Scientific Committees. For example, the EFSA comprises a Scientific Committee and Scientific Panels that are responsible for providing the scientific opinions of the EFSA.

The 2008 Commission Communication “European agencies – The Way Forward” notes that a legally defined approach to the governance of agencies and the different bodies involved would allow for certain standard rules to apply to the Management Board, the Director, the programming and reporting of the agency’s work, and would clarify their relationship with the EU institutions and the Member States. This clarification is considered as necessary for increasing the accountability and transparency of the agencies.

A European agency’s budget usually consists of a subsidy entered into the general budget of the EU and of payments for certain specific services rendered.

The decisions of an Agency can be subject to complaints to the Ombudsman or to an action before the ECJ on grounds of Articles 195¹² and 230 EC¹³.

Finally, it is worth noting that the European Agencies are often open to entry by non EU-member states of the EU, such as EEA countries. (ENP Communication)

Current European Community agencies are listed in the matrix in section 9, above.

Executive agencies

The EU’s Executive agencies assist the Commission in the management of the EU’s financial support programmes. A regulation was adopted establishing their general status and working mechanisms, in

⁹ Communication from the Commission to the Council and to the European Parliament on the general approach to enable ENP partner countries to participate in Community agencies and Community programmes, 4.12.2006, COM(2006) 724 final.

¹⁰ European Food Safety Authority.

¹¹ Community Fisheries Control Agency.

¹² Article 195 EU regulates the powers of the European Ombudsman to look into complaints from citizens or launch inquiries about maladministration by the EU institutions and bodies.

¹³ Article 230 EU regulates the judicial review of the legality of the acts producing legal effects, adopted by the EU institutions.

order to facilitate the creation of an agency whenever deemed necessary for implementing a programme. As such, any new Executive agencies have a common legal basis, namely Council Regulation 58/2003.¹⁴

An executive agency is set up to coordinate the management of various funding programmes, when a cost-benefit analysis leads to the conclusion that the management of a programme is economically more advantageous than outsourcing.¹⁵ As a consequence, the agencies will usually be responsible for the preparation and selection of projects, the financial aspects and the monitoring of their implementation, under supervision of the European Commission, which remains responsible for the management of the programmes. They are set up for a specific period of time.

An Executive agency is managed by a Steering Committee and a director. The five members of a Steering Committee, appointed by the Commission, adopt the annual work plans.

The budget of an Executive Agency also consists of a subsidy in the general budget of the EU, intended to cover its running costs, and the allocations of the EU programme which the agency is involved in managing.

The six currently operating executive agencies are listed in the matrix in section 9, above.

As can be concluded from the above, the most appropriate form for a future waste management agency to take would be that of a Community agency, rather than an executive agency as the mandate of executive agencies would not be appropriate to include any of the potential tasks such an agency would be expected to carry out.

¹⁴ Council Regulation (EC) No 58/2003 of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes, OJ L 11, 16 January 2003, p. 1–8.

¹⁵ Requirement of Article 3 of Council Regulation (EC) No 58/2003, cited above.

The work of current EU agencies

This section looks in greater depth at the activities of selected EU agencies whose mandates specifically cover these areas. This review demonstrates that EU agencies already work in all the priority areas considered for a possible European Waste Implementation Agency: enforcement (in particular, inspection activities); training for Member State officials; preparation of guidance for implementation; and support to the Commission and Member States on updating technical legislation. In each of these priority areas, several models of EU agencies supporting the Commission and Member States are already in place.

The section also looks two alternatives to agencies: in one case, an office of the European Commission, DG SANCO's Food and Veterinary Office, which functions like an agency; and in the other case, the Common Implementation Strategy to prepare guidance and support implementation of the Water Framework Directive.

The brief analysis here is based on a series of desk studies; further details are found in the fact sheets below. In the next phase of work, interviews will be carried out with some of these agencies to gather more detailed information for the feasibility study.

Enforcement (inspection activities)

Several EU agencies carry out inspection activities, including the Community Fisheries Control Agency (CFCA) and the European Maritime Safety Agency (EMSA). Moreover, an office of the European Commission based in Ireland, DG SANCO's Food and Veterinary Office (FVO), carries out some inspection work and has functions similar to that of an agency.

Here, four key levels of enforcement activities currently in place in the EU are reviewed: exchange of information and coordination via a common forum (in place for chemicals legislation); organisation and coordination of joint inspection and control activities (fisheries); EU reviews of Member State and third country controls (food safety); and direct agency inspections (maritime safety). The main examples are taken from agencies that enforce environmental legislation, though activities in other areas are also discussed.

A forum for enforcement

The European Chemicals Agency (ECHA) is set up to handle the implementation and maintenance of the central EU legislation governing chemicals and their safe use, the REACH Regulation. The agency's work covers many tasks, one of which is to support Member State enforcement of chemicals legislation.

The REACH Regulation sets up a *Forum for Exchange of Information on Enforcement*, which will coordinate common enforcement projects and joint inspections, as well as develop working methods and tools for inspectors, identify enforcement strategies and develop an electronic information exchange procedure (Art. 77(4)). Each Member State nominates one member of the Forum, and ECHA provides its secretariat.

The Forum is in its early stages. The plans for initial work include the following areas of activities:¹⁶

- Coordinated enforcement projects
- Development of joint enforcement strategies
- Identification of minimum criteria for enforcement
- Preparation of guidance and training materials for inspectors

¹⁶ ECHA, *Multi-Annual Work Programme 2009-2012*, September 2008 (available at <http://www.echa.europa.eu>)

- Identification of best practices for enforcement

Coordination of Member State enforcement activities

The role of the Community Fisheries Control Agency (CFCA), created in 2005, is “to strengthen the uniformity and effectiveness of enforcement by pooling EU and national means of fisheries control and monitoring resources and co-ordinating enforcement activities”.¹⁷

The agency’s main activity is to organise Member State inspection and enforcement activities via *Joint Deployment Plans*. Each plan focuses on enforcement in a single European sea or for a specific marine species. Recent plans have covered: bluefin tuna; the North Sea; and the Baltic Sea. Member States provide the inspectors, vessels, aircraft and other means to carry out the plans, and the CFCA provides overall organisation and coordination. In each plan, specific activities are organised into separate “campaigns”, and each campaign is led by a Member State.

In the ongoing North Sea Joint Deployment Plan (2008), for example, Member States have led a series of separate campaigns, each about two weeks in length. Each campaign included inspections both on land and at sea. The overall goal of the plan is the recovery of North Sea cod stocks. Through early 2009, over 20 campaigns had been completed. In each campaign, inspectors can enter the fishing zones of other Member States and board any fishing vessels.¹⁸

Other agencies also help to coordinate national enforcement mechanisms. For example, Eurojust assists Member States in the creation of Joint Investigation Teams (JITs) to tackle serious cross-border crime, including terrorism, money laundering and drug trafficking. Eurojust does not have the authority to launch or carry out investigations itself.

Review of Member State inspections and controls

DG SANCO’S Food and Veterinary Office (FVO) is responsible for ensuring that EU legislation on food safety, animal health, plant health and animal welfare is properly implemented and enforced. The main work of the office is to review the effectiveness of inspections and controls in Member States as well as in cooperating third countries with significant exports of food to the EU.

Each year FVO develops a programme of audits, inspections and reviews of Member State and third country activities. In general, the office carries out two types of activities: audits and inspections that focus on specific food chains, such as baby food, or specific types of control systems, such as those on pesticides; and general country reviews. In its initial plans for 2009, FVO has scheduled nine general reviews and over 130 audits and inspections in Member States, together with further reviews, audits and inspections in EFTA countries, EU Candidate Countries and third countries including Canada, Indonesia and Ukraine. A total of over 250 inspections are planned. The office however keeps its programme flexible to be able to respond to emergencies and other unforeseen circumstances.¹⁹

When an FVO review, audit or inspection identifies a need for better controls, the office specifies the problem in its inspection report. In response, the Member State or country should prepare an action plan for improvement. Where FVO has found that its recommendations have not been implemented, it can prepare an infringement case against the Member State. In addition, if FVO identifies an immediate threat to consumer, animal or plant health, it may take emergency (called safeguard) measures, such as banning the sale of a type of food whose safety is not assured.

¹⁷ From the CFCA web site: <http://www.cfca.europa.eu> (accessed March 2009)

¹⁸ See: CFCA, Joint Deployment Plan (JDP) NORTH SEA (http://www.cfca.europa.eu/northsea/index_en.htm, accessed March 2009)

¹⁹ European Commission Directorate-General for Health and Consumers, *Programme of Audits and Inspections 2009*

Other EU bodies also review Member State implementation and enforcement activities. For example, the European Maritime Safety Agency (EMSA) carries out regular reviews of the Member State inspection activities under the directive for port state control²⁰: these activities aim to ensure that ships comply with safety, pollution prevention and crew requirements. EMSA also reviews the implementation of requirements to ensure adequate training and certification of seafarers. These reviews are carried out in both Member States and third countries; for each review, agency officials visit national agencies responsible for maritime administration as well as training institutions.

Direct inspection activities

Fewer EU agencies carry out direct inspection activities of private actors.

One example is EMSA, the European Maritime Safety Agency, which reviews and inspects classification societies. These private organisations develop the technical and design standards for the construction of ships and ensure that they are followed. EMSA maintains the list of certified EU classification societies and carries out inspections of their work. In 2009, EMSA planned to carry out at least 16 such inspections. In addition, when a Member State detains a ship for serious deficiencies, EMSA can visit to monitor the performance of the classification society concerned. EMSA also reviews Member State actions for maritime security; in this field, EMSA assists Member States in the inspection of ships and shipping companies for maritime security.²¹

Training

Several EU agencies carry out training activities. One example is CFCA, the Fisheries Control Agency: this agency integrates training into the Joint Deployment Plans, thus linking training closely to fisheries inspection and control activities.

EMSA works with Member States to organise relevant training activities, across all fields of EMSA's mandate. These activities are organised via the Consultative Network on Technical Assistance, which links the agency with Member States organisations and seeks to address their needs for capacity building. In 2007, EMSA organised 22 training sessions involving 360 Member State officials.

A series of other agencies provide training for Member State officials. For example, ENISA, the European Network and Information Security Agency, provides training and also prepares training materials on information security issues. ECHA trains 'trainers' in Member States, focusing on areas of new legislation and scientific methods. The European Medicines Agency (EMA) and the European Food Safety Agency (EFSA) both provide training, and FRONTEX, the European Agency for the Management of Operational Cooperation at the External Borders, assists Member States in the training of border guards and also sets common standards for training. While DG SANCO's FVO, which is described above, does not organise training itself, the separate Executive Agency for Health and Consumers supports a training programme for Member State officials on food safety.

Finally, a few agencies are specifically dedicated to training activities, including the European Training Foundation and the European Police College (CEPOL).

²⁰ Directive 95/21/EC concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control) – this directive allows the port states where ships call to control ship safety and pollution prevention, thus supplementing controls by the flag states.

²¹ EMSA, *Work Programme 2009*, undated (late 2008) (available from <http://www.emsa.europa.eu>, accessed March 2009)

Preparation of guidance

The review identified only a few agencies that work on guidance. One strong example is ECHA, which maintains the guidance documents to assist in the implementation of REACH. This complex piece of legislation specifies an extensive set of guidance. Before ECHA became operation, the European Commission prepared an initial set of guidance documents (with input by external consultants). ECHA will update these documents regularly and complement them with additional guidance. In this work, ECHA seeks input from industry and other stakeholders. ECHA's technical committees, whose experts are nominated by the Member States, review and approve any new or updated guidance documents.

In addition, ECHA provides guidance to Member States, enterprises and other stakeholders through its REACH helpdesk. Each Member State, in fact, must set up a helpdesk to assist enterprises and other actors in the REACH process. ECHA's helpdesk assists the national desks to respond to difficult queries, and also provides direct support to enterprises based outside the EU.

ECHA thus provides one model for the preparation of guidance and assistance for implementation. A different model is that of the Common Implementation Strategy created under the Water Framework Directive (2000/60/EC). The directive introduced many new methods and approaches into EU water legislation. The CIS has focused on the preparation of guidance documents and on promoting more uniform implementation of their methods. The CIS represents a different approach to strengthening implementation; at the same time, its work has focused on only one of the functions being reviewed here and in particular it has not tackled the area of enforcement.

The Common Implementation Strategy for the Water Framework Directive

The Common Implementation Strategy (CIS) has sought to establish a common understanding and approach for implementation of this directive across Member States, in particular through joint work on guidance documents as well as related and follow-up activities. Under the Strategy, the EU Water Directors set up a series of working groups that developed guidance documents in a series of key areas, from the determination of reference conditions in inland waters to the use of economic analysis. The working groups have been jointly chaired by the European Commission and a Member State, and experts nominated by stakeholders, including both industry and environmental NGOs, participated in their work. The finished guidance documents are approved by the working groups and then by the Water Directors. The European Commission has supported the Strategy, including through technical expertise provided by a consortium of external consultants.

The CIS process has also helped develop additional, technical legislation: the Water Framework Directive called for several pieces of implementing legislation, for example on the criteria for assessing groundwater chemical status. Here, the Commission established consultative fora bringing together Member States as well as stakeholders.

With the completion of the main guidance documents, the CIS working groups have shifted to an exchange of information on implementation. In addition, the CIS has addressed emerging issues for European water management, such as flooding and climate change adaptation.

Sources:

EU Water Directors, *Common Implementation Strategy for the Water Framework Directive (2000/60/EC) – Improving the comparability and quality of the Water Framework Directive implementation: Progress and work programme for 2007-2009*, November/ December 2006

EU Water Directors, *Common Implementation Strategy for the Water Framework Directive (2000/60/EC) – Strategic Document as agreed by the Water Directors under Swedish Presidency*, 2 May 2001

Support for the updating of EU legislation

Several agencies work in this area, in particular for technical legislation.

One prominent example is ECHA, which together with the European Commission and the Competent Authorities of the Member States carries out the evaluation, authorisation and restriction of chemicals under REACH. Specifically, ECHA provides the European Commission with scientific opinions regarding the authorisation and restriction of chemicals. ECHA's committees (whose experts are nominated by the Member States) prepare these opinions, which the Commission and where appropriate, the Council and the Parliament, use to update the lists of chemicals registered, authorised or restricted in the annexes to the REACH Regulation.

In the area of maritime safety as well, an EU agency plays an important role in updating legislation. The Regulation that created EMSA gave it a mandate to assist the Commission in the preparatory work for updating and developing EU legislation in the fields of maritime safety and security, the prevention of pollution and response to pollution cause by ships, in particular in line with the development of international legislation in that field (Art. 2). EMSA's work includes the analysis of research in its fields. As an example, EMSA is responsible for the initial preparation of technical annexes to directives in the area of marine safety or vessel traffic monitoring.

Several other European agencies support the updating of legislation. For example, the European Food Safety Agency (EFSA) provides scientific opinions to support the development of European legislation in this area, such as technical annexes concerning food additives.

Other areas of agency work

EU agencies carry out activities across a broad range of areas. Two important topics may be of relevance to an agency that would support implementation of EU waste legislation: links with research; and information gathering.

Many agencies have a mandate to link with research work in their fields due to the specialised nature of the work, including EMSA. This is also the case for the European Food Safety Agency, which provides scientific opinion on food safety issues. The European Environment Agency (EEA) seeks to provide a bridge between scientific research on environment, carried out in universities and other research institutions, and the policy role of the European Commission and Member State governments.

Gathering, processing and interpreting data and information is another prominent task for European agencies. For example, EMSA is setting up a network for monitoring ships that travel along Europe's coasts, the SeaSafeNet, which will be linked to similar Member State information systems. The system is expected to support search and rescue operations and other activities by providing information on vessels and their cargoes.²²

²² EMSA, *Work Programme 2009*, undated (late 2008) (available from <http://www.emsa.europa.eu>, accessed March 2009)

Detailed review of selected EU agencies

This section provides the results of the desk study of EU agencies: the Community Fisheries Control Agency (CFCA); the European Chemicals Agency (ECHA); European Maritime Safety Agency (EMSA); European Food Safety Agency (EFSA); the Executive Agency for Health and Consumers (EAHC); and the European Union's Judicial Cooperation Unit (Eurojust). It also reviews on wing of the European Commission whose functions are similar to those of an agency, DG SANCO's Food and Veterinary Office (FVO).

Community Fisheries Control Agency (CFCA)

<p>Name of Agency; year it became operational</p> <p>Community Fisheries Control Agency (CFCA); created 2005, operational in 2007.</p>
<p>Legislation creating the agency</p> <p>Council Regulation (EC) No 768/2005 of 26 April 2005 establishing a Community Fisheries Control Agency and amending Regulation (EEC) No 2847/93 establishing a control system applicable to the common fisheries policy, <i>O.J. L 128/1</i>, 21.5.2005</p> <p>Legal basis of the Regulation: Article 37 EU (common agricultural policy)</p>
<p>Brief overview of the agency's mandate</p> <p>The aim of the CFCA is to improve compliance with the rules of the Common Fisheries Policy and to create a level playing field for the operators by strengthening the uniformity and effectiveness of the control and inspection activities in the Member States. The means for control and inspection are pooled and coordinated through the CFCA in order to remedy the differentiated enforcement that resulted from disparities between Member States. The CFCA organises this operational coordination by means of joint deployment plans. In addition, the CFCA organises training seminars, workshops or exchanges of best practices.</p> <p>The Member States are primarily responsible for control and enforcement of the rules of the Common Fisheries Policy (CFP) whilst the Commission is responsible for the monitoring and enforcing of the correct application of these rules by Member States. The establishment of the Agency does not affect this distribution of responsibilities. Its role is to coordinate and assist the MS and the Commission in the execution of their responsibilities.</p> <p>The mandate of the CFCA includes:</p> <ul style="list-style-type: none"> • The coordination of control and inspection by Member States when these are related to the EU's inspection obligations • Coordination of the deployment of the national means for inspection and control pooled by the MS for the inspections under the Regulation • Assist Member States in reporting information on fishing activities, and control and inspection activities • Assist Member States to fulfil their tasks under the CFP and to harmonise the application of the CFP • Contribution to research on the development of control and inspection techniques • Contribute to the coordination of inspector training and to provide additional training courses and seminars, and exchange experience between Member States • Coordinate the operations to combat illegal, unreported and unregulated fishing in conformity with EU rules. <p>The mandate has not been amended since the establishment of the CFCA.</p>

Annual agency budget

The budget of the CFCA consists of a contribution from the EU entered in the general budget of the EU (Commission section), of charges for services provided by the CFCA to the Member States and of charges for publications, trainings and other services.

For 2008, the payment budget of the CFCA included the following amounts:

- Total amount: 9,700,000 EUR
- Share from general EU budget: 8,500,00
- Share from services rendered by the Agency: 1,200,00

For 2009, the payment budget declined to 8,100,000 EUR, in particular with a fall in the EU budget to 6,850,000 EUR.

This budget covers staff, administrative, infrastructure and operational expenses.

Governance structure

The CFCA is a body of the EU (art. 18) with legal personality. It is governed by an Administrative Board, and represented by its Executive Director.

- Administrative Board

The Administrative Board establishes the priorities and programme of the CFCA in its annual workplan, adopts the budget, reports to Member States about the previous year and appoints and dismisses the Executive Director. The Board is composed of 27 representatives of the Member States, one for each Member State, and six representatives of the Commission. These Board members are appointed for a renewable term of five years. The Chairperson will be elected among the Commission representatives. His or her mandate will last 3 years, and can be renewed once.

- Executive director

The CFCA is managed by the Executive Director who is independent from any government or any other body. He or she prepares the draft work programme and the draft annual budget, which is then adopted by the Management Board, and takes the necessary steps to implement the work programme. In addition, he or she is responsible for organising a monitoring system that compares the CFCA's achievements with its objectives. The Executive Director is responsible for his or her activities to the Administrative Board.

The Executive Director is appointed by the Administrative Board, on the basis of a list of candidates proposed by the Commission after a selection procedure.

- Advisory Board

The Advisory Board is composed of one representative of each of the Regional Advisory Councils, established by Regulation No 2371/2002 on the conservation and sustainable exploitation of fisheries resources under the CFP. The Board advises the Executive Director in the performance of his or her duties.

- Number of staff

In 2009, CFCA plans to reach a total of 55 staff.

Relations with Member States, European Commission, other bodies

The CFCA is a EU body facilitating and organising the cooperation and coordination between Member States regarding fisheries control and inspection. Its mandate does not lessen the Member States and the Commission's responsibilities under the CFP. The CFCA does not have the power to impose any additional obligations or sanctions on Member States.

The CFCA has legal, financial and administrative autonomy, while at the same time it carries out its functions in close cooperation with the Commission and the Member States. From an organisational point of view, the Member States and the Commission are represented in the Administrative Board of the CFCA.

Support for the updating of EU legislation

The CFCA does not have a specific mandate for updating EU legislation.

Enforcement activities

The CFCA coordinates fisheries control and inspection activities among the Member States and assists them to cooperate so as to comply with the rules of the CFP and ensure its effective and uniform application (Art. 1 Regulation 768/2005). In addition, Article 3 of the Regulation specifies the mission of the CFCA, including the coordination of control and inspection as well as the coordination of the deployment of national means of control and inspection pooled by the Member States for the implementation of its mandate.

Joint deployment plans (JDPs) coordinate national means of control and inspection, such as patrol vessels, inspectors or airplanes, which are pooled by the Member States. The JDPs can be adopted for fish stocks for which a recovery or management plan is in place and for which the Commission has adopted a special control and enforcement plan. These JDPs allow national inspectors to act as Community inspectors in other Member States' waters. The inspectors are not based at the CFCA.

The controls can cover every stage of fishing activity, from the moment when the fish are caught to when they are received by the first buyer after landing.

Enforcement actions adopted so far are:

- **Blue fin tuna Joint Deployment Plan 2008**
The JDP for Blue fin tuna foresaw 364 days of FPV patrol involving 78 inspectors, 170 days of land inspection involving 68 inspectors and 70 days of air surveillance. The campaigns took place in 2008, but specific results are not yet publicly available.
- **Joint Deployment Plan North Sea**
Under the JDP for the North Sea, over 20 campaigns have been organised through early 2009, each led by a Member State, for an area of the North Sea near the Member State. On average, for each campaign lasting around two weeks, between 16 and 62 inspections were carried out at sea and between 28 and 110 on land. The specific results of the North Sea campaigns can be found at: http://www.cfca.europa.eu/northsea/index_en.htm
- **Joint Inspection and Surveillance Scheme Baltic Sea (forerunner of a future JDP for Baltic Sea Cod)**
In 2008, 12 campaigns were organised, each led by a Member State, for the area of the Baltic Sea near the Member State. On average, for each campaign lasting around two weeks, between 15 and 87 inspections were carried out at sea and between 14 and 325 on land.
The specific results of the Baltic campaigns can be found at: http://www.cfca.europa.eu/baltic/index_en.htm

It is worth noting that the enforcement competencies of the CFCA have been questioned and considered as not strong enough. For instance, European press has circumscribed the agencies enforcement competencies as having "no stick" and "no carrot", and the European Court of Auditors regretted the limited powers of Community inspectors.

Training activities

Article 3 of Regulation 768/2005 foresees as part of the CFCA's mission the contribution to the coordination of inspector training and the exchange of experience between Member States. More specifically, Article 7 of the Regulation requires the CFCA to establish and develop a core curriculum for the training of instructors of the fisheries inspectors of the Member States and to provide additional training courses and seminars for inspectors and personnel involved in monitoring, control and inspection activities.

The 2009 work programme for CFCA states that training will be provided to Member State inspectors as part of the Joint Deployment Plans.

No information is available on the website on the number of trainings already organised.

Sources

CFCA, *Work Programme and Final Budget for year 2009*

<http://www.cfca.europa.eu>

European Chemicals Agency (ECHA)

Name of Agency; year it became operational

European Chemicals Agency (ECHA); started operations in 2007, fully operational in 2008

Legislation creating the agency

Corrigendum to Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC

REGULATION (EC) No 1907/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC

DIRECTIVE 2006/121/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 18 December 2006 amending Council Directive 67/548/EEC on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances in order to adapt it to Regulation (EC) No 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) and establishing a European Chemicals Agency

COMMISSION REGULATION (EC) No 987/2008 of 8 October 2008 amending Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) as regards Annexes IV and V

Brief overview of the agency's mandate

The European Chemicals Agency (ECHA) is set up to handle the implementation and maintenance of the European Community Regulation on chemicals and their safe use (REACH). REACH stands for the **Registration, Evaluation, Authorisation and Restriction of Chemical** substances and the aims of the Regulation are to:

- Improve the protection of human health and the environment from the risks that can be posed by chemicals
- Enhance the competitiveness of the EU chemicals industry, a key sector for the economy of the EU
- Promote alternative methods for the assessment of hazards of substances
- Ensure the free circulation of substances on the internal market of the European Union

All manufacturers and importers of chemicals must identify and manage risks linked to the substances they manufacture and market. For substances produced or imported in quantities of 1 tonne or more per year per company, manufacturers and importers need to demonstrate that they have appropriately done so by means of a registration dossier, which must be submitted to the European Chemicals Agency (ECHA). The Agency may then check that the registration dossier complies with the Regulation and must evaluate testing proposals to ensure that the assessment of the chemical substances will not result in unnecessary testing, especially on animals. Where appropriate, authorities may also select substances for a broader substance *evaluation* to further investigate substances of concern. REACH also foresees an *authorisation* system aiming to ensure that substances of very high concern are properly controlled, and progressively replaced by suitable alternative substances or technologies where these are economically and technically viable. Where this is not possible, the use of substances may only be authorised where there is an overall benefit for society of using the substance. In addition, EU authorities may impose *restrictions* on the manufacture, use or placing on the market of substances causing an unacceptable risk to human health or the environment.

Title X of the REACH Regulation specifies the objectives and the composition of the Agency. According to Article 75 the objective of the Agency is to manage and in some cases carry out the technical, scientific and administrative aspects of REACH and to ensure consistency at EU level in relation to these aspects. Article 77 states that The Agency shall provide the Member States and the institutions of the EU with the best possible scientific and technical advice on questions relating

to chemicals which fall within its remit and which are referred to it in accordance with the provisions of REACH. Other tasks for the Agency includes:

- Manage IT based guidance documents, tools and data bases
- Support national helpdesk and run a helpdesk for registrants
- Make information on chemicals publicly accessible

Annual agency budget (2009)

- *Total amount*

The payment budget for 2009 was 71 635 588 from which 66 451 588 derive from the *general EU budget*. Other revenue is comprised of fees and charges (3 593 000), participation by third countries in the agency's activities (EFTA contributions) (1 511 000) and administrative operations (80 000). The main areas of expenses was for Staff (38 134 000), Building equipment and miscellaneous operating expenditure (10 803 888) and operating expenditure (22 697 700).

Governance structure

The Agency is comprised of:

- A *Management Board*, responsible for adopting the financial planning, work programme, annual reporting.
- An *Executive Director*, the legal representative of the Agency, responsible for the day to day management and administration of the Agency, including responsibility over its finances. The Executive Director reports to the Management Board.
- A *Secretariat* to support the Committees and Forum and undertake work on registration and evaluation processes as well as preparation of guidance, maintenance of databases and provision of information.
- A *Member State Committee* to resolve differences of opinion on draft decisions proposed by the Agency or Member States and make proposals for identification of substances of very high concern.
- A *Risk Assessment Committee* to prepare opinions on evaluation, on applications for authorisation, on proposals for restrictions and on classification and labelling.
- A *Committee for Socio-economic Analysis* to prepare opinions on applications for authorisation, on proposals for restrictions and on questions relating to the socio-economic impact of proposed legislative action.
- A *Forum on enforcement matters* to coordinate a network of Member States' competent authorities responsible for enforcement.
- A *Board of Appeal* to decide on appeals against decisions taken by the Agency.

Relations with Member States, European Commission, other bodies

Member States and the Commission are first of all represented on ECHA's management board. This board nominates experts for ECHA's technical committees (e.g. the Risk Assessment Committee), which prepare opinions on chemicals. The opinions are based on dossiers prepared by companies; ECHA provides the committees with technical and administrative for the review of these dossiers.

Member State officials are represented on the Forum on enforcement Matters (see below).

The Commission will have a key role in the authorisation process, as it will identify substances that are subject to authorisation (on the basis of scientific opinions from ECHA), and decide whether to grant the authorisations. It will also issue decisions regarding restrictions. The Commission also has representatives in the Management Board of the Agency and may participate in the meetings of the Committees of the Agency.

Support for the updating of EU legislation

The authorities having obligations and rights in the REACH processes are ECHA, the Member States Competent Authorities and the European Commission. The authorities carry out the evaluation, authorisation and restriction processes of REACH. In addition, the Agency and Member States will provide helpdesk assistance. Member States are responsible for enforcement under REACH. The role of the European Commission is updating and completing the REACH legislation and taking decisions in a number of REACH processes, in particular authorisation and restrictions. Moreover, it actively participates in finalizing and updating REACH guidance and supports the ECHA in its tasks.

ECHA will provide the European Commission with scientific opinions regarding the authorisation and restriction of chemicals. ECHA's committees will prepare these opinions. The Commission (and where appropriate, the Council and the Parliament) will use these opinions to update the lists of chemicals authorised or restricted in the annexes to the REACH Regulation.

<p>Enforcement activities</p> <p>Enforcement is regulated in Title XIV of the Regulation. Member States shall maintain a system of official controls and other activities as appropriate to the circumstances; they shall lay down the provisions on penalties applicable for infringement of REACH and shall take all measures necessary to ensure that they are implemented. Results of inspections, monitoring and penalties are to be reported to the European Commission by 1 June 2010, and after that every five years.</p> <p>REACH also recognises the need for high levels of co-operation, co-ordination and exchange of information between the Member States, ECHA and the European Commission regarding enforcement. By Title X Article 76 it establishes a “Forum for Exchange of Information on Enforcement”, which will coordinate harmonised enforcement projects and joint inspections, as well as develop working methods and tools for inspectors, identify enforcement strategies and develop an electronic information exchange procedure (see Article 77 section 4).</p> <p>The Forum will provide a mechanism for Member States to exchange information on and coordinate their enforcement activities. ECHA staff will provide the secretariat for the Forum, and this will play a key role in ensuring its work.</p> <p>Initial work for the Forum in 2008-2010 includes specifying the tasks of national enforcement officers and identifying examples of best practice. In this period, the Forum will also undertake its first coordinated enforcement projects. Other upcoming work includes the development of joint enforcement strategies as well as the definition of minimum criteria for enforcement.</p> <p>According to Article 86 the Forum shall comprise of one member from each Member State. The member shall be appointed for a three-year term which shall be renewable. Members shall be chosen for their role and experience in enforcement of chemicals legislation and shall maintain relevant contacts with the Member State competent authorities. The Forum shall aim to have a broad range of relevant expertise among its members. To this end the Forum may coopt a maximum of five additional members chosen on the basis of their specific competence. Members of the Management Board may not be members of the Forum. The members of the Forum may be accompanied by scientific and technical advisers. The Executive Director of ECHA shall be entitled to attend all the meetings of the Forum and its working groups. Stakeholders may also be invited to attend meetings as observers, as appropriate, at the request of Forum members, or the Management Board.</p>
<p>Training and guidance</p> <p>ECHA provides Member States (and its own staff) with training; it also maintains guidance documents for Member States and all stakeholders – these are available on the Agency’s website.</p> <p>In the ECHA Work Programme 2008 one of the priorities for the year was to “reinforce the network of competent authorities including the training of national trainers”. This work will continue in coming years. ECHA will focus on training in particular to help national experts keep up to date with technical and scientific developments in the field.</p> <p>ECHA is responsible for updating and publishing guidance documents on REACH, with the close involvement of the European Commission (initial documents were prepared by the European Commission, with input from external consultants). ECHA has a consultation procedure for stakeholder input into the preparation and updating of guidance documents.</p> <p>ECHA maintains a helpdesk to provide assistance to companies affected by REACH, including those outside the EU, as well as other stakeholders: one important task for the helpdesk is to support national helpdesks set up by Member States.</p>
<p>Sources</p> <p>ECHA, <i>Multi-annual Work Programme 2009-2012</i>, September 2008</p> <p>http://echa.europa.eu</p>

European Maritime Safety Agency (EMSA)

<p>Name of Agency; year it became operational</p> <p>European Maritime Safety Agency (EMSA), °2002, operational in 2003.</p>
<p>Legislation creating the agency</p> <p>Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency, OJ L 208, 5.8.2002, p. 1, as amended by Regulation (EC) No 1644/2003, Regulation (EC) No 744/2004, and (EC) No 2038/2006.</p> <p>Legal basis of the Regulation: Article 80(2) EC: "The Council may, acting by a qualified majority, decide whether, to what extent and by what procedure appropriate provisions may be laid down for sea and air transport." (common transport policy)</p>
<p>Brief overview of the agency's mandate</p> <p>The objective of EMSA is to reduce the risk of maritime accidents and maritime pollution in the EU. EMSA is required to provide the Member States and the Commission with technical and scientific assistance and expertise for implementing EU legislation in the area of maritime safety and security and pollution prevention. It monitors its implementation and also evaluates the effectiveness of what is put in place by the Member States. EMSA should also provide assistance on accidental and deliberate pollution by ships. Finally, it is worth noting that EMSA can assist the Commission in the preparation of EU legislation.</p> <p>Article 2 of the Regulation establishing EMSA (including subsequent revisions) explicitly lists the tasks the Agency is entrusted with, each of these relating to maritime safety and marine security, prevention of pollution and response to pollution cause by ships :</p> <ul style="list-style-type: none"> • Assist the Commission in the preparatory work for updating and developing EU legislation, in particular in line with the development of international legislation. • Assist the Commission in the effective implementation of EU legislation, such as monitoring activities (including visits to Member States), technical assistance for participation in the technical bodies of the Paris Memorandum of Understanding on Port State control, or assistance with specific inspection tasks. • Assist the Member States to organise training in fields which are their responsibility, provide technical assistance for the implementation of EU legislation and support pollution response actions for accidental or deliberate pollution upon request of a Member State. • Facilitate cooperation between Member States and the Commission, for instance, through the development of a common methodology for investigating maritime accidents. • Data gathering for the Commission, including technical data, the development of additional databases or the identification and pursuit of ships making unlawful discharges. • Provide technical assistance to States applying for accession to the EU on the implementation of EU legislation. <p>The Regulation was amended, a first time, in 2003 in order to bring it in line with the Financial Regulation applicable to the general budget of the EC, and with the EU principles on access to information. A second amendment of the Regulation was adopted in 2004 in order to assign to EMSA new tasks in the fields of maritime security and response to pollution caused by ships (included in the list above). A third amendment increased the means available to the EMSA to deal with the additional tasks.</p> <p>A new (fourth) revision of the founding Regulation of EMSA has been announced by the Commission. Concrete elements have not yet been made available, but the proposal is likely to include new tasks (i.e. deriving from the third maritime package) or the expansion of existing tasks.</p>
<p>Annual agency budget</p> <p>The budget of EMSA is composed of a contribution from the EU entered in the general budget of the EU (Commission heading), contributions from any third country which participates in the work of the Agency and charges for publications, training and/or any other services provided by the Agency.</p> <p>For 2008, the payment budget of the EMSA included the following amounts:</p> <ul style="list-style-type: none"> • Total amount: 47,025,000 EUR

- Share from general EU budget: 46,890,000 EUR
- Share from EU funds for candidate, potential and ENP countries: 135,000 EUR

This budget covers staff, administrative, infrastructure and operational expenses. Over 55% was spent on operational activities.

Governance structure

EMSA is a body of the EU (Art. 5) with legal personality. It is governed by an Administrative Board and represented as well as managed on a daily basis by an Executive Director. EMSA is currently organised in 3 Departments, disposing each of three units. The Department for Corporate Services includes units on Human Resources and Communications (A1), Legal and Financial Affairs (A2) and Operations Support (A3). The Department for Implementation is composed of a unit dealing with Safety assessments and Inspections (B1), a unit on Ship Safety (B2) and a unit on Marine Environment, Training and Statistics (B3). Finally, the Department for Operations has units on Pollution preparedness and response (C1), Vessel Traffic and reporting services (C2) and Satellite Based Monitoring Services (C3).

- **Administrative Board**

The Administrative Board establishes the annual work programme, adopts the final budget, drafts the annual report on EMSA's activities, and appoints the Executive Director. The Board also establishes the procedures for decision-making by the Executive Director, defines a policy for the visits to the Member States that can be carried out by EMSA, and adopts a detailed plan for the Agency's pollution preparedness and response activities. The Board is composed of 27 Member State representatives, one for each Member State, four Commission representatives and four professionals from the sectors most concerned. The professionals are nominated by the Commission and have no right to vote. The EFTA States Iceland and Norway are also represented, but do not have a right to vote. The Board members are appointed for a renewable term of five years. The Chairperson will be elected among the members of the Administrative Board. His or her mandate will last 3 years, and can be renewed once.

- **Executive director**

EMSA is managed by an Executive Director who is completely independent in the performance of his or her duties. The Executive Director prepares the work programme and the detailed plan for the Agency's pollution preparedness and response activities as well as estimates of the revenue and expenditure. He or she can decide to carry out visits to the Member States. As the manager of the Agency, the Executive Director is required to ensure the functioning of EMSA, to organise effective monitoring of the achievement of the goals that were initially set and to implement the budget as it is adopted by the Administrative Board.

The Executive Director is appointed by the Administrative Board among candidates proposed by the Commission. His or her term is five years, and can be renewed once. The Executive Director is assisted by Heads of Unit.

- **Number of staff**

EMSA currently employs more than 200 staff members and will most likely expand in view of the recently announced fourth revision of the EMSA Regulation.

Relations with Member States, European Commission, other bodies

EMSA assists the Commission and the Member States with the effective implementation of EU legislation in the fields concerned by its mandate, by providing technical background and assistance where needed. As such, its mandate does not lessen the responsibilities of the Commission and the Member States as determined by EU legislation, but rather facilitates their tasks. In addition, EMSA structures the dialogue between Member States which is of great importance given the transboundary nature of the issues tackled. The CNTA, the Consultative Network on Technical Assistance, that decides on EMSA's training activities schedule also aims at fostering cooperation between Member States and at providing a Member State with assistance upon its request.

Support for the updating of EU legislation

EMSA assists the Commission in the preparatory work for updating and developing EU legislation in the fields of maritime safety and security, the prevention of pollution and response to pollution cause by ships, in particular in line with the development of international legislation in that field (Art. 2). The support provided by EMSA is of a technical nature and can include the analysis of research projects carried out in this field.

For instance, EMSA will be responsible for the preparation of technical annexes to the Directives in the area of marine safety or vessel traffic monitoring.

Enforcement activities

Article 2 of EMSA's founding Regulation, (EC) No 1406/2002, specifies that the Agency shall assist the Commission in effectively implementing the relevant EU legislation. More specifically, in relation to enforcement, the Agency is required to monitor the functioning of state port control, to assist in the performance of any task, if specifically assigned to it, relating to classification societies (described in the following paragraph) and to provide technical assistance in the performance of the inspection tasks related to maritime security. Indirectly, the EMSA is responsible for gathering data and information as well as monitoring, the results of which could be taken into consideration when amending or developing new legislation.

First, EMSA has been assigned the responsibility to monitor port state control. This task consists of assessing the functioning of national inspection systems to ensure that ships comply with safety requirements. EMSA undertakes visits to Member States and analyses global and specific data on their inspections. In addition, in order to ensure the safety of ships, the Agency assesses the classification societies that develop technical and design standards for the construction of ships and certify that they are followed. Flag states can authorise classification societies for the inspection and statutory certification of their ships. A list of approved classification societies at the EU level is assessed every two years. The EMSA is charged with the assessment of the classification societies and, to that end, carries out visits and inspections for checking the performance of these societies. Currently, only 13 of more than 50 classification societies have been included on the EU list.

The Agency also provides technical assistance to the Commission for its inspection tasks relating to maritime security, in relation to ships, companies and recognised security organisations. EMSA participated in the first inspections of ships in 2006 and of shipping companies and security organisations in 2007.

EMSA undertakes other inspections, including assessments of Member State implementation of Directive 2001/25/EC on seafarers' training and certification (linked to an IMO agreement in this field). EMSA can also carry out assessments in third countries in this area. The inspections consist of visits to the different offices of national administrations responsible for maritime education and training. In 2006, 9 inspections were organised in Romania, Bulgaria, Cape Verde, Algeria, Philippines, Georgia, Sri Lanka, Egypt and Morocco.

Finally, the Agency can carry out announced visits to Member States for all the tasks entrusted to them.

Training activities

EMSA works with Member States to organise relevant training activities in the fields which are the responsibility of the port State and flag State. These training activities cover all fields of EMSA's mandate. The beneficiaries of these training activities are Member States officials.

The priorities for training activities are determined yearly by the Consultative Network on Technical Assistance (CNTA), which is composed of representatives from the maritime administrations of the 27 Member States, Norway and Iceland. Training can also take place in candidate or potential candidate countries. The activities can relate to all fields included in EMSA's mandate. In 2007, 22 trainings were held involving 360 Member State officials.

The payment budget for 2009 for training activities (including port state control) is 660,000 EUR.

European Food Safety Authority (EFSA)

<p>Name of Agency; year it became operational</p> <p>European Food Safety Authority (EFSA), °2002, operational in 2002.</p>
<p>Legislation creating the agency</p> <p>Regulation (EC) No 178/2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety, OJ L 31, 1.2.2002, as amended by Regulation (EC) 1642/2003, Regulation (EC) 575/2006 and Regulation (EC) 202/2008.</p> <p>Legal bases of the Regulation: Articles 37 (common agricultural policy), 95 (internal market), 133 (common commercial policy) and 152(4)(b) (public health) of the former EC Treaty.</p>
<p>Brief overview of the agency's mandate</p> <p>EFSA assesses the risks associated with the food chain. The Agency provides independent scientific opinions upon requests of the Commission, the Parliament or the Member States or upon its own initiative, and communicates on risks. In particular, for the development of new EU legislation or revisions of existing legislation or policies and for the approval of certain substances, this scientific input is of great importance.</p> <p>As mentioned in Recital (34) of the founding Regulation, “the EFSA should take on the role of an independent scientific point of reference in risk assessment and in so doing should assist in ensuring the smooth functioning of the internal market. It may be called upon to give opinions on contentious scientific issues, thereby enabling the EU institutions and Member States to take informed risk management decisions necessary to ensure food and feed safety whilst helping avoid the fragmentation of the internal market through the adoption of unjustified or unnecessary obstacles to the free movement of food and feed.”</p> <p>Article 23 of the Regulation lists the tasks EFSA is entrusted with, each within the fields covered by its mission:</p> <ul style="list-style-type: none"> • Provide the EU institutions and the Member States with the best possible scientific opinions on questions foreseen by EU legislation or within its mission • Promote and coordinate the development of uniform risk assessment methodologies • Scientific and technical support to the Commission in its mission and, when requested, in the interpretation or consideration of risk assessment opinions or in crisis management procedures, as well as for improving international cooperation in the area. • Commission scientific studies for the accomplishment of its mission • Collect, collate, analyse and summarise scientific data • Undertake action to identify and characterise emerging risks • Establish a system of networks of organisations and be responsible for their operation • Ensure that the public and interested parties receive rapid, reliable, objective and comprehensible information • Express independently its own conclusions and orientations on these matters <p>Finally, EFSA is also required to undertake any other task assigned to it by the Commission, as long as it falls within its mission. In sum, the Authority is an independent technical and scientific body responsible for carrying out the research activities that enable the institutions and the Member State authorities to adopt all necessary measures to ensure food safety in the EU. The Regulation specifies in detail which competencies are included in EFSA's mandate under each of the tasks mentioned above, in articles dealing with each task separately.</p> <p>The mandate of EFSA does not include enforcement or training competencies.</p> <p>The founding Regulation has been amended at three occasions. A first amendment in 2003 aimed at bringing the Regulation in line with the Financial Regulation applicable to the general budget of the EC, and with the EU principles on access to information. In 2006, Scientific Panel on plant health was established in line with the increasing requests for scientific opinions in the area of plant health. A similar amendment was made in 2008 for the establishment of a new Scientific Panel on food contact materials, enzymes, flavourings and processing aids.</p>

Annual agency budget

The budget of EFSA is composed of a contribution from the EU entered in the general budget of the EU (Commission heading), contributions from any State with which the EU has concluded any association agreements and charges for publications, conferences, training and any other similar activities provided by the Authority.

- Total amount: 73,000,000 EUR

This budget covers staff, administrative, infrastructure and operational expenses, and expenses resulting from contracts entered into with third parties or resulting from the financial support to some of the organisations participating in the networking activities promoted by EFSA. Of the payment budget for 2009, 24,930,000 EUR is foreseen to be spent on operational activities.

Governance structure

Article 24 of the Regulation determines the structure of the Agency as comprising a Management Board, an Executive Director and his staff, an Advisory Forum and a Scientific Committee and Scientific Panels. The founding regulation contains detailed rules regarding the independence, transparency, confidentiality and communication of and by EFSA, in order to guarantee the respect of principles of good governance.

- Management Board

The Management Board of EFSA adopts the annual and multi-annual work programmes, reports about the Authority's activities in the previous year and adopts its internal rules. The Board is composed of 14 members appointed by the Council in consultation with the European Parliament and one representative of the Commission. Its meetings can be attended by a Chair of the Scientific Committee, without having any voting rights. The Board members' mandate lasts four years and can be renewed once. The Management Board elects a Chair, whose mandate will last 2 years and will be renewable.

- Executive Director

EFSA is administered and managed on a daily basis by an Executive Director. The Executive Director will be responsible for drawing up the work programme and for preparing the estimates of the budget. He or she implements the work programmes and any decisions adopted by the Management Board. The Director is also responsible for ensuring the provision to the Scientific Committee and the Scientific Panels of appropriate scientific, technical and administrative support. Finally, he or she is required to develop and maintain contact with the European Parliament, and for ensuring dialogue with its committees. In that role, the Director visits the European Parliament and its committees and receives visits from MEPs several times a year.

- Advisory Forum

The Advisory Forum advises the Executive Director in the performance of his or her function. For instance, it can advise on the annual work programme proposal or on the prioritisation of requests for scientific opinions. The Forum is conceived as a mechanism of exchange of information on potential risks and for the pooling of knowledge. It ensures the coordination of EFSA's scientific work with similar work carried out by national bodies, promotes the European networking of organisations and organises a close collaboration with Member State authorities when an emerging risk is identified. The Advisory Forum is composed of representatives from competent bodies in the area of food safety in the Member States, one for each Member State, and is chaired by the Executive Director. Members of the Management Board are excluded of membership of the Advisory Forum.

- Scientific Committee and Scientific Panels

The Scientific Committee and the Scientific Panels provide the scientific opinions of EFSA. The Committee ensures the coordination of the panels and makes sure all panels work on the basis of harmonised working methods. It drafts the opinions for multisectoral issues, covering the specialisation of more than one Scientific panel. For that purpose it can establish working groups that assist on the preparation of the opinion. It is composed of the Chairs of the Panels and of six independent experts. The Scientific Panels each cover a specific research area and provide scientific opinions within that area. They are also composed of independent experts. The amending regulations of 2006 and 2008 introduced two new Panels in view of the increasing requests for opinions of EFSA in these areas for which no specific Panel existed. The founding Regulation includes in its Article 28.4 for the possibility to create new Panels in the light of technical and scientific developments. The members of the Scientific Committee and the Scientific Panels are selected on the basis of a selection

procedure organised every three years. The selection includes internal and external evaluation teams and leads to the creation of a shortlist of candidates. The EFSA Management Board approves a list of new members, on the basis of the shortlist submitted by the Executive Director.

- Number of staff

The EFSA currently employs more than 400 staff members.

Relations with Member States, European Commission, other bodies

The nature of EFSA's mandate requires it to closely collaborate with the European Commission, the European Parliament and the Member States. The Regulation specifically requires the Agency, as part of its mission, to organise this collaboration with Member States and the Commission.

Cooperation and exchanges of information with Member States are essential for avoiding duplication of scientific research and to enable the researcher to use all available scientific information, as well as for identifying any emerging risks at early stages. The Advisory Forum is established in order to advise the Executive Director, but also to ensure this mechanism of exchange of information and to ensure this close cooperation.

The Forum is also the promoter of the networking mechanism established under Article 36 of the Regulation. Article 36 requires the EFSA "to promote the European networking of organisations operating in the fields within the Authority's mission. The aim of such networking is to facilitate a scientific cooperation framework by the coordination of activities, the exchange of information, the development and implementation of joint projects, the exchange of expertise and best practices." This mechanism facilitates and structures the cooperation mentioned in EFSA's mandate.

The European Commission remains responsible for communicating risk management measures. The Agency provides the Commission with the risk assessments that will provide the technical and scientific input for the measures adopted. Given its independence, EFSA is able to communicate and inform the public autonomously within their field of competency.

Support for the updating of EU legislation

The scientific support for the updating and developing of EU legislation and policies in all fields which have a direct or indirect impact on food and feed safety is the main mission of the EFSA. Article 22.6 provides the EFSA with the specific mandate to provide scientific opinions which will serve as the scientific basis for the drafting and adoption of EU measures in the fields falling within its mission. The scientific opinions providing this technical input are developed upon a request of the European institutions, sometimes foreseen in existing EU legislation, or upon its own initiative.

In 2008, a total of 360 scientific opinions were adopted, of which some supported the updating and developing of EU policies. For instance, fast-track opinions were adopted on sunflower oil contamination and melamine in Chinese foods enabling the Commission to take measures to safeguard public health.

Enforcement activities

The EFSA does not have any enforcement competencies.

Training activities

The Regulation does not include a specific mandate for the EFSA to provide in training activities. These activities do take place as part of the exchange of information and cooperation mechanisms established under the Regulation.

For instance, training activities in risk assessment methods have been organised for new Member States and neighbouring countries in 2008.

DG SANCO Food and Veterinary Office (FVO)

<p>Name of Agency; year it became operational</p> <p>Directorate General for Health and Consumer Affairs (DG SANCO), Food and Veterinary Office (FVO) 1995 (1993)</p>
<p>Legislation creating the agency</p> <p>Council Directive 95/69/EC of 22 December 1995 laying down the conditions and arrangements for approving and registering certain establishments and intermediaries operating in the animal feed sector and the future Regulation on feed hygiene</p> <p>Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the EU from third countries and repealing Directive 90/675/EC</p> <p>Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety</p> <p>Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules</p> <p>Commission Decision of 3 April 2008 on the financing of a working programme for 2008 on training tools in the field of food safety, animal health, animal welfare and plant health [Official Journal L 93 of 4.4.2008].</p>
<p>Brief overview of the agency's mandate</p> <p>The Commission, in its role as guardian of the EU Treaties, is responsible for ensuring that EU legislation on food safety, animal health, plant health and animal welfare is properly implemented and enforced. As a Directorate of the Commission Directorate General for Health and Consumers (DG SANCO), the Food and Veterinary Office (FVO) plays an important role in fulfilling this task.</p> <p>The FVO is based in Grange, County Meath, Ireland. Its mission is, its audits, inspections and related activities, to:</p> <ul style="list-style-type: none"> • promote effective control systems in the food safety and quality, veterinary and plant health sectors; • check on compliance with the requirements of EU food safety and quality, veterinary and plant health legislation within the European Union and in third countries exporting to the EU; • contribute to the development of EU policy in the food safety and quality, veterinary and plant health sectors, <p>and to inform stakeholders of the outcome of evaluations.</p> <p>Regulation (EC) No 882/2004 also provides that the FVO may carry out controls in Non-EU Member Countries and requires that these countries have control plans comparable with those of the Member States in respect of the products they export to the European Union.</p>
<p>Annual agency budget</p> <p><i>Information not found</i></p>

Governance structure

The Directorate General for Health and Consumer Affairs is headed by a Director General assisted by a Deputy Director General, each with specific tasks and responsibilities.

DG SANCO is comprised of six divisions, one of them the Food and Veterinary Office (FVO). FVO consists of seven units: Country profiles, coordination of follow-up, Food of animal origin: mammals, Food of animal origin: birds and fish, Food of plant origin, plant health; processing and distribution, Animal nutrition, import controls, residues, Animal health and welfare, Quality, planning and development.

The number of staff working in the FVO has increased from 74 in 1997 to its present complement of 163. Of these, 81 are inspectors, who participate regularly in on-the-spot inspection missions.

Relations with Member States, European Commission, other bodies

Within the European Union and in third countries exporting to the EU, FVO promotes effective control systems in the food safety and quality, veterinary and plant health sectors and check on compliance with the requirements of EU food safety and quality, veterinary and plant health legislation. FVO also contributes to the development of EU policy in the food safety and quality, veterinary and plant health sectors.

Support for the updating of EU legislation

Where appropriate, FVO may highlight areas where the Commission may need to consider clarifying or amending legislation or areas where new legislation might be required. In this way, the results of FVO inspections contribute to the development of EU legislation.

Enforcement activities

The FVO checks on compliance with the requirements of EU food safety and quality, veterinary and plant health legislation within the European Union and in third countries exporting to the EU. In other words, the FVO assesses the effectiveness of Member State control activities.

Each year the FVO develops a programme of audits and inspections, identifying priority areas and countries. In order to ensure that the programme remains up to date and relevant, it is reviewed mid-year. The findings of each country audit or inspection are set out in a report, together with conclusions and recommendations. The competent authority of the country visited is given the opportunity to comment on the reports at draft stage. The FVO makes recommendations to the country's competent authority regarding any shortcomings revealed during the inspections; the competent authority is then requested to present an action plan to the FVO on how it intends to address any shortcomings. Together with other Commission services, the FVO evaluates this action plan and monitors its implementation through a number of follow-up activities.

In 2007, the FVO carried out 252 inspections. An FVO inspection can cover a number of objectives. Each objective is categorised into one of four broad areas: food safety; animal health; animal welfare; plant health. About 70% of the inspection objectives in 2007 concerned food safety. About 60% of the inspections were made in Member States, and the remainder over 50 other countries, including EEA members, candidate countries and third countries.

Previously, EU controls in the Member States were organised in function of the mandates the Commission had in the different sectoral Directives for food safety. The creation of a single legal basis with the *Regulation (EC) No 882/2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules* and the establishment of control plans allowed the EU control services to audit of the Member States' control systems globally. If needed, these inspections and national audits performed by the FVO can be supplemented by more specific audits and inspections for a particular sector or problem.

Where an inspection identifies an immediate threat to consumer, animal or plant health, the FVO may take emergency, or safeguard, measures instead of or in addition to recommendations. These measures may include legal action to prevent trade in, or imports of, animals, plants or their products. In other cases, where serious, but less urgent, problems are found, or where a competent authority fails to take satisfactory corrective action, the Commission may use the inspection report as one element in deciding to start infringement proceedings against a Member State or, in the case of a third country, to refuse, withdraw or modify authorisations for exports to the EU.

Training activities

DG SANCO organises a training programme for Member State officials, entitled "Better Training for Safer Food" (see the review of EAHC below). While this is not managed by FVO, the officials from FVO have participated in seminars held in sea ports and airports. In addition, FVO has hosted trainees, including some employees of national administrations temporarily seconded to the FVO.

Sources

Directorate-General for Health and Consumers, *Food and Veterinary Office: Annual Report 2007*

Directorate-General for Health and Consumers, *Programme of Audits and Inspections 2009*

http://ec.europa.eu/food/fvo/index_en.cfm

Executive Agency for Health and Consumers (EAHC)

<p>Name of Agency; year it became operational</p> <p>Executive Agency for Health and Consumers (EAHC), °2005, operational in 2005.</p>
<p>Legislation creating the agency</p> <p>Commission Decision of 15 December 2004 setting up an executive agency, the 'Executive Agency for the Public Health Programme' for the management of EU action in the field of public health, pursuant to Council Regulation (EC) No 58/2003, OJ L 369, 16.12.2004, as amended by Commission Decision of 20 June 2008 amending Decision 2004/858/EC in order to transform the 'Executive Agency for the Public Health Programme' into the 'Executive Agency for Health and Consumers'.</p> <p>The 2008 Decision prolonged the Agency's lifetime until 31 December 2015, and expanded the tasks to include actions in the field of consumer protection and training for safer food.</p> <p>Legal basis of these decisions: Council Regulation 85/2003 laying down the statute for executive agencies to be entrusted with certain tasks in the management of EU programmes.</p>
<p>Brief overview of the agency's mandate</p> <p>As an executive agency, EAHC assists the Commission in the management of the EU's financial programmes and is responsible for the implementation and management of the EU Health Programme, the Consumer Programme and the Better Training for Safer Food initiative. EAHC manages around 200 projects in the field of public health in close collaboration with DG SANCO of the European Commission.</p> <p>As a typical executive agency, EAHC is responsible for the preparation and selection of projects, the financial aspects and the monitoring of their implementation, under supervision of the European Commission's DG SANCO, which remains responsible for the management for the programme. Also, typically, it is set up for a specific period of time, which can be renewed if needed.</p> <p>Better Training for Safer Food" aims at organising an EU training strategy in the areas of food law, feed law, animal health and animal welfare rules, as well as plant health rules. No enforcement mandate or any mandate for updating EU legislation has been awarded to EAHC, which would not be in line with its nature as an executive agency.</p> <p>The 2008 amendment to the Decision establishing the Agency has expanded the tasks of the agency to include consumer protection and training for safer food and has extended the duration of the agency until 2015.</p>
<p>Annual agency budget</p> <p>Article 6 of Decision 2004/858/EC states that EAHC will receive subsidies entered in the general budget of the EU from the funds allocated to the second Public Health Programme 2008-2013, the Consumer Programme for 2007-2013 and the food safety training measures.</p> <p>In 2008, the agency's budget was 4,500,000 EUR.</p>
<p>Governance structure</p> <p>EAHC is an executive agency. It is a EU body with a public service role. Article 4 of Regulation 58/2003 laying down the statute for executive agencies grants legal personality to all executive agencies.</p> <p>The Agency is managed by a Steering Committee and a Director, both appointed by the Commission. The members of the Steering Committee are appointed for two years, the Director for four years.</p> <ul style="list-style-type: none"> • Steering Committee <p>The Steering Committee consists of five members, appointed by the Commission. The Steering Committee adopts the annual work plan, including detailed objectives and performance indicators. This work programme must comply with the programming defined by the Commission on the basis of the instruments that regulates and establish the EU programmes</p>

EAHC is involved with. The Steering Committee also adopts the administrative budget. The Steering Committee also adopts decisions on the internal organisation of the agencies, and adopts a final report on the annual activity, which it submits to the Commission.

- Director

The Director is an official appointed by the Commission. He or she is responsible for managing and representing the agency. The Director also prepares the work of the Steering Committee and implements the annual work plan adopted by the Steering Committee.

EAHC employs about 40 staff members.

Relations with Member States, European Commission, other bodies

The implementation of the EU programmes entrusted to EAHC, as an executive agency, is supervised by the Commission. The working of the agency is audited by the internal auditor of the Commission, who formulates recommendations for improvement. The Commission can review all acts of an executive agency and will ensure close collaboration with EAHC in the execution of its mandate.

Support for the updating of EU legislation

EAHC does not provide support for the updating of EU legislation.

Enforcement activities

EAHC, as an executive agency, does not have a mandate for enforcement activities.

Training activities

EAHC is entrusted with the implementation of the "Better training or Safer Food" Initiative. This initiative aims at organising a Community Training strategy on food law, feed law, animal health and welfare and plant health. The initiative is regulated by Regulation (EC) 882/2004.

The training programmes are organised in view of keeping the participants, staff from Member States and third countries involved in controls, up-to-date on all aspects of the legal areas within its mandate. The trainings are organised in the EU as well as in third countries.

The Training Programme is built around national contact points designated in all participating countries who coordinate the selection of participants. EAHC manages the implementation of this training programme and allocates the funding to carry out training activities. In other words, EAHC is, among others, responsible for the selection of contractors, organising specific training sessions and for establishing the annual work plan of training activities to be organised.

In 2009, around 5000 participants are expected to take part of training organised in the framework of the Initiative.

In 2009, the training courses taking place in the EU will cover "Hazard Analysis and Critical Control Point principles", "Best practices for veterinary checks in airport border inspection posts", "Best practices for veterinary checks in seaport, road and rail border inspection posts", "Animal welfare standards during transport and at slaughter and killing for disease control purposes", "Monitoring and controls of zoonoses and applying microbiological criteria in foodstuffs", "Evaluation and registration of plant protection products", "Food Hygiene and Controls", "Feed Law" and "Plant Health Controls". Training courses taking place in third countries will cover "Highly Pathogenic Avian Influenza disease control", "EU food standards", "Training for laboratory staff of ASEAN countries in the application of food testing" and "The EU Rapid Alert System for Food and Feed and the possible introduction of a similar system in other regions of the world".

The European Union's Judicial Cooperation Unit (Eurojust)

<p>Name of Agency; year it became operational</p> <p>The European Union's Judicial Cooperation Unit (Eurojust); established and operational in 2002.</p>
<p>Legislation creating the agency</p> <p>Council Decision of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime (2002/187/JHA)</p> <p>Council Decision 2003/659/JHA of 18 June 2003 amending Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime</p> <p>Decision taken common agreement between the representatives of the Member States, meeting at head of state or government level, of 13 December 2003 on the location of the seats of certain offices and agencies of the European Union (2004/97/EC, Euratom)</p> <p>Legal basis: Article 29 former EU Treaty (Provisions on Police and Judicial Cooperation in Criminal Matters (third pillar), Title VI)</p>
<p>Brief overview of the agency's mandate</p> <p>Located in The Hague, Eurojust is the first permanent network of judicial authorities to be established anywhere in the world. According to Article 3.1 (and in some cases Article 3.2) of the Decision to set up Eurojust, the objectives of the Agency are:</p> <p>(a) to stimulate and improve the coordination, between the competent authorities of the Member States, of investigations and prosecutions in the Member States, taking into account any request emanating from a competent authority of a Member State and any information provided by any body competent by virtue of provisions adopted within the framework of the Treaties;</p> <p>(b) to improve cooperation between the competent authorities of the Member States, in particular by facilitating the execution of international mutual legal assistance and the implementation of extradition requests;</p> <p>(c) to support otherwise the competent authorities of the Member States in order to render their investigations and prosecutions more effective.</p> <p>Eurojust hosts meetings between investigators and prosecutors from different states dealing with individual cases and as well as meetings at a strategic level and specific types of criminality. Eurojust mission is to enhance the development of Europe-wide co-operation on criminal justice cases.</p>
<p>Annual agency budget</p> <p>In 2007, the total budget of Eurojust was 18,414,000 Euros, all in the form of a subsidy from the Commission.</p> <p>The main areas of spending for the agency were: personnel expenses (salaries etc), other administrative expenses, (e.g. rental for buildings, maintenance and cost for interim staff), operative expenses and fixed asset related expenses (amortisation, depreciation)</p>
<p>Governance structure</p> <p>This Eurojust unit is set up as a body of the European Union with legal personality and financed from the general budget of the European Union, except as regards the salaries and emoluments of the national members and assisting persons, which are borne by their Member State of origin.</p> <p>Eurojust is composed of 27 National Members who form the <i>College of Eurojust</i>; one Member is seconded from each Member State and is, in accordance with its legal system, a prosecutor, judge or police officer of equivalent competence. Several Member States have also appointed Deputies and Assistants to help their national member. The College is responsible for the organisation and operation of Eurojust. Eurojust may fulfil its tasks through one or more National Members or as a College.</p>

The College is supported by *the administration*. The Administrative Director is responsible for the day-to-day administration of Eurojust and for staff management.

By the end of 2007, 131 post-holders were working at Eurojust. In addition to Contract Agents, these comprised of Temporary Agents, Seconded National Experts (SNEs) and a considerable number of interim staff.

Relations with Member States, European Commission, other bodies

Eurojust supports the competent authorities of the Member States in order to render their investigations and prosecutions more effective when dealing with cross-border crime. In particular Eurojust supports Member States by facilitating the execution of international mutual legal assistance and the implementation of extradition requests. At the request of a Member State, Eurojust may assist investigations and prosecutions concerning that particular Member State and a non-Member State, if a co-operation agreement has been concluded or if there is an essential interest in providing such assistance. The purpose of the co-operation agreements are to formalise and develop closer co-operation between the specific countries and Eurojust, in order to increase the effectiveness of their response to combating serious forms of international, cross-border and organised crime. So far seven Co-operation agreement with non-European Union countries has been concluded.

In 2007 Eurojust held several meetings with European institutions, as well as regular meetings with the EU Presidency of the Council of the European Union (Troika), the General Secretariat of the Council and the Commission to discuss matters of common interest.

The Eurojust Decision provides that the Commission should be “fully associated” with the work of Eurojust, while the Eurojust Rules of Procedure call for the establishment of regular relations between the two. There are regular meetings, approximately every six weeks, at which general trends in Eurojust’s work are discussed and consultations on Commission projects (such as the European Criminal Record) take place. Eurojust also participates in experts’ meetings organised by the Commission in Brussels and submits comments on consultations launched by the Commission

Other EU partners include e.g.:

- Europol
- European Judicial Network
- European Anti-Fraud Office (OLAF)
- Member of several networks

Support for the updating of EU legislation

Eurojust is created under the former third pillar of the European Union (Title VI of the EU Treaty, the Police and Judicial Co-operation in Criminal Matters) and therefore is an intergovernmental co-operation without legislative authority in the meaning of the EU Treaty.

Enforcement activities

Eurojust can give immediate legal advice and assistance in cross-border cases to the investigators, prosecutors and judges in different EU Member States. Eurojust can recommend to national authorities to take certain steps such as to initiate and/or coordinate investigations or to set up investigation teams. However, Eurojust has no authority to launch or carry out investigations itself. It advises judges and prosecutors where to look for information that they need from another EU country and on how to proceed in cross-border cases. It can also handle letters rogatory, which ask for information or enquiries to be carried out by the authorities in another country, and direct them to the right authorities for action. It can also help and cooperate with OLAF, the EU’s anti-fraud organisation, in cases affecting the EU’s financial interests.

The main areas of work for Eurojust are:

- Terrorism
- Counterfeiting
- Drug Trafficking
- Trafficking in Human Beings
- Money Laundering
- Crime against Property or Public Goods including Fraud

- Crime against Life, Limb or Personal Freedom

A Network of National Experts on Joint Investigation Teams (JITs) was established in July 2005. The Network, consisting of at least one expert per Member State, aims to promote the use of JITs, by helping to facilitate the setting up of the teams, and assisting in the sharing of experiences, best practice and dealing with legal considerations. The experts assist practitioners in the Member States with setting up JITs. They communicate with each other to help facilitate the setting up of JITs. Europol and Eurojust provide support to the Network and the experts in their work.

In 2007 National Members registered 1 085 cases at Eurojust, which represents an increase of 41 % compared to 2006 (771 cases). It is worth mentioning that 1 065 cases deal with operational issues, while only 20 cases were registered to provide support to and expertise on general topics on legal matters related to each legal system or judicial questions or practicalities not involving the operational work of the College. At the end of 2007, 782 cases covering the period 2003-2007 were still active.

Training activities

According to the preamble of the Eurojust Decision (13) Eurojust and the *European Judicial Network* should have a privileged relationship. The secretariat of the Network is placed within the Eurojust secretariat. In a memorandum of understanding between Eurojust and EJM, the parties undertake to co-operate closely to enable secondments to Eurojust of practicing judges and prosecutors from the Member States. The secondments are also open to trainee judges and prosecutors during their initial professional training.

Eurojust also offers training to Member States on various issues, including to magistrates and prosecutors on terrorism-related issues.

Annex VI. Review of EU waste legislation

This review aims at identifying the provisions of key EU waste legislation with respect to:

- Enforcement, specifically, investigations, inspections and controls
- Updating and clarifying legislation
- Training of officials and decision-makers

The table below summarizes the provisions of the targeted legal instruments in relation to these three issues. In order to obtain a broad enough information base, the analysis focuses on the legal instruments falling within the umbrellas of EU framework legislation and EU legislation on waste management operations whilst also taking examples from legislation on specific waste streams and other related EU legislation. Finally, due to its direct relevance to the conduct of environmental inspections, Recommendation 2001/331/EC also features in the table.

The provisions in the following instruments relating to the three issues identified above are summarized in the table:

EC Framework Legislation

- Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006 on waste (codified version of Directive 75/442/EEC as amended). For the purposes of this exercise the revision of the waste framework Directive has been analysed directly (Directive 2008/98/EC).
- Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste
- Council Directive 91/689/EEC of 12 December 1991 on hazardous waste, as amended

EC legislation on waste management operations

- Directive 2000/76/EC of the European Parliament and of the Council of 4 December 2000 on the incineration of waste
- 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
- Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste

EC legislation on specific waste streams

- Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment (WEEE)

Related EU legislation/recommendations

- Council Directive 2008/1/EC concerning integrated pollution prevention and control (IPPC)
- Recommendation 2001/331/EC providing for minimum criteria for environmental inspections in Member States

A number of conclusions can be drawn and subdivided according to the different roles played by Member States (MS) and the EU. At the outset it is possible to say that typically, it is the role of MS to ensure the proper enforcement of waste legislation and the role of the Commission to update and clarify legislation, mainly by means of comitology and co-decision.

Inspections and controls

MS are responsible for supervising waste management operations, issuing permits and ensuring permit conditions are met. The responsibility for periodic inspections is generally imposed on national competent authorities as are the obligations to keep the relevant documentation/records such as registers. MS monitor and verify compliance and carry out inspections. MS must also ensure the law

is implemented by laying down penalties for infringement and taking all necessary measures to ensure their implementation.

Reporting obligations

Directives are addressed to MS, hence their obligation to report on implementation pursuant to the relevant provisions of EU legislation and Article 10 EU Treaty. The provisions stipulating the requirements for reporting obligations are also highlighted in the table. Generally, undertakings responsible for waste management operations must report to the competent authority. MS must send reports on implementation of the relevant Directive, in most cases covering a three-year period, to the Commission. The Commission compiles reports on implementation of the various Directives, e.g. under Directive 2000/59/EC, the Commission is required to submit an evaluation report on the operation of the system to the European Parliament and the Council together with proposals concerning the implementation of the Directive. The Commission is also required to publish reports on implementation after receiving the MS reports (e.g. WEEE).

Updating and clarifying legislation

The Commission has the right of legislative initiative and can be conferred executing powers by the Council and the Parliament, hence the capacity to adapt legislation through comitology within the limits of the mandate given by the Council and Parliament. The importance of the Commission's role varies depending on what measures the legal instrument provides are to be adopted by Committee procedure, e.g. in accordance with the Waste Framework Directive, measures updating the list of waste and the adoption of technical minimum standards for treatment activities are to be adopted by a Committee. The committee procedure is generally used with respect to the adoption of guidelines for interpretation and other similar matters as well as adaptations to scientific and technical progress that may become necessary, e.g. amendments to Annexes. Under the Waste Shipment Regulation, the Commission can adopt, through the committee procedure, additional measures related to the implementation of the Regulation but the examples provided for in the Regulation refer only to guidelines. On the other hand, the WEEE Directive allows the Commission to establish detailed rules for monitoring MS compliance with targets.

Co-decision is also important in updating and clarifying legislation e.g. the WEEE Directive provides for the European Parliament and the Council, acting on a Commission proposal, to establish new targets for recovery and reuse/recycling, including for the reuse of whole appliances, and for the products falling under category 8 of Annex IA. The IPPC Directive provides that where the need for EU action is identified, the European Parliament and the Council, acting on a proposal from the Commission, shall set emission limit values for certain categories of installations and polluting substances.

Training of officials and decision-makers

Training of officials is a matter of implementation for which MS are responsible but, because MS should cooperate to implement EU waste legislation (see new provisions in the new waste framework Directive) training becomes an important implementation element that can be enhanced/facilitated by the Commission with the view to developing a common understanding/interpretation of EU waste legislation.

No specific provision is made for the training of officials and decision-makers. This constitutes a significant gap in ensuring that EU waste legislation is correctly applied throughout the EU in a uniform manner. It is noteworthy that Recommendation 2001/331/EC providing for minimum criteria for environmental inspections in MS envisages a role for both the Commission and MS by stating that MS should, as quickly as possible, in cooperation with the Commission, IMPEL and other interested parties, develop training programmes to meet the demand for qualified environmental inspectors. Some MS already organize training for officials responsible for the inspection and monitoring tasks

envisaged by the legal instruments. However, there is no legal provision at EU level concerning training in respect of the application and implementation on the ground of the complex requirements of waste legislation and the Commission has no inspection powers with respect to its implementation. This may be contrasted to the field of maritime policy, in particular, Regulation (EC) No 884/2005 of 10 June 2005 laying down procedures for conducting Commission inspections in the field of maritime security. This Regulation provides for Commission inspections to monitor the application of Regulation 725/2004 on enhancing ship and port facility security at the level of each MS and of individual port facilities and relevant companies. The inspections must be conducted in a transparent, effective, harmonised and consistent manner and MS are required to cooperate with the Commission in the accomplishment of its inspection tasks. MS must ensure, *inter alia*, that Commission inspectors are able to exercise their authority to inspect the maritime security activities of any competent authority under Regulation 725/2004 and of any relevant company. National inspectors participate in Commission inspections and the European Maritime Safety Agency can provide technical assistance in Commission inspections. The Regulation also makes specific provision for the qualification criteria and training of Commission inspectors.

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Directive 2008/98/EC on waste and repealing certain Directives		
<ul style="list-style-type: none"> ‘waste management’ is the collection, transport, recovery and disposal of waste, including the supervision of such operations and the after-care of disposal sites, and including actions taken as a dealer or broker (Article 3(9)) Responsibility for waste management (Article 15): MS must take the necessary measures to ensure the original waste producer or other holder carries out the treatment of waste himself or has the treatment handled by a dealer or an establishment or undertaking that carries out waste treatment operations or arranged by a private or public waste collector. MS may <i>inter alia</i> specify the conditions of responsibility and decide whether the producer and distributors of the product share responsibility for arranging waste management. MS are obliged to take the necessary measures to ensure that, within their territory, the establishments or undertakings collecting or transporting waste on a professional basis deliver the waste collected and transported to appropriate treatment installations respecting the obligations provided for in Article 13 (protection of human health and the environment) Article 30 deals with the evaluation and review of plans and programmes. MS must ensure that waste management plans and waste prevention programmes are evaluated at least every sixth year as appropriate. The EEA is invited to include in its annual report a review of progress on the completion and implementation of waste prevention programmes. Articles 34-36 deal with inspections and records. The following establishments or undertakings are subject to appropriate periodic inspections by the competent authorities: those which carry out waste treatment operations; those which collect or transport waste on a professional basis, brokers and dealers; those which produce hazardous waste Inspections concerning collection and transport operations must cover the origin, nature, quantity and destination of the waste collected and transported. MS may take account of registrations under EMAS, in particular regarding the frequency and intensity of inspections. A chronological record of the quantity, nature and origin of the waste, and, where relevant, the destination, frequency of collection, mode of transport and treatment method foreseen in respect of the waste must be kept by: establishments or undertakings 	<ul style="list-style-type: none"> According to Article 7 (the list of waste), the following measures are adopted in accordance with the regulatory procedure with scrutiny referred to in Article 39(2), that is, a Committee: <ul style="list-style-type: none"> Article 7(1): measures relating to the updating of the list of waste established by Commission Decision 2000/532/EC of 3 May 2000 Article 7(5): measures relating to the revision of the list where, (i) a MS considers waste as hazardous waste even though it does not appear as such on the list of waste, or (ii) a MS has evidence to show that specific waste that appears as hazardous waste does not display any of the properties in Annex III. <ul style="list-style-type: none"> The Commission shall ensure that the list of wastes and any review of this list adhere to the principles of clarity, comprehensibility and accessibility for users, particularly SMEs (Article 7(7)) Under Article 27 (minimum standards), technical minimum standards for treatment activities which require a permit may be adopted where there is evidence that a benefit in terms of the protection of human health and the environment would be gained from such standards. These measures shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 39(2). These minimum standards can only cover waste treatment activities not covered by Directive 96/61/EC (on integrated pollution prevention and control) or which are not appropriate for coverage by that Directive. Article 27(3) lays down criteria for these minimum standards. Minimum standards for activities that require registration pursuant to Article 26(a) and (b) shall be adopted where there is evidence that a benefit in terms of the protection of human health and the environment or in avoiding disruption to the internal market would be gained from such standards, including elements regarding the technical qualification of collectors, transporters, dealers or brokers. These measures shall also be adopted in accordance with the regulatory procedure with scrutiny in Article 39(2). The Commission must send a questionnaire or outline established in accordance with the procedure in Article 6 of Directive 91/692/EEC (standardizing and rationalizing reports on the implementation of certain Directives relating to the environment) to the MS six months before the start of 	

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<p>referred to in Article 23(1) (that is, those intending to carry out waste treatment); producers of hazardous waste; establishments and undertakings that collect or transport hazardous waste on a professional basis, or act as dealers and brokers of hazardous waste. They shall make this information available on request to the competent authorities.</p> <ul style="list-style-type: none"> For hazardous waste, records are to be preserved for at least three years except for establishments and undertakings transporting hazardous waste which must keep records for at least 12 months. MS may require producers of non-hazardous waste to comply with the record keeping requirements. Article 36 provides for enforcement and penalties. MS must take the necessary measures to prohibit the abandonment, dumping or uncontrolled management of waste. They must lay down effective, proportionate and dissuasive penalties for infringement and take all measures necessary to ensure their implementation. Article 37 on reporting and reviewing requires MS to inform the Commission every three years on the Directive's implementation by submitting a sectoral report. It must also contain information on waste oil management, the progress achieved in implementing the waste prevention programmes and as appropriate, on measures foreseen by Article 8 on extended producer responsibility. 	<p>the period covered by the sectoral report, publish a report on the implementation of the Directive within nine months of receiving the sectoral reports from the MS, review implementation, including the energy efficiency provisions and present a proposal for revision if appropriate; assess the existing MS waste prevention programmes, objectives and indicators; review the opportunity of Community level programmes and measures related to recycling, material and energy recovery operations that may contribute to fulfilling the objectives of the Directive (Article 37).</p> <ul style="list-style-type: none"> Article 38 on interpretation and adaptation to technical progress allows the Commission to develop guidelines for interpretation of the definitions of recovery and disposal. If necessary, the application of the formula for incineration facilities can be specified. This measure is to be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 39(2). Following the same procedure, the Annexes may be amended in light of scientific and technical progress. Committee procedure (Article 39), the Commission is assisted by a Committee. Article 5a(1) to 4 and Article 7 of Decision 1999/468/EC, having regard to Article 8 thereof, apply where the Directive refers to Article 39(2). The period in Article 5(6) of Decision 1999/468/EC is set at three months. 	
Regulation 1013/2006 on shipments of waste		
<ul style="list-style-type: none"> The Regulation establishes procedures and control regimes for the shipment of waste, depending on the origin, destination and route of the shipment, the type of waste shipped and the type of treatment to be applied to the waste at its destination (Article 1(1)) For inspection, enforcement, planning and statistical purposes, MS may in accordance with national legislation require information on shipments covered by Article 18. Article 50 deals specifically with enforcement in MS. MS must lay down the rules on penalties applicable for infringement of the provisions of the Regulation and take all measures necessary to ensure they are implemented. The penalties must be effective, proportionate and dissuasive. MS must notify the Commission of their national legislation relating to prevention and detection of illegal shipments and penalties for such shipments (Article 50(1)) By way of measures for the enforcement of the Regulation, MS must provide, <i>inter alia</i>, for inspections of establishments and undertakings in accordance with Article 	<ul style="list-style-type: none"> Amendment of Annexes (Article 58): The Annexes may be amended by the Commission by means of Regulations and in accordance with the procedure referred to in Article 18(3) of Directive 2006/12/EC, that is, a Committee, to take account of scientific and technical progress. When amending Annex IX, the Committee established by Council Directive 91/692/EEC of 23 December 1991 standardising and rationalising reports on the implementation of certain Directives relating to the environment shall be fully associated with the deliberations. The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months. Additional measures (Article 59): The Commission may adopt additional measures related to the implementation of the Regulation e.g.: guidelines for the application of Article 12(1)(g); guidelines on the application of Article 15 in relation to the identification and tracking of waste undergoing 	

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<p>13 of Directive 2006/12/EC, and for spot checks on shipments of waste or on the related recovery or disposal. (Article 50(2))</p> <ul style="list-style-type: none"> • Checks on shipments may take place in particular: (a) at the point of origin, carried out with the producer, holder or notifier; (b) at the destination, carried out with the consignee or the facility; (c) at the frontiers of the Community; and/or (d) during the shipment within the Community (Article 50(3)) • Checks on shipments include inspection of documents, confirmation of identity and, where appropriate, physical checking of the waste (Article 50(4)) • MS shall cooperate, bilaterally or multilaterally, with one another to facilitate the prevention and detection of illegal shipments (Article 50(5)). • MS must identify those members of their permanent staff responsible for this cooperation and identify the focal point(s) for the physical checks referred to in Article 50(4). The information shall be sent to the Commission which shall distribute a compiled list to the correspondents referred to in Article 54 (Article 50(6)). • At the request of another MS, a MS may take enforcement action against persons suspected of being engaged in the illegal shipment of waste who are present in that MS (Article 50(7)). • MS designate the competent authority/authorities responsible for implementation of the Regulation. Each MS must designate only one single competent authority of transit (Article 53) 	<p>substantial changes in the interim recovery or disposal operation; guidelines for the cooperation of competent authorities with regard to illegal shipments as referred to in Article 24; further guidance concerning undefined legal terms.</p> <ul style="list-style-type: none"> • Such measures are also decided in accordance with the procedure referred to in Article 18(3) of Directive 2006/12/EC. The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months. • Article 60 provides for the review by the Commission of the relationship between existing sectoral legislation on animal and public health, including shipments of waste covered by Regulation (EC) No 1774/2002, and the provisions waste shipment Regulation and within five years from 12 July 2007, the Commission shall review the implementation of Article 12(1)(c), including its effect on environment protection and the functioning of the internal market. If necessary, this review will be accompanied by appropriate proposals to amend this provision. 	
Directive 91/689/EEC on hazardous waste		
<ul style="list-style-type: none"> • Article 2(10) requires MS to take the necessary measures to require that on every site where discharge of hazardous waste takes place the waste is recorded and identified. • Article 4(3): The records referred to in Article 14 of Directive 75/442/EEC must be preserved for at least three years except in the case of establishments and undertakings transporting hazardous waste which must keep such records for at least 12 months. Documentary evidence that the management operations have been carried out must be supplied at the request of the competent authorities or of a previous holder. • Article 5(1) obliges MS to take the necessary measures to ensure that, in the course of collection, transport and temporary storage, waste is properly packaged and labelled in accordance with the international and Community standards in force. • In the case of hazardous waste, inspections concerning collection and transport operations made on the basis of Article 13 of Directive 75/442/EEC shall cover more 	<ul style="list-style-type: none"> • If a MS intends to make use of the provisions of Article 3(2) (that is, the MS waives Article 10 of Directive 75/442/EEC), the general rules adopted by the MS shall be sent to the Commission not later than three months prior to their coming into force. The rules will be agreed upon in accordance with the procedure laid down in Article 18 of Directive 75/442/EEC. • The amendments necessary for adapting the Annexes to scientific and technical progress and for revising the list of wastes referred to in Article 1(4) shall be adopted in accordance with the procedure in Article 18 of Directive 74/442/EEC, that is, a Committee. 	

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<p>particularly the origin and destination of such waste (Article 5(2)).</p> <ul style="list-style-type: none"> Where hazardous waste is transferred, it must be accompanied by an identification form containing the details specified in Section A of Annex I to Council Directive 84/631/EEC of 6 December 1984 on the supervision and control within the European Community of the transfrontier shipment of hazardous waste, as last amended by Directive 86/279/EEC (Article 5(3)). Article 8(1) provides that MS shall send the Commission a report on implementation of the Directive. The Commission must report to the European Parliament and the Council every three years on the implementation of the Directive. 		
Directive 2000/76/EC on the incineration of waste		
<ul style="list-style-type: none"> Article 2(4) and Article 2 (5) define ‘incineration plant’ and ‘co-incineration plant’ respectively stating that the definition covers <i>inter alia</i>, systems for controlling incineration operations, recording and monitoring incineration conditions. Article 2(12) defines ‘permit’ as a written decision/s of the competent authority granting authorisation to operate a plant, subject to certain conditions which guarantee that the plant complies with all the Directive’s requirements. Article 4(9) states that if an incineration or co-incineration plant does not comply with the conditions of the permit, in particular with the emission limit values for air and water, the competent authority shall take action to enforce compliance. Article 10 deals with control and monitoring requiring the installation of measurement equipment and the use of techniques used in order to monitor the parameters, conditions and mass concentrations relevant to the incineration or co-incineration process. The measurement requirements are laid down in the permit or in the conditions attached to the permit issued by the competent authority. The appropriate installation and the functioning of the automated monitoring equipment for emissions into air and water is subject to control and to an annual surveillance test. The location of the sampling or measurement points is laid down by the competent authority. Article 11(1) requires MS to ensure that, either by specification in the conditions of the permit or by general binding rules, the measurement requirements as regards air and water, are complied with. All measurement results are recorded, processed and presented in an appropriate fashion in order to enable the competent authorities to verify compliance with the 	<ul style="list-style-type: none"> Review clause (Article 14): Without prejudice to Directive 96/61/EC, the Commission shall submit a report to the European Parliament and the Council before 31 December 2008 based on experience of the application of the Directive, in particular for new plants, and on the progress achieved in emission control techniques and experience in waste management. The report shall be based on the development of the state of technology, of experience in the operation of the plants, of environmental requirements. The report shall, as appropriate, be accompanied by proposals for revision of provisions of the Directive. Article 16 states that the Commission shall, in accordance with the procedure laid down in Article 17(2), amend Articles 10, 11 and 13 and Annexes I and III in order to adapt them to technical progress or new findings concerning the health benefits of emission reductions. Regulatory committee (Article 17): The Commission shall be assisted by a regulatory committee. Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof. The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months. The committee shall adopt its own rules of procedure. 	

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<p>permitted operating conditions and emission limit values laid down in the Directive in accordance with procedures to be decided upon by those authorities (Article 11(9)).</p> <ul style="list-style-type: none"> • The reports on the implementation of the Directive are established in accordance with the procedure laid down in Article 5 of Council Directive 91/692/EEC (Article 15) • MS must determine effective, proportionate and dissuasive penalties applicable to breaches of the national provisions adopted pursuant to the Directive (Article 19) 		
Directive 2000/59/EC on port reception facilities		
<ul style="list-style-type: none"> • Article 4(3) requires MS to establish procedures, in accordance with those agreed by the International Maritime Organization (IMO), for reporting to the port State alleged inadequacies of port reception facilities. • Article 5 requires development and implementation of an appropriate waste reception and handling plan for each port. MS must evaluate and approve the waste reception and handling plan, monitor its implementation and ensure its re-approval at least every three years and after significant changes in the port's operation. • Article 11 deals specifically with enforcement. MS must ensure that any ship may be subject to an inspection in order to verify its compliance with Articles 7 (delivery of ship-generated waste) and 10 (delivery of cargo residues) and that a sufficient number of inspections are carried out. • For inspections concerning ships other than fishing vessels and recreational craft authorised to carry no more than 12 passengers a number of requirements apply, e.g. in selecting ships for inspection, MS shall pay particular attention to ships which have not complied with the notification requirements in Article 6; if the relevant authority is not satisfied with the results of this inspection, it shall ensure that the ship does not leave the port until it has delivered its ship-generated waste and cargo residues to a port reception facility. • MS must establish control procedures, to the extent required, for fishing vessels and recreational craft authorised to carry no more than 12 passengers to ensure compliance with the Directive's requirements. • Article 12 provides for a list of accompanying measures to be taken by MS, such as: ensuring that masters, providers of port reception facilities and other persons concerned are adequately informed of the Directive's requirements and that they comply with them; making provision for cooperation between their relevant authorities and commercial organisations to ensure effective implementation; ensuring that the 	<ul style="list-style-type: none"> • According to Article 14, the Commission shall be assisted by the Committee set up pursuant to Article 12(1) of Directive 93/75/EEC(12) Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof. The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months. The Committee shall adopt its rules of procedure. • The Annexes, the definition in Article 2(b), references to Community instruments and references to IMO instruments may be amended in accordance with the procedure laid down in Article 14(2) in order to bring them into line with Community or IMO measures which have entered into force, insofar as such amendments do not broaden the scope of this Directive. • The Annexes may also be amended in accordance with that procedure when necessary to improve the regime established by the Directive, insofar as such amendments do not broaden its scope. 	

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<p>information notified by masters in accordance with Article 6 be appropriately examined; ensuring that the Commission is provided with a copy of the allegations of inadequate port reception facilities; ensuring that the treatment, recovery or disposal of ship-generated waste and cargo residues is carried out in accordance with Directive 75/442/EEC and other relevant Community waste legislation.</p> <ul style="list-style-type: none"> Article 12(3) requires MS and the Commission to co-operate in establishing an appropriate information and monitoring system, covering at least the whole of the Community. MS must lay down effective, proportionate and dissuasive penalties for the breach of national provisions adopted pursuant to the Directive and ensure that those penalties are applied (Article 13) MS shall submit to the Commission a status report concerning implementation every three years. The Commission shall submit an evaluation report on the operation of the system to the European Parliament and the Council together with proposals as necessary, concerning the implementation of the Directive. 		
Directive 1999/31/EC on the landfill of waste		
<ul style="list-style-type: none"> Article 5 requires MS to set up a national strategy for implementation of the reduction of biodegradable waste going to landfills and to notify the Commission. Article 8 dealing with the permit conditions states, <i>inter alia</i>, that MS shall take measures in order that prior to the commencement of disposal operations, the competent authority inspects the site to ensure it complies with the relevant permit conditions The landfill permit must state, <i>inter alia</i>, the requirements for monitoring and control procedures (Article 9(c)) and the obligation of the applicant to report at least annually to the competent authority on the types and quantities of waste disposed of and on the results of the monitoring programme. MS must ensure that prior to accepting waste at the landfill site: the holder or operator can show that the waste can be accepted at that site according to the permit conditions and that it fulfils the Annex II acceptance criteria; reception procedures listed in Article 11(a)(b) are respected by the operator e.g. visual inspection of the waste at the entrance and at the point of deposit; keeping a register of the quantities and characteristics of the waste deposited (Article 11). In the case of landfill sites exempted from the Directive's provisions, MS must provide for regular visual inspection of the waste at the point of deposit in order to ensure 	<ul style="list-style-type: none"> Article 16: amendments necessary for adapting the Directive's Annexes to scientific and technical progress and any proposals for the standardisation of control, sampling and analysis methods in relation to the landfill of waste shall be adopted by the Commission, assisted by the Committee established by Article 18 of Directive 75/442/EEC and in accordance with the procedure set out in Article 17. Proposals for the standardisation of control, sampling and analysis methods in relation to the Annexes shall be adopted by the Commission, assisted by the Committee, within two years after the entry into force of the Directive. The Commission, assisted by the Committee, will adopt provisions for the harmonisation and regular transmission of the statistical data, within two years after the entry into force of the Directive, and for the amendments of such provisions when necessary. Committee procedure, Article 17: The Commission shall be assisted by a Committee composed of the representatives of the MS and chaired by the representative of the Commission. The representative of the Commission shall 	

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<p>that only non-hazardous waste from the island or isolated settlement is accepted; keeping a register of the quantities of waste deposited at the site.</p> <ul style="list-style-type: none"> Information on the quantities and, where possible, type of waste going to exempted sites must form part of the regular reports on implementation of MS to the Commission. Article 12 provides specifically for control and monitoring procedures in the operational phase. The operator must carry out a control and monitoring programme, notify the competent authority of significant adverse environmental effects revealed by the control and monitoring procedures and follow the competent authority's decision on the nature and timing of the corrective measures to be taken. The operator must report all monitoring results to the competent authorities for the purpose of demonstrating compliance with permit conditions. Competent laboratories carry out quality control of the analytical operations. Article 13 deals with closure and after-care procedures. A landfill or part of it may only be considered as definitely closed after the competent authority has carried out a final on-site inspection, assessed all the reports submitted by the operator and communicated to the operator its approval for the closure. At three year intervals MS must send the Commission a report on implementation of the Directive, paying particular attention to the national strategies. The report must be sent within nine months of the end of the three-year period covered by it. The Commission will publish a Community report on implementation of the Directive (Article 15). 	<p>submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148(2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the MS within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote. The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee.</p> <ul style="list-style-type: none"> If the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority. If on the expiry of a period of three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission. 	
Directive 2002/96/EC on waste electrical and electronic equipment (WEEE)		
<ul style="list-style-type: none"> Article 6(2) obliges MS to ensure that any establishment or undertaking carrying out treatment operations obtains a permit from the CAs in compliance with Articles 9 and 10 of Directive 75/442/EEC. The derogation from the permit requirement referred to in Article 11(1)(b) of Directive 75/442/EEC may apply to recovery operations concerning WEEE if an inspection is carried out by the CAs before the registration in order to ensure compliance with Article 4 of Directive 75/442/EEC. The inspection must verify: the type and quantities of waste to be treated; the general technical requirements to be complied with; the safety precautions to be taken The inspection must be carried out at least once a year. Results must be communicated by the MS to the Commission. 	<ul style="list-style-type: none"> Article 7(3) states that the Commission shall, in accordance with the Article 14(2) procedure, establish the detailed rules for monitoring compliance, including specifications for materials, of MS with the targets set out in Article 7(2) Article 7(4) provides for the European Parliament and the Council, acting on a proposal from the Commission, to establish new targets for recovery and reuse/recycling, including for the reuse of whole appliances as appropriate, and for the products falling under category 8 of Annex IA, by 31 December 2008. Article 13: Any amendments which are necessary in order to adapt 	

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<ul style="list-style-type: none"> • Information and reporting: MS must draw up a register of producers and collect information, including substantiated estimates, on an annual basis on the quantities and categories of electrical and electronic equipment put on their market, collected through all routes, reused, recycled and recovered within the MS, and on collected waste exported, by weight or, if this is not possible, by numbers. MS shall ensure that the information required is transmitted to the Commission on a two-yearly basis within 18 months after the end of the period covered (Article 12). The information shall be provided in a format which shall be established within one year after the entry into force of this Directive in accordance with the procedure referred to in Article 14(2) with a view to establishing databases on WEEE and its treatment. • MS shall send a report to the Commission on the implementation of this Directive at three-year intervals. The report shall be drawn up on the basis of a questionnaire or outline drafted by the Commission in accordance with the procedure laid down in Article 6 of Council Directive 91/692/EEC standardising and rationalising reports on the implementation of certain Directives relating to the environment. The report shall be made available to the Commission within nine months of the end of the three-year period covered by it. • The Commission shall publish a report on the implementation of this Directive within nine months after receiving the reports from the MS. • MS must determine effective, proportionate and dissuasive penalties applicable to breaches of the national provisions adopted pursuant to the Directive (Article 15). • MS must ensure that inspection and monitoring enable the proper implementation of the Directive to be verified (Article 16) 	<p>Article 7(3), Annex IB, Annex II and Annexes III and IV to scientific and technical progress shall be adopted in accordance with the procedure referred to in Article 14(2).</p> <ul style="list-style-type: none"> • Before the Annexes are amended the Commission shall inter alia consult producers of electrical and electronic equipment, recyclers, treatment operators and environmental organisations and employees' and consumer associations. • Article 14: The Commission shall be assisted by the Committee set up by Article 18 of Directive 75/442/EEC. Articles 5 and 7 of Decision 1999/468/EC apply, having regard to Article 8 thereof. The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months. The Committee shall adopt its rules of procedure. 	
Directive 2008/1/EC concerning integrated pollution prevention and control		
<ul style="list-style-type: none"> • According to Article 12(2) MS must ensure that no substantial change planned by the operator is made without a permit issued in accordance with the Directive. Article 2(11) defines 'substantial change' as a change in operation which, in the opinion of the competent authority, may have significant negative effects on human beings or the environment. • MS must take the necessary measures to ensure that no installation is operated without a permit. The competent authority is responsible for the granting of a permit containing conditions guaranteeing that the installation complies with the Directive's requirements (Article 8) 	<ul style="list-style-type: none"> • Community emission limit values: Where the need for Community action has been identified, the European Parliament and the Council, acting on a proposal from the Commission, shall set emission limit values, in accordance with the procedures laid down in the Treaty, for certain categories of installations and polluting substances (Article 19(1)) 	

INVESTIGATIONS, INSPECTIONS AND CONTROLS	UPDATING AND CLARIFYING LEGISLATION	TRAINING
<ul style="list-style-type: none"> Article 9 places upon MS the obligation to ensure that the permit includes the necessary measures for compliance with the Directive's requirements. The permit must also contain suitable release monitoring requirements, specifying measurement methodology and frequency, evaluation procedure and an obligation to supply the competent authority with data required for checking compliance with the permit. MS must ensure the competent authority follows or is informed of developments in best available techniques (Article 11) MS must also ensure that competent authorities periodically reconsider and, where necessary, update permit conditions (Article 13) MS must take measures to ensure compliance by the operator with the permit conditions; that the operator regularly informs the competent authority of the results of the monitoring of releases and without delay of any incident or accident significantly affecting the environment; operators afford the representatives of the competent authority all necessary assistance to enable them to carry out any inspections within the installation, to take samples and to gather any information necessary for the performance of their duties for the purposes of the Directive (Article 14) 		
Recommendation 2001/331/EC providing for minimum criteria for environmental inspections in Member States		
<ul style="list-style-type: none"> Purpose: Environmental inspection tasks should be carried out in the MS, according to minimum criteria to be applied in the organising, carrying out, following up and publicising of the results of such tasks, thereby strengthening compliance with, and contributing to a more consistent implementation and enforcement of Community environmental law in all MS Scope: applies to environmental inspections of all industrial installations and other enterprises and facilities, whose air emissions and/or water discharges and/or waste disposal or recovery activities are subject to authorisation, permit or licensing requirements under Community law ('controlled installations') 'environmental inspection' entails, e.g. checking and promoting compliance of controlled installations with EU legal requirements; monitoring the environmental impact of controlled installations; carrying out activities such as site visits Environmental inspections may be routine or non-routine and may be carried out by any public authority designated by the MS as responsible for the matters covered by the 	<ul style="list-style-type: none"> Review and development of the recommendation: The Commission should review the operation and effectiveness of this recommendation, as soon as possible after receipt of the MS' implementation reports, with the intention of developing the minimum criteria further in terms of their scope in the light of the experience gained from their application, and taking into account any further contributions from interested parties, including IMPEL and the European Environment Agency. The Commission should then submit to the European Parliament and the Council a report accompanied, if appropriate, by a proposal for a Directive. The European Parliament and the Council will consider such a proposal without delay. The Commission is invited to draw up, as quickly as possible, in cooperation with IMPEL and other interested parties, minimum criteria concerning the qualifications of environmental inspectors who are authorised 	<p>MS should, as quickly as possible, in cooperation with the Commission, IMPEL and other interested parties, develop training programmes to meet the demand for qualified</p>

INVESTIGATIONS, INSPECTIONS AND CONTROLS	UPDATING AND CLARIFYING LEGISLATION	TRAINING
<p>recommendation ('inspecting authorities').</p> <ul style="list-style-type: none"> • MS must ensure environmental inspections aim to achieve a high level of environmental protection • MS should assist each other by exchange of information and where appropriate inspecting officials • MS should encourage, in cooperation with IMPEL, the coordination of inspections with regard to installations and activities which might have significant transboundary impact • MS should ensure that environmental inspections are planned in advance for all controlled installations within their territory • The recommendations provide guidance as to the basis and contents of the plans for environmental inspections • Article V states the criteria that MS should ensure are applied in respect of site visits, e.g. an appropriate check is made of compliance with EU legal requirements • Article VI deals with reports and conclusions following site visits. • Article VII provides for investigations of serious accidents, incidents and occurrences of non-compliance • MS should report to the Commission on their experience of the operation of the recommendation • MS should inform the Commission of the implementation of the recommendation together with details of environmental inspection mechanisms already existing or foreseen. 	<p>to carry out inspections for or under the authority or supervision of inspecting authorities.</p>	<p>environmental inspectors</p>