"DOING THE RIGHT THINGS II"

Step-by step guidance book for planning of environmental inspection

EUROPEAN UNION NETWORK FOR THE IMPLEMENTATION

AND ENFORCEMENT OF ENVIRONMENTAL LAW (IMPEL)

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Introduction to IMPEL

The European Union Network for the Implementation and Enforcement of Environmental Law is an informal network of the environmental authorities of EU Member States, acceding and candidate countries, and Norway. The European Commission is also a member of IMPEL and shares the chairmanship of its Plenary Meetings.

The network is commonly known as the IMPEL Network

The expertise and experience of the participants within IMPEL make the network uniquely qualified to work on certain of the technical and regulatory aspects of EU environmental legislation. The Network's objective is to create the necessary impetus in the European Community to make progress on ensuring a more effective application of environmental legislation. It promotes the exchange of information and experience and the development of environmental legislation, with special emphasis on Community environmental legislation. It provides a framework for policy makers, environmental inspectors and enforcement officers to exchange ideas, and encourages the development of enforcement structures and best practices.

Information on the IMPEL Network is also available through its website at: http://europa.eu.int/comm/environment/impel

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Executive summary:

Pursuant to the Recommendation providing for minimum criteria for environmental inspections (RMCEI) all inspection activities should be planned in advance. Practitioners have expressed the need for guidance to help the implementation of the minimum criteria on planning in the RMCEI. This guidance book was produced for that purpose.

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Preface

Dear Reader,

Planning of inspection activities is a key requirement of the European Recommendation on minimum criteria for environmental inspections. Planning is about defining and explaining as accurate as possible beforehand the work we are going to do, so that we can perform in an effective, efficient, transparent and accountable way. The present guidance book was developed to support inspecting authorities in carrying out that difficult task. It helps to pose the right questions and suggests ways for finding the right answers. I sincerely hope that this guidance book will proof to be a useful tool enabling inspecting authorities to better organise their planning. The guidance book was produced as a follow up of the earlier, more exploratory IMPEL project "Doing the right things I". Simply delivering this guidance book is however not enough. Inspecting authorities should be encouraged to use it. I am therefore committed to give my further support to future work which aims at promoting the implementation of the guidance book in practice.

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Summary

Pursuant to the Recommendation providing for minimum criteria for environmental inspections (RMCEI) all inspection activities should be planned in advance. Practitioners have expressed the need for guidance to help the implementation of the minimum criteria on planning in the RMCEI. This guidance book was produced for that purpose. The guidance book takes as starting point the Environmental Inspection Cycle, which for the purpose of this guidance book consists out of the following seven steps:

1. Describing the context
2. Setting priorities
3. Defining objectives and strategies
4. Planning and review
5. Execution framework
6. Execution and reporting
7. Performance monitoring

The first 4 steps form the Planning Cycle. The output of the Planning Cycle is the inspection plan. In order to write the inspection plan the inspecting authority first has to identify the relevant activities that should be covered by the inspection plan and gather information on these activities. With this information the inspecting authority can perform an assessment of the risks of the identified activities and assign priorities to these activities. Typical criteria that are taken into account when setting priorities are environmental impact, compliance record, legal obligations to inspect, (national) policies and objectives and available resources. The priorities indicate what activities should get (the highest) attention. A following step is to define (measurable) inspection objectives and targets for the activities to be inspected and to choose the best inspection strategy to accomplish these targets.

All these steps contribute to the inspection plan. The inspection plan clearly indicates the time period and area it covers. An inspection plan outlines the context in which the inspecting authority performs its inspections. It describes the mission and objectives of the inspecting authority, its statutory tasks and inspection obligations and (national) policies to be implemented. An inspection plan furthermore gives an overview of the priorities that have been assigned and explains why and how these priorities were set. The plan also gives general information on inspection targets, strategies, procedures and the planned inspection activities themselves. The inspection schedule describes what, where, when and by whom the different types of inspection activities will be executed. The inspection plan and the inspection schedule need to be reviewed and - when appropriate - revised periodically.

The planning steps are described in this guidance book first at a more general level in chapter 3 and then at a more detailed level in chapter 4.

1 Introduction

1.1 Background

In 2001 the European Parliament and the Council adopted the Recommendation providing for minimum criteria for environmental inspections (RMCEI). The purpose of the RMCEI is to strengthen compliance with, and to contribute to a more consistent implementation and enforcement of Community environmental law in all Member States.
The RMCEI establishes guidelines for environmental inspections of installations, other enterprises and facilities whose air emissions, water discharges or waste disposal or recovery activities are subject to authorisation, permit or licensing requirements under Community law ('controlled installations').
All inspecting authorities in the Member States should apply these guidelines. They concern amongst others minimum criteria on establishing and evaluating plans for environmental inspections. Since the adoption of the RMCEI experts within IMPEL have been discussing at several occasions how to implement these planning criteria in the RMCEI.
In 2006 the Netherlands (VROM Inspectorate) led an IMPEL Comparison Programme "Doing the right things"[1]. One of the main aims of this project was to explore how inspection authorities set priorities with regard to their tasks and activities, being one of the key steps in setting up inspection plans.
An important project recommendation was to develop a practical guide on planning of environmental inspections, that would be sufficiently flexible to accommodate the different needs of the inspection authorities in the IMPEL Member Countries and at the same time would enable them to comply with the requirements of the RMCEI.

This project recommendation was implemented in a succeeding project Doing the right things II, again led by the Netherlands in cooperation with Germany, Hungary, Ireland, Poland, Romania, Spain and Sweden. The project ran in 2007. The Review Group for this project met four times. In May a workshop was organised for the Dutch inspecting authorities. In September a draft of the report was discussed at an international workshop in Frankfurt. IMPEL Cluster 1 reviewed and endorsed the final draft in October.

The guidance book aims at helping practitioners to answer the basic questions any inspecting authority has do deal with when setting up an inspection plan. These questions are presented in the following figure:

[1] http://ec.europa.eu/environment/impel/comparison.htm#dutch1

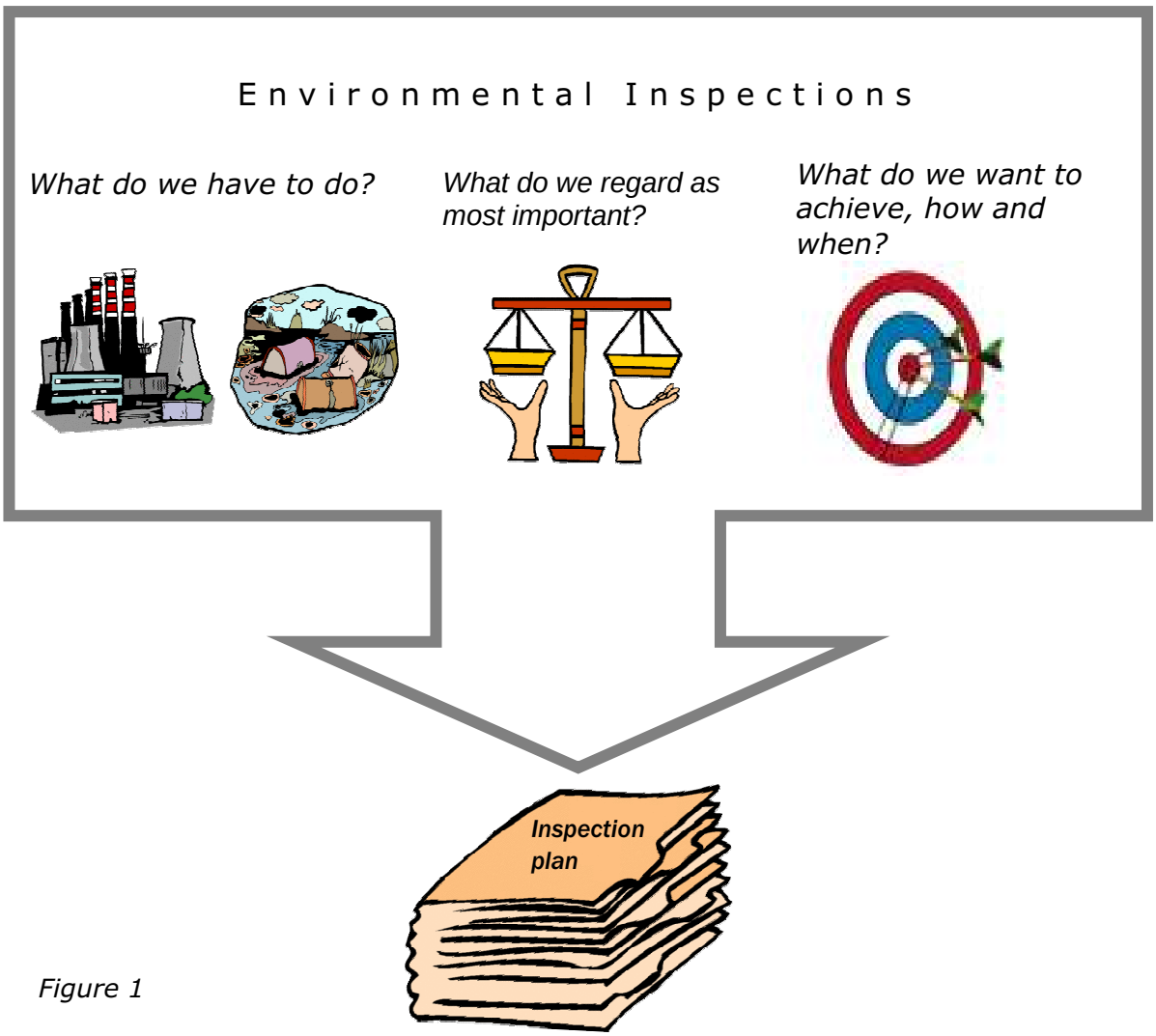


Figure 1

In other words this guidance book describes the steps that lead to an inspection plan: defining the scope of the inspections to be covered by the plan, assigning priorities to these inspections deciding upon what targets the prioritized inspections should produce and, given the available resources, how and when the inspections should be carried out to achieve these results.

1.2 Structure of this guidance book

This guidance book starts on a general level and gradually becomes more specific.

Chapter 2 summarises the content of the criteria on planning in the current RMCEI. It also explains that planning of inspections in the RMCEI should be regarded as one of a number of succeeding steps that together form the environmental inspection cycle.

Chapter 3 starts with an introduction of the Environmental Inspection Cycle followed by a more elaborated description for each of the steps.

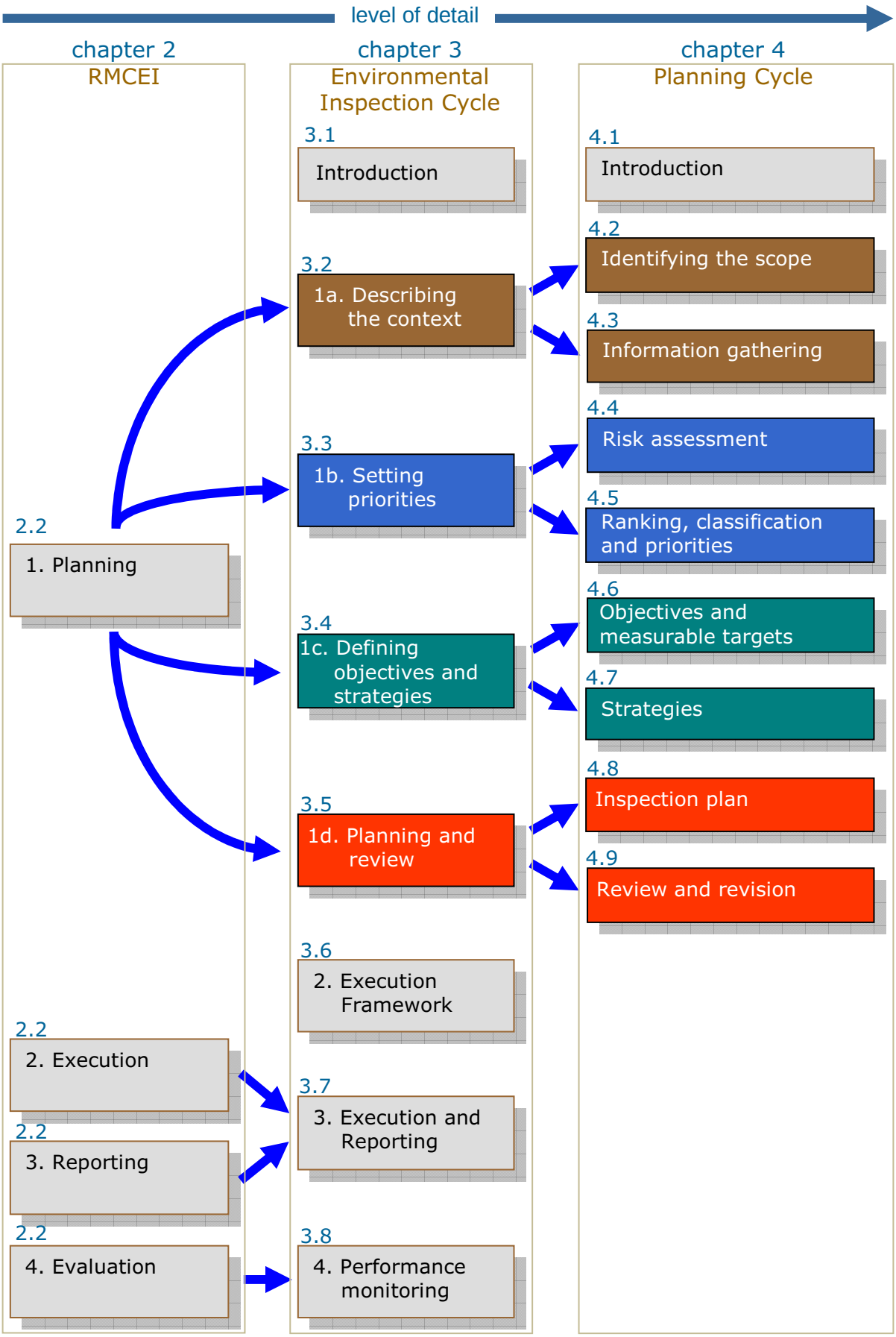
Chapter 4 finally focuses in more detail on the planning steps in the environmental inspection cycle, that form by themselves the so-called "planning cycle".

For most planning steps good practices are available. These can be found on the internet at http://www.infomil.nl/rmcei . This information will be updated regularly.

The map on the next page will help you navigate through the document. If you use this document electronically, you can click the boxes in the navigation map to go directly to the different sections. At the beginning of each section you find this link: - to navigation map - which will bring you back to the navigation map.

To get a good understanding of the planning cycle we advise to read at least both chapter 3 and 4.

1.3 NAVIGATION



2 Minimum criteria on planning in the RMCEI

The Environmental inspection cycle, as it will be explained in chapter 3, finds its bases in the EU recommendation providing for minimum criteria for environmental inspections (RMCEI). The text in this chapter gives a brief summary of the recommendation.

2.1 Content of the minimum criteria on planning

Pursuant to the RMCEI all inspection activities should be planned in advance, by having inspection plans that cover the entire territory of the Member State and all the controlled installations.

The plans should be based on the EC legal requirements to be complied with, a register of controlled installations, a general assessment of major environmental issues in the area and a general appraisal of the state of compliance of the controlled installations. Plans should take into account the risks and environmental impacts of installations and any available relevant information on the controlled installations, such as reports of operators, self-monitoring data, environmental audit information and environmental statements and results of previous inspections.

Each inspection plan should as a minimum:

- define the geographical area which it covers, which may be for all or part of the territory of a Member State,
- cover a defined time period, for example one year,
- include specific provisions for its revision,
- identify the specific sites or types of controlled installations covered,
- prescribe the programmes for routine inspections, taking into account environmental risks; these programmes should include, where appropriate, the frequency of site visits for different types of or specified controlled installations,
- provide for coordination between the different inspecting authorities, where relevant.

Inspection plans should be available to the public according to the "Aarhus" directive (directive on public access to environmental information).

The previous "Doing the right things" project learned that practitioners find the minimum criteria on planning in the RMCEI useful. However they also noted that some improvements were desirable, including revising the RMCEI and/or by producing further guidance.

In particular experts expressed the need to:

- emphasise the fact that inspecting authorities work in a context determined by many issues additional to EU legislation;
- distinguish more clearly between the (strategic) level of setting priorities and the (operational) level of planning the actual work;
- describe more clearly how priorities should be assigned, clarifying that there are different criteria to determine priorities and that these must be assessed in a proper, transparent way by gathering information and using a systematic approach;
- give more attention to setting targets for inspections and defining performance indicators.

The present guidebook aims at clarifying these issues.

Note that this guidebook is meant to help implement the present (2001) RMCEI. The RMCEI is currently being reviewed (2007-2008). The guidance book was produced in parallel with the project "IMPEL input to the further development of the RMCEI. In line with the guidance book a text proposal for the amendment for point IV of the RMCEI was developed and included in the report of that project. In case the RMCEI is further amended, the guidance book will be updated.

2.2 Planning as a step within the inspection process

It is important to keep in mind that planning is not an isolated activity. It is closely interlinked with other activities, as the RMCEI clearly shows.

The topics the RMCEI addresses, can be grouped under the following headings:

- *Planning:* Establishing plans for environmental inspections
- *Execution:* Performing inspections and investigating accidents, incidents and occurrences of non-compliance
- *Reporting:* Reporting on inspections, accidents and incidents and storing inspection data
- *Evaluation:* Evaluating the implementation of inspection plans for internal purposes and reporting to the European Commission or other 3rd parties.

The activities under these different headings form in the RMCEI four succeeding steps. See figure 2.

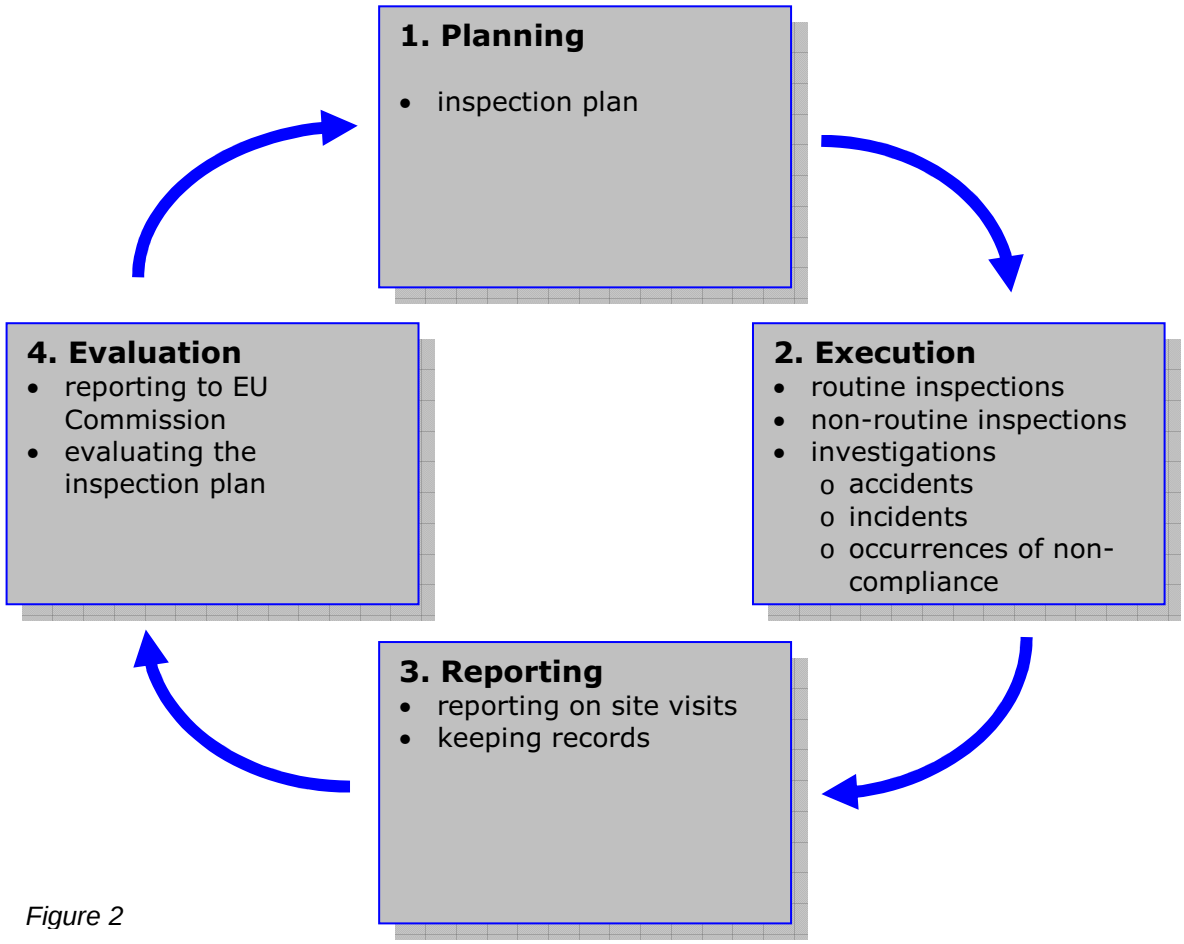


Figure 2

The succeeding steps from the recommendation in figure 2 form an environmental inspection cycle. This cycle is improved and modified in chapter 3. Chapter 3 discusses in some more detail the different elements of the cycle. It also introduces a new cycle, the planning cycle, which is part of the environmental inspection cycle.

3 Environmental Inspection Cycle

3.1 Introduction

When we look more closely at the environmental inspection cycle we notice that the process is more complicated and that it is useful to make a further distinction, resulting in the following seven steps:

1. Describing the context
2. Setting Priorities
3. Defining objectives and strategies
4. Planning and review

and

5. Execution framework
6. Execution and reporting
7. Performance monitoring

Steps 1, 2, 3 and 4 form the planning process, which is a cyclic process, since review of the inspection plan may lead to developing a new inspection plan or modifying the existing one.

Steps 5, 6 and 7 take place after the inspection plan has been finalised. They provide input to the review of the inspection plan. Together with step 4 they also form a cycle. *Figure 3* connects these 2 cycles.

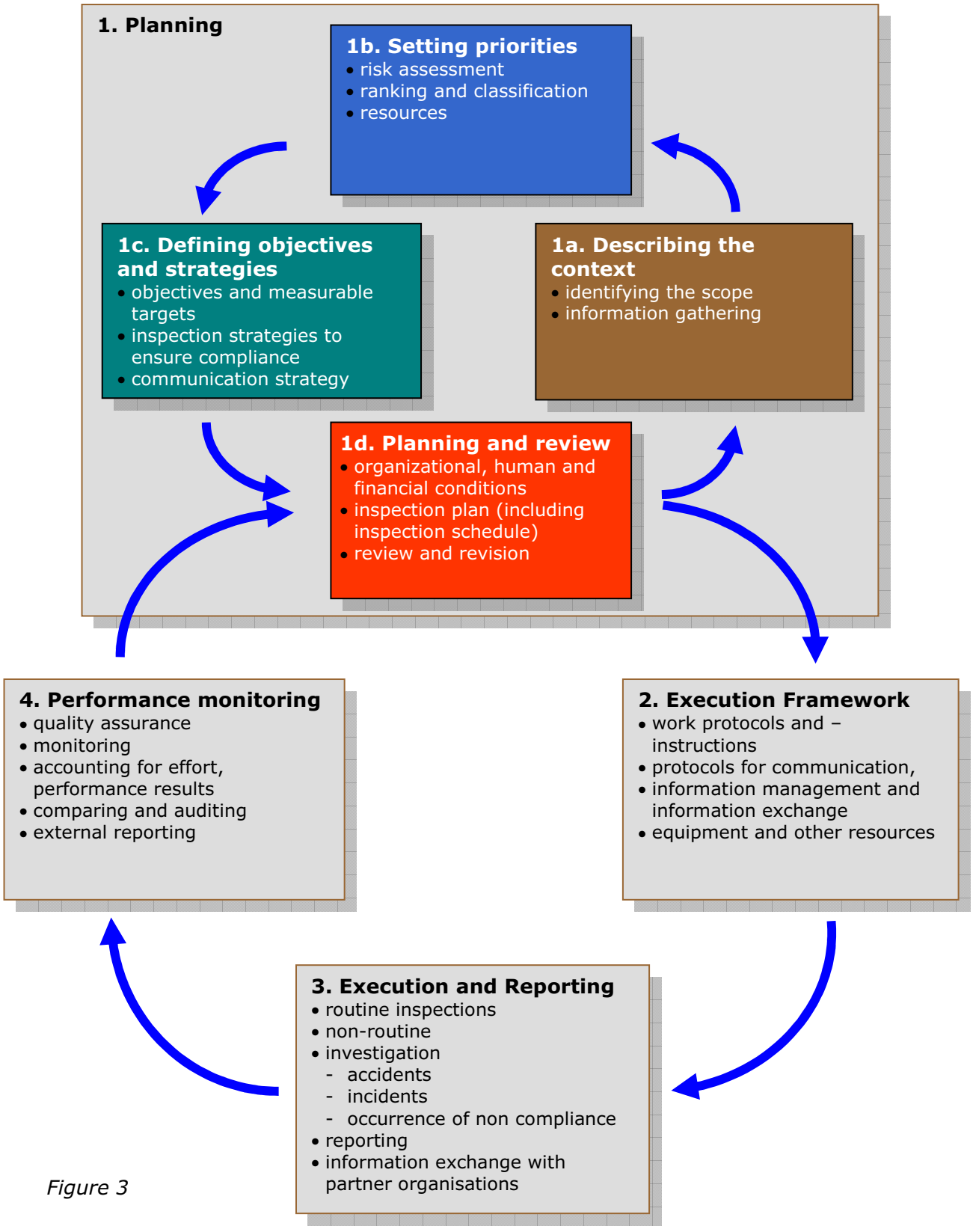

1. Planning
1b. Setting priorities
• risk assessment
• ranking and classification
• resources
1c. Defining objectives and strategies
• objectives and measurable targets
• inspection strategies to ensure compliance
• communication strategy
1a. Describing the context
• identifying the scope
• information gathering
1d. Planning and review
• organizational, human and financial conditions
• inspection plan (including inspection schedule)
• review and revision
4. Performance monitoring
• quality assurance
• monitoring
• accounting for effort, performance results
• comparing and auditing
• external reporting
2. Execution Framework
• work protocols and – instructions
• protocols for communication,
• information management and information exchange
• equipment and other resources
3. Execution and Reporting
• routine inspections
• non-routine
• investigation
- accidents
- incidents
- occurrence of non compliance
• reporting
• information exchange with partner organisations

Figure 3

The first step in this cyclic process is "Describing the context" (box 1a in figure 3). Here the inspecting authority looks amongst others at its statutory tasks. This part sets the scope of the inspection plan. In addition to the identification of the scope it is necessary to gather information for performing the risk assessment.

The second step is "Setting priorities (box 1b in figure 3). This step starts with a risk assessment. The risk assessment will result in a list of installations or activities that are ranked and classified. In this step the priorities are also set. In other words, what will get the necessary attention (and how much) and what will not. The output of this step, the listed priorities (for the specified period), is then the input for the next step.

The third step is "Defining objectives and strategies" (box 1c in figure 3). Within this step the inspecting authority identifies inspection objectives and targets. These objectives and targets can be presented quantitatively and/or qualitatively. When it is clear what we want to achieve we can define or modify the inspection strategies in order to meet these objectives and targets. The output of this step, the objectives, measurable targets and the inspection strategies, will be part of the input of the next step.

The fourth step is "Planning and review" (box 1d in figure 3). In this step the inspection plan is developed. The inspection plan covers a defined time period and describes and explains the steps taken in box 1a, 1b and 1c. Part of the inspection plan is an inspection schedule. The inspection schedule may stand as a working annex to the inspection plan, or as a separate document referenced within the inspection plan.

The fifth step is "Execution framework" (box 2 in figure 3). Before inspections can be executed we have to make sure that all necessary conditions are met. The appropriate working procedures and instructions, powers and competences and equipment should be in place.

The sixth step is "Execution and reporting" (box 3 in figure 3). In this step the inspection work is done. Here the routine and non-routine inspections are executed and reports of findings are written. Data on the inspections that are carried out and their outcomes and follow-up have to be stored in a good accessible database.

The seventh step of the process is "Performance monitoring" (box 4 in figure 3). To make sure we meet our objectives and targets we have to monitor the *output* (did we carry out the planned activities?) and the *outcome* (what were the effects of our activities?). This information will be used for reviewing the plans and for reporting to different stakeholders, for instance the minister responsible, parliament, the general public, the European Commission etc.

From the “Performance monitoring” step we return to the “Planning and review” step (box 1d). Based upon the monitoring results but also possible changes in box 1a (describing the context) the inspection plan (including the inspection schedule) will be reviewed and possibly be revised.

In the next 7 sections all the steps as described above will be elaborated in more detail.

3.2 Describing the context (box 1a)

Describing the context is a first step of the systematic approach for planning of inspections and a necessary input for identifying and analysing the risks. A full inventory of the context within which the authority has to operate is vital to define its activities and sets the scope of the inspection plan. This scope is normally identified by elements such as the general mission and objectives of the authority and in particular its statutory tasks and competences. It is important to keep in mind that the inspecting authority is also bound to national, regional or local policies, which are established by others. Furthermore an inspectorate may want to take into consideration particular opinions expressed by the general public, NGO's, industry or other stakeholders. On a more detailed level, information about companies and installations that fall under the competence of the authority concerned can be gathered, including data on their environmental impact; permit situation, compliance behaviour etc. Part of this information is collected through the execution of inspection activities (box 3). This data is also assessed in the process of performance monitoring. The data that is gathered in this step is used for carrying out the risk assessment process as outlined in the next step.

Input:	Relevant legislation and regulations, legal obligations to inspect, environmental and other governmental policies, environmental and other assessments, management reports, inspection reports, complaints, data from performance monitoring (box 4).
Output:	Data for the risk assessment.

3.3 Setting priorities (box 1b)

Setting priorities starts with a risk assessment. Risk should be understood here in a broad sense: it includes any factor an authority wants to take into account when assigning priorities. It may be an environmental risk, a social or economic risk, a compliance risk etc. The method used for risk assessment should be objective in nature, simple to apply and can differ between inspecting authorities.

Limited resources on the one hand and a multitude and variety of statutory tasks on the other, make it necessary to set clear priorities. Priorities are set using the outcome of the risk assessment, which could be a list or an overview of all the identified/selected installations and activities and their respective risks. These installations and activities can on the basis of their assessed risks be classified, for example, in 'high risk', 'medium risk' and 'low risk'. In addition the inspection approach for each level can differ: the higher the risk level, the more attention it will get from the inspecting authority. The inspection approach will as a consequence also determine the claim on the available resources, and is therefore equally relevant for the inspection plan and in the inspection schedule.

A risk assessment can be carried out on different levels. See *figure 4*.

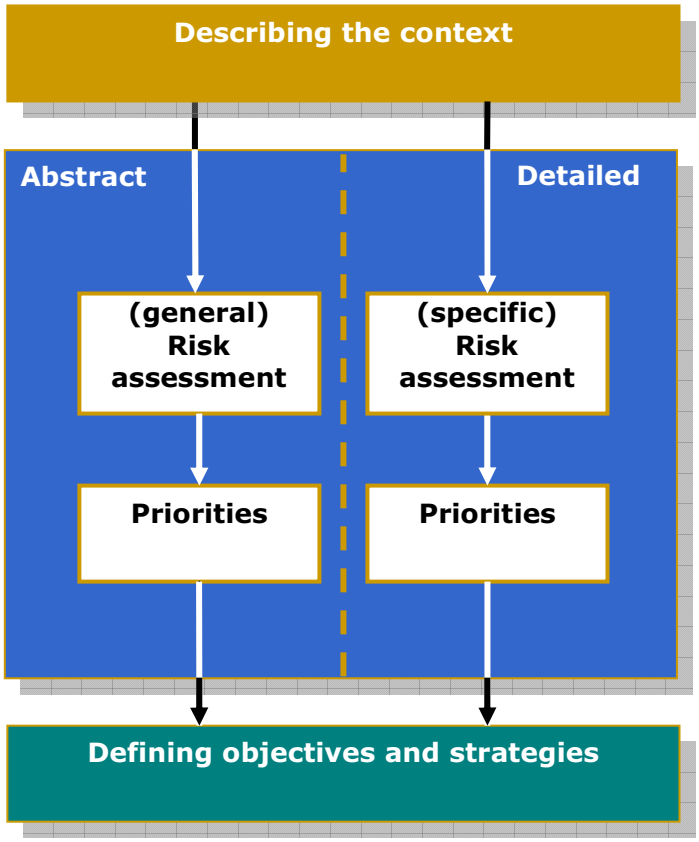


Figure 4

An inspecting authority with a large variety of tasks may in the first instance carry out an "abstract level" risk assessment between general task areas it is charged with (e.g. inspection of IPPC installations versus inspection on illegal logging versus spatial planning). In this document we call this a "general" risk assessment.
However a unit within an inspecting authority that is only dealing with specific areas (e.g. IPPC installations) and has no other tasks, might only want to do a detailed level risk assessment ("specific" risk assessment). In other words, these different risk assessment processes are carried out in different levels of detail by the same or by different staff. Although the risk criteria might be different between these different levels of risk assessment the method could be the same.
An inspecting authority may want consult third parties when performing a risk assessment. In particular consultation of other (inspecting) authorities can provide opportunities of sharing data, performing joint risk assessments etc.

A combination of risk assessments is also possible. See *figure 5*. Here carrying out a specific risk assessment further refines the outcomes of the general risk assessment. For example, in the general risk assessment priorities have been set between the different statutory tasks like inspection of IPPC installations, inspection of SEVESO installations, inspection against legal requirements on nature protection, inspection of waste transport etc. The outcome of the assessment is a risk score for every task transposed into available inspection time. This outcome is now the input for the specific risk assessments.

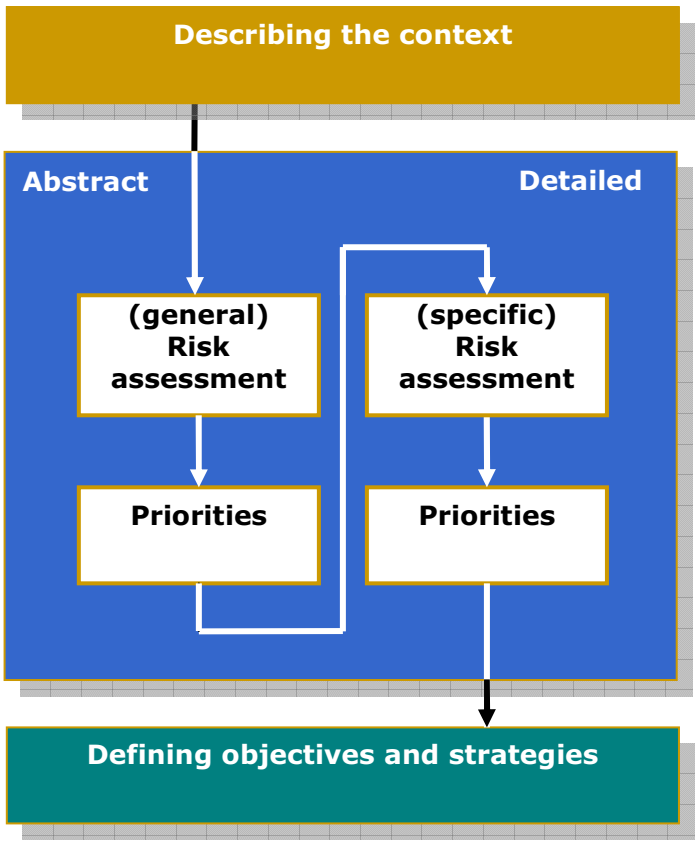


Figure 5

Here for example a risk assessment is done for each of the individual IPPC installations and each of the installations receive a risk score. Again inspection time will be allocated to the installations.
The results of either of these methods will be that the Inspecting Authorities, using a clear and systematic process, will be able to assign resources between overall task areas and also within the specific work to be carried out within each overall task area.

This assignment of priorities enables the inspecting authority to explain what categories of installations or activities will get what amount of attention. These priorities and their corresponding inspection strategies can be communicated to stakeholders and other relevant parties. Here the inspecting authority also makes clear the difference in needed and available resources. In doing so, the inspecting authority ensures the transparency of the process for prioritising the work.

Input:	Data for the risk assessment.
Output:	Assigned priorities.

3.4 Defining objectives and strategies (box 1c)

Based upon the priorities, the inspecting authority sets targets and objectives. In order to establish whether these objectives and targets can be and will be met, the output and the outcome must be monitored. This is generally done by using performance indicators. Examples of performance indicators on outcome are:

- The amount of incidents or complaints occurring
- The level of compliance
- The actual achievement of reduction targets for certain pollutants or certain risks
- Improvement in the general ambient environment

The inspecting authority may want to link its objectives with certain inspection strategies to ensure that these objectives can be met in both an effective and efficient manner, causing minimal burdens for the company and the authority. It may furthermore want to adopt and use certain communication strategies for exchanging information internally and with other competent authorities. Subjects that can be addressed are:

- co-operation and information exchange between inspecting organisations and other authorities,
- the character and form of inspection, and
- the effect of the offender's behaviour on the inspection frequency.

This latter part should be developed to show the path of administrative and/or criminal follow-up upon non-compliance, which must be strict and unambiguous (in case of non-compliance, there can be no discussion about the content of the legal norms. The term strategy in this document refers to the way objectives are to be reached.

Input:	Assigned priorities.
Output:	Measurable targets and objectives and inspection and communication strategies.

3.5 Planning and review (box 1d)

Based upon the previous steps (1a, 1b and 1c), the inspecting authority should then develop its inspection plan and inspection schedule. The inspection plan can be seen as a strategic plan and does not contain operational information (e.g. does note include the names of installations or the planned and type/dates of inspections).

An inspection plan describes:

- The objectives that the Inspecting authority, given its mission and tasks, wants to achieve;
- The policy, environmental, legal, organizational, financial and other relevant conditions under which the inspecting authority has to perform its inspection activities;
- The strategies which the inspecting authority has adopted for performing its inspection activities;
- How priorities with regard to inspection activities are set, taking into account these objectives, conditions and strategies;
- The priorities themselves.

The general public has the right to know what the inspecting authority has planned for the defined period (it should be transparent) and the plan should therefore be available to the public. However the inspecting authority may choose to withhold part of the plan (e.g. the Inspection Schedule). This could be typically due to the inclusion of unannounced Inspections or other unannounced enforcement actions which must be without warning in order to be effective.

The inspection plan will be used to compile an inspection schedule. This schedule should include information such as names of installations, dates, type of inspections, inspectors assigned, etc.

When developing the inspection plan and inspection schedule it is necessary to consider the organisational, human and financial circumstances. Most importantly the inspection plan and the inspection schedule should be in balance with the available resources and budgets and should be in line with the organizational structure.

The review and revision of the inspection plan is also part of this step. When we continue the process, after step “Performance monitoring” (box 4), we return to this step (box 1d). Based upon the monitoring and evaluation of the inspection plan (including the inspection schedule), it will be reviewed and possibly be revised.

Input:	The context, risk assessment, priorities, objectives and measurable targets and inspection and communication strategies.
Output:	Inspection plan and inspection schedule

3.6 Execution Framework (box 2)

The execution framework serves to facilitate the different inspection activities, e.g. compliance checking through site visits, enforcement actions like imposing sanctions, compliance assistance through organising information campaigns etc. Within this step, protocols and working instructions are developed and conditions for realisation. This step is necessary to make sure that inspection activities can be executed effectively, efficiently, professionally and consistently.

The execution framework should at least cover (in no order of preference):

- Protocols and working instructions for routine and non-routine inspections
- Procedures for imposing sanctions
- Development of inspection and enforcement handbooks
- Protocols for communication with the public (access to information) and with Industry
- Information management (e.g. information systems) and information exchange (within the organization and with partner organizations)
- Conditions for realisation
    - Clear authorisations and competencies (e.g. legal right of access to site and information)
    - System for planning, programming and monitoring
    - Facilities and materials needed (e.g. computers, transport, means of communication)
    - Maintenance and calibration of equipment

Input:	Inspection plan (containing information of step 1a, 1b and 1c) including the inspection schedule.
Output:	Conditions to execute inspections.

3.7 Execution and Reporting (box 3)

In this step the inspections are actually carried out: the various inspection activities (aimed at compliance checking and compliance assistance) are prepared and executed. Traditional inspection activities are the (physical) routine (site) inspections, non-routine (site) inspections and investigations of incidents. Many of these activities can and should be executed according to standard protocols and working instructions (that have been developed in the previous step). The cooperation and information exchange with partner organisations is also part of this step.
Information on the inspection activities carried out, their results and their follow up (imposed sanctions) should be stored in an accessible database.

Execution and Reporting should at least cover (in no order of preference)

- Routine site visits
    - Examining environmental impact by following:
        - inspection schedule
        - EC legal requirements
        - Organisational arrangements of inspectorate
    - Promoting and reinforcing knowledge and understanding of operator
    - Evaluating permits and authorisations
- Non-routine site visits
    - Complaints
    - Accidents and incidents
    - Occurrences of non-compliance
    - (The need for) issuing a new permit
    - (The need for) revising in the permit
- Investigation of accident/incident / occurrence of non-compliance
    - To clarify the cause and it's impact
    - Responsibilities, liabilities and consequences
    - Forward conclusions to the inspecting authority
    - Follow up that has to be taken
        - Actions to mitigate / remedy the impact
        - Actions for prevention
        - Actions taken by the operator
        - Actions and enforcement actions
- Other compliance checking and compliance assistance activities like assessing operator monitoring data, organising information campaigns etc.
- Reporting
    - After every site visit
    - Process/ store inspection data
    - Evaluation for further actions
    - Finalised a.s.a.p.
    - Keep record of reports
    - Accessible database
    - Communicated to operator

    - Publicly available (within 2 months)
- Exchange information with partner organisations

Input:	Inspection schedule and execution frame work.
Output:	Inspection activities and the results.

3.8 Performance monitoring (box 4)

The inspecting authority should act on the basis of systematic monitoring of the inspection and enforcement process and its result and effects.

Performance monitoring is necessary so the inspecting authority can report internally or at national or EU-level and check if objectives and targets have been met. It is important to use meaningful performance indicators to assess the effectiveness of the inspection plan. Insight into their effectiveness can help to determine which tools and strategies are working best to ensure compliance and to allow the public and stakeholders to examine whether the inspecting authority is meeting its responsibilities. This monitoring can take place on different levels. On the inspection schedule level, regular monitoring of progress should be carried out in relation to performance indicators (e.g. planned number of inspections vs. actual inspections carried out). This should inform execution of the schedule and may be carried out for example on a six-monthly or quarterly basis. This should also include monitoring of actions taken as result of inspections or complaints e.g. legal notices issued.
Performance monitoring should also take place at a higher level in relation to the success of the plan. This could include measurement against plan outcomes, against the objectives and measurable targets (e.g. general environmental improvements, increase in compliance rate), and external reporting of plan outputs/outcomes to national or EU level etc.

Performance monitoring should at least cover (in no order of preferences):

- Monitoring
    - Performance of staff (output)
    - Monitoring of the results (outcome)
- Accounting for effort, performance results
    - Annual reports
    - Report on the agreements with other inspecting organisations
    - Input in the regulatory cycle
    - Feed back on the results and recommendations
- Comparing and auditing
- External reporting
    - Available to public
    - Region and local level to public and National level
    - National authority to Commission,
    - Data about staffing and resources
    - Role and performance in relation to inspection plan
    - Summary of the inspections carried out
    - Degree of compliance
    - Actions taken as result of complaints and accidents and incidents
    - Actions taken as result of occurrence of non-compliance

Input:	Information on inspection activities and their results.
Output:	Information for the review of the inspection plan (the outcome) and the inspection schedule (output) and reports for external use.

4 The Planning Cycle

4.1 Introduction

In sections 3.2 to 3.5 we gave a description of the four steps that form the planning cycle.

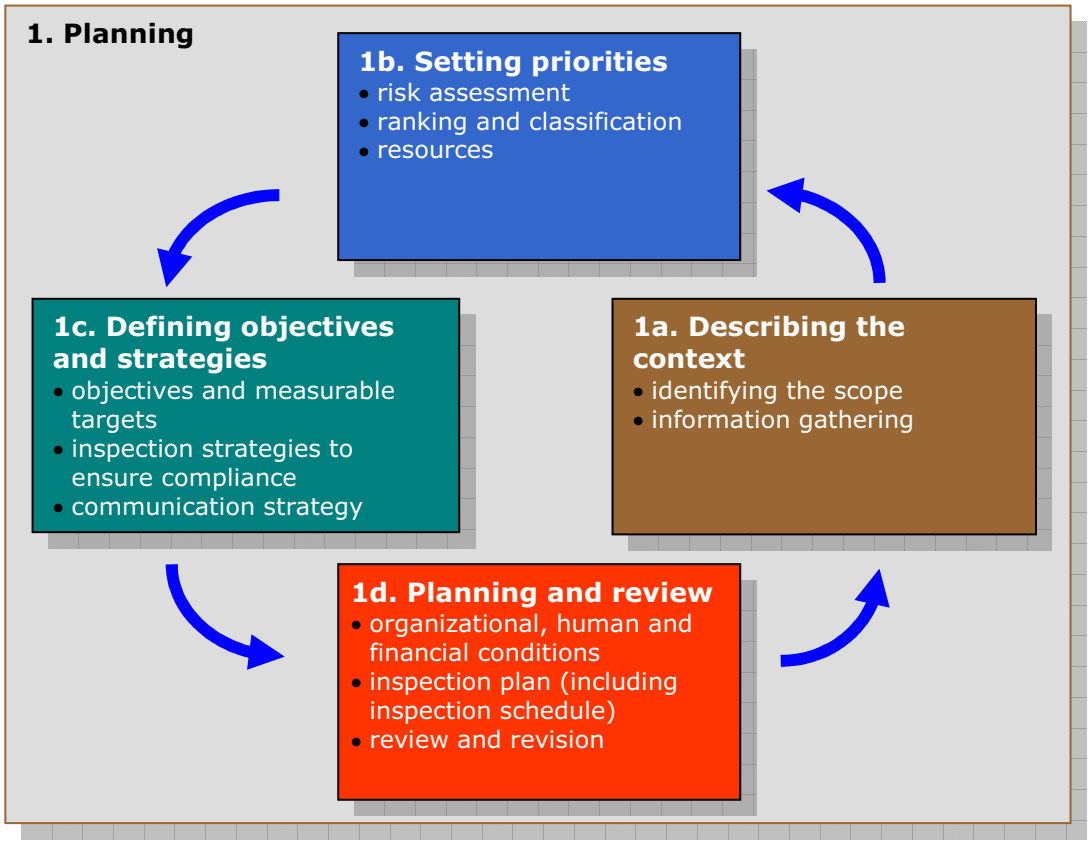
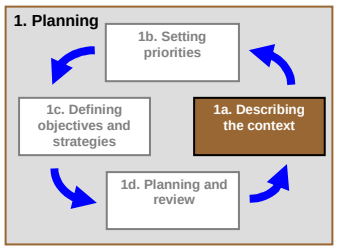


Figure 6

In the next 8 sections we will discuss in more detail these four steps. Within these steps different elements can be distinguished. The figure in the right upper corner at the beginning of each section indicates the position of the element in the planning cycle.

4.2 Identifying the scope



Identifying the scope is part of box 1a "Describing the context".

This element is about identifying the areas and activities that should be looked at in the further stages of the planning process and sets the scope of the inspection plan. Together with the element "information gathering" (section 4.3) it provides the input for the risk assessment.

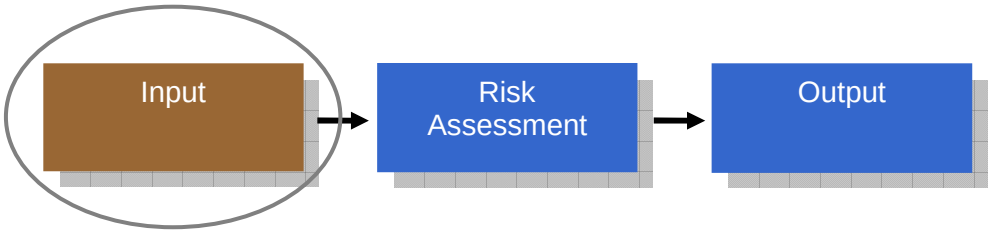


Table 1 gives a list of all the relevant factors that the inspecting authority has to look at when making the inventory.

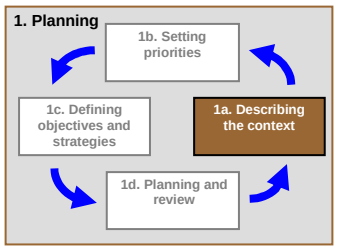
Relevant factors in identifying the scope are (in random order):

- Geographical area for which the inspecting authority is competent
- Mission and goals[2] (in general) of the inspecting authority
- Statutory tasks and competences of the inspecting authority
- Applicable legislation, either originated from a EU-, national- or regional level, against which the inspecting authority is competent to inspect
- Obligations to inspect, laid down in specific (EU-)legislation
- Established environmental (national) policy and priorities
- Interests of stakeholders (e.g. NGO's, branches of industries)
- Public opinions
- Register of activities and installations for which the inspecting authority is competent to inspect:
    - Sectors of industries
    - Types and sizes
    - Numbers and geographical distribution of installations
- Relevant environmental issues (water, air, safety, etc) for which the inspecting authority *is competent to inspect*
- Types of inspection activities (control, compliance promotion, education, information transfer etc) to be covered

Table 1, relevant factors for identifying the scope

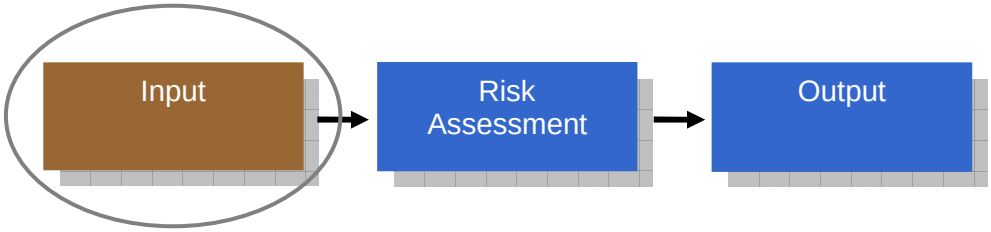
[2] From the document Minimum Criteria for Inspections - Planning and Reporting of Inspections: "The goals of the Inspecting Authority will vary depending on the unique set of circumstances that exist in the area of jurisdiction. Examples of the goals determined may include the improvement of the environment, a reduction in the number of pollution incidents, fish kills or complaints in addition to increased compliance within a given industrial sector"

4.3 Information gathering



Information gathering is part of box 1a "Describing the context".

This element is about collecting more detailed information that is needed to carry out the risk assessment on the areas and controlled activities/installations that were identified in Section 4.2. It provides the input for the risk assessment. In other words information which enables the authority to estimate and weigh the different risks connected to these areas and activities in order to assign priorities to certain areas and activities.



Information on the following issues may be relevant in this respect:

Environment

- Environmental issues (environment, safety, public health, nature) particularly relevant for the area concerned
- Information on the state of and trends in the (ambient) environment

Installations

- Sector-specific issues/needs, e.g. expertise, attitude, culture, compliance behaviour and economics of (industrial) target groups
- Information on the numbers, location and the branches of small and medium sized enterprises in the area
- Information on individual controlled activities/installations, such as information on:
  - Legal requirements and permit situation
  - Emissions/discharges, environmental impact, risk, accidents/incidents
  - Complexity of installation
  - Location of installation
  - Compliance record / behaviour (inspection history)
  - Performance record (e.g. Environmental management systems, self monitoring and reporting, safety management systems, audits, experiences of inspection authorities)
  - Relevant complaints
  - Sector characteristics of industry

General

- Changes in legislation that need to be implemented
- Quality of requirements in legislation or permits

• Coordination and cooperation with other (inspection) authorities
  o Feedback and evaluation of past inspections
  o Likelihood of offences

Table 2, relevant information

To gather, store and use all this information the inspecting authority should have an effective data management system. Software applications are a useful tool in this regard. It is important to keep these information systems updated. For example after every inspection, when installations have been changed or when complaints are received or accidents have occurred.

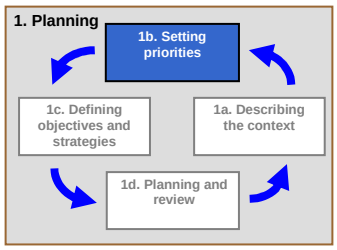
Management information

To get good management information it is useful to categorise or label the information that we gather. By labelling relevant national or EU legislation (for instance the IPPC directive or the national Act on air protection) and/or environmental themes (for instance external safety) to all controlled activities/ installations we can distinguish these activities or installations into different categories. If for instance external safety becomes an important issue because of a series of similar accidents, it will be more easy to produce data on all the controlled installations with an external safety risk and consequently assess what resources will be needed for intensifying inspection activities with regard to these installations.

Examples of labels that could be included are:	
1. Environmental themes	- External safety - Climate change - Soil pollution - Waste - etc
2. Legislation	- National Act on Waste management - National Act on air protection - etc - IPPC Directive - SEVESO Directive - WI Directive - EMAS - etc
3. Organizational units	- Inspectors Industry - Inspectors nature protection - Lawyers - etc
4. Budget items	

Table 3, list of labels

4.4 Risk assessment



Risk assessment is part of box 1b "Setting priorities" and involves analysing and determining the risks (this includes expert opinion).

Risk is defined here in a broad sense: it includes any factor an authority wants to take into account when assigning priorities. It may be an environmental risk, a social or economic risk, a compliance risk etc.

The method for assessing risks that is used may vary from one organisation to the other. At the end of this section references to examples of risk assessments are presented.
Risk criteria, like impact on the environment, are often assessed through a process of quantifying the risk by measuring the effect and the probability of the occurrence. The effect can be measured by looking at the impact (e.g. this could be that the to be expected effect on the environment is evident and has a permanent result) and the magnitude (e.g. this could be that the negative effect is noticeable in the whole area which is considered). A risk with a potentially large environmental effect and a low probability of occurring might be treated differently than one with a low effect but a high likelihood of occurring.

The risk criteria used, depend on the tasks of the inspecting authority and the objects (controlled activities/installation) that are subject to the assessment. To give a limitative list of all the risk criteria that we can assess is not possible. Every inspecting authority will define its own risk criteria. Examples of risk criteria can be found in the next table.

On an abstract level (prioritizing between different tasks) the following risk criteria can be used:

- Environmental impact
- Impact to public health
- Safety risks
- Impact to nature
- Social impact
- Financial, economic and legal impact
- Compliance behaviour (sometimes used as a risk criteria, sometimes used to compensate or correct the outcome of the assessment)

On a more detailed level (prioritizing within a task, e.g. between installations) the following risk criteria can be used:

- Previous experience of the inspector with the facility in question
- Compliance rating or compliance history of the facility
- Comparison of compliance with other facilities in the same category
- Scale and complexity of facility
- Location and sensitivity of receiving environment
- Emissions
- Public perception of the facility/complaints by 3rd parties

Table 4, list of risk criteria

Not all the risk criteria within a risk assessment necessarily have the same weigh. Some risk assessment methods therefore allow it to adjust the risk criteria with a weigh factor. A weigh factor also makes it possible to easily make changes when there is a change in policy.

In *figure 7* a method for a risk assessment is given. For every object (activity or installation) a risk profile is made. A risk profile consists of risk criteria their connected effect and probability. The way effect and probability are determined may differ, depending on the method used. In many cases look-up tables can be used. In other cases individual calculations will be made. The risk profile can be used to help determine the extent to which that specific object should be inspected.

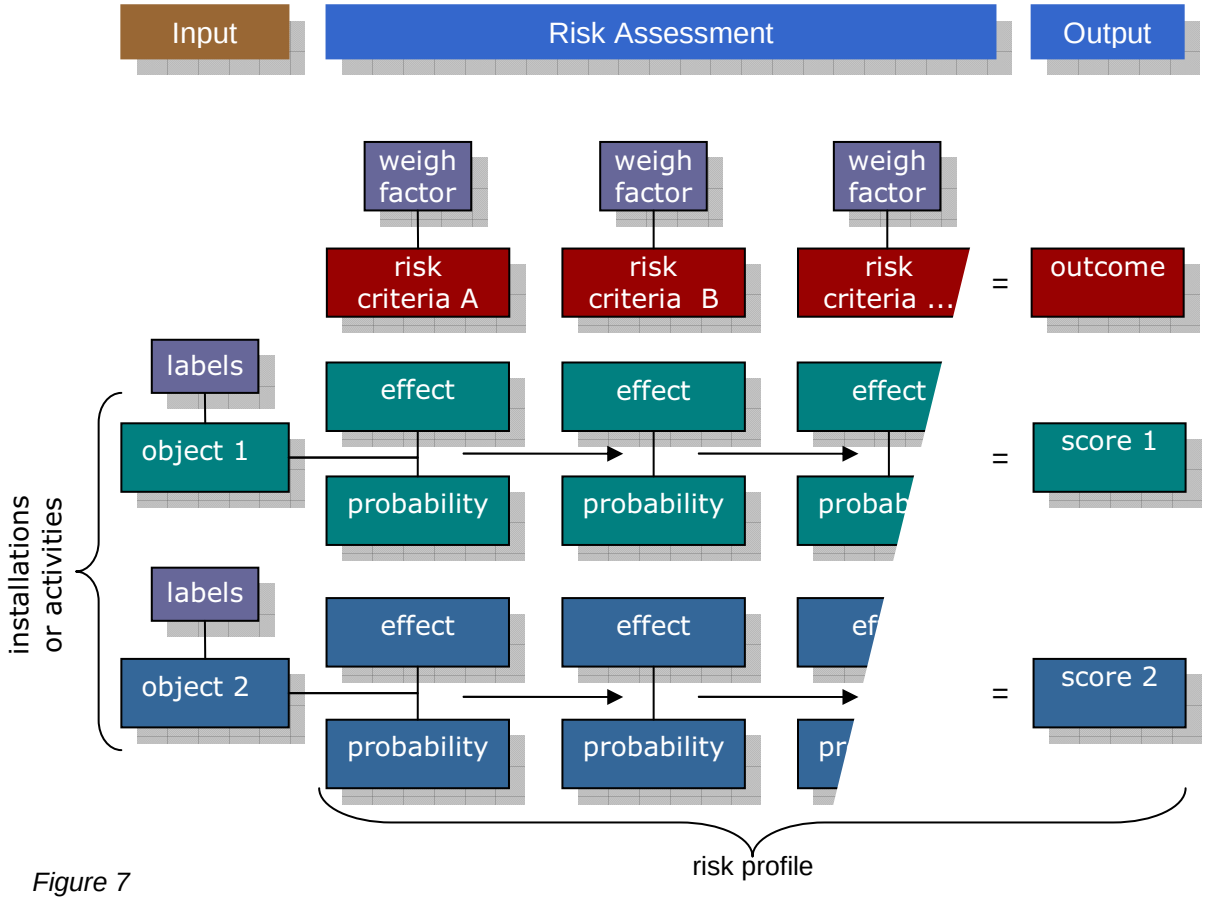


Figure 7

Figure 8 gives the same method as in figure 7 but now filled in with some data.

For a general risk assessment the figure can be read as follows:

- The task IPPC has 2 labels, Enforcement department and permitting department. Both departments are involved. The amount of resources needed for IPPC is now directly linked to the different departments;
- The tasks REACH and Waste shipment is linked to only the enforcement department.
- The numbers given in the boxes for effect and magnitude are from a look-up table or from calculations the inspecting authority made itself.
- The weighing factors say that risk criteria "environmental risk" weighs 2 times more than "impact to society" and 4 times more than "economic aspects". This will have consequences in the final score.

For a specific risk assessment, the figure can be read as follows:

- Facility X has 2 labels, IPPC and SEVESO. Facility Y has only IPPC as label. Selecting risk data for only IPPC or only SEVESO facilities is now possible.
- The numbers given in the boxes for effect and magnitude are again from a look-up table or from calculations the inspecting authority made itself.
- The weighing factors say that risk criteria "compliance behaviour" weighs 3 times more than "safety" and "waste management". This will have consequences in the final score.

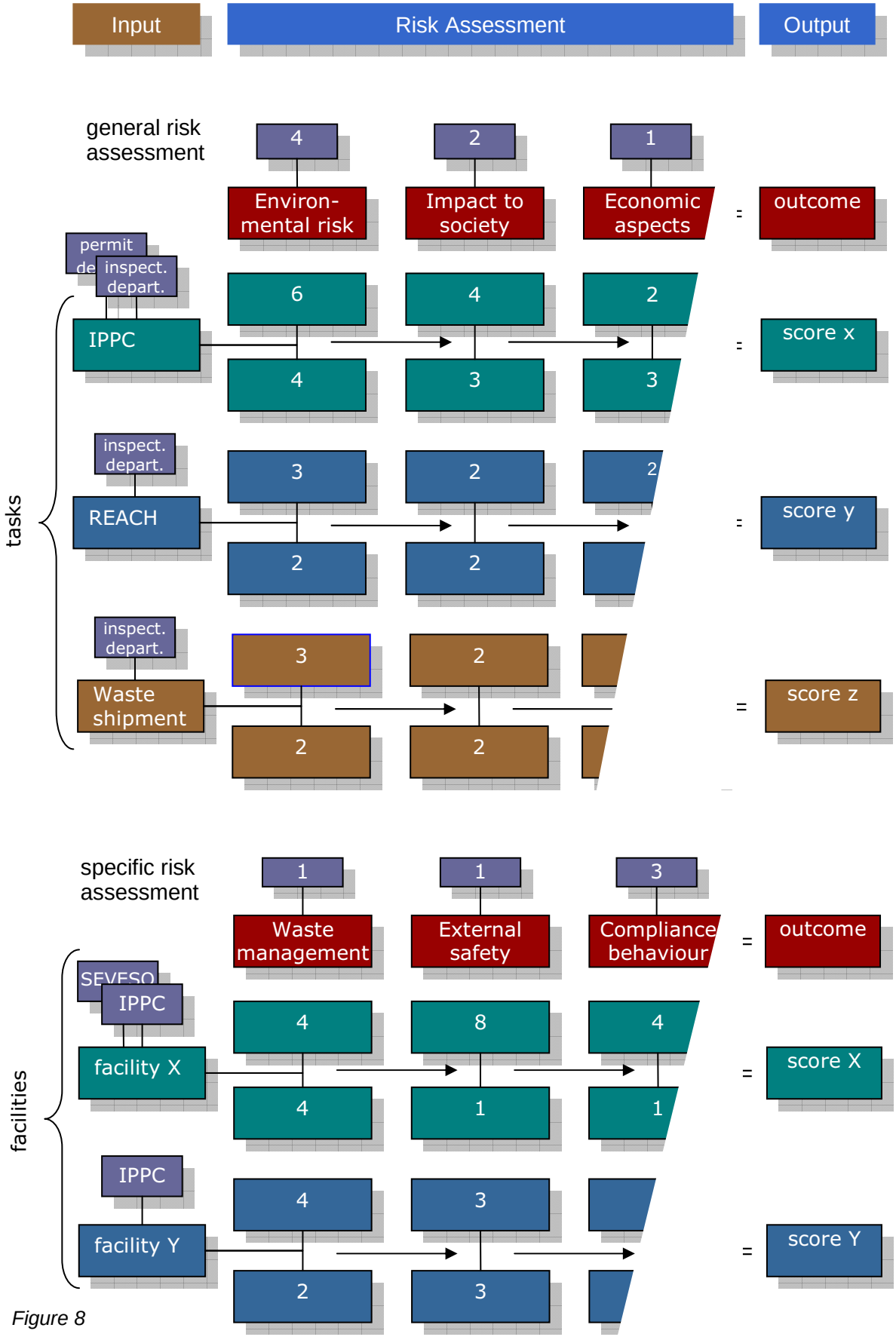

Input
Risk Assessment
Output
general risk assessment
4
2
1
Environ-mental risk
Impact to society
Economic aspects
=
outcome
tasks
permit
de
inspect. depart.
IPPC
6
4
2
4
3
3
=
score x
inspect. depart.
REACH
3
2
2
2
2
=
score y
inspect. depart.
Waste shipment
3
2
2
2
=
score z
specific risk assessment
1
1
3
Waste management
External safety
Compliance behaviour
=
outcome
facilities
SEVESO
IPPC
facility X
4
8
4
4
1
1
=
score X
IPPC
facility Y
4
3
2
3
=
score Y

Figure 8

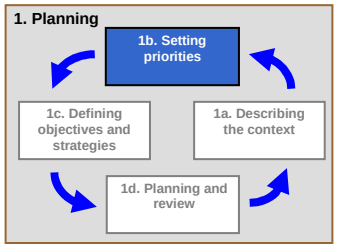
The risk assessment itself provides a risk profile (see figure 7) of the installation or activity. If the risk criteria are selected well this profile will give the inspector a good overview of the items that need the most attention during inspection activities.

When the risk assessment (and therefore the profile) is also used to determine the fees a company has to pay, the method may have to be more refined.

As an alternative for performing risk assessments on individual installations modules could be used that are based on a combination of a typical risk for a sector of industries and their compliance records. In this case these branches need to be heterogenic.

For good practices on this subject see http://www.infomil.nl/rmcei .

4.5 Ranking, classification and priorities



Ranking, classification and priorities is part of box 1b "Setting priorities".

This element represents the output of the risk assessment with which we can set the priorities. It should be noted that in some systems this step is included in the assessment method itself (as a software tool) and not seen as a separate step as in this guidance book.

Ranking
The risk assessment produces amounts of risk or scores of the installations or activities assessed. Generally the higher the risk, the higher the score. The range between low score and a high score depends on the system used.

Classification
To set priorities an appropriate classification is important. With the classification it's possible to classify a certain risk within in a risk category. In other words we have to determine under what score we still believe the risk is low and above what score we believe the risk is high. The number of risk categories depends on the system that is used (if this is pre-defined) and can be adjusted. An example is given in the box.

Example:
When the range for risk is 10 points we could choose the following risk categories:

low risk	0 to 3 points
medium risk	3 to 6 points
high risk	6 to 10 points

Table 5, example risk categories

Priorities

The priorities can be linked to the amount of risk. In other words, a high risk gives a high priority. The inspecting authority must then decide what a high priority means in terms of type and frequency of required inspections. A simple example is given in the box below.

Example:

low risk	1 inspection every 3 years
medium risk	1 inspection every year
high risk	3 inspections a year

Or

low risk	1 common random check every year
medium risk	1 representative check every year
high risk	1 integrated inspection

Table 6, example how priorities can be linked to risk

However the choice of the proper type and frequency of inspection for a certain (high, medium or low risk) activity or installation will often also depend on the specific inspection targets we want to achieve (see Section 4.6) and the inspection strategies we find most appropriate (see Section 4.7).

Setting priorities is about deciding what installations/activities will get what amount of attention. However for certain installations/activities legal obligations to inspect are set in permits or legislation. These obligations can set frequencies that need to be taken into account when setting priorities. In these cases the inspecting authority could differ their approach (strategy) or type of inspections depending on the risk score.

Inspecting authorities should be aware that in order to do a risk assessment for setting priorities, up-to-date information is needed, including data on low risk installations/activities, gathered through inspections (e.g. minimum inspection frequency).

Resources

Normally the total amount of staff available is limited and does not necessarily match with the staff time needed for carrying out all prioritised inspection activities. It is important that we bridge this gap along the planning process and that we give account for this in the inspection plan. We can choose to adjust our priorities. But we may also want to adjust our targets or inspection strategies for certain prioritised inspection activities, or to reconsider the inspection schedule.

In any case we need to know the total staff time needed to perform all the prioritised inspections. And we must assess the average amount of time required for carrying out different types of inspection activities. For instance we need to know for each type of controlled installation the average time needed for performing a certain type of routine inspection, including preparation, travelling,

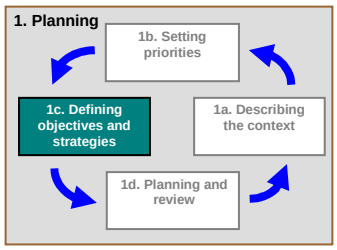
the actual site visit, reporting and (possible) enforcement actions. The enforcement actions (e.g. sanctions or repressive actions) cannot be planned in advance and average time based on experience has to be used.

This will be dependant on the size and complexity of a certain type of installation and the average compliance record of the sector, etc[3].
In addition to the inspections outlined above, we must include information on staff time which is needed for administrative and legal support and for follow up actions (e.g. enforcement actions). Often a simple percentage of the total inspection time is taken for this.

Resources will also have to be allocated for non-routine inspections (e.g. responding to complaints and accidents). It is important to reserve an amount of time for non-routine inspections. On average the amount of time needed for non-routine inspections could be between 20% and 40% of the total time of an inspectorate. The exact percentage is to be determined by experience, achieving a good balance between routine and non-routine inspections.

[3] Inspection units can be useful here. Inspection units can be defined as logical units that are dimensioned in such a way that 1 inspector is able to carry out an inspection within a given time.

4.6 Objectives and measurable targets



Objectives and measurable targets are part of box 1c "Defining objectives and strategies".

The priorities that we have set in the previous chapter tell us what activities/installation need our attention. Having set these priorities it is now time to define the objectives and targets. The objectives that we define here should not be confused with the overall objectives (and goals) that inspecting authorities have to take into account as part of the context (Section 4.2) and are input for the risk assessment.

Objectives and targets

Objectives are set to achieve the overall goals[4]. The targets are the actions and deliverables we have to accomplish to reach these objectives. For example: an objective can be to reduce the odour nuisance of intensive farming in a certain area, and the corresponding target to reduce the amount of complaints within that area by 40%. Objectives and targets do not necessarily cover the same time period (e.g. long term, medium term, short term).

Performance monitoring as outlined in Section 3.8, is only possible when the targets that we define are measurable. But before we do this we have to know where we are to be able to say where we are going. The present situation is identified in box 1a (describing the context). Here we collect data of for instance (ambient) environment, monitoring results of installations, their compliance behaviour and the performances of the inspecting authority itself. Knowing were we are we can now start defining what the outcome of our inspection activities should be.

The objectives should be precise and preferably specified by indicators, quantifying the desired situation that should be achieved. As far as possible, objectives should be formulated as SMART as possible. SMART stands for:

S = Specific
M = Measurable
A = Achievable
R = Relevant
T = Timely

[4] Goals (mentioned in chapter 4.2) are often derived directly from the mission of the inspecting authority. They are set on a strategic level and are independent of how the organisation will achieve them. Strategic goals are part of the input for the setting priorities. Objectives and targets are the concretization of these strategic goals.

Example

Goal	Objective	Target
Improved water quality within a certain region	All rivers within a that region complies with the limit value for heavy metals	All electroplating enterprises in the region comply with emission limit values for heavy metals before end of 2008

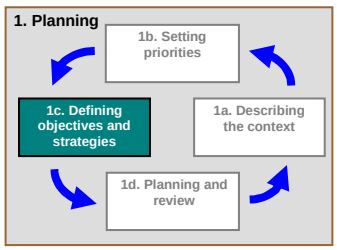
Table 7, example of goals, objectives and targets

Performance indicators

The work of an inspecting authority has a long-term purpose. Very often the relation between environmental outcome and inspection work is difficult to observe or cannot be observed immediately. Performance indicators on outputs or outcomes can be used to monitor and demonstrate progress in achieving targets. Traditional indicators of performance quantify activities (or outputs) such as the number of inspections conducted and enforcement actions taken through the year[4]. Performance indicators on outcomes can be the number of complaints received, the number of non- compliances, etc.

For good practices on this subject see http://www.infomil.nl/rmcei .

4.7 Strategies



Strategies are part of box 1c "Defining objectives and strategies".

Inspection strategies to ensure compliance

In order to actually achieve a certain target we need to determine what inspection activities in that particular case have the greatest positive effect on compliance. By doing so we can further determine the resources needed and use our resources in the most effective and efficient way. In many cases a mix of activities is the most appropriate strategy. In some cases however an inspecting authority may be limited in its choices because it is obliged to perform specific inspection activities, based on national legislation.

An inspection strategy to help ensure compliance may include:

- specific ways of compliance checking (e.g. certain routine and non-routine inspections, in-depth investigations, verification of self monitoring data),
- specific compliance promotion activities,
- specific approaches and ways to remedy and sanction (repeated) non-compliances.

To determine the best inspection strategy it can be useful to assess the following elements:

Element 1
Clearly define the target group and the rules they have to comply with.

Element 2
Gather information about the compliance behaviour of the target group.

The aim is to get an insight into the target group compliance behaviour and the motives for that behaviour.

The following factors may influence the compliance behaviour of the target group:

• The familiarity with and clarity of legislation among the target group.
• The tangible/intangible advantages and disadvantages arising from compliance or non-compliance with the rule(s), expressed in time, money and effort.
• The extent to which the policy and legislation is considered acceptable by the target group.
• The extent to which the target group respects the government's authority.
• The risk, as estimated by the target group, of positive or negative reactions on their behaviour from others than the authorities.
• The risk, as estimated by the target group, of a violation detected by persons or bodies other than the authorities, being reported to a government body.
• The risk, as estimated by the target group, of an inspection by the authorities.
• The risk, as estimated by the target group, of a violation being detected in an inspection carried out by the authorities.
• The perceived risk of inspection and detection of a violation resulting from being selected for inspection out of a larger population.
• The risk, as estimated by the target group, of a sanction being imposed if an inspection reveals that a rule has been broken.
• The severity and nature of the sanction associated with the violation and additional disadvantages of being sanctioned.

Table 8, factors that influence compliance behaviour

Element 3
Determining the inspection strategy

Based on insights on the compliance behaviour the proper inspection strategy can be determined.
Generally speaking the strategy will depend on the specific tendency of the target group to comply or not to comply and the factors that lead to this tendency. The figure here below shows a general distinction in tendencies, motives and strategies.

	Not knowing	Not able to	Not willing
Inclination to comply	Advise	Facilitate	Reward or tempt
Inclination to violate	Advise in combination with inspection and enforcement	Facilitate in combination with inspection and enforcement	(Repeated) Inspection and enforcement

Table 9, relation compliance behavior - strategy

Communication strategy
The inspecting authority can only perform in an effective, transparent and accountable way when it has a communication strategy: a set of adequate provisions and arrangements for internal information exchange and for communication with other authorities, stakeholders and the general public.

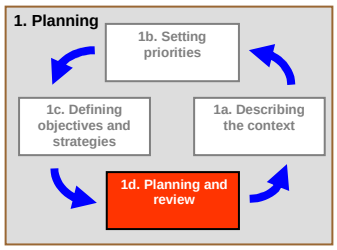
The general public should have access to information on the inspection authorities' activities and environmental performance of the regulated community. Beyond passively responding to requests for information, the inspecting authority should pro-actively issue news releases and otherwise disseminate information. The general public should have the right to provide information to the inspectorate (for example complaints) and to have its concerns addressed.

Good communication will allow the inspecting authority to inform, understand, engage with and influence all the people who can contribute to improving the environment. Effective communication cannot be taken for granted, nor does it "just happen". It requires a systematic approach.[5]

For good practices on this subject see http://www.infomil.nl/rmcei .

[5] From Management Reference Book for Environmental Inspectorates

4.8. Inspection plan



Inspection plan is part of box 1d "Planning and review"

In this step of the planning cycle the information that is assessed and developed in step 1a, 1b and 1c will now find its place within a document (s), the inspection plan. The inspection plan is not only for internal use, it also available for public and therefore gives justification of what and how the inspecting authority is dealing with her responsibilities. Most elements in this chapter are obligations from the RMCEI, and all of them are to be considered as good practice.

Defined time period and area

The inspecting authority needs to develop an inspection plan that covers a defined time period and a defined geographic area. A common time period is 1 year but multi-annual inspection plans are used. As the competence of an inspecting authority is also bound to a geographic area (municipality, region or MS) it is common to use this geographic area also in the inspection plan. Depending on the size and tasks of the inspecting authority sub-inspection plans can be developed covering all a different part of the area.

Scope

Besides time period and area the inspecting authority should give a clear picture of the scope of the inspection plan. It should describe:

- the tasks, competences and obligations it has
- its mission and goals
- the (national) policies and priorities
- the applicable legislation (EU or national)
- the controlled activities and installations
- the range of different inspection activities that can take place

Priorities

The inspection plan should describe the method used for the risk assessment, the classification and ranking of activities and installations and the priorities arising from these. This means that besides the outcome also the process needs to be described. In other words the inspection plan should not only give the priorities itself but also the justification how the inspecting authority came to these priorities. Here the gap between available and needed resources also finds its pace.

Objectives and targets

Based on the priorities the inspection plan should describe the objectives and the measurable targets for the activities. It is important the targets are formulated in a way so they can be monitored and evaluated.

Inspection activities

The inspection plan should provide information on the numbers and types of routine environmental inspections to be carried out, including:

- frequency of site visits for different types of specified controlled installations
- key figures/indicators on necessary inspection capacity

Strategies and procedures

The inspection plan should describe or refer to the strategies and the procedures[6] that will be taken into account. The inspection plan should at least include reference to:

- procedures for routine inspections, which can include site visits as well as other kind of inspection activities
- procedures for non-routine inspections in case of
    - Complaints
    - Accidents and incidents
    - Occurrences of non-compliance
    - Inspections or activities as part of the permit procedure
- procedures for coordination between the different inspecting authorities;
- provisions for review of the inspection plan

Inspection schedule

The inspection schedule can be part of the inspection plan. The inspection plan however is public available. Therefore the inspecting authority might want to decide to include the schedule as an annex or separate document. This way the schedule can stay confidential.

The inspection schedule at least covers:

- a defined time period of maximum 1 year
- a list of all activities and installations to be inspected, including:
    - Inspectors or inspection unit
    - Type of routine inspections
    - Date (days/weeks/months), time and frequency
    - Amount of time and staff needed
    - Co-operation with other authorities

[6] Procedures are developed in box 2 “the execution framework”.

Sample Inspection Plan; Table of contents

5.2.3. permits
5.3. Compliance assistance and other inspection activities

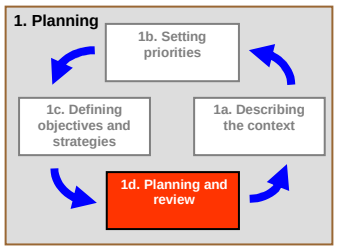
Annex: Inspection schedule
- Routine inspections
  - Installations
  - Activities
- Non routine inspections
  - Complaints
  - Accidents and incidents
  - Permits
  - Compliance assistance and other inspection activities

* Note that some inspecting authorities do not include budget issues in their plan, as this is not part of their responsibility.

Table 10, example index inspection plan

For good practices on this subject see http://www.infomil.nl/rmcei .

4.9 Review and revision



Review and revision are part of box 1c "Planning and review".

The inspection plan should be reviewed and if necessary revised periodically. In evaluating the success of the inspection plan the inspecting authority should determine the extent to which it achieved the objectives and targets set out in the plan. Where they have not been met the inspecting authority should determine the factors that have impacted on the completion of the tasks.

As the inspection plan is a more strategic document it is envisaged that revision may only be required in response to significant changes to policies, significant changing activity in given industrial/work sectors, or other changing situations. However, changes to the plan may also be made as a result of performance monitoring. Where performance targets set are met (or not met), or where efforts expended through the inspection plan have not resulted in the expected improvements to the state of the environment, the authority may also wish to change the inspection plan (e.g. to change the strategy to be employed, the resources to be assigned, or the objectives/targets set). For the revision of the inspection plan the authority should go through the steps 1a, 1b and 1c.

When only the inspection schedule has to be revised, revision of the entire plan may not be necessary (e.g. where the only change is to the number of planned inspections to be carried out – i.e. changes in desired output). The inspection schedule however will normally change on an annual basis.

The requirement to revise and evaluate the implementation of previous plans in order to develop the plan for the coming period is the application of a management systems approach. In defining the priorities and targets within the inspection plan, the inspecting authority should put in place the means to track and evaluate their performance with respect to the plan. The inspection plan should contain the targets to be achieved during the year to allow for ongoing evaluation of activities during the execution of the plan. In addition to the numerical targets inspecting authorities should also consider how they are going to evaluate performance in relation to the priorities that they set in their plans so that the environmental outcome of their activities is checked in addition to the activities themselves.

For good practices on this subject see http://www.infomil.nl/rmcei .

ANNEX

Acronyms

Aarhus	(2003/4/EC) Directive on public access to environmental information and repealing Council Directive 90/313/EEC
EMAS	(761/2001/EC) Regulation allowing voluntary participation by organisations in a Community eco-management and audit scheme
IPPC	(96/61/EC) Directive concerning integrated pollution prevention and control
REACH	(1907/2006/EC) Regulation concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals
RMCEI	(2001/331/EC) Recommendation providing for minimum criteria for environmental inspections
SEVESO	(96/82/EC) Directive on the control of major-accident hazards involving dangerous substances
WID	(2000/76/EC) Directive of the European Parliament and of the Council of 4 December 2000 on the incineration of waste