	Austria	Belgium		Czech Republic	Finland	France	Germany
		The Flemish Region and the Brussels Capital Region (Be, Flem. r, BC r)	The Walloon Region (Be, Walloon r)				
1. Number of IPPC-plants (approx.)	580	1 200 – 1 500	300	2 400*	700	45 000*	10 000*
2. How matters are brought to court	- permit decisions are appealed to court	- courts are not involved in permitting process (but in Brussels) - The legality of a permit can be reviewed by the court.	- courts are not involved in permitting process - The legality of a permit can be reviewed by the court.	- courts are not involved in permitting process	- permit decisions are appealed to court	- permit decisions are appealed to court	- permit decisions are appealed to court
3. Authorities that issue permits	- State Governor (waste management) - State Government (other installations requiring an EIA) - regional authorities (other installations)	- the provincial government; in Brussels the Environmental Agency issue permits - all environmental impacts are assessed in the same process - building permits in separate process - additional permits are required for surface water abstraction and for occupying public land	- the municipality issues permits - all environmental impacts are assessed in the same process - there is a combined procedure for building permit and IPPC-permit, resulting in one combined permit	- regional offices and Ministry of the Environment issue permits	- authorities on state level by regional authorities - all environmental impacts are assessed in the same process - building permits in separate process - additional permits are required for water abstraction and constructions in water (can be handled in IPPC-permit; mixed projects)	- regional authorities (Department-level)	- regional authorities (Land-level) issue permits - all environmental impacts are assessed in the same process

Remarks

Question 1:
* number of plants for which integrated permits are requested
** number of polluted sites

Question 2:
Many countries have answered that criminal offences (and administrative offences) concerning IPPC-plants can be brought to court.

	Austria	Be, Flem. r, BC r	Be, Walloon r.	Czech r.	Finland	France	Germany
4. Authorities and courts that hears appeals	- an administrative tribunal (Unabhängiger Verwaltnungssenat) hears appeals against IPPC-permits - if the permit also is subject to an EIA, the environmental senate (Umweltsenat) hears appeals. - against decisions of these, a petition to the supreme administrative court may be filed - the tribunal and the senate may change or amend the permit. The court can only annul it.	- Administrative appeal in one (or in Brussels two) instances. The authority can review the application completely. - Final decisions can be challenged before the Council of State which can only annul the decision.		- the Ministry of Environment or the Minister of Environment hears appeals - the appellate can annul the decision or, in specific cases, alter them - The decisions of appeal can be reviewed by administrative courts which can only annul them.	- One single administrative court (the Vaasa Administrative court) hears appeals in second instance. The Supreme Administrative Court hears appeals in third instance. - the courts have wide powers to change the permit	- administrative courts can hear appeals - the courts have wide powers to change the permit	- administrative appeal in second instance - administrative court in third instance, the court can only annul the decision
5. Who can appeal	- neighbours (directly affected) - environmental NGO:s - State Governor (water management) Neighbours and State Governor can file a petition to the Supreme Administrative Court, but the NGO:s can´t. For installations under the EIA-act the Environmental Warden/Ombudsman, some local associations and the local government can also file a petition to the Supreme Administarive Court.	Any party that can demonstrate a “prejudice or interest”. The interest must be personal and direct. Ex: local government, persons holding a subjective right (i.e. neighbours), environmental groups /collective environmental interest, shall be representative) Appeal for annulment with the Council of State: 175 € per party. Suspension same fee again.	Comments: Difficulties in access to justice: - costs (looser pays principle) - restricted for associations	- the municipality - the region - civic associations, public benefit societies, federations of employers or chambers of commerce - persons (special regulations) Provided they have been participants in the administrative process Obstacle for NGO:s : the need to apply for being a participant within 30 days from disclosing the information.	- those whose rights or interests the decision may effect (e.g. neighbours) - registered associations or foundations whose purpose is environment protection (= NGO:s; irrespective of how long they have existed and the number of participants) - local authority - Regional Environmental Centre, municipal environmental authorities - other authorities safeguarding public interests Small court fee (Administrative Court 89 €, Supreme Administrative Court 223 €), no obligation to use lawyer, low risk of paying opposite party’s costs.	- neighbours, local organisations and environmental protection organisations if they have a justified interest Difficulties: to justify an interest to act	- all natural or legal persons with private rights (e.g. neighbours, NGO:s whose purpose is environment protection, a municipality if its properties are at risk - the administrative authority if it has loosed the case at the administrative court The procedural cost for a person or NGO that looses its case is 1 000 € (costs for lawyer not included).

	Austria	Be, Flem. r, BC r	Be, Walloon r.	Czech r.	Finland	France	Germany
6. BAT and BREF	In a certain case BAT will be determined on the basis of generally binding rules and/or on the basis of official experts reports. If no binding rules exist, non-binding guidelines will be taken into consideration, i.e. BREF:s.	It is up to the operator to show in his application that BAT requirements are met. The authority can impose other methods it believes is BAT. There are in the Flemish region general and sectorial conditions (among other things discharge quality standards) in VLAREM II . Permitting authority can consult the BAT Centre of VITO. (Flemish institute for Technological research)	The role of BREF is central in the proceeding. Usually the administration doesn't intervene in the choice of technology, but sets up a level of protection to be obtained.	There is a Forum for the exchange of information on BAT consisting of experts from the Ministry of Industry and Trade, the Ministry of the Environment, the Ministry of Agriculture the Czech Environmental Inspectorate, regions and the Agency. This forum sets up technical working parties. BREF documents are translated.	In legal practice conditions based on BAT has been confirmed to be the minimum standard of performance. Using BAT is not necessarily enough to obtain a permit. In practice BREF play an important role. Emission limit values should be issued on basis of an overall consideration.	The BREF-documents are of great importance to both operator and authority. It is not only BAT that is of importance; the environmental impact is of first priority.	There are national limit values for discharges that are based on BAT.
7. The permit	There is no general time limit for permits.	Permits are valid for maximum 20 years. (In Brussels 15 years)		The permit is not time limited.	Permits are issued either until further notice or for a fixed period. Most permits are valid until further notice, but conditions will be reviewed every 5 – 10 years	The permit is not time limited.	The permit is not time limited.
8 Localisation	The localisation is considered in a separate process for a building permit.	The localisation is a question of land use planning and building permits. Building permit requires a separate process. In Brussels both procedures can be coordinated.	In the Walloon region "permis unique", combined permits can be issued. Environmental and building legislations are then applied.	An IPPC-plant is subject to the following procedures: 1. SEA (EIA-act) 2. plan (building act) 3. EIA (EIA-act) 4. planning permission (building act) 5 IPPC-permit 6. building permit (building act) Building permit may only be granted once IPPC-permit was granted	The permit authority has little authority to consider alternative localisations, but the suitability of a localisation is assessed in the permit process. An application can be rejected for a project on the proposed site. The localisation of industrial plants is guided by municipal land use planning decisions. The procedures are interlinked.	The localisation is integrated among the factors that are to be considered in the EIS.	The localisation is taken into consideration as one of the conditions for the permit. The permit will not be issued in opposition to the legislation on land use planning or the directive on habitats.

Remark, Question 6:
All countries have a demand for BAT in their legislation.

	Austria	Be, Flem. r, BC r	Be, Walloon r.	Czech r.	Finland	France	Germany
9 The EIA-directive	The EIA-directive is implemented by a special act of legislation. If an EIA is necessary for an IPPC-plant, it is the EIA-authority that issues the permit and applies the IPPC-legislation.	The first steps of EIA are regulated in a separate legislation. When there is an EIS, checked by independent experts, it will be part of the application for the environmental and building permits and will follow the same process.	Every decision to grant a permit (environmental or building) is subject to environmental impact assessment. EIS can only be produced by consultants approved by the Government There is a kind of partnership between the applicant and the permit authority in order to complete the file in optimal conditions. The collaboration has proved to be successful The time to obtain a permit has been reduced from 3 years to 6 – 9 months..	The EIA-directive is implemented separately.	The EIA-directive is implemented separately. When an EIA is necessary, an environment permit may not be granted if an EIS has not been attached to the application. The EIA-procedure ends when the coordination authority gives its opinion concerning the EIS. The EIS and opinions will be attached to permit applications for the project. Environmental impacts caused by projects not falling under the duty to perform an EIA shall of course be evaluated too, but this is then a part of the ordinary permit-system.	The two directives are implemented in the same legislation. The process is the same.	The two directives are implemented in the same legislation. There is one process, and the operator gets one permit that covers both directives.
10 Changes in production	It depends on what negative effects the extension is supposed to have. Significant negative effects on human beings or the environment may require an amended application. No effects on humans but only at the environment would not require a permit process; just a notification which might lead to a review of the conditions.	A “modifying” permit is necessary. It deals only with the modification, not with the existing plant. In Brussels the operator have to inform the Environmental Agency and the agency decides if a permit is necessary or not and if the conditions have to be reviewed. The conditions of the existing plant can be reviewed.	The permit authority will take in account the whole establishment (both the old and the new). The real situation is assessed. An applicant can’t separate two different establishments because they would not be implanted on the same location or they are not owned by the same person. This can be subject for litigation between the permit authority and the applicant.	A notification is needed. The permit authority may review the conditions of the permit. If it will be a substantial change (probably such as in this case) the authority shall invite the operator to lodge an application for a change in the existing permit. Both old and new lines are then assessed.	A new permit is required in case of a material change of operations or emissions covered by the old permit. There is no explicit rule concerning the coverage of the permit. The starting point is that the permit shall cover the relevant activity as a whole. The totality of environmental impacts of the whole activity shall be taken into account. For minor changes, the authority shall not reassess the whole activity.	A new permit is required. In a case like this, the two lines would probably be assessed together.	If it concerns a quantitative change, only the new parts will be considered. If there is a qualitative change of production, the whole establishment would be considered.

	Austria	Be, Flem. r, BC r	Be, Walloon r.	Czech r.	Finland	France	Germany
11 Conditions and BAT	The permit authority shall base its considerations on BAT.	If the permit authority thinks that the measures proposed by the applicant are not BAT, the authority can impose the conditions that it finds correspond to BAT.		The permit authority is obliged by law to base its considerations on BAT.	Emission limit values shall be based on BAT.	The permit authority shall base its considerations on BAT.	The permit authority shall base its considerations on BAT.
12 General rules and BAT	- " -	There is a comprehensive set of general and sectorial conditions that are not necessarily in line with BAT: But these are only a starting point; the permitting authority is legally obliged to base conditions on BAT.		- " -	General rules are often based on EU directives. If they – because of technical progress – do not meet criteria of BAT the standards should in the first place be reviewed. The emission limit values must meet the requirements of BAT.	- " -	- " -
13 Existing plants	By the end October 2007 81 % of existing installations had been adapted to the IPPC-directive. The operator has to make sure that the requirements are met and have to report to authorities. Authorities can impose necessary conditions. If these are not met, it can result in shutdown of the plant.	The first periodical review has to be done before 30 October 2007. It is then up to the permitting authority to review and if necessary update conditions for existing plants. There is no explicit provision about the time that should be given the operators to fulfil the demands. Generally the authority has to act reasonable. A closing measure can be taken when the operator is not respecting the conditions after he was requested to do so (final notice).		Measures ensuring the enforcement of the IPPC-rules include fines, corrective actions, calling on the operator to apply for a change in permit within a set dead-line and decision on termination of the operation of installation or its parts.	All IPPC-plants had to apply for a new permit by the end of 2003 or 2004 depending on type of activity. If a permit cannot be granted even by using strict conditions and the permit would be disallowed, the activity may not be continued. In practice, earlier legislation was not so much less strict than the IPPC-directive, that the directive inflicted any radical pressure on existing plants. The closing of activities has therefore normally not been relevant. There is no fixed time in law for how long existing activities may be continued.	The supervision authority carries out a review of the conditions concerning existing IPPC-plants, and initiates a change of the conditions that doesn't meet the demands, especially when it concerns BAT. In most cases a delay is accepted to meet the demands, since it is a question of important investments..	The IPPC-directive has not changed the legal situation to any larger extent, since the earlier legislation was very much the same. It is the supervision authorities that are responsible to verify that the conditions meet the demands of the IPPC-directive. They make use of the voluntary application of EMAS (Environmental Management and Audit Scheme). The authorities can issue injunctions to make the operations meet the demands of the directive. They can also forbid the operation until it meets the demands.

	Austria	Be, Flem. r, BC r	Be, Walloon r.	Czech r.	Finland	France	Germany
14 Supervision and sanctions	The regional administrative authority is the competent authority not only to issue permits, but also to supervise IPPC-plants. No general time limit is specified in law concerning inspections. The authority may impose decrees that can result in closing down the plant.	The Environmental Inspection Division of the Department of Environment, Nature and Energy of the Flemish region is supervising IPPC-plants in the Flemish region. There is an IPPC task force developing guidelines and best practice for IPPC-inspections. An inspection runs over several days. Beside the specialised IPPC-inspections, around 2000 inspections on IPPC-plants take place every year. The supervisory authority can give - advices - warnings - final notices The plant can be closed down. In Brussels the Environmental Inspectorate of the Brussels Environmental Agency is supervising. They can issue warnings and injunctions, including closing down a plant. In the Walloon region the agents of the Police and Inspection Division of DGARNE, a regional administration are the main inspectors.	Inspections take place at least every three years. The supervision is a huge problem. All establishments cannot be supervised and all the companies doesn't cooperate. .	Supervision is carried out by four authorities: Ministry of Environment, Regions, Czech Environmental inspectorate and regional hygiene officers.	Regional Environmental Centres and Municipal Environmental Protection Agencies are supervisory authorities. Regional environmental authorities supervise operations and inspect facilities yearly if pollution is high, at longer intervals if it is not. E.g. the Uusimaa regional authority is responsible for 542 plants, 76 of which are IPPC-plants, and allocates 8,5 person years to supervision of these. - advices - rectification order (often with conditional fine)	The supervision is carried out by the Inspectorate of classified installations, which is a decentralised authority sorting under the Ministry of sustainable development. The operators control their discharges and report to the Inspectorate. There is an annual report on the emissions. The Inspectorate also makes inspection-visits. For IPPC-plants there is an inspection-visit at least every three years.	The supervision is carried out by the authority of the chief guardian. The installations are regularly controlled.

	Hungary	Italy	Netherlands	Norway	Poland	Sweden	United Kingdom
1. Number of IPPC-plants (approx.)	1 200	10 000**	3 500	380	3 100	1 000	-
2. How matters are brought to court	- permit decisions are appealed to court	- permit decisions are appealed to court	- permit decisions are appealed to court	- the legality of a permit can be reviewed by court	- courts are not involved in permitting process	- permits are issued by courts in first instance - permit decisions are appealed to courts	- permit decisions are appealed to court
3. Authorities that issue permits	- Regional authorities (inspectorates) issue permits, but there are specialised agricultural authorities. - all environmental impacts are assessed in the same process	- regional authorities and Ministry of the Environment issue permits - if there is an important global impact, the permit is issued by one single authority	- IPPC-permits are issued by regional or municipal (mostly agrarian plants) authorities. Permits to discharge pollutants to surface water are issued by water boards and the Ministry of traffic and water management. - all environmental impacts are assessed in the same process, except discharge of polluted substances to surface water which requires a separate permit; the two processes can be coordinated	- IPPC-permits are issued by a national authority - all environmental impacts are assessed in the same process	- IPPC-permits are issued by regional authorities (Regional Director of Environmental Protection, Marshal of the Voivodship and Staroste) - all environmental impacts are assessed in the same process	- IPPC-permits are issued by regional authorities and environmental courts - all environmental impacts are assessed in the same process	- IPPC-permits are issued by a national authority (the Environment Agency) and by local authorities

Remarks

Question 1:
* number of plants for which integrated permits are requested
** number of polluted sites

Question 2:
Many countries have answered that criminal offences (and administrative offences) concerning IPPC-plants can be brought to court.

	Hungary	Italy	Netherlands	Norway	Poland	Sweden	United Kingdom
4. Authorities and courts that hears appeals	- One single administrative authority (the National Inspectorate for Environment, Nature and Water) which is entitled to annul or change the permit. - the court is entitled to annul the decision	- regional administrative courts can hear appeals as second instance - the Council of State can hear appeals as third instance - the courts can annul the permits, not change them	- One single court (the Council of State) can hear appeals. (A change is planned so that building permits and IPPC-permits will be integrated and two instances of court will hear appeals) The court can annul the permits and – if both parties agree – change them.	- permits may be appealed to the Norwegian Ministry of Environment. - the ministry has full competence to change, amend or withdraw a permit - if the question of the legality of the permit is brought to court, the court can only annul it.	- administrative appeal in second instance (Self-Government Board of Appeals) - administrative courts in third instance - the court can reverse the decision in full or part or annul it	- regional environmental courts - the Environmental Court of Appeal - the courts have wide powers to change the permits	- the Secretary of State - judicial review by court
5. Who can appeal	- any person whose rights or interests are directly affected - NGO:s are entitled to attack any environmental decision, regardless of where they function. No significant procedural costs.	- public administrations - neighbours (direct interest to appeal) The administration evaluates from case to case. No obstacles for national NGO:s.	Only those who are directly interested in a decision can appeal. NGO:s can appeal depending on their statutory aim and actual activities. Administrative organs (e.g. municipal boards) can appeal. Fee for appeal is 150 € for a natural person or 297 € for others. A draft-permit is published. One is only entitled to appeal a decision if one has raised objections to the draft decision.	- any party that holds a legal interest may bring the question of legality to court. It follows from the doctrine that an organization may bring action on its own – independent of the rights of its members. The plaintiff may have to bear the procedural costs of the case – the court fee.	Everyone can participate and express comments in the permit process, but only parties can appeal. A party is everyone whose legal interest or duty is subject to the proceedings, or who requests an action from the authority because of his legal interest. NGO:s can appeal even if they have not participated in the proceedings.	- neighbours. - certain national, regional and municipal authorities - local employees associations For NGO:s the right to appeal is restricted to non-profit organisations whose purpose is environment protection. It shall have operated in Sweden for three years and have not less than 2000 members. There are no fees involved in appealing.	The right to appeal is limited to the operator. Challenge by third parties (individuals or a government) must be by Way of judicial review in the Administrative Division of the High Court. Normally, the looser pays the winners costs.

	Hungary	Italy	Netherlands	Norway	Poland	Sweden	United Kingdom
6. BAT and BREF	If there is no information on BAT in Hungarian language, the English one has to be applied.	The administrative authorities have competence to evaluate BAT and to choose what criteria to apply. The BREF-documents are explicitly mentioned in the legislation.	The BREF-documents are in fact decisive for the assessment of BAT. The operator would raise an appeal if stricter conditions than what corresponds to BREF were set. Other parties would appeal if conditions less strict than BREF were applied.	The legislation defines BAT and has a list of relevant issues that are to be taken into account. BREF-documents shall be used as an aid.	The BREF-documents are important, but only as reference documents. They can not be treated as limit values, especially since the IPPC-directive forbids to recommend specified technologies.	Best possible technology shall be used to the extent that it is not unreasonable. It is the operator that has to show that a certain technology is unreasonable. BREF-documents are one important factor, but the permit authority may deviate from that.	The national statutory guidance notes are based on the BREF-documents.
7. The permit	The permit has to be issued for a definite period of time, at least 5 years.	A permit is generally valid for 5 years.	The permit is normally not time limited. (Waste installations 10 years).	In general there is no time limit for permits.	The permit is issued for a defined period of time, yet no longer than 10 years.	The permit is normally not time limited.	Any conditions, including time limits, can be attached to a permit.
8. Localisation	There is a separate construction permit procedure.	The localisation is taken into consideration in the process for an integrated environmental permit.	The localisation is a matter of physical planning and follows a separate procedure. A building permit is required. Recently a new act is adopted that makes a not sufficient destination ground to refuse en environmental permit. According to new legislation the building and the environmental permit will be integrated in one document.(but there are still two separate decisions)	A localisation decision is decided in a separate process. An IPPC—permit will not be issued if the localisation has not yet been established.	A localisation decision is decided in a separate process.	The applicant must show that he has chosen the most suitable site for the project. An application can be rejected for a project because the localisation is not suitable, or not shown to be the most suitable. The localisation of industrial plants must not be in conflict with municipal land use planning decisions. The procedures are interlinked.	Localisation issues may form part of an IPPC determination, but the primary consideration of localisation issues will take place as part of the planning system.

Remark, Question 6:
All countries have a demand for BAT in their legislation.

	Hungary	Italy	Netherlands	Norway	Poland	Sweden	United Kingdom
9. The EIA-directive	The two directives are implemented in the same legislation. There are separate rules for each procedure, but there is a possibility to take a single, consolidated, procedure when the project falls into the scope of both directives.	There are two separate legislations and there is a need to coordinate them. Now there is one procedure for the evaluation of the impact on the environment and one procedure for the IPPC-permit.	The two directives are implemented in the same legislation. Granting a permit for an IPPC-plant for which an EIA is needed can take place in one single procedure.	The EIA-directive is implemented by the Act on Planning and Building. A summary of the EIS is includes in the application for IPPC-permit.	There are two separate procedures for the EIA- and the IPPC directive. For a project for which an EIA is needed, there is a separate decision with conditions. A copy of this decision is attached to the application for IPPC-permit. The demands of public participation in both directives are fulfilled in the process of issuing an IPPC-permit.	The two directives are implemented in the same legislation. Only one process is needed to fulfil both directives.	There are two separate procedures. However the EIS produced in the EIA-procedure can be used in the IPPC-process.
10. Changes in production	The whole production must be examined for a new permit.	A notification is needed. The permit authority may review the conditions of the permit or decide that a new application for permit is needed.	The permit authority would grant a permit for the new line. Only if for a certain plant there are such a number of licenses that the system is unclear, the authority may require a new overall permit to replace the others.	In general, the permit authority will issue a new permit where both the new and the old line will be taken in consideration.	A notification is needed for the authority to issue a permit for the proposed changes. The decision about the change of the permit will include the whole production (old and new line).	A change will often require a new permit for the whole production (new and old line). If a permit concerning only the change (the new line) is accepted, relevant conditions for the permit for the old line can be reviewed.	This would be dealt with by an application of the operator or a variation of the existing licence. The regulator may vary permit conditions at any time.

	Hungary	Italy	Netherlands	Norway	Poland	Sweden	United kingdom
11. Conditions and BAT	Conditions have to be set according to BAT	No permit can be issued if the operator doesn't apply BAT.	The authority is not entitled to prescribe conditions based on BAT if the application contains less strict measures. The application should in that case be refused.	The permit authority shall base its considerations on BAT.	-	The permit authority can decide on conditions it considers BAT even if the application only describes less strict measures.	Emission limit values are set by reference to both BAT and local conditions.
12. General rules and BAT	The national general binding rules are the minimum BAT requirements.	National sectorial standards for acceptable limits should not be exceeded.	A permit authority is not always aware of the fact that applicable general rules do not match BAT. If it is, it should set aside these rules.	There are probably no such rules in Norway.	-	There are not many general rules on emission standards in Sweden. The ones that exist are based on EU directives. They are normally minimum requirements and do not prevent the authorities from prescribing stricter measures based on BAT.	They must match another!
13. Existing plants	The Hungarian IPPC-plants had to conform to BAT-rules by 30 October 2007. Exceptions were made for waste disposal premises that had to comply by 15 July 2009 (when 100 premises were closed down) and live-stock premises that could request special financial support. In these cases standards were to be implemented not later than 31 October 2010. Plants that did not meet the requirements have been closed. Existing plants have had to make a schedule to meet the BAT-demands.	A delay has been accepted for existing plants to meet the demands of the IPPC-directive. The demands for permit for existing plants have to be presented by 31 January 2008 and the authorities should give directions before 31 mars 2008. If the directions are not followed, or if a permit is missing, the authority can give injunctions, including suspension of the operation.	A number of big industrial plants (Dow Chemicals, some oil refineries) do not meet the requirements of BAT. Adoption will take place in the future when the plants are closed for maintenance and renewal. Authorities tend to accept an adoption to BAT over five to six years. To operator is responsible in the first place. The supervisory authority can take action. In theory a plant can be closed for not meeting BAT.	The requirements lie with the operator. The SFT may impose a pollution fine.	-	The operator should, in the environmental report submitted in 2005, specify how it should, by 30 October 2007, meet the requirements of the legislation. The report should also show to what extent changes in permit or conditions were needed to ensure compliance. It is the supervisory authority that must ensure that existing plants meet the demands. It is legally possible to revoke a permit when necessary to fulfil Sweden's obligations as an EU member state. In practice the supervisory authority would rather take other measures to ensure compliance.	All pre-existing Waste management licences and PPC permits were automatically transferred into environmental permits on 6 April 2008. Any other operator of a new regulated facility is required to obtain an environmental permit before it can commence operations.

	Hungary	Italy	Netherlands	Norway	Poland	Sweden	United kingdom
14. Supervision and sanctions	The regional inspectorates supervise IPPC-plants on basis of an inspection plan. An inspection (site visit) has to be carried out every year. The inspectorate may issue warnings, injunctions and sanctions.	There are many possibilities for supervision. It can be carried out by - the permit authority The agencies for environment protection that exists in twenty regions - the ministry of environment - the municipalities - The different police forces. A permit should not only contain conditions concerning emissions, but also conditions concerning self-control. According to law, a monitoring program is needed and information is to be exchanged.	The permit authority is also responsible for enforcement. In some municipalities every plant is inspected every two or five years; other authorities react mainly on complaints and do not have a regularly inspection scheme.	The STF (which is also the permit authority) is responsible for supervision. For IPPC-plants that are considered to represent a high risk inspections will be carried out annually. STF may impoise a pollution fine or press criminal charges.	-	The 21 regional authorities – the county administrations – are primarily responsible for supervising IPPC-plants. Upon application, a municipality may take over the responsibilities of the county administration. Supervision by the authorities is a complement to self-control by the operator. The extent of the self-control is set out in a monitoring program that should be approved by the authority.	The supervisory authorities are the Environment Agency and local authorities.

	Austria	Belgium		Czech Republic	Finland	France	Germany
		The Flemish Region	The Walloon Region				
1. Permit authority?	The regional administrative authority	The provincial government	The municipality	The Region, or if it may significantly affect the state; the Ministry of Environment.	The Regional Environmental Centre	The head of the department (representing the state)	A regional authority; the lower administration of the Land
2. Will an EIS be included?	No (The tannery is not big enough for an EIA-process)	Yes	Yes	No (that has to be filed separately)	It is not on the mandatory list, but might be requested.	Yes	Yes
3. Will the localisation be tried?	Generally the proceedings will be coordinated.	A building permit is necessary. The environmental permit process will check conformity with land use planning	Yes, in certain cases. (see part 1, question 8)	A planning permission is required separately. Localisation will be considered in the environmental permit process.	A building permit is necessary, which can not be granted in conflict with land use plan. In a strict sense, localisation is not included in the environmental permit process.	Localisation will be considered in the environmental permit process.	Localisation will be considered in the environmental permit process.
4. Procedural costs for operator?	Depending on for example the state, the number of sheets of paper of the application, the duration of official act and number of officials involved	A regional tax of 247, 89 €. In some provinces an additional provincial tax.	Costs asked by the Walloon region are on a scale from 0 to 500 €	30 000 CZK (approx. 1 200 €)	The list price for a tannery permit is 8 610 €. The actual fee will depend on the amount of authority work involved.	A tax depending on the legal structure of the applicant; between 502 and 2 525 €.	-

	Austria	Be, Flemish r.	Be, Walloon r.	Czech r	Finland	France	Germany
5. Other authority's opinions?	Yes. Experts of all areas affected and the local government of the municipality.	- the municipality - the Provincial Environmental Permitting Commission	Yes. All sectors of administration concerned must cooperate.	Yes.	- municipal authorities - regional fisheries authorities	- local authorities - the health protection board of the department	Yes, authorities on different levels that are affected by the project.
6. Public participation?	The permit authority has to announce the application in two major regional newspapers and on the website of the authority. Within six weeks everyone can comment on the application.	A 30 days public inquiry. A notice on the site and on official notice boards. Individual notices to neighbours within 100 meters. Notices in two newspapers and on website of the municipality. An information meeting. Everyone can send written objections or comments to the municipality. All comments received during the inquiry are sent to the Permitting Commission.	For EIA-projects, the author must organize a meeting. For IPPC-plants, the permitting authority must organize a public enquiry and the advertising toward the public.	The permit authority publishes a brief summary of the application and informs on when and where it is available for consultation on an official notice board and at the portal of the public administration. The information is available for 30 days. Within that period of time anyone may send his/hers opinion on the application. An oral hearing may be ordered by the authority. (Obligation if any of the parties requests so.)	The permit authority is required to inform concerned parties and the public about the application. The statements are usually made in writing, either by post or e-mail. The permit authority may also have a public hearing.	A notice at the municipality and in the neighbourhood of the site for the planned project. There is a 30 days public inquiry that allows those who are concerned to express their opinion on the project. A public hearing may be organized.	The authority gives the concerned public information on the project and gives them opportunity to express their opinion.
7. Types of conditions?	See separate schedule						

	Austria	Be, Flemish r.	Be, Walloon r.	Czech r	Finland	France	Germany
8. Maximum of Cr?	Maximum discharge levels for chromium from tanneries are regulated in effluent emission order. The level of discharge from the new tannery will be decided on basis of the effluent emission order and on the and on basis of specialist official experts to be consulted in the permit procedure.	The sectorial limit value for tanneries (VLAREM II) is 1,5 mg Cr/l. A stricter limit can be imposed.	The maximum level will take into account - BAT - The capacity of the receptive milieu.	Limits of emissions into waters are legally regulated.	The BREF document states that after biological treatment the chromium content is less than 1 mg/l The older HELCOM recommendations stated that emissions should not exceed 0,075 kg Cr/ tonne of raw hide as an annual mean , or 1,5 kg/l as a daily mean. The Cr emission limit would probably be between 0,5 and 1,0 mg/l.	The limits would be set according to sectorial regulations. These should in their turn be based on BREF-documents. Stricter limits can be set, depending on a case by case basis, depending on the sensibility of the receiving water.	Water discharges from tanneries should not contain more than 1 mg/l Cr.
9. Who can appeal and to whom?	- the applicant - neighbours - registered NGO:s - the provincial governor Appeal to the independent administrative tribunal of the province (UVS). Against the decision of the UVS a petition to the Supreme Administrative Court may be filed by the applicant, neighbours and – concerning water management interests- also the provincial governor.	- The operator - The governor of the province - The administrations and agencies that has given opinions - each natural or legal person that can directly experience nuisance - environmental NGO:s - the municipality Can appeal to The Flemish Environment minister	Any concerned person can appeal. Appeal to Government of the Walloon Region of Belgium.	Participants to the procedure may appeal. Appeal to the Ministry of Environment.	Parties, certain NGO:s and authorities have the right to appeal. Appeals to the Vaasa Administrative Court.	Natural or legal persons that can experience nuisance can appeal. Appeal to administrative court	Natural or legal persons that whose rights can be offended can appeal.

	Hungary	Italy	Netherlands	Norway	Poland	Sweden	United Kingdom
1. Permit authority?	The regional inspectorate	The region	The municipal board	The national environmental authority (SFT)	The Staroste (a regional authority)	The county administration board (a regional authority)	The Environment Agency
2. Will an EIS be included?	Depends on the decision of the regional authority	Yes	If it produces a discharge of 1000 or more inhabitant-equivalents - yes	Not necessarily	Yes	Yes	An EIS will form a part of the mandatory planning application.
3. Will the localisation be tried?	The localisation is primary considered in a land use plan. A construction permit is required separately. It can't be issued if not an IPPC-permit is issued first.	Localisation will be considered in the environmental permit process.	No. The localisation is decided in the municipal destination plan. The localisation is not a question for the IPPC-directive. A building permit is required after the IPPC-permit.	No	No. The localisation is not a question for the IPPC-directive.	Yes, the localisation will be tried in the IPPC-permit process.	Localisation may be considered in the environmental permit process, bur mainly in the planning process.
4. Procedural costs?	Preliminary examination: 250 000 HUF (approx. 950 €) Single IPPC-procedure: 2,1 million HUF (approx 8 500 €) Consolidated EIA/IPPC-process: : 2,8 million HUF (approx 9 800 €)	-	No fee for IPPC-permit, but for building permit.	No	In this case: 1 500 €.	No specific charge for the permit. Annual charge for tannery permit, permit reviews and supervision is 74 000 SEK (approx. 7 000 €)	There are prescribed fees.

	Hungary	Italy	Netherlands	Norway	Poland	Sweden	United Kingdom
5. Other authorities' opinions?	Yes. Authorities specified in law.	The region organises a conference and invitates authorities specified in law.	The permit authorities are reluctant in asking for advices from other authorities. Often the fire brigade is consulted. The inspectorate of the ministry for the environment has legal competence to advice on every application, but it seldom does. A municipal board has also legal opportunity to advice.	No, not if the competence lies fully within the relevant authority´s area.	Consultation of other authorities may be helpful, but it isn't formalised. It is possible to address other departments of the competent authority.	Yes. In this case there is a legal obligation to hear other government and municipal authorities which have a substantial interest in the matter. (Such as the supervision authority, the Environmental Protection Agency and the municipalities concerned,)	There may be consultations with the relevant local authority.
6. Public participation?	Clients, including NGO:s can take part in all phases of the permit procedure. They can file remarks, ask for giving evidence and express juridical opinion. The authority has to announce the opening of the procedure.	Both EIA and IPPC-processes are open to the public already from start by advertisements in local papers. The public and the organisations can express their opinion in writing and participate in hearings that might be organized.	According to the procedure stated in law, a draft-permit shall be published. An announcement is made in the local press. Everybody has the right to express their opinion within six weeks. When anybody asks for a public hearing about the draft-permit, it will be hold.	The permit authority shall make a notification to the public through channels suitable for drawing the attention of the public to the case. The public shall be given opportunity to submit an opinion within normally not shorter time than four weeks.	The permit authority announces information in the residence of the authority, in the press and on web-site of the authority (if there is one). The public can express opinion in writing, orally or by e-mail. The administrative authority may decide on an open session. At this stage the parties should be identified. Procedural mistakes may be reason for reversal of the decision.	The operator shall consult with the authorities and the public before the EIS is prepared. The permit authority publishes notices in local papers or uses other means to give persons that might be affected of the project opportunity to comment. People can express their opinion by post or e-mail. The permit authority shall hold a public meeting with the applicant, authorities and persons affected by the matter and arrange an on-site inspection if this is necessary for the investigation.	There are extensive provisions for public participation. Any methods can be used.
7. Types of conditions?	See separate schedule						

	Hungary	Italy	Netherlands	Norway	Poland	Sweden	United Kingdom
8. Maximum of Cr?	The maximum amount of chromium content cannot exceed 1 mg/l in case of tanning and 0,05 mg/l in case of fur dying, steeping and bleaching.	The permit authority can decide on stricter values for the discharge than the general sectorial regulations.	The limit will depend on the application. When the application meets emission standards, there will be no problem in granting the permit. If not, the permit will be refused. The quality of the receiving water will be taken into account (the framework water directive).	The limit will be based on what is considered to be BAT. BREF-document might be of help.	A permit can not be issued if the water quality standard will be exceeded. Discharge of chromium is prohibited and the level of discharge of Cr can't be defined in the permit.	There are no general rules on that matter. The condition would be set after a cost-benefit balancing. The best technology should be used, as long as it is not unreasonable.	A limit would be set, based on BAT.
9. Who can appeal and to whom?	Anybody having the status of client (whose rights are affected) can appeal. NGO:s have a special status. Appeal to the National Inspectorate for Environment, Nature and Water	- the operator - persons and organisations Appeal to court	Only those who have a direct interest may appeal. Appeal to the Department of Jurisdiction of the Council of State.	The decision can be appealed to the Ministry of the Environment.	Parties of the administrative proceedings (everyone whose legal interests are affected). NGO:s.; even if they haven't taken part in the proceedings in first instance. Appeal to the Self-Government Board of Appeals.	- anyone concerned by the permit - local employees associations - specified national, regional and local authorities NGO:s	-

7. The permitting authority will issue the permit on certain conditions. Mark with an X the in the table what kind of conditions that might be laid down. And please make good use of the "remark"-column, with for instance examples of conditions!

Remarks:

Austria	In the application the applicant has to describe the planned installation including the tanning technology and the cleaning technology that is supposed to be used. In granting the permit authorities must not alter these characteristics of the installation. If the installation does not meet the permit requirements unless essential characteristics will be changed, the applicant will have to submit a revised application. Conditions concerning transport could only be laid down insofar as traffic on the site of the tannery is concerned and those conditions would mainly concern noise or dust. Transport to and from the plant on public roads, is not subject to the permit procedure and no conditions could be imposed. If the tannery requires an EIA conditions concerning transport to and from the plant could be laid down. (A very recent judgment of the Supreme Court of Administration rules however that even in the EIA procedure the negative effects of transports to and from a plant is no relevant effect to be considered in the screening decision.) The setting of conditions may not be postponed. The authority may however approve, that certain conditions do not have be met immediately when the installation is put into operation but at a definite date later, according to the time necessary for the implementation of the conditions. This is however only possible, if no objections in view of health risks arise.
Belgium; the Flemish Region	(see appendix in Belgian answer for VLAREM II)
Czech Republic	In principle, any of the conditions below may be applied in the binding conditions by the authority. However, this would be done on a case-to-case basis, and would depend on the localisation of the installation, type of installation etc. It is rather difficult to describe those conditions in the abstract.

France

Les arrêtés préfectoraux d'autorisation rassemblent toutes les prescriptions, dont les valeurs limites d'émission, que l'exploitant doit respecter. Elles sont issues des arrêtés sectoriels, elles sont complétées ou remplacées par des prescriptions spécifiques à la nature du rejet et à la sensibilité du milieu récepteur.

De façon générale, les arrêtés sectoriels rassemblent les prescriptions relatives :
- à la prévention des accidents et des pollutions accidentelles,
- aux prélèvements et consommation d'eau,
- au traitement des effluents,
- aux valeurs limites d'émissions pour l'air, l'eau, le sol, le bruit, les vibrations,
- à la gestion des déchets,
- aux conditions de rejet,
- à la surveillance des émissions,
- à la surveillance des effets sur l'environnement,
- à l'utilisation efficace de l'énergie,
- à la prévention des accidents et l'atténuation de leurs conséquences,
- à la restauration des sites après la cessation définitive des activités.

L'étude d'impact fait partie du dossier de demande d'autorisation qui est soumis à enquête publique. En fonction des commentaires du commissaire enquêteur, de l'avis émis par les collectivités territoriales consultées, de l'avis des services administratifs, du rapport de l'inspection des installations classées, et enfin de l'avis du Conseil Départemental de l'Environnement, des Risques Sanitaires et Technologiques, le préfet prend la décision d'autoriser ou non l'exploitation de l'installation. L'autorisation contient des prescriptions sur les points listées ci-dessous.

- Valeurs limites d'émission dans l'air et dans l'eau :
Les valeurs limites d'émission font partie des prescriptions techniques prévues par les arrêtés sectoriels définissant les conditions d'autorisation d'exploiter. Ces valeurs limites d'émission portent sur les émissions de polluants dans l'eau, l'air, les sols et sur les bruits et vibrations.
Les valeurs définies dans les arrêtés sectoriels peuvent être rendues plus contraignantes, au cas par cas, en fonction des caractéristiques du rejet et de la sensibilité du milieu récepteur.
Les valeurs limites d'émissions sont fixées dans l'arrêté d'autorisation sur la base de l'emploi des meilleures techniques disponibles à un coût économique acceptable, et des caractéristiques particulières de l'environnement (cf. arrêté du 2 février 1998 relatif aux prélèvements et à la consommation d'eau ainsi qu'aux émissions de toute nature des installations classées pour la protection de l'environnement soumises à autorisation – chapitre V – section 1 – article 21 I.).

- Minimisation de la pollution à longue distance ou transfrontière :
Cette exigence est prévue par l'article R 512-28 du code de l'environnement qui prévoit que l'arrêté d'autorisation doit, s'il y a lieu, fixer des prescriptions de nature à réduire ou à prévenir les pollutions à longue distance ainsi que les pollutions transfrontières.
- Protection du sol et des eaux souterraines :
Les prescriptions portent aussi sur les rejets dans le sol et les eaux souterraines. Par ailleurs les articles R. 512-74 et suivants du code de l'environnement précise les dispositions à prendre en compte au moment de l'arrêt définitif d'exploitation.
- Gestion des déchets :
L'article L. 541-1 applicable aux installations classées, du code de l'environnement a pour objet
« 1° de prévenir ou réduire la production et la nocivité des déchets, notamment en agissant sur la fabrication et sur la distribution des produits,
2° d'organiser le transport des déchets et de le limiter en distance et en volume,
3° de valoriser les déchets par réemploi, recyclage ou toute autre action visant à obtenir à partir des déchets des matériaux réutilisables ou de l'énergie,
4° d'assurer l'information du public sur les effets pour l'environnement et la santé publique des opérations de production et d'élimination des déchets, sous réserve des règles de confidentialité prévues par la loi, ainsi que sur les mesures destinées à en prévenir ou à en compenser les effets préjudiciables ».
- Utilisation efficace de l'énergie :
La prise en compte de l'utilisation rationnelle de l'énergie est prévue par l'article R. 512-28 du code de l'environnement qui précise que l'arrêté d'autorisation fixe les prescriptions nécessaires à la protection des intérêts mentionnés à l'article L. 220-1 de ce code imposant notamment une utilisation rationnelle de l'énergie
En outre, l'article R. 512-8 dispose que l'étude d'impact comporte « les mesures envisagées par le demandeur pour supprimer, limiter et si possible compenser les inconvénients de l'installation ainsi que l'estimation des dépenses correspondantes. Ces mesures font l'objet de descriptifs précisant les dispositions d'aménagement et d'exploitation prévues et leurs caractéristiques détaillées. Ces documents indiquent les performances attendues, notamment en ce qui concerne la protection des eaux souterraines, l'épuration et l'évacuation des eaux résiduelles et des émanations gazeuses, ainsi que leur surveillance, l'élimination des déchets et résidus de l'exploitation, les conditions d'apport à l'installation des matières destinées à y être traitées, du transport des produits fabriqués et de l'utilisation rationnelle de l'énergie. »
- Exigences en matière de surveillance des rejets :
En application de l'article R. 512-35, l'arrêté d'autorisation fixe les moyens d'analyses et de mesures nécessaires au contrôle de l'installation et à la surveillance de ses effets sur l'environnement. L'arrêté d'autorisation fixe la nature et la fréquence des mesures définissant le programme de surveillance des émissions -cf. article 58 I. de l'arrêté du 2 février 1998. De plus les articles 59 et 60 de cet arrêté précisent pour la plupart des polluants de l'air et de l'eau, la nature et la fréquence minimale à imposer selon les flux autorisés.

- Prévention des accidents :
L’article L 512-1 du code de l’environnement impose au demandeur d’une autorisation d’exploitation d’une installation classée soumise à autorisation de fournir une étude de danger qui précise les risques auxquels l’installation peut exposer, directement ou indirectement l’environnement en cas d’accident, que la cause soit interne ou externe à l’installation.
Cette étude de dangers démontre que le projet permet d'atteindre, dans des conditions économiquement acceptables, un niveau de risque aussi bas que possible, compte tenu de l'état des connaissances et des pratiques et de la vulnérabilité de l'environnement de l'installation. L’étude de dangers comporte également un résumé non technique explicitant la probabilité, la cinétique et les zones d'effets des accidents potentiels, ainsi qu'une cartographie des zones de risques significatifs.
De plus, l’article R. 515-51 précise que « Le rapport prévu à l'article L. 515-26 du code de l'environnement estime la probabilité d'occurrence et le coût des dommages matériels potentiels aux tiers, pour chacun des accidents identifiés dans l'étude de dangers comme pouvant présenter des effets graves sur les biens situés à l'extérieur de l'établissement. Cette estimation tient compte des mesures propres à réduire la probabilité et les effets de ces accidents. Le cas échéant et dans la limite des données disponibles, le rapport distingue les biens des particuliers, les biens professionnels privés, les biens des collectivités territoriales, de l'Etat et des établissements publics. »
- Mesures relatives aux conditions anormales d'exploitation.
L’article R. 512-69 stipule qu’« un rapport d’accident ou, sur demande de l’inspection des installations classées, un rapport d’incident est transmis par l’exploitant à l’inspection des installations classées. Il précise notamment les circonstances et les causes de l’accident ou de l’incident, les effets sur les personnes et l’environnement, les mesures prises ou envisagées pour éviter un accident ou un incident similaire et pour en pallier les effets à moyen ou à long terme ».
- Restauration du site après l'arrêt définitif des activités:
L’article R. 512-8 du code de l’environnement impose au demandeur de fournir dans son étude d’impact les conditions de remise en état du site après exploitation.
En outre, l’article R. 512-74 impose à l’exploitant d’assurer, dès l'arrêt de l'installation, la mise en sécurité du site de l'installation. En outre, il doit placer le site dans un état tel qu'il ne puisse porter atteinte aux intérêts mentionnés à l'article L. 511-1 du code de l’environnement et qu'il en permette un usage futur.

Sweden

It should be noted, by way of introduction, that it is standard Swedish practice in permit matters for a decision to normally be introduced by so-called “general conditions” with the following or similar wording: ”Unless otherwise stated in this judgment/this decision the activity shall be principally operated in accordance with what the company has undertaken or stated in the case/matter”. A clause like this has the purpose of ensuring that the operator adheres to the framework for the activity that was a condition for the examination and granting of the permit.

United Kingdom	The Environmental Permitting Regulations require the regulator to exercise it's relevant functions (including the decision on whether or not to grant a permit and if so, subject to what conditions), so as to ensure compliance with the objectives and requirements of the IPPC Directive, for example that emission limit values must be set, based on BAT.

For further remarks on specific kinds of conditions; see the answers from each country!

Kind of condition	Austria	The Flemish Region of Belgium	The Walloon Region of Belgium	Finland	France	Germany	Hungary	Italy	Nether-lands	Norway	Poland	Sweden
conditions concerning the tanning technology itself (clean production)	no	yes	-	yes	yes	-	yes	yes	yes	no	yes	yes
conditions concerning the cleaning technology (end of pipe solutions)	no	yes	yes	yes	yes	yes	yes	yes	yes	no	yes	yes
limit values for water pollutants	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes
limit values for air pollutants	yes	yes	yes	yes	-	yes	yes	yes	yes	yes	yes	yes
conditions concerning solid wastes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes
limit values for noise	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes
limit values for energy consumption	yes	no	no	yes	-	yes	yes	yes	no	yes	yes	yes
conditions concerning transports to and from the plant	no	yes	yes	yes	no	yes	yes	yes	yes	yes	-	yes
conditions about what chemicals that are not to be used in the production	yes	yes	no	yes	-	yes	yes	yes	no	yes	yes	yes
conditions concerning the control of discharges	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes

Other questions	Austria	The Flemish Region of Belgium	The Walloon Region of Belgium	Czech republic	Finland	France	Germany	Hungary	Italy	Nether-lands	Norway	Poland	Sweden
can the setting of conditions be postponed in the permit?	no	yes	yes	no	no	no	no	yes	yes	yes	yes	yes	yes
can stricter conditions than what is stated in the BREF-document be set?	yes	yes	yes	yes	yes	yes	yes	yes	yes	(no)	yes	yes	yes

Questionnaire on the IPPC-directive for the annual conference in Stockholm 2009 – answers sorted by questions

General remarks

Belgium

In Belgium, the main responsibility for environmental policy and legislation, lies with the three regions (the Flemish, Walloon and Brussels Capital Regions). This means not only that the implementation of the IPPC- Directive is an exclusive competence of the regions (without involvement of the Federal State), but also that this legislation differs across the three regions, although European environmental legislation ensures a degree of harmonization.

In the Flemish Region the IPPC Directive is meanly implemented through the Decree (Act of the Regional Parliament) of 28 June 1985 on Environmental Licences (as amended), supplemented by a series of executive orders (regulations from the regional government to implement the Decree), that regulates in detail the licensing procedure and environmental conditions for environmentally harmful establishments (the so-called VLAREM I and VLAREM II Executive Orders).

In the Walloon Region the IPPC Directive is implemented trough the Decree of 11 March 1999 on Environmental Licences (as amended) and it's implementing orders.

In the Brussels Capital Region environmental licences are covered by the Ordinance of 5 June 1997 on Environmental Licences (as amended) and it's implementing orders. An Ordinance is an Act of the Brussels Regional Parliament and thus similar to the Decrees in both other regions.

France

Quelques illustrations de jurisprudence récente :

I- Compatibilité de la législation nationale avec la directive communautaire :

CJCE 22 janvier 2009 Association nationale pour la protection des eaux et rivières TOS et association OABA n° C 473/07 :

La CJCE s'est prononcée sur la légalité du décret n° 2005 989 du 10 août 2005 modifiant la nomenclature des installations classées au regard de la directive IPPC 96/61/CE du 24/09/1996, dans une procédure pour excès de pouvoir initiée par des associations de protection de l'environnement.

Il ressort de l'application conjointe des articles 1 et 4 ainsi que du point 6.6 lettre a) de l'annexe I de la directive 96/61/CE que les nouvelles installations relatives à l'élevage intensif de volailles disposant de plus de 40.000 emplacements, sont soumises à un régime d'autorisation préalable.

Le décret attaqué prévoyait, dans la rubrique 2111 de la nomenclature des installations classées un seuil de 30.000 animaux-équivalents au-delà duquel les élevages de volailles et de gibiers à plumes ne peuvent être exploités sans

bénéficier au préalable d'une autorisation pour ce faire. Le décret instituait donc une méthode de calcul des seuils, appelée « système d'animaux-équivalents », qui pondère le nombre d'animaux en fonction des espèces et de leur production d'azote (dans le cas litigieux selon que l'installation concernait des cailles , des perdrix ou des pigeons. Il résultait de l'application de ces coefficients qu'un élevage de 40.0000 cailles, perdrix ou pigeons n'atteindrait pas ce seuil de 30.000 animaux-équivalents et pourrait être exploité sous le régime de la déclaration.

Les associations soutenaient que le décret méconnaissait le point 6.6 sous a) de la directive IPPC telle que modifiée par le règlement n° 1882/2003 du Parlement européen et du Conseil du 29/09/2003 selon lequel les installations destinées à l'élevage intensif de volailles disposant de plus de 40.000 emplacements sont soumises à un régime d'autorisation préalable.

La CJCE précise la notion de « volailles » : elle englobe bien les cailles, perdrix et pigeons, dès lors que le gouvernement français n'a pas apporté d'élément scientifique démontrant l'impossibilité d'élever ces animaux de manière intensive. La cour de justice communautaire s'est référée au sens habituel de cette notion , laquelle désigne l'ensemble des oiseaux élevés pour la consommation de leurs oeufs ou de leur chair, soulignant que la conclusion était la même si on se référait à l'économie générale et à la finalité de la directive.

La CJCE a également été amenée à apprécier la validité du mode de calcul des seuils d'autorisation fondé sur le système « d'animaux-équivalents ». Si elle admet que la directive n'exclut pas le recours à un tel système, elle y met une condition, à savoir que l'objectif de la directive soit sauvegardé et que cette méthode de calcul n'ait pas pour effet de soustraire au régime institué par la directive un certain nombre d'installations. Elle a considéré que cette condition n'était pas remplie par le décret français qui comprenait une pondération entre les différentes espèces d'oiseaux en fonction de leur production d'azote dès lors que le gouvernement français, qui entendait se prévaloir d'un tel système de calcul, ne démontrait pas,scientifiquement, comme il en avait la charge, la pertinence de ce mode de calcul des seuils de pollution.

II- Autorisation d'exploiter et permis de construire
C.E 31 mars 2008 société normande de nettoiement n° 285690 : la justification de la demande de permis de construire est appréciée à la date à laquelle l'autorité administrative se prononce sur la demande d'autorisation de l'installation classée :

La société exploitante formait un recours contre un arrêt annulant l'arrêté préfectoral autorisant l'exploitation d'un centre de stockage de déchets, de compostage de déchets verts et de tri de déchets ménagers et d'un dépôt de liquides inflammables.

Si la société avait initialement justifié du dépôt d'une demande de permis de construire à l'appui de sa demande d'autorisation, cette demande, classée sans suite en raison de son caractère incomplet , n'existait plus à la date de la décision attaquée. La cour d'appel a pu déduire que les dispositions de l'article 2 du décret du 21 septembre 1977, qui ont pour objet d'assurer la coordination

des procédures d'instruction du permis de construire et de l'autorisation d'exploiter l'installation classée , n'avaient pas été respectées.

La circonstance que la société ait déposé une nouvelle demande de permis de construire postérieurement à la décision attaquée est sans incidence sur le sort du litige dès lors que la justification de la demande de permis de construire ne peut être appréciée , au plus tard, qu'à la date à laquelle l'autorité administrative se prononce sur la demande d'autorisation de l'installation.

- TA Amiens 31 mars 2009 Communauté de communes du pays des sources et autres n° 0500299-0500306-0500319_08033397 :

A l'occasion d'un recours contre un arrêté préfectoral accordant un permis de construire un centre de stockage et de traitement de déchets, le tribunal administratif d'Amiens a jugé qu'il ne peut naître de permis de construire modificatif tacite lorsque la demande concerne un projet qui a fait l'objet d'une enquête publique en application des articles R. 123-7 à R. 123-23 du code de l'environnement relatif aux installations classées , alors même qu'un récépissé de l'administration indiquait le contraire.

En effet l'article R.424-2 du code de l'urbanisme prévoyant que « par exception au b de l'article R.424-1 , le défaut de notification d'une décision expresse dans le délai d'instruction vaut décision implicite de rejet dans les cas suivants :…. d) lorsque le projet est soumis à enquête publique en application des articles R.123-7 à R.123-23 du code de l'environnement », il s'applique même si l'administration a par erreur notifié au pétitionnaire que, sans réponse de sa part à l'issue du délai d'instruction qu'elle a notifié, naîtrait un permis de construire tacite.

III Etude d'impact :

- CAA Marseille 4 septembre 2008 n° 07MA01524 et 07MA03153 Sté Ocréal :
Comporte des insuffisances substantielles l'étude d'impact relative au projet d'implantation d'une unité d'incinération et de valorisation des déchets ménagers qui n'analyse pas avec précision les conséquences du projet sur les cultures viticoles et maraîchères et sur la qualité des eaux.
Le contrôle du juge sur le contenu de l'étude d'impact est sévère: annulation d'une autorisation d'extension d'une porcherie industrielle en l'absence de précisions suffisantes sur les conséquences pour l'environnement de l'épandage de phosphore et sur les mesures envisagées pour réduire les conséquences d'un tel épandage sur la qualité des eaux ; caractère insuffisant de l'étude d'impact annexée au dossier de demande d'autorisation de mise en service d'une usine de transformation de légumes en conserves et surgelés en raison de l'absence de description des effets de ce traitement du point de vue des odeurs produites alors que ce risque de nuisances, eu égard à l'importance et à la teneur des effluents liquides stockés et malgré l'absence d'agglomération aux alentours, ne pouvait être tenu pour négligeable; insuffisance de l'étude d'impact jointe à la demande d'autorisation d'exploitation d'une porcherie industrielle dès lors qu'aucune étude relative aux nuisances engendrées par l'installation projetée sur la qualité des eaux souterraines et sur les cours d'eau voisins n'avait été effectuée.

Les tribunaux attachent également une importance essentielle à ce que l'étude prenne bien en compte la relation entre l'importance de l'installation projetée et ses incidences prévisibles sur l'environnement

une insuffisance substantielle de l'étude d'impact entache d'irrégularité la procédure d'autorisation si elle conduit l'administration à sous-estimer l'importance des conséquences du projet sur l'environnement et elle conduit à l'annulation de la décision préfectorale portant autorisation d'exploitation.

CAA Lyon 3 mars 2009 n° 06LY02413 :

Dès lors que l'installation projetée présentait une proximité géographique ainsi qu'une connexité fonctionnelle avec une autre exploitation déjà autorisée et exploitée par la même société, l'étude d'impact contenue dans le dossier de demande d'autorisation aurait dû faire état des dangers et inconvénients cumulés des deux exploitations et ne pas se contenter d'évoquer incidemment la question du transport des matériaux entre la carrière et l'installation de concassage, quand bien même l'autorisation de la seconde exploitation n'augmenterait pas le volume moyen des matériaux extraits.

IV pouvoirs du juge :

1°) le juge administratif :
TA Strasbourg 30 août 2005 n° 00.02951 : (environnement n° 12 décembre 2005 comm.89): l'insuffisance des dispositifs de sécurisation des terrains d'assiette d'une carrière justifie la réformation des prescriptions de l'arrêté préfectoral autorisant l'exploitation dans le sens d'un renforcement de ces mesures de sécurisation.

2°) le juge judiciaire :
la circonstance que l'exploitant respecte les prescriptions imposées au fonctionnement d'une installation classée ne fait pas obstacle à ce que sa responsabilité civile soit mise en cause si son activité génère des troubles de voisinage : Cass 1ère civile 13 juillet 2004 pourvoi n° 2-15.176 RD imm2005 p.551 obs. Trébulle.

En référé le juge judiciaire peut constater l'existence d'un trouble manifestement illicite, Il peut également ordonner la suspension de l'activité (en l'espèce pour des nuisances olfactives résultant de l'exploitation d'une porcherie relevant du régime des installations classées soumises à autorisation).

Il peut allouer des dommages-intérêts réparant le préjudice mais aussi prendre toute mesure propre à faire cesser le trouble constaté mais celles-ci ne doivent pas faire obstacle aux prescriptions imposées par le préfet au titre de la police des installations classées (principe de la séparation des autorités administratives et judiciaires).

En revanche ce principe interdit au juge judiciaire d'ordonner la fermeture d'une installation classée régulièrement autorisée ou déclarée.

V- les troubles de voisinage et le droit de pré-occupation :

Le droit de préoccupation (bénéfice du droit d'antériorité) de l'article L.112-16 du code de la construction et de l'habitation est appliqué de façon très stricte par la jurisprudence qui ne veut pas reconnaître un droit acquis à nuire et à polluer pour ceux qui exploitent une activité source de nuisances sous couvert d'autorisations administratives. Seuls les exploitants des activités limitativement énumérées par cet article peuvent s'en prévaloir et seulement si les trois conditions fixées par ce texte sont simultanément réunies : l'activité litigieuse doit être antérieure à l'installation du plaignant, elle doit respecter les dispositions législatives et réglementaires en vigueur , et s'être poursuivie dans les mêmes conditions (l'antériorité ne peut être invoquée, par exemple, si il y a eu un accroissement des nuisances sonores postérieurement à l'installation du voisin).

Cass 2ème civile 14 juin 2007 pourvoi n° 06-15.851 dès lors que la cour d'appel a relevé que le niveau de bruit, constaté par expertise, provenant du fonctionnement de l'installation classée excédait le niveau limite admissible de bruit défini par la réglementation, elle en a exactement déduit que l'exploitant, qui n'exerçait pas son activité dans des conditions conformes à la réglementation en vigueur, ne pouvait pas se prévaloir de l'antériorité de son installation.

CONCLUSION : l'incidence de la directive IPPC du 15 janvier 2008 et de l'ordonnance du 11 juin 2009 créant en France un troisième régime d'installation classée pour la protection de l'environnement.

La directive 2008 semble être plus qu'une simple codification de la directive du 24 septembre 1996 et des quatre textes qui l'ont modifiée par la suite . On peut donc s'interroger sur son impact sur la législation française relative aux installations classées, notamment sur les points suivants :

1°) la nouvelle directive impose le respect de performances environnementales minimales , alors que la législation française se fonde, pour l'autorisation d'exploitation, ou la fermeture de l'établissement ou la suppression de l'autorisation, sur les atteintes ou les risques que l'exploitation présente pour l'environnement (qui ne sont pas susceptibles d'être combattus par des mesures convenables).

En droit français, le défaut d'emploi des meilleures techniques disponibles ne justifie pas à lui seul le refus d'autorisation ou une décision de fermeture. L'autorisation pourra être obtenue ou la fermeture évitée si les risques et dangers pour l'environnement peuvent être efficacement combattus par des « mesures convenables ».

2°) la procédure de modification de l'autorisation, doit, selon la nouvelle directive, suivre dans tous les cas une procédure permettant d'assurer la participation du public :

En droit français, l'enquête publique préalable n'est prévue que si les modifications apportées à l'installation initiale sont telles qu'une nouvelle autorisation est nécessaire . En revanche les arrêtés complémentaires qui sont

pris pour tenir compte d'une simple modification apportée à l'installation ou à son environnement ne donnent lieu à aucune participation du public.

Il faudrait prévoir au moins un système de publicité préalable pour ces arrêtés modificatifs.

3°) l'article 16 § 4 de la nouvelle directive invite les Etats à ne pas exclure la possibilité d'un recours gracieux devant une autorité administrative, sans toutefois le rendre obligatoire.

La législation française sur les installations classées instaurant un délai de recours contentieux de 2 mois à compter de la notification de l'acte , qu'il y ait ou non recours gracieux, il semblerait nécessaire, pour être en conformité avec la directive, de donner au recours gracieux un effet suspensif.

4°) il résulte de la nouvelle directive que certaines valeurs limites d'émission pourront être fixées par le Parlement et le Conseil sur proposition de la Commission, et que les valeurs limites fixées par les autres directives visées à l'annexe II devront être tenues comme fixant des seuils minimum pour l'application de la nouvelle directive IPPC : l'administration devra donc tenir compte de l'ensemble des prescriptions techniques, d'origine communautaire ou nationales pour définir les valeurs limites d'émission qui s'imposent à elle lorsqu'elle doit délivrer l'autorisation individuelle d'exploitation.

En France l'ordonnance n° 2009-663 du 11 juin 2009 relative à l'enregistrement de certaines installations classées pour la protection de l'environnement vient de créer un régime d'autorisation simplifiée, l'enregistrement, qui se situe entre la déclaration et l'autorisation : il s'agit d'alléger les procédures administratives et de réduire le délai d'instruction des dossiers pour certaines installations dont les risques et les nuisances peuvent être limités par des prescriptions standardisées (actuellement le délai d'instruction pour les installations soumises à autorisation est de plus d'un an).

Les prescriptions techniques applicables seront définies au niveau national et pourront être intégrées par les pétitionnaires au moment de la conception de leur projet.

La procédure d'enregistrement ne comprend pas d'étude d'impact ni d'étude de dangers, ni d'enquête publique, ni d'avis de la commission départementale consultative.

Le basculement d'un secteur d'activité ou d'une catégorie d'installations classées dans ce nouveau régime se fera par la modification de la nomenclature des installations classées, par décret en Conseil d'Etat après concertation entre les parties prenantes , publication du projet et transmission pour avis au Conseil supérieur des installations classées comprenant des acteurs économiques, des élus, des représentants des associations, des syndicats et de l'administration.

Sont exclues de ce nouveau régime les installations soumises à la directive 2008 IPPC , ou soumises à une obligation d'évaluation environnementale systématique au titre de l'annexe I de la directive 85/337/CE du 27 juin 1985

concernant l'évaluation des incidences de certains projets publics et privés sur l'environnement. : il s'agit donc d'aligner le régime national sur le régime communautaire issu de ces deux directives.

Les installations soumises à étude d'impact, enquête publique et consultation administrative devraient donc être réduites à environ 15.000.

Italy

Le système italien a tendance à simplifier les procédures d'évaluation de l'impact sur l'environnement et des procédures relatives à l'IPPC.

L'art. 10 de l'Acte législatif n°4/2008 prévoit une coordination selon un principe très clair: si une installation est soumise à un contrôle préventif, soit pour l'évaluation de l'impact sur l'environnement, soit pour l'évaluation intégrée sur l'environnement, l'autorité compétente (Etat ou Région) doit adopter une mesure finale unique.

Ce principe d'intégration des procédures comporte des avantages pour les entreprises industrielles et agricoles intéressées, pour le public impliqué et pour les administrations publiques compétentes, en les obligeant à se coordonner (par exemple au moyen des Conférences des services).

Etant donné que la procédure d'évaluation de l'impact sur l'environnement est de portée plus vaste (questions de localisation, de moyens et de fonctions; considération non seulement de la pollution, mais aussi du milieu et de ses ressources), la loi italienne a établi la prédominance de la VIA (Valutazione d'Impatto Ambientale), en d'autres termes l'absorption de la procédure IPCC dans l'acte unique d'autorisation finale.

Il existe en Italie une intéressante jurisprudence sur la VIA, surtout celle des Tribunaux Administrtifs Régionaux et du Conseil d'Etat, tandis que seules quelques décisions concernent l'autorisation intégrée sur l'environnement. Les catyégories d'activités de la procédure IPPC étant toutes comprises dans la liste des projets soumis à VIA (liste qui est plus vaste), au plan pratique, pour avoir une idée de l'évolution de la jurisprudence, il faut se référer aux cas dont les juges ont été saisis et aux solutions données.

Quelques cas de jurisprudence:
a) Installation d'incinération de déchets urbains et spéciaux non dangereux dans la Commune de Modène (thermovalorisateur)
A l'origine, il est formé de trois lignes, d'une capacité supérieure à 3 tonnes par heure, et est autorisé à traiter 140.000 tonnes par an.
Par la suite, la société privée de gestion présente des projets d'adéquation fonctionnelle de l'installation (restructuration des trois lignes et construction d'une ligne nouvelle).

L'autorité compétente pour la VIA (Province de Modène) approuve le projet pour une capacité de traitement de 240.000 tonnes de déchets par an (délibération n° 429 du 26/10/2004).

Personne ne fait appel.

Plus tard encore (le 30 /05/2006) la société de gestion demande que lui soit délivrée l'autorisation unique sur l'environnement, accordée par acte n° 74 du 2/2/2007.

Cette autorisation contient des prescriptions spéciales ainsi qu'un programme graduel de réalisation (chromoprogramme), soit un fonctionnement graduel en régime à partir du 30/11/2009.

Trois associations (deux nationales, WWF et Italia Nostra) et une locale (Comitato Modena Salute ed Ambiente), ainsi que quelques particuliers résidant dans la zone, forment un recours au Tribunal Administratif de Bologne contre l'autorisation unique sur l'environnement (n° 74 du 2/2/2007).

La société prive de gestion et les deux collectivités locales intéressées (Municipalité de Mantoue et Province de Modène) résistent. Dans son jugement n° 3365 du 26 novembre 2007, le Tribunal Administratif d'Emilie Romagne de Bologne reconnaît que les deux associations de protection de l'environnement de caractère national sont fondes à agir, parce que reconnues par Décret du Ministère de l'Environnement; il reconnaît que le Comité Modena Salute ed Ambiente est fond à agir parce qu'enraciné sur le territoire et pas né dans le seul but de s'opposer au projet développement de l'installation; il reconnaît que sont fonds à agir les seuls particuliers qui ont fourni la preuve d'un intérêt différencié, en tant que propriétaires de biens susceptibles de subir une perte de valeur.

Au fond, le jugement estime insignifiant le fait que la procédure de VIA sur le projet d'adéquation fonctionnelle de l'installation se soit conclue de manière positive, et considère l'autorisation intégrée sur l'environnement comme un acte autonome attaquable indépendamment du recours contre la VIA.

Selon le Tribunal, dans le cas d'espèce, l'autorisation intégrée sur l'environnement était entaché de violation de la loi parce qu'elle portait sur une installation rattachée mais non pas localisée sur le même site et sur une installation d'épuration biologique n'appartenant pas au même exploitant (encore que faisant partie de la société mère de l'incinrateur).

Le jugement est intéressant mais l'absence de considération de l'article 10 de l'Acte législatif n° 152 du 3 avril 2006, en vigueur à l'époque, provoque quelque perplexité; cet article tablit que: " la mesure d'évaluation de l'impact sur l'environnement tient lieu d'autorisation intégrée sur l'environnement". L'art 26 point 4 de cette même loi porte: "La mesure d'évaluation de l'impact sur l'environnement remplace et coordonne toutes les autorisations, concessions, licences, avis, permis et accords, de quelque nature qu'ils soient, nécessaires pour la réalisation et l'exploitation de l'ouvrage ou de l'intervention, y compris, dans le cas d'installations qui rentrent dans le domaine d'application de l'acte législatif n° 59 du 18 février 2005, l'autorisation intégrée sur l'environnement".

b) Installation de traitement et récupération de déchets
Le jugement n° 136 du 26 février 2007 du TAR Frioul Vénétie Julienne concerne le cas d'une autorisation d'installation de traitement des déchets, adoptée sans la participation de la Région de Vénétie à la Conférence des

services. La question est désormais réglée parce que l'acte législatif n° 4 de 2008 prévoit le caractère discrétionnaire et non plus obligatoire de la Conférence des Services dans la procédure d'autorisation intégrée sur l'environnement.

c) Regazéificateur GNL di Brindisi
Le TAR des Pouilles, Lecce, section I, 17 avril 2007, n° 1628, a annulé l'autorisation ministérielle d'un avant-projet de regazéificateur, parce que dépourvu d'évaluation de l'impact sur l'environnement et sans aucune consultation de la population.

d) Décharge existante dans laquelle est déversé, à une date ultérieure, un matériau cimentaire contenant de l'amiante. Le Conseil d'Etat, section V, 20 mars 2007, arrêt n° 1329, a établi la nécessité d'une procédure de VIA.

e) Centrale de production d'énergie d'une puissance supérieure à 300 MW thermiques. Le TAR Campanie, Salerne, Section I,12 janvier 2007 n° 12, a estimé que n'était pas nécessaire une nouvelle procédure de VIA pour quelques modifications non substantielles, parce qu'avaient été adoptées des solutions technologiques d'amélioration, selon le concept de la Best Available Technology.

f) Autorisation unique incombant à l'Etat (et non à la Région) pour centrales électriques de puissance supérieure à 300 MW thermiques et pour les travaux afférents (immersions de matériau de déblai en mer) Tar Latium, Rome, Section I, 16 juin 2006, n° 4731.

g) Installation d'une station radiobase et pollution électromagnétique
Nécessité de la VIA
Conseil d'Etat, Section VI, 24 septembre 2004, n° 6255.

h) Opération de drainage (extraction de minerais et récupération de terre dans la mer) La procédure de screening est requise. Tar Ligurie, Gênes, Section I, 18 mars 2004, n° 267

i) Centrale éolienne
Nécessité de la VIA seulement à la suite d'une procédure de screening de la Région compétente. TAR Basilicate, Potenza, jugement n° 658 du 30/7/2001

j) Etablissement de production chimique intégrée
Nécessité de la VIA, Conseil d'Etat, section IV, 19 juillet 1993 n° 741

United Kingdom

There are two senses described here in which environmental regulation may be integrated. The first of these – substantive integration – aims to consider environmental impacts holistically. This can be at a very broad level – for example, forms of ecosystem management or strategically assessing plans and programmes – or it can be at a more site-specific level, whereby, from any given installation, controls on emissions to individual media (air, water, land) are replaced with an integrated system of control over all environmental impact. This latter approach to substantive integration is reflected in the system known as integrated prevention pollution and control (IPPC).

The second sense in which integration can be used is to describe processes through which the bureaucracy of environmental regulation is consolidated. This can involve institutional integration, such as the creation of relatively unified regulatory agencies such as the Environment Agency. This is usually justified on grounds of greater environmental coherence. But integration can also involve streamlining or unifying the rules that govern control of harmful impacts; this sense of integration is prompted more by notions of "better regulation", and includes the idea of easing the burden on the regulated through simplifying and standardising the rules.

The Environmental Permitting (England and Wales) Regulations 2007 mark a decisive point in trying to integrate UK environmental law in the second sense. The Regulations aim to provide, as far as possible, a unified permitting system covering a number of areas in which EC environmental law must be given effect to, the main ones being IPPC and waste management. The Regulations make it possible to issue standard permits with "off-the-shelf" conditions as well as tailored permits in more complex cases. They mean that, in general, the same procedural rules (about applying, transferring, appealing, enforcing, public participation, etc) apply across the board to all permits issued under the Regulations.

IPPC derives originally from European Directive 96/61/EC (with subsequent consolidation in 2008/1/EC, which, in turn, which was based upon the UK system of integrated pollution control found in the Environmental Protection Act (EPA) 1990. The IPPC Directive takes a flexible approach to regulation, and is based upon member states applying broad principles and procedures rather than specific numerical standards.

An environmental permit based upon IPPC utilises the Best Available Techniques (BAT), a flexible process standard, which takes into account local circumstances and balances costs against environmental benefits. Emissions limit value (ELV) standards are then set by reference to the BAT for a particular installation. Environmental quality standards are taken into account in setting ELVs above those related to BAT if the quality standards represent national or European standards, or if local conditions require it.

IPPC applies only to activities carried out at the most polluting industrial installations. The vast majority of these installations are controlled by the Environment Agency, with a small residual number controlled by local authorities. IPPC applies to both new and existing installations.

The strengths of IPPC include the way in which it promotes technological innovation in an economically efficient manner, encourages the regulation of industrial sources by considering all environmental impacts as a whole, shifts the focus of industrial pollution control from end-of-pipe solutions to clean technology, and the practical workings of the idea of ecological modernisation.

The weaknesses of IPPC might be said to include: the relatively small scope of application; the bias in favour of technological solutions that exclude greater public participation; the promotion of weaker forms of "sustainable development" that do nothing to address underlying issues of resource

depletion and over-consumption; and the lack of true integration of controls over all sources of pollution.

Part 1: General questions about the implementation and application of the IPPC-directive and the role of the courts

1. How many IPPC-plants are there in your country?

Austria 585 Installations (reporting period 2003-2005)

Belgium According to the implementation reports submitted to the European Commission by the Belgian regions in response to Decision 1999/391/EC the following numbers were reported for the year 2002 under Directive 96/61/EC :

- Flemish Region:	1.012 (636 intensive rearing of poultry or pigs)
- Walloon Region	201
- Brussels Capital Region	11
Total:	1.233

According to the 3 competent regional administrations actually this figures are as follows:

- Flemish Region:	1.205 (528 intensive rearing of poultry or pigs)
- Walloon Region	263
- Brussels Capital Region	11
Total:	1.479

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complement; the Walloon Region of Belgium At present, there are 263 identified IPPC plants in the Walloon Region against 1.205 in Flemish Region.

Part of Walloon Region, is mainly a post industrial area, coming from a period of prosperity with charcoal and steel; factories are old and in some places, soils are polluted: it implies some specific characteristics for managing them today in terms of implementation of the IPPC directive. This industry is by its nature a huge factor of pollution, the tool is generally old and it uses a lot of energy.(for example: cement factories, glassware factories, chemistry, iron and steel industry etc...)

Czech Republic As at 31 December 2007 there were 2,384 operators in the process of integrated permits. More up-to-date statistics were not publicly available.

Finland There were approximately 700 IPPC plants in Finland in 2007.

France	48 000. Ce sont les installations soumises à autorisation au titre de la réglementation sur les installations classées (livre V du code de l'environnement).
Germany	En Allemange, la construction et l'exploitation d'installations industrielles et agricoles à fort potentiel de pollution sont soumises depuis plus de 30 ans à une autorisation conforme à la loi anti-pollution (Bundes-Immissionsschutzgesetz). L'instrument le plus efficace pour la réduction des nuisances sont les valeurs limites déterminées dans toute autorisation. Les valeurs limites ont égard aux documents de référence des meilleures techniques disponibles. Le contrôle des exigences à l'usage de l'eau, à la gestion des déchets et à la protection de l'homme, de la faune et la flore et d'autres biens protégés fait parti de la procédure de l'autorisation de tout temps. On pourra évaluer le nombre des installations concernées par l'obligation de demander une autorisation à 10.000.
Hungary	There are approx. 1000 existing and 160 newly established IPPC-plants in Hungary.
Italy	En Italie, l'application intégrale de la Directive 96/61 a eu lieu avec un certain retard, de façon graduelle (d'abord avec l'Acte Législatif n° 372/99, puis avec l'Acte Législatif n° 59/2005) Quelques modifications de portée limitée sont à présent contenues dans l'Acte Législatif n° 4/2008. Il existe donc une base juridique d'application intégrale des Directives communautaires (y compris la version codifiée 2008/1/CE) relative à la prévention et à la reduction intégrées de la pollution. La loi italienne estime nécessaire l'autorisation intégrée sur l'environnement pour toutes les catégories d'activités établies par la Communauté Européenne. Au plan formel, il existe l'adéquation au droit communautaire. Au plan substantiel, selon certains chiffres fournis par le Ministère de l'Environnement (Rapport Etat de l'Environnement 2001), il existe: a) 10.000 sites pollués b) 313 zones à risque élevé de malaise environnemental, auquel 13% des communes sont intéressées. Rappelons qu'à Seveso, en Lombardie, en 1982, s'est produit le grave épisode de pollution par l'usine chimique Icmesa: l'événement a entraîné la formation de la Directive 82/501/CE (Seveso I) et de la Directive 96/82/CE (Seveso Bis) La situation italienne est cependant en phase d'amélioration pour toutes les catégories d'activités à risque potentiel de pollution des secteurs industriel et

	agricole. Un grand nombre de régions d'Italie sont couvertes par un réseau de petites et moyennes entreprises, souvent familiales, dont l'impact sur l'environnement est limité.
Netherlands	There are about 3500 IPPC-plants in the Netherlands (both agrarian and non-agrarian).
Norway	There are a total of 380 IPPC-plants in Norway (According to numbers given by The Norwegian Pollution Control Authority – SFT – August 2009).
Poland	There are 3097 IPPC – plants in Poland (according to the register kept by the Minister of the Environment).
Sweden	Slightly more than 1.000 (according to the Swedish Environmental Protection Agency's report no 5800, February 2008).
United Kingdom	Approximately 4,000.

2. In what way are questions concerning the application of the IPPC-directive brought to court (litigation, application for a permit, appeal of a permit decision, application for a summons, criminal offence)?

Austria	Appeal of a permit decision.
Belgium	In Belgium the environmental permits are delivered by political or administrative authorities (see answer to question 3) in first instance. Then there is an administrative appeal possible with a higher political authority. So courts are not involved in the permitting process as such. However, in the Brussels Capital Region there is a somewhat particular situation. In that region one can appeal against decisions taken in first instance by the Brussels Environmental Agency before the "Milieucollege – Collège de l'environnement" (Environmental Appeal Board) that is a kind of specialized Environmental Administrative Court that is presided by a professional judge and composed of 5 other independent experts (environmental lawyers and scientists). They can review the decision of the Brussels Environmental Agency in all aspects and thus grant a permit when it was refused in first instance or refuse it when it was granted in first instance, modify the conditions of the permit etc. The Environmental Appeal Board can also review decisions to modify, withdraw, suspend or to prolong a permit. Against

the decision of the Environmental Appeal Board one can appeal again before the Regional Government that can review on its turn the decision in all its aspects.

After exhaustion of the administrative appeals one can appeal against permit decisions taken in last instance by the administrative/political authorities before the Council of State (Supreme Administrative Court), which can review the legality of the decision, both from a procedural as from a substantive point of view, including the compliance of the challenged decisions with relevant European Directives such as the IPPC-Directive . This procedure is open to all interested parties (operator, neighbours, some authorities, other interested parties). If the Council of State is of the opinion that the challenged decision is violating one or another rule of law, the decision will be annulled. In urgent cases the Council can also suspend the challenged decision in interim proceedings. So the Council of State cannot modify the challenged decision. After annulment the case will be taken over again by the administrative authorities and they can take another decision. They must off course in such case respect the judgement of the Council of State and avoid committing the same illegality.

Operating a plant without the required permit, not respecting the conditions of a permit, obstructing inspections by the competent environmental inspectors or not executing their instructions is an offence that, depending on the nature of the violation, will be a criminal or an administrative offence. Criminal offences can be prosecuted before the criminal courts. In such cases IPPC-related questions can arise before these courts, including requests for checking the legality of the permit on the basis of article 159 of the Constitution. In case of administrative offences an administrative fine can be imposed by the competent authority. Appeal against such a decision is possible before the Environmental Appeal Board in Flanders ("Milieuhandhavingscollege") and before the already mentioned Brussels Capital Appeal Board, as that region is concerned. Against their decisions one can appeal again before the Council of State (see above).

The Act of 12 January 1993 on a Right of Action for the Protection of the Environment, allows environmental organizations that satisfy certain requirements (namely, being set up in the form of a non-profit association, having the protection of the environment as its purpose, having existed for at least 3 years and actually being active), public prosecutors and administrative authorities such as municipal authorities, to bring a civil action for cessation of acts that constitute a breach of the protection of the environment before the President of the Court of First Instance. Also individual citizens are able to bring such an action themselves on behalf of a defaulting municipal authority by taking the place of the municipality that refuses to bring such an action. Such civil action can be brought in cases of breaches of regional legislation implementing the IPPC-Directive.

The conclusion of all this is that both administrative judges, especially the Council of State, and ordinary judges (penal and civil judges alike) can be confronted with IPPC-related cases.

complement; the Walloon Region of Belgium	As said in Lavrysen's report, courts are not involved in the permitting process as such. However, the Act of 12 January 1993 on a Right of Action for the Protection of Environment allows environmental organizations, following some criteria, the prosecutor or administrative authorities to bring before the President of the Court of First instance a civil action for cessation of acts that constitute a breach of the protection of the environment. This act anticipates the Aarhus Convention, adopted on 25 June 1998. There is also always a possibility for a citizen to sue before a civil court to claim damages if a factory generates a damage to him through faulty behaviour, or, in case of accident, the prosecutor can sue the responsible person, in case of death or injuries, before the criminal court. (It's the case for example in AZF Toulouse, in France). That means that next to the Council of State (judge of appeal in last level in the administrative pyramid) ordinary judges may be confronted with IPPC-related cases. Litigation may not be specific to IPPC directive, and one can come to the court through waste, environmental permit cases, for example.
Czech Republic	So far there have only been a few judgments relating to IPPC permits within national law. None of those decisions interpreted the IPPC-directive in detail. Judgment of the Supreme Administrative Court, No. 3 As 15/2008–80 of 12 June 2008 (published at www.nssoud.cz): Fine was imposed on the appellant who was in breach of the conditions set by the integrated permit. He challenged the decision on fine arguing that he was unaware of being in breach of the conditions (he claimed that he learnt of asbest in the waste at the same time as Hygiene Regional Officers did). This argument was dismissed both by the Regional and Supreme Administrative Court, as Act No. 76/2002 Coll., on integrated prevention, presumes no-fault liability and therefore culpability is not a precondition in order to impose sanction. The Supreme Administrative Court also held that the administrative authority was not obliged to make use of other remedies available in the Act before imposing a fine.
Finland	Normally the application of the Directive in a Court is linked to appeals against permit decisions or decisions taken by supervisory authorities. Permit decisions are taken by administrative authorities, as are also decisions concerning use of administrative force (injunctions, rectification of a violation or negligence etc.). All of these decisions made under the Environmental Protection Act (EPA, 86/2000) can be appealed to Vaasa Administrative Court and further to the Supreme Administrative Court. However, in the case of a criminal offence under the Penal Code, also an ordinary Court of law may resolve questions concerning the operation of IPPC plants.

France

Il n'y a pas de règle spécifique pour les installations IPPC. La France s'est en effet dotée depuis longtemps d'un système de contrôle intégré de la pollution avec le régime des installations classées (loi du 19 juillet 1976, le décret du 21 septembre 1977 et ses diverses modifications et l'arrêté du 1:er mars 1993) les modes de recours sont ceux prévus par la législation relative aux installations classées (livre V du code de l'environnement), à laquelle les installations IPPC sont soumises.

Le droit des installations classées englobe non seulement des établissements industriels mais aussi certains établissements agricoles (notamment les élevages industriels), les carrières et aussi les décharges appelées «centres d'enfouissement techniques ». Il concerne, d'une façon générale les installations «qui peuvent présenter des dangers ou inconvénients soit pour la commodité du voisinage, soit pour la santé, la sécurité, la salubrité publique, soit pour l'agriculture, soit pour la protection de la nature et de l'environnement, soit pour la protection des sites et monuments».

Par ailleurs, la France a aligné sur la procédure de délivrance des autorisations au titre de la législation des installations classées les procédures d'application de la loi sur l'eau ou de la loi sur les déchets

On peut rappeler que l'idée de lutte intégrée contre la pollution industrielle consiste à instaurer, par une autorisation unique, un contrôle des émissions polluantes dans l'air, l'eau et le sol, ainsi que la gestion des déchets, pour éviter des transferts de pollution d'un milieu à un autre et arriver à une situation environnementale optimale, par la mise en œuvre des meilleures techniques disponibles.

En France, la lutte contre les effets nocifs d'une activité se fait souvent par un arsenal juridique important, qui n'est pas forcément gage d'efficacité: ainsi en ce qui concerne les inconvénients des exploitations et de la pratique des cultures intensives:

-la police des installations classées et la police de l'eau (article L.214-1 du code de l'environnement issu de la loi du 3/01/1992 sur l'eau) soumet les élevages à un système de déclaration ou d'autorisation en fonction d'un seuil (calculé en animaux-équivalents), mais aussi en fonction des «ouvrages, travaux et activités réalisés à des fins non domestiques…et entrainant des prélèvements sur les eaux superficielles ou souterraines, une modification du niveau ou du mode d'écoulement des eaux, ou des déversements, écoulements, rejets ou dépôts directs ou indirects, chroniques ou épisodiques, même non polluants »

-combinée avec la directive «nitrates» du 12 décembre 2001, cette réglementation offre de nombreux outils de lutte contre la pollution de l'eau par l'agriculture (obligation d'établir un plan d'épandage, d'en consigner l'exécution dans un cahier au titre de la police des installations classées, dispositions techniques concernant le stockage des effluents et le traitement des rejets, délimitation de zones à protection renforcées (zones vulnérables de la directive nitrates), zones d'excédent structurel dans lesquelles le lisier dépasse la capacité d'absorption du sol et où il faut mettre en place des programmes de résorption, périmètres de protection des captages d'eau…)

-le tout est complété par une politique contractuelle: le programme de maîtrise des pollutions d'origine agricole (8 octobre 1993), programme d'élevage, contrats territoriaux d'exploitation remplacé par les contrats d'agriculture durable

Mais les contrôles sont insuffisants et l'ambiguité d'une politique qui utilise de façon interdépendante des instruments de police assortis de sanctions et une politique contractuelle d'incitation et de responsabilisation des acteurs aboutit finalement à créer un « espace de non droit, où l'administration se réserve un rôle d'arbitre » (Isabelle Doussan : le contrat, l'agriculture et l'environnement , Mél.J.-Cl. Hénin , Litec 2004 page 207)

Remarque:
La société civile peut intervenir lorsqu'il est question de revoir la nomenclature des installations classées : ce fut le cas en 2004 à l'occasion d'un projet visant à relever les seuils d'autorisation des élevages de veaux et de volailles, notamment en région Bretagne.

Le gouvernement justifiait ce projet par un gain de temps, pour les services d'inspection, sur les tâches consacrées à l'instruction des demandes d'autorisation, qui pourrait se traduire par une augmentation des contrôles sur place dans les élevages soumis à autorisation et la nécessité de rapprocher la réglementation française de la directive IPPC du 24 septembre 1996 qui fixait pour les élevages intensifs, des seuils plus élevés que la législation française, et un souci de responsabiliser les exploitants . Il faisait également observer que la « directive nitrates » du 12 décembre 1991 visant à maîtriser les pollutions d'origine agricole et applicable à toutes les catégories d'élevage permettait d'assurer la sécurité en termes de qualité des eaux.

Les opposants dénonçaient la suppression, pour les exploitations en dessous du seuil, de l'étude d'impact, de l'enquête publique, du vote des conseils municipaux et des avis des conseils départementaux d'hygiène, et donc une atteinte au droit d'accès à l'information et à la participation du public à l'élaboration des décisions publiques ayant une incidence sur l'environnement. Ils soulignaient aussi que pour ces installations il n'y aurait plus d'examen technique quant au mode d'élimination des fumiers ou des lisiers par les plans d'épandage.

Sur l'application du principe d'information et de participation du public, la réponse du ministère a été que le projet avait été élaboré à partir des conclusions d'un groupe de travail technique et que les administrations, les organisations professionnelles agricoles et les principales associations de protection de l'environnement avaient pu donner leur avis et formuler leurs observations lors d'une phase de consultation.

Germany Tout exploitant (personne physique ou morale) alourdi par l'autorisation peut former (régulièrement après un recours administratif préalable) un recours devant le tribunal administratif ou – dans le cas de grands projets réglés par le droit processuel – directement devant le tribunal administratif supérieur. De même un tiers faisant valoir d'être lésé dans ses droits par l'autorisation peut

	former un recours. La Cour administrative fédérale s'occupe du litige si le pourvoi en cassation est déclaré recevable. Objet du litige est typiquement la légalité de l'autorisation accordée ou d'une disposition annexe, par exemple d'une certaine valeur limite, ou la légalité du rejet d'une demande d'autorisation. Le tribunal ne contrôle que la légalité de la mesure administrative. Les tribunaux statuent au fond en annulant l'autorisation en partie ou complettement ou en préscrivant à l'administration d'accorder l'autorisation.
Hungary	IPPC activities can be tried for damages in litigation, all clients concerned can appeal against the permit decision and following the decision of the appeal authority the client may file an appeal to the court. If the IPPC-plant is considered dangerous for the environment, it is liable for criminal offence.
Italy	En Italie, les questions relatives à l'application de la directive relèvent soit de la juridiction ordinaire (Tribunaux correctionnels et civils) soit de la juridiction administrative (Tribunaux administratifs régionaux et Conseil d'Etat). La réglementation nationale prévoit quelques délits du ressort du tribunal correctionnel, tandis que pour la réparation des dommages c'est le tribunal civil agissant par voie ordinaire qui est compétent. Sur le bien-fondé des actes administratifs (autorisation ou refus de l'autorisation) et sur le pouvoir d'annuler qui en découle, c'est le tribunal administratif qui est compétent.
Netherlands	The first way questions concerning the application of the IPPC-directive are brought to court is by appeal against a permit decision. The court-system in environmental cases in the Netherlands is that these appeals are brought before the Department of Jurisdiction of the Council of State in one instance. This means that a question about the application of the IPPC-directive may reach the court in last instance in our country rather quickly. According to the Netherlands constitution direct applicable international law has priority over domestic law. This means that an according to Netherlands law an appellant may invoke a direct applicable paragraph of an European directive in an appeal before a Netherlands court. The second way is by appeal against an administrative enforcement decision or in a criminal procedure.
Norway	Parties that hold a legal interest may bring to court the question of the legality of a permit issued by the relevant Norwegian authority. In such a case a court may find the permit invalid. The Court, however, is not authorized to revoke or invalidate a permit ex officio. Civil law proceedings are effectuated following a writ of summons initiated by the plaintiff. As a main rule, criminal law proceedings are effectuated following a decision by the prosecuting authority. The administrative law proceedings are in Norway basically considered as ordinary civil law proceedings, but the plaintiff will in these matters have to have used his right to file an administrative complaint before bringing the case to court..

Poland	The issues concerning application of the IPPC-directive are brought to the administrative court as a litigation upon prior lodging of an appeal of an IPPC decision. Moreover, they can be subject of criminal proceedings in the event of an offence against the environment.
Sweden	Questions concerning the application of the IPPC-directive can be brought to court in all the ways that are mentioned in the question above. They are usually brought to court in a case regarding application for a permit or in a case regarding appeal of a permit decision. In Sweden, such questions will normally be tried by an environmental court, either in first instance or after appeal against a decision by an administrative authority. There are five environmental courts in Sweden and their decisions can be appealed to the Environmental Court of Appeal. In some cases, the decisions of the Environmental Court of Appeal can be appealed to the Supreme Court. The environmental courts are the first instance for cases regarding, inter alia, certain permit applications, private actions for compensation for environmental damage and private actions for prohibition or precautionary measures. The environmental courts also review decisions issued by supervisory authorities, if the decisions are appealed.
United Kingdom	The two usual ways are by judicial review of the decision by the Environment Agency or local authority to grant a permit: Edwards v. Environment Agency [2007] Env LR 9; of a variation of a permit: Levy v. Environment Agency [2003] Env LR 11; of a refusal to grant a permit: R v. Secretary of State for the Environment and RJC Compton and Sons ex parte West Wiltshire District Council [1996] Env LR 312 and of a revocation notice of a permit: R v. Environment Agency ex parte Petrus Oils Limited [1999] Env LR 732. The second way is by way of criminal prosecution. The Environmental Permitting (England and Wales) Regulations 2007 (SI 2007/3538) provide a long list of offences in relation to the Environmental Permitting system: regulation 38. The most serious of these relate to operational breaches such as operating a regulated facility without a permit or in breach of permit conditions, and failing to comply with a statutory notice. Less serious offences are committed in relation to providing false information. All of these offences are punishable in the Magistrates' Court, with a maximum fine of £50,000 or imprisonment for a term of up to 12 months in a case with the most serious offences, and £5,000 or imprisonment up to a maximum of 2 years for the lesser two categories. The more serious categories of offence are also triable in the Crown Court, with an unlimited fine and/or imprisonment for a term of up to 5 years. It is open to any court, in sentencing an offender for failure to comply with an enforcement or suspension notice, to order that the effects of the offence be remedied: regulation 44. This allows for clean-up and compensation costs to come directly out of the offender's pocket. In many instances, these costs will far outstrip any reasonable fine that could be

imposed. There are further remedies available to the regulatory agency in the High Court. The regulator can seek an injunction in cases in which the enforcement of the criminal law is not securing adequate compliance: regulation 42. It must, however, exhaust other remedies before seeking an injunction: Tameside Metropolitan Borough Council v. Smith Brothers (Hyde) Limited [1996] Env LR 312.

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3. Which authority (authorities) issues permits according to the IPPC-directive? How far has the integration according to the directive reached? Can, in your country, one authority issue an IPPC-permit comprising the total environmental impact of the polluting activity (water, air, land, waste etc) or does the company (the applicant) have to send applications to different authorities?

Austria

General preliminary remarks:
Competences regarding environmental protection are fragmented in Austria. Both the federation and the federal provinces (Laender) are assigned legislative and administrative powers. Legislative competences of the federation are however predominant. The most important competences of the federal provinces in the field of environmental protection encompass nature preservation legislation and zoning law. Certain IPPC-installations - – primarily intensive livestock farming and energy production – are also subject to provincial law.

The division of competences is sometimes an impediment for the realisation of environmental issues and for the implementation of community directives. Austria therefore attempted to implement the IPPC-directive as part of an overall reform designed to standardise and centralize the regulatory framework for plant permits. The reform failed however, no Industrial Installations Environment Act was put into effect and Austria went on to implement the IPPC-directive by amending the sectoral laws on installations trying to implement an effective integrated concept and to establish the "one-stop-shop-principle":

In terms of Federal Law these relevant sectoral acts were:
- The Trade Act - the central and most comprehensive framework for plants permits (Gewerbeordnung – GewO 1994)
- The Waste Management Act (Abfallwirtschaftsgesetz – AWG 2002) and the
- Mineral Raw Materials Act (Mineralrohstoffgesetz – MinRoG)

For IPPC-plants within the scope of these Acts no separate or additional plant permits under federal law are required ("procedural concentration"). The permit requirements of other relevant federal Acts – for example – provisions of the Water Act (Wasserrechtsgesetz – WRG) must be applied in the permit procedure.

In terms of provincial law, several federal provinces issued IPPC-Acts to implement the directive within their field of legislation (primarily intensive

lifestock farming and energy production). In some provinces the directive has been implemented by amendments of sectoral regulations.

As regards IPPC-plants, the Trade Act (GewO) has the most comprehensive scope of application. In answering this questionnaire the Trade Act (GewO) was therefore chosen as a main reference.

Competent authorities/Scope of integration:
- IPPC-plants under the Trade Act:
For IPPC-plants under the Trade Act the Regional Administrative Authority (Bezirksverwaltungsbehörde) is the competent authority for the concentrated procedure. Despite the far-reaching scope of the Trade Act, operators may nevertheless have to obtain permits under other environmental laws: In the field of Federal Law for example a separate permit is required for a clearing. In the field of Provincial Law separate permits may be required under the zoning and building law rules (Bau-und Raumordnungsrecht) or the Nature and Countryside preservation legislation (Natur- und Landschaftsschutzgesetze). In this cases the licensing procedure under the rules of the Trade Act and the procedures under the other relevant (provincial) laws have to be coordinated by the competent authorities.

- IPPC-Waste Management installations and IPPC-plants that require an EIA:
A fully concentrated procedure with only one competent authority issuing permits under various federal and provincial laws is established for IPPC-Waste Management Facilities by the Waste Managment Act and – even more comprehensive - for IPPC-installations that require an environmental impact assessment pursuant to the Environmental Impact Assessment Act (Umweltverträglichkeitsprüfungsgesetz – UVP-G 2000).

Competent authority for waste management installations is the State Govenor (Landeshauptmann).Competent authority for IPPC-plants that require an EIA is the State Government (Landesregierung).

- IPPC-plants in the area of provincial law:
In the field of provincial law (esp. Intensive livestock farming, energy production) the regional administrative authority (Bezirksverwaltungsbehörde) generally issues the IPPC-permit.

Belgium

In the Flemish Region the environment licensing system, which is in operation since 1 September 1991, makes a distinction between 3 categories of establishments that can harm the environment. For those with little harm (category 3) a prior notification before starting up the operations is required. For those with intermediate environmental impacts (category 2) a prior license (environmental permit) from the local government (municipality) is required. For those establishments that may have significant environmental impacts (category 1) the environmental permit is delivered by the provincial government. The VLAREM I Executive Order contains a list of establishments that are subject to the system, with their categorisation. All IPPC-installations are classified in category 1 and thus subject to an environmental permit from provincial government. All establishments are subject to the general and the relevant sectoral environmental operating conditions laid down in the very

detailed VLAREM II Executive Order. These general and sectoral operating conditions are dealing with the different environmental impacts (safety, protection of surface waters, air, noise, waste management, energy use, soil protection, environmental management and reporting). For establishments classified in category 1 or 2 these conditions can be supplemented by special operating conditions laid down in the permit decision, taking into account the specific characteristics of the establishment, its surroundings and the applicable environmental quality standards. All environmental impacts (on water, air, land, waste, noise, nature, land use, energy, and mobility) are assessed. In the preparatory phase all relevant environmental authorities and agencies are consulted, including the Division on Environmental Permits of the Department of the Environment, Nature and Energy of the Flemish Region. They are sitting together in the Provincial Environmental Permitting Commission (PEPC) that will deliver a non-binding common opinion to the Provincial Government, taking also into account the observations received from the public consultation and the EIA and/or Safety Report (Seveso II-plants) when the installations are subject to those assessments. One or another agency that has a dissenting opinion, can join this to the common opinion of the PEPC. The decision is taken by the Provincial Government and can depart from the opinion of the PEPC and the dissenting opinions from individual agencies, subject to giving reasons for that. When there is an administrative appeal, a similar procedure is followed on the regional level. The appeal will be advised by the Regional Environmental Permitting Commission and the final decision will be taken by the Regional Environment Minister. So the environmental permit (including for IPPC-plants) is an integrated permit. However, till now, there has been no integration of the building permit (necessary for the construction activities) in the environmental permit (necessary for the operation of the installations). The building permit is delivered as a rule by the municipality, following a separate procedure. When both permits are needed (e.g. in case of a new plant or an extension of an existing plant) construction activities may only start if one has both permits. When one of the permits is delivered (e.g. the building permit) and the other is refused (e.g. the environmental permit), the first one will become also invalid. For some activities additional permits are required. That is e.g. the case for surface water abstraction (a permit of the authority that is managing the surface water) or for occupying public land (a permit or concession of the public authority concerned is needed).

The situation in the other regions is similar, but not identical.

In the Brussels Capital Region one distinguishes in the environmental permitting system, which is in operation since 1 December 1993, 4 (and in the future even 5) categories of establishments subject to the environmental permitting system (categories I A, I B, (in the future also I C), II en III) depending on their environmental impact. Establishments of category I A are subject to an EIA and an environmental permit. The environmental permit is delivered in first instance by the Brussels Environmental Agency. A certain number of IPPC-installations are categorised in this category. Establishments of category I B are subject to a simplified EIA and an environmental permit. The environmental permit is delivered in first instance by the Brussels Environmental Agency. IPPC-installations not included in category I A, are classified in category I B. Establishments of category II (the intermediate ones)

are subject to an environmental permit delivered by the municipality. The smallest establishments are listed in category III and are subject to prior notification. As indicated before one can appeal the permit decisions taken in first instance before the Brussels Environmental Appeal Board and further on to the Regional Government. As is the case in the Flanders Region, these environmental permits are integrated ones. As in Flanders a distinction has to be made between the environmental permit (necessary for operating the facility) and the building permit (necessary for the construction). The legislation however provides for special provisions for projects that needs both permits, the so-called "mixed projects". In such cases both applications must be introduced together and will be submitted to public participation and to the assessment and opinion of the competent advisory bodies together, but will finally result into distinct permit decisions. As in Flanders, one should dispose of both permits before construction can start. Different from the Flanders system, there is no full set of general and sectoral operating conditions, but for an important number of categories of establishments such sectoral conditions were issued by the Regional government.

In the Walloon Region, the environmental permitting system, which is in operation since 1 October 2002, classifies the harmful establishments in 3 categories, as is the case in the Flanders region. Establishments of category 1 and 2 are submitted to a prior environmental permit delivered by the municipality, and those of category 3 to a prior notification. IPPC-plants are classified in category 1 or 2 (they are listed in Appendix XXIII of the Executive Order of 4 July 2002). The environmental permit is an integrated permit. Compared with Flanders and the Brussels Capital Region the integration is pushed even further in that sense that for activities submitted both to an environmental permit (for operating the plant) and a building permit (for the construction) one has to apply for a combined permit ("permis unique") that is delivered on the basis of one application and trough an integrated procedure in witch all relevant authorities are consulted and one public participation procedure is applied. This will result in one decision: a combined permit.

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complement; the Walloon Region of Belgium

The environmental permit is an integrated permit, and as stressed in Lavrysen's report, the integration is pushed even further, in the Walloon Region, in that sense that there is a unique permit (permis unique) when the applicant wants both an environmental permit and a building permit, with consequence that in this case, one public participant procedure is applied, and one decision will result: a combined permit.

The principle of the directive is auto control (through authorizations) and surveillance.

- For authorizations, the proceedings is described shortly in p.5 of the report. The permit is delivered by the municipality (but there are exceptions, for example if the applicant is situated on several municipalities). The municipality asks an advice from the "technical civil servant" (who is a delegate from the administration and who realizes a synthesis of the technical notices of the different administrative sectors concerned with environment (waste, water, air, land). Usually, there is a code of good practice (specially

with more important establishments): the applicant meets the delegate of the administration and checks all the needed enquiries about all environmental impact, and all the conditions that will be demanded. This may be combined with the public enquiry in the case of class 1 establishments (the more harmful ones).

- This proceedings induces a real revolution into the administration. Before the implementation of the IPPC-directive, each sector was working separately and didn't take the others into account; there was not convergence of interests. Those different sections are now obliged to cooperate, to meet each other and to discuss about the balance of interest, between the objective of reducing pollution, using the best available techniques and the necessity of economic development (employment, for example).

- The proceeding is different if the establishment concerned belongs to class 1 or class 2. There are not IPPC concerns for class 3.

- Next to authorization's system, there is the process of compliance of the existing plants, on the initiative of the technical delegate (from the administration), who verifies if the permit is conform to the environmental situation of the plant and to the updated environmental laws He can add new conditions to the initial permit.

- Practically, to review a permit and change its conditions is not so easy, and there are many practical obstacles to it. Two examples: 1. It should be ideal to have separate sewer networks for evacuating different sorts of used waters (domestical use, industrial use or rain water); when the establishment is located down town or in a crowdy agglomeration, the sewer network of the factory is the same than the one of the municipality and it's not possible (or it would be too costly) to build a new one. 2. In some places, like the town Seraing, near Liege, where Arcelor (ex -Cockerill is implanted), people is used to live in a polluted environment and prefers to keep it in order to save the employment; this paradox is observed in many historical industrial places, not only in Wallonia, but also in France, for example.

- Sometimes, the balance is made between saving the employment, or economy, and forcing a company to respect environment. It's a matter of fact, following my personal enquiry, that a company who has economic problems will more easily have problems to respect environmental rules as well as fiscal and social prescriptions...

Czech Republic

Issuing of permits falls within the competence of Regional Offices (referred to as "Regions"). Ministry of Environment retains competence in issuing permits for installations whose operation could significantly detrimentally affect the environment of the State [Section 29 and 33 of Act No. 76/2002 Coll., on integrated pollution prevention and control, on the integrated pollution register and on amendment to some laws (the Act on integrated prevention)].

In principle, the competent authority requests other competent authorities to send their standpoints within the process (Sections 8–11 of the Act No. 76/2002 Coll., on integrated prevention) and upon those the authority grants an

IPPC-permit comprising the total environmental impact of the polluting activity. The applicant has to include other documents that would be part of application for other permits under special laws (which are to be replaced by the integrated permit) as an annex to the application for integrated permit [Section 4(1)(o) of the Act No. 76/2002 Coll., on integrated prevention].

Finland

According to the EPA there are permit authorities at the *state level* and at the *municipal level*. Present permit authorities at the state level are *Environmental Permit Agencies* (3 in Finland, formed after the model of the previous Water Courts) and *Regional Environmental Centres* (13). However, a major reform on regional state administration has been launched, and this reform, scheduled to 2010, will change the picture a lot. At the municipal level the responsible authority is the *Municipal Environmental Protection Authority*, typically an Environmental Board.

The *competence* of the permit authorities is defined in the EPA and in the Environmental Protection Decree (EPD, 169/2000). Typically, large-scale plants belong to the competence of the Environmental Permit Agencies and minor plants to that of municipal authorities. The competences have not, however, been defined directly so that only the Environmental Permit Agencies would be responsible for permit applications of IPPC plants. For example, the permit for a large combustion plants (over 50 MW) will be issued by the Regional Environmental Centre - unless fuel power exceeds 300 MW, in which case the permit application is decided by the Environmental Permit Agency. Waste incineration plants and animal production, in turn, lie exclusively within the competence of Regional Environmental Centres. After the administrative reform described above, the distinction will vanish and all IPPC plants fall under the competence of the new regional permit agencies.

An environmental permit under the EPA *comprises all elements of pollution control*, i.e. emissions into the air, discharges into waters, soil pollution, noise abatement, waste management etc. In this respect, the level of integration is high.

However, the operator may still need many more permits or other types of decisions before he can realise the project. For instance, building of the plant requires a building permit. The permit for an industrial plant can be issued only if a land use plan has been approved or an exemption of the planning obligation has been obtained. The operation of the plant may presuppose different technical permits etc. under the extensive chemicals legislation and safety regulations. If it is necessary for the realisation of the project to take water or groundwater or to make constructions in a water area, a permit under the Water Act may be needed. In certain cases this permit can be handled in the same procedure as the environmental permit; in these cases (so-called mixed projects) the Environmental Permit Agency is the competent authority.

France

L'autorité compétente est le préfet, représentant de l'Etat dans le département, autorité unique qui a vocation à vérifier que tous les impacts environnementaux soient pris en compte.

Toute personne qui se propose de mettre en service une installation soumise à autorisation au titre de la législation des installations classées (catégorie à laquelle les installations IPPC appartiennent) adresse une demande au préfet du département dans lequel cette installation doit être implantée (cf. article R. 512-2 du code de l'environnement).

L'étude d'impact est un élément clé de cette demande d'autorisation: le décret du 25 février 1993 énumère les éléments à prendre en compte: richesse naturelle, espaces naturels, agricoles, forestiers, maritimes ou de loisirs, ainsi que les biens matériels et le patrimoine culturel susceptibles d'être affectés par le projet.

Il convient également de souligner que le maître de l'ouvrage doit justifier les raisons de son choix qui doit représenter le meilleur compromis entre les différentes contraintes environnementales, techniques et économiques.

Surtout, dans le quatrième volet de l'étude d'impact il doit indiquer la nature et l'ampleur des atteintes à l'environnement qui subsisteront malgré les précautions prises et s'il y a lieu les mesures visant à les compenser.

Il doit fournir des descriptifs précisant les dispositions d'aménagement et d'exploitation prévues, les caractéristiques détaillées, les performances attendues, notamment en ce qui concerne la protection des eaux, l'épuration et l'évacuation des eaux résiduelles ou des émanations gazeuses, l'élimination des déchets et résidus de l'exploitation, les conditions d'apport à l'installation des matières destinées à y être traitées et le transport des produits fabriqués.

Tous ceux qui ont participé à l'étude d'impact doivent la signer.

Les exigences relatives à la sécurité et aux risques d'accident figurent dans une étude spécifique appelée étude de danger.

En matière de déchets il faut également un document précisant l'origine géographique prévue des déchets et la manière dont le projet est compatible avec les plans d'élimination des déchets régionaux et interrégionaux, départementaux et interdépartementaux.

Pour les exploitants localisés à Paris, c'est la préfecture de police de Paris qui a la compétence en matière d'installations classées. Les établissements relevant de la Défense Nationale sont de la compétence du Ministère de la Défense.

La demande est instruite par l'inspection des installations classées qui consulte les autres administrations concernées.

La demande d'autorisation est soumise à la consultation des autorités locales , à une enquête publique et à l'avis de la commission départementale compétente en matière d'environnement et de risque sanitaire et technologique (CODERST). Cette procédure respecte également les exigences de la directive 85/337 du 27 juin 1985 concernant l'évaluation des incidences de certains projets publics et privés sur l'environnement.

Germany	Autorités compétentes à accorder l'autorisation sont les administrations inférieures du Land, cela veut dire les sous-préfectures ou les chef-lieux du district. Ces administrations disposent de services spécialisés en matière technique et juridique. L'autorisation inclut toutes les autres décisions administratives concernant l'installation y compris les exigences de la directive IPPC.
Hungary	On a regional level there are inspectorates for the protection of environment, nature and water. These inspectorates are entitled exclusively to examine the total environmental impact of the polluting activity. The inspectorate has to ask for the opinion of other authorities. There are some exceptions, e.g. the placement of manure on agricultural field because in this case an agricultural authority is entitled to proceed. Regarding the integration level, Hungary reaches almost 100% at this moment (it means 1 outstanding permit of 1001)
Italy	C'est au Ministère de l'Environnement ou aux Régions qu'il incombe d'autoriser les activités mentionnées dans la Directive 2008/1/CE . Le Ministère n'est compétent que pour six catégories d'établissements indiqués à l'annexe n° 5 de l'Acte Législatif n° 59/2005 . Les Régions sont compétentes pour l'autorisation intégrée sur l'environnement de tous les autres établissements. L'activité dont l'impact global est important est autorisée en Italie par une seule Autorité; l'autorisation intégrée sur l'environnement remplace toutes les autres autorisations de secteur.
Netherlands	IPPC-permits are granted by the provincial boards (college van Gedeputeerde Staten) or the municipal boards (college van Burgemeester en Wethouders) in the Netherlands. The governmental decree on Installations and permits environmental protection regulates which board is competent for which plant. One may say that in general the provincial board is competent for the bigger plants. So most of the IPPC-permits are granted by the provincial boards. However the local boards are in general competent for the applications for agrarian plants (intensive pig and poultry farming plants). The IPPC-permit covers the total environmental impact of the activity except the discharge of polluted substances on surface water. For this discharge a separate permit is required. The waterboards or the minister of Traffic and watermanagement are competent to grant permits for this discharge; the minister is competent for the discharge in national surface waters, the waterboards for the discharge in other waters. So an IPPC-plant that cause air pollution, noise and discharges polluted substances in surface water needs two separate licenses according to two different acts, the general Environmental Management Act and the Act on waterpollution. The general Environmental Management Act contains provisions to coordinate the application and granting of these two licenses.
Norway	Permits according to the IPPC-directive, implemented in Norwegian

legislation by the Pollution Control Act and Pollution Regulations are issued by the Norwegian Pollution Control Authority (SFT). A permit comprises the total environmental impact of the polluting activity, and the company is therefore only required to send one application.

SFT is a government agency (directorate) and reports to the Norwegian Ministry of Environment. The agency manages and enforces i.a. the Pollution Control Act and relevant regulations. The agency grants permits, establishes requirements and sets emission limits, and carries out inspections to ensure compliance.

Poland

According to the IPPC-directive, the authority responsible for implementation of provisions resulting from the IPPC-directive, specified by the legal provisions of a Member State, is the authority competent to issue an IPPC-permit.

The main act of the national law in the sphere of the environmental protection is the Act – Environmental Protection Law. Article 378 of the Act – Environmental Protection Law defines the competent authorities in relation to the IPPC-permit.

The competence of authorities to issue the IPPC-permit depends on the type of a project and localization of an IPPC-plant.

a) Regional Director of Environmental Protection is the competent authority in reference to projects and events on the enclosed area.
b) Marshal of the Voivodship (self-governmental body of a highest level) is the competent authority in the affairs related to:
1) projects and events on the premises of plants, where the plant is planned, which is qualified as an enterprise that might have a significant impact on the environment in the understanding of Act of 3 October 2008 about popularisation of information about the environment and its protection, public participation in the environmental protection and assessment of impact on the environment;
2) a project that might always have a significant impact on the environment in the understanding of Act of 3 October 2008 about popularisation of information about the environment and its protection, public participation in the environmental protection and assessment of impact on the environment, implemented on the areas other than those specified in point 1).
c) Staroste(self-governmental body of a middle level) is the competent authority to issue an IPPC-permit concerning other projects.

In Poland one authority issues an IPPC-permit in the sphere of impact of a project on the whole environment. The company (the applicant) does not send applications for issuance of an IPPC-permit to several different administrative authorities.

Sweden

In first instance, IPPC-permits are issued either by one of Sweden’s five environmental courts or by one of Sweden's 21 state regional authorities, the

county administrative boards. The county administrative boards have a specific independent department that tries applications for environmental permits. Its decisions can be appealed to an environmental court.

In short, one authority can issue an IPPC-permit comprising the total environmental impact of the polluting activity concerned.

As a general rule, all environmental issues are to be tried in one and the same procedure and regulated in one permit. However, in some cases Swedish law may prescribe that two parts of one industrial plant shall be tried by different authorities. This may be the case, for example, where the industrial activity includes both some sort of environmentally hazardous activity on land that is to be tried by the county administrative board and diversion of ground water or other water operations that is to be tried by the environmental court. For such cases, the Environmental Code (Chapter 21, Section 3) prescribes that both matters may be dealt with at a single trial in the environmental court. When reviewing a permit application, the licensing authority must ensure that the application and the EIS have an adequate scope. If an applicant is not willing to include all relevant parts of the activity in the permit application, the application may be dismissed.

United Kingdom

The primary responsibility for regulating the Environmental Permitting process lies with the Environment Agency, although local authorities have residual responsibilities: regulation 32. The Environment Agency regulates Part A (1) installations and mobile plant as well as waste operations. Local authorities regulate Part A (2) and B installations, and mobile plant and waste operations that are associated with such installations. It is possible (but rare) for there to be a number of activities on site that make up more than one regulated facility – particularly if a waste operation is part of a Part A (2) or B installation. In such circumstances the Secretary of State has the power to issue a direction, or the operator has the power to make a written request for such a direction, so as to allocate regulatory responsibility to the regulator of the major activity of the site. In such cases there may be one regulator and more than one permit that applies to a single site.

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4. Which authority or court hears appeals against IPPC-permits? What competence does the authority or court have to change/amend a permit? Can it for example decide about new or changed conditions? Can it just withdraw the permit or parts of the permit?

Austria

The independent administrative tribunal (Unabhängiger Verwaltungssenat - UVS) hears appeals against IPPC-permits. If the IPPC-plant is also subject to an EIA, the independent environmental senate (Umweltsenat - US) hears appeals against the permit. Against decisions of these appellate tribunals a petition to the Supreme Adminstrative Court (Verwaltungsgerichtshof) may be filed.

	The appellate authorities (UVS, US) may change and amend a permit in any respect. The Supreme Administrative Court is a court of cassation and can generally just withdraw the permit.
Belgium	As explained before, in the three regions there is an administrative appeal procedure in one or, as the Brussels Capital Region is concerned, two instances. The authority that has to decide on the appeal can review the permit decision in all its aspects and is not limited in that by the arguments contained in the request for appeal (although the authority is off course obliged to look at the arguments put forward and give reason for its decision). The authority can thus review the application for a permit completely: refuse the permit that was granted in first instance; accord the permit that was refused in first instance; modify the conditions of it; introduce new conditions; impose more or less stringent conditions, etc. So, it is not impossible that e.g. an operator was granted a permit in first instance, but not being happy with the conditions of it, appeals against this conditions and finally would see its permit refused. After exhaustion of the administrative appeal procedure, one can challenge final decisions before the Council of State. Only legal arguments can be raised (both on procedural and substantive grounds). The Council of State can only annul (and suspend) the challenged decision, not putting its own decision in its place or modify it (see above under question 1)
Czech Republic	The Act No. 76/2002 Coll., on integrated prevention, allows for an appeal to the Ministry of Environment (against permits issued by a regional office) or to the Minister of Environment (against permits issued by the Ministry of Environment). The competences of these authorities within the administrative procedure are governed by Act no. 500/2004 Coll., Code of Administrative Procedure (Section 90), according to which: „(1) Where an appellate administrative body concludes that the challenged decision is contrary to legal regulations or incorrect, it shall a) annul the challenged decision or a part thereof and discontinue the proceedings; b) annul the challenged decision or a part thereof and return the matter back for reconsideration to the administrative body which had issued the decision; the justification of the appellate body decision shall contain the legal opinion of the appellate body, which shall be binding upon the administrative body which had issued the challenged decision; the new decision may be appealed against; or c) alter the challenged decision or a part thereof; the decision may not be altered if any of the participants upon whom a duty is imposed might suffer harm for reason of losing the right of appeal; (...) the appellate administrative body shall alter the justification of the decision if this is necessary in order to rectify the defects of the justification; the appellate administrative body may not, by its decision, alter a decision of a body of regional self-governing unit taken within its autonomous competence.

(3) The appellate administrative body may not alter the challenged decision to the prejudice of the appellant unless the appeal was lodged also by another participant whose interests are not identical, or unless the challenged decision is contrary to legal regulations or another public interest.

(4) If the appellate administrative body finds out that there is a fact substantiating the discontinuation of proceedings it shall annul the challenged decision and discontinue the proceedings, unless another decision on appeal may be relevant for damages or for the legal successors of the participants.

(5) If the appellate administrative body concludes that there are no reasons for procedure as under paragraphs 1–4 of this Section, it shall dismiss the appeal and confirm the challenged decision. If the appellate body alters or annuls a part of the challenged decision, it shall confirm the remainder of the decision."

The decision on appeal can be reviewed by an administrative court (first by a regional court, then by way of cassation complaint by the Supreme Administrative Court). The courts have no competence to alter or amend the permit. Pursuant to Section 78 of the Act No. 150/2002 Coll., Code of Administrative Justice: "If the complaint is justified, the court revokes the contested decision as unlawful or for procedural faults. The court also revokes the contested decision as unlawful if it finds that the administrative authority exceeded the legally defined bounds of discretionary power, or abused it." Courts may only alter decisions on administrative offence in cases where the penalty was unreasonably high (Section 78(2) of the Code of Administrative Justice).

Finland

Vaasa Administrative Court, which was formed in 1999 by uniting the former Superior Water Court and Vaasa Provincial Court, is the only competent administrative Court to hear appeals against permit decisions under the EPA. This implies that even if a municipal civil servant has – on the basis of subdelegation – issued a permit, the appeals shall be directd to Vaasa Administrative Court. Hence, the answer to the first question is: *Vaasa Administrative Court* in the first instance and *the Supreme Administrative Court* in the last instance.

Administrative Courts - Vaasa Administrative Court and the Supreme Administrative Court – have *wide powers to change and amend the permit*. They can change limit values set in the permit conditions, amend the permit by new conditions and repeal the permit partly (e.g. in some peat production cases permits have been partly repealed for instance on nature conservation grounds or because of emissions of particulate matter if the production field is close to the neighbouring settlement). Of course the Court has to be careful so as not to change the permit totality in a manner that would make it impossible to realise the project specified in the permit application. In such a case, it is often more practicable to repeal the permit decision and to remand the case back to the permit authority – if the Court does not find that the project cannot at all fulfill the preconditions required by the EPA (section 42). Actually, the only

	principal restraint for Courts is that they cannot grant a permit if the application has been disallowed. In such a case, the decision of the permit authority has to be repealed and the case remanded back to the competent administrative authority.
France	Le code de l'environnement prévoit que les autorisations d'exploitations des installations classées (dont les permis IPPC font partie) peuvent être déférées à la juridiction administrative par les tiers, personnes physiques ou morales en raison des dangers ou inconvénients que leur fonctionnement présente. Ce principe est en général rappelé dans les arrêtés préfectoraux d'autorisation. Le juge administratif a la possibilité non seulement de prononcer l'annulation de la décision qui fait l'objet du recours mais également de modifier les prescriptions imposées par le préfet soit en les atténuant lorsqu'elles lui paraissent disproportionnées ou injustifiées, soit en les aggravant s'il les estime insuffisantes. Il peut aussi accorder à l'exploitant l'autorisation illégalement refusée par l'administration s'il estime que l'installation envisagée est susceptible d'être exploitée sans atteinte excessive aux intérêts protégés par l'article L.511-1 du code de l'environnement. A noter : Les décisions suivantes de la juridiction administrative concernant l'application de la directive IPPC : CA Marseille 20 mars 2008 n° 05MA00777 (qui comporte aussi une description détaillée de tous les éléments figurant dans une étude d'impact): «considérant que si X et Y invoquent la méconnaissance de la directive n° 96/61/CE du conseil du 24 septembre 1996 relative à la prévention et à la réduction intégrée de la pollution, un tel moyen est inopérant, dès lors que la méconnaissance d'une directive communautaire ne peut être utilement invoquée à l'appui d'un recours contre une décision administrative individuelle , sauf en excipant de l'illégalité de la réglementation nationale, une fois dépassé le délai de transposition mais qu'en l'espèce, il ne résulte pas de l'instruction que la réglementation nationale serait incompatible avec la directive précitée.».
Germany	Compétent en appel des décisions d'autorisation est l'administration supérieur pour le recours administratif préalable, ensuite le tribunal administratif. Le recours administratif peut conduire à une modification de l'autorisation accordée. Le tribunal est limité à annuler l'autorisation complettement ou en partie ou à préscire à l'administration de l'accorder ou la modifier pour raisons de droit.
Hungary	The appeal authority is the National Inspectorate for Environment, Nature and Water. It is entitled to annul or modify the permit. It can decide about new or changed conditions or can withdraw the permit too. The court is not entitled to modify, it can only annul the decision.
Italy	Les Tribunaux Administratifs Régionaux sont compétents en la matière et ont le pouvoir de vérifier le bien-fondé en droit des autorisations et leur

annulation. Contre les décisions des Tribunaux Administratifs Régionaux on peut saisir le Conseil d'Etat. Les Juges administratifs italiens sont normalement des juges du seul droit et non des juges du fond, de sorte qu'ils ne peuvent remplacer les autorités administratives, par exemple en indiquant de nouvelles conditions de l'autorisation ou en révoquant l'autorisation ou une de ses parties: si l'autorisation n'est pas conforme au droit, le juge a seulement le pouvoir de l'annuler.

Netherlands

The court that is competent to hear appeals against IPPC-permits is the Department of Jurisdiction of the Council of State. This court is an administrative court that may be compared with the Conseil d'Etat of France. The Netherlands Department of Jurisdiction of the Council of State has four chambers, for physical planning law, for environmental law, for higher appeal and for migration law. The chambers for physical planning law and environmental are competent in one instances; the other chambers are higher appeal chambers. However, for environmental law this system will change soon. A law is accepted by parliament that will integrate the building permit and the environmental permit into one document. It will also introduce an appeal in two instances against a decision to grant or refuse such an integrated permit; appeal will be on the courts in first instance and a higher appeal on the Department of Jurisdiction of the Council of State. Although, according to this new law the permit for the discharge of polluted substances on surface water still keeps separate and will not be part of the new integrated permit. It is expected that the new system will come into force on januari 1th 2010.

The Department of Jurisdiction has only a restricted competence to amend or change a permit. The first competence of the court is to completely or partly nullify the decision to grant or refuse a permit. After a nullification the administrative organ has to take a new decision taking into account the court's decision. In most cases the court lacks sufficient information to decide by itself what a new permit has to content. In some cases the administrative organ admits that it made a mistake and both parties agree on what has to be done. In such a case this could be done by the court itself. However, the question always remains whether third parties involved agree with this solution. There is a tendency in the Department of Jurisdiction to do more by itself, but this possibility is restricted by the need of the Department for sufficient information and the condition not to pass by third parties involved.

The Department as an administrative judge always decides ex tunc. This means that it considers whether the administrative organ took the right decision according to the circumstances at the moment of the decision. So a court may not decide upon new or changed conditions at the moment of the courts decision.

The Department may not withdraw the permit or parts of the permit, it may only nullify the decision partly of completely. Nullification means that the decision is considered not to have been taken.

Norway

According to the Pollution Control Act section 85, the permits issued by the SFT may be appealed to the Norwegian Ministry of Environment. (The Public

Administration Act chapter IV includes provisions on the administrative procedure). The Ministry has the full competence to change, amend or withdraw a permit in accordance with the provisions laid down in the Pollution Act and relevant regulations. As a main rule, however, the permit cannot be changed to the disadvantage of the appealing part.

If the question of the legality of the permit is brought to court, the court's competence is limited to finding the permit invalid, as described under question 2.

Poland

Appeals against the decision about IPPC-permits are heard by the Self-Government Board of Appeals (Samorządowe Kolegium Odwoławcze). The entities authorized to lodge appeals are parties of the administrative proceedings, even if they have not taken part in the pending proceedings and ecological organizations having the rights of a party. According to Article 28 Code of Administrative Procedures (kpa), a party is everyone, whose legal interest or duty are the subject of the proceedings or who requests an action of the authority because of his legal interest.

The rights of the authority to issue a decision have been specified in Art. 138 Code of Administrative Procedures, based on which the authority may:
1. Uphold the appealed decision,
2. Reverse a decision in part and in this scope adjudicate about the essence of the matter,
3. Reverse an entire decision and in this scope adjudicate about the essence of the matter,
4. Reverse a decision in full or in part and in this scope discontinue the proceedings in the authority of first resort,
5. Discontinue the appeal procedure,
6. Revoke the appealed decision and remit the case for re-examination to the authority of first resort.

In the event a decision or a provision is issued by the Self-Government Board of Appeals in first resort, a claim should be preceded by an application for re-examination of the case, else it will be rejected by the court. If a party does not agree with the decision of the Self-Government Board of Appeals, it can bring a case before the court. Decision issued by the Self-Government Board of Appeals is subject to control by the Administrative Court after lodging an appeal against decision by the parties of the proceedings. A claim should be submitted to the locally appropriate Administrative Court through the Self-Government Board of Appeals that has issued the decision. There should be an instruction related to submission of a claim in the decision of the Self-Government Board of Appeals. A party has 30 days to submit the claim, commencing on the day of delivery (announcement) of the decision by the Board. Submission of a claim itself does not result in a stay of enforcement of the decision. A party may submit an application for such a stay of enforcement of the decision together with the claim.

The administrative court decides a case with a judgment, if it accepts a claim and then it:

	1) reverses a decision in full or in part, 2) states the invalidity of the decision. In such a case the court usually specifies which legal regulations have been violated by the authority and brings the case before the court for re-examination. If the court dismisses a claim, it shall justify the judgment on request of a party within 7 days of the day of pronouncement of the judgment by the Voivodeship Administrative Court.
Sweden	If the permit is issued by a county administrative board, the permit decision can be appealed to the regional environmental court and the court's decision can be appealed to the Environmental Court of Appeal. If the permit is issued by an environmental court, it can be appealed to the Environmental Court of Appeal and its decision can be appealed to the Supreme Court. A court that tries an appeal will review both questions of law and questions of fact and has full competence to reverse or amend the permit. It can, for example, set new or changed conditions for the permit or grant an application that has been rejected. The court is in the same position as the licensing authority. However, the court can only change the permit decision to the extent that it has been appealed.
United Kingdom	There is a right of appeal to the regulatory agency against the refusal to grant or vary a permit, against revocation, variation, enforcement and suspension notices, and against the imposition of unreasonable conditions upon a permit: regulation 31. Furthermore, there is a right of appeal in cases in which the regulatory agency has notified an operator that information contained within a permit, or application for permit, is not commercially confidential: regulation 53. Generally the time limit for appeals (see Schedule 6) is similar to that in the planning system, being six months from the date of refusal or deemed refusal to grant permits. In cases in which there is an appeal against an enforcement, suspension, or variation notice, the time limit is two months from the date of the notice. If the regulatory agency is seeking to revoke a permit, the appeal must be made before the date on which the notice takes effect. Finally, in cases in which there is an appeal concerning commercial confidentiality, it must be submitted within 20 working days from the date of the refusal. A revocation notice will not take effect pending the hearing of an appeal: regulation 31 (9). In all other cases – that is, surrender, enforcement, suspension or variation – there is no suspension of the notice pending an appeal: regulation 31 (8). Thus an operator cannot, if there is a rush order, gain an economic advantage by appealing against a notice so as to stop the enforcement process, continuing to pollute until the order is completed, and then stopping the process before the appeal is heard. An appeal must be made in writing to the Secretary of State. The appeal has to be accompanied by any relevant information, including any application, permit, correspondence, or

decision, and a statement as to how the appellant wishes the appeal to be determined.

An appeal can be heard in one of two ways: either by written representations or by a hearing. If either party to the appeal requests that it be heard by hearing, the Secretary of State must hold a hearing, although there is discretion as to whether the hearing is held in public. The Secretary of State also has a power to direct that hearing be held.

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5. Who – in addition to the operator of the plant - can bring a case concerning IPPC-matters to court by appealing against an IPPC-permit? What about for example people living in the neighbourhood, NGO:s and authorities on different administrative levels (local, regional, national)? What kind of obstacles are there for them to bring a case to court; for instance different kinds of procedural costs?

Austria

The right of appeal against a permit decision is granted to parties of the permit procedure. In addition to the operator of the plant mainly neighbours and environmental NGOs are parties of the IPPC-procedure and may appeal against the permit decision to the UVS. In addition to these parties the right to appeal against an IPPC-permit is also granted for example to the State Governor in respect of water management issues (Landeshauptmann als wasserwirtschaftliches Planungsorgan).

Neighbours who are parties of the procedures may as well as the State Governor (concerning water management issues) file a petition to the Supreme Administrative Court against the appellate-decision of the UVS. NGOs are not entitled to file a petition to the Supreme Administrative Court.

Regarding the permit procedure for IPPC-installations under the Austrian EIA-Act in addition to the neighbours and to NGOs the position of parties and also the right to file a petition to the Supreme Administrative court is granted to the Environmental Warden/Ombudsman (Umweltanwalt), in some cases to ad-hoc local associations of concerned citizens (Bürgerinitativen) and to local/municipial government authorities (Standortgemeinde).

Neighbours have standing if they are directly affected by the installation. In order not to lose standing neighbours have to submit opposing comments to the IPPCconsent request in due time. If an issue is not brought up in time or if the comments are not duly specified, neighbours lose respective standing.

In general the right of neighbours to appeal is limited in so far as public interest legislation is not included. For example emission limit values according to BAT, the obligation to use energy efficiently or obligations concerning nature preservation are considered as public interest legislation that is not subject to neighbour rights.

NGOs have standing if they are registered at the Austrian Ministry for

Environment.Once a NGO is registered according to a procedure regulated in the Austrian EIAAct, it has the right to have standing in all EIA and IPPC-proceedings. In order to obtain standing NGOs have to submit written comments opposing the issuing of an IPPC-permit within a six-week period of public display of the IPPC-consent request. Contrary to neighbours NGOs may also raise issues of public interest legislation: They are entitled to appeal against any violation of environmental legislation. They are however not entitled to contest the appellate-decision at the Supreme Administrative Court.

Neither neighbours nor NGOs have the right to appeal, where authorities fail to issue orders for a review and update of an IPPC-permit (see below Question 7).

In the permit procedure official experts and sworn-in external experts will be consulted by the authorities. The Supreme Administrative Court holds that an expert opinion is to be replied on "equivalent expert level". Costs to produce an adequate expert opinion are considerable for NGOs and neighbours.

NGOs claim it is difficult to raise funds concerning the participation in permit procedures (IPPC as well as EIA-procedures) as these matters are not easily conveyed in public relation campaigning. Their demand to establish a public fund to facilitate participation in permitting procedures has so far been rejected.

Belgium

According to article 19 of the Coordinated Laws on the Council of State, actions for suspension and actions for annulment of administrative acts can be brought by any party that can demonstrate a 'prejudice or interest'. According to the case law, this interest must be personal and direct. There is no doubt that an operator itself can lodge such an appeal, against a refusal of a permit or a permit that is believed to have been delivered under to strict conditions. Also local government, who's opinion was not followed in the permit decision, will have standing. Actions brought by natural persons against licences for the execution of construction works or the operation of industries are not only admissible if they are instituted by owners or tenants, i.e. holders of a subjective right, who live in the immediate vicinity of the site in question. Since the early eighties, a wider circle of interested parties is taken into consideration. It is not necessary to live in the immediate vicinity of an industrial establishment to contest the environmental licence that was granted to that establishment if it can be proven that the company in question causes a 'significant nuisance' which can be experienced many miles away. Since the mid-eighties of the last century, the Council of State also acknowledges that environmental groups can take action against government acts in order to protect collective environmental interests. The Council of State does require, however, that the organization is 'representative' of the group of people whose collective interests are threatened or damaged and verifies whether "the organization has such a level of support among the members of that group that it may be reasonably assumed that the positions adopted by the organization coincide with those of the interested parties themselves". This approach is not without its problems, in particular for umbrella organizations. In a number of cases, for instance, the Council ruled that an environmental umbrella organization does not have the authority to defend the specific interests of the constituent organizations, or that a national environmental organization has no

	specific interest in taking action with regard to a local environmental issue. Local environmental groups, for their part, sometimes have difficulty proving that they have sufficient local support. The Court fee for lodging an appeal for annulment with the Council of State is now fixed at a rate of € 175 per party. If one is asking also for suspension, the same fee has to be paid again. Apart from the court fee, an important cost is off course the fee of the lawyer. Although not prescribed by law – one can indeed introduce an appeal without relying on the services of a barrister – in practice, to be successful one has de facto to rely on such services. The preparation of an appeal and of the elaboration of the further pieces in the procedure (memorandum of reply, final memorandum) is time consuming. With an hourly rate ranging from € 100 to € 300 (without material costs) the barristers cost of a case will easily reach € 3000 to € 9000. In complex cases the cost can be much higher. Otherwise than in procedures before the ordinary courts, the losing party must however not pay a contribution in the lawyer costs of the winning party.
complement; the Walloon Region of Belgium	In addition of what is said in Lavrysen's report, one should stress the report of compliance committee of Aarhus Convention. Belgium is not well situated in the scale of good access to justice, for two main reasons: the cost of access to justice (since the implementation of looser pays principle, by act of 27 may 2007) and the restricted access to justice for associations: the case law followed by the Council of State being more or less the same as the one followed by the CJCE.
Czech Republic	According to Section 7 of the Act No. 76/2002 Coll., on integrated prevention, the participants of the proceedings are: (1) (…) always (…) a) the operator of the installation, b) the municipality, in whose territory the installation is or is to be located, c) the region, in whose territory the installation is or is to be located, d) civic associations, public benefit societies, federations of employers or chambers of commerce, whose sphere of business consists in enforcing and protecting professional interests or public interests pursuant to the special regulations 12), and also municipalities or regions in the territory of which this installation may affect the environment, if these participants applied in writing to the authority competent to grant the integrated permit within 30 days of the date of disclosing information from the application to the public pursuant to § 8. (2) A person who would be a participant in the procedure pursuant to the special regulations 5) shall also be a participant in the procedure if his (her) position is not already defined in paragraph 1 above. The above participants to proceedings may also bring a case to the court, provided they had been participants in the administrative proceedings. The obstacle for NGOs and other organizations in letter d) is the need to apply for being a participant within 30 days from disclosing the information.

Finland

The right to appeal against a permit decision belongs to 1) those whose rights or interests the decision may affect (e.g. people living in the area that is to a relevant extent affected by the plant in question by noise, emissions of particles, smell, or discharges into waters in which case the relevant effect can extend as far as several kilometres), 2) registered associations or foundations whose purpose is to promote environmental protection, health protection or nature conservation or the amenity of living environment, and on whose area of activity the environmental impacts occur (i.e. NGOs, irrespective of how long they have been existing and how many members they have), 3) local authority and other local authority on whose area the environmental impacts occur, 4) the Regional Environmental Centre and the Municipal Environmental Authorities of the municipality in question and of municipalities on whose area the environmental impacts occur (i.e. authorities responsible for public interest which, at the same time, are supervisory authorities under the EPA), and 5) other authorities safeguarding public interest in matters within their sphere of activity (e.g. fisheries authorities).

Procedural costs in Finnish Administrative Courts are low. The appellant has to pay a fee (fee of procedure) of 89 euro in the Administrative Court and 223 euro in the Supreme Administrative Court. There is no obligation to hire a lawyer, and even laymen can make successful appeals in the administrative judicial procedure. According to section 33 of the Administrative Judicial Procedure Act the Court is responsible for reviewing the matter. Where necessary, it shall inform the party or the administrative authority that made the decision of the additional evidence that needs to be presented. The Court shall on its own initiative obtain evidence in so far as the impartiality and fairness of the procedure and the nature of the case so require. In addition to this, the risk to be obliged to pay the opposite party´s procedural costs is in practice low. If a neighbour appeals against a permit decision he or she will only in exceptional cases (if the appeal is manifestly illfounded and only serves a purpose to halt the project without any real interest) be obliged to reimburse the operators costs.

The administrative authority that resolves a permit application will charge the applicant a fee that, in principle, covers the administrative costs for the decision. The fee may vary from a few hundred euros to tens of thousands, depending on the scope of the application.

France

Il faut indiquer que des consultations et des avis peuvent intervenir en amont, lors de l'étude de la demande, à l'occasion de l'enquête publique, ou lors de la soumission pour avis à la commission locale d'information et au conseil municipal intéressé, lorsqu'il s'agit d'installations de déchets.

Le comité d'hygiène et de sécurité des conditions de travail, lorsqu'il existe, doit également être consulté, son avis étant transmis au conseil départemental d'hygiène.

Les tiers, les collectivités locales et les associations de défense de l'environnement peuvent porter l'affaire devant les tribunaux s'ils justifient d' un intérêt à agir.

	Outre la contestation de l'autorisation elle-même devant la juridiction administrative (recours pour illégalité, excès de pouvoir, recours de plein contentieux…) ils peuvent agir devant le juge civil sur le fondement du trouble de voisinage. Il s'agit d'une responsabilité objective reposant sur l'existence d'une nuisance excessive. Toutefois le recours n'est pas possible lorsque le permis de construire du bâtiment exposé à ces nuisances, le bail ou l'acte de vente sont postérieurs à l'existence des activités occasionnant les nuisances, dès lors que ces activités s'exercent en conformité avec les dispositions législatives et réglementaires en vigueur et se poursuivent dans les mêmes conditions. La modification de l'installation peut faire perdre ce bénéfice de la pré-occupation. Il convient de rappeler qu'il suffit de démontrer l'anormalité du trouble, indépendamment de toute faute et qu'il peut y avoir trouble de voisinage même si la législation, la réglementation et l'autorisation administrative sont respectées. Les tiers peuvent aussi agir sur le fondement de l'article 1382 du code civil en cas de faute de l'exploitant et sur la responsabilité du fait des choses (par exemple en cas de rejet de produits chimiques dans une rivière entrainant la perte d'exploitation d'un pisciculteur), indépendamment de toute faute, à condition de démontrer le lien de causalité entre le rejet et le préjudice). La limite à l'action des tiers et des associations est la justification d'un intérêt à agir .
Germany	Toute personne physique ou morale de droit privé faisant valoir d'être lésé dans ses droits par l'autorisation peut former un recours. Le tiers doit habiter une zone potentiellement influencée par les nuisances qui emanent de l'installation. Une organisation non gouvernementale peut former un recours si elle est agréée comme intendant des buts statuaires concernant la protection de la nature. Une commune n'a que le droit à faire valoir d'être lésé dans sa propriété. L' autorité administrative succombée devant le tribunal administratif peut former un appel contre le jugement. Les frais de la procédure supportés par la partie succombée se montent dans le cas du tiers ou d'une organisation non gouvernementale par instance à 1.000 € (frais judiciaires) et 3.000 € (frais d'avocat).
Hungary	Any client concerned can bring the case to the court. Any person whose rights or interests are directly affected by the case can be a client. (e.g. people living in the neighbourhood etc.) NGOs have a special status guaranteed by the environmental act, regardless of the fact where they function they are entitled to attack any environmental decision. There are no significant procedural costs, clients may ask for reduced costs.
Italy	La jurisprudence administrative a le pouvoir d'évaluer cas par cas si les conditions existent pour agir. Il n'y a pas de problèmes pour les administrations publiques (surtout les collectivités locales) La jurisprudence

reconnaît aux personnes qui vivent aux environs du site de l'installation (dites riverains) un intérêt direct à proposer appel contre les actes d'autorisation, sans qu'il leur soit nécessaire d'en fournir la preuve. La tendance va vers une plus grande souplesse en faveur de personnes et de groupes qui déplorent un dommage potentiel pour l'environnement. Pour les associations nationales de défense de l'environnement reconnues par le Ministère de l'Environnement, l'intérêt à faire appel ne rencontre pas d'obstacles : elles ne sont pas tenues de fournir au préalable la preuve d'un intérêt particulier. La jurisprudence ordinaire apparaît généralement plus disposée à étendre la légitimation au profit d'organisations non gouvernementales de nature locale (ex. comités).

Netherlands

According to the Netherlands general Act on Administrative Law only those who are directly interested in a decision may raise an appeal against the decision to the court. Until some years ago we had in our country in environmental cases the action polularis (everybody had the right of appeal). Nowadays the environmental legislation is brought under the general appeal-system of the Act on Administrative Law. One is considered to be directly interested as soon as one in any way may be influenced by the installation for which the license is granted. So it depends of the seize and the character of installation whether the group of those who are directly interested will be big or small.

Among this group also belong NGO's. Whether NGO's are entitled to raise an appeal against an IPPC-permit depends of their statutory aim and their actual activities. Their statutory aim has to be sufficiently articulated, while the considered NGO also has to show actual activities to pursue its aim.

Also administrative organs may be directly interested in a decision. For instance the municipal board of a city in which a permit for an installation is granted by the provincial board may be considered to be directly interested in this decision.

There are in general some formal obstacles to bring a case to the court. First appeal has to be raised within the term for appeal. The general term is six weeks. Secondly one has to pay a fee of 150 euro for a natural person or 297 euro for others than natural persons. Thirdly, environmental decisions like permits are granted according to a procedure in which a draft-permit is published against which objections may be raised. One is only entitled to raise appeal against the decision when on has raised objections against the draft decision.

Norway

Any party that holds a legal interest may bring to court the question of the legality of an issued IPPC-permit. To hold legal interest, there is a general prerequisite that the plaintiff must establish a genuine need for having the claim determined as stated against the defendant. Further, it must be established a specific and practical interest for the plaintiff in the outcome of the case.

The right of organizations, associations and certain public bodies to bring action in their own name on behalf of their members/target group has been

developed through case law. It follows from the doctrine that the right of the organization is independent of the rights of its members. Accordingly, the organization may bring action even if no single person has standing.

NGO's that promote specific rights or interests may bring action for the protection of those rights or interests. It is a condition that the action falls within the object of the organization and that the organization is a natural representative of that interest. An action brought by an organization established for the purpose of bringing a specific action, will be dismissed.

According to the outcome of the court proceedings, the plaintiff may have to bear the procedural costs of the case, i.e. the court fee. If the plaintiff is not represented by a lawyer, the court fee has to be paid at the latest when the application for a summons is submitted to the court.

Poland

Act of 3 October 2008 on popularisation of information about the environment and its protection, public participation in the environmental protection and assessments of impact on the environment regulates the issues of public participation in the procedure concerning issuance of IPPC-permits. Everyone is admitted to take part in the procedure concerning issuance of an IPPC-permit, regardless of his/her nationality and origin, place of residence and direct profits or loss resulting from the conduct of proceedings. Everyone has the right to express his/her comments and submit motions, take part in an open administrative session, if the authority decides to carry it out, yet he/she does not have the right to appeal against the administrative decision, since this right is vested only to the parties. According to Article 28 Code of Administrative Procedures, the party is everyone, whose legal interest or duty are the subject of the proceedings or who requests an action of the authority because of his legal interest.

Ecological organizations may lodge an appeal or a complaint about a decision requiring public participation even if they have not taken part in the proceedings about issuance of the decision (Article 44 Act about popularization of information about the environment and its protection, public participation in the environmental protection and assessments of impact on the environment). This regulation ensures proper transposition of Article 10a of directive 85/337/EEC regarding the necessity to ensure access to justice in matters related to the environment to all members of "the interested society".

Sweden

As a general rule, anyone concerned by a permit decision has the right to appeal against it (Chapter 16, Section 12 of the Environmental Code). This includes people living in the neighbourhood, provided that they might be negatively affected by the permitted activities.

Certain national, regional and municipal authorities also have the right to appeal against a permit decision (Chapter 16, Section 12 and Chapter 22, Section 6 of the Environmental Code).

Local Employees' associations have a right to appeal. For other NGO:s, the right of appeal is restricted to non-profit associations whose purpose according

	to their statutes is to promote nature conservation or environmental protection interests. Further, the right of appeal is subject to the requirement that the association has operated in Sweden for at least three years and has not less than 2,000 members (Chapter 16, Section 13 of the Swedish Environmental Code). Very few NGO's in Sweden fulfil these requirements. It has been argued that Swedish law concerning NGO's right to appeal – and specifically the requirement that an NGO must have at least 2,000 members – conflicts with the IPPC- and EIA-directives. Hopefully, this matter will be resolved by the ECJ in the case C-24/09, where the Swedish Supreme Court has sought a preliminary ruling. There are no costs involved in appealing against a permit decision. There are no administrative charges and the appellant does not have to pay the applicant's court costs if the appeal is rejected.
United Kingdom	The right of appeal is limited to the operator. Challenge by third parties must be by way of judicial review in the Administrative Division of the High Court on conventional judicial review grounds. This applies whether the third party is an individual or the Government or indeed whether local or national government. The law and practice of judicial review is far too complicated to set out in a paper of this kind. Reference is made to S.A. de Smith's Judicial Review of Administrative Action edited by Lord Woolf and Professor Jeffrey Jowell (6th edition 2007 London Sweet and Maxwell); Judicial Review Handbook by Michael Fordham QC (5th edition 2008 Hart Publishing Oxford); Judicial Remedies in Public Law by Clive Lewis QC (4th edition 2008 Sweet and Maxwell London). The law on costs is evolving but the normal rule is that the loser pays the winner's costs. There are provisions for cost capping which limit the amount a successful party can recover as well as for a protective costs order whereby the loser (normally an NGO) will not pay the winner's costs. For recent discussion see the report of Mr Justice Sullivan: Ensuring access to environmental justice in England and Wales (May 2008).

6. On what basis is decided what is considered to be the best available technique (BAT) in a certain case? What is the role of the BREF documents?

Austria	General instructions on how to determine BAT can be found in the Trade Act (and respectively in other relevant legislation e.g. Waste Managment Act, Water Act, Mining Act). According to this provisions in particular comparable techniques, facilities and operation methods must be consulted, which are most effective in achieving a high level of protection of the environment as a whole. Cost-benefit analyses as well as the precautionary principle are to be taken into account. Consideration shall be given to the criteria established in Annex IV of the IPPC Directive and to the BREF documents. In a certain case BAT will be determined on the basis of general binding rules and/or on the basis of official expert reports. Generally binding rules have been established on the basis of the Trade Act,

Waste Management Act and Water Act: On the basis of the Waste Management Act orders have been issued e.g. for the Incineration of Waste or for Landfills. On the basis of The Water Act a number of orders on the limitation of effluent emissions from specific sectors (Abwasseremissionsverordnungen) has been issued (e.g. for paper production, iron and steel, tanneries). On the basis of the Trade Act e.g. orders have been issued for various industrial sectors (Branchenverordnungen) as e.g. cement production, foundries, production of glass or paper. In several cases however these orders for particular branches are not up to date (the order for foundries for example has been issued in 1994) and hence do not necessarily reflect today´s BAT. New orders have been released more recently for cement production and for iron and steel.

In the permit procedure authorities will consult an official expert. If no binding rules exist, non-binding guidelines will be taken into consideration. These are BREFS, as well as for example standards published by the Austrian Standards Institute (Ö-Normen), working documents from the Austrian Water and Waste Management Association or from the Austrian Umweltbundesamt.

Belgium

As the Flemish Region is concerned, the application of an environmental permit should include: "The measures and/or installations provided on the basis of the best available technologies in order: a) to create as little waste as possible; b) to use fewer dangerous substances; c) where possible, to recover and recycle the substances emitted and used in the process as well as waste; d) to limit the use of raw materials, including water, and to optimise energy efficiency; e) to prevent or to minimise the general effect of the emissions and the risks for the environment with regard to noise, vibrations, radiation, air, soil and water pollution and to danger for man outside the establishment and for the environment; f) to prevent accidents and to limit the consequences thereof for the environment; g) to comply with the general and sectoral environmental conditions which are applicable to the establishment; h) to comply with Article 14 and Article 16, §4 of the Decree of 21 October 1997 concerning nature preservation and the natural environment" (art. 5, § 1, 11°, VLAREM I). As IPPC-installations are concerned, there should also be an annex on integrated pollution prevention and control (cf. art. 6 of the IPPC Directive) describing inter alia the by the operator envisaged measures to comply with the general principles of the basic obligations of the operator as provided for in article 43ter VLAREM I. Article 43ter VLAREM I is inspired by article 3 of the IPPC Directive with that difference that the obligations of article 3 of the Directive, which are addressed to the member states, are formulated in article 43ter VLAREM I as direct obligations for the operator. So the operator is obliged to "take all the appropriate preventive measures against pollution, in particular through the application of the best available techniques". So, in first instance, it is up to the operator to show in its application for an environmental permit, that the proposed (in case of a not already existing installations) or applied (in case of a renewal of a permit) "techniques" are in conformity with the BAT requirement. Off course, that is only a starting point, and the authority that deliver the permit has to verify this and can be of another opinion and impose other measures it believes are in conformity with BAT.

As indicated earlier, there is a comprehensive set of general and sectoral environmental conditions, established by Flemish government (VLAREM II). The general conditions are applicable to all establishments subject to the environmental permitting system, while the sectoral conditions are applicable to the corresponding categories of establishments (actually such sectoral conditions applies to 61 different categories of establishments). One of the general conditions states: "§ 1. The operator should act with due diligence and always use the best available techniques for the protection of man and environment - this both with the selection of the treatment methods for emissions, as well as with the selection of measures for reduction at source (adapted production techniques and methods, raw materials management, etc.). This obligation also holds for modifications to classified establishments, as well as for activities which in themselves do not require a licence or a notification. § 2. The compliance with the conditions in this order and/or the environmental licence should correspond to the obligation from § 1. "(art. 4.1.2.1. VLAREM II). Although there is a presumption, it is not clear, and certainly not proven, that Flemish government applied BAT when drafting the different general and sectoral conditions contained in VLAREM II.

The general and sectoral conditions of VLAREM II are only a starting point during the assessment of environmental permit applications. According art. 3.3.0.1. VLAREM II, the authority can, subject to giving reason for that, impose stricter or complementary environmental conditions in view inter alia of applicable environmental quality standards. Specific for IPPC-installations, article 30bis, § 2, VLAREM I details the requirements for the environmental conditions to be imposed in an environmental permit for IPPC-installations. By reference to article 43bis and 43ter VLAREM I, this includes the requirement that those conditions are in line with BAT. Article 43bis VLAREM I lists the considerations to be taken into account when determining BAT. It list the 12 points mentioned in Annex IV of the IPPC-Directive. In determining what should be considered as BAT in a given case, permitting authorities can consult the BAT Centre of VITO (Flemish institute for Technological Research), that is also involved in the European BREF-activities .

As the Brussels Capital Region is concerned, art. 55 of the Ordinance on Environmental Licences states that while taking any decision – and thus not solely concerning IPPC-installations- in relation to environmental permits, one of the elements that should be taken into consideration are "the best available techniques in view to reduce primary energy use to a minimum, to prevent, reduce or compensate the dangers and nuisances of the establishment, and the concrete possibility to use such techniques". These elements should be mentioned in the reasons of the decision or in the file relating to the decision. As IPPC-plants are concerned, they are subject to the Executive Order of the Brussels Regional Government of 11 October 2007. According to art. 6, that is similar to art. 9 and 10 of the IPPC-Directive, emission limit values shall be set for the substances mentioned in Annex II (cf. Annex III of the IPPC-Directive) that are emitted in significant quantities based on BAT. Where environment quality standards requires stricter standards than those achievable with the use of BAT, additional measures shall be required. Art. N3 of the said Executive Order (cf. Annex IV of the IPPC-Directive) list the considerations to be taken into account when determining BAT. It includes "the information published by the Commission pursuant to Article 17 (2) of the

IPPC Directive, or by international organisations". So, this is to be understood as a reference to the work of the IPPC Bureau, including the BREF's developed by it.

In het Walloon Region the Decree of 11 March 1999 on Environmental Licenses authorises the Government to establish general, sectoral and integral operating conditions for establishments that fall within the environmental permitting system. According article 8 of the Decree, those conditions shall be based on BAT . An environmental permit shall contain the particular conditions applicable to the installation in question (art. 35, § 1, 1°), which cannot be less stricter than the general and sectoral conditions, except within the limits authorised by the said conditions and on the condition that the same level of environmental protection will be attained (art. 6). The permitting authority shall base the particular conditions on BAT. If environmental quality standards requires so, more stringent conditions shall be imposed (art. 56). Art. 1, 19° (2) list the considerations (a) to l)) to be taken into account when determining BAT. It includes the information published by the European Commission pursuant to Article 17 (2) of the IPPC Directive, or by international organisations. So, this is to be understood as a reference to the work of the IPPC Bureau, including the BREF's developed by it. The ISSeP (Institut scientifique de service public) is in charge of following developments in BAT

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complement; the Walloon Region of Belgium

The role of BREF document is central in the proceeding for according a permit. This document allows to evaluate the objectives required by the administration, by reference to what is possible regarding to the BAT.

Usually, the administration doesn't intervene in the choice of technologies, but set up a level of protection to be obtained, whatever the means used by the company (it can even be a management technique, to rationalize the use of energy, for example).

Czech Republic

In Section 14 of the Act No. 76/2002 Coll., on integrated prevention, it is specified that

"in setting the binding conditions of operation, in particular the emission limits, the Authority shall base its considerations on the use of the best available technique on the basis of the aspects set forth in Annex 3 to this Act, taking into account the technical characteristics of the installation, its location and local environmental conditions, however, without prescribing the use of one specific technique or specific technology." Under Section 1(e) of that Act, when deciding on the best available technique, the criteria listed in Annex 3 of the Act are taken into account. According to Annex 3 to the Act No. 76/2002 Coll., on integrated prevention, the criteria to consider BAT are: "bearing in mind expected costs and benefits of the planned measure and the prevention and precaution principles:

1) The use of low-waste technology
2) The use of less hazardous substances
3) The support for recovery and recycling of substances generated or used in the technological process and where appropriate for

recuperation and recycling waste
4) Comparable processes, facilities or operational methods, which have been tried with success on an industrial scale
5) Technical development and changes in scientific knowledge and understanding
6) The nature, effects and volume of the emissions concerned
7) The commissioning dates for new or existing installations
8) The consumption and nature of raw materials (including water) used in the technological process and their energy intensiveness
9) The need to prevent or reduce to a minimum the overall emissions impacts on the environment, transboundary pollution effects and the environmental risks
10) The need to prevent accidents and to minimize their consequences for the environment
11) The information on the state and development of best available techniques and monitoring of related information published by the European Commission and through the international organizations."

BREF documents are referred to within Section 27 of the Act No. 76/2002 Coll., on integrated prevention:

"(1) The system for exchange of information on the best available techniques shall include:
a) monitoring of changes in the best available techniques contained in documents published by the European Communities (hereinafter „documents of the European Communities") and monitoring of trends in the best available techniques in the Czech Republic,
b) providing for authorized translations of the best available techniques contained in documents of the European Communities, and publishing and explanation thereof, (...)
(2) The Ministry of Industry and Trade in cooperation with the Ministry of the Environment, the Ministry of Agriculture, the Ministry of Health, the Czech Environmental Inspectorate (hereinafter the „Inspectorate"), the Regions and the Agency shall ensure for the system for exchange of information.
(3) The Government shall lay down the manner and extent of ensuring the system for exchange of information on the best available techniques in a Government Decree."

The decree mentioned in Section 27(3) of the Act on integrated prevention was adopted in 2003 by Government Order No. 63/2003 Coll., which established a Forum for the Exchange of Information on BAT consisting of experts from the Ministry of Industry and Trade, the Ministry of the Environment, the Ministry of Agriculture, the Czech Environmental Inspectorate, regions and the Agency (which is an organization responsible for the expert support in integration prevention). This Forum sets up technical working parties in diverse fields of competence. BREF documents are translated by individual resorts and the translation is then considered by the respective technical working group. That group is responsible for the translation, proof-reading and upon the developments in BAT it issues recommendations which are to be applied in the integrated prevention process. Translations of the BREF documents are available on the webpage dedicated to IPPC plans. Recommendations on the

use of the BREF documents are not at the moment available at the webpage of IPPC, however they can be found on other webpages. Recommendations adopted in 2006 and 2007 are also available in the archive of the IPPC webpage.

Finland

There are *legal definitions*, based on the IPPC Directive, in the EPA and the EPD. According to section 3 (Definitions) of the EPA, best available technique refers to methods of production and treatment that are as efficient and advanced as possible and technologically and economically feasible, and to methods of designing, constructing, maintenance and operation with which the pollutive effect of activities can be prevented and most efficiently reduced. A technique is technologically and economically feasible when it is generally available and may be applied in the relevant field at a reasonable cost. More detailed provisions concerning the factors to be taken into account when defining the best available technique shall be laid down by decree. These criteria are included in section 37 of the EPD. Of the 12 factors enumerated in the section the following ones can be mentioned: the hazard level of employed substances and the scope for using less hazardous alternatives; the quality and consumption of raw materials used; energy efficiency; developments in technology and natural science; and information on best available techniques published by the EC Commission or international bodies.

According to section 4 (General principles) of the EPA, the best available technique shall be used in all activities that pose a risk of pollution. Negligence to obey this general principle cannot, however, immediately and as such, lead to injunctions or criminal sanctions. On the contrary, activities liable to an environmental permit are under an obligation to use the best available techniques (section 43 subsection 3 sentence 2): Permit conditions concerning the prevention and limitation of emissions shall be based on the best available technology, without specifying a certain set techniques to be used. In legal practice this has been confirmed to be the minimum standard of performance in spite of the fact that the first sentence of the subsection in question could be understood to allow a more lenient standard. In addition, the preconditions for granting a permit (section 42 of the Act) shall in any case be fulfilled; using the best available techniques is not necessarily enough to obtain a permit.

Obviously, the interpretation on what is BAT in a given case has to be based on these statutory starting points. In practice, the BREF documents play an important role when assessing if a given technical solution meets the standard of BAT. The significance of BREF documents has been acknowledged in some published decisions of the Supreme Administrative Court (see e.g. SAC 2007:19 and SAC 2.11.2006 nr 2912). In the last mentioned case the Court reasoned as follows: In the BREF document data on best available technology concerning pulp and paper industries were available. When setting permit conditions, the Document was one source of information to assess the best available technology presupposed from an industrial plant. Because of differences in circumstances and between different plants the Document as such did not aim to define what the requirement of the best available technology would presuppose in a given case. Even otherwise the emission limit values should in individual cases be issued on the basis of an overall consideration, but so that the requirement of the best available technology

would, at any rate, be met.

France

Les meilleures techniques disponibles sont définies lors de l'instruction du dossier d'autorisation. La réglementation prévoit que, pour les installations IPPC, l'arrêté d'autorisation comprend «des valeurs limites d'émission fondées sur les meilleures techniques disponibles, au sens de la directive 2008/1/CE du 15 janvier 2008 relative à la prévention et à la réduction intégrées de la pollution, sans prescrire l'utilisation d'une technique ou d'une technologie spécifique, en prenant en considération les caractéristiques techniques de l'installation concernée et son implantation géographique».

La définition de ces valeurs d'émissions est donc faite par référence aux documents BREF sont prises en considération à deux niveaux :
- par le demandeur d'une installation classée lors de la constitution de sa demande d'autorisation pour justifier ses choix techniques.
- par l'autorité compétente chargée de l'étude du dossier d'autorisation lors de l'analyse critique des choix techniques du demandeur en vue de la détermination des prescriptions techniques de l'autorisation et en particulier les valeurs limites d'émissions applicables.

L'ensemble des documents BREF, qui a été traduit en langue française pour en faciliter l'utilisation, fait l'objet d'une large diffusion auprès des autorités compétentes comme des industriels concernés.

En droit français, l'utilisation des meilleures techniques disponibles à un coût économique acceptable ne constitue pas le seul critère d'appréciation pour la protection de l'environnement. C'est prioritairement l'analyse de l'impact réel de l'installation sur la santé des populations et l'environnement, au cas par cas à partir des études d'impact et de danger, et en fonction de la sensibilité et de l'état du ou des milieux environnants, l'autorisation devant en tout état de cause respecter des prescriptions minimales définies au niveau national.

Germany

Les "meilleures techniques disponibles" sont représentées – d'une part – par le stade de développement de procédés progressistes garantissant l'aptitude pratique à limiter les nuisances à l'air, l'eau et le sol pour parvenir à un haut niveau de protection de l'environnement (l'état de la technique). Elles sont concrétisées – d'autre part – par les valeurs limites déterminées abstraitement dans un règlement décrété en participation d'experts des domaines des sciences, de l'économie et des ministères compétents (standards abstraits). Les documents de référence des meilleures techniques disponibles font partie des valeurs limites et donnent des informations sur l'état de la technique et les exigences du principe de précaution.

Hungary

BAT has priority in the permit procedure. If there is no information on BAT available in Hungarian language, the English one has to be applied and in both cases or if neither of them is available, the best available technique must be determined by Government decree no. 314/2005. (XII.25.), which includes general aspects (like Annex IV of Direcive 2008/1/EC). It is primarily the responsibility of the applicant to compare the best available technique and its

activity. The authority decides upon further requirements following the examination of the documents.

Italy

En Italie les autorisations intégrées sur l'environnement doivent "tenir compte" des meilleures techniques disponibles, dont l'évaluation est confiée aux autorités administratives qui doivent prévoir les prescriptions obligatoires à observer.

Les autorités administratives jouissent d'un pouvoir discrétionnaire technique et administrtif dans le choix des critères à appliquer au cas concret, parce qu'il n'existe pas d'obligation juridique rigoureuse sur le type de technologie à utiliser.

Il est obligatoire de se conformer aux lignes directrices établies par le Ministère de l'Environnement dans quelques Décrets (Décrets du 29/1/2007 relatifs à la gestion des déchets, aux élevages, aux abattoirs et au traitement des carcasses, à la fabrication du verre et des céramiques).

Le document Bref est expressément rappelé.

L'art. 4 de l'Acte législatif n° 59/2005 établit que l'autorisation intégrée sur l'Environnement est délivrée compte tenu des critères indiqués dans l'Annexe IV .

Netherlands

BREF documents are in fact decisive for the question whether a technique is a best available technique. In general administrative organs do not apply techniques that are more environmental friendly than those of the applicable BREF document(s). As soon as they would do so the applicant will raise an appeal. On the other hand as soon as they apply a technique as best available that is not mentioned in a BREF document one may expect appeals from direct interested third parties.

Problems may arise when more than one BREF document is applicable in a case. In general the newer document has priority over the older one. Problems may also arise when a BREF document is rather old-fashioned and a new one is in preparation. The Court will accept that an administrative organ applies the new draft BREF document, but in general administrative organs are not willing to do so. When they still apply the old document, this will also be accepted by the Court.

Norway

Appendix II to the Regulations relating to pollution control includes a definition of the term "Best available techniques", and has a list of different relevant issues to be taken into consideration when an application for an IPPC-permit is processed. Further, it is underlined that when determining what is the best available technique in each separate case, the likely costs and benefits of a measure and the principles of precaution and prevention is to be taken into account by the authority.

In addition, it follows from Appendix II to the regulation that the BREF-

documents shall be used as an aid for determining the best available techniques in each emission permit.

Poland

The applicant should prove in his application for an IPPC-permit that the plant meets requirements of the best available techniques (BAT).

The definition indicates that keeping the limit emission values has the most important meaning for stating whether a given solution meets BAT requirements. Each technical or organizational solution that ensures keeping the limit emission values should be recognized as fulfilling BAT. The permissible emission values from the IPPC-plants are defined while taking into account the need to observe the emission standards as well as the general duty not to exceed the environmental quality standards out of the area, to which the operator of a plant has a legal title or out of the industrial zone, and in reference to noise emissions – out of the area of the limited use, if it has been established.

Limitation of requirements, concerning the IPPC-plants, to the abovementioned conditions would be equivalent to a lack of essential differences in comparison to other plants. It should be noted, however, that the issues mentioned in Art. 143 Act Environmental Protection Law are to be applied to all plants subject to obtainment of an IPPC-permit, i.e.:
1) use of substances of low hazard potential;
2) effective generation and use of energy;
3) ensuring rational consumption of water and other raw materials as well as other materials and fuels;
4) application of waste-free and low-waste technologies and the possibility of recycling of the arising waste;

and the argumentation used by the applicant in order to prove that he meets the abovementioned conditions should be based on the following information:
1) type, scope and volume of emissions;
2) application of processes and methods comparable to those applied effectively on the industrial scale;
3) application of scientific and technical progress.

Moreover, the Act Environmental Protection Law imposes an obligation to include the following aspects while defining BAT requirements for a given plant:
1) profit and loss account;
2) time necessary to implement the best accessible techniques to a given type of plant;
3) prevention of environmental risks caused by emissions, or their limitation to a minimum;
4) taking up measures to prevent serious industrial accidents or reducing the environmental risk caused by them to a minimum;
5) date of delivery of the plant to use;
6) information about the best accessible techniques, published by the European Commission based on Art. 16 clause 2 of the IPPC-directive.

These issues constitute an additional scope of requirements concerning IPPC-

	plants, although due to the fact that they have not been quantified, they constitute an area where the operator of a plant and the environmental protection authority have to come to a consensus in the course of the proceedings. From the practical point of view, it can be assumed that the requirements described in Art. 143 points 1-4 Act Environmental Protection Law as well as Art. 207 clause 1 points 1-4 have been included in reference documents published by the European Commission (so-called BREFs), referred to in Art. 207 clause 1 point 6. These documents contain specific quantitative emission parameters or volumes of raw materials and other materials consumption, as well as recommendations referring to application of particular technical and organizational solutions. Therefore, while proving the conformance of an application with BAT requirements one should include a comparison of the factual state of affairs with the provisions included in the reference documents. However, one should remember that information contained in BREFs constitutes a point of reference exclusively, and not unequivocal recommendations of solutions to be applied. All the more they cannot be treated as limit emission values, especially while taking into account the fact that the IPPC-directive forbids to recommend specified techniques or technologies and it orders to include technological characteristics of a given plant, its geographical location and local environmental conditions.
Sweden	The Environmental Code prescribes that the best possible technology shall be used in order to prevent, hinder or combat damage or detriment to human health or the environment (Chapter 2, Section 3). This rule shall apply to the extent that compliance cannot be deemed unreasonable. Particular importance shall be attached to the benefits of protective measures and other precautions in relation to their costs (Chapter 2, Section 7). In short, this means that the best technology shall be used, where this is not unreasonable from a cost-benefit perspective. It is the operator that must show that a certain precautionary measure is unreasonable. The cost-benefit balancing is not based upon the economy of the applicant but on the economy of the line of business as a whole. The BREF documents are one important factor in deciding emission limit values and other precautionary measures. But depending on the circumstances in each individual case, the permit authority may deviate from the BREF documents. The licensing authority has both legal and technical expertise and may ask other authorities for their opinion where this is necessary to establish BAT.
United Kingdom	The terms in the Directive are vague, which allows the regulatory agency some discretion in determining applications on a case-by-case basis. There is, however, some supplementary guidance to be found in sector guidance notes and BREF documents. The guidance notes provide a coherent context in which the decisions can be made in relation to permit conditions. The national statutory guidance notes are based on the BREF documents. The IPPC notes are non-prescriptive, providing indicative standards for both new and existing installations, with clear guidelines for upgrading in the case of existing plant. Each application is considered individually and variations from the guidance notes standard may be acceptable in certain circumstances.

7. Is there a time limit for the IPPC-permit, or is the permit valid for ever? Is the permit holder obliged to apply for a new permit after a certain time period? Can a supervisory authority issue injunctions which go further than the conditions of the permit as regards environmental matters? Under what circumstances can a supervisory authority request a review of the permit and its conditions?

Austria

According to the Trade Act there is no general time limit for the IPPC-permit. There are however several circumstances where a review and update of the IPPC-permit and its conditions take place:

The holder of an IPPC-permit must check within a period of ten years whether BAT have changed substantially and if necessary must immediately adopt the necessary measures (taking into account cost-benefit considerations). Authorities have to be informed on the BAT-changes and the measures taken. If insufficient measures have been taken by the permit-holder, authorities that issued the permit have to impose the necessary conditions by decree. Thus the permit may be changed.

Even before the expiry of the ten years-review period authorities have to order new conditions:
- if substantive changes in BAT have taken place that will lead to significant pollution prevention without causing disproportionate costs
- or, if operation safety requires the application of a different technology.

If, before the end of the ten years review period the installation causes environmental pollution to an extent that new emission values have to be established the permit holder has to present a restructuring and decontamination concept and apply for a new permit concerning the relevant changes.

Permits according to the Water Act have to specify a time limit (not exceeding 90 years) for the usage or impairment of water. Authorities have to specify the frequency of reconsideration in the permit (at least every 5 years).

Belgium

Environmental permits in the Flanders and Walloon Regions are valid for maximum 20 years, but one can apply for a new permit for another 20 years following the same permitting procedure, etc. If one asks such a new permit in time, one is authorised to continue the operation till the moment that a final decision has been taken over the demand for a new permit. In the Brussels Capital Region an environmental permit is valid for a period of 15 years, but it can be prolonged one time with the same period trough a simplified procedure. If one likes to continue after that period the operation, a complete new permit, following the ordinary procedure, must be followed.

In the Flanders Region there is an obligation for the authority who issued the

permit, to review ex officio the permit each 4 years when its allows the discharge of dangerous substances in surface waters (Directive 76/464/CEE) or groundwater (Directive 80/68/CEE) (art. 41 VLAREM I). As IPPC-installations are concerned, the competent authority is obliged to reconsider periodically, and where necessary, to update the permit conditions. Reconsideration is also necessary in the circumstances described in art. 13 (2) of the IPPC- Directive. For existing installations the review was to be completed on 30 October 2007 (art. 41bis VLAREM I). The review has to be done in accordance with the procedure of art. 45 VLAREM I. This procedure has a wider scope and authorises the competent authority to modify or to complete the conditions of an environmental permit. This can be done ex officio, or on the demand of a competent environmental administration or agency, the operator, any natural or legal person that is likely to undergo negative effects of the operation of the establishment or on the demand of an environmental NGO. In this procedure the opinion of the competent environmental authorities is requested. Injunctions can be given in cases of non-compliance with the conditions of the permit or in cases of an imminent and significant danger for human or the environment. These injunctions are given by the Mayor on proposition of the environmental inspectorate or by the environmental inspectorate itself (art. 64-67 VLAREM I). These injunctions can be appealed with the Environment Minister (art. 68 VLAREM I) and further on to the Council of State. When the environmental conditions of the permit seems to be deficient, and in attendance of their review trough the earlier mentioned procedure, environmental inspectors can prescribe all necessary measures to combat the danger for the environment (art. 69 VLAREM I).

In the Brussels Capital Region article 64 of the Ordinance on Environmental Licences states that the permitting authority can modify the conditions of a running permit when she is of the opinion that the conditions of it are not longer suitable to prevent, limit or compensate the environmental and health impacts, including the use of best available techniques. When the permitting authority is considering to impose new or stricter conditions for IPPC-plants (establishments subject to the Executive Order of 17 October 2007), the proposed new conditions and the explaining memorandum will be subject to a 15 days public inquiry. According to art. 8 of the Executive Order of 17 October 2007 the Brussels Environmental Agency has to reconsider each 5 years and, where necessary, update the permit conditions. Such an reconsideration has also to be taken place under the conditions set out in art. 13 (2) of the IPPC-Directive. The inspection and enforcement of environmental permits is regulated by the Ordinance of 25 March 1999. The environmental inspectors of the Brussels Environmental Agency have in this respect similar powers than those of the Flemish region. The injunctions can be appealed with the Environmental Appeal Board.

In the Walloon Region article 65 of the Decree on Environmental Licenses states that the permitting authority, on proposal of the competent officer of the region, when she is of the opinion that the conditions of it are not longer suitable to prevent, limit or compensate the environmental and health impacts or to respect the environment quality standards, can modify or complement the environmental conditions of the permit. The permitting authority has to notify its proposal to the operator, the competent officer of the region and the

municipality. A public inquiry can be necessary. In case when completing or modifying the environmental conditions is deemed not being able to avoid an serious treat for man or the environment the permit can be suspended are withdrawn. These measures can be appealed with the Regional Government. The environmental inspectors of the DPE (Division of Environmental Policing of the DG Natural Resources and the Environment of the Ministry of the Walloon Region) have in this respect similar powers as those of the Flemish and Brussels Capital Region. The injunctions can be appealed with the Walloon Government.

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complement; the Walloon Region of Belgium

The maximum duration for a permit is 20 years, which is a bit long. After that time, the company or the owner of the factory must apply for a renewal of the permit.

To counterbalance this problem, mechanisms of revision have been organized by the decree (11 mars 1999):

- Each year, at the anniversary date of the permit, the company must communicate to the supervisory authority the list of modifications that happened on its site during the year and the supervisory authority checks up if these modifications must imply a review of the conditions of the permit.

- Following to articles 65-67 of the decree, the supervisory authority (delegate civil servant) can intervene at any time (following a proceeding defined in the decree). This tool is, in fact, difficult to use: the supervisory authority has to demonstrate that the permit has to be modified or completed.

Czech Republic

The IPPC permit is not time limited. However, review of a permit must be done at least once every 8 years to make sure whether there has been no change in the circumstances that could lead to a change in the integrated permit (Section 18 of the Act No. 76/2002 Coll., on integrated prevention). Moreover, the permit shall terminate in case it is not used for a period of more than 8 years without a serious reason therefor [Section 20(c) of the Act No. 76/2002 Coll., on integrated prevention].

Apart from regular review of (at least) every 8 years, the supervisory authority shall always review the integrated permit under these circumstances (Section 18(2) of the Act No. 76/2002 Coll., on integrated prevention):

> "a) if it is considered that there has been a serious breach of the conditions of the integrated permit,
> b) if there has been a change in the best available technique that allows for a substantial decrease in emissions not entailing excessive costs for the operator of the installation for the introduction thereof,
> c) if [the authority] discover(s) that the operating safety of a process or activity of the installation requires that a different technology be used,
> e) if so required by a change in the emission limits or environmental quality standards implemented on the basis of other regulations6), or
> f) in the environmental pollution caused by operation of the

> installation is so high that it significantly exceeds the environmental quality standard and it cannot be approached other than through a change in the binding conditions for operation of the installation.
> (3) The Agency may review the binding conditions of the integrated permit if a planned change in the installation is notified."

As regards injunctions going further than the conditions of a permit, cases falling within Section 18(2)(c) and (e) would lead to review of an integrated permit, if it is required by operating safety of the process and in case high environmental pollution is caused by the operation. Upon the results of this review, the Authority is authorized to (Section 19(1)):

> "a) require that the operator of the installation introduce measures for a remedy within an appropriate deadline [the deadlines for carrying out the remedies in Section 37 and 38 shall not apply (note, i.e. deadlines in case a tort is committed do not apply)]
> b) to require that the operator of the installation submits a request for a change in the integrated permit within an appropriate deadline set by the Authority pursuant to Section 19a(1),
> c) to issue the operator a of the installation a decision on terminating the operation of the installation or a part of the installation."

Should the operator not follow the remedies under Section 19(1), the Authority shall issue a decision on the termination of the operation of an installation or its part.

These remedies do not preclude other remedies that may be imposed under special laws [Section 19(4) of the Act No. 76/2002 Coll., on integrated prevention].

Finland

Depending on the matter concerned, environmental permits are issued either until further notice or for a fixed period (section 52, subsection 1 of the EPA). In practice, most permits for permanent activities are "valid forever", but their conditions shall be examined after a fixed period of time (see below). However, the provision does not prohibit the permit authority to limit the time frame of the permit. Most often permits for a fixed period are granted for activities, which are planned to be operated only for a certain time (e.g. stone crushing plants) or when the environmental impacts are exceptionally difficult to assess in adcvance and the constructions of the plant can be removed relatively easily (e.g. fish farming in some cases). The main difference between these two types of permits is the sphere of reconsideration after the relevant time period. If the permit is valid until further notice, reconsideration shall normally be restricted to permit conditions. In contrast, the permit for a fixed period can be completely reconsidered concerning the location of the plant or the recipient where the discharge into waters takes place and so on, including the possibility to reject the application.

A permit granted for a fixed period expires when the period ends, unless otherwise stipulated in the permit decision (section 55, subsection 1 of the EPA). Typically, the permit includes a condition, which requires the permit holder to apply for a new permit within a certain time frame, if he wants to

	carry on the activity also after the expiry date of the permit. Permits granted until further notice must set the date by which an application for the review of permit conditions must be made and specify any reports that must be submittedby that time, unless such a stipulation is manifestly unnecessary (section 55, subsection 2 of the EPA). In practice, this almost every permit shall be reviewed, but the time frame varies normally from four to ten years, depending on the nature of the activity and its environmental impact etc. In addition, reviewing of the permit conditions is possible on application by a supervisory authority, a relevant authority protecting a public interest or a party suffering harm. Review shall take place on grounds fixed in section 58, subsection 1 of the EPA. The decision is made by the authority that has granted the permit; the case shall be, as appropriate, be processed similarly to a permit application. The grounds for amending the permit are: 1) the pollution or risk thereof caused by the activity is materially different than was expected, 2) the activity has a consequence prohibited in the EPA (e.g. pollution of groundwater), 3) emissions may be reduced considerably without undue cost due to advances in the best available technology, 4) circumstances have changed substantially since the granting of the permit, or 5) it is necessary for the observation of provisions issued for the purpose of fulfilling an international obligation binding on Finland. In practice, only few cases concerning the amendment of a permit have been pending. This is probably because of the regular review of permit conditions (section 55, subsection 2 of the EPA). In extreme cases it is also possible to revoke the permit (section 59 of the Act), but no such cases have been reported to us.
France	Une autorisation d'exploiter n'est pas limitée dans le temps et une demande d'autorisation n'est pas nécessaire au bout d'un certain temps. Cependant, la directive IPPC impose une révision périodique des conditions de l'autorisation. Cette révision est effectuée en France sur la base d'un « bilan de fonctionnement » présentée par l'exploitant tous les 10 ans en vue de permettre au préfet de réexaminer et, si nécessaire, d'actualiser les conditions de l'autorisation. Le contenu de ce bilan est fixé par l'arrêté du 29 juin 2004 (disponible sur http://aida.ineris.fr) qui précise que le préfet peut demander de manière anticipée la remise d'un bilan de fonctionnement dans les circonstances suivantes: modification de l'impact de l'installation sur l'environnement, pollution accidentelle, modifications substantielles dans les meilleures techniques disponibles.
Germany	L'autorisation d'exploiter n'est pas limitée régulièrement dans le temps. Etant accordée sous réserve de l'état de la technique, elle ne profite pas d'une protection des droits acquis absolue. L'autorité peut promulguer des

	injonctions ultérieures qui sont nécessaires et proportionnelles à la réalisation des obligations de l'exploitant de protection ou de précaution contre nuisances et pour protéger le public ou le voisinage de risques suscités par des nuisances.
Hungary	The permit has to be issued for a definite period of time, at least for five years, and it must be reconsidered every five years. If an important change in the circumstances occurs, a review and updating of the permit and its conditions has to be requested. (The extent or quality of the emission changes significantly or there is an important development in the best available technique.)
Italy	L'autorisation est généralement valable pendant cinq ans. L'autorité compétente peut procéder à une révision de l'autorisation quand: a) la pollution entraînée par l'installation est telle qu'elle impose la révision des valeurs limites d'émission fixées dans l'autorisation ou l'introduction dans l'autorisation de nouvelles valeurs limites; b) les meilleures techniques disponibles ont subi des modifications substantielles, qui permettent de réduire très sensiblement les émissions sans dépenses excessives; c) la sécurité d'exploitation du procédé ou de l'activité requiert l'emploi d'autres techniques; d) de nouvelles mesures législatives communautaires ou nationales l'imposent.
Netherlands	Environmental permits are in general granted in the Netherlands without any time condition. Only permits for waste installation are granted for ten years. The general Act on Environmental Management offers a limited number of conditions under which a permit may be granted for a certain period of time, such as a permit for a temporary installation or a permit that is applied for for a certain period of time or when a time-period is required to develop better knowledge about the consequences of the installation for the environment. So the permit holder is not obliged to apply for a new permit after a certain period of time. A supervisory body in our country is not entitled to issue further injunctions than the conditions of a permit. According to the general Act on Environmental Management an administrative organ is obliged to regularly consider whether the restrictions and the conditions of a permit still satisfy taken into account the developments of technical possibilities to protect the environment and the developments with regard to the quality of the environment. The administrative organ is entitled on its own initiative to add restrictions to a permit or to change or supply permit-conditions or to add new conditions to a permit. Until shortly these obligation and competence were paper ones. Administrative organs where happy when they succeeded in timely deciding on permit applications. Nowadays some administrative organs have started to consequently meet this obligation and use the competence. Especially some bigger industrial plants in the Netherlands do not meet the requirements of best available techniques. For

	those plants the administrative organs try to adopt the applicable permits, although without an application this is not an easy job.
Norway	In general, there is no time limit for an issued IPPC-permit, and the holder is not obliged to apply for a new permit after a certain period. It follows however from section 18 of the Pollution Control Act that SFT may amend the permit or issue a new permit to replace the existing one when the underlying conditions for the acceptance of the permit has been changed. Further, it follows from section 36-12 of the Regulations relating to Pollution Control (Pollution Regulations), that the competent authority shall on its own initiative periodically reconsider the permit – i.a. in the light of the development of the best available techniques.
Poland	The IPPC-permit is issued for a defined period of time, yet not longer than for 10 years. The Minister of the Environment keeps a register of applications for IPPC-permits and the IPPC-permits issued. The Minister of the Environment may ask the Staroste or Marshal of the voivodeship for granting information or access to documents concerning issuance of IPCC permits. If an incorrectness in the scope of issuance of IPPC-permits by the Staroste is found, the Minister of the Environment makes an approach, which may include in particular a motion for statement of invalidity of the decision about issuance of an IPPC-permit. If an approach is made, the Minister of the Environment shall have the right to be a party in the administrative procedure and the proceedings before the administrative court. The authority proper to issue a permit at least every five years makes a review of an issued IPPC-permit. Moreover, issuance of an IPPC-permit is also reviewed, if there has been a change in the best accessible techniques, permitting a considerable reduction of emission volume without causing excessive costs, or it results from the need to adjust the use of the plant to changes in regulations concerning environmental protection. If the review shows a need to change the content of an IPPC-permit, whose expiry period elapses later than in a year upon the completion of the review, the existing IPPC-permit shall be cancelled or limited without compensation.
Sweden	Normally, there is no time limit for an IPPC-permit (or similar environmental permits) and the permit is valid for ever. The permit holder is not obliged to apply for a new permit after a certain time. It is possible for the permit authority to set a time limit, but this option is seldom used. Normally a supervisory authority cannot issue injunctions which go further than the conditions of the permit. A permit is valid against all other parties. However, a permit does not prevent a supervisory authority from issuing injunctions where this is necessary in order to avoid health effects or serious damage to the environment (Chapter 26, Section 9 of the Swedish

Environmental Code).

A permit can only be withdrawn under certain conditions, such as non compliance with the permit or in other situations where environmental interests are particularly strong. The conditions of the permit can always be altered after ten years and, in some situations, even earlier. But the new conditions must not be so intrusive that the activity can no longer be pursued or is significantly hampered.

A permit can be withdrawn:
i) where the applicant has misled the permit authority;
ii) where the permit is not complied with;
iii) where the activity causes significant adverse effects which were not anticipated when the permit was granted;
iv) where the activity is liable to lead to a significant deterioration in the living conditions of a large number of people or substantial detriment to the environment;
v) where the activity is discontinued;
vi) where a new permit replaces a previous permit;
vii) where it is necessary to fulfil Sweden's obligations as an EU Member State;
viii) where the maintenance of a water structure is seriously neglected; or
ix) where a permit to alter water conditions has not been used for a long time and it is not likely that it will be used again.
(Chapter 24, Section 3 of the Environmental Code)

In practice, the option to withdraw permits is used very seldom (hardly ever).

The most important situations where permit conditions may be altered and rules concerning the scope of the activity may be changed are:
i) when ten years have elapsed since permit was granted, or after a shorter time prescribed as a consequence of Sweden's obligations as an EU Member State;
ii) where the activity to a significant extent contributes to the infringement of an environmental quality standard;
iii) if the applicant has misled the permit authority;
iv) if the permit is not complied with;
v) if the activity causes adverse effects which were not anticipated when the permit was granted;
vi) if the conditions in the surrounding area have changed significantly;
vii) if a significant improvement in terms of human health or the environment can be achieved by the use of a new process or treatment technology;
viii) if the use of a new technology for measuring pollution levels or environmental impacts would significantly improve the possibilities of controlling the activity;
ix) if the activity takes place to a significant extent in an area subject to certain prohibition on the discharge of wastewater and certain other substances;
x) in order to improve the safety of a structure; or
xi) if certain conditions in order to protect fishing are not appropriate.
However, new rules and conditions must not be so intrusive that the activity can no longer be pursued or is significantly hampered.
(Chapter 24, Section 4 of the Environmental Code)

United Kingdom	In granting an application, the regulator can attach any conditions to the permit that it sees fit including a time limit. The regulator is also under a duty to review permits periodically: regulation 34. Such reviews are required to ensure that the permit conditions are up to date and capture changes in circumstances, such as environmental impacts, available techniques, or other relevant issues, such as Community-wide emission limit values (ELVs). There is no prescribed period within which reviews must be undertaken and the only guidance is that the Environment Agency will carry out reviews "having regard to its experience of regulating various sectors": DEFRA: Environmental Permitting Core Guidance paragraph 10.33 (2008) available on-line at www.defra.gov.uk/environment/epp/documents/core-guidance.pdf. This review process is a key factor in ensuring the efficiency of a technology-forcing process standard such as BAT.

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8. Is the choice of the localisation of an IPPC-plant considered in the same process as the IPPC-permit and the conditions for the permit? Or is the localisation decided in a separate process according to another legislation? In that case; which comes first, the decision on the localisation or the IPPC-permit?

Austria	The choice of the localisation of an IPPC-plant is usually considered in the process of granting a building permit according to provincial legislation (planning and construction law – Bau- und Raumordnungsgesetze der Länder). As mentioned above (Qu.3) the competent authorities have to coordinate the permit procedure and the issuance of the permit. In order to enable effective coordination provincial legislation in several provinces obliges the applicant to a building permit to simultaneously apply for (IPPC-) Trade Act-permits.

Belgium	The localisation of the plant is a question of land use planning and building permits. For the construction of the plant, as indicated earlier (see answer to question 3), a building permit is necessary. In the Flanders region the building permit is delivered in a separate process according to the Decree on Land Use Planning, in first instance by the municipality, and on appeal by provincial government, while an environmental permit for an IPPC-plant is delivered according to the Decree on Environmental Licences, in first instance by provincial government, and on appeal by the Environment Minister. Depending of the situation, the building permit can be delivered first, or the environmental permit can be delivered first. As explained before, both permits are needed to start the construction works. In the Brussels Capital Region both procedures are co-ordinated, but will result in to distinct decisions on both permits. In het Walloon Region a "permis unique" (combined permit) will be delivered.

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complement; the Walloon	Normally the localisation depends on another legislation (planning and building legislation which determines specific sectors and zones, as

Region of Belgium	agricultural, industrial and so one). But: - In the case of a unique permi, the authorizations concern as well environmental legislation as planning and building legislation (cf Lavrysen's report.) - Some of the conditions (terms) of the authorization can take into account the localisation of the plant: for instance Natura 2000 zones; - The conditions (terms) of the authorization may also take into account, in certain sensitive areas, the legislations about air, water: in these cases, a certain level of quality must be respected and consequently, the conditions may be more severe than in another location for the same kind of establishment.
Czech Republic	All in all an IPPC-plant is subject to the following procedures: 1. Environmental Impact Assessment of a Conception (SEA) – Section 10a of Act No. 100/2001 Coll., on environmental impact assessment and amending some related Acts (the Act on environmental impact assessment) [if necessary to apply for SEA] 2. Plan under Section 43 of Act No. 183/2006 Coll., on town and country planning and building code (Building Act) 3. Environmental Impact Assessment of a Plan (EIA) – Section 4 of Act No. 100/2001 Coll., on environmental impact assessment and amending some related Acts (the Act on environmental impact assessment) [if necessary to apply for EIA] 4. Planning permission under Section 84 of Act No. 183/2006 Coll., on town and country planning and building code (Building Act) 5. IPPC under Act No. 76/2002 Coll., on the integrated prevention 6. Building permit under Section 115 of Act No. 183/2006 Coll., on town and country planning and building code (Building Act) Building permit may only be granted once integrated permit was granted (Section 45 of the Act No. 76/2002 Coll., on integrated prevention) if integrated permit is obligatory (Annex I of the Act No. 76/2002 Coll. lists operations that require integrated permit). According to Section 78 of Act No. 183/2006 Coll., on town and country planning and building code (Building Act), the building permit and planning permission proceedings may be in one procedure; however, this will only apply for the plants requiring integrated permit in cases where the integrated prevention permit proceedings was completed before the building permit and planning permission proceedings.
Finland	The permit authority reviews the application on the proposed site and has little authority to consider alternative locations. Thus, on a regional or national level, localisation is decided irrespectively of the environmental licensing procedure. On a broad scale, localisation of industrial plants is guided by municipal land use planning decisions and, on a local scale very much depends on the activity of the applicant. The permit authority has the choice to reject or approve the proposed activity

on the proposed site. Alternative locations can be considered to a limited extent (e.g. if a farmer has at his disposal a piece of land where the pig farm could be located so as to minimise pollution, compared with the proposed site). In this narrow sense, localisation of an IPPC plant is considered in the same procedure as the permit and its conditions. The system does not recognise a separate procedure where e.g. a politically elected body, such as the Cabinet or a Ministry, could make a decision concerning localisation of IPPC plants. However, there are specific systems for decision-making concerning nuclear power plants. In addition, land use planning has a considerable impact on localisation of IPPC plants, but these two systems are interlinked with certain provisions of the EPA (see below). Also the EIA procedure (see below) should be mentioned, even if no decisions are made in this procedure where the overall environmental impacts of the activity are assessed. In practice, the findings made in the EIA procedure may still have a considerable impact on choosing the localisation between several alternatives.

Principles of choice of localisation are included in section 6 of the EPA. Activities posing a risk for pollution must be located so that they will not cause pollution or pose a risk thereof and so that pollution can be prevented, whenever feasible. Three criteria shall be taken into account when the suitability of a location is being assessed, namely:
1) the nature of the activity, the probability of pollution occurring and the accident risk,
2) the present and future land use indicated in a legally binding land use plan for the area and its surroundings and the plan provisions that concern the area, and
3) other possible locations in the area.

Section 6 is, at least in principle, applied to all polluting activities, irrespective of whether a permit is necessary or not. In section 42 (Preconditions for granting a permit), subsection 2, of the EPA land use planning is directly linked to the permit procedure. Activities must not be located in conflict with a detailed local plan. In addition, the provisions of section 6 apply to location. This means that an activity can be granted a permit, even if there is no detailed land use plan, but the permit may not be granted in conflict with such a plan. Also general land use plans (master plans) may have an effect on the localisation, even if contradiction with a master plan does not as such constitute an obstacle for granting a permit.

France

En droit français le classement dans la nomenclature des installations classées se fait en fonction des substances dangereuses produites ou utilisées et de l'activité concernée.

La demande d'autorisation porte non seulement sur l'installation qui fait l'objet de la demande mais aussi sur les autres équipements qui, par leur proximité, ou leur connexité avec l'installation soumise à autorisation, sont de nature à en modifier les dangers ou inconvénients (circulaire du 9 juin 1994 point I, 3).

La localisation est intégrée dans les éléments pris en compte pour l'autorisation puisque dans l'étude d'impact, l'analyse de l'état initial doit

	présenter et justifier le choix de l'aire ou des aires d'études retenu afin de cerner tous les effets significatifs du projet sur les milieux naturels et humains et permettre un examen d'alternatives suffisamment contrasté. Cette étude ne doit pas être purement bibliographique ou documentaire mais doit s'appuyer sur des investigations de terrain et de site. Dans cette même étude doivent apparaître les effets du projet sur les sites et paysages, la faune et la flore, les milieux naturels et les équilibres biologiques, la commodité du voisinage (bruits, vibrations, odeurs, émissions lumineuses) l' agriculture, l'hygiène, la salubrité, la sécurité publique, la protection des biens matériels et le patrimoine culturel). Les autorités compétentes prennent en compte la localisation de l'installation afin de définir les prescriptions qui seront imposées à l'exploitant par l'arrêté préfectoral d'autorisation pour adapter les conditions de l'autorisation à la qualité du milieu. L'autorisation est délivrée pour l'exercice de l'activité dans un lieu donné, sous réserve du respect des règles d'urbanisme, notamment de l'obtention du permis de construire.
Germany	Le lieu d'implantation d'une installation industrielle ou agricole est pris en compte comme une des conditions d'autorisation. L'autorisation ne doit pas être accordée si les exigences du droit de planification ou de la directive "Habitats" ne sont pas remplies.
Hungary	If, by localisation we mean whether the plant can be established in a given territory, it is decided by the local government in a decree. If, however, it means that a construction permit has to be requested, the construction authority issues the permit in a separate procedure. In the latter process the applicant has to submit the IPPC-permit. If the IPPC-permit has not been issued yet, the construction authority may suspend its procedure. The construction permit is bound by the conditions set by the IPPC-permit.
Italy	Oui, le lieu d'implantation de l'installation est l'un des éléments à considérer dans l'autorisation intégrée sur l'environnement.
Netherlands	The decision on the localisation of the plant and on the IIPC-permit follow different procedures. The localisation of a plant is a matter of physical planning. A plant may only be established on ground with a sufficient physical planning destination. These destinations are fixed in municipal destination plans. A building permit for a plant may only be granted as long as the plant will be established on ground with a sufficient destination. The granting of and IPPC-permit is a matter of environmental law. These where always separate decisions following separate procedures. Recently the general Act on Environmental Management is adopted in a way that a not sufficient destination may be a ground to refuse an environmental permit. In general the decision about the localisation comes first. Only for a certain plant on a certain place an IPPC-permit may be applied for. After the IPPC-

	permit is granted a building permit may be granted. Building permit and environmental permit are procedural linked to each other in the sense that an environmental permit does not come into force as long as the building permit has not been granted, while an application for a building permit has to hold up as long as an environmental permit has not been granted. As said before according to new legislation the building and the environmental permit will be integrated into one document. This however does not change the fact that the decision about the localisation and about the IPPC-permit are separate decisions.
Norway	No. The localisation of an IPPC-plant is not decided as part of the processing of applications pursuant to the Pollution Control Act. According to the SFT, an IPPC-permit will not be issued if the localisation of the plant has not yet been established. An application regarding the localisation of the plant will be considered by the competent planning and building authority.
Poland	Selection of localization of an IPPC-plant/plant is not considered in the procedure about issuance of an IPPC-permit. Localization of an IPPC-plant is decided in a separate administrative process. A localization decision is issued before obtainment of an IPPC-permit. One can apply for issuance of an IPPC-permit as early as at the moment of commencement of the execution of an investment, i.e. upon obtainment of a building permit. An application for issuance of an IPPC-permit may be submitted before obtainment of a permit for use.
Sweden	The localisation of the plant is an important part of the permit process in Sweden. The applicant must show that he has chosen a site for the plant that is suitable with regards to certain provisions that aims to promote sustainable development. He must also show that the site is chosen in such a way as to make it possible to achieve the purpose of the plant with a minimum of damage or detriment to human health and the environment. A permit must not conflict with development plans adopted pursuant to the Swedish Planning and Building Act. But the fact that the localisation is permissible under the Planning and Building act does not necessarily mean that it is permissible under the Environmental Code. In most cases, the applicant must obtain both an environmental permit and a building permit.
United Kingdom	Locational issues may form part of an IPPC permit determination (for example if emissions have adverse environmental impacts due to the particular location) but the primary consideration of locational issues will take place as part of the planning system. Planning consent will normally be sought first, but this is only a requirement in relation to certain waste operations such as landfills.

9. Are the EIA-directive (Council Directive of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment, 85/337/EEC) and the IPPC-directive implemented in the same legislation in your country, so that you in one single process get a permit that fulfils the demands of both directives? If not so; how is the EIA-directive implemented? For example in a special legislation, in planning and building legislation or otherwise?

Austria

The EIA directive has been implemented by a special act of legislation – the EIA-Act (UVP-Gesetz 2000). If an EIA is necessary, all other permit proceedings (according to federal as well as to provincial legislation) are integrated into the permit procedure of the EIA-Act. The authority competent for the EIA has to apply all relevant legislation and has to verify, if requirements of the relevant legislation are fulfilled.The EIA-authority therefore also applies the relevant IPPC-legislation and issues a permit that covers all IPPC-matters.

Whether an IPPC-plant also requires an EIA according to the Austrian EIA-Act is settled in Annex I of the EIA-Act. Whereas most IPPC- waste management facilities also require an EIA, the EIA-thresholds for production plants are often higher than those of the IPPC-directive, nevertheless an EIA may be necessary in sensitive areas (E.g. Natura-2000 sites; areas where air quality standards are not met).

Belgium

In the Flanders Region the EIA-Directive is implemented in a separate piece of legislation (Chapter III of Title IV of the Decree of 5 April 1995 containing general provisions on environmental policy and its implementing Executive Orders) . This legislation defines the projects subject to EIA. There is a list of projects (Annex I of the Executive Order of 10 December 2004) that are subject to EIA in all circumstances and a second list (Annex II of the same Executive Order) of projects than can be subject to EIA, after screening, and depending on the specific characteristics of the envisaged project. The legislation deals first with the screening and scoping phase. The initiator of the project has to notify his intention to start an EIA to the competent authority (the EIA Service of the Flemish Region). After public participation this Service will issue guidelines on the EIA (scope, alternatives to be considered, impacts to be studied…). The EIA must besides the minimum requirements mentioned in the Decree fulfil the requirements of the guidelines issued by the EIA Service. EIA's are to be conducted by EIA-experts that are recognised by the Environment Minister and that are independent from the initiator. After completion of the EIS, the EIA Service will check its quality and when it is deemed to have sufficient quality, one can start the permitting process. The EIS will be part of the application for the environmental and the building permits and will than follow the same process (public participation, consultation of specialised environmental agencies and administrations…). One cannot challenge an EIS separately in court. One can only challenge an EIS together with the final permit decision (s).

In the Brussels Capital Region the EIA-Directive is implemented in the

Ordinance of 7 June 1997 on environmental licences, so the same legislation in witch the IPPC-Directive is implemented. As indicated earlier (see answer to question 3), establishments of category I A are subject to EIA and an environmental permit. The procedure starts with a public inquiry on the "preparatory note to the EIA", after the Brussels Environmental Agency has elaborated draft-guidelines for the EIA. After this 15 days public inquiry a guidance committee, composed of civil servants from different administrations, will issue final guidelines and has to approve the consultant who will be in charge of the EIA. When the EIS is completed it will be inspected by the guidance committee. If the quality is sufficient, the procedure can go on. The application for the permit, will together with the EIS, follow the permitting procedure, including public participation and advice by competent authorities.

In the Walloon Region the EIA-Directive is now implemented trough Chapter III of Part 5 of the Environmental Code, while the IPPC Directive is meanly implemented trough the Decree of 11 March 1999 on Environmental Licences and it's implementing Executive Orders. Every decision to grand a permit (environmental permit and/ or building permit) is subject to environmental impact assessment. For smaller projects an environmental impact notice is required; for the bigger ones, listed in Appendix I of an Executive Order of 4 July 2002, an environmental impact statement is necessary. However, if the competent authority is of the opinion that a project for witch only an impact notice is required, believes the project has nevertheless significant environmental impacts, a full environmental impact statement can be imposed. Environmental impact statements can only be produced by consultants recognised by the Government. Before starting the drafting of an EIS, there will be a public consultation, in view of deciding on the scope of the EIS. The EIS will be part of the permit application. The EIS will be send together with the permit application and the observations received during the public consultation on the scoping, to the Walloon Council for Sustainable Development (a consultative body) and the local or Regional Consultative Commission on Land Use Planning (idem). Both bodies will deliver an opinion on the quality of the EIS and on the opportunity of the project. The permitting procedure will than go further, including public participation and advice of the competent authorities.

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complement; the Walloon Region of Belgium

Yes. The EIA-directive is partly transposed in the decree on permit of environment, called "permis unique".
See Lavrysen's report.

In order to grant a maximum of legal security to the companies, the decree has created a deadline called "délai de rigueur", into which the decision must be taken by the permit authority to give or to refuse the permit, otherwise, the authority is supposed to have given tacitly the authorisation. This time runs from the moment the permit is decided admissible and complete.

For the permit authority, the exercise is not easy, because, as said before, different areas of the administration, ruling different matters (air, water, waste, land...) have to communicate between each other in a given time.

	The EIA, assessment of the effect on projects on environment, when it's asked (class 1 establishments) takes time, but as it is necessary to make the file complete and admissible; the time will not begin to run until it has been realized. Practically, as said before, there is a kind of partnership between the applicant and the delegate of the permit authority in order to complete the file in optimal conditions. This method is successful: before the decree was implemented, the time needed to obtain a permit could be 3 years. Now, it has been reduced to 6 to 9 months maximum. This collaboration induces also a positive message to the companies which is that environment is not only a cause of constraint, but that to respect the environmental laws can also have advantages, like sparing water, energy, for instance, through new technologies or new behaviours, and thus, making savings.
Czech Republic	The EIA directive is implemented separately in the Act No. 100/2001 Coll., on environmental impact assessment and amending some related Acts (the Act on environmental impact assessment). Planning and building permits are also regulated in a separate Act No. 183/2006 Coll., on town and country planning and building code (Building Act).
Finland	The EIA Directive has been implemented through special legislation, whereas the IPPC Directive has been implemented in the Environmental Protection Act. The EIA Directive has been implemented by a framework Act on the Environmental Impact Assessment Procedure (468/1994). The EIA Act has, though, many links to other environmental legislation. E.g. when an EIA is necessary, an environmental permit may not be granted if an Environmental Impact Statement (EIS) has not been attached to the permit application files. This solution is based on the fact that the EPA covers only projects causing environmental pollution. Obviously, there are many other types of projects falling under other legislation than the general act on pollution control (= the EPA), such as water management projects, mines, roads and railroads. An EIA may be necessary to realise also these projects and, hence, the EIA Act must be linked also to the Water Act, the Mines Act, the Roads Act and the Railroads Act etc. It must be emphasised that in Finland the EIA legislation has been passed to fullfil the requirements set in the EIA Directive. Environmental impacts caused by projects not falling under the duty to perform an EIA shall also, of course, be reported and evaluated, but this is part of the ordinary permit procedure. If an EIA referred to in the Directive is necessary, a separate EIA procedure precedes the environmental permit procedure. The EIA procedure ends when the Coordinating Authority (Regional Environmental Centre) gives its opinion concerning the EIS. This implies that the procedure does not lead to a decision, which could be subject to appeals. The EIS and opinions will be attached to

	permit applications of the project. The data and materials collected within the EIA procedure can be used as a basis in the relevant permit procedures.
France	Les deux directives sont transposées dans le code de l'environnement. Pour l'ensemble des installations classées relevant du régime de l'autorisation dont les installations IPPC font partie, la procédure est unique.
Germany	En Allemagne, la directive concernant l'évaluation des incidences de certains projets publics et privés sur l'environnement (directive 85/337/CEE) et la directive IPPC sont transposées au sein de la même législation. Par conséquent, le demandeur obtient grâce à une procédure unique toujours une autorisation tenant compte des deux directives. L'autorisation inclut les autres décisions administratives qui concernent l'installation.
Hungary	The rules of EIA and IPPC directives are included in a joint government decree. [314/2005. (XII.25.)] There are separate rules for each procedure but there is a possibility to take a single (consolidated) procedure when the project falls into the scope of both directives. Otherwise the IPPC procedure follows the EIA procedure. If there is a need for both procedures, in practice usually a consolidated procedure takes place.
Italy	Non, la directive 85/337CEE est transposée dans l'acte législatif n° 152/2006 (Texte Unique sur l'Environnement)) tandis que la directive IPPC (ex Directive 96/61/CE) est appliquée par acte législatif n° 59/2005. Il s'agit de deux parcours distincts. Le législateur italien s'est posé le problème de la coordination et de la simplification des deux procédures, en ce sens qu'il a considéré comme prédominante et absorbante la procédure d'étude de l'impact sur l'environnement qui "tient lieu" d'autorisation intégrée sur l'environnement pour les projets pour lesquels l'évaluation en question incombe à l'Etat. L'étude d'impact sur l'environnement et les documents du projets rédigés au cours de la procédure de VIA (Valutazione d'Impatto Ambientale – Evaluation de l'impact sur l'environnement) contiennent également, à cet effet, les informations prévues par la législation sur IPCC. Naturellement l'autorisation de l'ouvrage doit aussi contenir les prescriptions spéciales pour prévenir toute forme de pollution.
Netherlands	The EIA-directive and the IPPC-directive are implemented in the same Act in the Netherlands, namely the general Act on Environmental Management. Granting a permit for an IPPC-plant for which decision an EIA has to be drafted, can take place in one single procedure. The procedure starts with a letter of notice in which the undertaker gives notice of his initiative to competent administrative organ. This organ issues directives for the drafting of the EIA. Once a draft EIA is published everybody can comment and the Advisory body on EIA gives advice on the draft. Then the final EIA is part of the application for the IPPC-permit. There is no separate possibility to go into

	appeal against the EIA. Appeal against the decision to grant the permit may also cover appeals against the EIA in the sense that it is not correct and/or complete.
Norway	No. The EIA-directive (amended by directive 97/11/EC) is implemented into Norwegian legislation by the Act on Planning and Building. Where an impact assessment is required due to the EIA-directive, however, a summary of the impact assessment, including a list of the key options that have been assessed by the applicant, shall be included in the application for an IPPC-permit.
Poland	The procedures based on the directive 85/337/EEC and the IPPC-directive are two separate procedures. The process based on the directive 85/337/EC is completed with issuance of a decision on the environmental conditionings. The process based on the IPPC-directive is completed with issuance of an IPPC-permit. If a project consists in construction of a plant where a IPPC-installation is to be used and at the same time it is a project that may always have a considerable influence on the environment or that may have a considerable influence on the environment that is qualified as a project subject to assessment of the environmental impact, then there have to be a process conducted concerning issuance of a decision about environmental conditionings in relation to such a project. A copy of the decision on environmental conditionings or a copy of an application for issuance of a decision about the environmental conditionings is one of the attachments to the application for an IPPC-permit. It must be stressed that the process about issuance of an IPPC-permit has to be carried out with public participation, which ensures transposition of Art. 10a of the directive 85/887/EEC concerning the need to ensure all members of "the interested society" an access to justice in matters related to the environment. This way the demands of both directives are fulfilled in the process of issuance of an IPPC-permit. At the same time, it has to be stressed that a building permit must be proceeded by issuance of a decision about the environmental conditionings.
Sweden	Yes, the EIA-directive and the IPPC-directive are implemented in the same legislation, i.e. the Environmental Code. Only one process is required to fulfil the demands of both directives. An EIS is a mandatory part of the permit application (Chapter 6, Section 1 of the Environmental Code). The applicant must consult the county administrative board regarding the EIS prior to the permit application. If the activity is likely to have a significant environmental impact, the EIA procedure is based on the principles of the EIA-directive. For activities that are not likely to have a significant environmental impact, the EIA-procedure is less comprehensive (and does not always meet the requirements of the EIA-directive).
United Kingdom	The two systems are separate. Many of the installations that require a permit to operate will also be subject to the need for environmental assessment under the relevant legislation. In these cases, much of the information included within an

environmental statement would form the basis of the information submitted with a IPPC application. The IPPC Directive and the EIA Directive allow for information produced for the purposes of one Directive to be recycled for the purposes of the other. In practice, therefore, it would be appropriate to submit an environmental statement with both applications, although the IPPC application would need to concentrate on additional technical matters, such as ELVs and BAT. The Environmental Permitting Regulations in relation to the grant or variation of a permit, provide that information obtained under EIA must be taken into account: Schedules 4 and 7.

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10. Suppose an existing IPPC-plant wants to double its production and that this will be done by duplicating most of the process equipment. The plant will thus consist of an old and a new line of production, but some equipment that is necessary for environment protection will be parted so that it is used by both lines. The application concerns only the increase of production (the new line) and not the whole production (both old and new line). How does the permit authority handle this situation? Does it issue a permit concerning only the increased production (the new line)? Or does it demand a new application concerning the whole production (old and new line)? Or what? (See article 12.2.) This question can be considered in light of the EIA-directive, which demands the assessment of a project as a whole (and no cutting of the salami!).

Austria

It all depends on what negative effects the extension is supposed to have: If the extension may have significant negative effects on human beings or the environment the decision of the authority must cover the old line too, insofar as this necessary in order to ensure that the installation meets the general principles for IPPC-plants (above all pollution prevention according BAT). If necessary, the authorities will demand an amended application.

If the extension may not have effects on human being but is supposed “only” to have negative effects on the environment, the change is not subject to a permit procedure. The extension must however be reported to the authority, who has to take notice of the reported extension by a decree – if necessary on conditions. These conditions may also relate to the old equipment that is used by the new line. There is however no general rule in the Trade Act that will ensure that authorities take the existing line into account as well.

If the extension will not have negative effects on the emission limit values of the existing permit, the extension will not be subject to a permit at all. In a case where the processing equipment is duplicated, it is however not likely that the emission limit values of the existing permit will still be met - unless the existing permit is based on outdated conditions or parts of the old line are closed down. (as regards updating of permit conditions considering substantial changes in BAT see above Question 7).

Belgium

In the Flanders Region, as indicated earlier, an environmental permit is valid for maximum 20 years. For extensions of an existing plant, depending on the nature of it, a notification or a "modifying" environmental permit is necessary. A "modifying" environmental permit is necessary inter alia when the capacity is increased with 50 % or more or in case of a "substantial change" (art. 6bis VLAREM I), concept that is defined in the same way as in art. 2 (11) of the IPPC-Directive. Such a "modifying permit" deals only with the modification, not with the already permitted plant, but will end at the same moment as the original permit (art. 30, § 5, VLAREM I). Say e.g. that the extension is planned after the plant is in operation for 10 years, than the "modifying permit" can only be delivered for the lasting 10 years of the initial environmental permit. As EIA is concerned, modifications and extensions of existing permitted projects of Annex I (projects that requires in principle always EIA) of the Executive Oder of 10 December 2004 are subject to EIA when the modification or extension is exceeding in itself the thresholds, if any, mentioned in Annex I (Annex I, n° 26). Other modifications and extensions of existing permitted projects of Annex I or Annex II (projects that requires EIA, except when after screening the EIA Service is of the opinion that they have no significant impacts) are subject to EIA if they are believed to have significant impacts, after screening by the EIA Service (Annex II, n° 13). In an EIA, not only a description of the "existing situation" should be included, also the "cumulative and synergetic effects" should be assessed, including the effects of the existing plant. In the environmental permitting legislation there is no clear provision giving effect to art. 12 (2) of the IPPC-Directive, nor to the in this respect relevant findings of the EIA. It seems that one cannot modify the pre-existing environmental permit on the occasion of the introduction of a demand for a "modifying permit". The only possibility seems to be the launch of an ex officio review procedure of the existing environmental permit on the basis of art. 45 VLAREM I as described in answer to question 7.

In the Brussels Capital Region the operator of such a plant has to inform the Brussels Environmental Agency of its intentions. That Agency has to decide within 30 days if a permit (and a EIS) is necessary or not and if the conditions of the permit have to be reviewed or not. A permit will be necessary if the nuisances of the plant will increase significantly. A reconsideration of the permit conditions will be necessary in case of increase of the nuisances that is considered not to be significant. The reconsideration is subject to art. 64 of the Ordinance on Environmental Licences (see above in answer to question 6) (art. 7bis Ordinance on Environmental Licences). Art. 55 of the Ordinance on Environmental Licences states that while taking any decision – and thus not solely concerning IPPC-installations- in relation to environmental permits, one of the elements that should be taken into consideration are "the mutual influences of the dangers and the nuisances of the existing and the projected establishments". These elements should be mentioned in the reasons of the decision or in the file relating to the decision. So it seems, that, different from the situation in Flanders, the environmental conditions of the existing permit can be reviewed on such an occasion.

In het Walloon Region an transformation or an extension of an existing permitted establishment is subject to a new permit when the transformation or the extension can increase directly or indirectly the dangers and nuisances for man or the environment or when an new entry of the classification list

	becomes applicable (art. 10, § 1, (2) 2° of the Decree of 11 March 1999). A capacity increase of 25 % of an installation that was subject to EIS, needs also a new EIS and a permit. The same procedure as for the initial permit is followed. In the permit decision one has to indicate the elements of the initial permit that are modified or complemented (art. 45), so the initial permit can be reviewed on that occasion. Such a permit will expire together with the original permit, which is valid for a period of maximum 20 years (art. 50 and 51). The situation is thus similar to that of the Brussels Capital Region.
complement; the Walloon Region of Belgium	As it is said, the delegate of the permit authority will take into account the whole establishment (both old and new line). The critirion is that of a unit of production, which means technical unit or geographical unit. The real situation is assed, so that, for example, an applicant couldn't separe two different establishment because they would not be implanted at the same location, or they are not owned by the same person. This can of course be a subject of litigation between the permit authority and the applicant. It doesn't mean that the delegate of the permit authority can do anything: he is limited in his assessment, by the limits of the application. But thanks to the EIA assessment (for class 1 establishments), the authority has to consider all the area concerned, and not only the plant planned. For the class 2 establishments, an informal EIA is also required to complete the demand. So the permit authority has a large power of appreciation.
Czech Republic	According to Section 16(1)(b) of the Act No. 76/2002 Coll., on integrated prevention, the operator of an installation is obliged to "notify the Authority of a planned change in the installation." Pursuant to Section 18(2) the Authority shall always review the binding conditions of the integrated permit if c) "they discover that the operating safety of a process or activity of the installation requires that a different technology be used." Pursuant to Section 18(3) the Authority may review the binding conditions of the integrated permit upon the notification of a change in the installation operation. Pursuant to Section 19a of this Act, if an authority finds out upon the notification under Section 16(1)(b) or upon review pursuant to Section 18 that the planned change will amount to substantial change in the operation of the installation, it shall invite the operator of the installation to lodge an application for a change in the integrated permit, in which it may also hold which substantial elements of the application need not be presented. The procedure will be governed accordingly by the provisions of Section 3–15 of the Act (i.e. provisions relating to the procedure on issuing an integrated permit). The above mentioned case would probably fall within the Section 19a procedure, and would then result in a complex assessment of the process (i.e. the old and new lines of production altogether).
Finland	First of all, an environmental permit is required for any alteration of an activity that increases emissions or the effects thereof or any other material alteration of an activity for which a permit has already been granted (section 28,

subsection 3, of the EPA). The provision is said to compare to article 2, points 10 and 11 of the IPPC Directive; also article 12, paragraph 2 was referred to in the *travaux préparatoires*. However, no permit is required, if the alteration does not increase environmental impacts or risks and the alteration does not require revision of the permit (e.g. in order to make supervision of the activity possible, the activity has to compare to the ramifications of the permit). This exception cannot, for instance, be applied when the fuel of a combustion plant will be changed from oil to natural gas even if it would reduce emissions into the air. The requirements for emission reduction vary according to the fuel and the best available techniques to be used have to be assessed according to the fuel(s), which will be used.

When the EPA entered into force, existing activities did not, as a rule, have to apply for a new permit. However, there were many exceptions to this rule. If a plant would be altered and needed a permit according to section 28(3) of the EPA, the permit application had to cover the whole activity. This provision is directed to guarantee that permits under the previous legislation shall be updated when the activity will, at any rate, be modified.

There is not a comparable, explicit rule concerning the coverage of the permit, if an activity already having an EPA-permit will be altered. However, given the interpretative effect of the IPPC Directive and the objectives of the EPA, it should be evident that the discretion of the permit authority is not restricted exclusively to the "new part" of the activity. The totality of environmental impacts of the whole activity can and shall be taken into account. But in cases where a minor change in operation of the plant only has effects, say, on the noise levels in the neighbourhood, the permit authority shall not reassess the whole activity and its permit conditions even if an application to alter the permit has been lodged.

Also more generally the starting point of the EPA is that the permit decision shall cover the relevant activity as a whole. This is reflected, i.a., in the definition of "activity that poses a threat of environmental pollution" in section 3, subsection 1, point 2 of the Act. The definition covers founding or use of an installation and any activity that is technically and operationally incorporated into the installation. Case SAC 2007:89 concerned an environmental permit application to build a so-called stabilisation field. The field would be constructed by using contaminated soil transported from other sites. Afterwards, a centre for treatment of contaminated soils would be located in the area. An EIA concerning the centre had been performed. The waste treatment entity belonged to the sphere of application of the IPPC Directive. Taking into account of the interpretative effect of Article 2, paragraph 3 of the Directive, the stabilisation field was considered to be technically and operationally an integral part of the waste treatment activity to be located on the site. Hence, the field together with the treatment centre constituted an activity posing a threat of environmental pollution, referred to in section 3, subsection 1, point 2 of the EPA. Therefore, the environmental permit granted to build the stabilisation field was repealed, because the permit application of the field could not be decided as a separate case, decoupled from the application of the treatment centre for contaminated soils.

France	Le code de l'environnement définit les dispositions à prendre en cas de modifications de l'installation: « toute modification apportée par le demandeur à l'installation, à son mode d'utilisation ou à son voisinage, et de nature à entraîner un changement notable des éléments du dossier de demande d'autorisation, doit être portée avant sa réalisation à la connaissance du préfet avec tous les éléments d'appréciation». Une modification notable de l'installation impose à l'exploitant de déposer une nouvelle demande d'autorisation. La demande de l'exploitant porte donc sur l'ensemble des modifications apportées à son installation. Le service instructeur apprécie les conséquences environnementales de ces modifications, notamment de celles dues aux modifications fonctionnelles apportées aux installations existantes qui sont réparties sur les deux chaînes. Il est donc fortement probable que l'instruction sera instruite sur l'ensemble les deux chaînes de production.
Germany	Le changement essentiel d'une installation industrielle ou agricole autorisée exige une nouvelle autorisation. Si l'augmentation de la production est apte à porter atteinte supplémentaire aux biens protégés par la loi (l'homme, la faune et la flore, l'air, l'eau, le sol, le climat, le paysage), il s'agira d'un changement essentiel. L'autorisation d'un changement seulement quantitatif est accordée uniquement pour l'augmentation de la production, pas pour l'ensemble de la production. L'évaluation des incidences sur l'environnement doit être accompli seulement pour le changement si l'installation existante demande cette évaluation et si les valeurs de grandeur ou de production déterminées seront franchi par la production changée même. Si la production est changée qualitativement de sorte que le changement a des impacts pour les parties existantes de l'installation, l'objet d'une autorisation est l'ensemble incluses toutes les nuisances qui en résultent. Dans ce cas une évaluation des incidences sur l'environnement sera nécessaire pour l'ensemble.
Hungary	Regulation follows the integrated viewpoint. Therefore it is not enough if the subject of the permit is only the new line, the whole production must be examined.
Italy	En cas de modification de l'installation autorisée, l'exploitant informe l'autorité compétente des modifications projetées de l'installation, et celle-ci, si elle le juge nécessaire, effectue une révision de l'autorisation intégrée sur l'environnement ou ses conditions, ou encore, si elle note que les modifications projetées sont importantes, en avise l'exploitant dans les soixante jours suivant la réception de l'information. L'exploitant présente une nouvelle demande d'autorisation accompagnée d'un rapport contenant des informations mises à jour. S'il ne reçoit pas de nouvelles, l'exploitant peut procéder aux modifications qu'il a communiquées.
Netherlands	I suppose the permit authority will grant a permit for the new production line. According to the general Environmental Management Act we distinguish in the Netherlands between a permit for the establishment of a plant and a permit for the enlargement or the change of a plant. The permit authority is not

	entitled to grant another permit than the one that is applied for. In the Netherlands practice of permit-granting the application forms an important document. The permit authority is more or less depending of the application. It is not entitled to grant another permit than the one that is applied for, it is also not entitled to grant a permit for an other plant than the one that is applied for and it is not entitled to prescribe conditions based on BAT, when the application contains measures that are less strict. In the last case the application should be refused. I expect that the IPPC-directive requires a greater freedom and competence for the permit authority to meet all the requirements of the directive. But in our country not all these requirements are deeply explored until now. Only in a case in which for a certain plant already a number of licences has been granted and the total of the licenses offers an unclear system of regulation the permit authority may require that the applicant applies for a new overall permit. Once this permit is granted, it replaces all forgoing permits for the plant.
Norway	According to the Pollution Control Act, a new application for an IPPC-permit is required when substantial changes regarding the emissions from the IPPC-plant will take place. In general, in such a case, the SFT will issue a new permit where both the new and the old line of production will be taken into consideration. Certain conditions may apply only to the new part of the plant, however, but this will be considered individually in each case.
Poland	Doubling of production through duplication of the process equipment results in a change of essential conditions of an IPPC-permit. Before introduction of any important changes in an IPPC-plant, the plant operator shall be obliged to notify the authority competent to issue a permit for the proposed changes and submit an application for a change of the issued IPPC-permit. The authority competent to issue an IPPC-permit shall issue a decision about an IPPC-permit including the whole production line (old and new production line). In the process of issuance of an IPPC-permit or a decision about a change of an IPPC-permit concerning a significant change of the plant, the administrative authority shall ensure a possibility of public participation based on the principles and according to the procedure specified in Act of 3 October 2008 about popularization of information about the environment and its protection, public participation in environmental protection and assessments of impact on the environment (Polish Bulletin of Law Acts Dz. U. from 2008 No. 199 item 1227).
Sweden	In Sweden, a change in the operation of an installation will often require a new permit. Swedish law is stricter than the IPPC-directive (articles 12.2) and requires a permit for all changes, unless the change is minor and could not have any significant negative effects on human health or the environment. (Section 5 of Government Ordinance 1998:899)

A permit resulting from a change in the operation of an installation can concern either only the change (the new line) or the whole installation (the old and new line) (Chapter 16, Section 2 of the Swedish Environmental Code).

Even if the permit application concerns only the change (the new line), the conditions in the old permit (for the old line) may be altered if there is a connection between the change and the old conditions (Chapter 24, Section 5 of the Swedish Environmental Code).

Prior to the permit application, the applicant must consult the county administrative board. If the county administrative board finds that the change in operation is likely to have significant effects on the environment, an EIS must be part of the permit application (Chapter 6, Sections 1 and 7 of the Environmental Code and Section 3 of the Ordinance 1998:905 on Environmental Impact Statements).

It is the permit authority that finally decides whether a permit can be issued only for the new line or whether the whole installation must be included in the permit. The permit authority will also decide whether the EIS is sufficient. If the permit authority finds that the EIS or the permit application is too narrow, the applicant may be required to supplement the application. The permit authority may also dismiss the application.

United Kingdom

This would be dealt with by an application by the operator for a variation of the existing licence. The regulator may vary permit conditions at any time: regulation 20. The variation procedure requires consultation and publicity both in cases in which the change is "significant" and at the discretion of the regulator: Schedule 5, paragraph 5 (2).

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11. Can the permit authority decide on conditions based on BAT, even if the application only describes environment protection measures that are less strict? How does the authority handle applications that are not based on BAT?

Austria

In this case the permit authority will issue the permit on conditions based on BAT. (With regard to the relevant parameters to be taken into consideration see above Question 6).

Applicants will however usually consult authorities before they submit an application. Authorities usually offer consulting workshops (Anlagensprechtage) for applicants, where expert information on permit requirements can be obtained. BREFS are available on the website of the Federal Ministry for Trade.

Belgium

As indicated in answer to question 6, in the Flemish region, the applicant must show in its application for the permit that the proposed measures are based on BAT. It is however the task of the permitting authority, taking into account in that the opinions expressed by the competent environmental authorities and

	agencies, sitting together in the Environmental Permit Commissions, to impose environmental conditions that respond to BAT. So, if the permitting authority is of the opinion that the measures proposed by the operator are not in line with BAT, she can impose in the permit conditions she believe are in line with BAT. The situation in the Brussels Capital Region and the Walloon Region seems to be similar.
complement; the Walloon Region of Belgium	The permit authority must base its decision, regarding to the decree, on the implementation of BAT.
Czech Republic	As stated above, pursuant to Section 14 of the Act No. 76/2002 Coll., on integrated prevention, it is emphasized that "in setting the binding conditions of operation, in particular the emission limits, the Authority shall base its considerations on the use of the best available technique on the basis of the aspects set forth in Annex 3 to this Act, taking into account the technical characteristics of the installation, its location and local environmental conditions, however, without prescribing the use of one specific technique or specific technology." The Act also states in its Section 15(1) that "in the integrated permit, the Authority shall lay down the obligation to implement supplementary conditions to comply with the environmental quality standard for an operator of an installation that cannot reach the environmental quality standard using the best available technique, for example conditions limiting operation of the installation at a certain time during the day"; and in its Section 15(2) that "if the environmental standard is less strict than the requirements that are usually met using the best available technique, the Authority shall lay down the binding conditions for operation in the integrated permit so as to correspond to the potential of use of the best available technique."
Finland	As mentioned above under 6, the EPA presupposes that emission limit values shall be based on BAT. It is a minimum standard, but of course the assessment what is BAT in a given situation varies. The authority may, for instance, provide more stringent emission limit values than was proposed by the operator. Also an administrative Court may, on the appeals of the victims of pollution, NGOs or authorities, change a limit value issued by the permit authority into a more strict direction. On the other hand, if the total environmental impact by the plant in question and other polluting activities exceeds an acceptable level (see section 41, subsection 1, and 42, subsection 1, of the EPA), even the use of BAT is not enough. If the operator cannot employ (even) stricter protection measures than could be required by using the BAT standard, the permit application shall be disallowed.

France	Les obligations réglementaires (voir réponses à la question 6) font que l'autorité compétente devra fonder les conditions de l'autorisation sur les performances des meilleures techniques disponibles. Pour cela elle s'appuiera sur les documents BREF. Cependant, la directive IPPC laisse une certaine marge d'appréciation aux autorités compétentes pour définir les meilleures techniques disponibles applicables à une installation donnée, notamment en fonction de critères de coûts de mise en œuvre. Si la demande n'est pas basée sur la mise en œuvre des MTD, le dossier sera considéré irrecevable. Le MEDEF (syndicat d'entrepreneurs) a élaboré en décembre 2006 un guide pratique «prévention et réduction intégrées de la pollution» consacré au bon usage des BREF: il en ressort que chaque installation du champ de la législation IPPC doit établir un bilan de fonctionnement où la comparaison avec les meilleures techniques disponibles doit être précisée et analysées, mais que les valeurs limites d'émission (VLE) fixées dans l'autorisation d'exploitation ne sont pas soumises à l'application de techniques précises, même si elles sont fondées sur les meilleures techniques disponibles, en fonction des conditions locales. Il est également rappelé dans ce document que la prise en compte des meilleures techniques disponibles comprend l'examen des aspects technico-économiques dans les conditions spécifiques de l'installation et du site considéré, et que les effets croisés (transfert de pollution d'un milieu dans un autre) doivent être pris en compte, en particulier dans l'appréciation des conditions locales, de façon à ce que la diminution d'un rejet donné n'entraîne pas une augmentation importante d'un autre rejet ou une consommation excessive d'énergie ou d'une ressource dans un autre domaine. Outre la directive IPPC, les règlements, arrêtés et circulaires existants en cette matière, l'exploitant doit aussi prendre en compte les dispositions des schémas d'aménagement et de gestion des eaux (SDAGE et SAGE) qui le concernent , ainsi que les plans régionaux de la qualité de l'air et les plans de protection de l'atmosphère. Le document du MEDEF précise également que «l'exploitant ne peut ignorer« les engagements »souscrits par sa société mère ou par son groupe qui peuvent traduire une volonté de reconnaître et d'utiliser les documents techniques tels que les BREF»
Germany	L'autorité va décider l'autorisation sur la base des meilleures techniques disponibles même dans le cas où la demande ne décrit que des mesures de protection de l'environnement moins strictes (enquête d'office). Le principe de précaution oblige le demandeur à appliquer les disponibles procédés progressistes, equipements et manières d'exploitation qui sont aptes à assurer un haut niveau de protection de l'environnement. Par conséquent, l'autorité va rejeter une demande d'autorisation non basée sur les meilleures techniques disponibles et conforme aux valeurs limites déterminées dans les règlements.

Hungary	Conditions have to be set by the BAT even if the environment protection measures are less strict.
Italy	L'autorité compétente ne peut autoriser une installation si la demande ne spécifie pas quelles sont les meilleures technologies employées.
Netherlands	See the answer under 10.
Norway	According to the Pollution Control Act section 11 and the Regulations relating to pollution control section 36-8, the SFT shall - when processing applications for permits and determining the conditions attached to them - base its decision i.a. on the fact that all appropriate preventive measures are taken against pollution, in particular through application of the best available techniques, cf. Appendix II to the regulation. This will apply also to applications where the techniques for preventing or limiting pollution and the harmful effects of pollution included in the application, are not based on BAT.
Poland	-
Sweden	Yes, the permit authority can decide on conditions based on BAT, even if the application only describes environment protection measures that are less strict. As mentioned above, the permit authority must not show that a certain measure is reasonable. It is the applicant that must show that a certain measure is unreasonable. If necessary, the permit authority can order the applicant to supplement the application. In situations where the applicant cannot be expected to comply with protective measures based on BAT, the permit application may be rejected.
United Kingdom	Operators must use the BAT standard in order to achieve a high level of protection for the environment. The application of the BAT principle is made in the context of local conditions, which include such things as the local environment and economic factors. Emissions limit values are then set by reference to both BAT and local conditions. Environmental quality standards (EQSs) are considered once the ELVs have been set. In circumstances under which an EQS set under European or national standards would be breached, it is possible to set conditions that are stricter than BAT or to refuse the permit: Article 10. The achievement of these standards is achieved through the other Directives listed in the Environmental Permitting Regulations. In this sense, EQSs represent a minimum threshold for the imposition of ELVs, with BAT meeting a higher standard of prevention and/or reduction over and above the EQS. The Court of Appeal has considered the relationship between BAT, EQSs, ELVs and the imposition of conditions on an IPPC permit in R. (Rockware Glass Limited) v. Chester County Council [2007] Env LR 3.

12. If there are national general rules on emission standards that do not match BAT, how are they applied by the permit authority?

Austria	The Trade Act specifies that in the permit decision for an IPPC-plant the authority has to ensure that all suitable precautionary measures to prevent pollution, especially by application of BAT are taken. It is further specified that in any case emission limit values for specific pollutants must be included in the permit decision. Authorities will consult official experts, who have to suggest appropriate measures according to BAT.
Belgium	As explained before in answer to question 7, in the Flemish Region, there is a comprehensive set of general and sectoral conditions that are not necessary all in line with BAT. However, these general and sectoral conditions are only a starting point. The permitting authority is legally obliged to impose BAT based conditions in an environmental permit for IPPC installations, by imposing stricter or complementary conditions compared with those general and sectoral conditions. The permit decision should give reasons in that respect. The situation in the Brussels Capital Region, where there are some general and sectoral conditions, seems to be similar. In het Walloon Region there are also a whole range of Executive Orders setting general and sectoral environmental conditions for different categories of establishments subject to the environmental permitting system. According article 8 of the Decree, those conditions shall be based on BAT.
complement; the Walloon Region of Belgium	There are different regional Executive Orders setting general and sectoral environmental conditions for different categories of establishments subject to the environmental permitting system. National law doesn't intervene in this matter that has been mainly regionalized (article 6 of Act of 6 august 1980, about regionalization). The panel is the following: - general conditions are request to all establishments, class 1 or 2 (In class 3, there are not IPPC establishments, and they are only submit to "integral conditions") - sectoral conditions (for special plants like cremation centers etc...) - personal conditions, only for the concerned establishment. If general and sectorial conditions are not sufficient, it is required new conditions regarding to BAT.
Czech Republic	If regulations governing environment protection enact stricter rules than BAT, they would be applied by the authorities. This follows from Section 14(3) of the Act No. 76/2002 Coll., on integrated prevention: "In setting the binding conditions of the operation, in particular emission limits, the Authority shall base its considerations on the use of best available technique on the basis of the aspects set forth in Annex No. 3 of this Act, taking into account the technical characteristics of the installation, its location and local environmental

conditions, however, without prescribing the use of one specific technique or specific technology. The emission limits thus set must not be less strict than the emission limits that would otherwise be laid down pursuant to the special regulations." Whether the regulations are indeed stricter than BAT or do not match BAT in certain areas, is difficult to evaluate in the abstract.

Finland

General rules on emission standards are often based on EU Directives. They are nationally implemented by Decrees of the Cabinet. If emission standards because of technical progress do not any longer meet the general criteria of BAT, the standards should, in the first place, be reviewed. While this cannot always be the case, it shall be guaranteed that emission limit values issued in environmental permits still meet the requirement of BAT, as provided in the IPPC Directive.

According to section 51 of the EPA, a permit condition (e.g. an emission limit value) may be more strict than a specific environmental protection requirement included in a Decree issued under the EPA or the Waste Act in four situations:
1) for the purpose of meeting the preconditions for granting a permit (see e.g. section 42, subsection 1 of the EPA, implying e.g. that no harm to health, other significant environmental pollution or risk thereof or pollution of groundwater will result)
2) to ensure that environmental quality requirements issued by Decree are met (obviously, even using BAT, not to talk about aged emission standards, must not lead to violation of environmental quality standards)
3) to protect waters (this exception is motivated by the previous lenient standard of EU Directives concerning discharges into waters), and
4) in order to comply with the best available techiques, if this option is laid down in a provision of a Decree to implement an EU Directive.

The last point seems to presuppose that the applicable Decree contains an explicit provision, which allows the authority to issue a more stringent emission limit value in the permit if the emission standard laid down in the Decree (and the Directive implemented through the Decree) does not compare to BAT. Such a provision is included e.g. in the Decree implementing the LCP (Large Combustion Plants) Directive, whereas that kind of a provision is missing e.g. from the Decree implementing the Waste Incineration Directive. In legal practice, though, the interpretative effect of the IPPC Directive has led to decisions (e.g. SAC 2007:19), where it has been proclaimed that emission limit values in environmental permits shall always be based on BAT as a minimum. Permit conditions may not be based on outdated emission standards, irrespective of whether the Decree in question allows a deviation or not.

France

Les règles générales françaises concernent des installations (plus de 47 000) qui ne relèvent pas de la directive IPPC et fixe donc le plus souvent des exigences qui ne se reposent pas sur les performances des MTD. Seules quelques catégories d'installation font l'objet de règles générales basées sur les documents BREF.

Il est clair qu'en droit français les BREF ne définissent pas ou ne modifient pas les obligations règlementaires.

	Le service instructeur procédera comme indiqué dans les réponses aux questions 6 et 11.
Germany	S'il existe des régles nationales générales fixant des standards qui restent en arrière aux meilleures techniques disponibles, l'autorité chargée de l'autorisation va être restreinte à l'application des valeurs limites nationales qui concrétisent le principe de précaution et qui sont obligatoires pour les autorités et les tribunaux administratifs. L'autorité n'en peut déroger que dans le cas où il est preuvé que les standards fixés ne correspondent clairement plus à l'état actuel des connaissances scientifiques et techniques et que l'application des meilleures techniques disponibles soit conforme au principe de la proportionnalité. Tant que les meilleures techniques disponibles ne sont pas déterminées par directives ou règlements communautaires, l'autorité n'est pas obligée à leur application par la préséance du droit européen.
Hungary	The environment authority can apply national general binding rules (these are the minimum BAT requirements), but in case of necessity can apply provisions more strict than BAT.
Italy	Notre opinion est que l'autorisation intégrée sur l'environnement doit constituer un progrès non seulement dans la forme (une seule autorisation à la place d'autorisations distinctes pour l'air, l'eau, le sol) mais aussi au fond, afin d'obtenir un "degré élevé de protection de l'environnement". Par conséquent, les standards prévus par les réglementations sectorielles comme limites d'acceptabilité ne doivent pas être dépassés, et ce pour éviter le transfert d'une partie de la pollution d'un secteur à l'autre. L'autorisation intégrée sur l'environnement doit contenir des prescriptions qui puissent assurer un objectif de protection globale majeure de l'environnement.
Netherlands	According to the general Environmental Management Act general for categories of plants rules may be issued that are necessary for the protection of the environment. An exemption has been made for IPPC-plants. The general rules may restrict themselves to certain categories of cases. According to these rules a permit for an individual plant is no longer required. General rules may also be issued for categories of plants for which a permit still is required. The general rules for those plants cover in general only a certain element of the plant for example a combustion oven. For this group of general rules the BAT-principle is applicable. It is however possible that already existing general rules are in force that not meet the standard of BAT. A permit authority is not always aware of the fact that applicable general rules do not match BAT. In case it is, it should set aside these rules and apply individual permit conditions. If it does apply these general rules and in appeal there is a complaint about this application the Department of Jurisdiction of the Council of State will nullify the decision by arguing that these rules should not be applied because they brake the requirement of BAT of the General Environmental Management Act.

Norway	As to our knowledge, there are no such general rules in Norway.
Poland	-
Sweden	There are not many national general rules on emission standards in Sweden. The ones that do exist are based on EG-directives (i.e. concerning waste incineration or large combustion plants) The national rules normally only set minimum requirements and do not prevent the permit authority from prescribing stricter measures based on BAT. Should there be national rules that are not only minimum requirements, it will be up to the permitting authority to decide whether these rules can be applied or not. A legal rule may be set aside by a court or authority if it conflicts with a superior legal rule. So the permit authority would have to decide whether the national general rules conflict with superior EU or national law.
United Kingdom	The short answer is in the UK they must match one another.

13. How does existing industries meet the demands of the IPPC-directive in your country? Who has the responsibility to make sure that the requirements are met? Is it the supervisory authority, the operator of the plant or someone else? What are the consequences if an existing industry does not meet the requirements? Can it be closed? Or is a certain time period accepted before measures? How long? (See article 5.)

Austria

By the end of October 2007 a number of 81% of existing installations had been adapted to meet the demands of the IPPC-directive.

In regard of the Trade Act, the operator of the plant has to make sure that the requirements are met. The operator has to report to the authorities on any adapting measures taken and must apply for a permit in case of substantial changes. If insufficient measures have been taken by the permit-holder, authorities have to impose the necessary conditions by decree.

If the necessary updating conditions specified in the decree are not met, the authority has to issue decrees to achieve lawful operation. This may result in closing down machines or in a shutdown of the plant in whole or in part (See below Question 14). Notwithstanding these mandatory and safety measures authorities have to impose administrative penalties.

If the essential characteristics of an existing installation have to be changed in order to ensure that the installation operates in accordance with the IPPC-directive, authorities have to grant “a reasonable period of time” to the permit-

holder in order to submit a restructuring and decontamination concept. The permit of this concept may grant an "adequate" time limit for the necessary measures to be taken.

In regard of the Trade Act, there is no specific sanction and hence no basis for temporary mandatory and safety measures, if the permit-holder does not submit a notification on the necessary updating measures or a restructuring and decontamination concept in due time. There is however a "catch-all" clause that allows for administrative penalties in such cases. (In regard of consequences when updating conditions are not met, see above.)

Belgium

In the Flemish region there is a general obligation imposed on the operators of all establishments subject to the environmental permitting system (and not only IPPC-installations) to apply BAT (art. 4.1.2.1. VLAREM II, see above under question 6). This general obligation is applicable on existing installations from 1 January 1996 onwards (art. 3.2.1.2, § 3, VLAREM II). The environmental permitting system is in operation since 1 September 1991. For environmental permits delivered after that date, one can expect that they are more or less in conformity with the IPPC-requirements. However, that is surely not the case with "operating" and other types of environmental permits delivered under the former system (before 1 September 1991) that were in principle valid for 30 years, but were restricted in time due to the entry into force of the Decree on Environmental Licenses, and will become invalid ultimately on 31 August 2011 (20 years after the entry into force of the Decree). These permits were not integrated environmental permits. The general and sectoral conditions laid down in VLAREM II became however gradually applicable on these establishments and are in their entirety applicable from 1 January 1999 onwards, with some extensions to 1 January 2003 (art. 3.2.1.2 VLAREM II). Art. 41bis, 1°, VLAREM I, disposes that for existing IPPC-installations the first ex officio periodical review has to be done before 30 October 2007 (see answer to question 7). So it is up to the permitting authority to review and if necessary to update the permit conditions of existing IPPC-installations, taking into consideration the opinions expressed by the competent environmental administrations and agencies. There is no explicit provision about the time one has to give to the operator to meet stricter conditions that are imposed due to an update, but the general principle that the authority has to act reasonable will apply. The operators are – except for modifications that are not subject to a permit, in which cases they have to apply themselves BAT and except the general duty of care (art. 22 of the Decree on Environmental Licenses) - only bound by the environmental conditions of the environmental permit and the general and sectoral conditions laid down in the VLAREM II Executive Order. If the permitting authorities have not updated the permits, or have not done this in time according to art. 5 of the IPPC-Directive, one cannot hold the operator liable for that. When updated conditions are in force, operators should respect them. Operating an installation without respecting the environmental conditions is an offence and can lead to criminal or administrative sanctions. It is the Regional Environmental Inspectorate that verifies if operators of IPPC-installations respect the environmental conditions. A closing measure, taken by the mayor or the environmental inspectors, can in the first place be the result of a decision of the permitting authority to suspend or to withdraw an environmental permit in cases of not respecting applicable environmental

	conditions. Such measures are taken only in exceptional cases. A closing measure can also be taken when the operator is not respecting the applicable environmental conditions, after he was requested to do so within a certain period of time (final notice) or in case of imminent danger for man and the environment. Also this type of measure is applied in a limited number of cases. Closure can be applicable to the whole establishments or part of it. If the problem can be solved with partial closure that measure should be taken on the basis of the principle of proportionality. The situation seems to be similar in the Brussels Capital Region and the Walloon Region. In the Brussels Capital Region art. 12 of the Executive Order of 11 October 2007 obliges the Brussels Environmental Agency to review and update the environmental permits of existing IPPC-plants before 30 October 2007. In the Walloon Region that is imposed by art. 97bis of the Executive Order of 4 July 2002. An update is also necessary in the circumstances indicated in art. 13 (2) of the IPPC Directive.
complement; the Walloon Region of Belgium	As said in Lavrysen's report, the obligation to review and update the environmental permit is imposed by article 97bis of the Executive Order of 4 July 2002. An update is also necessary in the circumstances indicated in article 13 of the IPPC Directive. Practically, they are two kinds of companies: 1) the first kind wants to anticipate the law and collaborate to its implementation; 2) the second kind prefers to wait and see. In this second case, the supervisory authority takes the initiative of modifying the permit and allows a certain time period to respect the new conditions. Usually these periods of time are decided on a common basis with the responsible person of the company. The DPC (environmental police) checks if the conditions have been respected in time allowed. If not, penalties may be enforced, for example, warning and injunctions, the last and more severe one being the closing of the establishment. In practice, the closing will only be ordered if the establishment represents a danger for the population. It must also be taken into account, the new RW decree of 5 June 2009, about criminal penalties in case of infringement to environmental laws. The mayor of the municipality where the establishment is settled has also into his competences, according to Communal law, the right to stop the activities of an establishment which may be harmful for the population.(article 135§2 of the New Communal Law)
Czech Republic	Measures ensuring the enforcement of the IPPC rules are laid down by the Act No. 76/2002 Coll., on integrated prevention, and include: • Fines [Section 37 of the Act] • Corrective actions [Section 19(1)(a)] • Calling on the operator to apply for a change in the integrated permit within a set dead-line [Section 19(1)(b)] • Decision on termination of the operation of installation or its part [Section

19(1)(c)]

• Fines stated above may be imposed by the Regions, the Czech Environmental Inspectorate or Regional Hygiene Officers (Sections 33–35 of the Act No. 76/2002 Coll., on integrated prevention). Pursuant to Section 37 of the Act No. 76/2002 Coll., on integrated prevention:
A fine of up to 1 million CZK (approx. 40 000 EUR) may be imposed on a person who:
a) fails to comply with the reporting obligation under Section 16(1)(b) or (d),
b) states false information in the application that could affect a decision on an integrated permit,
c) fails to submit an application for a change in an integrated permit within the deadline laid down by the Authority

A fine of up to 7 million CZK (approx. 280 000 EUR) may be imposed on a person who:
a) as an operator of the installation commits an administrative tort by operating an installation without a valid integrated permit, without a final decision on the substantial change of an integrated permit, or who fails to comply with the conditions of the integrated permit;
b) who, within the set deadline, fails to carry out a corrective action or fails to stop operation of the installation or a part thereof.
• Time-limits to carry out corrective actions are set by the competent authority (i.e. Region, the Czech Environmental Inspectorate or a Regional Hygiene Officer) (see Section 19 of the Act).
• The decision imposing termination of operation falls within the competence of the relevant Region.

Finland

Certain existing activities had to apply for a new integrated permit according to the EPA. The Act entered into force in March 2000. E.g. all IPPC plants fell into this category, and they had to apply for a new permit by the end of 2003 or 2004, depending on the category of the activity. The duty to lodge a permit application is based directly on law and rests, of course, with the operator. If a permit application is not filed within the fixed time, supervisory authorities may issue an order to lodge an application. Administrative force can be used (conditional fines or even threat of suspending operations).

If a permit cannot be granted for the activity even by using strict permit conditions etc. and the permit application, hence, would be disallowed, the activity may not be continued. In this, probably theoretical, situation the supervisory authority, again, shall order that the activity must be stopped. In practice, the substantive standards of the EPA do not differ greatly from the previous legislation and standards of performance concerning IPPC-scale-plants. This means that the EPA did not inflict such a radical pressure on existing activities that the issue of closing activities would have been relevant.

There are, though, some examples of plants that have been closed down because of environmental legislation (e.g. some gasoline stations and fur farms located on an important groundwater areas and some peat production sites). If they have wished to alter their activity or the time for reviewing of a former

	Water Act permit (peat production) has come and the permit application has been disallowed by a decision that has gained legal force, supervisory authorities can order the activities to be ceased. The authorities can use administrative force. There are no fixed time limits in law about how long an existing activity may be continued.
France	La directive IPPC a prévu une période de 8 ans pour la mise en conformité des installations existantes. En France, le réexamen des conditions d'autorisation se fait sur la base de la remise d'un bilan de fonctionnement (voir plus haut). Ce réexamen est instruit par l'inspection des installations classées qui est l'autorité compétente pour la mise en œuvre de l'en semble de la directive. Si ce réexamen montre que les dispositions de la directive ne sont pas satisfaites, l'autorité compétente actualise les conditions de l'autorisation afin que celle-ci soit conforme aux dispositions de la directive, particulièrement en ce qui concerne la mise en œuvre des MTD. Dans la plupart des cas, un délai est accordé pour cette mise en œuvre qui suppose des investissements souvent importants.
Germany	En Allemagne, la directive IPPC n'a pas changé considérablement la situation juridique des activités industrielles et agricoles parce que le principe de précaution avait existé comme obligation légale de l'exploitant déjà auparavant, était interprété toujours dans un sense intégratif et a concrétisé de tout temps l'état de la technique d'une manière compatible aux exigences de la directive. La responsabilité de vérifier que les critères de la directive sont respectés incombe aux autorités de contrôle. Il s'ajoute l'option de la participation volontaire de l'exploitant au système du règlement éco-audit EMAS (Environmental Management and Audit Scheme). Pour assurer la concordance des activités existantes avec les conditions prévues par la directive, les autorités compétentes sont habilitées de promulguer des injonctions ultérieures aussi bien nécessaires que proportionnelles en vue les obligations de l'exploitant. Si l'exploitant d'une installation classée soumis à l'autorisation ne remplit pas une injonction ultérieure exécutable, l'autorité peut interdire l'exploitation jusqu'à son accomplissement.
Hungary	The Hungarian IPPC-plants had to conform to BAT rules by 30 October 2007. There were exceptions in two issues in certain questions: waste disposal premises had to comply with the rules by 15 July 2009 (on this day 100 premises were closed down) and live-stock premises that could request special financial support. In these cases there was a degree of flexibility determining permit conditions with different dates for the different standards to be implemented not later 31 October 2010. It is primarily the responsibility of the operator to make sure that the requirements are met. The plants that did not meet the requirements have been closed down. Existing plants had to prepare a schedule to meet the conditions of BAT. In some problematic cases the setting of plants into operation was delayed.
Italy	Les installations déjà existantes ont bénéficié dans le système italien d'un délai d'adéquation à la nouvelle réglementation européenne.

Les demandes d'autorisation intégrée sur l'environnement pour les installations existantes devaient être présentées avant le 31 janvier 2008. L'autorité compétente devait imposer le respect des prescriptions avant le 31 mars 2008.
En cas de non-respect des prescriptions dont dépend l'autorisation, ou d'exercice en l'absence d'autorisation, l'autorité compétente procède, selon la gravité des infractions:
a) à l'injonction, en assignant un délai dans lequel les irrégularités devront être éliminées;
b) à l'injonction avec suspension de l'activité autorisée,d'une durée déterminée, si des situations de danger pour l'environnement se produisent;
c) à la révocation de l'autorisation intégrée sur l'environnement et à la fermeture de l'installation, en cas de non adéquation aux prescriptions imposées dans la sommation, et en cas de violations réitérées qui entraînent des siutuations de danger et de dommage pour l'environnement.

Netherlands I do not have general information about the level of being IPPC-proof in my country. It is known that a number of big industrial plants, like the chemical plant of Dow Chemical and some oil refineries of f.i. Shell on a number of points do not meet the requirements of BAT. These are all existing plant; so their time to adapt the plant to BAT has already passed. Adaptation will take place on moments in future when the plant is closed for maintenance and renewal. Closing on other moments will be far too expensive. Permit authorities tent to accept an adaption to BAT over five till six years. According to the Department of Jurisdiction the IPPC-directive does not offer such a possibility to postpone the adaptation to BAT for existing plants over the term of article 5 IPPC-directive.

The operator of the plant is in the first place responsible to meet the requirements of BAT. If he fails, the supervisory authority which is in the general the same authority as the permit authority, has to take action. Until now few enforcement actions for not meeting BAT are reported. In theory a plant may be closed for not meeting BAT. In practice this will nearly never done. Enforcement takes place by using a penal sum in the sense that the operator gets the order to apply provisions so that he meets BAT; if he neglects this order a penal sum may be confiscated for every day he neglects or every time he neglects.

Norway When an IPPC-permit is issued, the responsibility to make sure that the requirements are met lies with the operator of the plant. If an existing industry does not meet the requirements, the SFT may impose a pollution fine payable to the state, cf. The Pollution Control Act section 73.

The pollution fine becomes effective if the person responsible fails to meet the deadline for remedying the matter set by the pollution control authority. A pollution fine may also be imposed in advance and in such cases becomes effective from the date when any contravention starts. It may be decided that the pollution fine shall continue to be effective for as long as the unlawful situation persists, or that it is payable each time contravention takes place.

	In serious cases of transgression, the SFT may press criminal charges, cf. The Pollution Control Act chapter 10.
Poland	-
Sweden	In theory, all IPPC-plants should meet the demands of the IPPC-directive by now. It is the supervisory authority that must ensure that existing installations meet the demands of the directive. The operator has an obligation to provide the information that the supervisory authority needs for this purpose. The legal rules on this matter are found in Ordinance (2004:989) concerning the review of some environmentally hazardous activities. Under Section 3 of the Ordinance, the operator in the environmental report submitted in 2005 must specify how, by 30 October 2007, the requirements of the Environmental Code will be met. The report must also show the extent to which current permits or other decisions or orders which are binding on the activity contain conditions on restrictions, precautionary measures etc. needed to meet the requirements. Under Section 4 of the Ordinance, the supervisory authority must check the report to ensure that the necessary restrictions, precautionary measures etcetera are included in the permit conditions for that activity or in other decisions or orders which are binding on the activity, or that they are expressly laid down in an act, ordinance or rules applicable to the activity. The supervisory authority must also, where necessary, order the operator to observe the restrictions and take the precautionary measures and other measures needed to meet the requirements. If necessary the supervisory authority must call for the conditions to be reviewed. Under Chapter 24, Section 3 of the Environmental Code, a permit may be revoked where this is necessary to fulfil Sweden's obligations as an EU Member State. But it is unlikely that permits will be revoked for existing installations that do not comply with the directive. The supervisory authority will first use the other measures mentioned above in order to ensure compliance.
United Kingdom	All pre-existing waste management licences and PPC permits were automatically transferred into environmental permits on 6 April 2008: Regulation 69 (1), (2) and 70. Registered waste exemptions were also transferred automatically to exempt waste operations on that date. All outstanding applications for waste management licences or PPC permits will become environmental permits on the day that they are determined: Regulation 70. This includes all applications to vary, modify, or surrender an existing licence or permit: Ibid. Any other operator of a new regulated facility is required to obtain an environmental permit, or a waste exemption, before it can commence operations: Regulation 12. Any appeals will be determined under the system in force at the date the appeal was lodged. Thus any appeals before April 2008 will be determined under the PPC/waste management licensing regime: Regulation 72 (1) (c).

14. Which authority is supervising IPPC-plants? How often do inspections take place? What enforcement policy do they have (warnings, injunctions, sanctions an so on)? Which type of sanctions can be applied in case of violations?

Austria

In regard of the Trade Act the regional administrative authority is the competent authority not only to issue the permit but also to supervise IPPC-plants. No general time limit or period of inspection for the authority is specified by the Trade Act. Holders of a permit have to have checked the legal compliance of the installation by authorized staff, civil engineers or institutes regularly every five years.

Specific obligations for inspections by the authorities and for monitoring and reporting duties of the permit holder may arise from other regulations such as the Emission Control Act for Boiler Installations or from sectoral orders. Obligations for inspection and reporting will often be specified in the permit decision.

In any case inspections of the authorities have to take place on suspicion that the plant is operated unlawfully (above all: non compliance with conditions of the permit or non compliance with general binding rules). In this case - notwithstanding the imposition of administrative penalties – the authority has to issue decrees to achieve lawful operation. This may result in closing down machines or in a shutdown of the plant in whole or in part. In case of immediate danger and private nuisance the authorities may even immediately shut down the plant in whole or in part. In this case a written decree has to be issued within one month.

Belgium

In the Flemish Region supervising IPPC-plants is a task of the Environmental Inspection Division of the Department of Environment, Nature and Energy of the Flemish Region. Since 2004 the Environmental Inspection is running specific inspection campaigns on IPPC-plants in the framework of the yearly updated inspection programmes. Within the Environmental Inspection there is an IPPC Task Force, composed of representatives of the central unit and the operational provincial units and a representative of the task force dealing with Seveso-plants. This task force is developing guidelines and best practices for IPPC-inspections. As these are integrated inspections, dealing with all relevant environmental aspects, including prevention, such inspections are teamwork. In 2004 and 2005 such inspections were held in the chemical industry. In 2006 such inspections were also started on installations for the processing of ferrous metals. An IPPC-inspection runs over several days. In 2006 seven such inspections were held, resulting in 2 official reports to the public prosecutor, 7 final notices and 3 advices . In 2007 nine such inspections were held resulting in 4 official reports to the public prosecutor, 8 final notices, 8 advices and 2 procedures to review or adapt the conditions of the environmental permit of an IPPC-plant. Besides these special IPPC-inspections the Environmental Inspection is holding each year around 2000 inspections on IPPC-plants in the

form of routine, thematic or reactive inspections, mostly in industrial IPPC-plants (as opposed to those belonging to the agricultural sector). From 2008 onwards specific IPPC inspections will also be held in the agricultural sector . As sanctions are concerned, the inspectors can give in the first place advices, warnings and final notices. In case of operation without the necessary permit, the plant can be closed down, partially or totally. The same measure can be taken in case of violation of the environmental conditions and on the condition that the operator is not obeying the warnings of the environmental inspector. These measures can be appealed with the Environment Minister. The Environmental permit can be annulled or suspended by the permitting authority in case of a breach of the applicable regulations and environmental conditions (art. 36 Decree on Environmental Licenses). Also these decisions can be appealed. Most of the breaches of the relevant provisions of environmental law applicable to IPPC-plants are considered to be criminal offences (as opposite to administrative offences) . The Environmental Inspectors must report criminal offences to the Public Prosecutor of the relevant District, as Judicial Officers have to do. They must also report to the relevant regional authorities and the municipality (art. 16.3.24 of the Decree of 5 April 1995 containing general provisions on environmental policy (DABM) and art. 58 of its Executive Order). The public prosecutor can bring the case before the penal court. Each deliberate or by lack of precaution or care committed breach of environmental law can be punished with a fine of 100 (x 5,5) to 250.000 (x 5,5) EUR and/or imprisonment of 1 month to two years. In case of a deliberate environmental pollution, such breaches can be punished with a fine of 100 (x 5,5) to 500.000 (x 5,5) EUR and/or imprisonment of 1 month to five years. Hindering supervision or not executing administrative or safety measures or not executing measures imposed by a criminal judge is punishable with a fine of 100 (x 5,5) to 100.000 (x 5,5) EUR and/or imprisonment of 1 month to one year. The penal judge can also impose a temporary interdiction of operating the plant. (art. 16.6.1-16.6.5. DABM). If the Public Prosecutor decides not to prosecute the case, the administration can impose an ”alternative administrative fine”. The Public Prosecutor must decide on this within a period of 180 days, period that can be extended to 360 days (art. 16.3.31-16.4.39 DABM). An alternative administrative fine can be of a maximum of 250.000 (x 5,5) EUR (art. 16.4.27 DABM) and can be appealed before the Milieuhandhavingscollege, a brand new specialised administrative environmental court.

In the Brussels Capital Region the Environmental Inspectorate of the Brussels Environmental Agency is supervising IPPC plants. They can issue warnings and injunctions, including in case of imminent danger and lasting infringement, closing down of the plant. These measures can be appealed with the Environmental Appeal Board (art. 8-10 Ordinance of 25 March 1999). Operating a plant without a permit, not respecting the conditions of the permit, hindering inspections or not executing measures imposed by environmental inspectors, can be punished with a administrative fine from 625 to 62.500 EUR or be prosecuted trough the penal track, in which case the fine can range from 2,50 (x 5,5) or 25 (x 5,5) EUR to 12.500 (x 5,5) or 25.000 (x 5,5) EUR, depending on the category to which the installation belongs. In case of intent or when the infringement is committed which a lucrative aim, these penal sanctions can be doubled. It is up to the public prosecutor to decide within a period of 6 months to prosecute the operator or not. When he has not taken a

decision within that period, or when he decides not to prosecute the operator, an administrative fine can be imposed by the head of the Brussels Environmental Agency. Such a decision can be appealed with the Environmental Appeal Board (art. 32-40 Ordinance of 25 March 1999; art. 96 Ordinance on Environmental Licences). The permitting authority can also suspend or withdraw an environmental permit when the operator is not respecting the applicable environmental conditions (art. 65 Ordinance on Environmental Licences). Such a decision can be appealed with the Environmental Appeal Board and further on to the Regional Government.

In the Walloon Region. The main inspectors in the Walloon Region are the agents of the Police and Inspection Division of DGARNE, a regional administration (art. R.87 of the Environmental Code). They have basically the same competences as in both other regions in terms of warnings and injunctions, when the mayor of the municipality is not taking the requested measures (art. D. 148 - D 150 of the Environmental Code). As penal sanctions are concerned one distinguishes between 4 categories of infringements. An infringement of the first category supposes intent and risk for danger for man of the environment (imprisonment of 10 to 15 years and a fine of 100.000 (x 5,5) to 10.000.000 (x 5,5) EUR). Opposing measures taken by the mayor or environment inspectors or hindering inspection is an infringement of the second category (imprisonment of 8 days to 3 years and a fine of 100 (x 5,5) to 1.000.000 (x 5,5) EUR. Infringements of the third category can be punished with imprisonment of 8 days to 6 months and a fine of 100 (x 5,5) to 100.000 (x 5,5) EUR (art. D. 151-155). The penal judge can also apply a whole range of other measures in view of restoring the environment (art. D. 156-158). Under some circumstances transactions can be proposed. When the public prosecutor decides not to prosecute, administrative sanctions can be imposed, ranging from 1 to 100.000 EUR, depending of the type of violation.

complement; the Walloon Region of Belgium

Inspection take place at least every three years.

The decree “sanction” (5 June 2009) can be implemented, as said in the report. In this case, the penal judge can be competent if the prosecutor decides to prosecute the establishment which doesn’t respect the environmental law. There is also, regarding to the law of 4 may 1999 possibility to prosecute the moral person (the company) at the same time as the private person (chief executive manager, for example, or any other person).

Through the law, good tools have been created. The question is of the effectivity of those tools.

The main problem, as well for the administration (supervisory authority) as for the judiciary system (prosecutors and judges) is a question of human means. In very practical way, it may be said that “we don’t always have the means of our ambitions”.

It’s a matter of fact that all the establishments cannot be supervised, far from that, and that all the companies are not ready to cooperate. In the best case, some of them “wait and see”, hoping to be forgotten by the administration. Some others simply are not aware of the necessity to ask or complete a

permit.

This is a huge problem. Maybe the States, or Regional Governments should decide to invest more in people in charge to supervise the respect of the law, and to enforce effective sanctions if needed.

The second (and maybe first) level of action would be to educate and sensibilize the public to the necessity of respecting the environment, and of knowing the environmental legislation which is very poor, in fact, at present.

Czech Republic

Supervision is carried out by four authorities: Ministry of Environment, Regions, Czech Environmental Inspectorate, and Regional Hygiene Officers.

Ministry of the Environment conducts State supervision and carries out review of integrated permits on the operation of installations which may significantly detrimentally affect the environment of the affected State.
Review of other operations that cannot significantly detrimentally affect environment is conducted by the Regions [Section 33(b) of the Act] (For more on review, see above questions 7 and 10).
Compliance with the integrated permit is inspected by the Czech Environmental Inspectorate [Section 34(a) of the Act No. 76/2002 Coll., on integrated prevention].
Regional Hygiene Officers have supervisory role, as regards protection of the public health [Section 35(b) of the Act].
As regards inspections, the Act No. 552/1991 Coll., on State Control, applies. The Act No. 76/2002 Coll. does not specify how often such inspections should take place; it merely sets a minimum frequency of review of the integrated permit (once in 8 years).

Finland

Supervisory authorities under the EPA are Regional Environmental Centres and Municipal Environmental Protection Authorities. Supervisory competences and obligations remain in the hands of the same authority, which has issued the permit. This is, however, true with the exception that Regional Environmental Centres supervise also plants falling under Environmental Permit Agencies´ competence; Environmental Permit Agencies are exclusively decision-making bodies. However, the Agencies have competence to handle applications e.g. by victims of pollution concerning the use of administrative force.

There are specific provisions in the EPA concerning the supervisory authorities´ powers and rights concerning inspections (right to obtain information, have access to places where activities are engaged in, take samples etc.). Ministry of the Environment may issue provisions concerning inspections and organization of supervision (section 95 of the EPA). The intervals between inspections vary depending on the type of activity, the operator and the supervisory authority.

E.g. Uusimaa Environmental Centre has drafted an annual plan for supervision, where plants have been divided into four groups reflecting the necessity of supervision. Installations belonging to group 1 will be inspected

(at least) annually, and those belonging to group 4 once during the permit review period. When acute disturbance situations occur or when reports by neighbours of the plant etc. call for it, the inspectors may visit plants beyond regular times. In 2008 the Centre was in charge of supervision of 542 plants under the EPA, 76 of which were IPPC plants. In all, 8,5 person years were used for supervision of these EPA plants. A responsible inspector has been appointed for every plant.

Normally, supervisory authorities first try to give advice or recommendations to rectify defects, unless they may cause imminent risks. If the operator does not voluntarily obey the advice, the permit authority or supervisory authority may prohibit the operator from continuing or repeating the illegal way of operation or order the operator to fulfil its duties. Also restoration of a polluted environment can be ordered. The rectification order is most often intensified by a threat of a fine (a conditional fine): if e.g. a certain discharge into waters will not be ceased by a fixed date, the operator can be ordered to pay a certain sum of money. Alternatively, a threat of having an omission corrected at the expense of the defaulting operator, or of suspending operations, can be used.

Violations of legislation, permit conditions etc. is also punishable. It is up to the supervisory authority to report the crime to police for investigation. Criminal sanctions can only be passed by ordinary Courts of law.

France

Le contrôle des installations est du ressort de l'inspection des installations classées qui est un service déconcentré placé sous l'autorité fonctionnelle du ministère du développement durable. L'arrêté préfectoral d'autorisation définit les conditions de surveillance des prescriptions fixées. L'exploitant assure une surveillance de ses émissions et en transmet les résultats régulièrement à l'inspection des installations classées. Conformément à l'arrêté ministériel du 24 décembre 2002, l'exploitant réalise également une déclaration annuelle de ses émissions. De plus, l'inspection des installations classées procède régulièrement à des visites d'inspection de l'établissement. Les installations IPPC font l'objet d'une visite d'inspection selon une périodicité qui n'excède pas trois ans, en fonction des enjeux environnementaux.

L'article L514-1 du code de l'environnement prévoit que « lorsqu'un inspecteur des installations classées ou un expert désigné par le ministre chargé des installations classées a constaté l'inobservation des conditions imposées à l'exploitant d'une installation classée, le préfet met en demeure ce dernier de satisfaire à ces conditions dans un délai déterminé. Si, à l'expiration du délai fixé pour l'exécution, l'exploitant n'a pas obtempéré à cette injonction, le préfet peut :

1. Obliger l'exploitant à consigner entre les mains d'un comptable public une somme répondant du montant des travaux à réaliser, laquelle sera restituée à l'exploitant au fur et à mesure de l'exécution des mesures prescrites ; il est procédé au recouvrement de cette somme comme en matière de créances étrangères à l'impôt et au domaine. Pour le recouvrement de cette somme, l'Etat bénéficie d'un privilège de même rang que celui prévu à l'article 1920 du code général des impôts;
2. Faire procéder d'office, aux frais de l'exploitant, à l'exécution des mesures

prescrites;
3. Suspendre par arrêté, après avis de la commission départementale consultative compétente, le fonctionnement de l'installation, jusqu'à exécution des conditions imposées et prendre les dispositions provisoires nécessaires. »

L'article L514-7 du code de l'environnement prévoit que «s'il apparaît qu'une installation classée présente, pour les intérêts mentionnés à l'article L. 511-1, des dangers ou des inconvénients qui n'étaient pas connus lors de son autorisation ou de sa déclaration, le ministre chargé des installations classées peut ordonner la suspension de son exploitation pendant le délai nécessaire à la mise en œuvre des mesures propres à faire disparaître ces dangers ou inconvénients ».

Les articles L514-9 à –12 du code de l'environnement prévoient que des dispositions pénales en cas d'infractions aux conditions de l'autorisation, ou en cas d'exploitation sans autorisation :

- Article L. 514-9 du code de l'environnement :
I. Le fait d'exploiter une installation sans l'autorisation requise est puni d'un an d'emprisonnement et de 75 000 € d'amende.
II. En cas de condamnation, le tribunal peut interdire l'utilisation de l'installation. L'interdiction cesse de produire effet si une autorisation est délivrée ultérieurement dans les conditions prévues par le présent titre. L'exécution provisoire de l'interdiction peut être ordonnée.
III. Le tribunal peut également exiger la remise en état des lieux dans un délai qu'il détermine.
IV. Dans ce dernier cas, le tribunal peut :
1. Soit ajourner le prononcé de la peine et assortir l'injonction de remise en état des lieux d'une astreinte dont il fixe le taux et la durée maximum ; les dispositions de l'article L. 514-10 concernant l'ajournement du prononcé de la peine sont alors applicables;
2. Soit ordonner que les travaux de remise en état des lieux seront exécutés d'office aux frais du condamné.

- Article L. 514-10 du code de l'environnement :
I. En cas de condamnation à une peine de police pour infraction aux arrêtés préfectoraux ou ministériels prévus par le présent titre ou par les règlements pris pour son application, le tribunal peut prononcer l'interdiction d'utiliser l'installation, jusqu'à ce que les dispositions auxquelles il a été contrevenu aient été respectées.
II. Le tribunal peut ajourner le prononcé de la peine, en enjoignant au prévenu de respecter ces dispositions. Il impartit un délai pour l'exécution des prescriptions visées par l'injonction. Il peut assortir l'injonction d'une astreinte dont il fixe le taux et la durée maximum pendant laquelle celle-ci est applicable. L'ajournement ne peut intervenir qu'une fois; il peut être ordonné même si le prévenu ne comparaît pas en personne. L'exécution provisoire de la décision d'ajournement avec injonction peut être ordonnée.
III. A l'audience de renvoi, lorsque les prescriptions visées par l'injonction ont été exécutées dans le délai fixé, le tribunal peut soit dispenser le prévenu de peine, soit prononcer les peines prévues. Lorsque les prescriptions ont été exécutées avec retard, le tribunal liquide l'astreinte si une telle mesure a été ordonnée et prononce les peines prévues. Lorsqu'il y a inexécution des

prescriptions, le tribunal liquide l'astreinte si une telle mesure a été ordonnée, prononce les peines et peut en outre ordonner que l'exécution de ces prescriptions sera poursuivie d'office aux frais du condamné. La décision sur la peine intervient dans le délai fixé par le tribunal, compte tenu du délai imparti pour l'exécution des prescriptions.
IV. Le taux de l'astreinte, tel qu'il a été fixé par la décision d'ajournement, ne peut être modifié. Pour la liquidation de l'astreinte, la juridiction apprécie l'inexécution ou le retard dans l'exécution des prescriptions en tenant compte, s'il y a lieu, de la survenance des événements qui ne sont pas imputables au prévenu. L'astreinte est recouvrée par le comptable du Trésor comme une amende pénale ; elle ne donne pas lieu à contrainte par corps.

- Article L. 514-11 du code de l'environnement :
I. Le fait d'exploiter une installation en infraction à une mesure de fermeture, de suppression ou de suspension prise en application des articles L. 514-1, L. 514-2 ou L. 514-7 ou à une mesure d'interdiction prononcée en vertu des articles L.514-9 ou L. 514-10 est puni de deux ans d'emprisonnement et de 150 000 € d'amende.
II. Le fait de poursuivre l'exploitation d'une installation classée sans se conformer à l'arrêté de mise en demeure d'avoir à respecter, au terme d'un délai fixé, les prescriptions techniques déterminées en application des articles L. 512-1, L. 512-3, L. 512-5, L. 512-7, L. 512-8, L. 512-9 ou L. 512-12 est puni de six mois d'emprisonnement et de 75 000 € d'amende. Est puni des mêmes peines le fait de poursuivre l'exploitation d'une installation sans se conformer à un arrêté de mise en demeure pris en application de l'article L. 514-4 par le préfet sur avis du maire et de la commission départementale consultative compétente.
III. Le fait de ne pas se conformer à l'arrêté de mise en demeure de prendre, dans un délai déterminé, les mesures de surveillance ou de remise en état d'une installation ou de son site prescrites en application des articles L. 512-3, L. 512-5, L.512-7, L. 512-9, L. 512-12, L. 514-2, L. 514-4 ou L. 514-7 lorsque l'activité a cessé est puni de six mois d'emprisonnement et de 75 000 € d'amende.

- Article L. 514-12 du code de l'environnement :
Le fait de mettre obstacle à l'exercice des fonctions des personnes chargées de l'inspection ou de l'expertise des installations classées est puni d'un an d'emprisonnement et de 150 000 € d'amende.

L’article R. 512-69 du code de l’environnement prévoit que « l'exploitant d'une installation soumise à autorisation ou à déclaration est tenu à déclarer dans les meilleurs délais à l'inspection des installations classées les accidents ou incidents survenus du fait du fonctionnement de cette installation qui sont de nature à porter atteinte aux intérêts mentionnés à l'article L. 511-1 ».

L’article R. 514-4 du code de l’environnement prévoit les infractions de nature pénale.

Germany Les installations autorisées sont supervisées par les autorités de tutelle. Les installations sont contrôlées régulièrement. Un contrôle doit être exécuté aussi s'il existe des indices que des changements de l'état de la technique essentiels

	rendent possible une réduction des nuisances considérable. L'autorité peut promulguer des injonctions ultérieures. Dans le cas de violation d'une injonction volontaire ou négligeante, le tribunal répressif peut prononcer une amende jusqu'à 50.000 €.
Hungary	The regional inspectorates oversee the activities of IPPC-plants on the basis of an inspection plan. An inspection in the form of a site visit on the premises has to be carried out every year. The inspectorate may issue warnings, injunctions and sanctions too. (Compliance promotion is not widespread.) Applicable sanctions are the following: restriction, suspension and prohibition of the activity and imposing a fine.
Italy	Le système italien comporte plusieurs possibilités de contrôle: a) par l'autorité qui a délivré l'autorisation intégrée sur l'environnement b) par les Agences pour la protection de l'environnement qui existent dans les vingt Régions c) par le Ministère de l'Environnement qui, selon la loi, a un "observatoire" ad hoc d) par les collectivités locales (Communes et Provinces) e) par les différentes forces de police (Carabiniers sur le territoire; Cellule écologique des Carabiniers au plan national et régional ; Corps forestier de l'Etat au plan national et local; etc..) Il faut souligner que, dans la dernière modification de la loi (Acte législatif n° 4/2008) il est établi que l'autorité compétente doit non seulement fixer des conditions précises pour contrôler les émissions, mais aussi l'obligation d'activités d'autocontrôle par l'exploitant de l'installation. La loi établit aussi un contrôle programmé et par conséquent l'échange nécessaire d'informations continuelles entre tous les sujets privés et publics impliqués. L' Agence pour la protection de l'environnement et pour les services techniques est l'organe technique de contrôle le plus qualifié en la matière. Les résultats des contrôles et des inspections sont communiqués à l'autorité compétente, et indiquent les situations de non respect des prescriptions en proposant les mesures à adopter. L'autorité compétente peut disposer des inspections extraordinaires des installations autorisées. Le système des sanctions comporte des sanctions pénales et administratives. Les sanctions pénales sont fonction de trois cas: a) exercice de l'activité sans autorisation intégrée sur l'environnement, ou autorisation suspendue, ou révoquée b) non respect des prescriptions imposées par l'autorité compétente c) continuation de l'activité après l'ordre de fermeture de l'installation. Sont frappées d'une sanction administrative: a) l'absence de transmission à l'autorité compétente de la date de début de l'activité b) l'absence de communication des données relatives aux contrôles des émissions (activité d'autocontrôle)

	c) l'absence de transmission de la documentation complémentaire demandée par l'autorité comptente.
Netherlands	In the Netherlands the permit authority is also the authority that is responsible for enforcement. This authority has all the competences it needs to check the plant also from the inside, to take samples and to ask for information. The enforcement authority has in case of violation of the rules two administrative sanctions, namely the already mentioned penal sum and the competence to do by itself what the operator has failed to do or to remove what has been placed illegal. Especially the competence of a penal sum is often used. In many cases the operator reacts already on the announcement of a draft penal sum. I do not have general information about the numbers of inspection. The frequency of inspection differs from authority to authority and from category of plants to category. In some municipalities every plant is inspected every two or five years; other authorities react mainly on complaints and don not have a regularly inspection scheme. Criminal sanctions are regularly applied although they are not always effective. In a number of cases the penalties are too low to have a real effect.
Norway	SFT is responsible for supervisory activities pursuant to the Pollution Control Act. It is not possible on a general bases to state how often inspections will take place, but according to information given by the SFT, the frequency of inspections rely in part on the risk-potential of the actual IPPC-plant. For IPPC-plants considered to represent a high risk to the environment, inspections will be carried out on an annual basis. As described under question 13, the SFT may impose a pollution fine or press criminal charges against the enterprise responsible for an eventual contravention.
Poland	-
Sweden	Sweden's 21 state regional authorities, the county administrative boards, are primarily responsible for supervising IPPC-plants (and other activities that require a permit, so called A and B activities). The municipalities are responsible for the supervision of other environmentally hazardous activities. Upon application a municipality may take over, entirely or in part, the county administrative board's responsibility for supervising an activity. Many municipalities have exercised this option, which means that a number of activities covered by the directive are operated under municipal supervision. The authorities carry out supervision to ensure the operator complies with legislation and conditions in the permits that have been granted. In Sweden, supervision by the authorities is complemented by a system of compulsory self-inspection carried out by the operator. This self-inspection means essentially that the operator is responsible for monitoring his activity and

	ensuring that it meets the requirements that are stated in environmental legislation, permits and decisions. The extent of the self-inspection is set in a special document, a monitoring program, which states for instance which parameters that are to be monitored, by which method, how often, where in the system and so on. The monitoring program is to be accepted by the supervisory authority. There are no legal rules that prescribe regular on-site inspection. The interval between such inspections depends on the estimated need for supervision of the activity. The authorities' supervision includes not only on-site inspections but examination of the documents provided to the authority. These can be the statutory annual environmental report and reports of periodic emission measurements and other investigations that the operator has carried out as part of his self-inspection. The most important enforcement tools are injunctions and prohibitions. A supervisory authority may issue any injunctions and prohibitions that are necessary in individual cases to ensure compliance with legal rules, permits and decisions. Injunctions and prohibitions may be made subject to the penalty of a fine which is set in advance to ensure that a measure is taken. The supervisory authority may also decide that corrective measures should be taken at the offender's expense. In more serious cases, the supervisory authority may ask the responsible authority (e.g. the environmental court) to revoke the permit. In cases where the supervisory authority suspects a criminal offence, it will notify the prosecutor. There is also a system of environmental sanction charges that the supervisory authority imposes on an operator responsible for certain infringements of environmental law.
United Kingdom	The supervisory authorities are the Environment Agency and local authorities. There is no available information as to the regularity of inspections save as a matter of law the regulator is under a duty to review permits periodically: Regulation 34. There is no prescribed period within which reviews must be undertaken; the only guidance is that the Environment Agency will carry out reviews "having regard to its experience of regulating various sectors": DEFRA: Environmental Permitting Core Guidance paragraph 10.33 (2008).

Part 2. An example

A new tannery is going to be built in your country. The tannery will have a production that exceeds 12 tonnes per day and is thus an IPPC-plant.

General remarks on the example

The Walloon Region of Belgium	They are not tanneries that exceed 12 tonnes in Region Wallonne. The case considered will only be the capacity of 12 tonnes.

Finland	Finnish tanneries are small and probably all are below the IPPC limit of 12 tonnes/d hide production. By Finnish practice, the tannery would need an environmental permit regulating emission of pollutants as well as other permits. To construct the factory, a building permit would be needed, where questions of landscape impact, traffic and neighbourhood disturbance would be regulated. Handling and storing some of the tannery chemicals would require a chemicals licence regulating safety aspects. Also the factory power plant might require a separate environmental permit regulating storage of fuel and emissions into air. Abbreviations: EPA = the Environmental Protection Act 4.2.2000/86 EPD = the Environmental Protection Decree 18.2.2000/169 EIA = Environmental Impact Assessment EIAA = the Environmental Impact Assessment Act 10.6.1994/468 GDEIA = the Government Decree on EIA 17.8.2006/713 LUBA = the Land Use and Building Act 5.2.1999/132 (some unofficial translations of the Acts are available in English at www.finlex.fi)
Hungary	There is no tannery in Hungary.

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1. What kind of authority or authorities (local, regional, central) will handle (examine, review) the application and issue the permit?

Austria	The regional administrative authority (Bezirksverwaltungsbehörde) will handle the application and issue and review the permit. Official experts will be consulted in theproceedings.

The Flemish Region of	Such an installation is mentioned under point 25.1.1.of the Appendix I to the VLAREM I Executive Order. It is classified under category 1 and as an IPPC-plant. It needs also an environmental co-ordinator of category B and is subject

Belgium	to PRTR-reporting. An environmental permit of the provincial government is necessary.
The Walloon Region of Belgium	The municipality
Czech Republic	Apart from the planning permission, environmental impact assessment (EIA and SEA) (if necessary) and building permit (see above question 8), the IPPC application will be handled by the respective Region, unless it regards operation of an installation which may significantly detrimentally affect the environment of the affected State, such applications being in competence of Ministry of Environment [Sections 29(b) and 33(a) of the Act No. 76/2002 Coll.].
Finland	By the EPD, industrial hide tanning and fur manufacturing require an EPA permit regardless of capacity. The permit application is resolved by the Regional Environmental Centre.
France	L'autorité compétente est le préfet, représentant de l'Etat dans le département. Toute personne qui se propose de mettre en service une installation soumise à autorisation au titre de la législation des installations classées (catégorie à laquelle les installations IPPC appartiennent) adresse une demande au préfet du département dans lequel cette installation doit être implantée (cf. article R. 512-2 du code de l'environnement). Pour les exploitants localisés à Paris, c'est la préfecture de police de Paris qui a la compétence en matière d'installations classées. Les établissements relevant de la Défense Nationale sont de la compétence du Ministère de la Défense.
Germany	Autorité chargée d'examiner et de décider la demande d'autorisation est l'administration inférieure du Land, cela veut dire la sous-préfecture ou le chef-lieu du district, soi-disant une autorité régionale.
Hungary	The regional inspectorate will handle the application and issue the permit.
Italy	L'autorité compétente est la Région dans laquelle se trouve la tannerie à autoriser.
Netherlands	A tannery is a plant that belongs to category 8 of the Governmental decision on plants and permits environmental protection. According to this category the

	provincial board is competent to grant a permit for certain plants to which tanneries do not belong. This means that the municipal board is competent.
Norways	The Norwegian Pollution Control Authority (SFT) – when it comes to the application for an IPPC-permit.
Poland	According to Act of 3 October 2008 on popularization of information about the environment and its protection, public participation in environmental protection and assessments of impact on the environment, a tannery building is a project that may have a considerable influence on the environment. According to Article 378 of the Act – Environmental Protection Law, Staroste is the competent authority to issue an IPPC-permit concerning exploitation of the tannery. The authority competent to issue an IPPC-permit provides the Minister of the Environment with an electronic version of the application for issuance of an IPPC-permit.
Sweden	The application will be tried by a county administrative board (Division 1, paragraph 18.10 of the appendix to the Ordinance 1998:899 on Environmentally Hazardous Activities and Health Protection). The county administrative board is a regional authority under the national Government. The county administrative boards all have a specific department that tries applications for environmental permits.
United Kingdom	The Environment Agency.

2. Will the application include an EIS according to the EIA-directive?

Austria	An EIS will only be necessary if the tannery is subject to an EIA according the Austrian EIA-Act. This will only be the case, if: • the tannery has a production that exceeds 20.000 tonnes per year • or if the tannery is located in or near a residential area and has a production that exceeds 10.000 tonnes per year Until today no permit for a tannery has been permitted according the Austrian EIA-Act. In any case - even if no EIA and therefore no EIS is necessary - the applicant has to provide detailed information: The application must include information on the expected emissions (sources, kind, amount, environmental effects, measures to avoid them, surveillance measures). The application should also include other measures necessary to fulfil the permit requirements. The applicant has to present the most important alternatives that were taken into consideration and has to provide a comprehensive summary of all provided data..
The	Tanneries with a production capacity of 1000 tonnes a year or more (more or

Flemish Region of Belgium	less 4 tonnes a day) are mentioned in Annex II of the Executive Order of 19 December 2004. They require an EIS, except when the operator applies for an exemption and the EIA Division of the Environment Department is on the basis of the criteria laid down in Annex II of het Decree of 5 April 1995 (cf. Annex III of Directive 85/337/CEE) of the opinion that they may not cause significant environmental impacts. So, if no exemption is granted, an EIS shall be produced, before the operator can introduce an application for an environmental permit and for a building permit.
The Walloon Region of Belgium	Yes, if it is a class 1 establishment.
Czech Republic	No, an application for environmental impact assessment has to be filed separately under a different Act [Act No. 100/2001 Coll., on environmental impact assessment and amending some related Acts (the Act on environmental impact assessment)]. It is also lodged at Regions [Section 22 of the Act No. 100/2001 Coll., on environmental impact assessment]; in cases where impact on larger areas is assessed, such as for a whole region or a few regions etc., the application is to be lodged at the Ministry of Environment [Section 21 of the same Act] .
Finland	A formal (mandatory) EIA is required for activities listed in the GDEIA, where tanneries are not included. Additionally, by a special provision of the EIAA, the Regional Environmental Centre may request an EIA for activities not on the list. An EIA may be requested on special grounds laid down in the GDEIA on the basis of the EIA Directive. These criteria imply that an activity posing a risk to considerable environmental impacts, comparable to those listed in the GDEIA (and Annex I to the Directive), taking into account of the scale, impact or exceptionally vulnerable nature of the surroundings, can constitute an obligation to perform an EIA procedure. EIA might be requested in the tannery example case, since the IPPC tannery would be a very big one under Finnish circumstances.
France	Conformément à l'article R. 512-6 du code de l'environnement, la demande d'autorisation comprend une étude d'impact qui permet de réaliser une analyse des effets directs et indirects, temporaires et permanents de l'installation sur l'environnement et en particulier : - sur la santé des populations et sur l'environnement de l'installation, - prise en compte des effets sur les milieux naturels, les équilibres biologiques, la commodité du voisinage (bruit / salubrité publique), autres utilisations du milieu ou de la gestion équilibrée des ressources qu'il renferme (notamment en eau), - analyse réalisée: par milieu physique (eau, air, sol…), par effets (sur la faune et la flore, sur la santé, sur l'agriculture, etc. …).

Germany	La demande doit inclure une étude d'impact environnemental selon la directive 85/337/CEE.
Hungary	The application includes EIS upon basis of the decision made by the regional authority in the preliminary examination on the significance of the environmental impacts of the planned tannery.
Italy	Oui, en Italie les tanneries sont soumises à la procédure d'étude d'impact environnemental (voir annexe 3.i acte législatif n° 152 du 3 avril 2006, quand elles ont une capacité de production supérieure à 12 tonnes de produit fini par jour). Dans ce cas la procédure de VIA est obligatoire. Comme les tanneries qui dépassent 12 tonnes par jour de produit fini sont comprises aussi dans les catégories d'activité sujettes à autorisation IPCC, l'autorisation unique finale absorbe aussi la prévention et la réduction intégrée de la pollution. S'il s'agit de tanneries de capacité inférieure à 12 tonnes par jour, mais supérieure à 3 tonnes de produit fini, la loi prévoit que le projet soit soumis à une vérification préalable de la possibilité d'application de la procédure d'étude d'impact environnemental. La Région décide suivant les situations. Dans ce cas la législation IPCC n'a pas d'application spécifique.
Netherlands	The application will include an EIS when it relates to the establishment, the enlargement or the chance of a tannery that produces a discharge of 1000 or more inhabitant-equivalents of discharge. In this case an investigation should take place whether for the tannery an EIS should been made because of the extra ordinary circumstances under which the activity takes place. The limit of over 1000 inhabitants equivalent discharge is a limit according the Netherlands governmental decision on EIS. According to the EIS-directive there is no limitation in the amount of the discharge for the establishment of a tannery.
Norway	Not necessarily. Please refer to question 9 above.
Poland	According to Act of 3 October 2008 on popularization of information about the environment and its protection, public participation in environmental protection and assessments of impact on the environment, a tannery building is a project that may have a considerable influence on the environment. If the project may have a considerable influence on the environment that is qualified as a project subject to assessment of the environmental impact, then there have to be a process conducted concerning assessment of the environmental impact being a separate proceedings in relation to the proceedings concerning issuance of IPPC-permit. The proceedings concerning assessment of the environmental impact is completed with issuance of a decision on the environmental

	conditionings. A copy of the decision on environmental conditionings or a copy of an application for issuance of a decision about the environmental conditionings is one of the attachments to the application for an IPPC-permit.
Sweden	Yes, the application will include an EIS according to the EIA-directive. (Chapter 6, Section 7 of the Environmental Code and Section 3 of the Ordinance 1998:905 on Environmental Impact Statements.)
United Kingdom	If the tannery is a new tannery (which it is) it will require planning permission from the local planning authority before it can be built. The environmental assessment will be sent to the planning authority and forms part of the planning application.

3. Will the permit authority/authorities try the localisation of the plant in the same process as the IPPC-questions?

Austria	Yes, generally the proceedings should be coordinated. See Question 8 above.
The Flemish Region of Belgium	If it is a new plant or an extension of an existing plant involving building activities, a building permit is necessary and will be delivered by the municipality. In that process land use issues are dealt with, but also in the environmental permit process one has to check the conformity with land use planning.
The Walloon Region of Belgium	Yes, in certain cases: see answer to question 8, before.
Czech Republic	Localisation of the plant will be considered within the IPPC permit examination (it is one of the obligatory essentials in the application for integrated permit and, pursuant to Section 14(3) of the Act on integrated prevention, it is one of the factors to be taken into account when setting the binding conditions). However, planning permission procedure is separate from that of IPPC and the operator will have to participate in that one separately.
Finland	In a strict sense, if the question refers to wide powers to find an optimal location, the answer is no. The environmental permit required by the EPA concerns only emissions that are liable to cause pollution of the environment, risk to ground water, health hazard to humans or excessive disturbance to neighbours. The permit authority considers the activity on the proposed site and has limited powers to consider alternative localization of the plant (see section 6 subsection 2 point 3 of the EPA, referred to in part 1, question 8

	above). For a new plant, localization would be the issue in the building permit issued under the LUBA, but there again, effects on the environment are secondary. However, a building permit must not be granted in conflict with a (detailed) land use plan, which implies that land use planning under the LUBA is highly relevant concerning the localization.
France	Les autorités compétentes prennent en compte la localisation de l'installation afin de définir les prescriptions qui seront imposées à l'exploitant par l'arrêté préfectoral d'autorisation pour prévenir les pollutions et les risques et qui doivent obéir aux obligations suivantes: 1. respect des prescriptions techniques minimales des arrêtés nationaux sectoriels. 2. prise en compte des performances des meilleures techniques disponibles à un coût économiquement acceptable, 3. analyse de l'impact réel de l'installation sur la santé des populations et sur le milieu environnant, 4. surveillance des émissions et nuisances diverses de l'installation.
Germany	L'autorité compétente va prendre en compte la localisation de l'installation au cours de son examen.
Hungary	If localisation means whether the plant can be established in a given territory, it is decided in general by the local government in a decree regulating the land-use plan. If, however, it means that a construction permit has to be requested, the construction authority issues the permit in a separate procedure. In the latter process the applicant has to submit the IPPC-permit. If the IPPC-permit has not been issued yet, the construction authority may suspend its procedure. The construction permit is bound by the conditions set by the IPPC-permit.
Italy	La Région dans laquelle se trouve l'installation à autoriser doit tenir compte, entre autres considérations, de la localisation choisie.
Netherlands	The permit authority will not try to integrate the localisation of the plant in the same process as the IPPC-questions. As explained before the undertaker of the plant is free to locate the plant on ground with a suitable destination according to the municipal destination plan. Once the location has been chosen, an application for an IPPC permit will be done; after the IPPC-permit is granted a building permit may be granted.
Norway	No. Please refer to question 8 above.
Poland	The permit authority will not try the localisation of the plant in the procedure

	about issuance of an IPPC-permit.
Sweden	Yes, the localisation will be tried in the permit process. (Chapter 2, Sections 1 and 6 of the Environmental Code.)
United Kingdom	See the Answer to Question 8 under Part 1 above.

4. Are there any procedural costs for the tannery operator?

Austria	Yes. The tannery operator first of all has of course to bear any costs arising from production of documents necessary for the application (for example costs for consultants). Furthermore the tannery operator has to bear administrative fees for issuance of the permit, administrative fees for the application including supplementary documents, for written records of the procedure and for official acts during the permit procedure (for example inspections or public hearings). Fees vary according to Federal Law or the law of the relevant state. Usually even for large installation those administrative fees will often not exceed EUR. 10.000. Much higher costs may arise, if no official expert is available at the competent authority and a sworn-in external expert has to be consulted. In the case of a tannery this is rather unlikely to happen. For example: Fees for the issuance of the permit under the Trade Act will range from EUR 43 to EUR 490 depending on the output of the motors used in the plant. Fees for the application and for records depend on how many sheets of paper are required and may amount to several thousand Euros. Fees for public hearings or inspections according the duration of the official act: Fees vary according to the relevant state Law and according to the number of officials involved. In Upper Austria for example EUR 10 will be charged per half hour for each official of the regional administrative authority involved in the official act.
The Flemish Region of Belgium	A regional tax of 247,89 EUR has to be paid. In some provinces there is an additional provincial tax.
The Walloon Region of Belgium	Yes. The cost of the EIA may be very expensive. Otherwise, the costs asked by the Walloon Region are on a scale from 0 to 500 € (permit is for free for class 3 permit, 125 € for class 2 permit and 500 € for class 1 permit). This doen't include the cost for EIA and other costs that may be asked by the townhall.

Czech Republic	Yes, under Act No. 634/2004 Coll., on administrative fees, entry 96, issuing an integrated permit is subject to a fee of 30 000 CZK (approx. 1 200 EUR), if the operation is listed in Annex I of Act No. 76/2002 Coll., on integrated prevention); change of the permit would cost 10 000 CZK or 5 000 CZK (approx. 400 EUR or 200 EUR respectively), depending on whether or not the operation is listed in Annex I of Act No. 76/2002 Coll., on integrated prevention. A change of the permit initiated by the administrative body is not subject to administrative fees. Annex I of the Act No. 76/2002 Coll. lists operations that require integrated permit. Hence, if an integrated permit is requested for an operation in cases where such permit is not obligatory, issuing the permit is not subject to administrative fees.
Finland	The applicant is required to pay a fee for the licence decision. The fee corresponds, on principle, to the amount of authority work that is required. For the example tannery, the fee would be some 10 000 euros. See also the discussion under part 1, question 5 above.
France	Outre les frais indirects liés à la procédure, notamment les frais d'enquête publique, l'exploitant aura à payer une taxe liée à la délivrance de l'acte l'autorisant à exploiter. Cette taxe varie suivant le statut structure juridique de l'exploitant entre 502 € et 2525 €.
Germany	Le demandeur prend les frais de la procédure d'autorisation à sa charge.
Hungary	The procedural costs are regulated by environmental ministry decree no. 33/2005. (XII.27.) The request for permit of a tannery plant (preliminary examination) costs 250.000HUF (approx. 950EUR). If there is a need for a single IPPC procedure, it costs 2,1millionHUF (approx. 8500EUR). If there is a need for both (consolidated EIA and IPPC) procedure, it costs 2,8millionHUF (approx. 9800EUR).
Italy	Les frais de procédure de l'étude d'impact environnemental sont à la charge du demandeur. Le même critère s'applique pour les procédures de l'IPCC
Netherlands	There are certainly procedural costs for the tannery operator. He has to fulfil an application and the needed reports on investigations f.e. in noise, in soil protection, in air pollution and possible he has to draft an EIS. For a IPPC-permit no fee is required, but for a building permit a fee is required mostly related to the building costs.

Norway	No. (Not for the administrative procedure).
Poland	The operator of the tannery should pay registration fee. The amount of the registration fee can't exceed 3000 EUR. The registration fee should be paid when the IPPC-permit are going to be changed because of significant changes in the plant. In this case the registration fee amounts 50% of the registration fee. The evidence of the paid registration fees is one of the attachments of the application for the IPPC-permit.
Sweden	There is no specific charge for the permit procedure. But starting the year after the permit is issued, the operator must pay an annual charge for review and supervision. The charge for a tannery of this size will normally be 74,000 SEK (approximately 7,000 Euro) per year (Chapter 27, Section 1 of the Environmental Code and Ordinance 1998:940 on charges for review and supervision under the Environmental Code). If an application is tried by the environmental court, the applicant must also pay the court's costs for notices, keepers of files, experts summoned by the court and premises where meetings are held (Chapter 25, Section 8 of the Environmental Code). The operator must, of course, pay the costs for its legal and technical advisors. These costs can be considerable for a complicated permit process.
United Kingdom	There are prescribed fees.

5. Does the permit authority normally ask other authorities on different administrative levels in the permit process for their opinion on the application?

Austria	The permit authority (the regional administrative authority) has to consult experts from all areas affected. The local government of the municipality of the site has also to be consulted.
The Flemish Region of Belgium	For establishments of category 1, as is the case with the tannery, provincial government has to ask before deciding on the application the opinion of: - the municipality; - the Provincial Environmental Permitting Commission, composed of representatives of the Environmental Permitting Division of the Department of the Environment, Nature and Energy of the Flemish Region; the Flemish Land Use Planning Agency, the Public Health Division, the Division for Natural

	Resources, the Flemish Waste Agency, the Flemish Environment Agency, the Flemish Land Agency and the Flemish Energy Agency (these are all regional administrations), some provincial civil servant and experts.
The Walloon Region of Belgium	Yes. As said before, all the sectors of administration concerned by environment must cooperate, which is a revolution in their way of working. Now they have to coordinate. The maximum of involved sectors or people are asked their opinion like for example, firemen, Fluxys (gazoduc) etc...
Czech Republic	Yes. The application is sent for standpoint to administrative bodies exercising competence pursuant to special regulations whose administrative acts are being replaced by the integrated permit [Section 8(1)(b) of Act no. 76/2002 Coll., on integrated prevention].
Finland	The permit authority shall, by the EPA, inform relevant authorities of the application. In the tannery case, such authorities would be at least - municipal authorities concerned with effects on the community and on the environment, - regional fisheries authorities concerned with the effects of possible water pollution on fish.
France	Le service instructeur de toute demande d'autorisation unique est l'inspection des installations classées qui consulte les autres administrations concernées. Cette demande est également soumise à la consultation des autorités locales, à une enquête publique et à l'avis du Conseil départemental d'hygiène. Cette procédure est conforme aux exigences de la directive 85/337 du 27 juin 1985 concernant l'évaluation des incidences de certains projets publics et privés sur l'environnement.
Germany	L'autorité compétente renseigne les autorités du pays ou étrangères de n'importe quel niveau administratif dont champ d'activité est touché par le projet, leur transmet les informations spécifiées à l'annexe III de la directive et leur donne l'occasion de se prononcer.
Hungary	The environmental authority has to ask for the opinion of the special authorities according to government decree no. 347/2006. (XII.23.) appendix no.4. So it is not the task of the operator to get these special opinions.
Italy	La Région organise une conférence des services (qui est toutefois facultative aux termes de l'art. 5c, alinéa 10, de l'acte législatif n° 59/05, dans son texte modifié par la Loi n° 4/2008) dans laquelle elle invite toutes les autres autorités compétentes selon la loi (Municipalité, Direction Générale pour les Biens culturels et les sites, etc.) à exprimer leur orientation, afin d'obtenir une décision univoque.

Netherlands	In general permit authorities are rather reluctant in asking many other authorities advice about the application. Often the fire brigade is consulted about aspects of external safety and fire protection. The Inspectorate of the ministry for the Environment has the legal competence to advice on every application for a permit. In practice the Inspectorate seldom does. When a plant is located near to the municipal border the board of the other municipality will get the possibility to advice. A municipal board has also the legal opportunity to advice on an application on which the provincial board is competent for a plant within the municipal borders.
Norway	Not if the competence to process the application lies fully within the relevant authority's area.
Poland	Receiving information and instructions from other authorities on different administrative levels may be helpful in the procedure about issuance of the IPPC-permit. The co-operation is not formalized and should be based on full exchange of data and information even if law doesn't require such consultations. The application for the IPPC-permit with the standpoint of the department conducting the proceedings should be delivered to other departments to receive their opinion (if it is necessary because of structure of the competent authority). It is possible to address other departments of the authority if the case concerns the specific installation.
Sweden	Yes, the permit authority normally asks other authorities for their opinion on the application. In this case, the county administrative board has a legal obligation to consult government and municipal authorities which have a substantial interest in the matter (Chapter 19, Section 4 of the Environmental Code). Among those authorities that are often consulted are the relevant supervisory authority, the Swedish Environmental Protection Agency and the municipalities concerned. For an activity such as this one, where an EIA procedure is required, the authorities concerned will also have been consulted by the applicant prior to the application and the EIS.
United Kingdom	There may be consultation with the relevant local authority.

6. How does the permit autorithy ensure public participation? Can for example people state their view in writing, by e-mail, in a public hearing or otherwise?

Austria	The Trade Act provides special regulation on public participation in IPPCprocedures. The permit authority has to announce the application and additional pertinent information in two major regional newspapers and on the website of the authority. The application for the new tannery and supplementing documents and information must be made available at the authority for a period of six weeks. Within this period everyone can make comments to the application.
The Flemish Region of Belgium	There will be a 30 days public inquiry. A notice (35 dm2) is published on the site where the plant is projected (good visible from the public road) and on the official notice boards of the municipality. Owners and users of property in a radius of 100 meters around the site receive an individual notice. A notice will also be published in 2 daily or weekly papers and on the website of the municipality. The application and the EIS can be inspected with the municipality by everyone within that period of time. An information meeting will be held. There are special provisions in case of a plant that can have transboundary environmental impacts. Before the closing of the public inquiry everybody can send written objections and comments to the municipality. An official record is made of the oral objections or comments raised during the information meeting or later on in front of the person in charge of the public inquiry. All the objections and comments received during the public inquiry are sent to the Provincial Environmental Permitting Commission. One of the elements the opinion of that Commission should contain is an evaluation of those objections and comments. While taking a decision on the application, Provincial Government shall state reasons and must take into consideration the result of public participation. When departing of the opinion of the Provincial Environmental Permitting Commission, there should be given explicit reasons for that.
The Walloon Region of Belgium	If EIA (class 1), the author of the project must organize a meeting to inform the public. For the class 1 and 2 establishment, the permit authority must, when the demand is admissible and completed, organize a public enquiry, and organize the advertizing towards the public, including the possibility to consult the file at the Public Hall.
Czech Republic	Pursuant to Section 8 of the Act No. 76/2002 Coll., on integrated prevention, the authority shall forward the application to a) the participants in the procedure [i.e. to the municipality and region in whose territory the installation is/is to be located] [see Section 7(b) and (c) of the Act]; b) relevant administrative authorities exercising competence pursuant to special regulations whose administrative acts are replaced by the integrated permit; c) the country whose environment could be significantly detrimentally affected by the operation of the installation. At the same time the authority publishes a brief summary of the information and informs on when and where the application is available for consultation at an official notice board and at the portal of public administration within 7 days from receipt of the application. This information should be available at the official notice board and at the

portal for 30 days. The portal is accessible by internet. Within 30 days from the publication anyone may send his/her opinion on the application [Section 8(2) of the Act].

The information published should contain data on which company filed the application; description of the operation and related activities; description of materials and energies used; list and description of emission sources and description of other impacts of the emissions, characteristics of impact on the environment, as well as assumed quantities of emissions; characteristics of the area (current emissions situation); description of technologies used and technologies to prevent occurrence of emissions; measures to be taken to prevent waste and to measure the emissions; comparison of the operation with BAT etc. [Section 4(1)(d) of the Act].

An oral hearing may be ordered by the authority within 5 days after the period for sending the opinion by affected authorities or any participant of the procedure lapsed [i.e. within 5 days from the lapse of 30-days time-limit]. The authority is obliged to call an oral hearing in case any participant of the proceedings requests so (within the 30-day time-limit) [Section 12(1) of the Act]. For a list of participants to the proceedings, see Section 7 of the Act which is quoted in question 5 above.

Finland

The permit authority is required to inform concerned parties and the public about the application. We refer to the discussion of legal standing under part 1, question 5 above. Anybody whose interests are affected by the activity under consideration may express his/her opinion and make claims regarding the permit decision. NGOs with a purpose of protecting nature that are active in the area have standing in the permit procedure.

Statements are usually made in writing, either by post or e-mail. The permit authority may also have a public hearing, where oral statements can be made.

France

Toute demande d'autorisation est soumise à enquête publique et à affichage. Un avis au public est affiché aux frais du demandeur et par les soins du maire de chaque commune dont une partie du territoire est touchée par le périmètre d'affichage. L'affichage a lieu à la mairie ainsi que dans le voisinage de l'installation projetée, quinze jours au moins avant l'ouverture de l'enquête publique.

Le périmètre dans lequel il sera procédé à l'affichage de l'avis au public est défini par arrêté préfectoral. Ce périmètre comprend l'ensemble des communes concernées par les risques et inconvénients dont l'établissement peut être la source. Il correspond au minimum au rayon d'affichage fixé dans la nomenclature des installations classées pour la rubrique dans laquelle l'installation doit être classée.

L'enquête publique permet au public concerné de s'exprimer sur le dossier de demande d'autorisation d'exploiter.

En outre, en vue d'assurer l'information des tiers :

	- une copie de l'arrêté d'autorisation ou de refus est déposée à la mairie et peut y être consultée, - un extrait de ces arrêtés énumérant notamment les motifs et considérants principaux qui ont fondé la décision ainsi que les prescriptions auxquelles l'installation est soumise est affiché à la mairie, - un avis est également inséré, par les soins du préfet et aux frais de l'exploitant, dans deux journaux locaux ou régionaux diffusés dans tout le département ou tous les départements intéressés. L'affichage annonçant l'enquête publique est effectué en mairie 15 jours au moins avant l'ouverture de l'enquête, de manière à assurer une bonne information du public. Cette enquête a une durée d'un mois, une prorogation d'une durée maximum de quinze jours pouvant être décidée par le commissaire enquêteur. Un registre d'enquête est mis à disposition du public afin de recueillir ses observations. Une réunion publique peut également être organisée sur l'initiative du commissaire enquêteur lorsqu'il estime que la nature de l'opération ou les conditions du déroulement de l'enquête publique le rendent nécessaire. A l'issue de la réunion publique, un rapport est établi par le commissaire enquêteur et une copie est adressée à l'exploitant dans les trois jours. L'exploitant dispose de douze jours pour produire ses observations s'il le juge utile. Suite à la table ronde sur les risques industriels, la concertation et l'utilisation des sites internet sera développée notamment en ce qui concerne la mise à disposition des documents supports à l'enquête publique.
Germany	L'autorité compétente doit donner au public concerné l'occasion de prendre connaissance des informations, de faire des objections et de participer à la discussion publique des objections et des prises de position à laquelle un représentant de l'autorité préside. L'endroit où les informations et dossiers peuvent être étudiés et où a lieu la discussion doivent être publiés. Il ne suffit pas à ces exigences d'envoyer un email ou d'ouvrir la participation à une audience publique de l'autorité.
Hungary	Clients, including NGOs, can take part in all phases of the permit procedure. They can file remarks, can ask for giving evidence and can express a juridical opinion. They have the right to have a look at the documents, to appeal and file a suit. The authority have to announce the opening of the procedure, in certain cases it has to provide the possibility for an open discussion and must take into account the remarks of the public.
Italy	La procédure d'étude d'impact environnemental et la procédure IPCC exigent que, dès le début, les projets soient rendus publics par des annonces appropriées dans la presse locale. Le public et les associations de protection de l'environnement peuvent présenter des observations écrites et participer éventuellement à des réunions publiques sur le projet.

Netherlands	Public participation is guaranteed by law. A decision on an application for a permit will be made according a procedure regulated in de general Act on Administrative law. According to this procedure a draft-permit will be published. In the local press an announcement will be made of this publication. Everybody has the right for a period of six weeks to comment on the draft. The public authority is obliged by law to react on the comments. This is normally done in the considerations of the decision to grant or refuse the permit. When anybody asks for a public hearing about the draft decision it will be hold.
Norway	According to the Regulations relating to pollution control section 36-6, in cases that involve activities covered by Appendix I (the tannery in the example is included, cf. the appendix nr. 6.3) and in other cases that can be of significant importance to an undetermined group of people, the SFT shall, before an administrative decision is made, give the public an opportunity to submit an opinion within a set time limit, which shall not be shorter than four weeks. If the urgent granting of a permit is required out of consideration for the environment, for the need for a solution to an acute problem or for significant social interests, a shorter time limit may be set. Advance notification to the public shall be made through the channels suitable for drawing the attention of the public to the case. Relevant documents shall be made available in ways suitable for providing the public with the opportunity to examine them. The expenses associated with such notification shall be covered by the applicant or the permit holder.
Poland	According to Act of 3 October 2008 on popularisation and its protection, public participation in the environmental protection and assessment of impact on the environment, the permit authority ensures the possibility of public participation in the procedure concerning issuance of IPPC-permit or decision about change of IPPC-permit concerning significant change of the installation. Before issuance of the IPPC-permit the permit authority is obliged to announce the following information: 1) instituting the proceedings concerning assessment of the impact on the environment 2) instituting the administrative proceedings 3) the subject of the decision that will be issued 4) the authority competent to issue the IPPC-permit and the authorities competent to issue opinion and adjustments 5) the possibilities to became acquired with the necessary documentation and the place where the documentation is available 6) the possibilities to make objections and comments; 7) the means and the place where comments and motions should be submitted, indicating 21-days public inquiry period; 8) the authority competent for investigation of comments and motions; 9) where appropriate, the date, the time and the place of an open administrative session 10) where appropriate, the procedure of transnational impact on environment.

The displaying of the notice takes place by:
- announcement of information in residence of the competent authority (for instance on the board) or at the place where operation is planned;
- publication in the press or in the normal manner standing in the given place (when residence of the competent authority is located in other gmina than gmina competent locally with regard for the subject of the notice);
- putting information on the web-site of the competent authority if the authority has such web-site.

The society may submit motions and comments in writing, orally to the record by means of electronic communication.
According to Code of Administrative Procedures and Act – Environmental Protection Law (article 32, section 1, point 2) the administrative authority may decide about the open administrative session.
The open administrative session should be conducted if:
- the authority expects some social protests;
- local society expresses opinion and views actively;
- installation has significant impact on the local environment and it is controversial.

Distinctive features of an open administrative session during the proceeding concerning the issuance of the IPPC-permit are as follows:
- a formalized part of the administrative proceedings (kpa)
- enable exchange of opinions;
- enable common discussion about comments and motions of the society;
- give opportunity to negotiate standpoint.

The permit authority is the competent authority to:
- investigate motions and comments;
- include in the reasons for the decision the following information about:
  • public participation in the proceedings,
  • the manner and scope of taking into account comments and motions notified.

During this stage of the proceeding the parties of the administrative proceedings should be identified. According to Code of Administrative Procedures, the party is everyone , whose legal interest or duty are the subject of the proceedings or who requests an action of the authority because of his legal interest. According to law the authority conducting the administrative proceedings is responsible for notification of all parties of the proceedings.

The interested parties should be individually notified in writing about the instituting the administrative proceedings concerning issuance of the IPPC-permit. In the situation of the numerous numbers of the parties, notification about decisions and other actions of the administrative authority should be done by announcement in national press (article 49 of Code of Administrative Procedure). It should be underlined that procedural mistakes in this stage of the proceedings may be a reason of reversal of the decision because of formal requirements.

Sweden

As mentioned before, the applicant will consult with the authorities concerned and private individuals that are likely to be affected before the EIS is prepared and the permit application is made.

Once the application is made, the county administrative board shall publish notices in local newspapers or use other suitable means in order to give persons affected by the activity the opportunity to comment (Chapter 19, Section 4 of the Environmental Code). People can state their view in writing or by e-mail. The county administrative board shall also hold a public hearing with the applicant, authorities and persons affected by the matter and arrange an on-site inspection, if this is necessary for the purposes of the investigation (Chapter 19, Section 4 of the Environmental Code).

United Kingdom

There are extensive provisions for public participation in the application procedure: Schedule 5. There are no prescribed methods for public consultation. Any can be used.

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7. The permitting authority will issue the permit on certain conditions. Mark with an X the in the table what kind of conditions that might be laid down. And please make good use of the "remark"-column, with for instance examples of conditions!

(Here are only the number of "yes" respectively "no"- answers presented. See appendix for more detailed answers and remarks!)

Kind of condition	**Yes**	**No**
conditions concerning the tanning technology itself (clean production)	7	2
conditions concerning the cleaning technology (end of pipe solutions)	9	2
limit values for water pollutants	11	0
limit values for air pollutants	11	0
conditions concerning solid wastes	11	0
limit values for noise	11	0
limit values for energy consumption	8	3
conditions concerning transports to and from the plant	9	1
conditions about what chemicals that are not to be used in the production	9	2
conditions concerning the control of discharges	11	0

Other questions	**Yes**	**No**
can the setting of conditions be postponed in the permit?	7	5
can stricter conditions than what is stated in the BREF-document be set?	10	(1)

8. If the permit authority wants to prescribe a condition on the maximum discharge of chromium to water from the tannery, on what basis is the level of the discharge decided?

Austria	According to the Austrian Water Act, the Federal Minister for agriculture, forestry, environment and water management is competent to issue sectoral effluent emission orders (AEV). The relevant order for tanneries was issued in 1999 and revised in 2007 and contains i.a. maximum discharge levels for chromium relevant for new and (after a period of transition) also for existing tanneries. The level of the discharge for the new tannery will be decided on the basis of the effluent emission order for tanneries (AEV Gerbereien) and on the basis of the opinion of specialist official experts to be consulted in the permit procedure.
The Flemish Region of Belgium	The sectoral limit value for tanneries (Appendix 5.3.2, N° 23 VLAREM II) is 1,5 mg Cr/l (in function of a reference volume of 20 or 40 m3 wastewater per ton processed skins depending on the used process). A stricter limit value can be imposed in the environmental permit if that is necessary in function of the quality objectives of the receiving water. According to the overall environmental quality standards for surface water concentrations of chromium should not exceed 50 µg/l (Appendix 2.2.3. VLAREM II).
The Walloon Region of Belgium	The maximum level of emission authorized will take into account: - performances that can be performed regarding to BAT - capacities of the receptive milieu. For example, if it is saturated of a certain substance, this substance must be eradicated.
Czech Republic	Such conditions would be part of the decision on the application within the part binding conditions of the operation [Section 13(4) of the Act No. 76/2002 Coll., on integrated prevention]. The limits of emissions into waters are regulated by Section 38 of the Act No. 254/2001 Coll., on Waters, which was implemented by Government Order no. 61/2003 Coll., which sets limits of pollution of waters.
Finland	The tanning industry BREF document states that, after biological treatment, the chromium content of tannery waste water is less than 1 mg/l. The older HELCOM recommendation 16/7, adopted in 1995 (Basic principles in waste water management in the tannery industry, http://www.helcom.fi/recommendations/en_GB/rec16_7/), states that emissions should not exceed 0,075kg Cr/tonne of raw hides as an annual mean or 1,5 mg Cr /l as a daily mean in discharged waste water. Both documents have been referred to by Finnish permit authorities.

	There are at present no normative values for chromium emissions to surface waters or for chromium in waste water treated in municipal sewage plants. In practice, the emission limit for Cr would be set on the basis of what is practically attainable at the plant in question, judged from the material supplied by the applicant and from experiences from other plants. The Cr emission limit would probably be set as 0,5 mg Cr/l in effluent waste water both for emissions to surface water or to municipal sewage treatment.
France	Les valeurs limites d'émissions maximales que le préfet peut fixer sont définies d'une manière générale dans les arrêtés sectoriels (pour les tanneries c'est l'arrêté du 2 février 1998 relatif aux prélèvements et à la consommation d'eau ainsi qu'aux émissions de toute nature des installations classées pour la protection de l'environnement soumises à autorisation). Ces valeurs doivent être rendues plus contraignantes pour les installations relevant de la directive IPPC car elles doivent prendre en compte l'efficacité des meilleures techniques disponibles définies dans les documents BREF. Dans tous les cas, elles peuvent être rendues plus contraignantes, au cas par cas, en fonction des caractéristiques du rejet et de la sensibilité du milieu récepteur.
Germany	S'il n'y a pas de taux d'émission pour le déversement de chromium dans l'eau, l'autorité compétante doit prouver la nocivité du chromium et le seuil de tolérance par une expertise au cas individuel. En Allemagne, il existe l'exigence légale suivante pour les eaux usées par une tannerie: Les eaux usées émanant de la tannerie (non mélangées avec d'autres eaux usées) doivent observer une valeur de 1 mg/l Chromium (règlement fédéral concernant les eaux usées qui résultent des tanneries du 17 juin 2004).
Hungary	According to ministry decree no. 28/2004. (XII. 25.) the maximum amount of chromium content cannot exceed 1 mg/l. in case of tanning and 0,05 mg/l in case of fur dying, steeping and bleaching.
Italy	La Région a le pouvoir d'établir des limites plus restrictives en matière de chrome provenant de tanneries que les limites de la loi de secteur. Une motivation appropriée est nécessaire à cet égard.
Netherlands	The maximum discharge of chromium to water from the tannery will first depend of the application. When the application meets emissionstandards for chromium there will be no problem in granting the permit. If not, the permit may be refused. In setting a maximum the quality of the water in which the discharge takes place will be taken into account. Water quality in the Netherlands in general is not very good. It is expected that we will not meet the conditions of the framework water directive in 2015.
Norway	Please refer to questions 6 and 11 above.

Poland	The IPPC-permit can't be issued if exploitation of the installation may cause that quality standards of environment will be exceeded. The IPPC-permit defines quantity, state and composition of sewage if sewage is going to be discharged to water or soil. Discharge of chromium is prohibited and the level of the discharge of chromium to water can't be defined in the IPPC-permit.
Sweden	There are no general rules in Sweden on discharge of Chromium to water from tanneries. The condition would be set after a cost-benefit balancing as described under question 6 in the previous section. To summarize, the best technology from an environmental protection perspective shall be used, where this is not unreasonable from a cost-benefit perspective. The burden is on the applicant to show that a certain precautionary measure is unreasonable. In this case, the permit authority would start by looking at what kind of technology could be used to reduce discharge of chromium (clean production as well as end of pipe solutions) and assess the costs for the use of this technology. It would also consider to what extent a reduction of the chromium emissions is relevant for environmental protection reasons. After that, the permit authority would balance the costs of protective measures against the benefits in order to establish what protective measures are reasonable. The cost-benefit balancing is not based upon the economy of the applicant but on the economy of the line of business as a whole. In some cases, reasonable measures are not sufficient. It is specifically stated in the Environmental Code that the cost-benefit balancing must not lead to infringement of an environmental quality standard. And if an activity is likely to cause significant damage or detriment to human health or the environment, the activity may only be permitted under special circumstances.
United Kingdom	In accordance with the IPPC Directive, an emission limit value would be set, based on BAT for the installation.

9. Who can appeal the permit and to whom?

Austria	Who can appeal? With regard to the Trade Act: • The applicant, • Neighbours (who have submitted opponent remarks in due time) regarding their neighbour-rights, • Registered NGOs (who have submitted opponent remarks within the six-week period of public announcement of the application). • The provincial governor (Landeshauptmann als wasserwirtschaftliches Planungsorgan) regarding water management interests To whom?

	To the independent administrative tribunal (Unabhängiger Verwaltungssenat - UVS) of the province the tannery is situated in. Against the decision of the UVS a petition to the Supreme Administrative Court may be filed by the applicant, neighbours and – concerning water management interests – also by the provincial governor. The applicant and neighbours may file a petition concerning the infringement of constitutional rights.
The Flemish Region of Belgium	A permit delivered in fist instance by the Provincial Government can be appealed with the Flemish Environment Minister. Can introduce such an appeal: - the operator; - the governor of the province; - the administrations and agencies that delivered an opinion during the permitting process; - each natural or legal person that can directly experience nuisance due to the operation of the plant; - each legal person that aims to protect the environment that can suffer such nuisances (environmental NGO's) - the municipality.
The Walloon Region of Belgium	Any concerned person can appeal. Within (during) the proceedings of authorization, appeal can be done against the authorization in front the competent authority (Government of RW, and after, Council of State). When the delivered authorization is valid, the plaintiff or injured part may appeal to police or to court, following different proceeding, as said above (question 2) : complain to penal court, civil action to the civil judge according to the act of 12 January 1993, or any other civil complains based mainly on article 1381 and following of civil law, and concerning the liability; in this case, as well the authority, as the polluting industry, as well as any other recipient can be taken to Court . This is not exhaustive.
Czech Republic	The permit may be appealed against by participants to the procedure. First, an appeal within administrative review procedure is available to the Ministry of Environment (or to Minister of Environment, in cases the appeal challenges a decision of the Ministry of the Environment). Thereafter appeal to court is available (see question 5 above). The court procedure takes place before regional courts and upon cassation complaint against a decision of a regional court before the Supreme Administrative Court.
Finland	Parties, certain NGOs and authorities have the right of appeal against an environmental permit decision (see part 1, question 5). Appeals may be filed to the Vaasa Administrative Court, or, on the Åland islands, to the Administrative Court of Åland. The decision of the administrative court may be appealed in the Supreme Administrative Court.

France	Le code de l'environnement prévoit que les autorisations d'exploitations des installations classées (dont les permis IPPC font partie) peuvent être déférées à la juridiction administrative par les tiers, personnes physiques ou morales en raison des dangers ou inconvénients que leur fonctionnement présente. Ce principe est en général rappelé dans les arrêtés préfectoraux d'autorisation.
Germany	Toute personne physique ou morale de droit privé faisant valoir d'être lésé dans ses droits peut faire appel contre l'autorisation (voir I, 2). Partie adverse est la collectivité territoriale de l'Etat dont fait partie l'autorité, régulièrement le Land.
Hungary	Anybody having the status of a client has the right to appeal. The appeal authority is the National Inspectorate for Environment, Nature and Water. Any client concerned can bring the case to the court. Any person whose rights or interests are directly affected by the case can be a client. (e.g. people living in the neighbourhood etc.) NGOs have a special status guaranteed by the environmental act, regardless of the fact where they function they are entitled to attack any environmental decision.
Italy	Le recours au juge est toujours admis de la part de l'exploitant privé. Comme on l'a vu, la personne et les associations de protection de l'environnement peuvent également faire appel. S'il y a délit, le procureur agit d'office, c'est-à-dire de sa propre initiative.
Netherlands	Only those who have a direct interest in the decision to grant or refuse a permit may appeal against the decision to the Department of Jurisdiction of the Council of State.
Norway	Please refer to questions 4 and 5 above.
Poland	Appeal against the decision about IPPC-permit may be lodged by parties of the administrative proceedings, so everyone, whose legal interest or duty are the subject of the proceedings or who requests an action of the authority because of his legal interest. Moreover, the appeal can be lodged by ecological organisation if it is justified by its statutory aims and even if it has not taken part in the proceedings concerning issuance of an IPPC-permit by the authority of first resort. Appeal against the decision about IPPC-permit should be lodged to the Self-Government Board of Appeals. Appeal should be lodged to the appellate agency by the authority that issued decision in first resort.
Sweden	An appeal will be tried by the regional environmental court (there are five such courts). Its decision in turn can be appealed to the Environmental Court of

	Appeal. The permit can be appealed by: - Anyone concerned by the permit decision (for example, the operator, neighbours that might be negatively affected by the permitted activities and authorities with the task of protecting environmental interests that are affected by the decision); - Local employees' associations that organize workers in the tannery; - The following authorities: the Swedish Environmental Protection Agency, the Legal, Financial and Administrative Services Agency, the Swedish Rescue Services Agency and the county administrative board; and - Non-profit associations whose purpose according to their statutes is to promote nature conservation or environmental protection interests, provided that the association has operated in Sweden for at least three years and has not less than 2,000 members.
United Kingdom	See the Answer to Questions 4 and 5 under Part 1 above.