

Position Paper

May 2008

EUROPIA position on the Commission Proposal for a Directive on Industrial Emissions (Integrated Pollution Prevention and Control) (Recast). COM(2007)844

While fully acknowledging the task to reduce the effect of pollution on human health and the environment, EUROPIA is of the view that the European Union policies should be based on the key principles of:

- The use of sound science.
- Goal based legislation with established environmental objectives.
- Cost-effectiveness of measures.
- Feasible and practical implementation.

EUROPIA has therefore welcomed the general development in environmental regulation from prescriptive regulation towards a holistic and goal based approach, for example the approach used in the Thematic Strategy for Air Pollution. This development allows the stakeholders, Member States and operators, to find cost-effective solutions that respect environmental needs as well as practical and socio/economic factors.

On this basis, EUROPIA has some concerns regarding the Commission's proposal for a revised Integrated Pollution Prevention and Control Directive (IPPCD), which includes several sector directives, among these a revised Large Combustion Plant Directive (LCPD).

EUROPIA believes that a better implementation of the current directive would be more beneficial than a complete and premature revision.

EUROPIA believes that the current IPPC Directive establishes an effective framework for Member States, competent authorities and industry to ensure that environmental goals are met in the most effective way. EUROPIA questions the basis for revision at this stage. Although the current directive dates from 1996, key enabling documents (BREFs) became available only gradually. Specifically, the BREF for refineries was adopted in December 2001. Equally, full implementation of the current IPPC Directive for existing installations was not mandatory until October 2007. Since the review was initiated already in 2005, EUROPIA questions whether the conclusions of the review were based on a representative picture of the results of the current directive. EUROPIA understands that most of the issues identified during the review of the IPPC implementation were related to poor or incomplete implementation of the directive rather than to actual deficiencies of the current directive. There is no evidence that the proposed revision would help to overcome those issues and EUROPIA believes that a better implementation of the current directive would be more beneficial than a complete and premature revision.

Imposing the rigid use of Best Available Technique (BAT) or uniform emission limits is in contradiction with the goal based approach, would bring a large unjustified cost burden and would jeopardize the dialogue on BAT.

The current directive gives the Member States the mandate to grant permits not only based on BAT, but also taking into account the characteristics of the installation, the geographical conditions and local environmental needs. In the proposed revision these conditions may continue to play a role by derogation only and not as a rule, as it was the case previously. EUROPIA believes that such considerations, together with the consideration of the BAT range, should remain at the heart of the IPPC approach as they are essential to assess the appropriate level of emissions for each specific installation. This also ensures an approach that is consistent with the philosophy of the Commission's Thematic Strategy on Air Pollution



where precisely the balanced consideration of local needs is the basis for achieving our air quality ambitions in a cost-effective way. This element of flexibility is essential to avoid an unjustified increase of the cost of our air quality policy without a commensurate improvement in health and environmental impact. The Proportionality Principle should also invite a cautious approach.

EUROPIA believes that it is important to keep the IPPCD as a framework tool and to set the environmental objectives in other directives, such as the National Emissions Ceiling Directive and the Water Framework Directive.

The BATs, identified in the BREF documents, are currently established in an open dialogue between the legislators and the industry. The BREF documents have not been developed with a view to create binding legislation and using the BREF documents in this manner may jeopardize the open dialogue and hinder the identification of novel technologies.

The Emission Limit Values for Large Combustion Plants have been changed to values that cannot be achieved economically by many existing plants.

Contrary to the views expressed by Industry during the consultation process, the proposal entails the inclusion of the Large Combustion Plant Directive in the revised directive. The LCPD is of a fundamentally different character, setting binding maximum emission levels. This is not well aligned with the philosophy of the current IPPCD.

In addition, the LCPD as included has undergone some significant changes. Among these, the allowed emission levels from large combustion plants have been dramatically reduced, also for existing older installations. For existing installations, the proposed limits correspond in many cases to the levels defined as "Maximum Technically Feasible Reduction" (MTFR) in the Clean Air for Europe Program. In the resulting Thematic Strategy for Air Pollution it was concluded that emission reductions down to the MTFR level would be unrealistic and not cost-effective. Consequently, for a number of existing installations, it will not be practical or economical to bring them into compliance with these new emission levels. This could have a significant macroeconomic impact.

Moreover, the revised LCPD text does not acknowledge the specific characteristics of the refining industry. Large refineries typically include many combustion installations dispersed throughout the refinery site. To allow for cost-effective and energy efficient achievement of the emission limits in complex refineries, emission limits should be defined on a site average basis rather than by each individual (large) combustion plant. This so-called bubble concept is recognized in the Refinery BREF and should be retained as an option in any revised legislation for large combustion plants.

In addition, some of these units are fueled by internal refinery streams that would otherwise need extensive refinery processing steps to meet commercial fuel specifications or, in the case of process gases, would have to be flared. This is also acknowledged in the LCP BREF which explicitly excludes refinery fuels from its scope.

EUROPIA believes that it is important to maintain the provisions that reflect the specific characteristics of the refining industry.

The revised directive could create overlapping regulation on soil and groundwater.

The protection of groundwater will become subject to the EU Groundwater Directive. Equally, the protection of soil may become subject to an EU Soil Framework Directive or is covered by national legislation. EUROPIA cannot support prescriptive legislation for soil and groundwater in the IPPCD since it may lead to double and potentially conflicting legislation.

The increased use of Comitology will lead to loss of transparency and regulatory stability for industrial operators.

The investment cycles in our industry are long and the operators need regulatory stability for planning purposes. The proposed directive would lead to the use of Comitology to change a number of essential elements of the directive. This could lead to a lack of industry involvement in the decision making processes and a less predictable legislative framework for the operators.

The revision of the IPPCD should be carefully considered to maintain a competitive European industry and a cost-effective environmental policy.

European Industry is among the world leaders in terms of control of environmental emissions and EUROPIA supports the EU ambitions to continue to improve human health and the environment. European Industry is



also asked to contribute to the EU aim to take the lead in terms of climate change with the reduction of greenhouse gas emissions. For the European Industry to remain competitive in the face of these ambitions, it requires that all environmental measures are carefully weighed and that the most cost-effective solutions are pursued. EUROPIA believes that this goal is best achieved by a positive dialogue between Industry and governments and through cost-effective, proportional and effects-based regulation based on science. The current proposal is a serious retrograde step on this path.

EUROPIA therefore urges the legislators to carefully consider the proposal for a revised IPPC Directive and to ensure that European legislation on industrial emissions remains based on the use of sound science, goal based legislation with established environmental objectives, cost-effective control measures and feasible and practical implementation. The European refining industry is a key player, not only in the European economy, but also as an important element for the European security of energy supply. EUROPIA is of the view that the Commission's proposal for a revision of the IPPC Directive is premature and at serious risk of not achieving the stated industrial policy objective of simplifying and improving the regulatory environment. The proposal is also at risk of further affecting the investment climate for the European refining industry.

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