

**UNICE'S "IMPLEMENTATION OF IPPC" WORKING GROUP COMMENTS AND  
PROPOSALS ON THE ISSUES DISCUSSED AT THE INFORMATION EXCHANGE  
FORUM MEETING ON 18-19 FEBRUARY 1999**

- ♦ Further to the discussions which took place at the last IEF meeting, UNICE would like to share with you some of its comments on a number of very important items.
- ♦ BREFs are the result of an exchange of information between Member States and the industries concerned. Therefore, industry should have the possibility to state in the final text any disagreement on specific elements of the BREFs or its position in the case of split views.
- ♦ UNICE's interpretation of Article 16.2 is that adoption of the final BREFs should be a Commission decision.

**1. Clarification of the objectives, scope and use of BREFs**

- ♦ The BAT exercise should meet the objective of providing a **practical information document** to local authorities and to local operators as a basis for issuing permits, taking into account the local conditions. However, as expressed by some Member-State delegations at the IEF meeting, there is a risk that BREFs will be mis-used and that the general principles of the IPPC Directive will not be taken into account by the permitting authorities.
- ♦ UNICE has always advocated that the objective, scope and use of a BREF should be clarified in a **preface** indicating how the document should be read and used to avoid any misuse of the BREFs. The definitions of the key concepts and the general philosophy of IPPC should also be highlighted in the preface.
- ♦ For the last IEF meeting, the IPPC Bureau and DG XI submitted two proposals regarding the BREF preface. At the IEF meeting, several key sentences were deleted from the draft preface prepared by DG XI; two of these deletions are **not acceptable** for industry:
  - The sentence stating that "...this document does not propose emission limit values"; and
  - The sentence referring to a balance between "achieving a high level of protection and reinforcing the competitiveness of industry".
- ♦ On that last point, UNICE supports DG III's proposal to re-insert the reference to the competitiveness of the European industry in the preface, paragraph 2 "Relevant legal obligations of the IPPC Directive and the definitions of BAT", with the following wording: "The IPPC Directive has as its legal basis Article 130s of the Treaty establishing the European Community policy relating to the environment. In application of Article 2 of the Treaty, the IPPC Directive aims at achieving a high level of protection

while it should also take into account other Community objectives such as ensuring that the conditions necessary for the competitiveness of the Community's industry exist".

- ♦ Concerning the new introduction to chapter 5 proposed by DG XI, UNICE welcomes the mention that "any emission levels presented in this chapter are not and should not be understood as emission limit values".

UNICE understands from this new introduction that "best performance levels" are identified and examined in Chapter 4, and Chapter 5 will present a "selection of techniques and levels as a reasonable goal".

In light of this UNICE insists that attention should also be paid to:

- Actual emission ranges before abatement measures at existing installations in the sector.
- Actual emission levels experienced before abatement measures in the specific existing cases considered as best performance levels.

UNICE would like to complement the fifth bullet point as follows: "selection of techniques and levels considered to be a reasonable goal for the sector as a whole, subject to any qualifications stated in this chapter, **in particular concerning existing installations**".

## 2. Definition of Best Available Techniques (BAT)

- ♦ UNICE believes that **BAT is to be defined at sectoral level for the sector as a whole**. Sectoral level BAT should take account of costs, economic viability, multi-media aspects, technical issues, etc. whereas permitting at local level should in addition take into account "...the technical characteristics of the installation concerned, its geographical location and the local environmental conditions"<sup>1</sup>.
- ♦ BAT is to be considered by the permitting authorities together with the technical characteristics of the installation concerned, its geographical location and the local environmental conditions. There are a number of specific conditions to be taken into account when determining appropriate conditions for an individual IPPC permit. This involves making trade-off decisions both in terms of costs and benefits to the environment and impact on the environment as a whole. Specific considerations/conditions which would be expected to vary around Europe include<sup>2</sup>:
  - current environmental and economic performance of the installation;
  - age, design, anticipated life of the installation; the size and layout of the site;
  - environmental track record of the installation and the operator;
  - degree of process integration within the installation and between installations;
  - impact on the environment as a result of an actual or foreseen emission
  - remaining life and performance of existing abatement pollution equipment;
  - local market;
  - plant location;
  - cost of resources, charges, taxes, etc.;
  - inspection and enforcement of permit conditions;
  - limitations and constraints on an installation imposed through other legislation.
  - results of a cross-media analysis.

All these specific considerations **should be included in the BREF** (Preface and introduction to chapter 5).

- ♦ Although at the IEF meeting there seemed to be wide agreement on the fact that BAT is to be defined at sectoral level for the sector as a whole whereas permitting is to be defined at local level taking into

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<sup>1</sup> IPPC Directive, Article 9.4

<sup>2</sup> As mentioned mostly in EIPPCB discussion paper on how general BAT is determined – January 1999.

account the above-mentioned specific considerations, UNICE fears that there may be a tendency to define very strict limit values at plant level and urges the Commission to take the necessary steps to avoid such a situation.

### 3. New and existing installations

- ♦ UNICE has always been of the opinion that in general two ranges should be given, one for new installations and one for existing installations in line with the methodology for implementation of IPPC adopted by the IEF in January 1997. Moreover, the IEF agreed on 16-17 February 1998 that BATs and associated ranges of emission levels should be distinguished for new and existing installations whenever relevant. **This remains essential for UNICE.** Unfortunately, at the last IEF meeting this point was raised again with different opinions being expressed. We understand now that the Commission as well as the IPPC Bureau is not in favour of having two ranges. We reject this and urge the Commission to reconsider its position.

### 4. Monitoring and validation of data

- ♦ UNICE urges DG XI and the IPPC Bureau to apply a standard procedure concerning BREF texts on monitoring and on data validation and to include a reference on those two points to the IPTS document<sup>3</sup> presented at the last IEF as well as in the individual BREFs. Regarding monitoring we refer to the letters and information given by EUROFER, which UNICE supports.
- ♦ UNICE re-affirms that monitoring and validation of data should be based on broad and representative number of cases and not on unique plant cases, often generated by site specific conditions. Consequently, UNICE suggests to include systematically in the BREFs comments on representativity of data supplied.
- ♦ In cases of draft BREFs in process where such a standard procedure for monitoring and validation have not been applied yet, the situation and the conclusions should be corrected accordingly.

### 5. Other points of concern

- ♦ In some BREFs, a reference to “achievable levels” is made in chapter 4. UNICE would like to ask for clarification on what is meant by “achievable levels” in that particular chapter.
- ♦ UNICE regrets that the names of plants and suppliers will be published in some of the BREFs. **Names of individual companies should not be referred to in BREFs.** The BREF exercise should be as broad and as representative as possible and is not meant to highlight particular plants or suppliers in a public document. As a compromise solution industry would be prepared to communicate and certify case studies in an anonymous way should evidence of this kind be required.
- ♦ The transparency of future BREF preparation is a very important matter. However, placing drafts, working documents and minutes of expert meetings on the European IPPC Bureau website should be done carefully in order to avoid any mistakes and mis-interpretations. In our opinion, the first draft BREFs should not be on the open website and minutes of meetings are for the expert groups only as long as not approved.




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<sup>3</sup> Above-mentioned EIPPCB discussion paper.